

A G E N D A

LINCOLNTON CITY COUNCIL



April 7, 2022

7:00 p.m.

Council Chambers

City hall



**LINCOLNTON CITY COUNCIL
AGENDA
April 7, 2022
7:00 p.m.**

CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

1. AGENDA APPROVALS

1a. Approval of REGULAR AGENDA

1b. Approval of CONSENT AGENDA

All items placed under Consent Agenda are considered routine, to be enacted by one motion without discussion. If a member of the Governing Body requests discussion of an item, the item will be removed from the Consent Agenda and considered separately.

- Approval of Minutes from the March 3rd Regular Meeting

2. PUBLIC HEARINGS

(R-05-22)

2a. Request for Closure of Certain Alley from Deaton Law Firm, PLLC on behalf of Timothy Carswell

Wesley L. Deaton, Deaton Law Firm

~~**2b. CZ-2-2022 Application from Century Communities Southeast, LLC, requesting the rezoning of approximately 97 acres from R-25 to PRD. The subject property is located on the east side of Startown Road approximately 950 feet south of the intersection of Clarks Creek Road and Startown Road (Parcel ID's 16937, 21509, 21507, 21508, and 21510).**~~

~~**Laura Elam, Planning Director**~~

3. REGULAR AGENDA

- 3a. Request to address city council regarding obtaining permission to use the City's logo to promote the Lincolnton ABC stores through their website, letterhead and comment cards**

Tommy Huskey, Lincolnton ABC Board Chair

(P- 02-22)

- 3b. City of Lincolnton Water Resources Department Fats, Oils and Grease Control Policy (FOG)**

Daniel Perry, Pretreatment Coordinator

(O-01-22)

- 3c. Ordinance to Update the City of Lincolnton Code of Ordinances §52.190 Fats, Oil and Grease Control Policy**

Daniel Perry, Pretreatment Coordinator

4. REGULAR AGENDA – continued

(P-03-22)

- 4a. Proposed Personnel Policy Revisions – Article VI. Leave of Absence, Section 1 – Holidays And Floating Holiday**

Tanya Osborne, Human Resources Director

(P-04-22)

- 4b. Proposed Personnel Policy Revisions – Article VI. Leave of Absence, Section 3 – Vacation Leave**

Tanya Osborne, Human Resources Director

(BA-02-22)

4c. Budget Amendment to Amend the Boger City Fire District funds, Water and Sewer Fund and the Special Revenue Fund

Pamela McBryde, Finance Director

5. OTHER BUSINESS

5a. Proposed Deadline Extension for the RFP for the Sale and Adaptive Reuse of Second and Third Floors of the 119 East Court Square

Planning Department

5b. Manager's Report/Activity Update

Ritchie Hayne, City Manager

PUBLIC COMMENT

Speakers will be limited to three (3) minutes to address Mayor and City Council concerning non-agenda items. You must sign in with the City Clerk to be eligible to speak

NEWS MEDIA

ADJOURNMENT

ITEM #

1

AGENDA

APPROVALS

ITEM #

1a

APPROVAL

OF

REGULAR AGENDA

ITEM #

1b

APPROVAL

OF

CONSENT AGENDA

Approval of Minutes from Previous Meeting

The Mayor and City Council met in regular session on Thursday, March 3, 2022 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton North Carolina.

Mayor Ed Hatley called the meeting to order with a moment of silence, after which he led the Pledge of Allegiance. The following members were in attendance:

WHITE POINSETTE EADDY JETTON

Mayor Ed Hatley pointed out several additions to the consent agenda. The first being a resolution of intent, as well as a request from Dr. Allen with Lincoln County Schools for a letter of support.

Councilmember Jetton made a motion to approve the *REGULAR AGENDA* as submitted. Members voted 4-0 in favor of the motion

With noted additions to the consent agenda, Councilmember Poinsette made a motion to approve the *CONSENT AGENDA* as follow:

- **Approval of Minutes from the February 3, 2022 Regular Meeting**
- **C-02-22 - Contract with East Coast Pyrotechnics for the 2022 Fireworks Display**
- **C-03-22 - Lincolnton Food, Wine and Brew Fest Alcohol Contract - April 9, 2022**
- **C-04-22 - 2022 Alive After Five Concert Series - May 26th, June 23rd, July 28th, August 25th & September 22nd.**
- **Request for Letter of Support from Dr. Allen with Lincoln County Schools**
- **R-03-22 - Resolution of Intent to Consider the Closing of a Street/Alley as follows:**

A RESOLUTION DECLARING THE INTENTION OF THE LINCOLNTON CITY COUNCIL OF THE CITY OF LINCOLNTON TO CONSIDER THE CLOSING OF AN ALLEYWAY BETWEEN ROSS STREET AND DALE AVENUE

WHEREAS, G.S. 160A-299 authorized the Lincolnton City Council to close streets and public alleys; and

WHEREAS, the Lincolnton City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of the remaining portion of the alleyway located off of East Main Street, between Dale Avenue and Ross Street;

NOW, THEREFORE, BE IT RESOLVED by the Lincolnton City Council that:

- (1) A meeting will be held at 7:00 p.m. on the 7th day of April, 2022, in the City Hall Council Chambers to consider a resolution closing the alleyway located off of East Main Street between Dale Avenue and Ross Street
- (2) The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in the Lincoln Times News, or other newspaper of general circulation in the area.
- (3) The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution of Intent.
- (4) The Clerk is further directed to cause adequate notices of this Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

This the 3rd day of March, 2022

Members voted 4-0 in favor of the motion

PUBLIC HEARINGS

Councilmember Ponsiette made a motion to open the first of three public hearings. Members voted 4-0 in favor of the motion.

Mr. Wesley Deaton, with Deaton Law Firm, spoke on behalf of Goodsonville Properties, LLC requesting the closure of section of an alley between Ross Street and Dale Ave. Realtor Will Poteat gave sworn testimony regarding the request stating that in his expert opinion the closure is not contrary to the public interest and that it will not deprive reasonable ingress and egress to their property. Resolution is as follows:

R-01-22

A RESOLUTION DECLARING THE INTENTION OF THE LINCOLNTON CITY COUNCIL OF THE CITY OF LINCOLNTON TO CONSIDER THE CLOSING OF AN ALLEYWAY BETWEEN ROSS STREET AND DALE AVENUE

WHEREAS, G.S. 160A-299 authorized the Lincolnton City Council to close streets and public alleys; and

WHEREAS, the Lincolnton City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of the alleyway between Ross Street and Dale Avenue;

NOW, THEREFORE, BE IT RESOLVED by the Lincolnton City Council that:

- (5) A meeting will be held at 7:00 p.m. on the 3rd day of March, 2022, in the City Hall Council Chambers to consider a resolution closing the alleyway between Ross Street and Dale Avenue.
- (6) The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in the Lincoln Times News, or other newspaper of general circulation in the area.
- (7) The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution of Intent.
- (8) The Clerk is further directed to cause adequate notices of this Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

This the 3rd day of February, 2022

Mr. Anthony Morrison and Mr. Danny Tolbert requested to address council. Both voiced their desire for the entire alley to be closed, not just a portion. City Manager Ritchie Haynes confirmed that notification has been received and the request for remaining portions to be closed will come before council at the April meeting.

Councilmember White made a motion to close the public hearing. Members voted 4-0 in favor of the motion

Councilmember Eaddy made a motion to approve the request to close the alleyway. Members voted 4-0 in favor of the motion.

ZMA-1-2022

Application from Ronald G. Leonhardt requesting the rezoning of 1.534 acres of land from NB, R-8, and R-10 to General Business (GB) District. The subject property consists of four lots starting at the southwest corner of West Main Street Extension and Riverside Drive and runs approximately 500 feet west down Riverside Drive. (Parcel ID 19322, 16335, 20743 and 15888). A portion of Parcel ID 19322 is located on the south side of Riverside Drive.

Councilmember Eaddy made a motion to open the public hearing. Members voted 4-0 in favor of the motion. Mayor Ed Hatley recognized Laura Elam to present the request.

Mrs. Elam began by giving a overview of the request from Mr. Ronald Leonhardt, to rezone the property in question from Neighborhood Business and Residential-8 to General Business. Mrs. Elam pointed out the current uses of the surrounding properties in the area and the potential impact this proposed rezoning could have. She also presented a chart showing the permitted uses under the different zoning categories. In terms of the Land Use Plan, Mrs. Elam informed that the entire site is a Neighborhood Business planning area, which are designed for small business clusters that cater to the needs of a small trading area. She continued that such areas are not designed to be citywide commercial destination spots. In contrast, the land use plan notes that General Business planning areas contain heavy commercial uses. Mrs. Elam stated that given the nature of the uses in these areas, aesthetics should play a role in how and where such uses should develop and/or expand. Therefore from staff prospective the proposed request for General Business zoning is not consistent with the land use plan.

Mrs. Elam informed that the request was discussed at length by the Planning Board and ultimately recommended denial of the request. She noted that it was a three to one split vote to recommend denial. She also shared the reasons why denial was recommended as follows:

- the lack of any other GB zoning in the nearby area
- the absence of a specific development proposal does not allow for an assessment to the impact to the area
- the noise associated with a potential 24 hour a day business as permitted in GB
- the unknown traffic impact from general business type uses
- the unknown impact on the surrounding neighborhoods

With no questions from council members for Mrs. Elam, Mayor Hatley opened the floor for those wishing to speak regarding this request.

Teresa Holloway, 622 West Water Street Ext., spoke in opposition to this request. Ms. Holloway expressed her concern with the negative impact this rezoning will have on the neighborhood. She voiced her concern with the noise factor, as well as traffic volume, which has already increased.

Councilmember Poinsette made a motion to close the public hearing. Members voted 4-0 in favor of the motion.

Councilmember Jetton made a motion to approve the request. *Prior to the vote, there was some discussion generated regarding the small parcel on the south side of Riverside Drive.* **Motion passed three to one with Jetton,**

Eaddy and Poinsette voting in favor of the motion, and White voting against.

Councilmember Poinsette made a motion to approve the statement of consistency for approval of the request. Members voted in favor of the motion. *(Councilmember White voted against the motion to approve the request)*

Councilmember Eaddy made a motion to approve amendment of the Land Use Plan to show the property in the General Business planning area. Members voted in favor of the motion. *(Councilmember White voted against the motion to approve the request)*

CZ-10-2021

Application from Prestige Acquisitions, LLC requesting the rezoning of approximately 24 acres of land from Residential-25 (R-25) to Planned Residential District (PRD) for the purpose of developing a community of Single Family detached housing (65 units). The subject property is a portion of property owned by New Vision Ministries located at 621 Clarks Creek Road (Portion of Parcel ID 15614). The portion requested for rezoning is located on the south side of Clark Creek Road adjacent to Clarks Creek and running approximately 800 feet to the west

Councilmember Poinsette made a motion to open the public hearing. Members voted 4-0 in favor of the motion.

