



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Meeting Agenda Town Council



Tuesday, May 19, 2020

7:00 PM

Remote Meeting - View Livestream or Cable TV

18

7:00-7:10

- A. POETRY READING
- B. ROLL CALL

7:10-7:50

C. OTHER MATTERS

- 1. [20-216](#) Update on COVID-19 and Recovery Planning

PURPOSE: The purpose of this item is to provide an update to the Town Council on the status of the emergency and the recovery planning process.

Attachments: [Attachment A - Draft Orange County COVID Long Term Recovery Plan](#)

7:50-8:00

D. RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS

- 1. [20-211](#) Police Week and Peace Officers' Memorial Day Proclamation
- 2. [20-212](#) Public Works Week Proclamation

8:00-8:10

E. REQUESTS FROM VISITORS AND SPEAKERS FROM THE FLOOR

Comments are limited to three minutes per speaker. If you wish to make a public comment during an online meeting, please contact the Town Clerk's office via email at publiccomment@townofcarrboro.org or by phone at (919) 918-7310 no later than 5PM on Monday.

8:10-8:20

F. CONSENT AGENDA

- 1. [20-207](#) Approval of Minutes from April 28 and May 5, 2020

2. [20-210](#) Permit Extension Request for Previously Issued Conditional Use Permit for Mixed Use Building at 603 Jones Ferry Road
PURPOSE: The Council is asked to consider approving a request for an extension of the date when a Conditional Use Permit would otherwise expire for a Mixed Use Building at 603 Jones Ferry Road. Town Staff recommends approval of the request.

Attachments: [Attachment A - Resolution Approving Permit Extension](#)
[Attachment B - Letter from Applicant](#)
[Attachment C - Staff Report](#)
[Attachment D - CUP Document](#)

3. [20-206](#) Request to set a Public Hearing on Land Use Ordinance and Town Code Amendments to Establish Regulations for Small and Micro-Wireless Facilities
PURPOSE: The purpose of this item is for the Town Council to consider setting a public hearing on amendments to the Land Use Ordinance and Town Code to conform to state legislation relating to wireless infrastructure for 5G technology. Text amendments are legislative decisions. The Town Council must receive public input prior to making a decision.

Attachments: [Attachment A - Resolution Small Cells](#)
[Attachment C - Town Code Amendments WirelessFacilities 5-11-2020-3](#)
[Attachment B - Draft LUO Amendment WirelessFacilities 5-11-2020-3](#)
[Attachment D - HB 310](#)

G. OTHER MATTERS

8:20-8:50

1. [20-205](#) Pedestrian Safety Modifications for Social Distancing
PURPOSE: The purpose of this agenda item is to provide the Council with an opportunity to consider modifications to enhance pedestrian safety while maintain proper social distancing.

Attachments: [Attachment A - Resolution](#)
[Attachment B - Town Code Amendment Three-way Stop on Robert Hunt at Richard Dixon](#)

8:50-10:00

2. [20-209](#) Discussion of Actions to Support Social Distancing Requirements as Businesses Proceed with Phased Opening

H. MATTERS BY COUNCIL MEMBERS



Town of Carrboro

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301 W. Main St.
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Agenda Item Abstract

File Number:20-216

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Update on COVID-19 and Recovery Planning

PURPOSE: The purpose of this item is to provide an update to the Town Council on the status of the emergency and the recovery planning process.

DEPARTMENT: Town Manager's Office, Fire and Rescue Department

CONTACT INFORMATION: David Andrews, Town Manager, dandrews@townofcarrboro.org and Dave Schmidt, Fire Chief dschmidt@townofcarrboro.org

INFORMATION: Fire Chief Dave Schmidt will update the Town Council on the current Covid-19 emergency details. Deputy County Manager, Travis Myren, has been leading the County-wide recovery planning process. He will provide an overview of the plan and respond to questions by the Town Council.

FISCAL & STAFF IMPACT: None.

RECOMMENDATION: Staff recommends the Town Council receive the update.



**ORANGE
COUNTY**
NORTH CAROLINA

Orange County COVID - 19 Long Term Recovery Plan

Table of Contents

1. Disaster Recovery Framework
 - a. Overview
 - i. Purpose, Situation, Scope
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 - b. Roles and Responsibilities
 - c. Concept of Operations
 - d. Administration
2. Recovery Support Functions (RSF)
 - a. Recovery Core Capabilities and Definitions
 - i. Economic
 - ii. Health
 - iii. Human Services
 - iv. Housing
 - v. Cultural Resources
 - vi. Community Planning and Capacity Building

Section 1: Disaster Recovery Framework

1. Overview

a. Purpose

The purpose of the Orange County Disaster Recovery Framework is to provide a guidance to assist the Orange County community in achieving a focused, timely, and expeditious recovery from the pandemic. It is critical that recovery operations are coordinated in a manner that allows for the best use of resources and clear communications.

b. Situation

Orange County is a moderately sized jurisdiction of 401 square miles and an average population size of 144,000 community members. It contains three municipalities; the Town of Carrboro, the Town of Chapel Hill, the Town of Hillsborough. Also located in Orange County is the flagship school for the University of North Carolina School System, UNC – Chapel Hill. UNC Health has two hospitals (one of which is a Level 1 Trauma Center) within Orange County.

This recovery plan is specific to the ongoing COVID-19 pandemic.

c. Scope

This Framework is used for the pandemic response to COVID-19 and asserts that recovery will require a coordinated approach between all jurisdictions.

It utilizes a modified approach to the Federal Recovery Support Functions structures with jurisdictional representation to ensure full and coordinated response.

d. Limitations

This framework does not specifically address FEMA Public Assistance or Individual Assistance programs. Additionally, Orange County is committed to making every reasonable effort to recovery from the pandemic. However, County resources and systems will need to vary from traditional disaster recovery operations as the response to the pandemic is ongoing.

e. Assumptions

Planning assumptions that are applicable to recovery include but are not limited to:

Recovery takes time, often a very long time.

Pandemic recovery may require modified or changed approaches from traditional disaster recovery.

Recovery is challenging because the response may be concurrent and ongoing.

Depending on the incident, size, and impacts recovery to the pre-incident conditions may not be realistic, possible, or desirable.

The ability to efficiently coordinate and support recovery efforts is critical to the success of recovery.

The recovery structure must be flexible and scalable as recovery evolves as time passes.

A new reality, in some form, will emerge.

The focus/priorities of recovery change over time.

It will be a challenge to maintain continuity of institutional knowledge as recovery staff changes over the long duration of activities.

The engagement and/or support of the directly impacted community as well as the broader community will be critical to a successful recovery.

Past disasters have shown the depth of community involvement will be in direct relation to the recovery priorities and extent of human impact caused by the disaster.

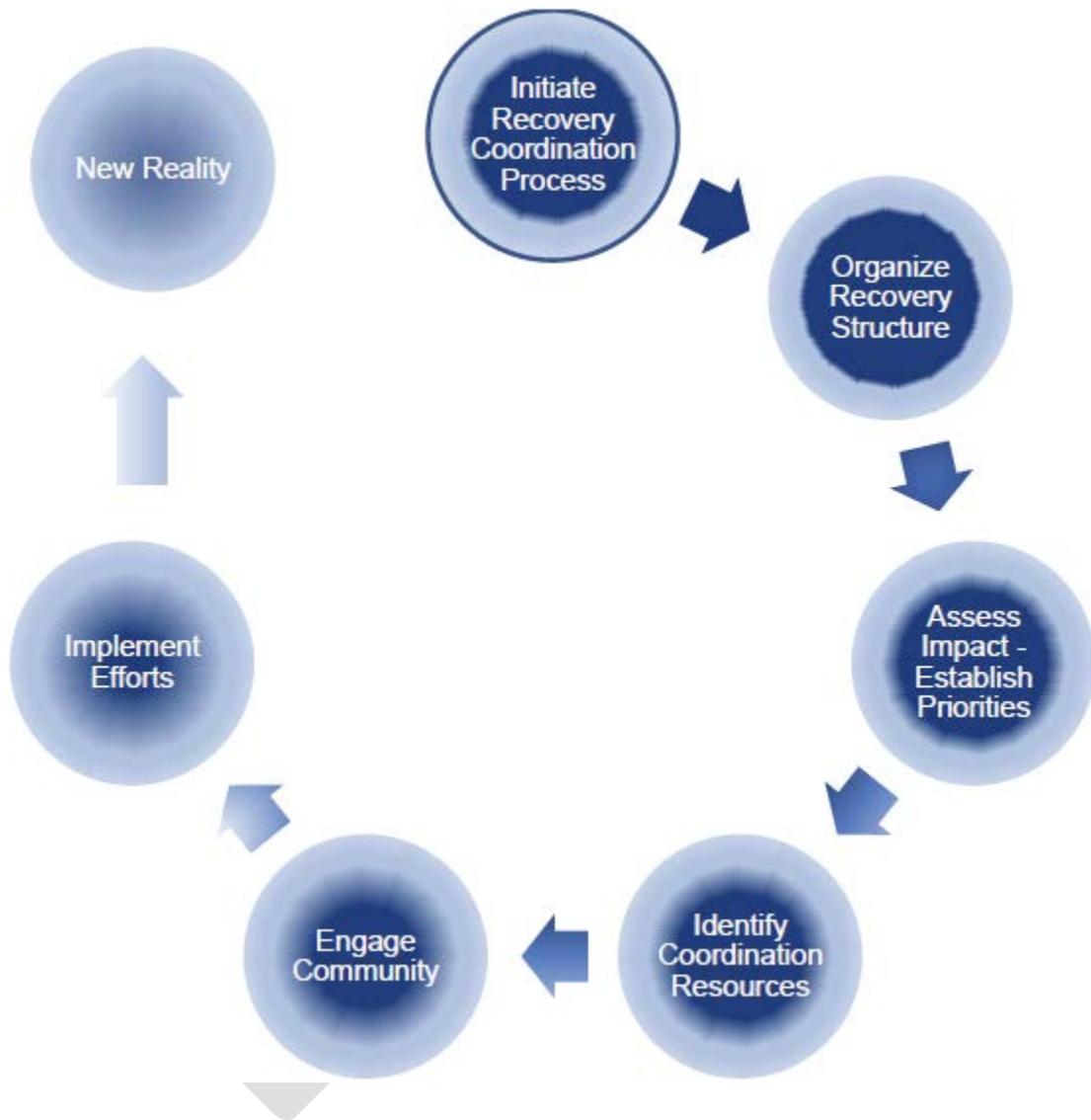
Recovery involves interdependences and priorities that will guide the development of recovery activities and the pathway forward.

Recovery is not a linear process.

Communication with the affected survivors, residents, and community is critical to build trust and support in the recovery process.

Funding recovery will be costly.

f. Process



Disaster recovery management engages the Whole Community, those directly affected and the larger area, through coordination and planning as part of the recovery process.



g. Structure

The Orange County Long Term Recovery Group will coordinate through leads and with internal and external partners as documented below.

Authority will be given to recovery leadership by the Multiagency Coordination Group.

The Orange County Long Term Recovery Group will be coordinated by a representative appointed by the MAC Policy Group.

Recovery Support Function	Disaster Recovery Position	Lead Orange County Department	Primary Focus
Multi-Agency Coordination and Policy Group	Oversight	Chief Elected Officials and Managers	Policy guidance
Recovery Support Function #1 Economic	RSF Leader	County/Towns Economic Development	Assessment and development

Recovery Support Function #2 Health	RSF Leader	Orange County Health Department UNC Health	Healthcare system, EMS, environmental assessment/risk guidance
Recovery Support Function #3 Human Services	RSF Leader	Orange County Department of Social Services	Mental health, unmet needs, social systems, advocacy, mass feeding and voluntary agency coordination
Recovery Support Function #4 Housing	RSF Leader	County/Town Housing Representatives	Housing needs and fair housing practices enforcement
Recovery Support Function #5 Cultural Resources	RSF Leader	Orange County/Town Arts Commission	Memorial and community involvement
Recovery Support Function #6 Community Planning and Capacity Building	RSF Leader	County/Town Planning and Inspections	Resiliency and capacity building
Recovery Support Function #7 Intergovernmental Affairs	Representatives	County/town Emergency Managers	Legal, financial, communications, community connection
Support	Coordinator	Appointed Member	Overall coordination

2. Roles and Responsibilities

Leadership

- a. Orange County MAC Policy Group Members
 - i. Will provide elected official coordination and request support/funding from local, state, and federal representatives, guide overall recovery policy direction, and appoint/designate the members of the Orange County Long Term Recovery Group. Will support recovery efforts through allocation of resources as requested and able and will serve as recovery advocates with local, state, and federal elected leaders.

