

## Town of Waynesville, NC

### Town Council Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786

Date: September 26th, 2023 Time: 6:00 p.m.

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(828) 452-2491 [cpoolton@waynesvillenc.gov](mailto:cpoolton@waynesvillenc.gov)

#### **A. CALL TO ORDER - Mayor Gary Caldwell**

##### 1. Welcome/Calendar/Announcements

#### **B. PUBLIC COMMENT**

#### **C. ADDITIONS OR DELETIONS TO THE AGENDA**

#### **D. CONSENT AGENDA**

*All items below are routine by the Town Council and will be enacted by one motion. There will be no separate discussion on these items unless a Board member so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.*

2.
  - a. September 12<sup>th</sup>, 2023 Regular Scheduled Meeting Minutes
  - b. Call for Public Hearing for October 10, 2023 to consider the text amendments to clarify the Zoning Board of Adjustment and quasi-judicial procedures in the Land Development Standards(LDS), in compliance with the G.S. 160D.
  - c. Call for a Public Hearing for October 10, 2023 to consider the text amendment to define and prohibit cryptocurrency mining / data centers as a land use in the Land Development Standards (LDS).
  - d. Hazelween Special Event Permit
  - e. Appointment to the Environmental Sustainability Board
  - f. Amendment of the Environmental Sustainability Board Rules and Procedures
  - g. North Carolina Governor's Highway Safety Program Local Governmental Resolution to accept a grant to defray the cost of Police Officer overtime compensation related to traffic safety.

**Motion: To approve the consent agenda as presented.**

#### **E. NEW BUSINESS**

##### 3. Community Viability Grant Program

- Rob Hites, Town Manager

**Motion: Adopt the Resolution requesting the State to fund the Town’s “Viable Communities Grant” Request.**

4. Bid for Restroom Facility at Obama-King Park

- Rob Hites, Town Manager

**Motion: Approve the Bid of Clint Watkins.**

5. Budget Amendment for funding Obama-King Park

- Rob Hites, Town Manager

**Motion: Approve the budget amendment.**

**F. COMMUNICATION FROM STAFF**

6. Manager’s Report

- Town Manager, Rob Hites

7. Town Attorney Report

- Town Attorney, Martha Bradley

**G. COMMUNICATIONS FROM THE MAYOR AND COUNCIL**

**H. CLOSED SESSION**

8. Closed Session to discuss a matter of pending litigation per G. S. 143.318 11(a)3: to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

- Martha Bradley, Town Attorney

**I. ADJOURN**



# TOWN OF WAYNESVILLE

PO Box 100  
 16 South Main Street  
 Waynesville, NC 28786  
 Phone (828) 452-2491 • Fax (828) 456-2000  
[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

## CALENDAR September 2023

2023	
Friday, October 6 <sup>th</sup>	Art After Dark gallery stroll 5:30-8:30pm
Tuesday October 10 <sup>th</sup>	Town Council Meeting – Regular Session
Saturday October 14 <sup>th</sup>	Church Street Art and Craft Show 40 <sup>th</sup> Anniversary
Saturday, October 21 <sup>st</sup>	Apple Harvest Festival-Main Street 10am-5pm
Tuesday October 24 <sup>th</sup>	Town Council Meeting – Regular Session
Tuesday October 31 <sup>st</sup>	Treats on the Street
Friday, November 3 <sup>rd</sup>	Art After Dark gallery stroll 5:30-8:30pm
Friday November 10 <sup>th</sup>	Town Offices Closed- Veterans Day
Tuesday November 14 <sup>th</sup>	Town Council Meeting – Regular Session
Tuesday November 28 <sup>th</sup>	Town Council Meeting – Regular Session
Friday, December 1 <sup>st</sup>	Art After Dark gallery stroll 5:30-8:30pm and Christmas Tree Lighting
Monday, December 4 <sup>th</sup>	Christmas Parade
Saturday, December 9 <sup>th</sup>	Night Before Christmas
Tuesday December 12 <sup>th</sup>	Town Council Meeting – Regular Session
December 22 <sup>nd</sup> , 26 <sup>th</sup>	Town Closed – Christmas Holidays

## Board and Commission Meetings – September 2023

ABC Board	ABC Office – 52 Dayco Drive	<b>September 19</b> 3 <sup>rd</sup> Tuesday 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	<b>September 5<sup>th</sup></b> 1 <sup>st</sup> Tuesday 5:30 PM
Cemetery Commission	Public Services Building	<b>January, March-CANCELLED, July, and October</b> 3 <sup>rd</sup> Tuesday 2:00 PM
Downtown Waynesville Commission	Municipal Building – 16 South Main Street	<b>September 19</b> 3 <sup>rd</sup> Tuesday 8:30 AM
Firefighters Relief Fund Board	Fire Station 1 – 1022 N. Main Street	<b>Meets as needed;</b> <i>No meeting currently scheduled</i>
Historic Preservation Commission	Town Hall – 9 S. Main Street	<b>September 6<sup>th</sup></b> 1 <sup>st</sup> Wednesday 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	<b>September 18<sup>th</sup></b> 3 <sup>rd</sup> Mondays 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	<b>September 14<sup>th</sup></b> 2 <sup>nd</sup> Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	<b>September 18<sup>th</sup></b> 3 <sup>rd</sup> Monday 5:30 PM
Waynesville Housing Authority	Main Office-48 Chestnut Park Drive	<b>September 20<sup>th</sup></b> 3 <sup>rd</sup> Wednesday 9:00 AM

**MINUTES OF THE TOWN OF WAYNESVILLE TOWN COUNCIL**  
**Regular Meeting**  
**September 12, 2023**

**THE WAYNESVILLE TOWN COUNCIL** held a regular meeting on Tuesday, September 12, 2023, at 6:02 pm. in the Town Hall Board Room located at 9 South Main Street Waynesville, NC.

**A. CALL TO ORDER**

Mayor Gary Caldwell called the meeting to order at 6:05 pm with the following members present:

Mayor Gary Caldwell  
Mayor Pro Tempore Julia Freeman  
Councilmember Chuck Dickson  
Councilmember Jon Feichter  
Councilmember Anthony Sutton

The following staff members were present:

Rob Hites, Town Manager  
Jesse Fowler, Assistant Town Manager  
Martha Bradley, Town Attorney  
Candace Poolton, Town Clerk  
Police Chief, David Adams  
Assistant Police Chief Brandon Gilmore  
Misty Hagood, Finance Director  
Elizabeth Teague, Development Director  
Olga Grooman, Land Use Administrator  
Jeff Stines, Public Services Director  
Chris Mehaffey, Assistant Fire Chief  
Page McCurry, Human Resources Director  
Seargent Paige Shell  
Lt. Billy Benhart

Members of the Media:

Becky Johnson, the Mountaineer

1. Welcome/Calendar/Announcements

Mayor Gary Caldwell welcomed everyone and announced that Saturday, September 23<sup>rd</sup> is the Power of the Pink 5K race, and Sarge's Animal Rescue's 18<sup>th</sup> Annual Dog Walk, then Sunday the 24<sup>th</sup> is the Waynesville Public Arts Commission Annual Dog Show at HART Theatre at 5:30pm. Mayor Caldwell added that the next Town Council meeting is Tuesday, September 26<sup>th</sup> at 6pm.

## B. PUBLIC COMMENT

No one signed up for public comment.

## C. ADDITIONS OR DELETIONS TO THE AGENDA

***Councilmember Sutton made a motion, seconded by Councilmember Dickson, to move item five (Promotion of Paige Shell to Sergeant) to be presented next, and to live stream the meetings, effective today, September 12<sup>th</sup>, 2023. The motion passed unanimously.***

2. Promotion of Paige Shell to Sergeant
  - Police Chief David Adams

Police Chief David Adams reported that Detective Paige Shell was recently promoted to Sgt. of Criminal Investigations. Chief Adams said that Sgt. Paige has been with Waynesville since 2007, been an investigator since 2014, and just finished paramedic training. He added that she just won the American Red Cross Life Saving Award this year. He said that she is very motivated and dedicated and is an immense asset to the police department. Chief David Adams then swore in Sergeant Paige Shell.

## D. CONSENT AGENDA

*All items below are routine by the Town Council and will be enacted by one motion. There will be no separate discussion on these items unless a Councilmember so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.*

3.
  - a. August 8<sup>th</sup>, 2023 Regular Scheduled Meeting Minutes
  - b. Appointment of Dave Barone to the Downtown Waynesville Commission
  - c. Appointment of Travis Tallent to the Zoning Board of Adjustment as an alternate
  - d. Budget Amendment for 2023-2024 Assistance to Firefighters Grant Award
  - e. Purchase of garbage truck with the side loading body from ARP funding
  - f. Walnut Street Historic District Electric Installation
  - g. Consideration of adoption of ARPA grant resolution of acceptance and grant ordinance and budget ordinance
  - h. Selection of the engineering firm for Comprehensive Stormwater Master Plan and grant administration services

***A motion was made by Councilmember Sutton, seconded by Councilmember Feichter, to approve the consent agenda as presented. The motion passed unanimously.***

## E. PROCLAMATIONS

4. First Baptist Church Bicentennial Proclamation

- Mayor Gary Caldwell

Mayor Gary Caldwell read the proclamation and proclaimed that the Town of Waynesville hereby recognizes the immeasurable value of this Church to the community over the past two hundred years.

5. Constitution Week

- Mayor Gary Caldwell

Mayor Gary Caldwell read the proclamation and proclaimed September 17<sup>th</sup>-23<sup>rd</sup> Constitution Week, marking the 236<sup>th</sup> anniversary of the signing of the Constitution.

Mayor Caldwell then called for a Moment of Silence in honor of the victims of the September 11<sup>th</sup> terrorist attacks.

**F. PRESENTATIONS**

6. Wastewater Treatment Plant- Update #2

- Rob Hites, Town Manager

Town Manager Rob Hites reported that on July 18<sup>th</sup>, the Department of Environmental Quality announced that Waynesville had been awarded a \$4,877,100 grant to help cover the gap between the \$19,545,000 State Revolving Loan and the \$25,725,000 construction contract. Town Manager Hites presented an overview of the how the sewage treatment plant functions and included the names of the components of the plant and how they relate to the treatment process.

Manager Rob Hites said that Harper Construction Company is moving according to the timetable approved by DEQ. To date, he said the Town has expended \$5,765,083.48 or 23% of the project cost. He said the contractor has completed construction of the grit chamber and influent pump station, parts of the new “headworks” and they are currently constructing the piping and floor of the primary treatment disk filters. He said that the staff has drained two of the aeration basins and are removing the accumulation of debris at the bottom of the basins. Manager Hites said that the basins will be retrofitted with new air infusers that create an optimal environment for the bacteria to breakdown the organic material in the waste. He said that the sidewalls of the secondary clarifiers have been constructed increasing the depth of the basin to eight feet and that the contractor has formed and poured the walls of the “Blower Room” adjacent to the aeration basins.

Councilmember Feichter asked about raising the walls to 12 feet and how that would help to prevent outflow. Mr. Hites said taller walls means that the plant can retain sewage longer, which means it can be treated more.

Councilmember Freeman said the project is going right on course, which Mr. Hites confirmed. He said the Town waited until the project came down to an affordable rate, which took about four months. He mentioned the completion of the project should be January 2025.

Mr. Hites said the project is on budget and the only unexpected expenditure was early on in the project in the amount \$46,000 to remove an old wall we didn't know about. He said there is a contingency account built into the project.

