Town of Weaverville
Planning and Zoning Board
Remote Electronic Meeting
Tuesday, March 2, 2021, 6:00pm

Public Meeting via Zoom Meeting:
https://us02web.zoom.us/j/89273366843 - Meeting ID: 892 7336 6843
Dial +1 301 715 8592 or +1 253 215 8782 - Meeting ID: 892 7336 6843
(see attached notice for more information on how to join meeting)

Agenda

1. Call to Order – Chairman Gary Burge
   • Recognition of New Board Member Andrew Willis
2. Approval of the Agenda
3. Approval of the Minutes from the January 5, February 2 and February 18, 2021 Meetings of the Board
4. Church Street Minor Subdivision
   • Discussion Related to a Proposed Minor Subdivision of the Property Commonly Known as 96 Church Street
   • Consideration of a Motion Establishing a Recommendation to the Planning Director on the Proposed Minor Subdivision
5. Code Amendments Associated with 160D
   • Continued Discussion on Remaining Topics/Outstanding Issues:
     o Sidewalks/Sidewalk Waivers
     o Creation of Part IV for Regulations Requiring Additional/ Separate Permits
     o Wireless Telecommunication Facilities
     o Text and Map Amendments
     o Review of Regulations Not Included
   • Review of Timeline and Discussion on Board Plan for Review of Staff Final Draft
   • Discussion on Whether to Schedule Additional Meetings
6. Any Other Business
   • Updated Roster Reflective of Recent Board Appointments
7. Adjournment
WEAVERVILLE PLANNING AND ZONING BOARD
REMOTE ELECTRONIC MEETING ON MARCH 2, 2021

The State of North Carolina, Buncombe County and the Town of Weaverville have all declared States of Emergency in response to the COVID-19 public health crisis. Because of the risks to the public that would arise from in-person meetings, the Weaverville Planning and Zoning Board’s meeting on March 2, 2021, will be conducted via remote electronic format.

This NOTICE OF REMOTE ELECTRONIC MEETING is to inform the public that the Weaverville Planning and Zoning Board will hold a meeting on Tuesday, March 2, 2021, at 6:00 p.m. as an electronic video/audio meeting via Zoom Meeting. Access to the meeting will begin at 5:45 p.m. and the meeting will start at 6:00 p.m. The instructions to access this public meeting are:

To join the meeting by computer, go to this link: https://us02web.zoom.us/j/89273366843. You may be asked for permission to access your computer’s video and audio. If so, click “allow.” You will then be asked for the Meeting ID which is: 892 7336 6843

To join the meeting by phone, call: (253)215-8782 or (301)715-8592. You will then be asked for the Meeting ID which is: 892 7336 6843

For questions or additional assistance in how to participate in this meeting, please contact Planning Director and Town Clerk James Eller at 828-484-7002 or jeller@weavervillenc.org.

Gary Burge, Chair
Posted: 2/25/2021
Date of Meeting: Tuesday, March 2, 2021
Subject: Minutes
Presenter: Planning Director
Attachments: Minutes from January 5, February 2 and February 18, 2021
Meetings of the Board

Description:
Attached you will find proposed minutes from the January 5, February 2 and February 18, 2021 meetings of the Board.

Action Requested:
Staff is requesting that the Planning and Zoning Board adopt the aforementioned minutes as presented or amended by motion of the Board.
The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00 pm on Tuesday, January 5, 2021 via a remote electronic meeting.

Present: Chair Gary Burge, Vice-Chair Catherine Cordell, Board Members Rachael Bronson and John Chase, Alternate Member Suzanne Devane, Town Councilmember Andrew Nagle, Town Manager Selena Coffey, Town Attorney Jennifer Jackson and Planning Director James Eller. Alternate Board Member Bob Pace was absent.

1. **Call to Order.**

Chairman Gary Burge called the meeting to order at 6:03 pm.

It was noted that alternate member Ms. Devane would be serving as a voting member of the Board due to a currently vacant position on the Board.

2. **Approval of the Agenda.**

Mr. Burge requested that Mr. Eller provide the Board with an overview of the proposed annexation agreement between the Town of Weaverville and the Town of Woodfin. Mr. Eller agreed that he would brief the Board in the other business portion of the agenda.

Upon consensus and without objection, Mr. Burge declared the agenda approved as amended.

3. **Approval of the Minutes from the December 1, 2020 Meeting of the Board.**

Upon consensus and without objection, Mr. Burge declared the minutes approved as presented.

4. **Final Plat for Northridge Commons Townhomes.**

Mr. Eller described the provided and proposed final plat for Northridge Commons Townhomes. It was noted that official approval of the sewerline construction had not yet been provided by the appropriate authority, the Metropolitan Sewerage District of Buncombe County (MSD). The Board also noted that the trail system adjacent to Monticello Road which had been incorporated into the plans for the property in place of a sidewalk in that vicinity was not shown on the final plat.

Ms. Cordell offered a motion of conditional approval to Town Council on the proposed final plat. The conditions were approval of the sewerline by MSD and the inclusion of said trail system on the final plat, both prior to Town Council’s consideration on January 25, 2021. Ms. Bronson seconded and via a roll call vote all voted unanimously.
5. **Proposed Manufactured Home Overlay District.**

Mr. Eller provided information related to the proposed mobile home overlay district previously discussed by the Board at their previous two meetings. This information included a proposed recommendation from the Board to Town Council and draft ordinances which, if adopted, would amend the zoning map and zoning text to implement the manufactured home overlay district.

Ms. Cordell motioned to offer a positive recommendation to Town Council on the proposed manufactured home overlay district with one small wording change in the text amendment which staff agreed to make prior to sending it to Town Council. Ms. Devane seconded and via a roll call vote all voted unanimously.

6. **Discussion Related to Code Amendments Associated with 160D.**

Ms. Jackson informed the Board on the progress of the staff’s efforts toward 160D compliance. Substantive portions of Chapter 2 Administration was provided and discussed. An outline of Chapter 20 Planning and Development, language previously found in Chapter 36 Zoning, was provided and discussed. Ms. Jackson noted that most language presented was largely a reorganization of current language, in conjunction with 160D compliance, and that notable substantive revisions of ordinance done in this same process would be made clear to the Board and Town Council. Staff requested that the Town move towards consistency with 160D in its nomenclature, including transitioning the “Planning and Zoning Board” to the “Planning Board” and the “Zoning Board of Adjustment” to the “Board of Adjustment.” There was consensus to be as consistent as possible with the terms used in 160D. Staff agreed to provide the upcoming revisions as soon as they are available so as to allow for a longer review period by the Board.

7. **Any Other Business to Come Before the Board.**

An updated roster of the Board was presented.

Mr. Eller provided a briefing on the proposed annexation agreement between the Town of Weaverville and the Town of Woodfin currently under consideration by Town Council.

8. **Adjournment.**

Upon consensus and without objection, Mr. Burge declared the meeting adjourned at approximately 6:55pm.
The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, February 2, 2021 via a remote electronic meeting.

Present: Chair Gary Burge, Vice-Chair Catherine Cordell, Board Members Rachael Bronson and John Chase, Alternate Member Suzanne Devane and Bob Pace, Town Councilmember Andrew Nagle, Town Manager Selena Coffey, Town Attorney Jennifer Jackson and Planning Director James Eller.

1. Call to Order.

Chairman Gary Burge called the meeting to order at 6:00 pm.

It was noted that alternate member Ms. Devane would be serving as a voting member of the Board due to a currently vacant position on the Board.

2. Approval of the Agenda.

Upon consensus and without objection, Mr. Burge declared the agenda approved as presented.

3. Discussion Related to Code Amendments Associated with 160D.

Ms. Jackson presented to the Board and discussed in detail roughly 200 pages of material representing the Town’s efforts to date to achieve compliance with 160D and to incorporate policy decisions related to streamlining subdivision review, a broadening of the sidewalk construction requirements for certain development approvals, the creation of a manufactured home overlay district and the consolidation of current and proposed land use regulations from Chapter 20 Subdivision and Chapter 36 Zoning into Chapter 20 Planning and Development. Specific items covered in conversation were as follows:

Cross Reference Table showing sections sorted by new section (Chapter 20) and old section (Chapters 25 and 36). This document traces the migration of new and existing ordinances into Chapter 20 and flags items for policy discussion and review by the Planning Board.

Chapter 20 – Part I General Provisions, Definitions, Administration, Enforcement, Appeals, Planning, Adoption and Amendments. This portion of the document consolidated each of the aforementioned headings into Chapter 20 and noted items which had been added or revised for 160D compliance. Topographical errors on pages 75 and 76 were noted and addressed.

Chapter 20 – Part II Subdivision Regulations. This portion of the document migrated subdivision language from Chapter 25 to Chapter 20, addressed the policy decisions of streamlining subdivision review and broadening sidewalk construction requirements, and noted items which had been added or revised for 160D compliance. Of particular note in conversation were the topics of the required installation of improvements prior to final plat approval, the removal of improvement guarantees and the inclusion of the ADA waiver process for sidewalk construction.
4. **Any Other Business to Come Before the Board.**

Ms. Jackson also produced a Chapter 160D project timeline for the Board’s review.

5. **Adjournment.**

Upon consensus and without objection, Mr. Burge declared the meeting adjourned at approximately 7:45pm.

_____________________________
Gary Burge, Chairman
Planning and Zoning Board

ATTEST:

________________________________
James W. Eller
Planning Director / Town Clerk
The Planning and Zoning Board of the Town of Weaverville met for a special called meeting at 6:00pm on Thursday, February 18, 2021 via a remote electronic meeting.

Present: Chair Gary Burge, Vice-Chair Catherine Cordell, Board Members Rachael Bronson and John Chase, Alternate Member Suzanne Devane, Town Councilmember Andrew Nagle, Town Manager Selena Coffey, Town Attorney Jennifer Jackson and Planning Director James Eller. Alternate Board Member Bob Pace was absent.

1. **Call to Order.**

Chairman Gary Burge called the meeting to order at 6:03 pm.

It was noted that alternate member Ms. Devane would be serving as a voting member of the Board due to a currently vacant position on the Board.

2. **Approval of the Agenda.**

Upon consensus and without objection, Mr. Burge declared the agenda approved as presented.

3. **Discussion Related to Code Amendments Associated with 160D.**

Ms. Jackson and Mr. Eller provided the Board with an overview of the new proposed Chapter 20 – Planning and Development, Part III – Zoning Regulations. Topics specifically discussed were as follows.

Sidewalk Waivers: Change in existing language proposed in light of broadened sidewalk requirement and to provide appropriate waivers for sidewalk requirements, especially for minor subdivisions, as guidance for the Board of Adjustment. Consensus was achieved to increase the linear distance requirement from 500 feet to 1,500 feet from the existing sidewalk network, a park, a school or the C-1 zoning district.

Traffic Impact Studies: Change in existing language proposed in light of a complicated and outdated ordinance and to provide a simpler regulation. New language had been reviewed by Board Member Bronson and her colleague Colin Kinton of a local traffic planning and design firm.