Long Term Recovery Group Members

- a. Recovery Group Coordinator
 - i. Will coordinate the recovery team including information sharing, documentation, meeting facilitation, community outreach, stakeholder engagement, and other concerns as needed
- b. Recovery Support Function Leader
 - i. Will facilitate planning and tasks associated with their specific/authoritative area of recovery. It is recommended that each RSF identify a primary and an alternate leader for continuity of operations.
- c. RSF Support Agencies
 - i. Will participate in recovery planning and tasks as appropriate to the recovery priorities and their operational authority
- d. Jurisdictional Representation
 - i. Will participate in recovery planning and tasks as appropriate to the recovery priorities and serve as the liaison to internal municipal recovery groups and structures

3. Concept of Operations

- a. General

Recovery is a lengthy process and will likely take years to complete and establish the post pandemic normal.

The concept for operations for recovery is to have a Long Term Recovery Group established to coordinate recovery efforts and projects as directed by the Long Term Recovery Group Coordinator and the authority and the policy guidance of the Multiagency Policy Group.

Recovery must be taken into consideration as soon as resources allow. The Recovery Group Coordinator will assess the disaster situation, identify priorities and resource needs, and establish a strategy for meeting the pandemic goal of recovery.

The Recovery Group will meet regularly to ensure a coordinate efficient recovery process.

Pandemic response and recovery are concurrent operations due to the size and complexity of the incident. The recovery phase will likely last years.

- b. Assessment

A thorough impact assessment is important to understand where capability exists and where recovery resource support is required. Only RSF's and positions that are directly supporting a recovery priority will activate, to minimize unnecessary use of limited resources.

Each RSF will identify:

- the incident impacts to their capability
- prioritized recovery goals specific to the RSF
- the tasks, resources, and policy decisions/actions required to achieve the goals
- the participants and/or dependencies with internal and external agencies required to reach the RSF goals
- The assessment is a rapid process designed to quickly consolidate data for coordination across RSFs and to guide the establishment of overall recovery priorities for leadership approval.

c. Strategy

Based on the findings of the impact assessment a documented recovery strategy supporting achievement of priorities and goals will be developed.

The strategy will be a fluid concept with the flexibility to meet the challenges and adjustments that are expected during recovery.

d. Community Engagement

The community should be engaged through a variety of methods including but not limited to:

- meetings (held virtually depending on current risk status and guidance)
- written correspondence i.e.: letters, email, or bulletins
- social media i.e.: Facebook, Twitter, or blogs
- input forums (electronic and in person)
- other methods as identified as meeting the needs of the community.

Engagement should be initiated as soon as possible and continue throughout the recovery process.

e. Meetings/coordination

The recovery team or office must meet, whenever possible, on a regular basis as consistent with recovery priority demands. For a recovery team this will most likely be weekly during the short term and possibly monthly during the long-term recovery process. Regular dedicated recovery meetings are critical to coordination, information sharing, and direction on priorities

and expectations. The meetings serve as the venue for identification of dependencies and at times resolution of competing priorities.

The meetings will be facilitated by the Recovery Group Coordinator with decisions and direction provided by the MAC Group. One of the key aspects of the regular meeting is to allow the RSF Lead and sub leads if appropriate the opportunity to present updates, briefings, and request for support to all of the primary recovery participants. Depending on the size of the recovery group, it may be possible to include all leads and sub leads at every meeting or it may be necessary to limit meetings to RSF Leaders, each incident will be unique and over time the meeting participants are likely to change.

f. Support

Resources include items that are part of everyday operations such as computers and phones, as well as specialty items such as plotters, safety equipment, or cameras.

The most critical resource to the recovery team will be that which supports the emotional/mental health of the team. Focusing on a disaster for a long period of time has affects that are not always seen, particularly ones that involve fatalities. The need for ongoing emotional care will be critical to the long term recovery group staff.

g. Tracking/reporting

All recovery activities must be documented, tracked, and status reports will occur on a regular basis.

Regular status reports to the MAC policy group should be provided to ensure progress towards recovery priorities and goals is occurring.

h. Financial tracking/reimbursement

Tracking the cost of recovery is key to understanding the financial impacts and in planning for potential future recovery needs from the current or new disaster situations. The ESF #7 intergovernmental Affairs Recovery Support Function will be the primary leading group for finance tracking and reimbursement.

i. Close out

Capturing the lessons learned, best practices, and development of plans based on recovery efforts is critical to the ability to improve and build capability for future disasters.

Each RSF and support agency will write a short debrief document explaining what they contributed to the recovery, tasks accomplished, critical milestone of recovery, and advice to future efforts.

j. Funding

A community giving fund will be established for community members to donate to the long term recovery group. This funding will be managed and executed by the Long Term Recovery Group based on the priorities set by the MAC Policy Group.

Additional funding may be made available through grants and other processes.

4. Administration

This Framework will be reviewed for updates or revisions as needed.

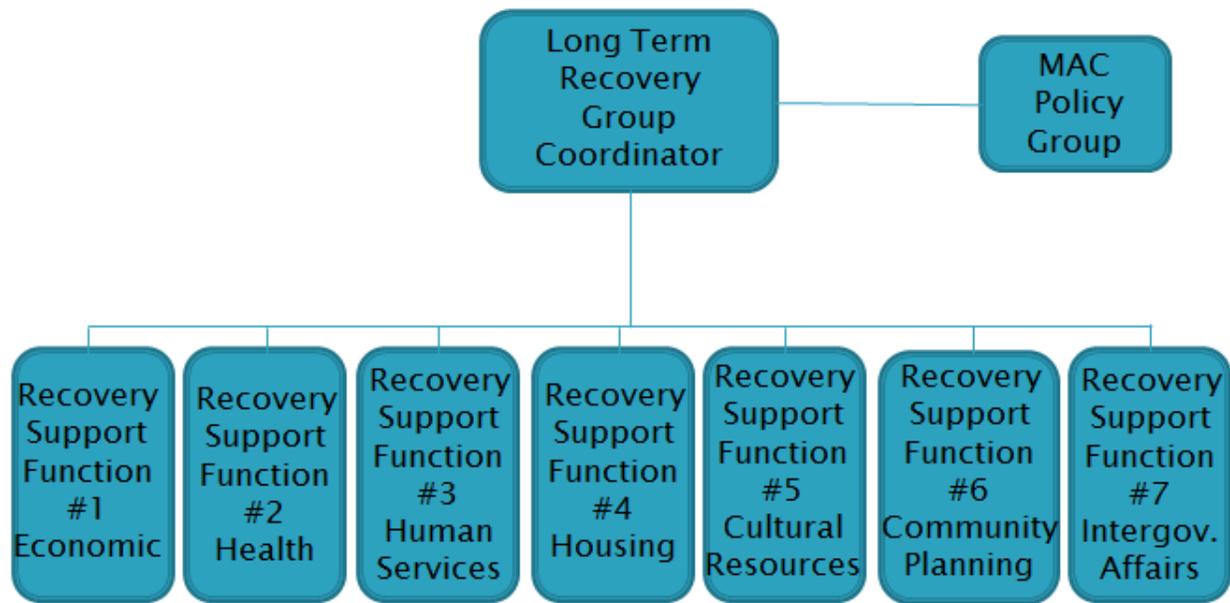
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Section 2: Recovery Support Functions

1. Recovery Core Capabilities and Definitions

Recovery Core Capabilities and Definitions	
Recovery Support Function #1 Economic	Return economic and business activities (including food and agriculture) and develop new business and employment opportunities that result in a sustainable and economically viable community
Recovery Support Function #2 Health	Restore, sustain, and improve health networks to promote the resilience, independence, health, and well-being of the community
Recovery Support Function #3 Human Services	Restore and improve social networks to promote the resilience, independence, emotional/mental health and well-being of the community. Implement feeding and social services solutions that effectively support the needs of the community and contribute to its sustainability and resilience
Recovery Support Function #4 Housing	Restore and improve housing solutions that effectively support the needs of the community and contribute to its sustainability and resilience.
Recovery Support Function #5 Cultural Resources	Protect natural and cultural resources through appropriate actions.
Recovery Support Function #6 Community Planning and Capacity Building	Conduct a systematic process in the development of executable strategic, operational, and/or community-based approaches to meet recovery priorities.
Recovery Support Function #7 Intergovernmental Affairs	Responsible for intergovernmental coordination, financial administration, and public information

Long Term Recovery Group (LTRG) Structure



Recovery Support Function – Economic

RSF LEAD: *County/Town Economic Developers*

Supporting Agencies:

- Orange County DSS
- Orange County DEAPR
- Orange County Chamber of Commerce
- Orange County Visitor’s Bureau
- Chapel Hill Carrboro Chamber of Commerce
- Municipal Economic Developers
- NC Cooperative Extension
- US Small Business Administration
- Other agencies as applicable

Scope
The Recovery Support Function – Economic identifies the key policies, roles and responsibilities and capabilities associated with addressing immediate economic contingencies within the county, as well as preparing for near-, medium- and long-term economic recovery
Recovery Priorities
<ul style="list-style-type: none"> • Address impacts of infrastructure damage to economic sustainability • Identify the status of human capital to sustain economic viability • Restore/rebuild the economic foundation of the affected areas as quickly as possible • Support critical businesses in pandemic recovery efforts • Identify opportunities for near and long-term economic growth and stability post-incident
Role and Responsibilities
<ul style="list-style-type: none"> • Helping address immediate economic needs resulting from the pandemic • Establishing communication and information-sharing forums for economic development and recovery stakeholders • Maintaining situational awareness to identify and mitigate potential recovery obstacles to economic recovery, both near and long-term • Coordinating and leveraging applicable agency resources for economic recovery activities • Supporting activities to return the local economy and business environment (including food and agriculture) to a new normal • Identifying and coordinating with other local, state, and federal partners to participate in the recovery process and to develop new business and employment opportunities that result in a sustainable and economically viable community

DRAFT

Recovery Support Function – Health

RSF LEADs: ***Orange County Health Department
UNC Health***

Supporting Agencies: Long term care facilities/skilled nursing facilities
Congregate living facilities
UNC Health
OWASA
Other agencies as applicable

Scope
The Recovery Support Function – Health identifies key policies, roles, and responsibilities and capabilities associated with the recovery of public health and medical functions in the county.
Recovery Priorities
<ul style="list-style-type: none"> • Protect the health of the population and response and recovery workers from the longer term effects of a post-disaster environment. • Restore the capacity and resilience of essential health and social services to meet ongoing and emerging post-disaster community needs. • Promote self-sufficiency and continuity of the health and well-being of affected individuals; particularly the needs of children, seniors, people living with disabilities whose members may have additional functional needs, people from diverse origins, people with limited English proficiency, and underserved populations. • Reconnect displaced populations with essential health and social services.
Role and Responsibilities
<ul style="list-style-type: none"> • Maintaining situational awareness to identify and mitigate potential recovery obstacles to public health and medical recovery. • Identifying and coordinating with other local, State, Tribal and Federal partners to assess food, animal, water and air conditions to ensure safety. • Establishing communication and information-sharing forum(s) for Health RSF stakeholders. • Providing technical assistance in the form of impact analyses and support recovery planning of public health and health care infrastructure. • Coordinating and leverage applicable agency resources for health and medical services.

Recovery Support Function – Human Services

RSF LEAD: *Orange County Department of Social Services*

Supporting Agencies:

- Municipal social support coordinators
- Orange County voluntary agencies
- Orange County food banks
- Orange County Schools
- Chapel Hill Carrboro City Schools
- Inter-Faith Council
- Mental Health Service Providers
- Other agencies as applicable

Scope
<p>The Recovery Support Function – Human Services identifies the key policies, roles and responsibilities, and capabilities associated with the recovery of human services functions within the County. This includes sheltering; feeding; addressing emergency needs; legal and financial needs of individuals and families affected; assessing and addressing the needs of vulnerable populations and veterans; assessing and addressing behavioral health (chemical dependency and mental health) needs of children, youth, adults, families, and responders; and coordinating on the delivery of long-term economic/workforce redevelopment and community resiliency building activities.</p>
Recovery Priorities
<ul style="list-style-type: none"> • Assess and address the immediate basic needs of the population. • Reconnect individuals and families with services to meet longer term recovery needs. • Address the long term recovery needs of response and recovery workers. • Restore the capacity and resilience of essential human services to meet ongoing and emerging post-disaster community needs. • Promote self-sufficiency and restoration/continuity of the behavioral health and well-being of affected individuals, particularly for members of vulnerable populations.
Role and Responsibilities
<ul style="list-style-type: none"> • Maintaining situational awareness and communication channels to identify and mitigate potential recovery obstacles to human services and behavioral health recovery. • Mobilizing and deploying Navigator System Partner staff. • Identifying and coordinating with other local, State, Tribal and Federal partners to assess basic and other human services and behavioral health needs to ensure safety and

promote full recovery.