Planning Director Laura Elam reviewed the request from Prestige Acquisitions, LLC. Mrs. Elam reminded council that the application was tabled at the December Council meeting to allow the applicant additional time to amend the request. Mrs. Elam informed that since that time, a community meeting has been held and modifications have been made to the site plans. A basic summary of the changes were reviewed. Mrs. Elam reminded members of the Planning Boards recommendation for approval from the last meeting.

Councilmember Eaddy clarified that there were not inconsistencies, and all notifications required for the request, both Phase 1 and Phase 2, were followed. In response to the question regarding cost for services to be provided to the proposed development, City Manager Ritchie Haynes provided council with projected revenue and expense amounts. Mr. Haynes informed that because the developer will be providing the utilities, which will then be turned over to the city, there would not be a large expense

amount. There will be some expense coming from the water and wastewater plants. There will also be an upgrade to a lift station. Mr. Haynes confirmed that the revenue from the taxes and tags would be recurring annually.

Attorney Rob Brown with Jonas Law Firm, spoke on behalf of the applicant, and gave a brief presentation of the Clark Creek Community Phase 2. Mr. Brown went over some details in reference to the community meeting that was held. As a result of the citizen input, Mr. Brown presented the revised plans for the Phase 2 project. He informed that the density, lot size, on street parking and traffic concerns have all been addressed. They are now

Fifteen individuals signed up to speak to this rezoning request. Of the fifteen, three individuals spoke in favor of the request. All others spoke in opposition of the request. Each person was given three minutes to express their concerns. The List of speakers were as follows:

Greg McBryde -	For
Trent Mason -	For
Michael Isaacs -	Against
Steve Gibbons -	Against
David Armstrong -	Against
Vickie Gantt	Against
Jerry Uhryk	Against
Scott Mann	For
Leah Gibbons	Against
Nathan Allen	Against
Amber Sharpe	Against
Billy Payne	Against
Carolyn Haymes	Against
Kari Heavner	Against
Eric Leonard	Against

Some discussion was generated among staff and councilmembers, clarifying some of the details of the request including the fact that any annexation that takes place has to be voluntary so no one that has not requested to be annexed will be annexed.

Councilmember Poinsette made a motion to close the public hearing. Members voted 4-0 in favor of the motion.

Councilmember Jetton requested to speak and express his feelings and opinions regarding this item. Mr. Jetton stressed his desire to represent the wishes of the citizens.

Councilmember Jetton made a motion to deny the request for Phase 2. Jetton and White voted in favor of denying the request. Poinsette and Eaddy opposed the motion. Mayor Hatley announced his decision to vote for approval of the rezoning request.

Councilmember Eaddy made a motion to approve. Poinsette and Eaddy voted in favor of the motion. Motion passed three to two with Poinsette Hatley and Eaddy voting to approve the rezoning request.

Councilmember Poinsette made a motion to approve the statement of consistency. Motion approved

Councilmember Eaddy made a motion to approve amendment to the Land Use Plan. Motion approved

REGULAR AGENDA

Cyber Security Awareness Training Subscription

Chris Jones, IT Director, spoke to council regarding the issue of cyber security and adding a security feature. Mr. Jones presented information on KnowBe4, which is the world's largest security awareness training and simulated phishing platform that helps you manage the ongoing problem of social engineering. He confirmed that this training will be for both councilmembers and city staff.

Councilmember Poinsette made a motion to approve the request for the Cyber Security Training contract. Members voted 4-0 in favor of the motion.

Lease Agreement for Security Camera's of City Property

Chris Jones, IT Director, reviewed the proposal in reference to the Tsunami security cameras to be installed at Betty G Ross park. He briefly explained what current and future plans for cameras throughout the city will look like, as well as informing the capabilities of the product. Both City Manager Ritchie Haynes and Business Director David Ramsey provided councilmembers with more of the details regarding this equipment and the company that builds them.

Councilmember Eaddy made a motion to approve the contract for the security camera's. Members voted 4-0 in favor of the motion.

OTHER BUSINESS

Manager's Report/Activity Update

Ritchie Haynes, City Manager, briefly addressed councilmembers regarding the upcoming budget/planning retreat scheduled for Friday, March 18th. Mr. Haynes spoke to the housing indicator provided by LEDA and how things are trending in the city, as well as mentioning the positive feedback received when visiting the downtown businesses with Officer Lafone, the new downtown officer, and Sgt. Green. Mr. Haynes again, encouraged councilmember to contact him with any issues they wish to discuss at the upcoming meeting.

PUBLIC COMMENT:

No request to speak

NEWS MEDIA:

No news media present

ADJOURNMENT:

Being no further business, Councilman Jetton made a motion to adjourn the meeting. Members voted 4-0 in favor of the motion

**DAPHNE INGRAM, CMC
CITY CLERK**

**ED HATLEY
MAYOR**

ITEM #

2

PUBLIC
HEARINGS

ITEM #

2a

P.O. Box 2459
3638 N. Hwy 16
Denver, NC 28037
Phone 704.489.2491
Fax 704.489.2493



Wesley L. Deaton †

Attorney at Law

Timothy H. Wallace
Attorney at Law

† Also Licensed in New York

February 25, 2022

City of Lincolnton
Attn: Richard Haynes, City Manager
P.O. Drawer 617
Lincolnton, NC 28093-0617

Re: Request for closure of a certain street or alley in Boger City

Dear Ritchie:

I am writing to the City on behalf of my client, Timothy Carswell, requesting that the City close a certain street or alleyway pursuant to N.C.G.S. § 160A-299. I've enclosed a GIS map to help describe what my client desires.

The streets or alleyway is located off of E. Main Street and Dale Avenue. In the attached map, my client's properties are the following highlighted tax parcels: 24472 and 28575. The streets and alleyways are highlighted on the enclosed GIS map, but can be summarized as follows:

A. An alleyway located between 24472 on one side, and parcel 28575 on the other side.

The closure of this street or alley would not deprive any affected property owner of reasonable means of ingress and egress to their respective properties.

I have enclosed, for the Council's review, the following:

1. A GIS map with the relevant areas highlighted.
2. The relevant statute cited above.

I look forward to working with the City in this matter.

Very Truly Yours,
THE DEATON LAW FIRM, PLLC

Wesley L. Deaton

WLD/bal
Enclosures



February 25, 2022

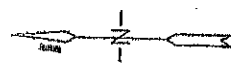
Lincoln County, NC
Office of the Tax Administrator, GIS Mapping Division
 Lincoln County and its mapping contractors assume no legal responsibility for the information contained on this map. This map is not to be used for land conveyance. The map is based on NC State Plane Coordinate System 1983 NAD.



February 25, 2022

Lincoln County, NC
Office of the Tax Administrator, GIS Mapping Division
Lincoln County and its mapping contractors assume no legal responsibility for the information contained on this map. This map is not to be used for land conveyance. The map is based on NC State Plane Coordinate System 1983 NAD.

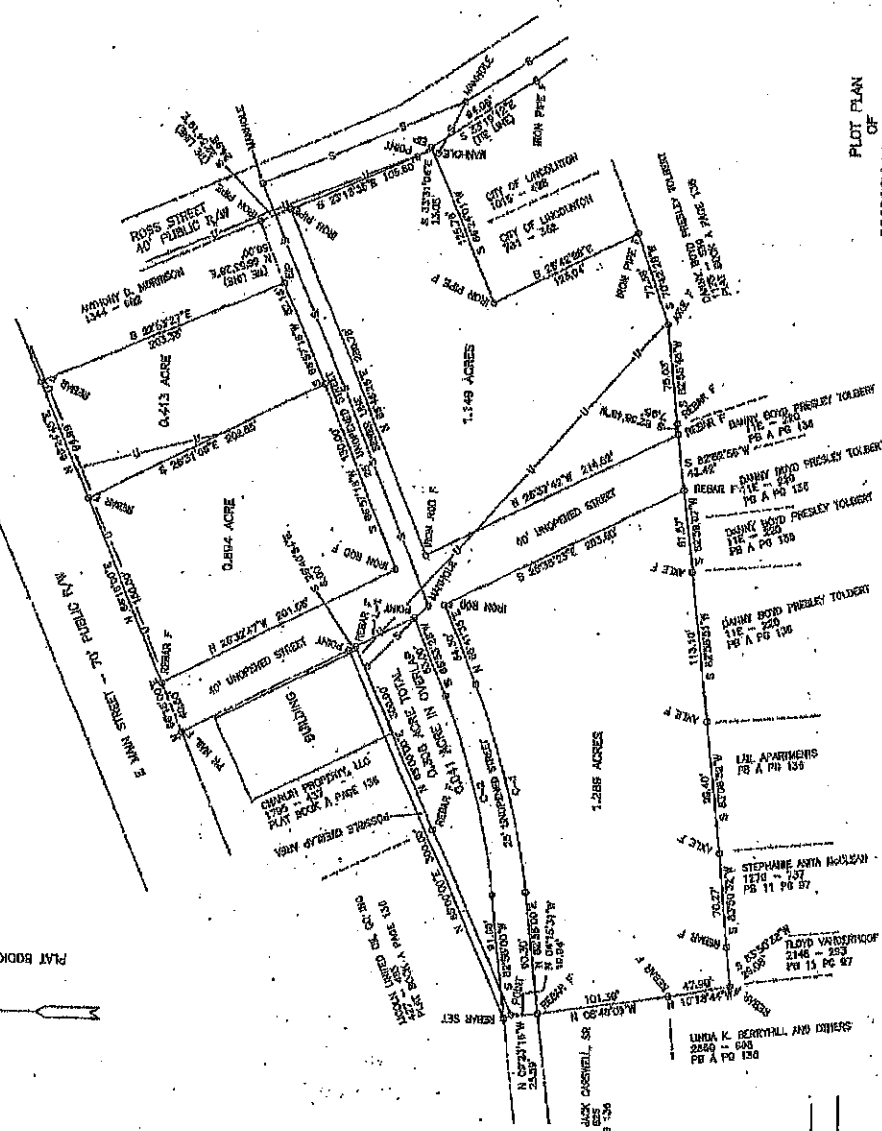
0 100 200 Feet
1 inch = 163 feet



PLOT PLAN
 OF
 GOODSONVILLE PROPERTIES, LLC

NORTH CAROLINA
 LINCOLN COUNTY
 LINCOLN TOWNSHIP
 SCALE: ONE INCH = 60 FEET
 REFERENCE DEEDS: BOOK 2394, PAGE 911
 BOOK 2748, PAGE 84;
 PARCEL NOS. 00449, 01027, 90026, 00023, 55597
 PLAN PREPARED FROM SURVEY ON 12-06-8221

BR 4285



LEGEND:

EP	Existing Iron Pin
IRS	Iron Rod Set
R/W	Right of Way
CL	Center Line
NTS	Not To Scale
UP	Utility Pole
P	Porch
IPS	Iron Pipe Set
PPF	Iron Pipe Found
F	FOUND
S	SET
—	UTILITY LINE
—	R/W

NO KNOWN GEODETIC MARKER
WITHIN 2000 FEET.