Conventional and Overlay Districts: Change in existing language proposed in light of 160D compliance, clarity and efficiency and to provide for the inclusion of a manufactured home overlay district.

Conditional Districts: Change in existing language proposed in light of 160D compliance and to delete variables of current ordinance which are largely unused. Consensus was achieved to keep the mailed noticing requirement for community meetings at 200 feet from the subject property, to retain the optional performance guarantee at Town Council’s discretion, and to allow final plat approval at staff level.
Special Use Permits: Change in existing language proposed in light of 160D compliance, clarity and efficiency and to provide requisite limitations on conditions and allow minor modifications by staff. Consensus was achieved to retain the optional performance guarantee at Town Council’s discretion, and to allow final plat approval at staff level.

Table of Uses: Change in existing language proposed in light of 160D compliance, clarity and efficiency and to provide for the inclusion of a manufactured home overlay district.

Table of Dimensional Requirements: Change in existing language proposed in light of clarity and efficiency and to provide for the inclusion of a manufactured home overlay district.

Additional Standards: Change in existing language proposed in light of 160D compliance, MHO policy decisions, formatting, clarity and efficiency and to provide new standards related to manufactured homes and to add a standard related to home occupations previously found in the definition.

4. Adjournment.

Upon consensus and without objection, Mr. Burge declared the meeting adjourned at approximately 7:05pm.

_____________________________________
Gary Burge, Chairman
Planning and Zoning Board

ATTEST:

_____________________________________
James W. Eller
Planning Director / Town Clerk
TOWN OF WEAVERVILLE
PLANNING AND ZONING BOARD AGENDA ITEM

Date of Meeting: Tuesday, March 2, 2021
Subject: Church Street Minor Subdivision
Presenter: Planning Director
Attachments: Church Street Minor Subdivision Application and Plat, Technical Review Committee Report

Description:
As you will see, the attached minor subdivision proposes to create one lot from the existing parcel commonly known as 96 Church Street. No infrastructure improvements are required, yet the existing parcel being comprised of more than two acres disqualifies the subdivision from a statutory exemption.

The technical review committee has reviewed the proposal and discovered no items for comment or plat revision.

Action Requested:
Staff is requesting the Planning Board to review the proposed subdivision and make a favorable recommendation on approval of the plat to the town planner as per Sec. 25-79(c).
MINOR SUBDIVISION 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

Fee: $100.00 + $25.00 per lot

APPLICATION DATE: 02/01/2021
OWNER NAME: MICHAEL BURNETTE, DONALD BURNETTE

SUBDIVISION NAME: MINOR SUBDIVISION
PROPERTY ADDRESS: 9999 CHURCH ST

PIN: 9732-98-9331
DEED BOOK/PAGE: 5374/433

ORIGINAL TRACT SIZE (acres): 4.9 +/-
PROPOSED NUMBER OF LOTS: 2

SUBDIVISION TYPE: X RESIDENTIAL  COMMERCIAL  INDUSTRIAL

OWNER/AGENT NAME: DARIUS NAZARI, PLS
PHONE NUMBER: 828-777-4800
ADDRESS: 251 HAYWOOD ST SUITE B, ASHEVILLE NC 28801

REGISTERED SURVEYOR: BLUE RIDGE LAND SURVEYING
PHONE NUMBER: 828-252-6092
ADDRESS: 251 HAYWOOD ST SUITE B, ASHEVILLE NC 28801

REGISTERED ENGINEER:
PHONE NUMBER:
ADDRESS:

Which utilities will serve the proposed development?:

X PUBLIC SANITARY SEWER  COMMUNITY SEWER  SEPTIC TANKS ON EACH LOT
X PUBLIC WATER  COMMUNITY WATER  WELLS ON EACH LOT

It is the applicant’s responsibility to obtain a copy of the Town of Weaverville Subdivision Ordinance and Zoning Ordinance and to be fully aware of the regulations detailed therein.

I certify that the above information is accurate and true and that I am the owner or a duly appointed agent of the owner. I understand that a copy of the recorded plat must be submitted to the Zoning Department prior to the issuance of any permits associated with this subdivision.

[Signature]
Feb 1, 2021

SIGNATURE OF APPLICANT  DATE

OFFICE USE ONLY

FEE:  DATE PAID:  
  CHECK  CASH  CARD
PRELIMINARY PLAT APPROVAL  DATE:  
  FINAL PLAT APPROVAL  DATE:

APPROVED WITH CONDITIONS:
TOWN OF WEAVERVILLE
TECHNICAL REVIEW COMMITTEE
REPORT I

Project: Church Street Minor Subdivision
Date: Wednesday February 24, 2021
Location: Remotely via Email
Staff: Planning Director, James Eller; Public Works Director, Dale Pennell; Fire Marshal Kile Davis.

<table>
<thead>
<tr>
<th>Dept:</th>
<th>Comment:</th>
<th>Sheet #:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Intentionally Blank)

Planning staff concurs with the comments provided by the Public Works Director and Fire Marshal on the attached emails in that no items were encountered for comment or plat review.
James,

I’ve taken a look at the plat and have no issues with this minor subdivision. We can supply it with water as we plan to do for the other 5 lots.

I would like to somehow emphasize the importance of their work being done in such a manner to improve their erosion control measures. They need to eliminate the severe “mud on the road” issues that we have experienced with the current construction, as well as be responsible for any pavement or shoulder damage that may be caused as a result of their construction deliveries and/or vehicles.

Dale Pennell, PE, PLS
Public Works Director
Town of Weaverville
15 Quarry Road
Weaverville, NC 28787
828-645-0606 Office
828-231-7050 Cell

All,

I am in possession of a minor subdivision application eligible for TRC review. This will be an easy one as only one lot is to be created with water and sewer present but the mother parcel being north of 2 acres disqualifies it from a statutory exemption. We can meet via zoom or you may review the plat on page 5 of 5 on the attached and let me know if you would like for me to relay any plat revisions.

Please let me know your preference and we’ll proceed accordingly.

James W. Eller
Planning Director
Town of Weaverville
Good Morning James.

I have looked over the plat and everything seems fine to me. Please let me know if you need anything else.

Kile R. Davis  
Fire Marshal  
Weaverville Fire Department  
PO Box 338/3 Monticello Rd.  
Weaverville, NC 28787  
(828)484-7033 Office  
(828)231-4209 Cell  
(828)658-9868 Fax  
kdavis@weavervillefd.org
on page 5 of 5 on the attached and let me know if you would like for me to relay any plat revisions.

Please let me know your preference and we'll proceed accordingly.

James W. Eller
Planning Director
Town of Weaverville
TOWN OF WEAVERVILLE
PLANNING AND ZONING BOARD AGENDA ITEM

Date of Meeting: Monday, March 2, 2021
Subject: Code Amendments Associated with 160D
Presenter: Town Attorney / Planning Director
Attachments: Topic Analysis on Sidewalk Requirements
Topic Analysis on Sidewalk Waivers
Topic Analysis on Creation of Part IV for Regulations Requiring Additional or Separate Permits
Topic Analysis on Wireless Telecommunication Facilities
Topic Analysis on Text and Map Amendments
Topic Analysis on Regulations Not Included
Revised Project Timeline

Description:
Staff will be presenting the remaining topics/issues listed below for continued discussion so that the Board’s discussions and consensus can be incorporated into staff’s final draft.

Sidewalks, sidewalk waivers – review consensus from 2/18/21, revised language, and its effects in several scenarios

Creation of Part IV – staff to review justification for this organizational change

Wireless telecommunication facilities – review the staff approach to keep current regulations, add new 160D regulations, and provide for 160D required provisions to control if there is a conflict; this topic will need to be on a high priority follow-up action list for a comprehensive review and rewrite

Text and map amendments – review section that has been completed

Regulations that are not included in current or proposed regulations – review list and identify any areas that are critical to include with the 160D revisions

Staff will review the project timeline and assist the Board in developing a plan to review staff’s final draft in anticipation of a Board recommendation to Town Council being adopted on May 4.

Action Requested:

Staff is requesting the Planning and Zoning Board review and discuss the topics mentioned above, provide direction on the Board’s plan to review staff’s final draft, and consider whether it is necessary to schedule additional Board meetings.
## Sidewalk Requirements

<table>
<thead>
<tr>
<th>Topic</th>
<th>Sidewalk Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Section</td>
<td>25-110 and 36-24(a) and (b)</td>
</tr>
<tr>
<td>New Section</td>
<td>20-2404 and 20-3503</td>
</tr>
<tr>
<td>Proposed Change</td>
<td>Expand sidewalk requirements to include single family residential and duplexes within new minor and major residential subdivisions</td>
</tr>
<tr>
<td>Reason for Change</td>
<td>Policy change to broaden pedestrian network</td>
</tr>
<tr>
<td>Materials Attached</td>
<td>Current Sections 25-110 and 36-24 – see attached New Sections 20-2404 and 20-3503</td>
</tr>
<tr>
<td>Additional Notes</td>
<td>WithersRavenel was consulted concerning ADA compliance for sidewalks on steep streets. Answer given was that sidewalks built in the public right of way are allowed to run at the same grade as the parallel existing street. Where the pedestrian would need to cross the street, ramps and crosswalks must be compliant with ADA standards. Since PB review on 2/2/2021, added language to require sidewalks on at least one side of new streets in general development</td>
</tr>
</tbody>
</table>

### Chapter 20, Part II – Subdivision, Article IV – Required Improvements

#### Sec. 20-2404. Sidewalks.

Sidewalks shall be provided along the frontage street and at least one side of new streets within the subdivisions for all major and minor subdivisions. Curbs and sidewalks shall be constructed in accordance with the Town of Weaverville Street Standard Specifications and Details Manual applicable to sidewalks and in full compliance with ADA accessibility standards, including specifically but not limited to width, ramp and crosswalk construction. Sidewalk rehabilitation shall be required for where the existing sidewalk has been determined by the department of public works to be dilapidated. Subdivisions may apply to the board of adjustment for a sidewalk waiver in accordance with Code Sec. _____.

### Chapter 20, Part III – Zoning, Article V – Off-Street Parking … and Sidewalks

#### Sec. 20-3503. Sidewalks.

(a) **Purpose.** The purpose of this section is to ensure that applicants for new construction and renovations, additions, and/or expansions to existing structures consider the need for sidewalks as part of the proposed development and to establish requirements for the construction of sidewalks. While the town recognizes its need to maintain sidewalks and to construct sidewalks to meet the needs of the general
Sidewalk Requirements

population, project applicants may be required to participate in the construction of sidewalks to meet the pedestrian needs of the citizens of the town. The town also recognizes that in certain cases, sidewalks may not be needed or their construction may not be feasible.

(b) **Sidewalks required.** Sidewalks shall be required for all new commercial construction and development, multi-family residential development, and all new minor and major subdivision development.