- Establishing communication and information-sharing forum(s) for Human Services/Behavioral Health RSF stakeholders and the public.
- Providing technical assistance in the form of impact analyses and support recovery planning of human services and behavioral health infrastructure.
- Coordinate and leverage applicable agency and partner resources for human services and behavioral health services.

DRAFT

Recovery Support Function – Housing

RSF LEAD: *County/Town Housing Coordinators*

Supporting Agencies: Orange County Human Rights and Relations
 Orange County Partnership to End Homelessness
 Municipal housing support coordinators
 Inter-Faith Council
 Municipal Housing Departments
 Other agencies as applicable

Scope
The Recovery Support Function – Housing identifies the key policies, roles and responsibilities and capabilities associated with addressing immediate housing solutions within the county, as well as preparing for near-, medium- and long-term housing recovery
Recovery Priorities
<ul style="list-style-type: none"> • Restore the capacity and resilience of essential housing services to meet ongoing and emerging post-disaster community needs. • Identify opportunities for near and long-term housing support and stability post-incident
Role and Responsibilities
<ul style="list-style-type: none"> • Helping address immediate housing needs resulting from the pandemic • Establishing communication and information-sharing forums for housing and recovery stakeholders • Maintaining situational awareness to identify and mitigate potential recovery obstacles to housing support for recovery, both near and long-term • Coordinating and leveraging applicable agency resources for housing recovery activities • Identifying and coordinating with other local, state, and federal partners to participate in the recovery process and to develop housing solutions

Recovery Support Function – Cultural Resources

RSF LEAD: *County/Town Arts Commissions*

Supporting Agencies: Orange County Library
 Orange County DEAPR
 Municipal partners
 Other agencies as applicable

Scope
<p>The core recovery capability for natural and cultural resources is the ability to protect natural and cultural resources and historic properties through appropriate recovery actions to preserve, conserve, rehabilitate, and restore them consistent with post-disaster community priorities and in compliance with appropriate environmental and cultural resources laws. The Natural and Cultural Resources Recovery Support Function coordinates departments and agencies working together to provide information and assistance to communities seeking to preserve, protect, conserve, rehabilitate, recover and restore natural and cultural resources during recovery.</p>
Recovery Priorities
<ul style="list-style-type: none"> • Address impacts of the disaster on natural and cultural resources. • Identify opportunities to leverage natural and cultural resource protection with hazard mitigation strategies. • Identify memorial options for community support and memorialization
Role and Responsibilities
<ul style="list-style-type: none"> • Works to leverage resources and available programs to meet local community recovery needs. • Coordinates cross-jurisdictional or multistate and/or regional natural and cultural resource issues to ensure consistency of support where needed. • Addresses government policy and agency program issues, gaps and inconsistencies related to natural and cultural resource issues. • Encourages responsible agencies at all levels of government and their private sector partners to support the local community’s recovery plan and priorities to meet the community’s needs. • Maintains robust and accessible communications throughout the recovery process between the County Government and all other partners to ensure ongoing dialogue and information sharing.

Recovery Support Function – Community Planning and Capacity Building

RSF LEAD: *County/Town Departments of Planning and Inspections*

Supporting Agencies: Orange County Planning and Inspections
 Municipal planning departments
 Orange County DEAPR
 Other agencies as applicable

Scope
The Recovery Support Function – Community Planning identifies the key policies, roles and responsibilities and capabilities associated with supporting and building effective plans for managing and implementing whole community recovery efforts with a focus on resiliency.
Recovery Priorities
<ul style="list-style-type: none"> • Identify opportunities for building resiliency into recovery efforts, including code, law, or regulation changes. • Develop whole community approaches to building back better. • Integrate Hazard Mitigation strategies into recovery/restoration efforts.
Role and Responsibilities
<ul style="list-style-type: none"> • Plan, manage, and implement a mitigation and resiliency focused rebuilding strategy. • Coordinate planning efforts by engaging the whole community in the process. • Establish communication and information sharing forum(s) for public, private, non-profit, and community stakeholders involved in community recovery.

Recovery Support Function – Intergovernmental Affairs

RSF LEAD: *County/Town Emergency Management*

Supporting Agencies: County/Town Finance Departments
 County/Town Public Information Officers
 Orange County Schools
 Chapel Hill Carrboro City Schools
 University of North Carolina at Chapel Hill
 Other agencies as applicable

Scope
The Recovery Support Function – Intergovernmental Affairs identifies the key policies, roles and responsibilities and capabilities associated with intergovernmental coordination for community recovery. This includes financial tracking, public information, and broad recovery operations.
Recovery Priorities
<ul style="list-style-type: none"> • Seek out sources of pandemic recovery funds, including grants and public-private partnerships that would help support implementation of recovery activities • Manage, track, and document funding sources • Ensure timely and coordinated public information messaging • Ensure coordinated recovery activities and address any coordination gaps that may arise as it relates to recovery
Role and Responsibilities
<ul style="list-style-type: none"> • Ensure coordinated recovery activities and address any coordination gaps that may arise as it relates to recovery • Pursue and manage recovery funding options • Coordinate planning efforts by engaging the whole community in the process. • Establish communication and information sharing forum(s) for public, private, non-profit, and community stakeholders involved in community recovery.



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Agenda Item Abstract

File Number:20-211

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Police Week and Peace Officers' Memorial Day Proclamation



Town of Carrboro

Town Hall
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Agenda Item Abstract

File Number:20-212

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Public Works Week Proclamation



Town of Carrboro

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Agenda Item Abstract

File Number:20-207

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Approval of Minutes from April 28 and May 5, 2020



Town of Carrboro

Town Hall
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Agenda Item Abstract

File Number:20-210

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Permit Extension Request for Previously Issued Conditional Use Permit for Mixed Use Building at 603 Jones Ferry Road

PURPOSE: The Council is asked to consider approving a request for an extension of the date when a Conditional Use Permit would otherwise expire for a Mixed Use Building at 603 Jones Ferry Road. Town Staff recommends approval of the request.

DEPARTMENT: Planning Department

CONTACT INFORMATION: Marty Roupe, 919-918-7333, mroupe@townofcarrboro.org <<mailto:mroupe@townofcarrboro.org>>, or James Thomas, 919-918-7335, jthomas@townofcarrboro.org <<mailto:jthomas@townofcarrboro.org>>

INFORMATION: On behalf of Mr. Francis Chan, Mr. Matthew O'Brien has requested an extension of the date on which a previously issued Conditional Use Permit (CUP) would otherwise expire on June 26, 2020. The Council originally granted this CUP on June 26, 2020. The permit allows construction of a mixed use building consisting of office space on the ground floor and four residential units on the second floor. Construction of the project has not commenced. The construction plans are under review at this time. A resolution approving the request is included as Attachment A should the Council choose to approve it.

The applicant has submitted a letter, included as Attachment B, related to compliance with LUO Section 15-62 and specifically requesting a two year extension. A staff report regarding compliance with Section 15-62 is included as well as Attachment C.

Lastly, the original CUP document is included as Attachment D for reference.

FISCAL & STAFF IMPACT: The applicant has paid the applicable fee associated with this request. No other impact noted.

RECOMMENDATION: Town Staff recommends that the Council adopt the attached resolution approving the permit extension request. The new expiration date for the permit would be June 26, 2022.

A RESOLUTION APPROVING THE EXTENSION OF THE DATE ON WHICH THE CUP FOR A MIXED USE BUILDING AT 603 JONES FERRY ROAD WOULD OTHERWISE EXPIRE

WHEREAS, the Town Council approved a Conditional Use Permit for a Mixed Use Building at 603 Jones Ferry Road on June 26th, 2018; and

WHEREAS, Section 15-62(a) of the Town of Carrboro Land Use Ordinance allows for a permit extension; and

WHEREAS, the Town Council finds, per Section 15-62(c) of the LUO, that: 1.) the CUP has not expired, and 2.) the permit recipient has proceeded with due diligence and good faith, and 3.) conditions have not changed so substantially as to warrant a new application.

NOW, THEREFORE BE IT RESOLVED by the Town Council that the expiration date for the Conditional Use Permit for a Mixed Use Building at 603 Jones Ferry Road is hereby extended to June 26, 2022.

This the 19th day of May 2020.



April 20, 2020

Mr. James Thomas
Town of Carrboro
301 West Main Street
Carrboro, NC 27510

Reference: Francis Chan Project
Jones Ferry Road
Carrboro, NC

Mr. Thomas,

I am writing you to officially require an extension of the 2 year vested CUP right for the above referenced project. It appears the sunset for that is June 26th of this year.

As it stands now, Mr. Chan would need to start and have completed 10 percent of the work delineated in the plans.

Given Mr. Chan's recent health issues, from which he has a full recovery, and in these unique times we are requesting an extension of the CUP.

Might you please take up this intention at the Board of Aldermen at their May 14th meeting in order to extend the CUP for an additional 2 years?

Thank you for your time and attention in this matter.

Sincerely,

Matthew O'Brien, Architect

STAFF REPORT

TO: Town Council

DATE: May 19th, 2020

PROJECT: Conditional Use Permit Extension Request for Mixed Use Building at 603 Jones Ferry Road

APPLICANT: O'Brien Architects
Attention: Matthew O'Brien
143 North Main Street
Greensboro, NC 27284

OWNERS: FJC Trust
Contact: Francis Chan
101 Harkness Circle
Durham, NC 27705

PURPOSE: Request for an extension of date when Conditional Use Permit would otherwise expire for a Mixed Use Building at 603 Jones Ferry Road. This CUP permit will otherwise expire on June 26th, 2020.

EXISTING ZONING: O (Office)

PIN: 9778-34-6032

LOCATION: 603 Jones Ferry Road

TRACT SIZE: 1.1 acres (47,916sf)

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Mixed Use Building-1st floor to be office space (use# 3.120) and 2nd floor to be four (4) residential units (use# 1.200)

SURROUNDING LAND USES: North: O, Willow Creek Office Complex
South: R-3, Ashbrook Apartments
West: R-3, Poplar Place Apartments
East: R-3, Ashbrook Apartments

RELEVANT**ORDINANCE SECTIONS:** Section 15-62 Expiration of Permits**BACKGROUND**

The applicant, O'Brien Architects, has requested that the date on which a previously issued Conditional Use Permit (CUP) would otherwise expire, on June 26th, 2020, be extended two years to an expiration date of June 26, 2022.

The Town Council originally granted the Conditional Use Permit on June 26th, 2018. The CUP allows for the construction of 1st floor to be office space (use# 3.120) and 2nd floor to be four (4) residential units (use# 1.200).

APPLICABLE LUO PROVISIONS

Extensions to the date on which a permit would otherwise expire must be granted in accordance with Section 15-62 (Expiration of Permits) of the LUO. Specifically, please note that Section 15-62(a) of the LUO dictates that the CUP would expire on June 26th, 2020 in this case because less than ten percent (10%) of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on the development authorized by the permit has been completed on the site. Construction plans are under review, onsite work has not commenced.

Section 15-62(c) gives the permit-issuing authority (Town Council) the authority to grant an extension to the date on which the permit would otherwise expire. Section 15-62(c) reads as follows:

“(c) The permit-issuing authority may extend for a period up to two years the date when a permit would otherwise expire pursuant to subsections (a) and (b) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to two years upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.”

Staff offers the following information related to the conditions outlined in Section 15-62(c):

1. The permit has not yet expired.

COMPLIANCE: *No, the permit has not expired. The permit is set to expire on June 26th, 2020.*

2. The permit recipient has proceeded with due diligence and in good faith.

COMPLIANCE: *Yes, the permit recipient has proceeded with due diligence and in good faith. Mr. Francis Chan was dealing with a personal health issue.*

3. Conditions have not changed so substantially as to warrant a new application.

COMPLIANCE: *Yes, it is true that conditions have not changed so substantially as to warrant a new application. No changes to the property have taken place since the permit was originally approved.*

RECOMMENDATION

The Town Staff recommends that the Town Council adopt the attached resolution approving the permit extension request. The new expiration date for the permit would be June 26, 2022.