THOMSON
28002 -
P&A, PC

Frank S. Rosen
PROFESSIONAL SURVEYOR # L-3720
ROSS STREET, 27
1181 WEST HWY.
LINCOLN, N. C. 28002
TEL. NO. 704-735-8032
FIRM LICENSE NO. C-4587

This is to certify that this survey
is of ceding parcels of land and
does not create a new tract or
change an existing tract. This
of DECEMBER 2021

FOREST E. ROSS, JR.
under the supervision from _____ certify that this plot was drawn
(name) _____ in actual survey made under my super-
viser) _____ in Book _____ page _____
_____ (other than the record in the survey)
as drawn from information found _____ is surveyed the clearly indicated
that the ratio of production as calculated in 1.18635 _____
_____ in accordance with G.S. 47730 as amended, VII-
cases may originate from independent number _____ and this
day of _____ 19____
_____ DISTRICT

Forest E. Long
Surveyor
L - 3720
Registration Number

West's North Carolina General Statutes Annotated

Chapter 160A. Cities and Towns

Article 15. Streets, Traffic and Parking

N.C.G.S.A. § 160A-299

§ 160A-299. Procedure for permanently closing streets and alleys

Effective: June 22, 2015

Currentness

(a) When a city proposes to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street, or any portion thereof, is located.

(b) Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the city council, the council's decision to close the street was in accordance with the statutory standards of subsection (a) of this section and any other applicable requirements of local law or ordinance.

No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

(c) Upon the closing of a street or alley in accordance with this section, subject to the provisions of subsection (f) of this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

The provisions of this subsection regarding division of right-of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which

shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

(d) This section shall apply to any street or public alley within a city or its extraterritorial jurisdiction that has been irrevocably dedicated to the public, without regard to whether it has actually been opened. This section also applies to unopened streets or public alleys that are shown on plats but that have not been accepted or maintained by the city, provided that this section shall not abrogate the rights of a dedicatrix, or those claiming under a dedicatrix, pursuant to G.S. 136-96.

(e) No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto.

(f) A city may reserve a right, title, and interest in any improvements or easements within a street closed pursuant to this section. An easement under this subsection shall include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public interest. The reservation of an easement under this subsection shall be stated in the order of closing. The reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.

(g) The city may retain utility easements, both public and private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the city council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements. Notice by certified or registered mail shall be provided to the party withdrawing the street from dedication under G.S. 136-96 at least five days prior to the hearing. The declaration must be passed prior to filing of any plat or map or declaration of withdrawal with the register of deeds. Any property owner filing such plats, maps, or declarations shall include the city declaration with the declaration of withdrawal and shall show the utilities retained on any map or plat showing the withdrawal.

Credits

Amended by Laws 1971, c. 698, § 1; Laws 1973, c. 426, § 47; Laws 1973, c. 507, § 5; Laws 1977, c. 464, § 34; Laws 1981, c. 401; Laws 1981, c. 402, §§ 1, 2; Laws 1989, c. 254; Laws 1993, c. 149, § 1, eff. June 14, 1993; S.L. 2015-103, § 1, eff. June 22, 2015.

N.C.G.S.A. § 160A-299, NC ST § 160A-299

The statutes and Constitution are current through the end of the 2017 Regular Session of the General Assembly.

CITY COUNCIL

Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
Mary Frances White
Christine Poinsette
Roby Jetton



CITY MANAGER

Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
Daphne Ingram
d Ingram@lincolntonnc.org
CITY ATTORNEY
Thomas J. Wilson, Jr.

(R-05-22)

**A RESOLUTION ORDERING THE CLOSING OF THAT PORTION OF ALLEYWAY
BETWEEN ROSS STREET AND DALE AVENUE**

WHEREAS, on the 3rd day of March, 2022, the City Council of the City of Lincolnton directed the City Clerk to publish the Resolution of Intent of the City Council to consider the closing of the remaining portion of the alleyway between Dale Avenue and Ross Street, in the Lincoln Times newspaper once each week for four successive weeks, such resolution advising the public that a meeting would be conducted in the council chambers on April 7th, 2022; and

WHEREAS, the Lincolnton City Council, on the 3rd day of March, 2022, ordered the City Clerk to notify all persons owning property abutting on that portion of alleyway between Dale Avenue and Ross Street, as shown on the county tax records, by registered or certified mail, enclosing with such notification a copy of the Resolution of Intent; and

WHEREAS, the City Clerk has advised the City Council that she sent a letter to each of the abutting property owners advising them of the day, time and place of the meeting, enclosing a copy of the Resolution of Intent, and advising the abutting property owners that the question as to closing the remaining portion of the alleyway between Dale Avenue and Ross Street would be acted upon, said letters having been sent by certified mail; and

WHEREAS, the City Clerk has advised the City Council that adequate notices were posted on the applicable alleyway as required by G.S. 160A-299; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street in the public hearing on April 7th, 2022; and

WHEREAS, it now appears to the satisfaction of the governing body that the closing of said alleyway is not contrary to the public interest, and that no individual owning property, either abutting the street or in the vicinity of the street or in the subdivision in which the street is located, will as a result of the closing be thereby deprived of a reasonable means of ingress or egress to his or her property;

NOW, THEREFORE, subject to the reservation of easements to the City of Lincolnton for utility purposes as shown on a map recorded in the office of the Lincoln County Register of Deeds, the portion of alleyway between Dale Avenue and Ross Street more specifically described in Exhibit "A" attached hereto is hereby ordered closed, and all right, title, and interest that may be vested in the public to said area for street purposes is hereby released and quitclaimed to the abutting property owners in accordance with the provisions of G.S. 160A-299.

The City Attorney is hereby ordered and directed to file in the office of Register of Deeds of Lincoln County a certified copy of this resolution and order.

Upon motion duly made by Council Member _____, the above resolution was duly adopted by the Lincolnton City Council at a meeting held on the 7th day of April 2022, in the Council Chambers of City Hall.

Upon call for a vote the following Councilmembers voted in the affirmative:

and the following Councilmembers voted in the negative:

This the 7th day of April, 2022

ATTEST:

Ed Hatley, Mayor

Daphne Ingram, City Clerk

ITEM #

2b

CITY COUNCIL
Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
Mary Frances White
Christine Poinsette
Roby D. Jetton



CITY MANAGER
Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
Daphne Ingram
[dingram@lincolntonnc.org](mailto:d Ingram@lincolntonnc.org)
CITY ATTORNEY
Thomas J. Wilson, Jr.

NOTICE CITY OF LINCOLNTON PUBLIC HEARINGS

Notice is hereby given that the following Public Hearings will be held on Thursday, April 7, 2022 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton, NC concerning the following:

- CZ-2-2022 -Application from Century Communities Southeast, LLC, requesting the rezoning of approximately 97 acres from R-25 to PRD. The subject property is located on the east side of Startown Road approximately 950 feet south of the intersection of Clarks Creek Road and Startown Road (Parcel ID's 16937, 21509, 21507, 21508, and 21510).

Parties in interest and citizens shall have the opportunity to be heard and may obtain further information on the scheduled public hearing from the Planning Department on the second floor of City Hall located at 114 West Sycamore Street, Lincolnton 28092.

**ADVERTISE 2TL: Friday, March 18, 2022
Friday, March 25, 2022**

ITEM #

2c

ITEM #

3

REGULAR
AGENDA

ITEM #

3a

CITY OF LINCOLNTON ABC BOARD



GENERAL MANAGER

John Schrum

abestore@lincolntonabc.com

CHAIR

Tommy Huskey

citizensprinkler@bellsouth.net

ITEM #

3b

City of Lincolnton Water Resources Department

Fats, Oils, and Grease Control Policy

Section 1 – Scope and Purpose

It is the duty and responsibility of the City of Lincolnton Water Resources Department to prevent the excessive introduction of oil and grease into the sanitary sewer system and the wastewater treatment plants. This policy is designed to outline, implement and enforce oil and grease discharge rules and to have an educational program for both residential and commercial users. The intent of this policy is to ensure compliance with the City of Lincolnton's Sewer Use Ordinance (SUO); ensure compliance with the rules and regulations of the United States Environmental Protection Agency (EPA) and the State of North Carolina Department of Environment and Natural Resources (NCDENR) as it relates to Fats, Oil and Grease (FOG), ensure compliance with City of Lincolnton's Wastewater Collection Permit Number WQCS00040; and to protect the City's infrastructure as it relates to the sanitary sewer collection and treatment system.

The accumulation of grease within sanitary sewer lines increases the potential to create sewer blockages. Sanitary sewer blockages can result in Sanitary Sewer Overflows (SSOs), which may reach the surface waters of North Carolina. Blockages may also cause wastewater to back up into business establishments, or homes and can result extensive damage. Grease can be discharged to the sanitary sewer system from several sources, including Food Service Establishments (FSE).

In order to reduce sewer blockages, Food Service Establishments discharging wastewater that contains grease to the City of Lincolnton's sanitary sewer system must install and maintain a grease trap or grease interceptor. All grease trap and grease interceptors shall be maintained for continuous, satisfactory and effective operation by the owner, leaseholder and/or operator at their expense. "Best Management Practices" for the control of Fats, Oil and Grease [as published by the City of Lincolnton] shall also be implemented by all Food Service Establishments.

The Director reserves the right to make determination of grease retention unit adequacy and need, based on review of all relevant information regarding grease retention performance, maintenance, and facility site and building plan review to require repairs to, modification, or replacement of such retention units.

Section 2 - Authority

The Wastewater Collection System Permit Number WQCS00040 issued to the City of Lincolnton by the North Carolina Department of Environment and Natural Resources includes the following Performance Measure:

(4) The Permittee shall maintain an educational and enforcement program that requires the proper operation and maintenance of all grease traps and septic tanks connected to the wastewater collection system. The educational program should target both residential and commercial users.