Sidewalks shall be constructed along all street frontages of the lot for which the development is proposed and at least one side of new streets constructed as a part of the development. Curbs and sidewalks shall be constructed in accordance with the Town of Weaverville Street Standard Specifications and Details Manual applicable to sidewalks and in full compliance with ADA accessibility standards, including specifically but not limited to width, ramp and crosswalk construction.

Sidewalk rehabilitation shall be required for the types of development projects identified above where the existing sidewalk has been determined by the department of public works to be dilapidated.

(c) **Waiver of sidewalk requirement.** Sidewalk requirements may only be waived as allowed by Code Sec. ____. 
Sidewalk Waivers

<table>
<thead>
<tr>
<th>Topic</th>
<th>Sidewalk Waivers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Section</td>
<td>36-24(c) and (d)</td>
</tr>
<tr>
<td>New Section</td>
<td>20-3108(e) – Sidewalk Waivers</td>
</tr>
<tr>
<td>Proposed Change</td>
<td>Provide appropriate waivers for sidewalk requirements, especially for minor subdivisions</td>
</tr>
<tr>
<td>Reason for Change</td>
<td>Expansion and clarification needed in order to deal with broadened sidewalk requirement</td>
</tr>
<tr>
<td>Materials Attached</td>
<td>Current Section 36-24 - attached New Section 20-3108 – below</td>
</tr>
<tr>
<td>Additional Notes</td>
<td>Planning Board reviewed on 2/18/2021 and had consensus to require sidewalks for minor subdivisions within 1500 feet of existing sidewalk network, etc.</td>
</tr>
<tr>
<td>Planning Board Guidance</td>
<td>Review several scenarios to determine if the waiver provisions are working as desired</td>
</tr>
<tr>
<td></td>
<td>- Minor subdivisions</td>
</tr>
<tr>
<td></td>
<td>- Development on State Roads without sidewalks (Merrimon Avenue, Aiken Road)</td>
</tr>
<tr>
<td></td>
<td>- Others?</td>
</tr>
</tbody>
</table>


(e) **Sidewalk Waivers** – The board of adjustment shall hear and decide all requests for waivers of sidewalk requirements, with a majority vote of the members based on competent, material, and substantial evidence, showing of the following:

1. Minor subdivisions may be granted a sidewalk waiver upon the finding that:
   1. The property is located more than 1500 feet from the existing sidewalk network, a park, a greenway, a school, or the C-1 district; and
   2. The property is not located within a sidewalk improvement area adopted by the town, state, or regional council of government; and
   3. The construction of the sidewalk is not warranted or feasible and/or would create greater harm or danger to pedestrians.

2. Major subdivisions are not eligible for a waiver of the sidewalk requirement.

3. Sidewalk requirements imposed by a conditional district or special use permit are not eligible for a waiver of any sidewalk requirements.

4. Subdivision requirements for any other development may be granted a sidewalk waiver upon the finding that:
Sidewalk Waivers

(a) The property is located more than 1500 feet from the existing sidewalk network, a park, a greenway, a school, or the C-1 district; and

(b) The property is not located within a sidewalk improvement area adopted by the town, state, or regional council of government; and

(c) The construction of the sidewalk is not warranted or feasible and/or would create greater harm or danger to pedestrians.
## Creation of Part IV for Regulations Requiring Additional Permits

<table>
<thead>
<tr>
<th>Topic</th>
<th>Creation of Part IV for Regulations Requiring Additional Permits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current Section</strong></td>
<td>N/A</td>
</tr>
</tbody>
</table>
| **New Section** | Part IV, Article I – Wireless Telecomm. Facility Regs  
Part IV, Article II – Sign Regs  
Part IV, Article III – Grading Regulations |
| **Proposed Change** | Create part IV and move appropriate regulation out of other parts into new part IV. |
| **Reason for Change** | Reorganizing chapter so that regulations requiring permits separate from or in addition to zoning permits are in a separate part |
| **Materials Attached** | N/A |
| **Additional Notes** | - Wireless Telecommunication Facility Regulations contained in Ch. 36, Article XIV, fully included and moved from Part III, Article XI, to Part IV, Article I (20-4101 through 20-4118)  
- Current Sign Regulations contained in Ch. 36, Article VIII, fully included and moved from Part III, Article VIII, to Part IV, Article II (sections 20-4201 through 20-4215)  
- Current Grading Regulations contained in Ch. 36, Article XV, fully included and moved from Part I, Article VII to Part IV, Article III (sections 20-4301 through 20-4310) |
<table>
<thead>
<tr>
<th>Topic</th>
<th>Wireless Telecommunications Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Section</td>
<td>36-401 through 36-407</td>
</tr>
<tr>
<td>New Section</td>
<td>20-4101 through 20-4118</td>
</tr>
<tr>
<td>Proposed Change</td>
<td>No change, except an added provision that says that 160D and other federal and state laws will control; 160D provisions also included</td>
</tr>
<tr>
<td>Reason for Change</td>
<td>160D requirements</td>
</tr>
<tr>
<td>Materials Attached</td>
<td>New Section 20-4101 through 20-4118 – see below</td>
</tr>
</tbody>
</table>
| Additional Notes | - This is lengthy but there is nothing new here except for the 160D regulations that are added.  
- The regulation was adopted in 2001 and the technology has changed substantially since then. It is expected that the current regulation that is carried forward into the new regulation will not be fully compliant with 160D.  
- This current regulation should be given a high priority for a comprehensive rewrite AFTER the 160D project is completed.  
- A conflict statement is found at 20-4106 which says that federal and state laws will override local ordinance if there is a conflict  
- Definitions are a combination of definitions from 160D-931 and definitions from 36-401 (which are highlighted in green)  
- Current regulations are fully incorporated at 20-4107 through 20-4112 (highlighted in green)  
- 160D provisions are incorporated at 20-4102, 20-4103, 20-4113 through 20-4118  
- Moved out of zoning into a new Part 4 (see separate topic analysis) |

Chapter 20, Part IV – Additional Land Use Regulations

Article I – Wireless Telecommunication Facilities

Sec. 20-4101. Title.
This article contains the development regulations pertaining to wireless telecommunication facilities within the planning and development regulation jurisdiction of the Town of Weaverville and shall be known and cited as the wireless telecommunication facility regulations of the Town of Weaverville, North Carolina, and may be referred to as the “wireless telecommunication facility ordinance.”
Sec. 20-4102. Authority.
The wireless telecommunication facility regulations contained in this article are adopted under the authority and provisions of Part 3 of Article 9 of G.S. Chapter 160D, and specifically G.S. 160D-932, in order to plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with G.S. Chapter 160D, Article 9, Part 3. This article may include regulations pertaining to applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, fall zones, or State and local building code requirements, consistent with the provisions of federal law in G.S. 160D-930. For purposes of this article public safety includes, without limitation, federal, state, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

Sec. 20-4103. Applicability.
The regulations contained in this article shall be applicable to the development, installation, or use of all wireless telecommunication facilities within the town’s planning and development regulation jurisdiction.

Sec. 20-4104. Purpose and Compliance with Federal Law.
(a) The purpose of this article is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(b) The town understands that the deployment of wireless infrastructure is critical to ensuring that first responders can provide for the health and safety of the residents of the town and the surrounding areas and that the creation of a broad wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. Therefore, the town wishes to facilitate the placement of wireless communications support structures within the town’s planning and development regulation jurisdiction by adopting regulations on the placement, construction, or modification of a wireless communications facility as provided in this article.

(c) The placement, construction, or modification of wireless communications facilities shall be in conformity with federal laws and regulations including the Federal Communications Act, 47 USC § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.
160D Amendments – Chapter 20 – Topic Analysis – March 2021

Wireless Telecommunication Facilities

(d) Nothing in this article should be construed as requiring the construction or installation of wireless facilities and these regulations are adopted consistent with G.S. Chapter 160D, Article 9, Part 3, and represent the only regulations of wireless services within the town.

Sec. 20-4105. Definitions.
The definitions found in Code Chapter 20, Part I, Article II shall apply.

As used in this article, unless the context clearly indicates otherwise, the following definitions also apply:

- **Alternative structure.** For antenna-mounting purposes, a structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted and includes, but is not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples, and electric transmission towers.

- **Antenna.** Communications equipment that transmits, receives, or transmits and receives, electromagnetic radio signals used in the provision of all types of wireless communications services.

- **Antenna array.** Two or more antennas that operate as components of a complete antenna suite for a single wireless telecommunication facility.

- **Antenna, dual-band/multiband.** An antenna with separate elements for two or more commercial wireless service frequency bands (example: cellular and PCS or specialized mobile radio).

- **Antenna, concealed.** An antenna that is designed and erected on or in a building or alternative structure in such a way that it blends in with the existing façade and/or is located such that it is not readily visible to an individual at adjacent street level, may also be called “stealth.”

- **Applicable codes.** The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

- **Application.** A request submitted by an applicant to the town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, town utility pole, or a wireless support structure.

- **Base station.** A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

- **Building permit.** An official administrative authorization issued by Buncombe County prior to beginning construction consistent with the provisions of G.S. 160D-1110.
Wireless Telecommunication Facilities

**Broadcast tower.** A structure situated on a lot that is intended for transmitting television or radio signals.

**Collocation.** The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, town utility poles, or wireless support structures.

**Combiner.** A device which allows two or more wireless service providers to share an antenna or antenna array by combining signals being transmitted and separating signals being received.

**Communication facility.** The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communication service.

**Communications service.** Cable service as defined in 47 USC § 522(6), information service as defined in 47 USC § 153(24), telecommunications service as defined in 47 USC § 153(53), or wireless services.

**Communications service provider.** A cable operator as defined in 47 USC §522(5), a provider of information service as defined in 47 USC § 153(24), a telecommunications carrier as defined in 47 USC §153(51), or a wireless provider.

**Discernible.** Capable of being distinguished with the unaided eye from its surroundings as a telecommunication tower.

**Electric distribution towers.** Metal, wooden, or concrete towers and poles used to suspend wires transporting electricity between substations at the terminus of transmission lines and individual customer premises.

**Electric transmission towers.** Metal, wooden, or concrete towers and poles used to suspend wires transporting electricity between generating plants and substations supplying electricity to distribution and feeder lines.

**Eligible facilities request.** A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

**Equipment compound.** An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

**Equipment enclosure.** For the purposes of regulating wireless telecommunication facilities, a building, cabinet, or shelter used to house transmitters, receivers, and other electronic equipment and accessories.

**FAA.** The Federal Aviation Administration.

**Facade, RF-transparent.** A facade used to conceal antennas and other components of a wireless telecommunication facility which is constructed of materials that allow the free passage of radio frequency or other electromagnetic signals.
160D Amendments – Chapter 20 – Topic Analysis – March 2021
Wireless Telecommunication Facilities

*Fall zone.* The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

**FCC.** The Federal Communications Commission.

**Functionally equivalent service.** FCC-licensed providers of commercial mobile radio services (CMRS) classified as cellular, personal communication services (PCS), paging, specialized mobile radio (SMR), and enhanced specialized mobile radio (ESMR).