M
MK



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Bk:RB6520 Pg:266
 09/11/2018 01:22:52 PM 1/3

FILED Mark Chilton
 Register of Deeds, Orange Co. NC
 Recording Fee: \$26.00
 NC Real Estate TX: \$.00

JB

PREPARED BY AND RETURN TO:

**TOWN CLERK
 TOWN OF CARRBORO
 301 West Main Street
 CARRBORO, NORTH CAROLINA 27510**



**ORANGE COUNTY
 NORTH CAROLINA**

**TOWN OF CARRBORO
 CONDITIONAL USE PERMIT GRANTED**

On the date(s) listed below, the Board of Aldermen of the Town of Carrboro met and held a public hearing to consider the following application:

APPLICANT: FJC Trust
OWNERS: Francis Chan
PROPERTY LOCATION: 603 Jones Ferry Road
PINs 9778-34-6032 <i>WR</i>
PROPOSED USE OF PROPERTY: Mixed Use Building – 1 st floor to be office space, 2 nd floor to be four residential units
CARRBORO LAND USE ORDINANCE USE CATEGORY: 3.120 and 1.200
MEETING DATES: June 26, 2018

Having heard all the evidence and arguments presented at the hearing, the Board finds that the application is complete, that the application complies with all of the applicable requirements of the Carrboro Land Use Ordinance for the development proposed, and that therefore the application to make use of the above-described property for the purpose indicated is hereby approved, subject to all applicable provisions of the Land Use Ordinance and the following conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Development Review Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

3. That the applicant must obtain a driveway permit from NCDOT prior to construction plan approval.
4. That prior to Construction Plan approval, the applicant provide letters from electric, gas, telephone and cable providers that this project can be served to this development.
5. That prior to Construction Plan approval, the applicant provide the necessary light pollution plan sheet in order to verify compliance with the .2 footcandle requirements at the property line per Section 15-242.5 of the LUO.
6. That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
7. That 3-4 native tree species instead of 1 (Willow Oak) species be planted to insure the longevity and health of the plantings.
8. That conduit and electrical wiring will be added to support high-speed charging of electric vehicles.
9. That LED be used for outdoor lighting and energy efficiency and to minimize light pollution.

This permit shall automatically expire within two years of the date of issuance if the use has not commenced or less than 10 percent (10%) of total cost of construction has been completed or there has been non-compliance with any other requirements of Section 15-62 of the Carrboro Land Use Ordinance.

All street construction on those streets proposed for acceptance by the Town of Carrboro shall be certified by an engineer. Engineering certification is the inspection by the developer's engineer of the street's subgrade, base material, asphalt paving, sidewalks and curb and gutter, when used. The developer's engineer shall be responsible for reviewing all compaction tests that are required for streets to be dedicated to the town. The developer's engineer shall certify that all work has been constructed to the town's construction specifications.

If this permit authorizes development on a tract of land in excess of one acre, nothing authorized by the permit may be done until the property owner properly executes and returns to the Town of Carrboro the attached acknowledgment of the issuance of this permit so that the town may have it recorded in the Orange County Registry.



NORTH CAROLINA
ORANGE COUNTY

IN WITNESS WHEREOF, the Town of Carrboro has caused this permit to be issued in its name, and the undersigned being all of the property above described, do hereby accept this Conditional Use Permit, together with all its conditions, as binding upon them and their successors in interest.

THE TOWN OF CARRBORO

ATTEST:

Catherine C. Dorando (SEAL)
Town Clerk

BY David Andrews
Town Manager

I, Andressa Thorne a Notary Public in and for said County and State, do hereby certify that Catherine C. Dorando, Town Clerk for the Town of Carrboro, personally came before me this day and being by me duly sworn says each for himself that she knows the corporate seal of the Town of Carrboro and that the seal affixed to the foregoing instrument is the corporate seal of the Town of Carrboro, that David Andrews, Town Manager of said Town of Carrboro and Catherine C. Dorando, Town Clerk for the Town of Carrboro subscribed their names thereto; that the corporate seal of the Town of Carrboro was affixed thereto, all by virtue of a resolution of the Board of Aldermen, and that said instrument is the act and deed of the Town of Carrboro.

IN WITNESS THEREOF, I have hereunto set by hand and notarial seal this the 30th day of August, 2018.

Andressa Thorne (SEAL)
Notary Public

My Commission Expires: 6-10-2023

Andressa Thorne, Notary Public
Orange County, North Carolina
My Commission Expires 6/10/2023

I, **Francis Chan**, owner, do hereby acknowledge receipt of this Conditional Use Permit. The undersigned owner does further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding upon them and their successors in interest.

Francis Chan
By: Francis Chan
Authorized Agent/Owner

NORTH CAROLINA

Derham COUNTY

I, Sonye T. Jones, a Notary Public for said County and State, do hereby certify that, Francis Chan, representing FJC Trust a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official seal this the 30th day of August, 2018.

Sonye T. Jones
Notary Public

SONYE T. JONES
NOTARY PUBLIC
PERSON COUNTY, NC

My Commission Expires: March 8, 2023

(Not valid until fully executed and recorded)

PREPARED BY AND RETURN TO:
TOWN CLERK
TOWN OF CARRBORO
301 West Main Street
CARRBORO, NORTH CAROLINA 27510





Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:20-206

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Request to set a Public Hearing on Land Use Ordinance and Town Code Amendments to Establish Regulations for Small and Micro-Wireless Facilities

PURPOSE: The purpose of this item is for the Town Council to consider setting a public hearing on amendments to the Land Use Ordinance and Town Code to conform to state legislation relating to wireless infrastructure for 5G technology. Text amendments are legislative decisions. The Town Council must receive public input prior to making a decision.

DEPARTMENT: Planning

CONTACT INFORMATION: Christina Moon - 919-918-7325, cmoon@townofcarrboro.org <<mailto:cmoon@townofcarrboro.org>>; Marty Roupe - 919-918-7333, mroupe@townofcarrboro.org <<mailto:mroupe@townofcarrboro.org>>; Patricia McGuire - 919-918-7327, pmcguire@townofcarrboro.org <<mailto:pmcguire@townofcarrboro.org>>; Nick Herman - 919-929-3905, herman@broughlawfirm.com <<mailto:herman@broughlawfirm.com>>.

INFORMATION: During the 2017 Session, the North Carolina legislature adopted S.L. 2017-159 (HB 310) which amends G.S. 160A-400.50 to G.S. 160A-400.57, and G.S. 136-18.3A (provisions relating to NCDOT rights-of-way) establishing new regulations for the collocation of small wireless infrastructure (*Attachment D*).

Two draft ordinances have been prepared. The draft ordinance to amend the Land Use Ordinance (LUO) would, if adopted, add new definitions to the LUO and establish a new use classification 18.500 (small and micro-wireless facilities) permitted in all districts with a zoning permit (*Attachment B*). The supplementary use regulations in Subsection 15-176 would be amended to include standards for small wireless facilities and modifications to the existing standards for towers and antennas (use classification 18.200) to expand the definition of a substantial modification, a change required to comport with the legislation. Other modifications to the LUO speak to the process and timeline for reviewing applications. The draft ordinance to amend Article II of Chapter 7 of the Town Code focuses on the process and standards for encroachment agreements needed for the installation of these new facilities in public rights-of-way (*Attachment C*). Explanatory footnotes included in both documents reference the state legislation that allow/require the specific standards and are provided for information; these will be removed before adoption.

The Town Council must receive public comment before adopting amendments to the LUO; Planning Board and

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Orange County review is also needed, and the Appearance Commission has been identified as the matter relates to its purview. Town Code amendments are not subject to County and advisory board review.

FISCAL & STAFF IMPACT: Public hearings involve staff and public notice costs associated with advisory and Town Council review.

RECOMMENDATION: Staff recommends that the Town Council consider the attached resolution setting a public hearing for June 16, 2020 and referring the proposed amendment to the Land Use Ordinance to Orange County, the Planning Board and the Appearance Commission.

A RESOLUTION SETTING A PUBLIC HEARING ON AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO ESTABLISH REGULATIONS FOR SMALL AND MICRO-WIRELESS FACILITIES

WHEREAS, the Carrboro Town Council seeks to provide ample opportunities for the public to comment on proposed amendments to the Land Use Ordinance;

NOW, THEREFORE BE IT RESOLVED that the Town Council sets a public hearing on June 16, 2020, to consider adopting “An Ordinance Amending the Carrboro Land Use Ordinance to Establish Regulations for Small and Micro-Wireless Facilities.”

BE IT FURTHER RESOLVED that the draft ordinance is referred to Orange County and the Town of Carrboro Planning Board for consideration and recommendation prior to the specified public hearing date.

BE IT FURTHER RESOLVED that the draft ordinance is also referred to the following Town of Carrboro advisory boards and commissions.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Appearance Commission | <input type="checkbox"/> Recreation and Parks Commission |
| <input type="checkbox"/> Transportation Advisory Board | <input type="checkbox"/> Northern Transition Area Advisory Committee |
| <input type="checkbox"/> Affordable Housing Advisory Commission | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Economic Sustainability Commission | <input type="checkbox"/> _____ |

This is the 19th day of May in the year 2020.

AN ORDINANCE TO AMEND THE CARRBORO TOWN CODE RELATING TO
WIRELESS FACILIITES

DRAFT 5-11-2020

BE IT ORDAINED BY THE CARRBORO TOWN COUNCIL THE FOLLOWING:

Section 1. Article II of Chapter 7 of the Town Code, Streets and Sidewalks is renamed as follows:

Article II – ENCROACHMENTS, DRIVEWAYS and EXCAVATIONS¹

Section 2. Article II of Chapter 7 of the Town Code, is amended by adding a new Section 7-9, “Encroachment Permit Required,” to read as follows:

Section 7-9 Encroachment Permit Required

Prior to performing work or placing facilities in a public right-of-way in the Town, a user must obtain an Encroachment Permit (also called “work permit”) issued by the administrator. An encroachment permit is required for the following activities:

- (a) Excavation or restoration within the public way, including but not limited to construction of new portions of a driveway, sidewalk or public way;
- (b) Cutting, mobbing, or alteration of pavement, paver (for example, brick or stone), pipe, conduit, pole, meter, fire hydrant, facility, or other equipment or structure owned by the Town, or attachment to such objects;
- (c) Installation or repair of facilities within the public way, including, but not limited to, placing facilities on other facilities already located in the public way;
- (d) Construction of private streets (including, but not limited to, paving and gutters), sidewalks, or alleys;
- (e) Installation or repair of facilities for the conveyance of water, sewer, or stormwater;
- (f) Installation or repair of facilities for electrical, gas, video, internet, telephone, cable, telecommunications, television, or other information or data transfer service to customers within the Town;

¹ The authority for these amendments comes from GS §160A-296 Establishment and control of streets; center and edge lines as modified by GS §§ 160A-400.53 through 160A-400.56. The latter 4 sections require that the Town allow small wireless facilities in Town rights-of-way. There is a separate statute allowing small wireless facilities in N.C. DOT rights-of-way.

(g) Work in the rights-of-way that affects traffic patterns, either permanently or temporarily;

(h) The installation of any permanent structures or property in the public right-of-way including utilities and communication networks;

(i) Make Ready Work. The Town shall provide estimates for any make-ready work necessary to enable a 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 agreement on the cost of the work;

(j) Attachments to or replacements of Town utility poles;

(k) Attachments to Town property (other than Town utility poles) in DOT or other rights-of-way;

(l) The Town Council may approve agreements for the use of Town property that substitute for encroachment or work permits, such as the lease of antenna space on a water tower.

Section 3. Article II of Chapter 7 of the Town Code, is amended by adding a new Section 7-10, “General Conditions for Use of Rights-of-Way,” to read as follows:

Section 7-10 General Conditions for Use of Rights-of-Way

(a) Rights-of-way in the Town may be controlled by N.C. Department of Transportation (DOT), private parties, and/or the Town. The Town issues and/or monitors work and/or encroachments in the Town’s right-of-way. The Town may also issue permits for work on Town property in DOT’s rights-of-way. Encroachment permits, or agreements are required to attach or use any Town property. Wireless telecommunication facility encroachments in the public rights-of-way require review by the Planning Department. (See Chapter 15 of this Code, (Land Use Ordinance) Section 15-176). All public right-of-way encroachments must be reviewed by the Town Manager or designee, including attachments to Town utility poles, replacement of Town utility poles, and “make ready” requests.

(b) The right to perform work in the public right-of-way and the ability to maintain facilities in the public right-of-way are allowed subject to the conditions in §§ 7-9 and 7-11 and below, as supplemented by those set forth in other sections of this ordinance, standards adopted by the Public Works Department, and requirements contained in permits and/or other authorizations.

(1) An encroachment permit does not convey any legal right, title, or interest in the public way. Persons doing work in the public way and users may need to obtain approvals from persons with property interests in the property.