## G. PUBLIC HEARINGS

7. Public Hearing to consider the text amendment to add an "Event Space" as a stand-alone use in the Land Development Standards (LDS).
  - Olga Grooman, Land Use Administrator

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to open public comment at 6:35pm. The motion passed unanimously.***

Land Use Administrator Olga Grooman reported that per 2035 Comp Plan recommendations, the Planning Board created an ad hoc committee to study the land use challenges and opportunities along the Waynesville railroad corridor. She said that in discussions related to economic development along the railroad, the subcommittee identified a gap in our zoning ordinances. She added that an "event space" is not defined as a stand-alone use. Additionally, she said Development Services received inquiries about converting properties into wedding venues and event spaces as a primary use, and there was no guidance in the LDS for managing their potential impacts.

Ms. Grooman said that this text amendment comes out of the Railroad Subcommittee and proposes a definition of an "event space" with supplemental standards (parking, noise, trash, buffer against residential areas). The Planning Board recommended allowing "event spaces" as a Special Use Permit and proposed to allow them only in the Railroad Overlay District. She said this would limit potential impacts on surrounding areas and give the Planning Board an opportunity to carefully review each application through a quasi-judicial proceeding. In the future, she said property owners could request to add "event spaces" in other districts in the Table of Permitted Uses (LDS 2.5.3) via text amendment procedure that would require approval by the Town Council. Staff presented the text amendment to the Planning Board and got the feedback on June 19, 2023. Ms. Grooman reported that on July 17, 2023, the Planning Board held a public hearing and voted unanimously to recommend it to the Town Council.

There was no public comment.

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to close public comment at 6:40pm. The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to find that the Ordinance is consistent with the 2035 Comprehensive Plan and that it is reasonable and in the public interest in that it promotes smart growth principles in land use planning and zoning and that it encourages in-fill, mixed use, and context-sensitive development. The motion passed unanimously.***



***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to adopt the Ordinance as presented and that it creates opportunities for a sustainable economy and that it promotes the growth of existing local businesses and Waynesville’s “maker economy”, and promotes Waynesville’s downtown districts, inns, restaurants, and reputation as the “Gateway to the Smokies”. The motion passed unanimously.***

8. Public Hearing to consider the text amendment to update the definition of “Freight Hauling/Truck Terminals” in section 17.3 of the Land Development Standards (LDS).
- Olga Grooman, Land Use Administrator

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to open public comment at 6:42pm. The motion passed unanimously.***

Land Use Administrator Olga Grooman reported that the current definition of the “Freight Hauling/Truck Terminals” in the LDS is the same as the definition of “Funeral Homes,” which appears to be a copy and paste error from many years ago. However, she said the footnote for the definition has a valid reference to the Land Based Classification Standards (LBCS), a guidance document by the American Planning Association that classifies and defines various land uses. She reported that the staff wished to correct the definition with the intended one from the LBCS.

There was no public comment.

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to close public comment at 6:44pm. The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to find that the Ordinance is consistent with the 2035 Comprehensive Plan and that it is reasonable and in the public interest in that it continues to promote smart growth principles in land use planning and zoning and that it encourages mixed use, and context-sensitive development. The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to adopt the Ordinance as presented in that it creates opportunities for a sustainable economy and that it promotes the growth of existing local businesses and Waynesville’s “maker economy”, and it creates an attractive, safe, and multi-modal transportation system and it provides an interconnected transportation network of roadways, greenways, freight mobility, bicycle routes, and sidewalks that improve safety and strategic access for all users. The motion passed unanimously.***

9. Public Hearing to consider a text amendment to establish a Railroad Overlay District (RR-O) and its uses, sections 2.5.3 and 2.6 of the Land Development Standards.
- Olga Grooman, Land Use Administrator

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to open public comment at 6:46pm. The motion passed unanimously.***

Land Use Administrator Olga Grooman reported that underutilized rail corridors present opportunities for economic development. In Waynesville, she said the railroad corridor is an opportunity for commercial, cultural, and residential areas to safely coexist, and an opportunity for increased economic and social vibrancy. Pursuant to the 2035 Comp Plan recommendations, she reported that the Planning Board assigned an ad hoc committee to study land use challenges and opportunities along the railroad corridor. The group consisted of local business owners, community representatives, Planning Board members, and Development Services staff. Additionally, she said staff had discussions with the leadership team of the Blue Ridge Southern Railroad. During five months of work, she added that the subcommittee researched, studied, and discussed potential uses along the corridor, economic opportunities, and how the corridor provides transportation connections and gateways through various neighborhoods and the Hazelwood and Frog Level business districts.

Ms. Grooman said staff presented the text amendment to the Planning Board and got the feedback on June 19, 2023. On July 17, 2023, the Board held a public hearing and voted unanimously to recommend that a railroad corridor zoning overlay be adopted as a text amendment. She said that once that's adopted, the overlay can be placed onto the zoning map through a separate map amendment process.

She said that the map is in the workshop with the Planning Committee now. She said the railroad subcommittee had been working hard and presented the plan to the Planning Board, who then unanimously approved the plan.

Ms. Grooman said the zoning would not be taking anything away, it's only creating more flexibility of use with a special use permit.

Councilmember Sutton commented that the Railroad Overlay plan was started 4 years ago, and he is looking forward to seeing it come to fruition.

There was no public comment.

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to close public comment at 6:54pm. The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to find that the Ordinance is consistent with the 2035 Comprehensive Plan and that it is reasonable and in the public interest promote smart growth in land use planning and zoning by encouraging infill, mixed-use, and context sensitive development, and implementing a railroad overlay district to encourage redevelopment along the corridor, especially in areas with access to existing/future greenway . The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Dickson, to adopt the Ordinance as presented in that it creates opportunities for a sustainable economy by promoting the growth of the existing local businesses of Waynesville's "maker economy", promote Waynesville's downtown districts, inns, restaurants, and reputation as the "Gateway to the Smokies", and it reviews the LDS to create opportunities within the Town of Waynesville's industrial areas and along the railroad corridor. The motion passed unanimously.***

## H. NEW BUSINESS

10. Resolutions pertaining to the Town's \$1,009,543 Community Development Block Grant (CDBG)
  - Karen Kiehna, McGill and Associates

Karen Kiehna with McGill and Associates reported that all documents have been completed and there is now a grant number for the sewer improvements along Sawyer Street. She said there will be some training for staff, but other than that, the project will be moving forward. At this stage, Ms. Kiehna said that two resolutions must be approved tonight. She gave an outline of the two resolutions. She said that one resolution is for water improvements and the other resolution is for the sewer improvements. She said they state that after the Town replaces the water and sewer lines, it will adopt fees and charges necessary to maintain the lines. Ms. Kiehna said the resolutions also authorize Rob Hites as the signatory on the application and any other documents associated with the grant.

***A motion was made by Councilmember Dickson, seconded by Councilmember Sutton, to approve resolution R-18-23: Develop and Implement a New Stormwater Utility Project Resolution and Form for Certification by the Recording Officer. The motion passed unanimously.***

***A motion was made by Councilmember Sutton, seconded by Councilmember Freeman, to approve resolution R-17-23: Develop and Implement a New Stormwater Utility Project Resolution and Form for Certification by the Recording Officer. The motion passed unanimously.***

11. Appointment of Environmental Sustainability Board
  - Councilmember Chuck Dickson

Councilmember Dickson reported that Town Council approved the creation of an Environmental Sustainability Board during a previous meeting. He said he would like to interview Mary Kayler and Jeffrey Burkhalter. Councilmember Dickson said he would like to appoint the following members:

***A motion was made by Councilmember Dickson, seconded by Councilmember Feichter, to Dickson to appoint the following individuals to the Environmental Sustainability Board: Aparna Keshaviah, Betsy Wall, Buffy Queen, David Henderson, Kay Kirkman, Keith Ray, Michael Boss, Paul Carson, Reid Conway, William Hite, and Casey Brown (who would serve as an alternate). The motion passed unanimously.***

***A motion was made by Councilmember Freeman, seconded by Councilmember Sutton, to appoint Councilmember Dickson to the Environmental Sustainability Board. The motion passed unanimously.***

Councilmember Dickson said most of the members live within the Waynesville area, all of them live in Haywood County. He mentioned a website called "Re-wiring America" that has a calculator where people can input their zip code and income and can find out what they are eligible for heating and cooling assistance. He said the program should be available by the end of this year or early next year.

12. Interview Logistics for Waynesville Housing Authority applicant
  - Jesse Fowler, Assistant Town Manager

Assistant Town Manager Jesse Fowler reported that the Waynesville Housing Authority has one vacancy. Per the Boards and Commissions manual, he said potential WHA members must be interviewed prior to being appointed. He requested that Council decides who will be interviewing Mr. Ryan Newell, and when.

Councilmember Dickson said that Ryan Newell is the Executive Director of Haywood Habitat of Humanity and given his experience, he would like to waive the interview policy for him.

***A motion was made by Councilmember Dickson, seconded by Councilmember Sutton, to waive the interview for Ryan Newell.***

***A motion was made by Councilmember Dickson, seconded by Councilmember Freeman, to appoint Ryan Newell to the Waynesville Housing Authority.***

13. Haywood County TDA request for Council to endorse organization of Product Development Committee
- Rob Hites, Town Manager

Town Manager Rob Hites reported that the TDA is embarking on an initiative to study its product and process. He said they have drafted an RFP to provide technical assistance for creating a new "Tourism Master Plan". The plan will "develop a cohesive strategy to leverage our unique cultural, historical and natural resources" according to the TDA Director, Corrina Ruffieux. He said a "Product Development Committee" will be established to help develop the strategy and the committee will consist of two to four Haywood County Tourist Development Board Members and an additional six community representatives. In addition to these members, the manager of each Town and the County will also be appointed. He said this would do away with the 1% subcommittee.

Councilmember Feichter expressed concern in that too much of that is unknown. He said at the last meeting, this was proposed, and he supports the development of the tourism master plan. He said his concern is the abolishment of the 1% subcommittee. He said they are staffed by 3 volunteers and that they review the applications for grants for 1% of the grant money and then rates and decide collectively which grants to invest in. He said it currently works well, and he doesn't seem to understand the reason for the proposed change. He said if they do away with the 1% subcommittee that decides on how to spend money that Waynesville generated, he has concerns.

Councilmember Freeman asked if there is a reason why the Town of Waynesville has not received more grants given the current make-up of the subcommittee. Councilmember Feichter said the transition between the DWA and DWC may have affected that, and that there is only so much money to go around. He said the 1% subcommittee has been overwhelmingly receptive to the grant applications from the Town. He mentioned several murals that were funded. Councilmember Sutton said that the new committee would include many representatives from the Waynesville community and that there is a broad involvement.

Councilmember Dickson asked if the TDA voted unanimously to establish the new committee. Councilmember Feichter said yes, and he also voted for it.

***A motion was made by Councilmember Dickson, seconded by Councilmember Sutton, to endorse the concept of the Product Development Committee and the appointment of the manager as a member. The motion passed unanimously.***

**I. COMMUNICATION FROM STAFF**

14. Manager's Report

- Town Manager, Rob Hites

Town Manager Rob Hites reported the fire department received a \$185,928 grant for air packs. He introduced the new Human Resources Director Page McCurry. He said she's from the Macon County Department of Social Services. He said she's been doing a great job and is already holding listening sessions, updated the website and scheduled leadership training and will soon be updating the employee handbook.

15. Town Attorney Report

- Town Attorney, Martha Bradley

No updates.

**J. COMMUNICATIONS FROM THE MAYOR AND COUNCIL**

Councilmember Dickson said he approved Travis Tallent on Zoning Board  
Councilmember Feichter thanked Council for attending the groundbreaking ceremony for the arch. He said there will be a pre-construction meeting on Wednesday and there will be a four-month fabrication process. Mayor Caldwell said new streetlights are up at the new roundabout. Councilmember Sutton thanked staff for live-streaming and recording the meeting. Assistant Town Manager said the meetings can be found on youtube.com by searching @TownofWaynesville and the link is also on our website.