Therefore, the City of Lincolnton Code of Ordinances [Chapter 52] contains the following:

*Division – General Sewer Use Regulations
Prohibited Discharge Standards*

§ 52.015 – Prohibited Discharge Standards

A. General Prohibitions. No user shall discharge or cause to be discharged into the POTW any pollutant or wastewater which causes pass through or interference.

B. Specific Federal Prohibitions. No user shall discharge or cause to be discharged into the POTW the following pollutants, substances, or wastewater:

(2) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference

(4) Petroleum oil, nonbiodegradeable cutting oil, or product of mineral oil origin, in amounts that will cause interference or pass through

Section 3 - FOG POLICY DEFINITIONS

- Access - The City of Lincolnton must be allowed entry in order to inspect manifest documentation of cleaning and/or pumping and entry to any wet area of a grease contributing facility. Regular inspections will be performed during normal business hours (8:00 a.m. to 5:00 p.m., Monday – Friday); however, access shall be granted at any time as needed. Manifest documentation is required to be kept for three (3) years on site and must be available to city personnel for review upon inspection.
- Approved Pumper/Hauler – Any company/person permitted (G.S. 130A-291.1(c)) by North Carolina Division of Waste Management “to engage in pumping, transporting, storing, treating or disposing septage”. N.C Gen. Stat § 130A-290; Septage Management Rule 15A; N.C. Admin, Code 13B.0817(a)
- Best Management Practices (BMP’s) - Methods, tools, and techniques that have been determined to be the most effective and practical means of preventing or reducing pollution, including documentation of employee training, documentation of grease interceptor/grease trap cleaning, removal and disposal of grease.
- City – City of Lincolnton, North Carolina
- Cost Recovery - Those costs associated with the clean up and/or decontamination of a site after discharge of substances into the sanitary sewer, storm sewer and/or to the environment that caused interference, pass-through or a sanitary sewer blockage. This includes clean up and decontamination of all

structures/areas including residential, commercial, surface waters and the environment.

- Director - The Director of the City of Lincolnton Water Resources Department or their designee.
- Fats, Oils and Grease - (“FOG”). Organic polar compounds derived from the animal and/or plant sources that contain multiple carbon chain triglycerides, molecules or any other glycerides or synthetics. These substances may solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit (0-65 degrees Celsius). This may be referred to as FOG. Commonly these substances are byproducts generated by the practice of cooking and/or preparing food. They are also found in such food substances as salad dressings, sauces and marinades, baking oils, butter products and/or dairy products. These substances are detectable and measurable using analytical test procedures established in 40 CFR Part 136.
- F.O.G. Coordinator - The Water Resources Enforcement Official designated by the Pretreatment Coordinator and/or the Director of the Water Resources Department to implement the Grease Control Policy.
- FOG Effluent Sample - Representative grab sample of FOG containing wastewater effluent taken according to 40 CFR Part 136 at the outlet of a FOG interceptor for the purpose of analysis for various pollutants of concern as defined in the City of Lincolnton’s Sewer Use Ordinance.
- FOG Interceptor - Grease trap, grease interceptor and/or oil/water separator.
- FOG Unit - The City of Lincolnton’s public service staff as delegated by the Director to be responsible for administering and enforcing the Fats, Oils and Grease Ordinance.
- Food Service Establishments – Those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption foodstuffs, and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing. Those establishments that engage in the preparation of precooked and frozen food materials and meat cutting preparation and applicable to all “Food Service Establishments” that discharge wastewater containing grease to the City of Lincolnton’s Sanitary Sewer System including but not limited to the following: restaurants, grocery stores, meat markets, hotels,

factory and office building cafeterias, public and private schools, hospitals, nursing homes, commercial day care centers, and catering services.

- Grease Contributing Facilities - Any person(s), business, industrial or institutional entity that contributes, causes or discharges FOG containing wastewater into the collection system of the POTW.
- Grease Interceptor – Devices for the separation and retention of waterborne fats, oils and grease from the effluent of grease contributing facilities. Such interceptors may be of the “outdoor” or “underground” type normally of a 1,000 gallons or more capacity.
- Grease Trap - Devices for the separation and retention of waterborne fats, oils and grease from the effluent of grease contributing facilities. Such traps are the “under-the-counter” type normally 100 gallons or less capacity.
- Interference - A discharge, which alone or in conjunction with a discharge or discharges from other sources, both: inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, and therefore is a cause or contributes to, a violation of any requirement of the POTW’s NPDES permit and/or the City Wastewater Collection System Permit (including an increase in the magnitude or duration of a violation) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, 40 CFR Part 503 [Standards for the Use of Disposal of Sewage Sludge], the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of sludge disposal employed by the POTW. [City of Lincolnton’s Sewer Use Ordinance]
- Non-Cooking Establishments – Those establishments primarily engaged in preparation of precooked foods that do not include any form of cooking. These include dairy and frozen foodstuff establishments.
- Oil/Water Separator - An In-line device used to remove oils, grease and immiscible solids from industrial/commercial process wastewater.
- Owner - Owner shall mean individual, firm, company, corporation, or group upon whose property the building or structure is located or will be constructed.
- Pass Through - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the City of Lincolnton’s NPDES permit, including an increase in the magnitude or duration of a violation. [City of Lincolnton’s Sewer Use Ordinance]

- Policy - The City of Lincolnton's Fats, Oils, and Grease Control Policy
- POTW - Publicly Owned Treatment Works as defined by Section 212 of the Act. (33 U.S.C. 1292) which is owned by the City of Lincolnton. This definition includes any devices or system used in the collection, storage, treatment, recycling and reclamation of municipal sewage (wastewater) or industrial wastes of a liquid or solid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. For the purpose of this policy, POTW shall also include any sewers that convey wastewater to the POTW from persons/users outside the City who are by contract, or agreement with the City or in any other way users of the POTW.
- Responsible Party - The responsible party shall be considered to be the owner, operator or lessee (i.e., the permitted user) who is held responsible for proper installation and/or operation of a FOG interceptor for the purpose of complying with the City of Lincolnton's FOG Ordinance.
- Sanitary Sewer – A Public Sewer controlled by a governmental agency or entity including the City of Lincolnton that carries liquid and waterborne Waste from residences, commercial buildings, industrial plants or institutions, together with minor quantities of ground or surface waters that are not intentionally admitted.
- Sewer – A pipe or conduit for carrying wastewater
- Surface Waters – Creeks, streams, lakes and/or other bodies of water
- Technically Defensible Calculation(s) - Grease separation devices sizing options as approved by the POTW Director or designated representative.
- User - Any person, business, or organization, including those located outside of the jurisdictional limits of the City, who contributes, causes, or permits the contribution or discharge of wastewater into the POTW.
- Variance for Cause Request - Submittal provided by a Food Service Establishment to provide site-specific technical information to demonstrate why a grease interceptor is not feasible, practicable, and/or necessary for a particular use, activity and/or structure.
- Waste - Shall mean the liquid and water-carried domestic or industrial wastes from dwellings, commercial establishments, industrial facilities and institutions, whether treated or untreated. The terms "sewage" and "wastewater" shall be deemed as waste by definition.

Section 4 - ACRONYMS

The following acronyms are used in this Policy:

ASPE--American Society of Plumbing Engineers

BMP – Best Management Practices

DENR--Department of Environment and Natural Resources

EPA--United States Environmental Protection Agency

FOG--Fats, Oils, and Grease

FSE—Food Service Establishments

NCGS--North Carolina General Statutes

NC IPC--International Plumbing Code, North Carolina Revisions

NOD –Notice of Deficiency

NOV --Notice of Violation

NTC--Notice to Correct

POTW--Publicly Owned Treatment Works

TOS – Termination of (Sewer and/or Water) Service

Section 5 – Applicability

This policy is applicable to all “Food Service Establishments” that discharge wastewater containing grease to the City of Lincolnton Sanitary Sewer System, including but not limited to the following: restaurants, grocery stores, meat markets, hotels, factory and office building cafeterias, public and private schools, hospitals, nursing homes, commercial day care centers, and catering services.

Section 6 – General Service Requirements

1. The POTW Director may require the installation of appurtenance of the owner’s property for the purpose of preventing the entrance of grease, oil, sand or other materials into the POTW.
2. Grease, oil and sand interceptors shall be provided for all facilities except for private living quarters or dwelling units.
3. All interceptors shall be of a type and capacity to adequately prevent the discharge of grease, oil or sand, and are subject to the review and approval of the POTW Director.
4. Interceptors shall be maintained in continuously efficient operation at all times by the owner. These facilities shall be provided and maintained at no expense to the city.

Any establishment operating under a variance that makes any changes such as equipment, menu, size, etc., will be re-evaluated and treated as a new facility.

Section 7 – New Food Service Establishments

All new grease contributing facilities must notify the City of Lincoln FOG Unit prior to opening for business in order to receive approval for the proper sizing and installation of the grease interceptor.

The City of Lincoln requires a minimum size of a 1000-gallon outside grease interceptor be properly installed with inlet tee (12 inches below surface) and outlet tee (2/3 depth). Some facilities may not need this large of an interceptor; however, this basic FOG infrastructure must be in place for the event of expansion or a change in operations. Some facilities may require a larger grease interceptor; for this reason, the City of Lincoln is requiring technically defensible calculation(s) be provided to support the proper sizing of the grease interceptor. Therefore, the City of Lincoln has approved the Manning Formula to determine the size of a grease interceptor (calculated volumes shall be rounded up the nearest tank size available).

Section 8 – Existing Food Service Establishments

For grease contributing facilities planning to commence business activities in an existing facility, the city of Lincoln must be notified in advance for verification of proper infrastructure and FOG disposal procedures. The City of Lincoln requires a minimum of a 100-gallon grease trap for any preexisting facilities. However, if the City of Lincoln deems it necessary after a technical evaluation, the responsible party may be required to increase the FOG interceptor capacity.

Prior to the commencement of business activities in an existing facility, the FOG interceptor shall be pumped dry by an approved pumper/hauler.

The City of Lincoln must formally approve a new grease contributing facility that is opening for business in an existing facility in order to verify infrastructure requirements are being met for proper FOG disposal.

Section 9 – Use of Oil & Water Separators

Facilities such as automotive repair shops, race shops, etc. with oil storage vessels in proximity to drains connected to the POTW must have approved spill protection.

Since sampling will be difficult, dischargers of wastewater to the POTW from oil/water separators may be required to take additional actions based upon effluent pollutant

analysis. These facilities are required to comply with the general guidelines as listed for all FOG contributing facilities.

Discharges of wastewater to the POTW from Oil/water separators will be assessed a permit fee which will be determined each fiscal year by the City Council.