- (2) A permit or authorization does not limit the Town's exercise of its regulatory, police, government, legislative, or contracting authority. The Town retains all rights to use all portions of public rights-of-way for its purposes not prohibited by law. If a permit or authorization conflicts with the terms of another permit or authorization, or with the Town Code, the stricter of the applicable provisions shall control. The stricter provision shall not control, however, if a later-issued permit, authorization, or ordinance explicitly and specifically states that particular terms are to override prior, less strict terms in an authorization.
- (3) The Town and its officials, officers, and employees are not liable for any direct, indirect, or consequential damages that result when facilities in the public way are damaged during the construction, installation, inspection, maintenance, use, or repair of public improvements that have received Town funding or that are installed pursuant to a contract with the Town.
- (4) Users and persons who cause work to be done in the public way shall pay for all damage that results, directly or indirectly, from work performed for their benefit in the public right-of-way, and for the installation, repair, maintenance, and operation of their facilities in the public right-of-way.
- (5) An encroachment permit creates no third-party rights against the Town and is intended only for the benefit of the person receiving the permit or authorization.
- (6) Persons doing work in the public right-of-way shall not interfere with existing utilities, such as infrastructure for electricity, water, natural gas and sewer, the natural and constructed stormwater system, and traffic signals and associated lines, or the repair or replacement of such systems. Persons doing work in the public right-of-way that does not involve creating a new structure shall apply for an encroachment permit at least ten (10) working days prior to initiating work, to allow time to locate and mark any existing Town utility lines. Persons building structures and/or utility poles, including wireless facilities shall apply for an encroachment permit at least thirty (30) calendar days prior to beginning work. (See section 7-13 below.) The application shall accurately describe the portion of the street to be affected. Damage to Town utilities or other infrastructure shall be paid for by the person or user contracting for the work that resulted in such damage. If an encroachment permit is not required, persons doing work in the public right-of-way shall also give the Town Public Works Department ten (10) working days' notice to locate and mark any existing Town utility lines prior to initiating work. In addition, persons will give the department a second notice 24-hours before beginning any work in the public right-of-way as required by Section 7-10(15) below.

- (7) Persons and users performing work in the public way shall ensure worker, traffic, and pedestrian safety and shall ensure that all work is performed in accordance with industry standards. Compliance with all federal, State, and local regulations, and all federal, State, local, and industry codes and standards are required. These include, but are not limited to, compliance with the Occupation Safety and Health Act; compliance with the Manual of Uniform Traffic Control Devices, National Electrical Code, and National Electrical Safety Code; compliance with fiber optic installation standards and telecommunication industry standards; compliance with plumbing and pipe installation codes and standards; and compliance with standards and codes for traffic safety and lane closures. Persons and users shall provide all equipment and personnel necessary to meet applicable regulations, codes, and standards, and shall furnish additional equipment or personnel if requested by the Town.
- (8) The administrator shall have the discretion, for reasons of public health or safety, to approve, deny, alter, and condition all proposed locations of facilities in the public way, and to determine whether placement, if allowed, shall be above ground or below ground.
- (9) Wires, fiber, and other similar conduit shall generally be located underground. A user that wishes to place such facilities above ground shall demonstrate to the Town's satisfaction why above-ground placement is necessary.
- (10) The Town recommends that facilities be located in existing ducts if such ducts are available and practicable to use.
- (11) A user shall demonstrate to the administrator's satisfaction that sufficient space exists in the public way for its proposed facilities without interfering with existing or planned public projects, and that placement of the facilities will not unduly disrupt use of the public way or negatively impact the condition of the public way.
- (12) The administrator may require a user to post written notice of proposed work or activities along the public way impacted and/or distribute notices to individual properties located along the impacted public way.
- (13) Users shall give the Town all information it requests regarding the installation of facilities upon completion. Such information may include, but is not limited to, as-built or other maps, which shall be furnished in the form required by the Public Works Department, and changes to planned locations that were necessary to avoid pre-existing infrastructure.
- (14) A person or user that conducts excavation or other activities that disturb the public rights-of-way or plantings within the public rights-of-way or

facilities within the public way shall restore the area to a functional condition equivalent to that it was in prior to the disturbance. The restoration shall include, but is not limited to, installation of pavement, resurfacing nearby areas, grading other surface areas, restoring below-ground areas, planting and landscaping, replacing curb ramps to current standards, and repairing improvements and facilities.²

- (15) Users shall contact the Public Works Department at least 24-hours prior to actual work performed in the right-of-way, except in the case of an emergency.
- (16) To the extent permitted by North Carolina law, the Town may require a performance bond for work to be done in the public right-of-way.
- (17) A user shall, at its own cost, relocate its facilities within a time determined at the discretion of the Town if the Town determines that the facilities were placed in the public right-of-way without first obtaining permission from the Town, and the facilities:
 - a. Interfere with the use of the public way, or the provision of services to Town residents; or
 - b. Interfere with the repair or maintenance of any Town-maintained utility; or
 - c. Will impede the construction of a project funded in part with public funds, or a project to be dedicated to the public upon completion.

Section 4. Article II of Chapter 7 of the Town Code, Encroachments, Driveways and Excavations is amended by adding a new Section 7-11, “Application Requirements.” The existing Section 7-11, “Driveways,” and Section 7-12, “Excavations,” are renumbered as 7-12 and 7-13 respectively.

Section 7-11 Application Requirements

An application must be filed with the administrator before the commencement of any work described in Section 7-9, including modification, change, or replacement of equipment that would be different in size, weight, or appearance than the existing equipment that is not otherwise exempt under this ordinance. The following information shall be submitted in an application for an encroachment permit:

- (a) Contact information for the user of the public right-of-way and contractors performing the work. Include all contractor’s/trade’s/professional licenses held and license numbers.

² 160A-400.55 (h)

(b) Description of the work to be performed, including the specific location or the requested make ready work.

(c) Construction drawings demonstrating compliance with the Town's Engineering Specifications and Standard Details, the NCDOT Subdivision Road Manual, the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), and all relevant portions of Chapter 15 of this Code (Land Use Ordinance).

(d) Description of all existing infrastructure within the proposed work area and any proposed modification, improvement, or movement of infrastructure.

(e) Evidence that the owners of other utilities or encroachers near the new work have been notified.

(f) Proposed work schedule.

(g) Insurance. The Town may require persons that do work in the public right-of-way and users to provide insurance by a company authorized to do business in the state, including, but not limited to: (a) workers' compensation coverage for all employees; (b) employers' liability insurance; (c) commercial general liability; and (d) business auto policy. The Town may require that the Town, its officials, employees, and consultants be named as additional insureds on such insurance policies. In such cases, the applicant shall provide a certificate of insurance. If an applicant has previously damaged Town property or has not adequately repaired damaged Town property during the past three (3) years, the amount of insurance shall be as determined by the Town, in part based on the scope of the work and the tenure or term of occupancy.

(h) To facilitate the preparation and submittal of an application in compliance with this ordinance, and thereby expedite the review and permitting of an application, a pre-application meeting may be held.

(i) No Permitting of Unidentified Facilities: no permit or authorization shall be granted for new equipment or facilities that is not expressly and individually identified at the time of the application, including the specific location and design characteristics of each facility.

(j) Site Visit: a site visit of each facility or proposed location of a new facility may be conducted to determine the physical condition of the facility or proposed location and to identify any issues of concern, non-compliance with applicable laws, rules, and regulations, and any safety issues or concerns.

(k) Installations in the public right-of-way shall be located and constructed to create the least visual impact on the immediate surrounding area and the least physical intrusion and impact on the limited space in the public right-of-way. Such facilities/equipment shall not be constructed in a sight triangle or so close to the curb or edge of pavement that a safety hazard is created. (See Manual on Uniform Traffic Control Devices and Chapter 15 of this Code, (Land Use Ordinance), Appendix A on Sight Triangles).

(l) Riser Cable: all riser or other vertically run cable of any kind attached to a pole or other support structure shall be protected with non-conductive, non-degradable material matching the color of the pole or support structure as closely as is reasonably possible.

(m) New and Replacement wireless telecommunication facilities (poles or support structures that are not substantial modifications or routine maintenance): An application for a new or replacement pole or support structure must include detailed design criteria, including material composition, aesthetic appearance and structural adequacy analysis with calculations which must be able to be independently verified using the information submitted by the applicant.

- (1) New and replacement installations shall be consistent throughout Town limits;
- (2) When feasible and in lieu of installing new poles, new wireless telecommunication facilities, installations shall first replace existing distribution poles, then secondary poles, or thirdly streetlight with a pole that meets the standards set forth in this section. New poles shall not be installed unless no existing pole is suitable or can be modified or replaced by a new pole in the same location;
- (3) Installations shall be on non-conductive poles;
- (4) All wireless facilities and base stations (including radios, network equipment and batteries) shall be i) enclosed in a pedestal cabinet near the pole; ii) in a pole-mounted cabinet; or iii) under a pole-mounted shroud;
- (5) Equipment installations shall be on poles that meet or exceed current National Electrical Safety Code (NESC standards and wind and ice loading requirements of the latest edition of Telecommunications Industry Association (TIA) 222.
- (6) New utility poles in residential subdivisions shall comply with the Town's published decorative pole standards.
- (7) Signage. No signage other than manufacturer's labels and safety warnings are permitted.
- (8) All new poles shall be designed and constructed to accommodate as many different user's antenna arrays as technically feasible;
- (9) Lighting is not permitted unless required by the Federal Communications Commission (FCC) or the pole is also being used to support a street light.

Section 5. Article II of Chapter 7 of the Town Code, Encroachments, Driveways and Excavations is amended by renaming Section 7-12, "Driveways," to "Driveways Additional

Requirements.” The existing subsection (a) is deleted; the subsequent subsections (b) through (f) are renumbered (a) through (e) to read as follows:

Section 7-12 Driveways Additional Requirements

(a) Any person who receives a permit under this section shall be responsible for repairing any damage to the sidewalk or street (including curb and gutter) caused by the driveway construction.

(b) The administrator shall review the driveway construction and design plans and shall issue the permit unless he finds the driveway, if constructed as proposed, will substantially interfere with or pose a danger to: (1) persons using the street or sidewalk intersected by the driveway, or (2) public facilities (including utility poles, traffic signal standards, etc.), or will fail to comply with any of the provisions of this section.

(c) No driveway may be constructed closer than 3 feet to a fire hydrant or catch basin or closer than 30 feet to the right-of-way line of a street that intersects with the street the driveway opens onto.

(d) If the driveway crosses a drainage ditch on a lot that abuts a street without curb or gutter, then piping of sufficient size and strength (as approved by the administrator) shall be installed beneath the driveway surface so that the drainage capability of the drainage ditch is not materially impaired.

(e) This section shall not apply to driveways that open into state-maintained streets to the extent that the state has approved the driveway. Nor shall a person be required to obtain a permit under this section to the extent that the driveway is being constructed in accordance with plans approved pursuant to a review process authorized by Chapter 15 of this Code.

Section 6. Chapter 7, Article II of the Town Code, Encroachments, Driveways and Excavations is amended by renaming Section 7-13, “Excavations,” to “Excavations Additional Requirements.” The existing Section 7-13, “Town Indemnified” is renumbered as Section 7-15.

Section 7-13 Excavations Additional Requirements

(a) Except in emergency situations or as otherwise provided in this section, no person may dig in or excavate any street or sidewalk within the town without having obtained a written permit from the administrator.

(b) Any person who receives a permit in accordance with this section shall be responsible as soon as weather permits for putting the street or sidewalk where any excavation is made in as good a condition as it was prior to the excavation.

(c) Before granting a permit pursuant to this section, the administrator shall determine that the applicant has decided to comply with subsection (b), and if the town is to do the

necessary repair work, the permit shall not be issued until the applicant makes a deposit equal to the estimated costs of repair.

(d) This section shall not apply to any excavation made in a state-maintained street to the extent that the state has given its permission for such an excavation to be made, except that the person making the excavation shall still be responsible for notifying the administrator of the intended excavation forty-eight (48) hours before the work begins. (Amend. 8/22/95)

Section 7. Chapter 7, Article II of the Town Code, Encroachments, Driveways and Excavations is amended by adding a new Section 7-14, “Additional Requirements for Wireless Support Structures, Wireless Facilities, and any other Wireless Communication Facility, Small Wireless Facility or Micro Wireless Facilities in the Rights of Way,” to read as follows:

Section 7-14 Additional Requirements for Wireless Support Structures, Wireless Facilities, and any other Wireless Communication Facility, Small Wireless Facility or Micro Wireless Facilities in the Rights-of-Way

An applicant shall demonstrate compliance with Sections 7-9, 7-10 and 7-11 of this section and provide the additional supplemental information specific to wireless facilities, structures, and ancillary equipment. The definitions adopted in Chapter 15 of this Code (Land Use Ordinance) Article II, shall be used in this section and are incorporated herein by reference.