**K. ADJOURN**

***A motion was made by Councilmember Freeman, seconded by Councilmember Dickson, to adjourn at 7:46pm. The motion passed unanimously.***

ATTEST:

\_\_\_\_\_  
Gary Caldwell, Mayor

\_\_\_\_\_  
Robert W. Hites, Jr. Town Manager

\_\_\_\_\_  
Candace Poolton, Town Clerk

**TOWN OF WAYNESVILLE COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date: September 26, 2023**

**SUBJECT:** Call for a Public Hearing for October 10, 2023 to consider the text amendments to clarify the Zoning Board of Adjustment and quasi-judicial procedures in the Land Development Standards (LDS), in compliance with the G.S. 160D.

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:**  
**Department:** Development Services  
**Contact:** Olga Grooman  
**Presenter:** Olga Grooman

**BRIEF SUMMARY:**

In 2021, the Town completed substantial updates to the Land Development Standards in order to comply with changes in the NC General Statutes guiding local land use regulations, referred to as “160D.” Recently, the staff identified remaining outdated information in the *Board of Adjustment* Section 14.4.2 and *Variances* Section 15.13 of the LDS. The staff wishes to correct the outdated information by clarifying the quorum and voting requirements for different types of quasi-judicial procedures as specified in the Chapter 160D-406(i)- *Quasi-Judicial Procedure* and variance criteria per 160D-705(d) *Quasi-Judicial Zoning Decisions*. In applying these changes, the staff consulted the Planning Board counsel Ron Sneed. On September 18, 2023, the Planning Board recommended this text amendment to the Town Council.

**MOTIONS FOR CONSIDERATION:**

1. Motion to call for a Public Hearing on October 10, 2023, to consider the text amendments to clarify the Zoning Board of Adjustment and quasi-judicial procedures in the LDS.

**FUNDING SOURCE/IMPACT:**

N/A

**ATTACHMENTS:**

1. Proposed Text Amendment
2. Excerpts from NC G.S. 160D

**MANAGER’S COMMENTS AND RECOMMENDATIONS:**

This is a call for public hearing only.

*DRAFT FOR COUNCIL CONSIDERATION*

**ORDINANCE NO. O-42-23**

**AN ORDINANCE AMENDING THE TEXT  
OF THE TOWN OF WAYNESVILLE LAND DEVELOPMENT STANDARDS**

**WHEREAS**, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

**WHEREAS**, the Town of Waynesville Planning Board has reviewed the proposed text amendments to the Land Development Standards (LDS) and recommends that they are consistent with the 2035 Comprehensive Plan and that they are reasonable and in the public interest because they support:

- Goal # 1: to “promote smart growth in land use planning and zoning;”

**WHEREAS**, the Planning Board has reviewed and recommends the proposed text amendments for enactment by the Town Council; and

**WHEREAS**, the Town Council find this Ordinance is consistent with the Town’s 2035 Comprehensive Plan and that it is reasonable and in the public interest to “make decisions about resources and land use in accordance with North Carolina General Statutes.”

**WHEREAS**, after notice duly given, a public hearing was held on **September 18, 2023** at the regularly scheduled meeting of the Waynesville Planning Board, and on \_\_\_\_\_ at the regularly scheduled meeting of the Waynesville Town Council;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON \_\_\_\_\_ AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:**

That the Land Development Standards be amended as follows (in red):

1. Amend Section 14.4 Board of Adjustment as follows:

**14.4 Board of Adjustment.**

**14.4.1 Powers and Duties.**

The Board of Adjustment of Waynesville shall have the following powers and duties to be carried out in accordance with the terms of this ordinance:

- A. To hear and decide appeals from any order, requirement, permit, decision or determination issued by an administrative officer of the town in enforcing any provision of the Town of Waynesville Minimum Housing Codes.
- B. LDS Decisions: The Board of Adjustment shall render final decisions regarding the following permits types (see also Chapter 15):
  - 1. Appeal of any Administrative decisions (15.6-7, 15.8.1, 15.12)
  - 2. Appeals of Historic Preservation Commission Decision regarding Certificate of Appropriateness (Major) (15.11.3)
  - 3. Variances (15.13)
- C. The Board of Adjustment shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Board of Aldermen.

**14.4.2 Membership and Quorum.**

- A. The Waynesville Board of Adjustment shall consist of the number of members referenced and indicated in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, **consisting of simple majority of members of four fifths (4/5) of the membership shall be necessary to transact any business, except consideration of variance applications, in compliance with the following subsection.**
- B. ~~The Board shall not pass upon any question relating to an appeal from a decision, order, requirement or determination of town officials or an application for a variance when there are less than four fifths (4/5) of the board members with jurisdictional authority present.~~

**Per 160D-406(i), the concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter. Vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.**
- C. The Waynesville Board of Aldermen shall appoint members from within the Town limits and, if the Town is exercising Extraterritorial Jurisdiction, one (1) or more members shall be appointed by the Haywood County Commissioners as set forth in G.S. 160A-362 to provide for proportional representation of residents within the Extraterritorial Jurisdiction. As vacancies occur the Administrator shall advise the appropriate governing board to make appointments or reappointments as necessary to maintain this proportional representation based on best available estimates of current population of the Town and the Extraterritorial Jurisdiction. The representatives of the Extraterritorial Jurisdiction shall have equal rights, privileges and duties with the other members of the Board of Adjustment.
- D. All members shall serve three (3) year terms and may succeed themselves.
- E. Officers shall be elected in accordance with the adopted rules of procedure.



- F. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

( Ord. of 5-27-2014(1) ; Ord. No. O-01-15 , § 10, 1-27-2015)

2. Amend Section 15.13.3.B Standard of Review as follows:

B. **Standard of Review (per 160D-705(d)):**

1. **General Variance Requests:** The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:

~~a. That there are unnecessary hardships in the way of carrying out the strict letter of this chapter~~

~~b. Reserved.~~

~~c. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district.~~

~~d. That the special conditions and circumstances do not result from the actions of the applicant. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.~~

~~e. That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.~~

~~f. That the variance is the minimum necessary to afford relief.~~

~~g. That the public safety and welfare have been assured and substantial justice has been done.~~

a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

3. Amend Section 15.14.2 Review by Planning Board as follows:

- C. **Additional Public Notification for Large Scale Amendments:** If the land development map amendment directly affects more than fifty (50) properties, owned by at least fifty (50) different property owners the Town may elect to utilize a Level 6 notification. When this occurs, the town may use the expanded published notice provisions found in the North Carolina General Statutes 160D-601 and 160D-602.

**ADOPTED** this \_\_\_\_\_ Day of \_\_\_\_\_, 2023.

TOWN OF WAYNESVILLE

\_\_\_\_\_  
J. Gary Caldwell, Mayor

ATTEST:

\_\_\_\_\_  
Candace Poolton, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Martha Bradley, Town Attorney

**§ 160D-406. Quasi-judicial procedure.**

(a) **Process Required.** – Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

(b) **Notice of Hearing.** – Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

(c) **Administrative Materials.** – The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

(d) **Presentation of Evidence.** – The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) **Appearance of Official New Issues.** – The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(f) **Oaths.** – The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) **Subpoenas.** – The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request

to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(h) Appeals in Nature of Certiorari. – When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).

(i) Voting. – The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(j) Decisions. – The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

(k) Judicial Review. – Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d). The governing board of the local government that is a party to the judicial review of the quasi-judicial decision shall have the authority to settle the litigation, subject to Article 33C of Chapter 143 of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d); 2021-168, s. 3(a).)

**§ 160D-705. Quasi-judicial zoning decisions.**

(a) Provisions of Ordinance. – The zoning or unified development ordinance may provide that the board of adjustment, planning board, or governing board hear and decide quasi-judicial zoning decisions. The board shall follow quasi-judicial procedures as specified in G.S. 160D-406 when making any quasi-judicial decision.

(b) Appeals. – Except as otherwise provided by this Chapter, the board of adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of the zoning regulation or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. The provisions of G.S. 160D-405 and G.S. 160D-406 are applicable to these appeals.

(c) Special Use Permits. – The regulations may provide that the board of adjustment, planning board, or governing board hear and decide special use permits in accordance with principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and appropriate conditions and safeguards may be imposed upon these permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds.

(d) Variances. – When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 17, 50(b), 51(a), (b), (d).)

**TOWN OF WAYNESVILLE COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date: September 26, 2023**

**SUBJECT:** Call for a Public Hearing for October 10, 2023 to consider the text amendment to define and prohibit cryptocurrency mining / data centers as a land use in the Land Development Standards (LDS).

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:**  
**Department:** Development Services  
**Contact:** Olga Grooman  
**Presenter:** Olga Grooman

**BRIEF SUMMARY:**

Currently Waynesville Land Development standards do not address cryptocurrency mining operations. The Planning Board discussed concerns with crypto-mining and data centers at their July meeting and directed staff to draft a definition and ordinance based on their discussion. Staff found that many governments nationwide as well as several neighboring jurisdictions are either in the process of regulating this type of facility, or have already addressed “crypto mining / data centers” via definitions, imposed moratoriums, or specific restrictions in their ordinances (noise, waste disposal, buffer requirements, setbacks, etc.). This includes Haywood County, Jackson County, the Town of Fletcher, Henderson County, and Buncombe County (*see attached research*). Although Waynesville did not have any inquiries as of today, the Development Services staff and Planning Board recommend to define the use and prohibit it proactively.

The issue of crypto-mining has been covered by the news lately, especially in the areas where it is not regulated, such as Cherokee County. Commercial crypto-mining consumes a lot of energy (electricity, water) and produces constant noise. The attached article “Zoning for Data Centers and Cryptocurrency Mining” by the *Zoning Practice Journal* explains that “air conditioner compressors mounted on the roof or on ground near these facilities can generate noise that carries across property lines.” These facilities require a great deal of continuous power which can also impact local utilities. This use generates very few jobs or local commerce and would have minimal economic development value beyond the initial land sale or construction.

The purpose of this amendment is to mitigate the negative effects of cryptocurrency mining operations by defining and prohibiting this use in all districts. The staff presented the text amendment to the Planning Board on September 18, 2023. The board revised the proposed definition and recommended the text amendment for the Council’s consideration.

**MOTIONS FOR CONSIDERATION:**

1. Motion to call for a Public Hearing on October 10, 2023, to consider the text amendments to define and prohibit cryptocurrency mining / data centers as a land use in the Land Development Standards (LDS).

**FUNDING SOURCE/IMPACT:**

N/A

**ATTACHMENTS:**

1. Proposed Text Amendment
2. Crypto Mining research and article

**MANAGER'S COMMENTS AND RECOMMENDATIONS:**

This is a call for public hearing only.



*DRAFT FOR COUNCIL CONSIDERATION*

**ORDINANCE NO. O-43-23**

**AN ORDINANCE AMENDING THE TEXT  
OF THE TOWN OF WAYNESVILLE LAND DEVELOPMENT STANDARDS**

**WHEREAS**, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

**WHEREAS**, the Town of Waynesville Planning Board has reviewed the proposed text amendments to the Land Development Standards (LDS) and recommends that they are consistent with the 2035 Comprehensive Plan and that they are reasonable and in the public interest because they support:

Goal # 1: Continue to promote smart growth principles in land use planning and zoning.

- Encourage infill, mixed-use and context-sensitive development.
- Promote conservation design to preserve important natural resources.

Goal # 2: Protect and enhance Waynesville’s natural resources.