The FOG unit (Pretreatment Dept.) reserves the right to inspect oil/water separators, review manifests and sample effluent as provided above (see “Access” under Definitions Section above).

Section 10 – Guideline for all FOG Contributing Facilities

A. Maintaining and Pumping/Cleaning Requirements

1. All grease traps/interceptors and/or oil/water separators shall be pumped on a scheduled frequency set by the FOG team to maintain compliance with this Policy. This schedule may require periodic adjustments in order to meet all requirements set forth within the Enforcement Section of this policy.
 - All facilities with an outdoor/in-ground FOG interceptor of 1000 gallons or greater, shall maintain a pump & clean schedule of at least quarterly by an approved Pumper/Hauler.
 - All facilities with an indoor/in-floor FOG interceptor shall maintain a pump & clean schedule of at least monthly by an approved Pumper/Hauler.
 - Existing facilities with an under-the-sink FOG interceptor shall maintain a pump & clean schedule of at least monthly by an approved Pumper/Hauler.
2. The introduction of enzymes in a grease interceptor is prohibited unless pre-approved in writing by the FOG unit. Solvents and Surfactants or any other substances used for maintenance of drain lines are also prohibited unless pre approved in writing by the FOG unit.
3. Water removed from trap/interceptor shall not be reintroduced to the trap itself (backwashing).
4. The transportation and/or disposal of sludge generated by FOG interceptors shall be subject to applicable federal, state and local regulations.

5. The User is responsible for the proper removal and disposal of captured (sludge) material, by appropriate means. All organic and inorganic solids reduce the effective volume of the FOG interceptor and are required to be removed. All floating material is required to be skimmed.

B. Requirements

1. Interior baffles to distribute flows.
2. Access manholes with a minimum diameter of twenty-four (24) inches, shall be provided over the influent and effluent chambers of the interceptor. The access manholes shall extend at least to finish grade and be designed to prevent inflow or infiltration. The manholes shall also have readily removable covers (not to exceed 100 lbs) to facilitate inspection, grease removal and wastewater sampling activities.
3. FOG interceptors must be installed by a licensed plumber and shall conform to the Uniform Plumbing Code.
4. User shall install FOG interceptors as required by the City of Lincolnton. FOG interceptors shall be installed at the User's expense, when such user operates a Food Service Establishment.

C. Approval

1. All new FOG contributing facilities must notify the City of Lincolnton FOG Program prior to opening for business in order to receive approval for the proper sizing and installation of the FOG Interceptor.
2. All FOG contributing facilities shall have grease trap(s), FOG interceptor(s) and/or oil/water separator(s) approved by the City of Lincolnton. Interceptor design, construction and installation are all subject to final approval by the FOG unit.
3. The FOG unit reserves the right to make determinations of grease trap/interceptor adequacy and need based on review of all relevant information regarding grease trap/interceptor performance, maintenance, and facility site and building plan review to require repairs, modification or replacement of such traps or interceptors.

D. Inspections/Services Records/Sampling

1. All new and existing FOG contributing facilities discharging wastewater to the POTW shall grant access to the City of Lincolnton's FOG unit for the purpose of

inspection sampling, record examination and copying or the performance of any of their duties. The FOG unit shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Denial of the FOG unit's access to the user's premises shall be in violation of this program. Unreasonable delays may constitute denial of access (see "Access" under Definitions Section above).

2. Pumping, service and maintenance manifest documentation must be readily accessible for review.
3. The Owner/User shall submit copies of the grease trap/interceptor cleaning (maintenance manifest) to the Pretreatment Coordinator no later than the twentieth (20) day of the following month. The submittal can be done either physically or electronically.

City of Lincolnton

Attn: Pretreatment Coordinator
PO Box 617
Lincolnton, NC 28093

E. Other

1. Any establishment found in violation of this Policy (i.e., manifest are not readily accessible for review and/or incomplete pumping, etc.) will be subject to enforcement actions as established in the City of Lincolnton's *Sewer Use Ordinance and defined in the Enforcement Plan*.
2. If grease is responsible for a sewer blockage, all Food Service Establishments upstream from the blockage will be inspected.

F. Notification of Change in Ownership or Closure of a FSE

1. A change in ownership of a Food Service Establishment shall be reported to the FOG Coordinator in writing within thirty (30) days of the ownership change.
2. Any Food Service Establishment that goes out of business shall report such closure to the FOG Coordinator in writing within thirty (30) days of closure and shall ensure that any grease trap and/or interceptor shall be cleaned/pumped by an approved pumper/hauler before the building is vacated.

Section 11 – Right of Entry

City representatives, upon presentation of proper credentials shall have right-of-entry on or upon the property of any User/Owner or commercial or institutional enterprise subject

to this policy for the purpose of inspection, determination of compliance, and/or any other enforcement action. The FOG Coordinator or their designee shall be provided ready access to all parts of the premises for the purposes of inspecting, monitoring, sampling, ability to establish limits, inventory, records examination and copying, and the performance of any other duties which the City reasonably deems necessary to determine compliance with this policy.

Where security measures are in place which require proper identification and clearance before entry into the premises, the property Owner or commercial enterprise shall make necessary arrangements with its security guards so that, upon presentation of proper credentials, the City representatives will be permitted to enter without delay for the purpose of inspecting the site and investigating any complaints or alleged violations of this policy.

The City shall have the right to set up on the property such devices as are necessary to conduct sampling and/or metering of the User's operations.

All grease retention units shall be easily accessible and shall not be obstructed by landscaping, parked cars, or other obstructions. Any temporary or permanent obstructions to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the responsible party at the written or verbal request of the City. The cost of clearing such access shall be the responsibility of the User/Owner.

Unreasonable delays in allowing a City representative access to the User's facility shall be a violation of this policy.

Section 12 – Prohibitions and Violations

A. Prohibitions

No user shall for the purpose of allowing grease to pass through a collection unit contribute or cause to be contributed into the sanitary sewer system the following:

1. Any waters or waste which may contain fat, oil, grease or wax, whether emulsified or not, at a concentration of more than one hundred (100) milligrams per liter (mg/l) or in a concentration or amount otherwise determined by the City to be excessive
2. Hot water running continuously through a grease retention unit

3. Discharge of concentrated alkaline or acidic acid solutions into a grease retention unit
4. Discharge of concentrated detergents into a grease retention unit

B. Violations

It shall be a violation of this Ordinance and the City of Lincolnton's Sewer Use Ordinance for any person/user to:

1. Modify a grease retention unit structure without consent from the City
2. Provide falsified data and/or information to the City of Lincolnton, including but not limited to grease retention unit maintenance and/or cleaning records
3. Violate or fail to comply with any applicable section or provision of the Fats, Oils, and Grease Control Police
4. Discharge of concentrated detergents into a grease retention unit

Section 13 – Enforcement

Any FOG contributing facility that is not in compliance with the City of Lincolnton's FOG Program and/or Sewer Use Ordinance will be subject to enforcement actions as established in the City of Lincolnton's Pretreatment Enforcement Response Plan (ERP).

When an obstruction and/or sanitary sewer overflow occurs, the records of all FSEs or other Users that discharge FOG to the affected sanitary sewer line may be reviewed in order to determine the responsible party. Any User found to be in non-compliance with the required grease retention maintenance and service shall be deemed a responsible or contributing party for cost recovery purposes.

This policy may be modified or changed by the City of Lincolnton at any time in accordance to the requirements of the City Code, North Carolina General Statute and Federal Regulations.

The fines provided for in this section are not exclusive and do not prohibit the Director from using any other remedy provided by the law. (Any User who is found to have failed to comply with any provision of this policy may be assessed a civil penalty of up to twenty-five thousand dollars [\$25,000.00] per day per violation.)

A. Minor Violation:

1st Offense:

Failure to submit records:	\$50.00
Inspection hindrance (equipment related):	\$50.00
Failure to maintain on site records:	\$50.00
Failure to pump grease & submit record:	\$150.00

2nd Offense:

Failure to submit records:	\$100.00
Inspection hindrance (equipment related):	\$100.00
Failure to maintain on site records:	\$100.00
Failure to pump grease & submit records:	\$300.00

3rd Offense:

Failure to submit records:	\$150.00
Inspection hindrance (equipment related):	\$150.00
Failure to maintain on site records:	\$150.00
Failure to pump grease & submit records:	\$450.00

4th Offense:

Failure to submit records:	\$300.00
Inspection hindrance (equipment related):	\$300.00
Failure to maintain on site records:	\$300.00
Failure to pump grease & submit records:	\$1000.00

B. Intermediate Violation:

Failure to maintain necessary equipment

1 st Offense	\$150.00
2 nd Offense	\$300.00
3 rd Offense	\$500.00
4 th Offense & up	\$1000.00

C. Major Violation:

Source of sewer blockage (minimum)	\$500.00
Source of sanitary sewer overflow (minimum)	\$1000.00
Falsification of maintenance records	\$1000.00

Should there be any questions concerning this policy, feel free to contact the Pretreatment Coordinator, Daniel Perry at 704-736-8960 or at dperry@lincolntonnc.org

AN ORDINANCE TO UPDATE THE CITY OF LINCOLNTON CODE OF
ORDINANCES §52.190 – FATS, OIL AND GREASE CONTROL POLICY

WHEREAS, in accordance with applicable provisions of 15A NCAC 2H .0900 and 40 CFR 403, as amended, the City Staff has updated the City of Lincolnton Code of Ordinance Title V: Public Works – Chapter 52: Sewers; and,

WHEREAS, the City of Lincolnton Wastewater Collection System Permit Number WQCS00040 requires the permittee to develop and implement an educational and enforceable Fats, Oil and Grease Program as found in Section I. Performance Standards, Item 4; and,

WHEREAS, City Council now desires to proceed with the recommended updates for § 52.190: Fats, Oils and Grease Control Policy based upon the recommendation from City Staff to utilize for the protection and use of all sanitary sewer customers for the City of Lincolnton.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF LINCOLNTON, NORTH CAROLINA:

Section 1. The updated sections of the City of Lincolnton Code of Ordinances § 52.190 – Fats, Oil and Grease Control Policy are hereby adopted as Exhibit A to this ordinance.

Section 2. This ordinance shall become effective upon its adoption and approval. This Ordinance was adopted and approved this _____ day of _____ 2022.