(a) Persons adding or modifying wireless facilities in a public right-of-way shall apply for an encroachment permit at least thirty (30) calendar days prior to initiating work.

(b) To facilitate the application process and to mitigate application-related costs for applicants, applications for small/micro wireless facilities may be submitted in groups of up to twenty-five (25) facilities in a single application.

(c) No Taxpayer Subsidization. Taxpayers may not directly or indirectly subsidize an applicant’s costs.

(d) The height of wireless support structures, utility poles, and Town utility poles and small wireless facilities shall meet the standards in Section 176(d) of Chapter 15 of this code.

(e) On blocks where decorative light or utility poles are installed, collocations may only occur on decorative poles if feasible. New poles shall be of the same design and materials as the decorative poles. (See Section 7-10 for information on encroachment on Town utility poles).

(f) Absent a showing by clear and convincing evidence of the need for a greater lateral distance between poles or other support structures in the public right-of-way, the minimum lateral distance between poles or other support structures as measured in any direction shall be two (200) hundred feet. This minimum lateral distance shall not be applicable to poles or support structures that support lines or cables crossing a street.

(g) Compliance with National Electrical Safety Code NESC (NESC) and National Electrical Code (NEC): all electronic attachments to poles or other structures in the public right-of-way shall always follow the edition of the NESC and the NEC in effect the later of (a) the time the facility was constructed; or (b) the time of the last modification of equipment on the pole or other support structure; or (c) the edition in effect at the time of the current application.

(h) Service Date: Applicants shall attest that small wireless facilities be activated and placed in service no later than one year from the date the permit is issued.

(i) Abandonment. Wireless service providers are required to remove an abandoned wireless facility with 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned 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 service provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless service 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 a signal, unless the wireless service provider give the Town reasonable evidence that it is diligently working to place such wireless facility back service.

(j) Materials. The composition of new poles shall comply with the standards meet the standards in Section 176(d) of Chapter 15 of this code.

(k) Sizes: Micro and Small Wireless Facilities shall meet the size limits found in Article II of Chapter 15 of this code, "Definitions."

Section 8. Chapter 7 of Article II, Section 7-15 of the Town Code, "Town Indemnified," is amended to read as follows:

Section 7-15 Town Indemnified

Any person obtaining a permit authorized by this Article agrees as a condition of the permit to indemnify the town of and hold the town harmless from any expense (including but not limited to attorney's fees, litigation costs and judgments) incurred as a result of claims made for damages arising out of operations conducted by the permit recipient pursuant to the permit.

Section 9. All provisions of any Town ordinance or resolution in conflict with this ordinance are repealed, and this ordinance is effective upon adoption.

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO
ESTABLISH REGULATIONS FOR SMALL AND MICRO-WIRELESS FACILITIES

DRAFT 5-11-2020

THE CARRBORO TOWN COUNCIL ORDAINS:

Section 1. Section 15-15 (Basic Definitions and Interpretations) of the Carrboro Land Use Ordinance is amended by adding fifteen new definitions and modifying two existing definitions, “public utility service complex” and “tower,” as shown below, and by renumbering the entire section in alphabetical order.¹

ANTENNA ELEMENT REPLACEMENT. The replacement of any part or all of an antenna or antenna array with a model of the same manufacturer and model type or close specification.

APPLICABLE CODES. The N.C. State Building Code uniform fire, building, electrical, plumbing or mechanical codes adopted by a recognized national code organization together with State, Orange County or Town of Carrboro amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

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.

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.

COMMUNICATIONS FACILITY. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

COMMUNICATIONS SERVICE. Cable service as defined in 47 U.S.C. § 522(6) (The one-way transmission to subscribers of video programming, or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service), and information service as defined in 47 U.S.C. § 153(24). (The term “information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service), and telecommunications service as defined in 47 U.S.C. § 153(53) (The term “telecommunications service” means the offering of telecommunications for a fee directly to the public.)

¹ All of the definitions are from N.C. Gen. Stat. § 160A-400.51 (As of Aug. 1, 2021 160D-931).

COMMUNICATIONS SERVICE PROVIDER. A cable operator as defined in “Communications Service” and 47 U.S.C. § 522(5); a provider of information service, as defined in “Communications Service” and 47 U.S.C. § 153(24); a telecommunications carrier, as defined in “Communications Service” and in 47 U.S.C. § 153(51); or a wireless provider.

ELIGIBLE FACILITIES REQUEST. A request for a 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 containing accessory equipment surrounding or near the base of a wireless support structure within which a wireless facility is located.

MICRO WIRELESS FACILITY. (See Section 15-176). 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.

SMALL WIRELESS FACILITY. (See Section 15-176). A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. (For purposes of this subdivision, 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. (See Section 15-176). The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below:

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) 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 wireless 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.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

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

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

WIRELESS 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 technological configuration. The term includes small wireless facilities. Also refers to Wireless Telecommunications Facility. The term shall not include any of the following:

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (4) Amateur radio antennas. See also, Section 15-150(5) Towers and antennas constructed on residential property and G.S. § 160A-400.51.

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 telecommunications facilities, radio or TV antennas. A utility pole is not a wireless support structure.

PUBLIC UTILITY SERVICE COMPLEX. A development consisting of a combination of offices and one more of the following types of uses, all of which are operated or conducted by a “public utility” as that term is defined in Section 62.3 of the N.C. General Statutes: motor vehicle repair (use classification 9.400), parking or storage (use classification 10.300), and towers and wireless support structures (use classification 18.000). (AMENDED 10/25/83)

TOWER. A structure whose principal function is to support one or more antennas. See also Wireless Support Structure. (AMMENDED 02/18/97)

Section 2. Section 15-146, (Table of Permissible Uses) is amended by expanding the description of the subcategories of use classification 18.000 “Towers and Related Structures,” to read as follows:

18.000 Towers and Wireless Support Structures

18.100 Towers and antennas fifty feet tall or less.

18.200 Towers and antennas that exceed 50 feet in height; substantial modifications, that are not regarded as accessory to residential users under 15-150(c)(5).

18.300 Antennas exceeding 50 feet in height attached to wireless support structures other than towers; substantial modifications (other than accessory uses under 15-150(c)(5)).

18.400 Publicly-owned towers, wireless support structures and antennas of all sizes that are used in the provision of public safety services.

Section 3. Section 15-146, Section 15-146, (Table of Permissible Uses) is amended by adding a new use classification 18.500 “Small and Micro Wireless Facilities; with or without associated Utility Pole or Wireless Support Structures”² by adding the letter “Z” opposite this use classification under all zoning district columns to indicate that this use is permissible in all districts with a zoning permit as noted further in section 15-176 Towers, Antennas, and Wireless Facilities, including Small and Micro Wireless Facilities.

Section 4. Section 15-147, (Use of the Designations Z, S, C in the Table of Permissible Uses) is amended by adding a new subsection (t) to read as follows³:

(t) For use classification 18.500 small and micro wireless facilities; with or without associated utility pole or wireless support structures see Section 15-176(d) for application and development standards and Article II of Chapter 7 for encroachment agreements.

Section 5. Section 15-150(c)(5) is amended to modify the reference to the setback requirement from subsection 15-176(2) to subsection 15-176(b)(2).

Section 6. Section 15-176 Article XI (Supplementary Use Regulations) is rewritten to include small and micro wireless facilities, as follows:

Section 15-176 Towers and Antennas, and Wireless Facilities including Small and Micro Wireless Facilities (AMENDED 02/18/97, REPEALED & AMENDED 11/19/13)

(a) Towers and antennas, and wireless facilities are subject to the regulations outlined in this section, pursuant to the definition of each facility described in Article II of this chapter. The term “tower” includes wireless support structures.

In addition to other applicable provisions of this chapter, towers, antennas attached thereto that exceed 50 feet in height (use classification 18.200) shall be subject to the requirements in subsections (a), and (b) and (c) below. Additional standards applicable to small and micro-wireless facilities (use classification 18.500) are provided in subsection (d). **(AMENDED 11/19/13)**

- (1) A tower may not be located within 1,500 feet of another tower (measured in a straight line and not by street distance).
- (2) As set forth in subsection 15-184(q), the base of the tower shall be set back from a street right-of-way line and every lot boundary line a distance that is not less than the height of the tower.

² G.S. § 160A-400.54; G.S. § 160A-55; G.S. § 160A-56.

³ *Id.*

- (3) Lighting shall not exceed the Federal Aviation Administration (FAA) minimum if lighting is required by the FAA. To the extent allowed by the FAA, strobes shall not be used for nighttime lighting. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements. Prior to issuance of a building permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.
- (4) Towers and antennas shall be constructed and operated so as not to disturb or interfere with the use or operation on adjoining or nearby properties of radios, televisions, telephones, or similar equipment.
- (5) Commercial messages may not be displayed on any tower.
- (6) The output from the tower may not exceed federally approved levels for exposure to electronic magnetic force (EMF). The applicant shall be required to submit documentation with the application verifying compliance with this standard.
- (7) If the tower is up to 180 feet in height, the tower shall be engineered and constructed to accommodate at least one additional telecommunication user. If the tower exceeds 180 feet, the tower shall be engineered and constructed to accommodate at least two additional telecommunication users. Furthermore, the site plan must show locations for accessory buildings necessary to accommodate a minimum of two users, even if the tower is proposed for a single user.
- (8) The base of the tower and each guy anchor shall be surrounded by a fence or wall at least eight feet in height and constructed of material that cannot be easily climbed or penetrated, unless the tower and all guy wires are mounted entirely on a building at least eight feet in height.
- (9) The base of the tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a Type A screening. The site developer shall have the option of (i) providing the screening around the tower base and associated items individually, or (ii) providing the screening around the perimeter of the entire site.
- (10) Outdoor storage shall not be permissible on tower sites.
- (11) In addition to other information that must be submitted with the application, the application for a tower must contain the following information:
 - a. Identification of the intended user(s) of the tower.
 - b. Documentation provided by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user.
 - c. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant. Documentation may

include maps, letters from adjacent tower owners, or calculations. Facilities include other towers, or other buildings or structures.

- d. A statement indicating the owner's intent to allow shared use of the tower and how many other users can be accommodated.
- (12) The recipient of a permit for a tower shall be required as a continuing condition on the validity of the permit, to submit to the Zoning Administrator by January 31st of each year documentation, including but not limited to an FCC license, that the tower is being utilized. Towers which are not used for a period of 6 months or more shall be removed by the owner within 90 days thereafter. A statement of financial responsibility and performance security shall be posted for each tower to guarantee compliance with this requirement.⁴
 - (13) In any residential zone, associated buildings or other buildings located on the same lot and owned or used by the applicant, its associates, or any co-users shall not be used as an employment center for any worker. This subsection does not prohibit the periodic maintenance or periodic monitoring of instruments and equipment.
 - (14) The tower shall be constructed with a grounding system that provides adequate protection from destruction or damage by lightning.
 - (15) **REPEALED (11/19/13)**
 - (16) In addition to the considerations for conditional or special use permits found in Section 15-54 of this ordinance, the approving bodies in determining whether a tower is in harmony with the area of a tower on the value of adjoining or abutting properties may consider the aesthetic effects of the tower as well as mitigating factors concerning aesthetics, and may disapprove a tower on the grounds that such aesthetic effects are unacceptable. Factors relevant to aesthetic effects are the protection of the view in sensitive or particularly scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways and historic sites; the concentration of towers in the proposed areas; and whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive impact.
 - (b) A request for a modification of an existing cell tower, base station or wireless support structure that involves the collocation of new transmission equipment or the removal or replacement of transmission equipment but that does not substantially change the physical dimensions of the cell tower or base station shall be approved by the administrator as an insignificant deviation (see Section 15-64). For purposes of this section, a substantial change in physical dimensions would occur if: **(AMENDED 11/19/13)**

⁴ From FCC order.

- (1) The proposal is a “substantial modification” as defined in Article II of this chapter. Substantial modifications include⁵:
- a. The proposed change would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater (may exceed these size limits if necessary to avoid interference with existing antennas);
 - b. The proposed change would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or connect the antenna to the tower via cable); or
 - c. The proposed change would enlarge the square footage of the existing equipment compound by more than 2,500 square; or
 - d. The proposed change would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
 - e. The proposed change would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.
- (2) (Reserved)

(c) The Town shall have 45 days⁶ within which to determine the completeness of an application for a collocation or eligible facilities request, and then 45 days from the date that the application is determined to be complete within which to make its decision. An application is deemed to be complete 45 days after it is submitted unless the Town determines and notifies the applicant in writing within 45 days of submission, that (and how) the application is deficient. For other types of applications relating to wireless support structures, towers or substantial modifications, the Town shall have 90 days to determine if an application is complete and 150 days within which to decide, not including small and micro wireless facilities. **(AMENDED 11/19/13)**

(d) Small or micro wireless facilities (use classification 18.500), defined in Article II, and the height requirements in Table 1 and Table 2 below, are subject to the regulations outlined in this subsection.