- Protect rural lands, iconic views and mountain vistas.
- Continue to engage in and promote best management practices related to energy use, efficiency and waste management.

Goal # 5: Create opportunities for a sustainable economy.

- Encourage creatively designed, mixed-use, walkable centers and commercial districts that appeal to residents and visitors.

**WHEREAS**, the Planning Board has reviewed and recommends the proposed text amendment to prohibit crypto-currency, data mining, and data centers, for enactment by the Town Council; and

**WHEREAS**, the Town Council find this Ordinance is consistent with the Town’s 2035 Comprehensive Plan and that it is reasonable and in the public interest to “make decisions about resources and land use in accordance with North Carolina General Statutes.”

**WHEREAS**, after notice duly given, a public hearing was held on **September 18, 2023** at the regularly scheduled meeting of the Waynesville Planning Board, and on \_\_\_\_\_ at the regularly scheduled meeting of the Waynesville Town Council;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON \_\_\_\_\_ AND WITH A MAJORITY OF THE COUNCIL MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:**

That the Land Development Standards be amended as follows (in red):

1. Add the use to the Section 2.5.3- Table of Permitted Uses as follows:

2.5.3 Table of Permitted Uses (rev. 2012, 2016,2017, 2018, 2020, 2022, 2023):

USE TYPES	Residential-Low Density Districts (RL)				Residential-Medium Density Districts (RM)				Neighborhood Residential (NR)								Urban Residential (UR)		Neighborhood Center (NC)			Business District (BD)			Regional Center (RC)			Commercial Industrial (CI)			
	CC-RL	EN-RL	FC-RL	HT-RL	CP-RM	D-RM	HM-RM	SW-RM	AC-NR	LL-NR	MS-NR	N-NR	PS-NR	PC-NR	RC-NR	SS-NR	WS-NR	EW-UR	H-UR <sup>2</sup>	HM-UR	NM-NC	PS-NC	RC-NC	CBD	H-BD	SM-BD	DJ-RC	HC-RC	RA-RC	CI	
<b>COMMERCIAL</b>																															
Adult Establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS
Alcoholic Beverage Sales Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-
Auto Parts Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Bar/Tavern/Night Club	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
<b>Cryptocurrency Mining Operations / Data Centers</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Drive-Thru Commercial	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	P	P	P	-
Gas/Fueling Station	-	-	-	-	-	-	-	-	PC/PS	-	-	-	-	-	PL/PS	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
General Commercial – Less than 100,000 sf	-	-	-	-	-	-	-	-	-	-	PL	PL	-	-	PL	-	PL	-	PL	-	P	P	P	P	P	P	P	P	P	P	-
General Commercial – Greater than 100,000 sf	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	-
Neighborhood Commercial (as defined in section 17.30 adopted 8/2018)	-	-	-	-	-	PL	-	PL	-	PL	-	PL	-	PL	-	PL	PL	PL	PL	-	-	-	-	-	-	-	-	-	-	-	-
Neighborhood Restaurant (as defined in section 17.30 adopted 8/2018)	-	-	-	-	-	PL	-	PL	-	PL	-	PL	-	PL	-	PL	PL	PL	PL	-	-	-	-	-	-	-	-	-	-	-	-
Outside Sales	-	-	-	-	-	-	-	-	-	-	-	PL	-	PL	-	PL	-	PL	-	-	P	P	P	P	P	P	P	P	P	P	-
Outside Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	P
Pawnshops	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-
Restaurant	-	-	-	-	-	-	-	-	-	-	PL	PL	-	PL	-	PL	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-
Vehicle & Heavy Equipment Sales/Rental	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	-	-	PS	PS	PS	PS	PS	PS	-
Vehicle Services – Minor Maintenance/Repair/Wash	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Vehicle Services – Major Repair/Body Work	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	-
Video gaming parlor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS/SUP	PS/SUP	PS/SUP	-

(Ord. No. 04-16, 6-14-2016; Ord. No. Q-22-17, § 2, 11-28-2017; Ord. No. Q-07-18, § 2-22-2018; Ord. No. Q-14-18, § 1, 8-28-2018;; Ord. No. Q-19-18, § 2, 10-9-2018; Ord. No. Q-21-18, 11-13-2018; Ord. No. Q-28-18, 11-27-2018; Ord. No. Q-20-20, § 2, 10-27-2020; Ord. No. Q-40-22, 12-31-2022; Ord. No. Q-07-23, 02-14-23)

2. Add a definition to the Section 17.3- Definitions, Use Type.

**Cryptocurrency Mining Operations / Data Centers.** The operation of computer equipment for the purpose of commercial mining of cryptocurrencies or storing data on servers. This activity may involve solving algorithms as part of the development and maintenance of a blockchain, network operations and maintenance, creation of new digital “coins,” use of computer hardware as well as other equipment for crypto mining / data storage operations, use of equipment to cool the hardware and operating space, and the use of a peer-to-peer database known as a blockchain to maintain a secure ledger of transactions. This definition includes the facilities currently known as collocation facilities, edge data centers, and hyperscale data centers. This definition does not include the use of one personal computer from which cryptocurrency is mined in an enclosed structure, provided the cryptocurrency is not mined for commercial purposes.

ADOPTED this \_\_\_\_\_ Day of \_\_\_\_\_, 2023.

TOWN OF WAYNESVILLE

\_\_\_\_\_  
J. Gary Caldwell, Mayor

ATTEST:  
\_\_\_\_\_  
Candace Poolton, Town Clerk

APPROVED AS TO FORM:  
\_\_\_\_\_  
Martha Bradley, Town Attorney

## Crypto Mining / Data Centers Research

1. CNN Video + Article *"How the blare of a crypto mine woke up this Blue Ridge Mountain town:"*

<https://www.cnn.com/2023/01/19/us/north-carolina-crypto-mine-noise-weir-wxc/index.html>

2. Cherokee County Crypto Mining Petition & Information:

<https://www.sierraclub.org/north-carolina/wenoca/cherokee-county-cryptomining-petition>

3. Haywood County: working on adding crypto mining in their High Impact Development Ordinance: setbacks, buffers, screening, separation from schools, hospitals, retirement facilities, correctional institutions, etc.

<https://www.haywoodcountync.gov/DocumentCenter/View/4618/Chapter-160-High-Impact-Development->

4. Minutes from the Henderson County Board of Commissioners meeting on May 1, 2023. See page 6 of the document. A 60-day moratorium imposed, additional regulations to follow:

[https://www.hendersoncountync.gov/sites/default/files/fileattachments/board\\_of\\_commissioners/meeting/136471/5.1.2023\\_minutes.pdf](https://www.hendersoncountync.gov/sites/default/files/fileattachments/board_of_commissioners/meeting/136471/5.1.2023_minutes.pdf)

[https://www.hendersoncountync.gov/sites/default/files/fileattachments/planning\\_board/meeting/136698/4.20.23\\_plbd\\_item\\_-\\_text\\_amendment\\_for\\_cryptocurrency\\_mining.pdf](https://www.hendersoncountync.gov/sites/default/files/fileattachments/planning_board/meeting/136698/4.20.23_plbd_item_-_text_amendment_for_cryptocurrency_mining.pdf)

5. Buncombe County- Commissioners Approve Moratorium on Crypto Mining:

<https://www.buncombecounty.org/countycenter/news-detail.aspx?id=20677#:~:text=The%20Buncombe%20County%20Board%20of,mining%20as%20a%20specific%20use>

<https://www.buncombecounty.org/common/Commissioners/20230502/PH%20on%20Crypto%20Mining%20Temp%20Moratorium%20ordinance.pdf>

<https://www.citizen-times.com/story/news/local/2023/05/04/buncombe-county-approves-a-1-year-moratorium-on-cryptocurrency-mining/70179529007/>

6. Jackson County: cryptocurrency mining is included in the Industrial Development Ordinance. See page 3 of the document or read their Code of Ordinances online:

<https://www.jacksonnc.org/PDF/Agenda-2022/september-06/item-3a.pdf>

[https://library.municode.com/nc/jackson\\_county/codes/code\\_of\\_ordinances?nodeId=CD\\_ORD\\_AP\\_XIUNDEOR\\_ARTVIDEST\\_S6.4INDE](https://library.municode.com/nc/jackson_county/codes/code_of_ordinances?nodeId=CD_ORD_AP_XIUNDEOR_ARTVIDEST_S6.4INDE)

7. Macon County addresses cryptocurrency mining:

<https://smokymountainnews.com/news/item/35714-macon-will-address-cryptocurrency-mining>

<https://www.thefranklinpress.com/local-news-newsletter/planning-board-approves-crypto-mine-regulations>

8. Clay County prohibits crypto mining after the Cherokee County's situation:

<https://wlos.com/news/local/cryptocurrency-crypto-mines-mining-chokeee-county-murphy-western-north-carolina-residents-concerns-loud-impacts-warn-neighboring-areas-counties-bans-zoning-laws-rules-bitcoin-digital>

9. Fletcher, NC: Planning Board defined the use on June 20, 2023, and as of now, it is not allowed.

10. Maggie Valley, NC- not addressed yet, but talked about it.

# ZONING PRACTICE

JUNE 2022



AMERICAN PLANNING ASSOCIATION

➡ ISSUE NUMBER 6

## PRACTICE DATA CENTERS



# Zoning for Data Centers and Cryptocurrency Mining

By David Morley, AICP

Data centers are the physical facilities where the internet lives. Fundamentally, they consist of networked computer systems used for data storage and processing, along with supporting equipment, such as batteries, back-up power generators, and cooling devices. Modern data centers are the direct descendants of the, so-called, *telecom hotels* that began springing up in downtowns in the late 1990s to accommodate the rapid expansion of the commercial internet and, before that, of automated telephone exchange facilities that made it possible to place land-line telephone calls across a city, the nation, or the world (Evans-Cowley 2002).

An emerging segment of the data center market consists of facilities dedicated in whole or part to “mining” cryptocurrency. A cryptocurrency is a decentralized digital currency that uses encrypted data strings to denote individual units, or coins, and a peer-to-peer database known as a blockchain to maintain a secure ledger of transactions. Several of the most popular cryptocurrencies, most notably Bitcoin, require extremely complex computations to verify each transaction and add a record, or block, for that transaction to the blockchain. Whoever verifies a transaction first receives a new cryptocurrency coin as a reward. While, theoretically, anyone with a computer server can “mine” new coins by helping to verify these transactions, large-scale cryptocurrency mining requires a massive amount of computing power.

This article explores the reasons why cities, towns, and counties may wish to define and regulate data centers and cryptocurrency mining as distinct uses in their zoning codes and provides a summary of contemporary approaches. It begins with a brief overview of the factors that drive demand for data centers or cryptocurrency mines in particular locations before examining the key planning issues that may merit special attention through zoning and posing a series of questions to guide code drafting.



Chad Davis / Flickr (CC BY 2.0)

➔ A hyperscale Google data center in Council Bluffs, Iowa.

The article concludes with short profiles of local zoning approaches that may serve as models for others.

## DEMAND DRIVERS

Industry analysts predict sustained growth in data center construction in the coming years (Dunbar and Bonar 2021). This includes demand for larger and larger “hyperscale” data centers as well as more widely distributed “edge” data centers (Sowry et al. 2018). Data center developers (or operators) are attracted to sites with low latency to end users and dependable and affordable electricity.

While data centers have historically been clustered around major internet access points, information technology companies, and government employment centers, the proliferation of cloud computing and the internet of things is pushing demand out to network edges. This means more data centers in smaller metropolitan and nonmetropolitan areas.

Big technology companies are likely to continue looking for sites that can accommodate new, large single-story structures. But

operators that specialize in leasing space in the same facility to multiple companies (i.e., collocated data centers) may be more open to infill sites and existing structures, especially if those sites have access to fiber optic infrastructure.