**Governmental user.** Federal, state or local governments, or agencies or instrumentalities thereof, volunteer fire departments or rescue squads which operate radio systems (including microwave) requiring an FCC license and which employ those facilities exclusively for intra-governmental or inter-governmental public service, public safety or administrative purposes.

**Land development regulation.** Any ordinance enacted pursuant to G.S. Chapter 160D.

**Microcell.** A wireless telecommunication facility for which all electronics (if not located within an existing and approved building) are contained in equipment enclosures which occupy less than 40 cubic feet and for which all antennas are eight feet or less in height and have a combined surface area of less than 30 square feet.

**Micro wireless facility.** A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

**Modification.** The addition, removal, repositioning (other than downtilt adjustments), alteration or other material change in the number or type of antennas employed in a wireless telecommunication facility; changes in the height, size, shape or appearance of telecommunication towers; and increases in the number or size of equipment enclosures or other improvements at an existing or approved wireless telecommunication facility.

**Primary public safety provider.** An FCC licensed governmental user, which uses wireless telecommunication facilities to provide primary communications for law enforcement, fire, ambulance or related emergency services. Primary public service provider does not include commercial wireless service providers who provide telecommunication services on a commercial basis to primary public service providers or who deliver emergency calls from its customers to a public safety answering point (PSAP).

**Private business user.** Persons who operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services, or point-to-point microwave links for wireless communication services, to third parties for compensation.

**Public utility.** Any structure or facility transmitting a service provided by a utility company to include private systems such as telephone, electric, water and sewer, gas.
power, etc. but not including utility substations, telecommunication towers, concealed telecommunication support structures, and other telecommunications devices.

**Replacement tower.** A telecommunication tower intended to replace an existing approved tower where such replacement tower is (1) at or within 100 yards of the existing tower base, and (2) no higher than the existing tower.

**Restricted mountain ridge.** A ridge whose elevation is 500 or more feet above the elevation of an adjacent valley floor.

**Ridge.** The elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

**Search ring.** The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

**Small wireless facility.** A wireless facility that meets the following qualifications:

(a) Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet; and

(b) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of subsection (b) of this definition, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

**Substantial modification.** The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be substantial modification if it meets any one or more of the following criteria:

(a) Increasing the existing vertical height of the structure by the greater of (i) more than 10% or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

(b) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wire support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
(c) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Telecommunication support structure, concealed means a support structure used to mount antennas for a wireless telecommunication facility which has all structural members concealed within a facade which matches or complements the architectural character of buildings and other structures located on the same parcel as the wireless telecommunication facility.

Telecommunication tower. Any tower, pole or similar structure 20 feet or more in height, used to support one or more antennas including self-supporting lattice-framed towers or monopoles and guyed towers.

Tower base. The foundation, usually concrete, on which the telecommunication tower is situated. For measurement calculations, the tower base is the actual or geometric center of the tower.

Tower height. The vertical distance measured from the tower base to the highest point on a telecommunication tower, including any antennas or other equipment affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.

Tower site. The land area that contains, or will contain, a proposed telecommunication tower, and related equipment enclosures and other improvements.

Town right-of-way. A right-of-way owned, leased, or operated by the town, including any public street or alley that is not a part of the State highway system.

Town utility pole. A pole owned by the town in the town right-of-way that provides lighting, traffic control, or a similar function.

Utility pole. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

Utility substation means a structure or facility for transforming or transmitting a service provided by a utility company to include private utility systems such as telephone, electric, water, sewer, gas, power, etc., but not including telecommunication towers, or concealed telecommunication support structures.

Vegetative canopy means trees that create a roof-like layer of spreading branches.

Visible means capable of being seen by the unaided eye in the daylight.

Water tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wireless facility or wireless telecommunications facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable,
regular and backup power supplies, and comparable equipment, regardless of technical configuration. The term includes small wireless facilities. The term does not include any of the following:

(a) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
(b) Wireline backhaul facilities.
(c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless provider. A wireless infrastructure provider or a wireless services provider.

Wireless services. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider. A person who provides wireless services.

Wireless support structure. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a town utility pole is not a wireless support structure.

**Wireless telecommunication facility, collocated** means a wireless telecommunication facility located (or proposed to be located) upon or within a supporting structure or building which hosts one or more existing and approved wireless telecommunication facilities.

**Wireless telecommunication facility, concealed** means a wireless telecommunication facility with all antennas camouflaged to match or complement the color and architectural treatment of the surface upon which they are mounted, or which has all facility components concealed behind a facade or parapet wall.

**Wireless telecommunication facility, microcell** means a wireless telecommunication facility for which all electronics (if not placed within an existing and approved building) are contained in equipment enclosures which occupy less than 40 cubic feet and for which all antennas are eight feet or less in height and have a combined surface area of less than 30 square feet.

**Wireless telecommunication facility, temporary** means a vehicle-mounted or portable wireless telecommunication facility including portable towers, antennas, equipment enclosures, generators and associated electronics, cabling, wiring and hardware.
Sec. 20-4106. Conflict
The regulations contained within this article shall be administered and enforced to the
greatest extent possible but not in conflict with the mandatory provisions of Part 3 of
Article 9 of G.S. Chapter 160D which governs wireless telecommunications facilities, or
any other applicable federal, state, or local law, rule, or regulations. To the extent that
there is a conflict then the federal and/or state law, rule, or regulation shall control.

Sec. 20-4107. General Application Requirements.
(a) Permits Required – It shall be unlawful for any person, corporation, partnership
or other entity to erect any communication tower without first obtaining a permit
from the Weaverville Zoning Administrator. A permit shall be required for the
erection of a replacement tower or the modification of an existing tower. Existing
towers owned by governmental agencies and designed for noncommercial
emergency communications are exempt from this article.

(b) Permit Application – Telecommunications tower permit applications are
available from the Weaverville Zoning Administrator.

(c) Application Fee – A fee for reviewing tower permit applications shall be
established by the Weaverville Town Council.

(d) Application Submission and Review Process – A completed tower permit
application and three copies of all supporting documentation identified in
subsections (e) and (f) [of this section] shall be submitted to the zoning
administrator for review. The zoning administrator shall review the completed
tower permit application for compliance with subsections (e) and (f). Any
application not containing all information required in subsection (e) and (f) shall
be returned to the applicant for correction and resubmission. If the zoning
administrator deems it necessary, he (she) may retain, at a reasonable expense
to the permit applicant, one or more professional engineers to assist him(her) in
reviewing any technical requirements.

(e) Requirements for Site Development – The site development plan and
preliminary design plan shall contain the following information and be part of the
tower permit application. The site development plan shall be prepared by a N.C.
Registered Land Surveyor and contain the following:

1) The tower applicant's name and property owner's name and their
addresses, scale, north arrow, vicinity map, tax parcel identification number,
and the tower's latitude and longitude coordinates;

2) The name, address, signature and seal of the surveyor preparing the site
development plan;

3) The surveyed boundary lines of the parcel(s) that will contain the proposed
tower and its fall area;

4) The name, addresses and tax parcel identification numbers of all owners of
property abutting the subject property;

5) All identifiable structures located on the parcel, all private and public roads,
highways, and underground and overhead utilities.
(6) All existing towers on the property or any towers whose fall area encroaches onto the property.
(7) The proposed tower's location, the proposed fall area and the location of all support structures and guy line anchors.
(8) The ground elevation of the proposed tower's base, all proposed support structures, property corners, and a permanent site bench mark. All elevations shall be determined using the National Geodetic Vertical Datum of 1929.
(9) The height of the existing vegetative canopy surrounding the proposed tower.
(10) Tower setbacks from all property lines must be one half the total height of the proposed tower.

(f) Preliminary Tower Design Plan – The preliminary tower design plan shall be prepared by a N.C. Registered Professional Engineer and contain the following:

(1) The tower permit applicant's name and address, scale, north arrow, vicinity map and tax parcel identification number.
(2) The name, address, signature and seal of the engineer preparing the preliminary tower design plan.
(3) A plan showing the base of the tower and the foundations for all guy line anchors and support structures, all proposed buildings and any other proposed improvements including access roads and utility connections within and to the proposed site.
(4) A tower elevation showing the proposed lighting, tower color and all proposed antennas.
(5) An elevation of each proposed set of guy line anchors.
(6) The proposed tower design loads.
(7) A map or description showing the service area(s) for the proposed tower's antenna(s).
(8) The applicant shall provide written statements from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) showing that the proposed tower complies with all permit regulations administered by that agency or evidence that the proposed tower is exempt from those regulations.
(9) The applicant shall identify all other possible alternatives considered within the service area for the proposed tower's antenna(s) and explain why the proposed tower is necessary and why existing towers and structures (e.g., Carolina Power transmission towers) cannot accommodate the proposed antenna(s).
(10) The applicant shall identify any variance(s) to the ordinance, the reason(s) for seeking the variance(s) and any measures that are proposed to mitigate possible adverse effects of the proposed variance(s). All variances must be approved by the Weaverville Zoning Board of Adjustments.
160D Amendments – Chapter 20 – Topic Analysis – March 2021

Wireless Telecommunication Facilities

(11) All towers must be of a mono (single) pole design. No lattice towers will be allowed.

(g) Issuance of Permit - Following the zoning administrator's approval of any tower permit application not requesting a variance, the zoning shall issue a tower permit. All tower permit conditions shall appear on the face of the site development plan. The permit owner shall acknowledge and agree to permit conditions approved by the board of adjustments if necessary. If a building permit is not obtained within 12 months after the tower permit is issued, the tower permit shall expire. No permit under the state building code shall be issued until or unless any tower permit required by this article is granted.

(h) Tower Approval Standards - Any proposed tower shall provide a needed service and/or benefit to the residents of the Town of Weaverville.

Sec. 20-4108. Public Emergencies

In the event of a natural disaster, catastrophic event or public emergency the town manager or his or her designee may waive any temporary use permit procedures and authorize the placement of temporary use facilities which are deemed necessary or desirable in conjunction with the management of the emergency.

Sec. 20-4109. Wireless Telecommunication Facilities - Microcell

(a) Use districts: C-1, C-2, I-1 and all Town of Weaverville owned property located in R-1, R-2 and R-3.

(b) Microcellular wireless telecommunication facilities are permitted on buildings and other existing structures (other than off-premises signs) which do not require an increase in height to accommodate the facility. Electric distribution poles may be extended in height in R-3 residential zoning districts to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the town zoning administrator or 100 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

(c) All antennas associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be flush-mounted against the side of the building or structure and camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted.

(d) Antennas associated with a microcellular wireless telecommunication facility mounted on a utility pole must be mounted atop the pole or flush mounted against the sides of the pole, and shall be colored to match or complement the color of the utility pole and shall be mounted in as unobtrusive a manner as possible.
Wireless Telecommunication Facilities

(e) Antennas associated with a microcellular wireless telecommunication facility may not be collocated on a tower or other support structure used by an amateur radio operator.