Ed Hatley, MAYOR
City of Lincolnton

ATTEST:

Daphne Ingram, CMC, City Clerk

(City Seal – Clerk)

Thomas J. Wilson, City Attorney

ITEM #

3c

O-01-22

AN ORDINANCE TO UPDATE THE CITY OF LINCOLNTON CODE OF
ORDINANCES §52.190 – FATS, OIL AND GREASE CONTROL POLICY

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CITY OF LINCOLNTON, NORTH CAROLINA:

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Section 2. This ordinance shall become effective upon its adoption and approval. This Ordinance was adopted and approved this ____ day of ____ 2022.

Ed Hatley, MAYOR
City of Lincolnton

ATTEST:

Daphne Ingram, CMC, City Clerk

(City Seal – Clerk)

Thomas J. Wilson, City Attorney

CITY OF LINCOLNTON
SEWER USE ORDINANCE
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DIVISION – FATS, OIL AND GREASE CONTROL POLICY

- § 52.190 Fats, Oil, and Grease Control Policy

DIVISION – Penalty

- § 52.999 Penalty

DIVISION – GENERAL PROVISIONS

§52.001 Purpose and Policy

This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Lincoln, hereafter referred to as “the City”, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system that will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This article provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This article shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160a-312 and/or 153A-275. The City shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this article. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other City personnel.

By discharging wastewater into the municipal wastewater system, industrial users located outside the City limits agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder.

§52.002 Definitions And Abbreviations

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated:

Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, *et seq.*

Approval Authority. The Director of the Division Of Water Resources of the North Carolina Department of Environment and Natural Resources or his designee.

Authorized Representative of the Industrial User.

- (1) If the industrial user is a corporation, authorized representative shall mean:
- a) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - b) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

- (3) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (1) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- (5) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20°) centigrade, usually expressed as a concentration (e.g. mg/l).

Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.

Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.

Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.

Control Authority. Refers to the POTW organization if the POTW's organization's Pretreatment Program approval has not been withdrawn.

Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under Sections 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

Industrial User or User. Any person who is a source of indirect discharge.

Interference. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES, collection system or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of industrial users, and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these

prohibitions appear in Section 8-60 of this article and are developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

New Source.

- (1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307(c), provided that:
 - (a) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (1)b. or (c)., above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility , engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**National Pollution Discharge Elimination System, or NPDES, Permit.* A permit issued pursuant to Section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.

Non-discharge Permit. A permit issued by the State pursuant to G.S. 143-215.1.(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.

Oil and Grease. Any material recovered as a substance soluble in trichlorotrifluoroethane under standard laboratory procedure or as determined under such standard laboratory procedures as may be hereinafter adopted.

Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES collection system, or Non-discharge Permit, or a downstream water quality standard even if not included in the permit.

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (Base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams-per-liter of solution.

Pollutant. Any "waste" as defined in G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).

POTW Director. The City administrator designated with the responsibility for the pretreatment program and enforcement of this Sewer Use Ordinance.

POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.

Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment Standards. Prohibited discharge standards, categorical standards, and local limits which applies to an industrial user.

Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by Section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW"

shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, or in any other way, users of the City's POTW.

Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Significant Industrial User. An industrial user that discharges wastewater into a publicly owned treatment works and that:

- (1) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
- (2) contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or five percent or more of the maximum allowable headworks loading of the POTW treatment plant for any POTW pollutant of concern; or
- (3) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
- (4) is designated as such by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options.
- (5) Subject to Division approval under 15A NCAC 02H .0907(b), the City may determine that an Industrial User meeting the criteria in paragraphs (1) and (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.

- (6) Subject to Division approval under 15A NCAC 02H .0907(b), the City may determine that an Industrial User meeting the criteria in paragraph (3) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial User.
- (7) Subject to Division approval under 15A NCAC 02H .0907(b), the City may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a Middle Tier Significant Industrial User. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C).and 403.12 (e)(3).

Significant Noncompliance. Significant Noncompliance or SNC is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in (c), (d), or (h) shall also be SNC.

- (1) Violations of wastewater discharge limits.
 - a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
 - b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);
 - c. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the City and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
 - d. Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has

resulted in either the City's or the POTW's, if different from the City, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and §52.125 (e) of this SUO to halt or prevent such a discharge;

- e. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.
- f. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, ninety-day compliance reports, and periodic compliance reports within 45 days from the due date.
- g. Failure to accurately report noncompliance.
- h. Any other violation or group of violations that the City determines will adversely affect the operation or implementation of the local pretreatment program.

Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in §52.015 of this ordinance.

Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent. The person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.

Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

Wastewater Permit. As set forth in §52.056 of this article.

Waters of the State. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

This article is gender neutral and the masculine gender shall include the feminine and vice-versa. Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(b) The following abbreviations, when used in this ordinance, shall have the designated meanings:

- | | | |
|------|----------|---|
| (1) | BOD | Biochemical Oxygen Demand |
| (2) | CFR | Code of Federal Regulations |
| (3) | COD | Chemical Oxygen Demand |
| (4) | EPA | Environmental Protection Agency |
| (5) | gpd | Gallons per day |
| (6) | l | Liter |
| (7) | mg | Milligrams |
| (8) | mg/l | Milligrams per liter |
| (9) | N.C.G.S. | North Carolina General Statutes |
| (10) | NPDES | National Pollution Discharge Elimination System |
| (11) | O & M | Operation and Maintenance |
| (12) | POTW | Publicly-Owned Treatment Works |
| (13) | RCRA | Resource Conservation and Recovery Act |
| (14) | SIC | Standard Industrial Classification |
| (15) | SWDA | Solid Waste Disposal Act |
| (16) | TSS | Total Suspended Solids |
| (17) | TKN | Total Kjeldahl Nitrogen |
| (18) | U.S.C. | United States Code. |

§ 52.003 IDEMNIFICATION OF CITY

- (A) All costs and expense incident to the installation and connection of the building service line to the public sewer shall be borne by the property owner.
- (B) The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building service line.

§ 52.004 SERVICE REQUIREMENTS

- (A) A separate and independent building sewage service line shall be provided for every building.
- (B) An old building service line shall not be used for the connection of a new building unless it can be shown to be in good condition, meets all requirements of this ordinance, and said reuse is approved by the POTW Director.
- (C) The size and slope of the service line shall be subject to the approval of the POTW Director, but in no event shall the diameter be less than four inches and the slope be less than one inch per foot.
- (D) A clean-out shall be provided by the property owner at the right-of-way line for all new services and for all existing services which must be dug-up for repair or maintenance.

- (E) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building service line.
- (F) Pipe and joint materials shall be subject to building codes and to the approval of the POTW Director.
- (G) Grease, oil and sand interceptors.
 - (1) The POTW Director may require the installation of appurtenances on the owner's property for the purpose of preventing the entrance of grease, oil, and other materials into the POTW.
 - (2) Grease, oil and sand interceptors shall be provided for all facilities except for private living quarters or dwelling units.
 - (3) All interceptors shall be of a type and capacity to adequately prevent the discharge of grease, oil or sand, and are subject to the review and approval of the POTW Director.
 - (4) Interceptors shall be maintained in continuously efficient operation at all times by the owner.
 - (5) These facilities shall be provided and maintained at no expense to the City.
(Ord. 93-08, passed 6-7-93; Am. Ord. 07-09, passed--) Penalty, see § 52.999

§ 52.005 INSPECTION OF BUILDING SERVICE LINE

- (A) When trenches are opened for the laying of building service lines, such trenches and service line construction shall be inspected by the POTW Director before the trenches are filled.
- (B) The filling of the trench prior to inspection by the POTW Director shall void the connection permit and a connection to the public sewer system shall not be allowed.

§ 52.006 MAINTENANCE OF BUILDING SERVICE LINE

- (A) The City shall have no responsibility for the cleaning, repairing, replacement, or maintenance of a building sewage line on private property. The property owner is responsible for verifying the condition of his service line before the City is called to maintain or repair the service line within public right-of-way.
- (B) When determined by the POTW Director that a building sewage line is in poor condition allowing excess ground water or storm water to enter the POTW, the POTW Director shall order the property owner to repair or replace said line.

§ 52.007 PROTECTION FROM DAMAGE

- (A) No persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment, which is a part of the POTW.
- (B) Any person violating this provision shall be subject to the penalties prescribed by the General Statutes of the State of North Carolina.

DIVISION – GENERAL SEWER USE REQUIREMENTS

§ 52.015 **Prohibited Discharge Standards**

- (a) *General Prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) *Specific Prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
 - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension including wood, glass, ashes, sand, cinders, non-shredded garbage, etc.
 - (3) Any ground paper products.
 - (4) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 - (5) Any wastewater having a pH less than 5.0 or more than 12.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - (6) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (7) Any wastewater having a temperature greater than 150° F (66°C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

- (8) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (9) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with §52.023 of this article.
- (10) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (11) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.
- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l unless authorized by the POTW Director.
- (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
- (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

- (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
- (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
- (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (21) Recognizable portions of the human or animal anatomy.
- (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (23) At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.
- (24) At no time shall any sanitary wastewater be discharged or allowed to be discharged into the storm sewer system without exception.

(c) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

(d) When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

- 1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with §52.125; and
- 2) Take appropriate actions in accordance with §52.055 and §52.056 for such user to protect the POTW from interference or pass through.

§ 52.016 National Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (e) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.15

§ 52.017 Industrial Waste Survey and Local Limits

Industrial Waste Survey information will be used to implement the general and specific discharge prohibitions listed in this ordinance. Industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following average discharge limits will apply to all users:

250	mg/l	BOD
250	mg/l	TSS
40	mg/l	oil and grease
500	mg/l	COD
40	mg/l	TKN
0.003	mg/l	arsenic
0.003	mg/l	cadmium
0.061	mg/l	copper
0.015	mg/l	cyanide
0.049	mg/l	lead
0.0003	mg/l	mercury
0.021	mg/l	nickel
0.050	mg/l	molybdenum
0.025	mg/l	selenium
4.00	mg/l	phosphorus

0.050	mg/l	phenol
0.005	mg/l	silver
0.05	mg/l	total chromium
0.175	mg/l	zinc
10	mg/l	ammonia

Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The POTW Director may impose mass limits in addition to, or in place of, the concentration-based limits above.

§ 52.018 State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this article.

§ 52.019 Right of Revision

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in §52.001 of this article or the general and specific prohibitions in §52.015 of this article, as is allowed by 40 CFR 403.4.

§ 52.020 Dilution

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City or State.

§ 52.021 Pretreatment of Wastewater

(a) Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this article and wastewater permits issued under §52.056 of this article and shall achieve compliance with all National Categorical Pretreatment Standards, local limits, and the prohibitions set out in §52.015 of this article within the time limitations as specified by EPA, the State, or the POTW Director, whomever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the

responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(b) *Additional Pretreatment Measures*

- (1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.
- (2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (5) The POTW Director may require a grinder to be installed as necessary for the proper handling of excessive amounts of trash, rags, etc., in a discharge.