Table 1. Height Requirements for Small Facilities in Public Rights-of-Way (Read top row left to right, then left-hand column.)

⁵ G.S. § 160A-400.51 (7b); § 160A-400.52. Construction of new wireless support structures or substantial modifications of wireless support structures (2013)

⁶ FCC “shot clock”; § 160A-400.50. Purpose and compliance with federal law; § 160A-400.53 (a1);.

If a Small Wireless Facility is proposed in the following Zoning District(s):	New, modified or replacement utility power Height of Utility Pole	Small wireless facility above utility pole, wireless support structure or Town utility pole	Total Height
All	50 feet above ground level	10 feet	60 feet ⁷
EXCEPTION for residential zoning districts where utilities are located underground. (The residential zoning districts are R-2, R-3, R-7.5, R-10, R-15, R-20, RR, R-SIR, R-SIR2, PUD, VMU, WR, HD, NPD ⁸)	40 feet above ground level	10 feet	50 feet

Table 2. Height Requirements for Small Facilities outside of Public Rights-of-Way⁹

If a Small Wireless Facility is proposed in the following Zoning District (s)	New, modified or replacement utility power Height of Utility Pole	Small wireless facility above utility pole, wireless support structure or Tow utility pole	Total Height
B-1(c), B-1(g), B-2, B-3, B-3T, M-1, M-2, CT, O, ORMU	50 feet above ground level	10 feet	60 feet

- (1) Small wireless facilities may also be attached to existing structures including poles, provided that the height of the wireless support structure and antennae together increase the height of the existing structure by not more than ten (10) feet.
- (2) All small and micro wireless facilities shall meet the provisions of 15-176(a)(10), (11), (12) and (14), above.
- (3) All small wireless facilities shall be designed to accommodate collocations to the maximum extent that is technically feasible.
- (4) Upon request of the applicant, the administrator may waive the requirement that a new small wireless facility accommodate the collocation of the service provider if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter wireless support structure with fewer antennas will promote community compatibility, or that collocation of other service providers is technically unfeasible.
- (5) New small wireless facilities may be built no closer than 200 feet from an existing facility unless the new facility involves the replacement of an existing pole, or the new

⁷ G.S. § 160A-400.55(b)(1) and (2)

⁸ G.S. § 160A-400.55(e)

⁹ G.S. § 160A-400.55(b)(1) and (2)

pole takes the place of a proposed pole in a new development¹⁰.

- (6) Unless otherwise required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or the Town, the composition of new wireless support structure shall be either wood, or metal, in silver or gray, or black finish.
 - a. Where a new pole replaces an existing pole, the new pole shall be designed and constructed to match the pole it is replacing.
 - b. Concrete or reinforced concrete shall not be used.
 - c. Any new poles installed shall be environmentally “green” and not leach any volatile organic compounds or toxic materials into the ground.
- (7) Wireless installations shall be on poles that meet or exceed current National Electric Safety Code (NESC) standards and wind and ice loading requirements of ANSI 222 Version G for essential services.
- (8) No exterior lights are permitted on any small or micro facilities unless required by the Federal Communications Commission (FCC) or the wireless support structure is designed and permitted as a street light.
- (9) Wireless installations shall utilize a “concealed” design, including all cabling being inside the support structure or inside a shroud.
- (10) All radios, network equipment and batteries will be enclosed in a pedestal cabinet near the pole, or in a pole-mounted cabinet or under a pole-mounted shroud.
- (11) Equipment compounds and/or accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the small wireless facility. Any equipment not used in direct support of such operation shall not be stored on the site. Ground mounted accessory equipment and small wireless facilities may be secured and enclosed with fence not less than six (6) feet in height and must comply with section 15-184 of this chapter. Barbed wire, razor ribbon, concertina wire and other similar security measures shall be prohibited. The administrator may waive the fencing requirement if it is deemed that a fence is not appropriate or needed at the property location.
 - a. An equipment building, shelter or cabinet must not exceed five hundred sixty (560) square feet and twelve (12) feet in height, including the support structure for the equipment.
 - b. Equipment buildings must comply with Local, State and Federal Flood Zone Restrictions.
 - c. Exceptions to height restrictions. Upon the applicant’s request, the administrator may waive the height restrictions to allow for the stacking of

¹⁰ G.S. § 160A-400.54(d)(5)

equipment on top of each other. The administrator must find that there is a practical necessary for the stacking of the equipment and that any resulting impact on adjoining properties is minimal or may be minimized by requiring appropriate screening. The administrator or designee may waive the height restrictions where a higher support structure is needed to raise the equipment above a slope or floodplain.

- d. If the equipment compound or accessory cabinet(s) is adjacent to or visible from a residential zone, the building or shelter shall be faced with brick or other suitable material on all sides and that the compound area is surrounded by landscaping providing a screen of at least three (3) feet in height at installation. The equipment must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the own administrator
- (12) Signs on any portion of a small wireless facility shall be prohibited unless required by the Federal Communications Commission (FCC), state of North Carolina or other government agency. A sign permit is required whenever a sign is allowed.
 - (13) Equipment compounds are not permitted in the public right-of-way.
 - (14) Unless proved unfeasible by clear and convincing evidence, in lieu of installing new poles, any wireless installation in the public right-of-way shall replace a pre-existing distributed pole, secondary pole or streetlight. Any work involving public rights-of-way shall be comply with the standards in Article II of Chapter 7 of the Town Code.
 - (15) Outside of the public right-of-way in all districts, the administrator shall have the authority to impose reasonable landscaping requirements surround the equipment compound or accessory equipment cabinet. Required landscaping shall be consistent and surrounding vegetation and shall be maintained by the facility owner. The administrator may choose to not require landscaping for sites that are not visible from the public rights-of-way or adjacent property or in instances where landscaping is not appropriate or necessary.
 - (16) All small wireless facilities located outside the public rights-of-way shall comply with the provisions of Section 15-176(a)(2), (9) and (13). The base of any tower for a small or micro facility shall be set back from a street right-of-way line and every lot boundary line a distance that is not less than the height of the tower.
 - (17) No pole of tower intended for small or micro wireless facilities may be constructed, substantially modified, including modifications relating to collocations, except in accordance with and pursuant to a zoning permit as provided for in Article IV, Part I. of this chapter and, if applicable, to an encroachment permit in accordance to Article II, of Chapter 7.

- a. Subject to the application requirements and approval process outlined in Section 15-52, construction shall begin no later than six months from the date the permit is issued.¹¹
- b. Small wireless facilities shall be activated for their intended use in no more than one year from the date a permit is issued, and shall be subject to the renewal requirements of subsection (b)(12) above. Permits shall automatically expire if these deadlines are not met¹².
- c. If a small wireless facility ceases to transmit a signal for at least 180 days, or the permittee announces that it intends to cease transmitting signals, the facility shall be deemed abandoned on the earlier of the two dates¹³.
 1. If the owner/provider does not remove the facility in 180 days from the date of abandonment, the Town may remove the facility and bill the owner for the costs of removal.
 2. The provider of the facility may receive an extension if the provider provides reasonable evidence that the provider is diligently working to return the facility to service.
- d. Substantial modifications are subject to the provisions of Section 15-176(b) above.

Section 7. Section 15-185(e) amended to include small and micro wireless facilities, as follows:

(d) Towers, antennas, and wireless facilities, including small and micro wireless facilities shall not be subject to the maximum height limitations set forth in this section but shall be governed by the restrictions inherent on the definitions of such uses as well as the other provisions of this chapter applicable to use classification 18.000. The height of a tower or antenna attached to a structure other than an antenna shall be the vertical distance measured from the main elevation of the finished grade at the front of the building or structure to which the tower is attached to the top of the tower (or antenna, if the antenna extends above the tower). Pursuant to Section 15-176, the height of a small or micro wireless facility on a new, modified or replacement utility pole shall be measured from the ground to the top of the pole. **(AMENDED 02/18/97)**

Section 8. Section 15-52, (Zoning Permits) is amended with the addition of a new Subsection (f) to read as follows:

(e) An application for a zoning permit to collocate small and micro wireless facilities in public rights-of-way on new, existing or replacement utility poles or wireless support structures; or

¹¹ G.S. § 160A-400.54(d)(8)

¹² G.S. § 160A-400.54(d)(8)

¹³ G.S. § 160A-400.54(d)(8) and (g)

outside public rights-of-way are subject to the approval process required by N.C. Gen. Stat. Chapter 160A, Art. 19, Part 3E. Wireless Telecommunications Facilities, as incorporated into this ordinance.

- (1) In addition to the requirements of section 15-176, and Chapter 7, Streets and Sidewalks, an application for a small wireless facility must include a sworn, notarized affidavit that the small wireless facility shall be:
 - a. activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, and
 - b. collocation shall commence within six months of the permit issuance date, and
 - c. if not, the permit may be revoked.¹⁴
- (2) Review and processing shall be completed within forty-five (45) days of the Town's receipt of a completed application. The Town shall provide written notice that an application is incomplete within thirty (30) days of the receipt of the application.¹⁵
- (3) Applications for zoning permits for small wireless facilities shall be reviewed for conformance with this ordinance, including the applicable site plan and State Building code requirements.
- (4) The Town may deny an application for a small wireless facility only on the basis that it does not meet any of the following¹⁶:
 - a. the Town's applicable ordinance;
 - b. Town ordinances 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;
 - c. public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or
 - d. the requirements of any historic district.
- (5) Applicants may file for a consolidated application for no more than 25 separate facilities and may receive a permit for the collocation of all the small wireless facilities meeting the requirements of this ordinance. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless 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.¹⁷
- (6) Applications for small wireless facilities to be in Town rights-of-way shall meet the requirements of Chapter 7, Streets and Sidewalks.
- (7) No zoning permit application or fee is required for the suspension of micro wireless facilities between existing utility poles by or for a communications service provider;

¹⁴ G.S. § 160A-400.54(d)(6) and (8)

¹⁵ G.S. § 160A-400.54(d)(3) and (4)

¹⁶ G.S. § 160A-400.54(d)(5)

¹⁷ G.S. § 160A-400.54(h)

for routine maintenance; or for the replacement of small wireless facilities with small wireless facilities. An encroachment permit may be required as provided in Chapter 7, Streets and Sidewalks.¹⁸

Section 9. All provisions of any Town ordinance or resolution in conflict with this ordinance are repealed.

Section 10. This ordinance is effective upon adoption.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-159
HOUSE BILL 310**

**AN ACT TO REFORM COLLOCATION OF SMALL WIRELESS COMMUNICATIONS
INFRASTRUCTURE TO AID IN DEPLOYMENT OF NEW TECHNOLOGIES.**

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds the following:

- (1) The design, engineering, permitting, construction, modification, maintenance, and operation of wireless facilities are instrumental to the provision of emergency services and to increasing access to advanced technology and information for the citizens of North Carolina.
- (2) Cities and counties play a key role in facilitating the use of the public rights-of-way.
- (3) Wireless services providers and wireless infrastructure providers must have access to the public rights-of-way and the ability to attach to poles and structures in the public rights-of-way to densify their networks and provide next generation services.
- (4) Small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, often may be deployed most effectively in the public rights-of-way.
- (5) Expedient processes and reasonable and nondiscriminatory rates, fees, and terms related to such deployments are essential to the construction and maintenance of wireless facilities.
- (6) Wireless facilities help ensure the State remain competitive in the global economy.
- (7) The timely design, engineering, permitting, construction, modification, maintenance, and operation of wireless facilities are matters of statewide concern and interest.

SECTION 2.(a) G.S. 160A-400.51(4a) is recodified as G.S. 160A-400.51(4d).

SECTION 2.(b) G.S. 160A-400.51(7a) is recodified as G.S. 160A-400.51(7b).

SECTION 2.(c) Part 3E of Article 19 of Chapter 160A of the General Statutes, as amended by subsections (a) and (b) of this section, reads as rewritten:

"Part 3E. Wireless Telecommunications Facilities.

"§ 160A-400.50. Purpose and compliance with federal law.

...

(c) This Part shall not be construed to authorize a city to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein.

"§ 160A-400.51. Definitions.

The following definitions apply in this Part.