(f) Equipment enclosures associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be mounted inside the building or structure, attached to an exterior surface, or placed underground or on a concrete pad on the ground outside the building or structure. If mounted on an exterior surface, the enclosures shall be colored or camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted. If placed on a concrete pad on the ground, the enclosures shall be screened so as to make them unobtrusive.

(g) Equipment enclosures associated with a microcellular wireless telecommunication facility mounted on a utility pole, must be mounted on the utility pole provided, however, if combiners are used to allow collocation by sharing of an antenna or antenna array and pole-mounting of equipment enclosures cannot be accommodated on the pole, the combiner and additional equipment enclosures may be placed underground or on a concrete pad on the ground. If placed on a concrete pad on the ground, such additional equipment enclosures shall be screened so as to make them unobtrusive.

(h) All cabling and wiring connecting antennas, equipment enclosures, and other components of a microcellular wireless telecommunication facility shall be colored or concealed in a manner as to render them unobtrusive.

(i) No towers may be mounted on a roof structure.

(j) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(k) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town of Weaverville in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(l) As part of its application each applicant for a microcellular wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to properly maintain the exterior appearance of and ultimately remove the facility upon abandonment or cessation of operations. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town of Weaverville for all
costs it incurs to perform any work required of the applicant by the agreement that the applicant fails to perform. A $5,000.00 cash bond, or other security acceptable to the Town of Weaverville, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(m) Abandoned or unused wireless telecommunication facilities shall be removed within one year (365 days) of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee’s maintenance/removal agreement and the costs of removal recovered from the permittee’s bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town of Weaverville shall give 30 days’ written notice of its intention to do so to the permittee at its last known address.

(n) An annual wireless telecommunication facility permit shall be required for each wireless telecommunication facility located in the Town of Weaverville. Before an annual permit shall be issued or renewed an applicant or permittee must certify that:

1. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.

2. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.

3. That the facility continues to comply with all FCC and FAA rules and regulations.

4. That the permittee currently has general liability insurance of at least $1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.

5. That it is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.

6. That it has not constructed, maintained, modified or operated any wireless telecommunication facilities in the Town of Weaverville without the town’s approval or, if it has done so, that it has ceased operating and has removed all such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned.
and subject to removal, as well as subjecting the facility's owner to all other penalty and enforcement provisions of this Code. The Town of Weaverville shall give 30 days' advance written notice to the permittee at its last known address of the pending expiration of the permittee's annual wireless telecommunication facility permit. Fees for annual wireless telecommunication facility permits shall be in accordance with the Town of Weaverville Fees and Charges Manual.

Sec. 20-4110. Wireless Telecommunication Facilities - Concealed

(a) Use districts: C-1, C-2, I-1 and all Town of Weaverville owned property located in R-1, R-2 and R-3.

(b) Concealed wireless telecommunication facilities are permitted on buildings and alternative structures (other than off-premises signs and telecommunication towers).

(c) For purposes of this section antennas mounted on an electric transmission tower shall qualify as a concealed wireless telecommunication facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure, nor more than two feet from the sides of the structure. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad and screened so as to make them unobtrusive.

(d) For purposes of this section, antennas mounted on an electric distribution tower, street lighting pole or traffic light pole shall qualify as a concealed wireless telecommunication facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure, nor more than two feet from the sides of the structure, and equipment enclosures associated with the facility occupy less than 60 cubic feet. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground on a concrete pad. Electric distribution poles may be extended in height in I-1, zoning districts to 20 feet above the vegetative canopy in the vicinity of the site as determined by the town zoning administrator. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

(e) Panel antennas associated with concealed wireless telecommunication facilities may not exceed eight feet in height. If flush-mounted on the side of a building or alternative structure, antennas shall be camouflaged to match or complement the color and architectural treatment of the surface. Antennas extending above the roofline of a building shall be concealed behind a RF-transparent parapet wall or facade, which is camouflaged to match or complement the color and architectural treatment of the building or structure. Such parapet walls or facades shall not...
extend more than ten feet above the roofline. Where a parapet wall is at least eight feet in height, omnidirectional (whip-type) antennas may extend above the parapet wall by a distance equal to the height of the parapet wall.

(f) Antennas associated with a concealed wireless telecommunication facility may not be collocated on a tower or other support structure used by an amateur radio operator.

(g) Electronic equipment associated with concealed wireless telecommunication facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, except as provided in subsection (d) above, equipment enclosures shall be screened so as to make them unobtrusive.

(h) All cabling and wiring connecting antennas, equipment enclosures, and other components of concealed wireless telecommunication facilities shall be colored or concealed in a manner as to render them unobtrusive.

(i) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(j) Reserved.

(k) Applicants for concealed wireless telecommunication facilities shall first be encouraged to consider properties owned by the Town of Weaverville, before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for wireless telecommunication facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.

(l) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the town in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(m) Before a concealed wireless telecommunication facility is approved an applicant shall be required to post a $5,000.00 cash bond, or other security satisfactory to the town, to secure the costs of maintaining the exterior appearance of the facility if the wireless provider or its successors or assigns fail to continually do so, or removing such facility in the event the wireless provider shall fail to do so within one year (365 days) of abandonment or cessation of operation of the facility. The
applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(n) Abandoned or unused wireless telecommunication facilities shall be removed within one year (365 days) of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee’s maintenance/removal agreement and the costs of removal recovered from the permittee’s bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the town shall give 30 days’ written notice of its intent to do so to the permittee at its last known address.

(o) An annual wireless telecommunication facility permit shall be required for each wireless telecommunication facility located in the town. Before an annual permit shall be issued or renewed an applicant or permittee must certify that:

1. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.

2. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.

3. That the facility continues to comply with all FCC and FAA rules and regulations.

4. That the permittee currently has general liability insurance of at least $1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.

5. That it is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.

6. That it has not constructed, maintained, modified or operated any wireless telecommunication facilities in the town without the town’s approval or, if it has done so, that it has ceased operating and has removed all such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned and subject to removal, as well as subjecting the facility’s owner to all other penalty and enforcement provisions of this Code. The town shall give 30 days’ advance written notice to the permittee at its last known address of the pending expirations of the permittee’s annual wireless telecommunication facility permits. Fees for annual wireless telecommunication facility permits shall be in accordance with the Town of Weaverville Fees and Charges Manual.
Sec. 20-4111. Wireless Telecommunication Facilities - Collocated

(a) Use districts: Use Districts: C-1, C-2, I-1 and all Town of Weaverville owned property located in R-1, R-2 and R-3.

(b) Application fees for a collocated wireless telecommunication facility shall be in accordance with the Town of Weaverville’s Fees and Charges Manual.

(c) Wireless telecommunication facilities may be collocated on any structure which hosts one or more permitted and approved wireless telecommunication facilities provided, however, that the proposed collocated wireless facility must meet equipment enclosure and antenna size restrictions for the type of facility and zoning district in which the existing facility was approved (i.e., microcell and concealed wireless telecommunication facilities).

(d) Where collocation is proposed by use of a combiner (allowing two or more commercial wireless service providers to share a common antenna or antenna array), an equipment enclosure which houses only the combiner and amplifiers may exceed the maximum permitted dimensions for other types of equipment enclosures.

(e) Antennas associated with a co-located wireless telecommunication facility may not be collocated on a tower or other support structure used by an amateur radio operator.

(f) Collocated wireless telecommunication facilities shall meet the following design standards:

1. Use of dual-band/multi-band antennas (to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands) or by using combiners (to allow antenna sharing by users of the same frequency band) is encouraged in order to minimize the height of support structures and the visual impact of multiple collocated antennas or antenna arrays.

2. Antennas associated with a collocated wireless telecommunication facility shall be mounted so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
   i. Compact dual-polarized antennas in a cylindrical unicell arrangement extending less than two feet from the structure and mounted atop the tower;
   ii. Panel antennas flush-mounted against the tower;
   iii. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.

3. No collocated wireless telecommunication facility located on a telecommunication tower shall have constructed thereon, or attached
thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.

(4) All equipment enclosures and other improvements accessory to a collocated wireless telecommunication facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed 12 feet in height. Ground mounted equipment shall be screened from view, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(5) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

(6) Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence may be topped with barbed wire. The zoning administrator may require as a condition of approval that the fencing be screened by appropriate landscaping or other means, or may waive or modify the fencing requirement if it determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

(7) Signage at any ground-based portion of a collocated wireless telecommunication facility site shall conform to the following provisions:

i. A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site’s security fencing. Maximum size of the sign is four square feet.

ii. Equipment hazard warning and informational signs are permitted.

iii. The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.

(g) A copy of the applicant’s FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has
binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the town in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(h) Before a collocated wireless telecommunication facility is approved, an applicant shall be required to post a $5,000.00 cash bond, or other security satisfactory to the town, to secure the costs of maintaining the exterior appearance of the facility if the wireless provider fails to continually do so, or removing such facility in the event the wireless provider shall fail to do so within one year (365 days) of abandonment or cessation of operation of the facility. The applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(i) Abandoned or unused wireless telecommunication facilities shall be removed within one year (365 days) of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the town shall give 30 days' written notice of its intention to do so to the permittee at its last known address.

(j) Collocated wireless telecommunication facilities shall not be constructed unless the facility owner has general liability coverage of at least $1,000,000.00. The owner of a collocated wireless telecommunication facility shall provide the town with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the town 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.

(k) An annual wireless telecommunication facility permit shall be required for every wireless telecommunication facility located in the town. Before a permit shall be issued or renewed an applicant or permittee must certify that:

1. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.

2. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.

3. That the facility continues to comply with all FCC and FAA rules and regulations and all conditions of its conditional use permit.
Wireless Telecommunication Facilities

(4) That the permittee currently has general liability insurance of at least $1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.

(5) That it is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.

(6) That it has not constructed, maintained, modified or operated any wireless telecommunication facilities in the town without the town’s approval or, if it has done so, that it has ceased operating and has removed all such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned and subject to removal, as well as subjecting the facility’s owner to all other penalty and enforcement provisions of this Code. The town shall give 30 days’ advance written notice to the permittee at its last known address of the pending expiration of the permittee’s annual wireless telecommunication facility permit.

Fees for annual wireless telecommunication facility permits shall be in accordance with the Town of Weaverville Fees and Charges Manual.

Sec. 20-4112. Wireless Telecommunication Facilities — Monopole

(a) Use districts. Use districts C-2 and I-1 and all Town of Weaverville owned property located in R-1, R-2, and R-3.

(b) Applications fees for a monopole wireless telecommunication facility shall be in accordance with the Town of Weaverville’s Fee and Charges Manual.

(c) Monopole wireless telecommunications facilities may be located on any property located in the C-2 and I-1 district that can provide the required fall zones as described herein. In addition, a wireless telecommunications company may construct a monopole telecommunication facility only if they can prove that no other type of wireless telecommunication facility will allow them to provide service.