Data centers use a lot of electricity (see below) to power processing and storage hardware and to keep that hardware cool. The amount of electricity (and often water) needed for cooling is higher in warm, humid climates than in cool, dry areas. Consequently, holding other factors equal, developers favor locations with low electricity rates and cooler climates. Furthermore, because these facilities operate continuously, developers are also looking for sites that are less vulnerable to natural hazards.

Cryptocurrency miners are also looking for locations with cheap electricity and low hazard risk; however, dedicated mining facilities are not concerned about proximity to customers and are less likely to invest in backup power. While there seems to be a widespread consensus that data centers are essential to global communications and the global economy, cryptocurrency miners

have a more limited “social license” to operate. Widespread concerns about the energy use of mines and the limited utility of the coins they produce has led some countries, including China, to ban Bitcoin mining. Consequently, many cryptocurrency miners are relocating to the U.S. (Obando 2022).

### PLANNING ISSUES

From the exterior, data centers and cryptocurrency mining facilities may be physically indistinguishable from many commercial or light industrial uses. However, the operational characteristics of these facilities are typically quite distinct from those of surrounding land uses. From a planning perspective, the most noteworthy characteristics relate to their electricity and water use, noise production, enhanced safety and security needs, and low employment densities.

#### They Use a Lot of Electricity (and Water)

In 2020, data centers used between 200 and 250 terawatt hours (TWh) of electricity, accounting for approximately one percent of global consumption (IEA 2021). While the total consumption has grown steadily along with global power demand, this ratio has held relatively constant over the past 20 years as efficiency improvements have proportionally offset increased demand from data centers. However, this pattern is unlikely to hold as growth in streaming video, online gaming, cloud computing, machine learning, virtual reality, and the internet of things begins to outstrip efficiency improvements.

The figures above exclude cryptocurrency mining. Bitcoin miners alone used an estimated additional 60 to 70 TWh in 2020. According to Cambridge University, if Bitcoin was country, it’s annual electricity consumption would be slightly higher than that of Poland or Malaysia (2022).

Data center and cryptocurrency mining equipment also generates a tremendous amount of waste heat, which must be dissipated by fans or absorbed by a cooling medium to avoid hardware damage and ensure efficient operations. Many data centers and cryptocurrency mines use water as a cooling medium. Water is also necessary for most forms of electricity production. In aggregate, a medium-sized data center typically uses more water each year than two 18-hole golf courses (Mytton 2021).

#### They Can Be Noisy

Inside a data center or cryptocurrency mine server room, the noise can make it difficult to carry on a conversation at a normal volume. While most data centers and large cryptocurrency mines incorporate construction and soundproofing techniques that ensure this server noise isn’t audible outside of the building, air conditioner compressors mounted on the roof or on ground near these facilities can generate noise that carries across property lines.

In some contexts, vegetation or other structures may rapidly attenuate this sound. In others, the sound may travel over long distances. Obviously, the degree to which these sounds constitute nuisance “noise” depends on surrounding land uses and ambient noise levels. The problem is typically most acute when data centers or mines are near residences.

#### They Have Enhanced Safety and Security Needs

Data centers typically aim to run continuously, and any outage or downtime can threaten business operations. Furthermore, data centers house expensive, highly specialized hardware, and many handle sensitive data. Consequently, most data centers incorporate enhanced safety and security features, such as gated access points, fencing, or bright lighting, to prevent unauthorized access and to minimize the likelihood of disruption.

Cryptocurrency mines have similar safety and security needs, with two key distinctions. First, miners want to maintain network access, but the stakes are lower

than for data centers because an outage wouldn’t negatively affect any other services or users. Second, cryptocurrency mines generally aren’t receiving any clients and have little incentive to draw attention to themselves with fencing or lighting.

#### They Have a Low Employment Density

Data centers typically have far fewer workers per square foot than professional offices or light industrial facilities (Tarczynska 2016). And cryptocurrency mines generally have even lower employment densities than data centers. For some communities, data centers (and potentially cryptocurrency mines) are highly desirable from an economic development perspective because they often generate a large property tax surplus that can subsidize more service-intensive land uses, such as single-family homes. Others, however, are reluctant to devote too much commercial or light industrial space to uses that generate few jobs.

### ZONING CONSIDERATIONS

Any community interested in regulating data centers and cryptocurrency mining through zoning should consider three key questions:

1. Do these uses need new use definitions?
2. Where should these uses be permitted?
3. Do these uses need special development or performance standards?

#### Do They Need New Use Definitions?

New land uses don’t necessarily require new use definitions in the local zoning code. It depends, in part, on whether the use fits



➡ The roof of eBay’s Topaz data center in South Jordan, Utah.

eBayink / Flickr (CC BY-NC-ND 2.0)

neatly under a broader use category or is substantially like another defined use. And it depends on whether treating the new use the same as this use category or other similar use would be likely to generate negative effects on nearby properties or the community as a whole.

Many communities have defined data centers (or some closely analogous term) as a distinct use in their zoning codes. These definitions typically reference the general function of the facility and the degree to which it is occupied by computer systems and related equipment. For example, Anne Arundel County, Maryland, defines *data storage center* as “a facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers, appliances, and other associated components related to digital data storage and operations” (§18-1-101.(44)).

Comparatively fewer communities have defined cryptocurrency mining as a distinct use. Many of these definitions focus on the specialized purpose of the facility, often with references to other newly defined terms, such as *high density load* or *server farm*, that clarify its distinct characteristics. For example, Moses Lake, Washington, specifies that *cryptocurrency mining* often uses more than 250 kilowatt-hours per square foot each year (§18.03.040).

### Where Should They Be Permitted?

Communities that choose to regulate data centers or cryptocurrency mines as distinct uses may permit these uses either by right or with a discretionary use permit (i.e., conditional, special, or special exception use permits) in one or more existing base or overlay zoning districts. Alternatively, they may elect to establish a new special-purpose base or overlay zoning district for either use.

Many communities permit data centers and cryptocurrency mines either by right or with a discretionary use permit in commercial and industrial districts. While data centers and mines can fit in a wide range of existing commercial or industrial buildings, purpose-built facilities are often single-story structures with large floorplates.

Given that they generally have few employees and visitors, these uses may not be appropriate in ground-floor street-frontage spaces in pedestrian-oriented

## EXAMPLES OF DEFINED USES

Jurisdiction	Defined Uses
Alpharetta, GA	Data center (§1.4.2)
Anne Arundel County, MD	Data storage center (§18-1-101.(44))
Fairfax County, VA	Data center (§9103)
Frederick County, MD	Critical digital infrastructure facility (§1-19-11.100)
Moses Lake, WA	Cryptocurrency mining; Data center/server farm/cluster (§18.03.040)
Pitt County, NC	Data processing facility (large scale) (§15)
Plattsburgh, NY	Commercial cryptocurrency mining; Server farm; High density load service (LL 6-2018)
Prince George’s County, MD	Qualified data center (§27-2500)
Prince William County, VA	Data center (§32-100)
Somerville, MA	Data center (§9.8.b)
Vernal, UT	Data center (§16.04.173)
Wenatchee, WA	Cryptocurrency mining; Data center (§10.08)

commercial areas. Wenatchee, Washington, addresses this issue by permitting data centers and cryptocurrency mines by right in multiple pedestrian-oriented commercial districts, with a simple stipulation that they cannot occupy “grade level commercial street frontage” (§10.10.020).

A new special-purpose zoning district can help steer data centers or cryptocurrency mines toward corridors or other subareas that have suitable utility infrastructure. When adopted as floating zones, special districts can also provide an extra layer of review for large projects that may cover dozens or hundreds of acres.

Prince William County, Virginia, added a Data Center Opportunity Zone Overlay District to its zoning code in 2016 (§32-509). The county has mapped this overlay to more than 70 percent of its industrially zoned land. The overlay permits data centers and includes design standards for these facilities; however, it does not otherwise modify the existing use permissions for underlying districts.

### Do They Need Special Development or Performance Standards?

Communities that decide to regulate data centers or cryptocurrency mines as distinct uses may choose to adopt use-specific standards that modify or supplement other relevant universal or district-specific development or performance standards. This approach can help communities target standards to the distinct features of these uses

to address specific community concerns.

Use-specific standards can help minimize reliance on discretionary approvals and improve the consistency of local decisions. Without these standards, local officials may be more likely to require all data centers and cryptocurrency mines to obtain a discretionary use permit, and they may be more likely to adopt wildly varying conditions of approval for substantially similar proposals.

Communities that have adopted use-specific standards for data centers and cryptocurrency mines often establish building design and buffering or screening requirements to minimize the visibility or improve the appearance of these facilities from public streets or nearby properties. Other common standards address environmental performance, including noise and light pollution, and evidence of electric utility approval.

### POTENTIAL MODEL APPROACHES

It would be difficult to find a community with more experience with data centers than Loudon County, Virginia. And the county’s approach to zoning for data centers serves as a potential model for other communities with suitable sites and sufficient infrastructure to accommodate data center development. In contrast, Missoula County, Montana, was one of the first local jurisdictions to craft zoning regulations for cryptocurrency mining operations. And its emphasis on mitigating the potential climate impacts represents a different type of potential model.



### Loudon County, Virginia

Northern Virginia's Data Center Alley, primarily clustered around Routes 7 and 267 in Loudon and Fairfax Counties is the largest data center market in the world (Fray and Koutsaris 2022). Its combined power consumption capacity is more than 1.6 gigawatts (GW), nearly twice as much as the next largest market. And within Data Center Alley, Loudon County has the highest concentration of data centers. As of October 2021, data centers occupied more than 25 million square feet, with another 4 million square feet in development (LCDED 2022).

Several important factors have driven demand for data center development in Loudon County. It is home to the Equinix internet exchange, one of the largest internet access points in the world and a successor to Metropolitan Area Exchange, East, the first

U.S. exchange. The county has abundant (and redundant) fiber optic infrastructure, relatively cheap power, and sufficient water. Additionally, it has a high concentration of skilled technology workers and businesses that support the data center industry.

By the year 2000, there was already an emerging data center cluster in Loudon County. However, the county did not define and regulate data centers as a distinct use in its zoning code until 2014 (ZOAM 2013-0003). According to Acting Planning & Zoning Director James David, prior to this, the county defined data centers as commercial offices.

The latest version of the county's zoning ordinance permits data centers by right in Planned Office Park, Research and Development Park, Industrial Park, and General Industrial districts and as a special exception use in Commercial Light Industry

districts. New data centers (without vested rights) must comply with a set of use-specific standards governing façade design, screening of mechanical equipment, exterior lighting, pedestrian and bicycle facilities, and landscaping, buffering, and screening (§5-664).

According to David, these standards are intended to improve the aesthetics of data centers, minimize visibility from nearby residential areas, and ensure continuous sidewalk and trail networks. Overall, they represent a light-touch approach that has, so far, worked well for a county with enormous demand for data centers and relatively modest competition for space from other commercial and industrial uses.