§ 52.022 Accidental Discharge/Slug Control Plans

- (a) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in §52.002(a). All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.

- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see §52.074 and §52.075.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by §52.075 of this article; and;
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

§ 52.023 Hauled Wastewater.

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate §52.015 through §52.025 of this article or any other requirements established by the City. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
- (c) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

§ 52.024 Use of Public Sewers

- (a) *Reasonable Accessibility.* A property owner is considered to have reasonable access to the public sewer collection system when the property is located within 200 feet of the public sewer. Property owners meeting this criteria are required to connect to the public sewer system in the time described below in subsection (b).
- (b) *Compliance Time.* Property owners meeting the reasonable accessibility requirement will receive proper notice that he/she is being requested to provide a connection to the public sewer. Allowable compliance time, a reasonable time allowance or completion of the work, to make a proper connection shall not exceed 60 days.

§ 52.025 Regulations Concerning Building of Sewers and Connections

Regulations for building/construction of public sewers and connections are properly covered in the North Carolina Plumbing and Building codes and shall be followed. A copy of these regulations is attached as part of this Sewer Use Ordinance.

DIVISION – FEES

§ 52.040 **Purpose**

It is the purpose of this chapter to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth the City's schedule of charges and fees.

§ 52.041 **User Charges**

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The City shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the City for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

§ 52.042 **Surcharges**

All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the following levels:

BOD	350 mg/l
TSS	350 mg/l
NH3	20 mg/l
Oil and Grease	40 mg/l

The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharged above the levels listed above. **The amount charged per excess will be set forth in the schedule of fees.**

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

- (1) Metered water consumption as shown in the records of meter readings maintained by the City; or
 - (2) If required by the City or at the individual dischargers option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the City. The metering system shall be installed and maintained at the users' expense according to arrangements that may be made with the City.
 - (3) Where any user procures all or part of his water supply from sources other than the City, the user shall install and maintain at his own expense a flow measuring device of a type approved by the City.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the City. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
 - (c) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

§ 52.043 Pretreatment Program Administration Charges

The schedule of charges and fees adopted by the City may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) permitting;
- (e) other fees as the City may deem necessary to carry out the requirements of the Pretreatment Program.

DIVISION – WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 52.055 **Wastewater Dischargers**

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City of Lincolnnton. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

§ 52.056 **Wastewater Permits**

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) *Significant Industrial User Determination*

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.

(b) *Significant Industrial User Permit Application*

Users required to obtain a significant industrial user permit shall complete and file with the City an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in §52.056(a). The application shall include at a minimum:

- (1) Name of industrial user;
- (2) Adress of industrial user:
- (3) Standard Industrial Classification (SIC) code(s) or expected classification and industrial user category;

- (4) Wastewater flow;
- (5) Types and concentrations (or mass) of pollutants contained in discharge;
- (6) Major products manufactured or services supplied;
- (7) Description of existing on-site pretreatment facilities and practices;
- (8) Locations of discharge points;
- (9) Raw materials used or stored on-site;
- (10) Flow diagram or sewer map for the industrial user;
- (11) Number of employees;
- (12) Operation and production schedules;
- (13) Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g)
- (14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(c) *Application Signatories and Certification*

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the City as defined in §52.002 and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(d) *Application Review And Evaluation*

The POTW Director will evaluate the data furnished by the user and may require additional information.

- (1) The POTW Director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 60 days of receipt, the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) *Tentative Determination and Draft Permit*

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
- (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
 - a. proposed discharge limitations for those pollutants proposed to be limited;
 - b. proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - c. a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the City's general permit conditions into a significant industrial user permit.

(f) *Permit Supporting Documentation*

The City staff shall prepare the following documents for all Significant Industrial User permits.

- (1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits

are modified where the permitted limits or other AT information is revised.

- (2) The basis, or rationale, for the pretreatment limitations, including the following:
 - a. documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - b. documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

(g) *Final Action On Significant Industrial User Permit Applications*

- (1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.
- (2) The POTW Director is authorized to:
 - a. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and G.S. 143-215.1;
 - b. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - c. Modify any permit upon not less than 60 days notice and pursuant to §52.056(i) of this article;
 - d. Revoke any permit pursuant to §52.125 of this article;
 - e. Suspend a permit pursuant to §52.125 of this Ordinance;
 - f. Deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

(h) *Hearings*

- (1) *Initial Adjudicatory Hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under §52.999, or one issued an administrative order under

§52.125 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.

- a. *New Permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
 - b. *Renewed Permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (2) *Final Appeal Hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under subsection (h)(1) above, may be appealed, to the City Council upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with procedures adopted by the City Council. Failure to make written demand within the time specified herein shall bar further appeal. The City Council shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
- (3) *Official record.* When a final decision is issued under subsection (h)(2), above, the City Council shall prepare an official record of the case that includes:
- a. All notices, motions, and other like pleadings;
 - b. A copy of all documentary evidence introduced;
 - c. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
 - d. A copy of the final decision of the City Council.

- (4) *Judicial Review.* Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under subsection (h)(2), above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Lincoln County along with a copy to the City. Within 30 days after receipt of the copy of the petition of judicial review, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.

(i) *Permit Modification*

- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- a. Changes in the ownership of the discharge when no other change in the permit is indicated,
 - b. A single modification of any compliance schedule not in excess of four months,
 - c. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- (2) Within nine months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection (b), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the 60 day notice required by G.S. 143-215.1(b) for modifications.

(j) *Permit Conditions*

- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

- a. A statement of duration (in no case more than five years);
- b. A statement of non-transferability;
- c. Applicable effluent limits based on categorical standards or local limits or both;
- d. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
- e. requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in §52.002;
- f. requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in §52.002, if determined by the POTW Director to be necessary for the User and,
- g. requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in §52.002. Also see §52.074 and §52.075;
- h. a statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

- a. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
- b. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- c. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- g. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- h. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
- i. Compliance schedules for meeting pretreatment standards and requirements.
- j. Requirements for submission of periodic self-monitoring or special notification reports.
- k. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in §52.082 and affording the POTW Director or his representatives, access thereto.
- l. Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
- m. Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
- n. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
- o. Other conditions as deemed appropriate by the POTW Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(k) *Permits Duration*

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(l) *Permit Transfer*

Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(m) *Permit Reissuance*

A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with this section and a minimum of 120 days prior to the expiration of the existing permit.

DIVISION – REPORTING REQUIREMENTS

§ 52.070 **Baseline Monitoring Reports**

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which

contains the information listed in Paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

- (1) *Identifying Information.* The name and address of the facility, including the name of the operator and owner.
- (2) *Environmental Permits.* A list of any environmental control permits held by or for the facility.
- (3) *Description of Operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) *Flow Measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403,6(e).
- (5) *Measurement of Pollutants.*
 - a. The categorical pretreatment standards applicable to each regulated process.

- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director/ Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 8-95 of this article.
 - c. Sampling must be performed in accordance with procedures set out in §52.080 of this article and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
- (6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in §52.002 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) *Compliance Schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this Section must meet the requirements set out in §52.071 of this article.
- (8) *Signature and Certification.* All baseline monitoring reports must be signed and certified in accordance with §52.056 (c) of this article.

§ 52.071 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by §52.070 (b)(7) of this article:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to , hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;

- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

§ 52.072 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in §52.070 (b)(4) – (6) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §52.056 (c) of this article.

§ 52.073 Periodic Compliance Reports

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in §52.079 and §52.080 of this article. All periodic compliance reports must be signed and certified in accordance with §52.056 (c) of this article.
- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in §52.070 and §52.071 of this article, the results of this monitoring shall be included in the report.

§ 52.074 Reports of Changed Conditions

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The permittee shall not begin the changes until receiving written approval from the City. See §52.075 (d) for other reporting requirements.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §52.056 of this article.
- (b) The POTW Director may issue a wastewater discharge permit under §52.056 of this article or modify an existing wastewater discharge permit under §52.056 of this article in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent (20%) or greater; the discharge of any previously unreported pollutants; increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the City; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

§ 52.075 Reports of Potential Problems

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load as defined in §52.002, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge

described in subsection (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in §52.002.

§ 52.076 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require. All users classified as Non-Significant Categorical Industrial Users under §52.002 shall provide appropriate reports to the POTW Director as the POTW Director may require. At a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR 403.12(q).

§ 52.077 Notice of Violation/Repeat Sampling and Reporting

- a. If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample if :
 - (1) if the POTW Director monitors at the user's facility at least once a month;
or
 - (2) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.
- b. If the POTW Director does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
 - (1) the POTW Director monitors at the user's facility at least once a month;
or

- (2) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (3) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

§ 52.078 Notification of the Discharge of Hazardous Waste

It shall be unlawful for any user to discharge any hazardous waste as defined in 40 CFR 261 without first having obtained written permission or a special permit, pursuant to §52.055, §52.056 of this article, from the POTW Director. If permission to discharge hazardous waste is granted by the POTW Director, the following procedures shall apply:

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under §52.074 of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §52.070, §52.072, and §52.073 of this article.
- (b) In the case of any new regulation under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- (c) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (d) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable Federal or State law.

§ 52.079 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analysis in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or the City. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and the City.

§ 52.080 Grab and Composite Sample Collection

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
- (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

§ 52.081 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

§ 52.082. Record Keeping

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City or where the user has been specifically notified of a longer retention period by the POTW Director.

§ 52.083. Electronic Reporting

The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under § 52.125 through § 52.127 of this Ordinance.

DIVISION – COMPLIANCE MONITORING

§ 52.095 Monitoring Facilities

The City requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

§ 52.096 Inspection and Sampling

The City will inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The City's approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the City's, approval authority's, or EPA's access to the user's premises shall be a violation of this article. Unreasonable delays may constitute denial of access.

§ 52.097 Search Warrants

If the City, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City, approval authority, or EPA may seek issuance of a search warrant from the Superior Court of the General Court of Justice in Lincoln County.

DIVISION – CONFIDENTIAL INFORMATION

§ 52.110 **Public information; request for confidentiality.**

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

§ 52.111 **Government access to information.**

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

§ 52.112 **Availability of records.**

All records relating to compliance with Pretreatment Standards shall be made available to officials of the approval authority and EPA upon request.

DIVISION – ENFORCEMENT

§ 52.125 **Administrative Remedies**

(a) *Notification Of Violation*

Whenever the POTW Director finds that any industrial user has violated or is violating this Article, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) *Consent Orders*

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection(d), below.