(d) Monopole wireless telecommunication facilities shall meet the following design standards:

1. Use of dual-band/multi-band antennas (to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands) or by using combiners (to allow antenna sharing by users of the same frequency band) is encouraged in order to minimize the height of support structures and the visual impact of multiple collocated antennas or antenna arrays.

2. Antennas associated with a monopole wireless telecommunication facility shall be mounted so as to present the smallest possible silhouette, profile, or cross section. Preferred antenna mounting scenarios are, in order of descending preference:
Wireless Telecommunication Facilities

1. Compact dual-polarized antennas in a cylindrical unicell arrangement extending less than two feet from the structure and mounted atop the tower:
   i. Panel antennas flush-mounted against the tower;
   ii. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.

3. No monopole wireless telecommunication facility shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket and shall not extend more than two feet from the structure.

4. All equipment enclosures and other improvements necessary to a monopole wireless telecommunications facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed 12 feet in height. Ground-mounted equipment shall be screened from view, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

5. Generators may not be used as the primary electrical power source. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

6. Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence may be topped with barbed wire. The zoning administrator may require as a condition of approval that the fencing be screened by appropriate landscaping or other means, or may waive or modify the fencing requirement if he determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

7. Signage at a monopole wireless telecommunications facility shall conform to the following provisions:
   i. A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be mounted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing. Maximum size of the sign is four square feet.
Wireless Telecommunication Facilities

ii. Equipment hazard warning and informational signs are permitted.

iii. The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.

(8) Notwithstanding any height limitations otherwise set forth in this Code, monopoles may be constructed up to, but shall not exceed 150 feet in height in the C-2 and I-1 use districts and 100 feet in height in all other use districts.

(e) Monopoles shall be constructed in a manner to provide a fall zone all around the monopole in a length of one-half of the heights of the monopole unless the applicant provides a sealed statement from a North Carolina professional engineer that a shorter length for all or a part of the fall zone area shall provide adequate distance to provide protection from damage to adjacent property. A copy of the applicant’s FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each wireless service provider's FCC license. If FCC licenses have been previously filed with the Town of Weaverville in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

(f) Before a monopole wireless telecommunication facility is approved, an applicant shall be required to post a $25,000.00 cash guarantee or other security satisfactory to the town, to secure the costs of maintaining the exterior appearance of the facility, including the property on which the facility is located and any improvements on the property which are associated with the facility if the wireless provider fails to continually do so, or removing such facility in the event the wireless provider shall fail to do so within one year (365 days) of abandonment or cessation of operation of the facility. The applicant shall be required to continue such guarantee or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunications facility at their principal place of business and governmental users are exempt from the guarantee requirement.

(g) Abandoned or unused wireless telecommunications facilities shall be removed within one year (365 days) of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee’s maintenance/removal agreement and the costs of removal recovered from the permittee’s bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the town shall give 30 days’ written notice of its intention to do so to the permittee at its last known address. The remedies of the town set forth herein are not exclusive and the town may elect to use any or all of the remedies for enforcement of town ordinances set forth in
section 1-6 of this Code or any other remedies available to the town in state statutes or other applicable law.

(b). Monopole wireless telecommunication facilities shall not be constructed unless the facility owner has general liability coverage of at least $1,000,000.00. The owner of a collocated wireless telecommunication facility shall provide the town with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the town 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.

(i) An annual wireless telecommunication facility permit shall be required for every monopole wireless telecommunication facility located in the town. Before a permit shall be issued or renewed, an applicant or permittee must certify that:

1. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.

2. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.

3. The facility continues to comply with all FCC and FAA rules and regulations and all conditions of its conditional use permit.

4. The permittee currently has general liability insurance of at least $1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.

5. It is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.

6. It has not constructed, maintained, modified or operated any wireless telecommunication facilities in the town without the town’s approval or, if it has done so, that it has ceased operating and has removed all such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned and subject to removal, as well as subjecting the facility’s owner to all other penalty and enforcement provisions of this Code. The town shall give 30 days’ advance written notice to the permittee at its last known address and pending the expiration of the permittee’s annual wireless telecommunications facility permit.

Fees for annual wireless telecommunication facility permits shall be in accordance with the Town of Weaverville Fees and Charges Manual.
160D Amendments – Chapter 20 – Topic Analysis – March 2021

Wireless Telecommunication Facilities


As required by G.S. 160D-933:

(a) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and development regulation jurisdiction of the town must do both of the following:

1. Submit a completed application with the necessary copies and attachments to the appropriate planning authority.
2. Comply with the town's ordinances concerning land use and applicable permitting processes.

(b) The town's review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application the town may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. The town may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. The town may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the town may review the following:

1. Applicable public safety, land-use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
2. Information or materials directly related to an identified public safety, land development, or zoning issues including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure that residential, historic, and designated scenic areas cannot be served from outside the area or that the proposed height of a new wireless support structure or initial wireless support structure or replacement wireless support structure is necessary to provide the applicant's designed service.
3. The town requires applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on existing wireless support structures within the applicant’s search ring, and to provide the town with information necessary to determine whether collocation on existing wireless support structures is reasonably feasible. Collocation on an existing wireless support structure is not reasonable feasible if collocation is technically or commercially impractical or the
owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value.

(c) The town shall issue a written decision approving or denying an application under this section and G.S. 160D-933 within a reasonable period of time consistent with the issuance of other development approvals in the case of other applications, each as measured from the time the application is deemed complete.

(d) Applicants must pay any and all fees established on a duly adopted fee schedule associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities. Such fees must be based on the costs of the services provided and do not exceed what is usual and customary for such service. Any charges or fees assessed by the town on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the town in connection with the regulatory review authorized by G.S. 160D-933. Additional reasonable and costs-based fees for costs incurred should an applicant amend its application may be assessed. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by the town for review of the application may not be used for either of the following: (1) travel time and expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party; or (2) reimbursements for a consultation or other third party based on a contingent fee basis or a results-based arrangement.

(e) A building permit shall not be issued for a new wireless support structure prior to approval under this article. Approval of an application for a new wireless support structure shall be conditioned upon a requirement to construct facilities within a reasonable period of time, which shall be no longer than 24 months.


As required by G.S. 160D-934:

(a) In accordance with G.S. 160D-934 and applicable federal law, the town may not deny and shall approve any eligible facilities request as provided in this section.

(b) A collocation or eligible facilities request application is deemed complete unless the town provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The town may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, state or local safety requirements. The town may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed
complete on resubmission if the additional materials cure the deficiencies indicated.

(c) The town shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the town shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(d) The town may impose a fee not to exceed $1,000.00 for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. The fee imposed by the town for the review of the application may not be used for either of the following: (1) travel expenses incurred by a third-party review of collocation application; or (2) reimbursement for a consultation or other third party based on a contingent fee basis or a results-based arrangement.

Sec. 20-4115. Collocation of Small Wireless Facilities.

As required by G.S. 160D-935:

(a) Except as provided in this article and G.S. Chapter 20, Article 9, Part 3, the town shall not prohibit, regulate, or charge for the collocation of small wireless facilities.

(b) The town may not establish a moratorium on (i) filing, receiving, or processing applications or (ii) issuing permits or any other approvals for the collocation of small wireless facilities.

(c) Small wireless facilities that meet the height requirements of G.S. 160D-936(b)(2) shall only be subject to administrative review and approval under subsection (d) below if they are collocated (i) in a town right-of-way within any zoning district or (ii) outside of town rights-of-way on property other than single-family residential property.

(d) A permit is required to collocate a small wireless facility. The town shall receive applications for, process, and issue such permits subject to the following requirements:

1. The town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, “services unrelated to the collocation,” includes in-kind contribution to the town such as the reservation of fiber, conduit, or pole space for the town.

2. The wireless provider shall complete an application as specified in form and content by the town. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.
(3) A permit application shall be deemed complete unless the town provides notice otherwise in writing to the applicant within 30 days of submission or within some other mutually agreed-upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(4) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the town fails to approve or deny the application within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the town and the applicant.

(5) The town may deny an application only on the basis that it does not meet any of the following: (i) the town’s applicable codes; (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or (iv) the historic preservation requirements in G.S. 160D-936(i). The city must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the town denies an application. The applicant may cure the deficiencies identified by the town and resubmit the application within 30 days of the denial without paying an additional application fee. The town shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

(6) An application shall include an attestation that the small wireless facilities must be collocated on the utility pole, town utility pole, or wireless support structures and that the small wireless facilities must be activated for use by a wireless services provider to provide services no later than one year from the permit issuance date, unless the town and the wireless provider agree to extend this period or a delay is caused by lack of commercial power at the site.

(7) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the town shall be allowed, at the applicant's discretion, to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The town may remove small wireless facility collocations from the consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied.
The town may issue a separate permit for each collocation that is approved.

(8) The permit must specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use not later than one year from the permit issuance date, unless the town and the wireless provider agree to extend this period or a delay is caused by lack of commercial power at the site.

(e) Subject to the limitations provided in G.S. 160A-296(a)(6), the town may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities, (ii) the amount charged by the town for permitting of any similar activity, or (iii) $100.00 per facility for the first five small wireless facilities addressed in an application. In any dispute concerning the appropriateness of a fee, the town has the burden of proving that the fee meets the requirements of G.S. 160D-935.

(f) Subject to the limitations provided in G.S. 160A-296(a)(6), the town may impose a technical consulting fee for each application, not to exceed $500.00, to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The town may engage an outside consultant for technical consultation and the review of an application. The fee imposed by the town for the review of the application shall not be used for either of the following: (1) travel expenses incurred in the review of a collocation application by an outside consultant or other third party; or (2) direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement. In any dispute concerning the appropriateness of a fee, the town has the burden of proving that the fee meets the requirements of this subsection.

(g) The town requires all wireless services providers to remove abandoned wireless facilities within 180 days of abandonment. Should a wireless services provider fail to timely remove the abandoned wireless facility, the town may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit the signal, unless the wireless services provider gives the town reasonable evidence that it is diligently working to place such wireless facility back in service.

(h) The town shall not require an application or permit or charge fees for (i) routine maintenance, (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller, or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or town utility poles in compliance
Wireless Telecommunication Facilities

with applicable codes by or for a communications service provider authorized to occupy the town rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).

(i) Nothing in this section shall prevent the town from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the town right-of-way.

Sec. 20-4116. Use of Public Right-of-Way.

As required by G.S. 160D-936:

(a) The town shall not enter into an exclusive arrangement with any person for use of town rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of G.S. 160D-935 for collocation of small wireless facilities and as set forth in Code Sec. ____ above, a wireless provider may collocate small wireless facilities along, across, upon, or under any town right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any town right-of-way shall be subject only to review or approval under G.S. 160D-935(d) if the wireless provider meets all of the following requirements:

(1) Each new utility pole and each modified or replacement utility pole or town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

(2) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, town utility pole, or wireless support structure on which it is collocated.