However, in February 2022, county officials directed staff to research regulatory options to prevent new data centers in the

## EXAMPLES OF USE-SPECIFIC STANDARDS FOR DATA CENTERS AND CRYPTOCURRENCY MINING

Jurisdiction	Use-Specific Standards
Alpharetta, GA	Requires evidence of compliance with noise standards; specifies exterior lighting fixture design; establishes minimum building height; requires building façade design elements; establishes other fencing, screening, and landscaping requirements to minimize visibility from adjacent roads and properties (§2.7.2.1)
Anne Arundel County, MD	Establishes minimum lot size and setbacks; prohibits residences on the same lot; establishes limit on outdoor storage (§18-10-119)
Fairfax County, VA	Requires all equipment to be enclosed within a building; establishes maximum floor area by zoning district (§4102.6.A)
Frederick County, MD	Establishes criteria for reducing setbacks; specifies building design standards; specifies landscaping, screening, and buffering requirements; clarifies parking, loading, signage, and lighting standards; establishes criteria for private roads; establishes noise and vibration standards (§1-19-8.402)
Moses Lake, WA	Clarifies review process for business license; prohibits container storage; requires evidence of electrical utility approval; requires evidence of electrical permit and inspection; establishes environmental performance standards, addressing noise, heat, and electric and magnetic fields; limits amount of exposed equipment on facades (§18.74)
Pitt County, NC	Limits height; requires separation from sensitive uses; requires noise study and compliance with noise standards; requires underground wiring; requires security fencing and vegetative screening; requires evidence of electrical utility approval; clarifies signage standards; requires notification of abandonment (§8(UUUU))
Plattsburgh, NY	Requires fire suppression and mitigation techniques; limits internal ambient temperature and the direct release of heat on colder days; establishes permissible noise levels (LL 6-2018)
Prince George's County, VA	Requires building façade design elements; specifies exterior lighting fixture design; requires screening for security fencing and limits fence height; requires compliance with landscape manual; clarifies applicable off-street parking standard; clarifies signage standards; requires an acoustical study; specifies additional site, locational, and noticing requirements for facilities in rural residential districts (§27-5102(e)(4)(B))
Somerville, MA	Establishes special review criteria related to aesthetic impacts and employment opportunities (§9.8.b)
Vernal, UT	Requires fencing and structural screening for electrical generators; requires noise mitigation plan for facilities near residential zones or existing hotels or motels (§16.20.250)
Wenatchee, WA	Clarifies review process for business license; prohibits container storage; requires evidence of electrical utility approval; requires evidence of electrical permit and inspection; clarifies blank wall limitation standards; requires an affidavit verifying operating sound levels (§18.48.310)

Route 7 corridor. While data center demand remains high in this area, the county's comprehensive plan designates most of this corridor as Suburban Mixed Use, which envisions a compact, pedestrian-friendly mix of commercial, residential, cultural, and recreational uses. Furthermore, the existing electricity network infrastructure is insufficient to accommodate the existing demand for new data centers (LCDED 2022).

The county is working on its first complete overhaul of its zoning code since 1993. And it intends to incorporate any new regulations for data centers into the new code, which officials hope to adopt by the end of 2022.

### Missoula County, Montana

In April 2019, Missoula County, Montana, adopted an interim zoning resolution that established a cryptocurrency mining overlay (Resolution No. 2019-026). The county had one large cryptocurrency mine already, and its low electricity rates and cool climate made it an attractive area for prospective miners. While a few other jurisdictions had already defined cryptocurrency mining in their zoning codes, Missoula County appears to be the first to explicitly position its zoning approach as a response to climate change.

According to county planner Jennie Dixon, AICP, local officials originally took an interest in regulating cryptocurrency mining as a distinct use after multiple complaints of noise from cooling fans at an existing Bitcoin mine operating out of a former sawmill in unincorporated Bonner. Soon, though, the county expanded its focus to include energy consumption and electronic waste.

Montana law only authorizes interim zoning in the case of an emergency involving "public health, safety, morals, or general welfare" (§76-2-206). Dixon says the Intergovernmental Panel on Climate Change's 2018 Special Report on *Global Warming of 1.5° C* helped justify climate change as a local emergency that warranted interim zoning to mitigate greenhouse gas emissions (and other potential environmental impacts) from cryptocurrency mining.

The interim zoning regulations defined cryptocurrency mining as a distinct use and created a Cryptocurrency Mining Overlay Zone, mapped to the entire unincorporated geographic extent of the county (which includes some un-zoned areas). The overlay



Google Earth

➡ The heart of Northern Virginia's Data Center Alley in Ashburn, Virginia.



Google Earth

➡ The former Bonner sawmill in Missoula County, Montana, was once home to the HyperBlock cryptocurrency mine.

restricted cryptocurrency mining operations to industrial districts and required operators to obtain a discretionary use permit if the mine was adjacent to a residential district or within 500 feet of a residential property boundary. These regulations also required all mining operations to verify that all electronic waste be handled by a licensed recycling firm and that all electricity use be offset by new renewable energy production.

Caroline Lauer, the county's Sustainability Program Manager, stresses the importance of this last requirement. If cryptocurrency miners purchased existing supplies of renewable energy, it could actually displace existing utility customers to dirtier sources. While most of the county's

electricity comes from hydropower, coal accounts for much of the remainder.

Missoula County's 2016 *Growth Policy* plan includes an objective to "reduce the county's contribution to climate change" (4.1) and lists policies that promote alternative energy development (4.1.3) and reduce energy use and waste generation as implementation actions (4.1.6). A day before it adopted the interim cryptocurrency mining regulations, the county further strengthened its policy rationale by adopting a joint commitment with the City of Missoula to achieve 100 percent clean electricity use by 2030.

County officials extended the interim zoning for another year in 2020 before adopting the same regulations as a permanent zoning amendment in March 2021 (§1.04

& §5.05). According to Dixon, the Bonner mine ceased operations during the interim zoning period, but not because of the county's zoning. It declared bankruptcy two days after the "Black Thursday" Bitcoin crash in March 2020, leaving the tribal-owned independent power producer that provided its electricity with a \$3.7 million unpaid bill (Rozen 2020).

## CONCLUSIONS

The rapid rise in data center development has coincided with dramatic decreases in the costs of producing solar and wind power. This, in combination with a growing trend toward clean power commitments among technology companies, has blunted some of

the climate impacts of an increased demand for data storage and processing.

The increased digitalization of life virtually guarantees that data centers will continue proliferating in strategic locations across the country (Gomez and DeAngelis 2022). Soon, communities may start seeing a sharp increase in interest in very small edge data centers that could fit in underutilized commercial spaces or even be collocated with other telecommunications infrastructure, such as small cell facilities, in public rights-of-way (Sowry et al. 2018).

The future of cryptocurrency mining facilities is less certain. Bitcoin and other energy-intensive cryptocurrencies are facing social pressure to transition to more

energy-efficient transaction verification methods, and several existing cryptocurrencies already use these methods. However, we are still at the very beginning of the cryptocurrency story. While this form of currency currently exists primarily as a speculative investment vehicle, this could change rapidly if valuations stabilize and large numbers of goods and service providers accept cryptocurrencies for payment.

Not every community will see the value in defining data centers or cryptocurrency mines as distinct uses in their zoning codes. Nevertheless, doing so can give local jurisdictions a leg up when it comes to signaling preferences to developers and operators and minimizing or mitigating potential adverse impacts.

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HOW DOES YOUR ZONING  
TREAT DATA CENTERS AND  
CRYPTOCURRENCY MINES?

6



# Application for Special Events Permit

## I. General Information

EVENT NAME: October 28, 2023 Saturday

EVENT DATE(S): Hazelween- Hazelwood's Halloween Trick or Treating

Note: If event is more than three days in duration, and not in the public right-of-way, you will also need a temporary event permit. Contact the Waynesville Police Dept. at 828-456-5363 for more information.

LOCATION: Hazelwood Avenue- Westwood Circle to Virginia Avenue

IF THIS EVENT IS A PARADE OR ROAD RACE: Please provide a full route description and map

SET-UP TIME (START/END): 4pm-5pm

EVENT HOURS: 5pm-7pm

DISMANTLE HOURS (START/END): 7pm-8pm

ESTIMATED ATTENDANCE: 1,500

BASIS ON WHICH THIS ESTIMATE IS MADE: Based on last year's estimate

COMPREHENSIVE GENERAL LIABILITY INSURANCE REQUIRED: \$1,000,000. Please attach proof of insurance (or applicable rider).

## II. Applicant and Sponsoring Organization Information

SPONSORING ORGANIZATION NAME: Hazelwood Boosters

ARE YOU A NON PROFIT CORPORATION?  No  Yes  If yes, are you 501c(3)  501c(6)  Place of Worship

APPLICANT NAME: Alex McKay TITLE: President

ADDRESS: 343 Hazelwood Ave. CITY: Waynesville STATE: NC ZIP: 28786

PHONE: (828) 246-8528 FAX#: \_\_\_\_\_ EMAIL: [waynesvillearchive@yahoo.com](mailto:waynesvillearchive@yahoo.com)

ON-SITE CONTACT: Chad Brown TITLE: Event Chair

ADDRESS: 495 Hazelwood Ave.

PHONE #: \_\_\_\_\_ CELL PHONE #: (828) 450-4443 EMAIL: \_\_\_\_\_

<b>III. Brief Description of Event</b>
<b>Hazelwood's version of treats on the streets, merchants and residents handing out candy.</b>
<b>IV. Street Closure Request (Attach map of the Street Closure)</b>

List any street(s) (or lanes of streets) requiring temporary street closure as a result of this event.  
 Include street name(s) indicating beginning and endpoints of the closing, day, date and time of closing and reopening:

1. Hazelwood Avenue from Westwood Circle to Virginia Ave.
2. Riverbend St. Closed off at Unagusta St.
- 3.

**V. Event Details**

YES NO

Does the event involve the sale or use of alcoholic beverages?  
 If yes, has the ABC permit been obtained? Yes No Please provide a graphic of the area where alcoholic beverages will be purchased or consumed (i.e. beer garden layout)

Does the event involve the sale of food? \_\_\_\_\_  
 If "YES", has the health department been notified? \_\_\_\_\_ Have you applied for a temporary permit? \_\_\_\_\_

Will there be musical entertainment at your event? IF "YES" provide the following information:  
 Number of Stages: None Number of Band(s): None Amplification? \_\_\_\_\_

Note: If amplification is used, you will be required to perform a pretest for compliance with the noise ordinance.

Do you plan to use an existing occupied building? Address NO

Do you plan to use an existing vacant building? Address NO

Will there be any tents or canopies in the proposed event site? Please provide the following information:

Approx. Number of Tents: 5-10 Will any tent exceed 400 sq. feet in area? NO YES

Does the event involve the use of pyrotechnics? Explain NO

Will you provide portable toilets for the general public attending your event? IF SO, how many and where will they be located? NO

Will you require electrical hookup for the event? Generators? \_\_\_\_\_

Will you require access to water for the event? Explain NO

Will admission fees be charged to attend this event? If "YES", provide the amount(s) of all tickets. NO

Will fees be charged to vendors to participate in this event? If "YES", please provide the amount(s). NO

Will signs and/or banners be displayed as part of the event? If "YES" have you applied for a sign permit? yes

Will inflatable parade balloons be used for the event? Provide details if necessary.

Small signs that  
conform

**VI. Additional Questions**

How will **parking** be accommodated for this event? Approved parking lots around the Hazelwood area including Forga Parking lot.

Notes:

- 1. Parking and buildings involved may be examined for ADA compliance.
- 2. You may be required to provide a shuttle if the event places undue demands on surrounding parking areas.