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



- (1a) 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.
- (2) Application. – ~~A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.~~ A request that is submitted by an applicant to a city for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or wireless support structure.
- (2a) 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.
- (3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.
- (3a) City right-of-way. – A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.
- (3b) City utility pole. – A pole owned by a city in the city right-of-way that provides lighting, traffic control, or a similar function.
- (4) Collocation. – ~~The placement or installation~~ placement, installation, maintenance, modification, operation, or replacement of wireless facilities ~~on~~ on, under, within, or on the surface of the earth adjacent to existing structures, including electrical transmission towers, utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, city utility poles, or wireless support structures.
- (4a) Communications facility. – The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.
- (4b) Communications service. – Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.
- (4c) Communications service provider. – A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.
- (4d) 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.
- (5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located.
- (5a) 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.
- (6) Land development regulation. – Any ordinance enacted pursuant to this Part.

- (6a) 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.
- (7) 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.
- (7a) Small wireless facility. – A wireless facility that meets both of the following qualifications:
- a. Each antenna is located inside an enclosure of no more than six 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 six cubic feet.
 - b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, 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.
- (7b) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. 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. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (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 wireless 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.
- (8) Utility pole. – A structure that is designed for and used to carry lines, cables, ~~or wires~~ wires, lighting facilities, or small wireless facilities for telephone, cable television, ~~or electricity, or to provide lighting~~ lighting, or wireless services.
- (8a) 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.
- (9) ~~Wireless facility. – The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.~~ 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 technological configuration. The term includes small wireless facilities. The term shall 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 city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (9a) 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.
- (9b) Wireless provider. – A wireless infrastructure provider or a wireless services provider.
- (9c) 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.
- (9d) Wireless services provider. – A person who provides wireless services.
- (10) 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 city utility pole is not a wireless support structure.

...

"§ 160A-400.54. Collocation of small wireless facilities.

(a) Except as expressly provided in this Part, a city shall not prohibit, regulate, or charge for the collocation of small wireless facilities.

(b) A city 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. 160A-400.55(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section if they are collocated (i) in a city right-of-way within any zoning district or (ii) outside of city rights-of-way on property other than single-family residential property.

(d) A city may require an applicant to obtain a permit to collocate a small wireless facility. A city shall receive applications for, process, and issue such permits subject to the following requirements:

- (1) A city 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 contributions to the city such as the reservation of fiber, conduit, or pole space for the city.
- (2) The wireless provider completes an application as specified in form and content by the city. 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 city 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 city 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 city and the applicant.
- (5) A city may deny an application only on the basis that it does not meet any of the following: (i) the city's applicable codes; (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city 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 subsection 160A-400.55(h). 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 city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city 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 must include an attestation that the small wireless facilities shall be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (7) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of a city 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. A city may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The city may issue a separate permit for each collocation that is approved.
- (8) The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (e) A city 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 city for permitting of any similar activity; or (iii) one

hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(f) A city may impose a technical consulting fee for each application, not to exceed five hundred dollars (\$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. A city may engage an outside consultant for technical consultation and the review of an application. The fee imposed by a city 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.
- (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 city has the burden of proving that the fee meets the requirements of this subsection.

(g) A city may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the city 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 a signal, unless the wireless services provider gives the city reasonable evidence that it is diligently working to place such wireless facility back in service.

(h) A city 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 city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city 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 a city from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the city right-of-way.

"§ 160A-400.55. Use of public right-of-way.

(a) A city shall not enter into an exclusive arrangement with any person for use of city 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. 160A-400.54, a wireless provider may collocate small wireless facilities along, across, upon, or under any city right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any city right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any city right-of-way shall be subject only to review or approval under subsection (d) of G.S. 160A-400.54 if the wireless provider meets all the following requirements:

- (1) Each new utility pole and each modified or replacement utility pole or city 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, city utility pole, or wireless support structure on which it is collocated.

(c) Nothing in this section shall be construed to prohibit a city from allowing utility poles, city 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 a city right-of-way shall comply with a city's undergrounding requirements prohibiting the installation of above-ground structures in the city 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 existing at the time of adoption of the requirements, and (iii) have a waiver process.

(d1) Notwithstanding subsection (d) of this section, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the city grants a waiver or variance approving a taller utility pole, city utility pole, or wireless support structure.

(e) Except as provided in this part, a city may assess a right-of-way charge under this section 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 city 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, city utility poles, or wireless support structures. At its discretion, a city may provide free access to city rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services.

(f) 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.

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

(h) This section shall not be construed to limit local government authority to enforce historic preservation zoning regulations consistent with Part 3C of Article 19 of this Chapter, the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and city charter provisions adopted to implement those laws.

(i) A wireless provider may apply to a city to place utility poles in the city rights-of-way, or to replace or modify utility poles or city utility poles in the public rights-of-

way, to support the collocation of small wireless facilities. A city shall accept and process the application in accordance with the provisions of G.S. 160A-400.54(d), applicable codes, and other local codes governing the placement of utility poles or city utility poles in the city rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or city 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.

"§ 160A-400.56. Access to city utility poles to install small wireless facilities.

(a) A city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per city utility pole per year. The North Carolina Utilities Commission shall not consider this subsection as evidence in a proceeding initiated pursuant to G.S. 62-350(c).

(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 city to be reimbursed by the wireless provider. In granting a request under this section, a city 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) If a city that operates a public enterprise as permitted by Article 16 of this Chapter has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.

(d) Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city 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.

(e) In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city 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.

(f) The city shall provide a good-faith estimate for any make-ready work necessary to enable the city 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 city utility pole necessary for the city utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(g) The city 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.

(h) Nothing in this Part 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 U.S.C. § 151, et seq., as amended, or under G.S. 62-350.

(i) 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, city 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 city that owns or operates a public enterprise pursuant to Article 16 of this Chapter consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended.

"§ 160A-400.57. Applicability.

(a) A city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates 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 otherwise controlled by the city. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Part 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 this Part or otherwise specifically authorized by the General Statutes, a city 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 city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.

(d) Except as provided in this Part or specifically authorized by the General Statutes, a city 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 this Part does not authorize the provision 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."

SECTION 3.(a) G.S. 136-18 reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation is vested with the following powers:

...

- (10) To make proper and reasonable rules, regulations and ordinances for the placing or erection of telephone, telegraph, electric and other lines, above or below ground, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, and other similar obstructions that may, in the opinion of the Department of Transportation, contribute to the hazard upon any of the said highways or in any way interfere with the same, and to make reasonable rules and regulations for the proper control thereof. And whenever the order of the said Department of Transportation shall require the removal of, or changes in, the location of telephone, telegraph, electric or

other lines, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, or other similar obstructions, the owners thereof shall at their own expense, except as provided in G.S. 136-19.5(c), move or change the same to conform to the order of said Department of Transportation. Any violation of such rules and regulations or noncompliance with such orders shall constitute a Class 1 misdemeanor. For purposes of this subdivision, "wireless facilities" shall have the definition set forth in G.S. 160A-400.51.

...."

SECTION 3.(b) Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

§ 136-18.3A. Wireless communications infrastructure.

- (a) The definitions set forth in G.S. 160A-400.51 shall apply to this section.
- (b) The Department of Transportation is authorized to issue permits to wireless providers for the collocation of wireless facilities and the construction, operation, modification, or maintenance of utility poles, wireless support structures, conduit, cable, and related appurtenances and facilities for the provision of wireless services along, across, upon, or under the rights-of-way of State-maintained highways. The permits and included requirements shall be issued and administered in a reasonable and nondiscriminatory manner.
- (c) The Department of Transportation shall take action to approve or deny a permit application for collocation of a small wireless facility under this section within a reasonable period of time of receiving the application from a wireless provider.
- (d) The collocation of small wireless facilities and the construction, operation, modification, or maintenance of utility poles, wireless support structures, conduit, cable, and related appurtenances and facilities for the provision of small wireless facilities along, across, upon, or under the rights-of-way of State-maintained highways shall be subject to all of the following requirements:
 - (1) The structures and facilities shall not obstruct or hinder the usual travel or public safety on any rights-of-way of State-maintained highways or obstruct the legal use of such rights-of-way of State-maintained highways by other utilities.
 - (2) Each new or modified utility pole and wireless support structure installed in the right-of-way of State-maintained highways shall not exceed the greater of (i) 10 feet in height above the height of the tallest existing utility pole, other than a utility pole supporting only wireless facilities, in place as of July 1, 2017, located within 500 feet of the new pole in the same rights-of-way or (ii) 50 feet above ground level.
 - (3) Each new small wireless facility in the right-of-way shall not extend (i) more than 10 feet above an existing utility pole, other than a utility pole supporting only wireless facilities, or wireless support structure in place as of July 1, 2017, or (ii) above the height permitted for a new utility pole or wireless support structure under subdivision (2) of this section."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:39 a.m. this 21st day of July, 2017



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:20-205

Agenda Date: 5/19/2020

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Pedestrian Safety Modifications for Social Distancing

PURPOSE: The purpose of this agenda item is to provide the Council with an opportunity to consider modifications to enhance pedestrian safety while maintain proper social distancing.

DEPARTMENT: Planning, Public Works, Police

CONTACT INFORMATION: Zachary Hallock, 919-918-7329, zhallock@townofcarrboro.org <<mailto:zhallock@townofcarrboro.org>>; Trish McGuire, 919-918-7327, pmcguire@townofcarrboro.org <<mailto:pmcguire@townofcarrboro.org>>; Joe Guckavan, 919-918-7427, jguckavan@townofcarrboro.org <<mailto:jguckavan@townofcarrboro.org>>; Walter Horton, 919-918-7408, whorton@townofcarrboro.org <<mailto:whorton@townofcarrboro.org>>

INFORMATION: During the week of April 27th, several inquiries were made to Town Staff regarding potential modifications which would enhance pedestrian safety. These particular modifications are tailored to this time when traffic volumes are decreased, the number of people walking is increased, and people are attempting to maintain proper social distancing in limited public right of way. A number of requests have been vetted by staff and the following items are presented to Council for consideration:

1. An enhanced education campaign using the Watch For Me NC branding to provide safety information;
2. Installation of signage on E Poplar Ave @ W Main St indicating "Local Traffic Only";
3. Installation of temporary, all-way, stop control at the intersection of Robert Hunt Dr and Richard Dixon Ct, a Town Code amendment is required for this change and can be found as Attachment B;
 - a. The need for this device will be reassessed in the future when travel patterns begin to normalize and the need for social distancing is reduced;
4. Installation of a banner or small chloroplast sign near W Main St & W Weaver St that can be reproduced and placed around town indicating the need to be careful while driving around town and watch for people walking.

FISCAL & STAFF IMPACT: There will be staff time associated with development of the education campaign, staff time for installation and material costs related to the signage requested.

RECOMMENDATION: Staff recommends that Council consider the resolution (Attachment A) and

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provide comments as desired.

A RESOLUTION IN SUPPORT OF THE PROPOSED PEDESTRIAN SAFETY MODIFICATIONS

WHEREAS, during the week of April 27th a number of potential pedestrian safety modifications have been brought to the attention of Town Staff;

WHEREAS, whereas these have been vetted by staff on the basis of feasibility and cost in order to determine what is implementable within a reasonable time frame, these items are:

1. Develop and distribute an education campaign using the Watch For Me NC branding to provide safety information;
2. Installation of signage on E Poplar Ave @ W Main St indicating “local traffic only”;
3. Installation of temporary, all-way, stop control at the intersection of Robert Hunt Dr and Richard Dixon Ct to be reassessed at a later date when travel patterns begin to normalize and the need for social distancing is reduced;
4. Installation of banner or small signs along W Main St & W Weaver St with a safety message that can be reproduced and used around Town as needed.

NOW, THEREFORE, BE IT RESOLVED by the Carrboro Town Council that the Council is supportive of the proposed changes and directs staff to implement them.

BE IT FURTHER RESOLVED that the Carrboro Town Council provides the following comments:

This the 19th of May, 2020.

AN ORDINANCE AMENDING THE TOWN CODE TO CREATE A THREE-WAY STOP
ON ROBERT HUNT DRIVE AT RICHARD DIXON COURT

Draft 5/15/2020

THE CARRBORO TOWN COUNCIL ORDAINS:

Section 1. Article II of Chapter 6, Section 6-4 of the Town Code (Stop Signs Required at Certain Intersections) is amended by deleting Richard Dixon Ct. and Robert Hunt Dr. from the list of streets under subsection (a).

Section 2. Article II of Chapter 6, Section 6-4 of the Town Code (Stop Signs Required at Certain Intersection) is amended by adding Richard Dixon Ct. and Robert Hunt Dr. to the list of streets declared to be three-way stops under subsection (c).

Section 3. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 4. This ordinance shall become effective upon adoption.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

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Discussion of Actions to Support Social Distancing Requirements as Businesses Proceed with Phased Opening