(c) Nothing in this section shall be construed to prohibit the town from allowing utility poles, town utility poles, or wireless facilities that exceed the limits set forth in subdivision (1) of subsection (b) of this section.

(d) Applicants for use of the town right-of-way shall comply with the town’s undergrounding requirements prohibiting the installation of above-ground structures in the town’s rights-of-way without prior zoning approval, if those requirements (i) are nondiscriminatory with respect to type of utility, (ii) do not prohibit the replacement of structures at the time of adoption of the requirements, and (iii) have a waiver process.

(e) Notwithstanding subsection (d) above, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, town utility pole, or wireless support structure exceed 40 feet above
Wireless Telecommunication Facilities

ground level, unless the town grants a waiver or variance approving a taller utility pole, town utility pole, or wireless support structure.

(f) Except as provided in G.S. Chapter 20, Article 9, Part 3, and in this article, the town may assess a right-of-way charge under G.S. 160D-936(f) for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under G.S. 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:

(1) The right-of-way charge shall not exceed the direct and actual cost of managing the town rights-of-way and shall not be based on the wireless provider's revenue or customer counts.

(2) The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.

(3) The right-of-way charge shall be reasonable and nondiscriminatory. Nothing in this subsection is intended to establish or otherwise affect rates charged for attachments to utility poles, town utility poles, or wireless support structures. At its discretion, the town may provide free access to town rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services.

(g) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(h) All wireless providers are required to repair all damage to a town right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, town utility poles, or utility poles and to return the rights-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the town within a reasonable time after written notice, the town may undertake those repairs and charge the applicable party the reasonable and documented costs of the repair. The town may maintain an action to recover the costs of the repairs.

(i) This section shall not be construed to limit the town's authority to enforce historic preservation zoning regulations as set out in G.S. 160D-936(i).

(j) A wireless provider may apply to the town to place utility poles in the town right-of-way, or to replace or modify utility poles or town utility poles in the public rights-of-way, to support the collocation of small wireless facilities. The town shall accept and process the application in accordance with the provisions of G.S. 160D-935(d) and Code Sec. _____ above, applicable codes, and other local codes governing the placement of utility poles or town utility poles in the town rights-of-way, including provisions or regulations that concern public safety,
objective design standards for decorative utility poles or town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

Sec. 20-4117. Access to Town Utility Poles to Install Small Wireless Facilities.

As required by G.S. 160D-937:

(a) The town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on town utility poles. The town shall allow any wireless provider to collocate small wireless facilities on its town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed $50.00 per town utility pole per year.

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the town to be reimbursed by the wireless provider. In granting a request under this section, the town shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) Following receipt of the first request from a wireless provider to collocate on a town utility pole, the town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the town utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(d) In any controversy concerning the appropriateness of a rate for a collocation attachment to a town utility pole, the town has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(e) The town shall provide a good-faith estimate for any make-ready work necessary to enable the town utility pole to support the requested collocation, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term “make-ready work” means any modification or replacement of a town utility pole necessary for the town utility pole to support a small wireless facilities in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.
Wireless Telecommunication Facilities

(f) The town shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(g) Nothing in this section or this article shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, 47 USC §151, et seq., as amended, or under G.S. 62-350.

(h) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, town utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S. 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in G.S. 62-350, are governed solely by G.S. 62-350. For purposes of this section, “excluded entity” means (i) a town that owns or operates a public enterprise pursuant to Article 16 of G.S. Chapter 160 consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under G.S. Chapter 117 that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, 47 USC § 151, et seq., as amended.

Sec. 20-4118. Limits on Applicability.

As required by G.S. 160D-938:

(a) In accordance with G.S. 160D-938 these regulations do not regulate the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or operated by the town. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in G.S. Chapter 160D, Article 9, Part 3, or this article, shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.

(c) Except as provided in G.S. Chapter 160D, Article 9, Part 3, and this article, or otherwise specifically authorized by the General Statutes, the town may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained rights-of-way or town rights-of-way by a provider.
authorized by State law to operate in the rights-of-way of State-maintained highways or town rights-of-way and may not regulate any communications service.

(d) Except as provided in G.S. Chapter 160D, Article 9, Part 3, and this article, or specifically authorized by the General Statutes, the town may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to G.S. Chapter 160D, Article 9, Part 3, and this article, does not authorize the provisions of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.
<table>
<thead>
<tr>
<th>Topic</th>
<th>Text and Map Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Section</td>
<td>36-355 through 36-364</td>
</tr>
<tr>
<td>New Section</td>
<td>Chapter 20, Part I, Article V</td>
</tr>
<tr>
<td>Proposed Change</td>
<td>Conformed to 160D requirements and organized for better clarity</td>
</tr>
<tr>
<td>Reason for Change</td>
<td>160D requirements</td>
</tr>
<tr>
<td>Materials Attached</td>
<td>Current Sections 36-355 through 36-364—see attached New Sections 20-1501 through 20-1508 – see below</td>
</tr>
<tr>
<td>Additional Notes</td>
<td>This section has been reorganized for better clarity since the Planning Board reviewed on 2/2/2021 Time frame for PB to review and send recommendation within 90 days confirmed as okay Waiting period for subsequent applications and waiver added back in (20-1508)</td>
</tr>
<tr>
<td>Planning Board Guidance</td>
<td>- Policy discussion - Current section 36-359(c) provides that a hearing before town council is not automatically set if PB gives a negative recommendation; staff did not include this provision and does not recommend</td>
</tr>
</tbody>
</table>

Chapter 20, Part I – General Provisions
Article V – Adoption and Amendment of Development Regulations

Sec. 20-1501. Applicability.
Adoption of new development regulations or amendments to existing development regulations shall be applicable to all properties except as provided by vested rights and permit choice.

Sec. 20-1502. Definitions

Text amendments. Revisions to the town’s development regulations which include adoption of new regulations, amendments to existing regulations, or repeal of existing regulations, but do not involve the adoption of or amendment to the zoning map.

Zoning map amendments or rezonings. Amendments to zoning regulations to change the zoning district that is applied to a specified property or properties. It does not include the initial adoption of a zoning map by a local government or the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction. It does not include updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text.
amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. It does include the initial application of zoning when land is added to the territorial jurisdiction of the local government that has previously adopted zoning regulations. It does include the application of an overlay zoning district or a conditional zoning district.

Sec. 20-1503. Procedure for Approval of Text Amendments

New development regulations or proposed changes or amendments to the text of this chapter may be initiated by town council, the planning board, the board of adjustment, town staff, any owner of a legal or equitable interest in land located within the town, or any resident of the town.

Development regulations shall be adopted, amended, or repealed, in accordance with a comprehensive plan and pursuant to the following procedures:

(a) **Initial Review by Town Council** – All proposed new development regulations or proposed amendments to existing development regulation, or the concept of such regulation, shall be presented to town council for initial review. Initial consideration by town council is intended to provide town council with the opportunity to express preliminary thoughts related to the proposed regulation and any comments made are advisory only and shall not serve as a final determination on the matter.

(b) **Planning Board Review and Comment** – The planning board shall review and comment on all proposed development regulations and amendments thereto as set out in Code Sec. ___.

(c) **Hearing with Published Notice** – Before adopting, amending, or repealing any ordinance or development regulation authorized by G.S. 160D, the governing board shall hold a legislative hearing. Town council shall not hold its required hearing or take action until it has received a recommendation regarding the regulation from the planning board, unless more than 90 days have elapsed since the matter was first considered by the planning board. A notice of hearing on a text amendment shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of the publication is not to be included by the day of the hearing shall be included.

(d) **Citizen Comments** – If any resident or property owner in the town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly initiated as provided in G.S. 160D-601, to the town clerk at least two business days prior to the proposed vote on such change, the town clerk shall deliver such written statement to the governing board. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute, the town clerk shall provide only the names and addresses of the
Sec. 20-1504. Procedure for Approval of Zoning Map Amendments

Except for petitions for a conditional zoning, which must follow the procedures set out in Code Sec. ____, proposed zoning map amendments may be initiated by town council, the planning board, the board of adjustment, town staff, any owner of a legal or equitable interest in land located within the town, or any resident of the town. Development regulations shall be adopted, amended, or repealed, in accordance with a comprehensive plan and pursuant to the following procedures:

(a) **Initial Review by Town Council** – All proposed map amendments shall be presented to town council for initial review. Initial consideration by town council is intended to provide town council with the opportunity to express preliminary thoughts related to the map amendment and any comments made are advisory only and shall not serve as a final determination on the matter.

(b) **Planning Board Review and Comment** – The planning board shall review and comment on all proposed development regulations and amendments thereto as set out in Code Sec. ____.

(c) **Hearing with Mailed and Posted Notice** – Before adopting, amending, or repealing any ordinance or development regulation authorized by G.S. 160D, the governing board shall hold a legislative hearing. Notice of the legislative hearing shall be provided as follows:

(1) **Mailed Notice** – The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an annexation petition, a single hearing on the zoning map amendment and the annexation may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the annexation hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.
(2) **Notice for Large-Scale Zoning Map Amendments** – The first-class mail notice required by subsection (1) above is not required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the town elects to use the expanded published notice provided for in this subsection. In this instance, the town may elect to make the mailed notice provided for subsection (1) or, as an alternative, elect to publish the notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement is effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (1) above.

(3) **Posted Notice** – When a zoning map amendment is proposed, the town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the town shall post sufficient notices to provide reasonable notice to interested persons.

(4) **Optional Communication Requirements** – When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents.

(d) **Citizen Comments** - If any resident or property owner in the town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly initiated as provided in G.S. 160D-601, to the town clerk at least two business days prior to the proposed vote on such change, the town clerk shall deliver such written statement to the governing board. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute, the town clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all member of the board shall not disqualify any member of the board from voting.

(e) **Governing Board Statement and Action** – Town council shall adopt plan consistency and reasonableness statements as required by Code Sec. ___
and G.S. 160D-___, prior to taking action on proposed zoning map amendments.

(f) **Ordinance Adoption** – A development regulation adopted pursuant to G.S. Chapter 160D shall be adopted by ordinance.

### Sec. 20-1505. Planning Board Review and Comment

(a) **New Development Regulations** – The planning board shall review and comment upon a proposed development regulation, including the full text of such regulations and any proposed zoning maps associated with the regulations. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the governing board. The governing board shall not hold its required hearing or take action until it has received a recommendation regarding the regulation from the planning board. Following its required hearing, the governing board may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the governing board in adopting, modifying and adopting, or rejecting the regulation. The governing board is not bound by the recommendations, if any, of the planning board.