How will **trash** be contained and removed during and after the event? Hazelwood boosters will clean up along the sidewalks

Yes

**Volunteers:** Will you require Civilian Police Volunteers for your event?

**Apply for this permit at least 60 days prior to your special event. (30 days for a neighborhood street closing)**

**Return to:**  
**Beth Gilmore, Downtown Waynesville Director &**  
**Jesse Fowler, Assistant Town Manager**  
**Town of Waynesville**  
**9 S. Main Street, P.O. Box 100, Waynesville, NC 28786**  
**Telephone: (828) 456-3517**  
**Fax No. : (828) 456-2000**  
**Email Address: [bethgilmore@waynesvillenc.gov](mailto:bethgilmore@waynesvillenc.gov)**  
**[jfowler@waynesvillenc.gov](mailto:jfowler@waynesvillenc.gov)**

**VIII. Special Information for Applicants**

- \* Do not announce, advertise or promote your event until you have an approved and signed permit.
- \* You will be required to notify property owners affected by the event at the time a special events permit is issued with a copy of any correspondence provided to the Town for the permit file.
- \* **Only chalk may be used on streets – no permanent paint. No permanent alterations to the street will be permitted.**
- \* The Town has an ordinance prohibiting the use of tobacco and e-cigarettes in the business districts and all parks of the Town. The Applicant is to communicate this information to all vendors and participants. Permanent signs are in place in these districts and parks.
- \* The Town has an ordinance allowing animals at festivals. Any incidents should be reported to the Police Department.
- \* The Applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the Town for the costs of providing on-duty law enforcement officers, to appropriately police street closures. For festivals, the Applicant shall be additionally responsible for hiring and paying off-duty law enforcement officers, or reimbursing the Town for the costs of providing city staff, including but not limited to: on-duty law enforcement officers, to provide internal festival security and for hiring and paying necessary emergency medical technicians.
- \* The Assistant Town Manager, in consultation with the Waynesville Police Department, shall determine the number of officers needed to appropriately monitor street closures and for internal security, and with the Fire Department to determine the number of emergency medical technicians needed, and the time when such services shall commence and end.

**FOR INTERNAL USE ONLY:**

Application received:

Application approved:

Application denied:



Vine of the Mountains Church

VIRGINIA AVE

LYNN ST

UNAGUSTA ST

BROWN AVE

Haywood Bedding

Hazelwood Gun & Tactical

Farm to Cake

Haywood Re Urgent Care Waynesville

Pink Regalia

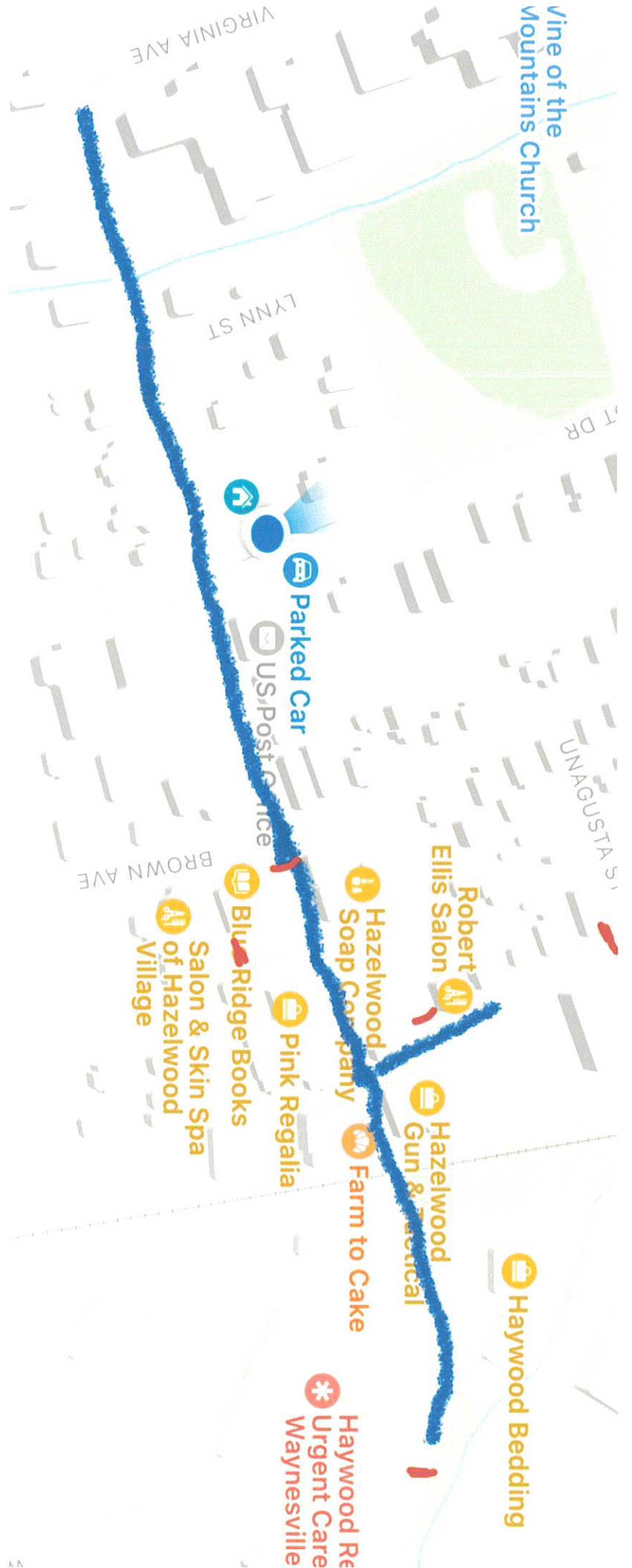
Blue Ridge Books

Salon & Skin Spa of Hazelwood Village

Robert Ellis Salon

Hazelwood Soap Company

Parked Car  
US Post Office



**TOWN OF WAYNESVILLE TOWN COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date: September 26, 2023**

**SUBJECT:** Appointment to the Environmental Sustainability Board

**AGENDA INFORMATION**

**Agenda Location:** Consent Agenda  
**Item Number:**  
**Department:** Administration  
**Contact:** Jesse Fowler, Assistant Town Manager  
**Presenter:** Jesse Fowler, Assistant Town Manager

**BRIEF SUMMARY**

The Environmental Sustainability Board has one vacancy. At the last Council meeting, Councilmember Dickson agreed to interview Mary Kayler for the position. The interview has been conducted and the recommendation is to appoint her to the ESB.

**MOTIONS FOR CONSIDERATION**

Motion to appoint Mary Kayler to the Environmental Sustainability Board.

**ATTACHMENTS:**

None

**MANAGER'S COMMENTS AND RECCOMENDATIONS**

**TOWN OF WAYNESVILLE TOWN COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date: September 26, 2023**

**SUBJECT:** Amendment of the Town of Waynesville Environmental Sustainability Board Rules and Procedures

**AGENDA INFORMATION**

**Agenda Location:** Consent Agenda  
**Item Number:**  
**Department:** Administration  
**Contact:** Jesse Fowler, Assistant Town Manager  
**Presenter:** Jesse Fowler, Assistant Town Manager

**BRIEF SUMMARY**

The Rules and Procedures for the Town of Waynesville’s Environmental Sustainability Board require the following amendments in order to

The Environmental Sustainability Board would like to make the following amendments to its Rules and Procedures:

1. Authority afforded to the Town Council to appoint two alternate board members capable of voting in the absence of another appointed member.
2. Set term limits to three consecutive, three year terms.
3. Authority afforded to the Environmental Sustainability Board to determine a Chairperson by majority decision.
4. Authority afforded to the environment Sustainability Board to set a regular scheduled day, time, and location for public meetings.

**MOTIONS FOR CONSIDERATION**

Motion to adopt the above amendments to the Rules and Procedures of the Environmental Sustainability Board.

**ATTACHMENTS:**

**MANAGER’S COMMENTS AND RECCOMENDATIONS**

A full proposed copy of the Environmental Sustainability Board’s Rules and Procedures will be delivered to the town Council at their public meeting to be held on September 26.

**TOWN OF WAYNESVILLE TOWN COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date: September 26, 2023**

**SUBJECT:** Resolution: North Carolina Governor's Highway Safety Program.

**AGENDA INFORMATION**

**Agenda Location:** Consent Agenda  
**Item Number:**  
**Department:** Administration  
**Contact:** Jesse Fowler, Assistant Town Manager  
**Presenter:** Jesse Fowler, Assistant Town Manager

**BRIEF SUMMARY**

The Town of Waynesville Police Department has been awarded a grant in the amount of \$25,000 by the North Carolina Governor's Highway Safety Program in order to defray the cost of overtime compensation as a result of traffic safety operations such as traffic control during special events.

**MOTIONS FOR CONSIDERATION**

Motion to approve the North Carolina Governor's Highway Safety Program Local Governmental Resolution.

**ATTACHMENTS:**

**MANAGER'S COMMENTS AND RECCOMENDATIONS**

# North Carolina Governor's Highway Safety Program LOCAL GOVERNMENTAL RESOLUTION

WHEREAS, the \_\_\_\_\_ (herein called the "Agency")

(The Applicant Agency)

has completed an application contract for traffic safety funding; and that \_\_\_\_\_ (The Governing Body of the Agency)

\_\_\_\_\_ (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE \_\_\_\_\_ IN OPEN MEETING ASSEMBLED IN THE CITY OF \_\_\_\_\_, NORTH CAROLINA,

(Governing Body)

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That \_\_\_\_\_ is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$ \_\_\_\_\_ to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and  
(Name and Title of Representative)  
(Federal Dollar Request)
3. That the Governing Body has formally appropriated the cash contribution of \$ \_\_\_\_\_ as required by the project contract; and  
(Local Cash Appropriation)
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by \_\_\_\_\_ (Chairperson/Mayor)

ATTESTED BY \_\_\_\_\_ (Clerk)

**SEAL**

DATE \_\_\_\_\_

**TOWN OF WAYNESVILLE TOWN COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date 9/26/2023**

**SUBJECT** Community Viability Grant Program

**AGENDA INFORMATION:**

**Agenda Location:** Presentation

**Item Number:**

**Department:** Sewer

**Contact:** Rob Hites

**Presenter:** Rob Hites

**BRIEF SUMMARY** : Several months ago, the Council Adopted a Resolution requesting the Department of Environmental Quality to reconsider the Town's request to be designated a "Distressed Community". The resolution refers to the Town's qualifying under the Department's point system. We were notified Tuesday afternoon that the Town will be included as a "Distressed Community". The grant/loan program that funds the Viable Community Program has a deadline of October 3<sup>rd</sup>. In order to meet the grant deadline, the Council must adopt a resolution requesting the funds and submit a grant application to meet the fall grant cycle. The Town and its consulting engineer McGill Associates have developed a \$10 million dollar grant/loan application that includes several projects that meet the State's unfunded mandate to reduce the infiltration and inflow of storm water into its sanitary sewer system. In addition to the infiltration/inflow projects, the Town requests that it be reimbursed for the engineering costs it incurred as part of the State mandated sewer treatment plant improvements project. The Town included the engineering fees as part of the State Revolving Loan application however the cost of the plant itself was in excess of the loan amount. The recent increase in the State Revolving Loan of \$4,877,000 helped fund the gap between the contract amount and the \$19 million-dollar SRF loan but it did not cover the entire construction cost much less the engineering fees. The Viable Communities grant/loan program provides both grants and loans. Should the State offer a loan program that exceeds what the Town can afford or require the Town to fund the balance of the \$10 million dollar request after providing a nominal grant, the Town may choose not to accept the State's offer.

**MOTION FOR CONSIDERATION:** Adopt the Resolution requesting the State to fund the Town's "Viable Communities Grant Request.

**FUNDING SOURCE/IMPACT:** Sewer/General (storm water separation)

**ATTACHMENTS:** Resolution, Cover Letter from McGill Associates.

**MANAGER'S COMMENTS:** The State budget has not been enacted and no one knows how the Legislature will allocate its discretionary funds. We will not know the funding level of the Viable Community Program until the final budget is unveiled. We have been advised to apply for the funding that meets our needs given the lack of direction from the General Assembly and DEQ.