(b) **Development Regulation and Zoning Map Amendments** – Subsequent to initial adoption of any development regulation, all proposed amendments to the development regulation or zoning map shall be submitted to the planning board for review and comment. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the governing board. The governing board shall not hold its required hearing or take action until it has received a recommendation regarding the regulation from the planning board. Following its required hearing, the governing board may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the governing board in adopting, modifying and adopting, or rejecting the regulation. If no written report is received from the planning board within 90 days of referral of the amendment to the board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

(c) **Plan Consistency** – When conducting a review of proposed zoning text or map amendments pursuant to G.S. 160D-604 and this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale
rezoning” under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(d) **Reasonableness Statement for Rezonings** – When conducting its review of proposed zoning map amendments, the planning board shall, as part of its plan consistency statement or separately, provide a statement analyzing the reasonableness of the proposed rezoning. Such analysis should consider, among other factors: (i) the size, physical conditions, and other attributes of the area proposed to be rezoned; (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If the zoning map amendment qualifies as a large scale rezoning the analysis of reasonableness may address the overall rezoning.

(e) **Separate Board Required** – Notwithstanding the authority to assign duties of the planning board to the governing board as provided in G.S. Chapter 160D, the review and comment required by this section shall not be assigned to the governing board and must be performed by the planning board.

Sec. 20-1506. Governing Board Statement and Action

(a) **Plan Consistency** – When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board’s recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a “large-scale rezoning” under G.S. 160D-602(b), the governing board statement describing the plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(b) **Reasonableness Statement for Rezonings** – When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors: (i) the size, physical conditions, and other attributes of the area proposed to be rezoned; (ii)
the benefits and detriments to the landowners, the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as “large-scale rezoning” under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(c) **Single Statement Permissible** – The statement of reasonableness and the plan consistency statement may be approved as a single statement.

(d) **Consideration of All Uses for Zoning Map Amendments** – Except for conditional districts, town council shall not evaluate a zoning map amendment request based on a specific proposal for the use or development of the property, but shall consider all uses permitted within the district that is proposed.

(e) **Action** – After the appropriate and required hearings and review of recommendations and citizen comments, town council may:

   i. Adopt the proposed amendment;
   
   ii. Reject the proposed amendment;
   
   iii. Refer the proposed amendment back to the planning board for further consideration or hearing; or
   
   iv. Reasonably modify and adopt the proposed amendment.

**Sec. 20-1507. Consent Required for Down-Zoning.**

No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the town. For purposes of this section, “down-zoning” means a zoning ordinance that affects the area of land in one of the following ways: (1) by decreasing the development density of the land to be less dense than was allowed under its previous usage; (2) by reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

**Sec. 20-1508. Waiting Period for Subsequent Requests.**

When an application for a zoning map amendment has been approved or denied by town council, no rezoning applications covering the same property shall be accepted or considered within 12 months after the date of approval or denial. This restriction shall apply regardless of whether or not the new application is for a zoning classification different from the original application.

The waiting period required by this section may be waived by a three-fourths (3/4) vote of town council if it determines that there have been substantial changes in conditions or circumstances which may relate to the request.
### Regulations Not Included in Current or Proposed Ordinance

<table>
<thead>
<tr>
<th>Topic</th>
<th>Regulations not included in current or proposed ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Sections</td>
<td>N/A</td>
</tr>
<tr>
<td>New Section</td>
<td>N/A</td>
</tr>
<tr>
<td>Proposed Changes</td>
<td>N/A</td>
</tr>
<tr>
<td>Reason for Change</td>
<td>N/A</td>
</tr>
<tr>
<td>Materials Attached</td>
<td>List below; 160D sections provided upon request</td>
</tr>
</tbody>
</table>

**Additional Notes:**

This list indicates the areas in which the Town could regulate development but has not in the Town’s current development regulations. Staff recommends that the Planning Board review these items after the 160D project is completed.

**Planning Board Guidance:**

- Review this list and determine if there are regulations that are critically important to include with 160D project
- **AFTER 160D PROJECT IS COMPLETED,** review this list and determine if there is any regulation that the Town should consider in the future (possible future CLUP goals, priorities)

### List of Regulations Not Included in Current or Proposed Ordinance

<p>| Municipal Extraterritorial Representation | 160D-202, 160D-307 |
| Building Code Enforcement | Article 11 |
| Minimum Housing Code | Article 12 |
| Housing Appeals Board | 160D-305 |
| Historic Preservation | Article 9, Part 4 |
| Historic Preservation Commission | 160D-303 |
| Community Appearance Commission | Article 9, Part 5 |
| Appearance Commission | 160D-304 |
| Open Space Acquisition | Article 13, Part 1 |
| Community Development and Redevelopment | Article 13, Part 2 |
| Form-Based Districts or Development Form Controls (that address the physical form, mass, and density of structures, public spaces, and streetscapes) | 160D-703 |</p>
<table>
<thead>
<tr>
<th>List of Regulations Not Included in Current or Proposed Ordinance</th>
<th>160D Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incentives for reduction in energy consumption and/or sustainable design</td>
<td>160D-704</td>
</tr>
<tr>
<td>Community Service Facilities – required for S/D</td>
<td>160D-804(e)</td>
</tr>
<tr>
<td>Recreation Areas/Open Spaces – required for S/D</td>
<td>160D-804(d)</td>
</tr>
<tr>
<td>Voluntary Agricultural Districts</td>
<td>160D-903(e)</td>
</tr>
<tr>
<td>Accessory Farm Buildings</td>
<td>160D-903(d)</td>
</tr>
<tr>
<td>Airport Zoning</td>
<td>160D-904</td>
</tr>
<tr>
<td>Amateur Radio Antennas</td>
<td>160D-905</td>
</tr>
<tr>
<td>Bee Hives</td>
<td>160D-906</td>
</tr>
<tr>
<td>Family Care Home – prohibit location within ½ mile of an existing family care home</td>
<td>160D-907(c)</td>
</tr>
<tr>
<td>Fraternities/Sororities</td>
<td>160D-909</td>
</tr>
<tr>
<td>Public Buildings</td>
<td>160D-913</td>
</tr>
<tr>
<td>Solar Collectors</td>
<td>160D-914</td>
</tr>
<tr>
<td>Temporary Health Care Structures</td>
<td>160D-915</td>
</tr>
<tr>
<td>Transportation Corridor Maps</td>
<td>160D-916</td>
</tr>
<tr>
<td>Local Environmental Regs</td>
<td>160D-920</td>
</tr>
<tr>
<td>Forestry Activities</td>
<td>160D-921</td>
</tr>
<tr>
<td>Stormwater Control</td>
<td>160D-925</td>
</tr>
<tr>
<td>Water Supply/Watershed</td>
<td>160D-926</td>
</tr>
</tbody>
</table>
## Chapter 160D Land Use Regulations Revisions
### Revised Project Timeline

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jun - Oct</td>
<td>Nov</td>
</tr>
<tr>
<td><strong>BOA Review (Selected)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Staff Presents Final Draft</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>P&amp;Z Review of Final Draft</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TC Sets Public Hearing and Comment Period</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>P&amp;Z Recommendation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TC Review of Final Draft</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Public Comment Period</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Public Hearing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Town Council Adoption</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Effective/Codification</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **Public Information Plan:**
  - March eFocus article – providing general information on 160D and Town compliance
  - April eFocus article – providing information on how the public can review and comment
  - May eFocus article – providing information on how the public can review and comment
  - Media Press Releases
  - Public Information Session
  - Public Hearing
TOWN OF WEAVERVILLE
PLANNING AND ZONING BOARD AGENDA ITEM

Date of Meeting: Tuesday, March 2, 2021
Subject: Other Business
Presenter: Planning Director
Attachments: Updated Roster

Description:
The attached updated roster has been prepared and is reflective of Ms. Devane’s appointment to a regular member of the Board and Mr. Willis’ appointment as an alternate member of the Board.

Action Requested:
None.
WEAVERVILLE PLANNING AND ZONING BOARD

Regularly meets 1st Tuesday of the month at 6 pm
in Community Room/Council Chambers at Town Hall

<table>
<thead>
<tr>
<th>NAME AND POSITION</th>
<th>CONTACT INFORMATION</th>
<th>FIRST APPT</th>
<th>DATE OF APPT</th>
<th>TERM (3 YEARS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gary Burge</td>
<td>3 High Bluff Drive Weaverville, NC 28787 (cell) 423-0150 <a href="mailto:garyburge@garyburge.com">garyburge@garyburge.com</a></td>
<td>2014</td>
<td>August 2020</td>
<td>September 2020 – 2023</td>
</tr>
<tr>
<td>Regular Member Chair</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catherine Cordell</td>
<td>13 Hamburg Drive Weaverville, NC 28787 (cell) 776-7380 <a href="mailto:cat.cordell7@gmail.com">cat.cordell7@gmail.com</a></td>
<td>2012</td>
<td>August 2020</td>
<td>September 2020 – 2023</td>
</tr>
<tr>
<td>Regular Member Vice-Chair</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Chase</td>
<td>20 Brown Street Weaverville, NC 28787 (cell) 828-337-3366 <a href="mailto:jchase@medlockengr.com">jchase@medlockengr.com</a></td>
<td>2018</td>
<td>August 2019</td>
<td>September 2019 – 2022</td>
</tr>
<tr>
<td>Regular Member</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rachael Bronson</td>
<td>31 Reynolds Lane Weaverville, NC 28787 843-327-6709/828-229-1838 <a href="mailto:rachael.bronson@gmail.com">rachael.bronson@gmail.com</a></td>
<td>2019</td>
<td>September 2020</td>
<td>September 2020 – 2022</td>
</tr>
<tr>
<td>Regular Member</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Suzanne Devane</td>
<td>6 Lakeway Circle Weaverville, NC 28787 773-297-6835 (cell) <a href="mailto:sdevane@hdresources.net">sdevane@hdresources.net</a></td>
<td>2020</td>
<td>February 2021</td>
<td>September 2018 – 2021</td>
</tr>
<tr>
<td>Regular Member</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bob Pace</td>
<td>116 Mountain Meadow Circle Weaverville, NC 28787 919-434-6938 <a href="mailto:ncstman@gmail.com">ncstman@gmail.com</a></td>
<td>2020</td>
<td>September 2020</td>
<td>September 2020 – 2022</td>
</tr>
<tr>
<td>Alternate Member</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Andrew Willis</td>
<td>54 Moore Street Weaverville, NC 28787 828-458-1743 <a href="mailto:andrew@makconstructors.com">andrew@makconstructors.com</a></td>
<td>2021</td>
<td>February 2021</td>
<td>September 2020 – 2021</td>
</tr>
<tr>
<td>Alternate Member</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Andrew Nagle</td>
<td>300 Aiken Road Weaverville, NC 28787 828-656-3015 x 280 <a href="mailto:anagle@weavervillenc.org">anagle@weavervillenc.org</a></td>
<td>2020</td>
<td>July 2020</td>
<td>July 2021</td>
</tr>
<tr>
<td>Non-Voting Town Council Liaison</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| James Eller             | 828-484-7002 (direct line) jeller@weavervillenc.org |            |              |                   |
| Town Planner            |                                                |            |              |                   |
| Jennifer Jackson        | 828-442-1858 (cell) jjackson@weavervillenc.org   |            |              |                   |
| Town Attorney           |                                                |            |              |                   |

Last updated February 2021