## RESOLUTINON NO. R-20-23

### RESOLUTION BY TOWN COUNCIL OF WAYNESVILLE

WHEREAS, The Town of Waynesville has need for and intends to construct, plan for, or conduct a study in a project described as 2024 Wastewater System Improvements, which is comprised of a series of projects previously described in the Town's 10-year Capital Improvements Plan and,

WHEREAS, The Town of Waynesville has been designated a "Distressed Community" by the Local Government Commission and the State Water Infrastructure Authority on September 19, 2023, and,

WHEREAS, The Town of Waynesville intends to request State loan and/or grant assistance for the project,

#### **NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF WAYNESVILLE:**

That Town of Waynesville, hereinafter called the **Applicant**, will endeavor to arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Waynesville to make a scheduled repayment of the loan, to withhold from the Town of Waynesville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

If applying for a regional project, that the **Applicant** will partner and work with other units of local government or utilities in conducting the project.

That Rob Hites, Town Manager, the Authorized Representative and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the Authorized Representative, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the

project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, ordinances, and funding conditions applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the September 26, 2023 at Waynesville, North Carolina

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\_\_\_\_\_  
(Mr. Gary Caldwell)

Mayor, Town of Waynesville

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### **FORM FOR CERTIFICATION BY THE RECORDING OFFICER**

The undersigned duly qualified and acting Town Clerk of the Town of Waynesville does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Town Council duly held on the 26<sup>th</sup> day of September, 2023; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of September 2023.

\_\_\_\_\_  
Candace Poolton,  
Town Clerk



**TOWN OF WAYNESVILLE TOWN COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date 9/26/2023**

**SUBJECT** Bid for Restroom Facility at Obama-King Park

**AGENDA INFORMATION:**

**Agenda Location:** New Business

**Item Number:**

**Department:** Administration

**Contact:** Rob Hites

**Presenter:** Rob Hites

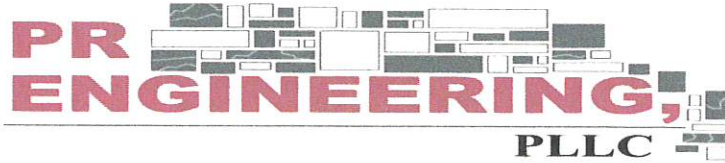
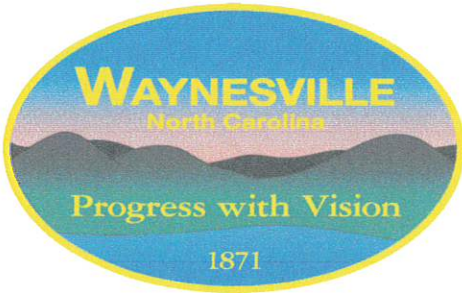
**BRIEF SUMMARY :** The 2023 budget provides a project budget of \$80,000 to construct a “Family Restroom” facility at Obama-King Park. After considering input from the public, the Council directed the staff to re-design the facility to include separate restrooms for men and women. The facility was redesigned and sent to bid. The staff bid the project and received one bid. We rebid the project in order to seek additional bids and did not receive further bids. The sole bid received as submitted by Clint L. Watkins at a price of \$119,130.00. Should the Council wish to award the bid, they would need to increase the project budget by \$59,130. The Finance Director recommends a project budget of \$139,130 to assure that we have the funds to handle the construction of the water and sewer lines and potential change orders. Ms. Hagood recommends that the increase be funded using ARP funds.

**MOTION FOR CONSIDERATION:** (1) Approve the Bid of Clint Watkins.

**FUNDING SOURCE/IMPACT:** General/ARP

**ATTACHMENTS:** Budget Amendment

**MANAGER’S COMMENTS:** None



**BID TABULATION**

Compan \_\_\_\_\_  
 Project Name: O.K. Park Restroom Facility  
 Location: Calvary / Craven Intersection - Waynesville NC  
 Enginee PR Engineering, PLLC  
 Bid Due Date: **Thursday, August 24, 2023**

Project No.: N/A

LUMP SUM BID QUANTITIES					Total Amount	BID
Ref #	Bid Item #	Item Description	Price	UNIT		
0	0.000	Permitting		LS		200,000
1	1.001	Rough and Finish Grading		LS		3000,000
2	1.002	Foundations, Drain Systems and Slab on Grade (Material & Labor)		LS		12,000,000
3	1.003	Rough Framing (Material & Labor)		LS		71500,000
4	1.004	Roofing (Material & Labor)		LS		8,000,000
5	1.005	Insulating (Material & Labor)		LS		2000,000
6	1.006	Drywall (Material & Labor)		LS		3800,000
7	1.007	Finish Carpentry (Material & Labor)		LS		12,000,000
8	1.008	Painting & Staining (Material & Labor)		LS		6000,000
9	1.009	Mechanical, Electrical and Plumbing Allowance (Material & Labor)		LS		15,000,000
10	1.010	Masonry and Stone work (Material & Labor)		LS		23,500,000
11	1.011	Gutters and Downspouts (Material & Labor)		LS		3000,000
12	1.012	5' Sidewalk		LS		7100,000
13	1.013	Toilet & Stall Partitions - Steel Powder Coated (Material & Labor)		LS		N/A 0
14	1.014	Bathroom Accessories (mirrors, grab bars, dispensers, hand dryer, changing tables)		LS		2000,000
15	1.015	General Contractor Overhead and Profit		LS		10930 0
<b>TOTAL BID AMOUNT</b>				0		<b>\$ 119,130.00</b>

**Assumptions and Clarifications:**

- 1.) This project is intended to be a lump sum contract for the restrooms as drawn and detailed on project plans completed by PR Engineering, PLLC.
- 2.) Contractor to provide estimated start and completion date with bid.
- 3.) Exact location of building TBD by Town staff.
- 4.) Electrical Panel - Single Phase, 200 Amp Panel
- 5.) Hand dryer - 120/240 placed adjacent to sinks, forced air hand drying
- 6.) Heating Only - small heater will be placed in ceiling with interal thermostat.
- 7.) Outside lighting will consist of three cans lights and three post sconces that will be controlled via photocell.
- 8.) Toilets must be elongated bowl, flush valve, and jet flush with a 2" supply line. Faucets shall be motion sensing. Toilet paper shall be lockable.
- 9.) The awarded contractor will be responsible for pulling a building permit; however the permit fee assessed by the Town will be waived.

I acknowledge, by my signature below, that I received the project plans and understand that the information included in these documents are to be included in my bid.

  
 \_\_\_\_\_  
 Signature

Clinton Levi Waters  
 \_\_\_\_\_  
 Print Name

PR Engineering, PLLC  
 \_\_\_\_\_  
 Company

8/24/23  
 \_\_\_\_\_  
 Date

90 Days Project Turn from Start date



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/24/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> General Insurance Services PO Box 840  Waynesville, NC 28786	<b>CONTACT NAME:</b> Melissa Leatherwood	
	<b>PHONE (A/C, No, Ext):</b> 828-452-2801	<b>FAX (A/C, No):</b> 828-452-2804
	<b>E-MAIL ADDRESS:</b> mleatherwood@glswnc.net	
	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
	<b>INSURER A:</b> Nautilus Insurance Company	17370
<b>INSURED</b> Clint L Watkins PO Box 251 Maggie Valley, NC 28751	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	
	<b>INSURER G:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			NN1521314	03/14/23	03/14/24	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	\$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> OCCUR					AGGREGATE	\$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/> CLAIMS-MADE						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

General Contractor

<b>CERTIFICATE HOLDER</b> TOWN OF WAYNESVILLE PO BOX 100 Hazelwood, NC 28786	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	<b>AUTHORIZED REPRESENTATIVE</b>  <i>Danielle S Wade</i>

**TOWN OF WAYNESVILLE TOWN COUNCIL  
REQUEST FOR COUNCIL ACTION  
Meeting Date 9/26/2023**

**SUBJECT** Budget Amendment for funding Obama-King Park

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:**  
**Department:** Administration  
**Contact:** Rob Hites  
**Presenter:** Rob Hites

**BRIEF SUMMARY :** The Town received a bid of \$119,130.00 for construction of a restroom facility at the Obama-King Park. We recommend a project budget of \$139,130 in order to fund the materials to extend water and sewer lines to the facility and fund potential change orders. Ms. Hagood recommends that the Council amend the ARP project budget by increasing the Obama-King project by \$59,130 and reducing the Infiltration/Inflow project by the same amount. The infiltration/Inflow program can be reimbursed through increase in Sewer Fund Balance.

**MOTION FOR CONSIDERATION:** Approve the budget amendment.

**FUNDING SOURCE/IMPACT:** ARP Funds

  
Misty Hagood, Finance Director

9/19/23

Date

**ATTACHMENTS:** Budget Amendment

**MANAGER'S COMMENTS:** Our preliminary audit findings show an increase in Sewer Fund balance. The increase in Fund Balance can be used to fund the \$59,130 reduction in ARP funds when the Town considers infiltration/inflow projects.

**O-44-23**

**Grant Project Ordinance for the Town of Waynesville American Rescue Plan Act of 2021:  
Coronavirus State and Local Fiscal Recovery Funds**

**BE IT ORDAINED** by the town council of the Town of Waynesville, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

**Section 1:** This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). The Town of Waynesville (Town) has received the first and second tranches in the amount of \$3,231,910.78 of CSLFRF funds. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

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

**Section 2:** The Town has elected to take the standard allowance, as authorized by 31 CFR Part 35.6(d)(1) and expend all its ARP/CSLFRF funds for the provision of government services.

**Section 3:** The following amounts are appropriated for the project and authorized for expenditure:

Project Description	Expenditure Category (EC)	Appropriation of ARP Funds
Law Enforcement for Police Department vehicles	6.1	\$247,815
Fire Service for fire vehicles	6.1	\$81,119
Sanitation service garbage cans	6.1	\$304,953
Storm sewer on Kentucky Avenue	6.1	\$54,367
Greenway & pedestrian bridge	6.1	\$265,911
Water project Pigeon Street	6.1	\$419,213
I&I mitigation/slip lining	6.1	\$102,762
Column Lifts for Garage	6.1	\$43,745
F350 for Garage	6.1	\$58,858
Small Excavator	6.1	\$29,300
Repaint CT Chamber & backwash tanks at water plant	6.1	\$300,000
Tractor with snow removal equipment	6.1	\$34,505
Dispatch Center Upgrade	6.1	\$112,189
Finance Dept SUV	6.1	\$40,000
Hazelwood Offices/FD Bunks	6.1	\$150,000
Police sedan & equipment	6.1	\$50,019
Police Firearms	6.1	\$10,025
Axon car and body worn camera system	6.1	\$88,000
Trash Truck	6.1	\$360,000
Parks & Rec Maint. Truck	6.1	\$60,000
Obama King Park Bathroom	6.1	\$139,130
Street Sweeper	6.1	\$280,000
Total		\$3,231,911

**Section 4:** The following revenues are anticipated to be available to complete the projects:

**ARP/CSLFRF Funds:** \$3,231,910.78

**Total:** **\$3,231,910.78**

**Section 5:** The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 CFR 200.430 & 2 CFR 200.431 and the Town's Uniform Guidance Allowable Costs and Cost Principles Policy.

**Section 6:** The Finance Officer is hereby directed to report the financial status of the project to the town council on a quarterly basis.

**Section 7:** Copies of this grant project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Town Clerk.

**Section 8:** This grant project ordinance expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by the Town, whichever occurs sooner.

Adopted this 26th day of September 2023.

Town of Waynesville

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J. Gary Caldwell  
Mayor

Attest:

---

Candace Poolton  
Town Clerk

Approved As To Form:

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Martha Sharpe Bradley  
Town Attorney