(c) *Show Cause Hearing*

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this article or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 52.999 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 52.056 (h).

(d) *Administrative Orders*

When the POTW Director finds that an industrial user has violated or continues to violate this article, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) *Emergency Suspensions*

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) *Termination Of Permit or Permission to Discharge*

The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

Any user who violates the following conditions of this ordinance, or applicable State and Federal regulations, is subject to having its permit terminated:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this article, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under this section why the proposed action should not be taken.

§ 52.126 Other Available Remedies

Remedies, in addition to those previously mentioned in this ordinance or in § 52.999, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (a) **Criminal Violations.** The District Attorney for the 278 Judicial District may, at the request of the City prosecute noncompliant users who violate the provisions of G.S. 143-215.6B.

- (b) **Injunctive Relief**

Whenever a user is in violation of the provisions of this article or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

- (c) *Water Supply Severance*

Whenever an industrial user is in violation of the provisions of this article or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply .

(d) *Public Nuisances*

Any violation of the prohibitions or effluent limitations of this article or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

§ 52.127 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

DIVISION – ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

§ 52.140 Public Disclosure.

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(34), with applicable pretreatment standards and requirements, during the previous 12 months.

DIVISION – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 52.155 **Upset.**

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

§ 52.156 Prohibited Discharge Standards Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 52.015 (a) of this article or the specific prohibitions in § 52.015 (b)(2), (3), (4), (6-8) and (10-24) of this article if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

§ 52.157 Bypass

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (b) and (c) of this section.
- (b) Notification of bypass by user.
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (c) Criteria for Nonenforcement Action or Approval of Bypass.

- (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under subsection (b) of this section.
- (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in subsection (c)(1) of this section.

DIVISION – ADMINISTRATIVE

§ 52.170 Servability

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

§ 52.171 Conflict

All other articles and ordinances and parts of other articles and ordinances inconsistent or conflicting with any part of this article are hereby repealed to the extent of such inconsistency or conflict.

§ 52.172 Effective Date

on the _____ day of _____, 20____.

INTRODUCED the ____ day of _____, 20____.

FIRST READING: _____,20____.

SECOND READING: _____,20____.

PASSED this ____ day of _____, 20____.

AYES:

NAYS:

ABSENT:

NOT VOTING:

APPROVED this ____ day of _____, 20____.

MAYOR, of the City

ATTEST: _____(Seal) City Clerk

Published the ____ day of _____, 20____.This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

DIVISION – PENALTY

§ 52.999 **Civil Penalties**

- (a) Any user who is found to have failed to comply with any provision of this article, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to twenty five thousand dollars (\$25,000) per day per violation.

Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

- (1) for any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
 - (2) in the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) Any user who is found to have conducted malicious damage to the public sewer system, treatment works, and/or all appurtenances shall be subject to punitive action and penalties.
- (c) In determining the amount of the civil penalty, the POTW Director shall consider the following:
 - (1.) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (2.) The duration and gravity of the violation;
 - (3.) The effect on ground or surface water quantity or quality or on air quality;
 - (4.) The cost of rectifying the damage;
 - (5.) The amount of money saved by noncompliance;
 - (6.) Whether the violation was committed willfully or intentionally;
 - (7.) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (8.) The costs of enforcement to the City.
- (d) Actions for any unpaid civil penalties shall be referred to the City Attorney for collection.
- (e) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 52.056 (h).

ITEM #

4

REGULAR AGENDA
- Continued

ITEM #

4a

City of Lincolnton
114 West Sycamore Street
P. O. Box 617
Lincolnton, North Carolina
28093-0617



Human Resources Department
Phone (704) 736-8980
FAX (704) 736-8975
www.lincolntonnc.org

MEMORANDUM

To: Mayor and City Council Members

From: Tanya Osborne, Human Resources Director

Through: Ritchie Haynes, City Manager

Re: Proposed Personnel Policy Amendments:
Article VI Leaves of Absence, Section 1 - Holidays and Floating Holiday
Section 3 - Vacation Leave

Date: April 30, 2022

As part of the annual budget planning workshop, information regarding several personnel policy changes was presented to Council for consideration. Based upon feedback received at the budget workshop, two proposed Personnel Policy amendments are attached for review and potential implementation. In addition to incorporating the changes discussed at the workshop, each section has been reviewed for content and changes made as appropriate. All changes made to the attached policies are highlighted in blue, and below is a summary.

Article VI Leaves of Absence, Section 1 – Holidays and Floating Holiday

1. Added intro and purpose of policy.
2. Added requirement for Human Resources to publish a list of days and dates of recognized holidays for each year.
3. Added Floating Holiday section
4. For clarification of holiday hours for the work periods, calculations for paid hours are included.

Article VI Leaves of Absence, Section 3 – Vacation Leave

1. For clarification, replaced vacation table of hours with accrual tables for each work period.
2. Added wording regarding the beginning of vacation accruals.
3. Added wording regarding the use of vacation accruals during probationary period.
4. Added reference for vacation in relationship to religious observances other than those observed by the City.
5. Added wording regarding retiring employees being able to have excess hours over 240 converted to sick leave account upon retirement.
6. Added wording regarding timing for vacation requests and supervisors responsibilities.
7. Added wording regarding vacation leave running concurrently with FML.

8. Added reference to employees who are resigning and use of vacation or sick hours.
9. Added reference as to procedures for vacation payout if an employee dies in service.

At this time, I would ask for City Council's consideration of the following:

1. Approval of proposed changes to Personnel Policy Article VI Section 1
2. Approval of proposed changes to Personnel Policy Article VI Section 3

Attachments: Proposed Personnel Policy Article VI Section 1
Proposed Personnel Policy Article VI Section 3

Proposed Personnel Policy Revision

Article VI. Leaves of Absence

Section 1. Holidays and Floating Holiday

Revision Date: 04-07-2022

The City of Lincolnton grants paid time off to full time employees for certain holidays which occur within the year. Since a number of City departments operate 365 days a year, some employees will also be paid for time worked on holidays.

Purpose

The intent of this leave is to provide for paid absences from work so whenever possible employees may observe recognized holidays with their families, as well as, to maintain a competitive stance in the market for recruitment and retention of employees.

Recognized Holidays

The following days, and other days as the City Council may designate, are holidays with pay for employees of the City working the basic workweek. The schedule of actual dates observed for the holidays listed below will be published annually, and follows the State of North Carolina's holiday schedule.

Holiday	Number of Days
New Year's Day	1
Martin Luther King, Jr.'s Birthday	1
Good Friday	1
Memorial Day	1
Independence Day	1
Labor Day	1
Veterans Day	1
Thanksgiving	2
Christmas	3

At the beginning of each calendar year, the Human Resources Department will publish a list of the holidays with dates to be followed for the year.

When a designated holiday falls on Saturday, the preceding Friday will be observed and when the holiday falls on Sunday, the following Monday will be observed. All employees required to work on an observed holiday shall be paid at their regular rate of pay for actual hours worked on the holiday, if it is not feasible for the department head to grant compensatory time off during the pay period. This shall be in addition to the regular rate of pay to compensate the employee for the designated holiday.

Only regular full-time employees, who are in pay status on the scheduled work day before and the scheduled workday after the holiday shall be eligible for holiday pay.

For employees having a work week with greater or fewer hours than the basic work week, holiday leave shall be granted in the same proportion as their work week is to a forty (40) hour work week.

Employees wishing to schedule time off for religious observances, other than those observed by the City, may request to use vacation leave from their respective supervisor. The supervisor will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting leave would create an undue hardship for the City.

Floating Holiday

A Floating Holiday are hours which allow an employee to have some flexibility in their schedule for the events in their life which do not fall into the typical vacation or sick leave categories. These are hours the employee can decide when to take, and it is called a floating holiday because every year it "floats" or moves to the date when the employee uses them.

City of Lincolnton employees will be allowed one Floating Holiday per calendar year. The Floating Holiday must be scheduled and approved in advance by the employee's supervisor, and will be paid at regular rate. Floating Holiday hours will not count toward meeting an overtime threshold in any circumstances. All other rules and conditions of Holiday Pay outlined in this policy apply to the Floating Holiday.

The Floating Holiday must be taken during the calendar year and is not compensable upon termination of employment, cannot be transferred, will not roll into sick leave accruals, and will not roll over into another calendar year.

Procedures

- 37.5-hour per work week employees will receive 7.5 hours of Holiday Pay.
The 7.5 hours are calculated as follows:
 $37.5 \text{ hours per week} / 40 \text{ hours per week for regular employee} = .937$
 $.937 \times 104 \text{ (13 holidays per year} \times 8 \text{ hours)} = 97.44$
 $97.44 \text{ hours} / 13 \text{ holidays} = 7.5 \text{ hours of holiday pay}$
- 40-hours per work week employees will receive 8.0 hours of holiday pay.
- 42-hour per week employees will be paid 8.40 hours of Holiday Pay for each Holiday.
The 8.4 hours are calculated as follows:
 $42 \text{ hours per week} / 40 \text{ hours per week for regular employee} = 1.05$
 $1.05 \times 104 \text{ (13 Holidays per year} \times 8 \text{ hours for a regular full-time employee)} = 109.2$
 $109.2 \text{ hours} / 13 \text{ Holidays} = 8.40 \text{ hours of Holiday pay}$
- 53 hour per week employees will be paid 10.60 hours of Holiday Pay for each Holiday.
The 10.60 hours are calculated as follows:
 $53 \text{ hour per week} / 40 \text{ hours per week for regular employee} = 1.325$
 $1.325 \times 104 \text{ (13 Holidays per year} \times 8 \text{ hours for a regular full-time employee)} = 137.8$
 $137.8 / 13 \text{ Holidays} = 10.60 \text{ hours of Holiday pay}$

SECTION 2. EFFECT OF HOLIDAYS ON OTHER TYPES OF LEAVE:

Regular holidays which occur during a vacation, sick or other leave period of any officer or employee of the City shall not be considered as vacation, sick or other leave.

ITEM #

4b

Proposed Personnel Policy Revision:

Article VI Leaves of Absence

Section 3. Vacation Leave

Revision Date: 04-07-2022

Purpose:

The intent of vacation leave is to provide for paid periodic absences from work to enhance the health and well-being of City employees, as well as, to maintain a competitive stance in the market for recruitment and retention of employees

Vacation Leave-Manner of Accumulation

Employees working the basic workweek of 40 hours shall earn vacation leave as shown in Table 2 below. For employees having a work week with greater or fewer hours than the basic work week, vacation leave shall be granted in the same proportion as their work week is to a forty (40) hour work week.

Table 1 – 37.50 Hour per FLSA Work Week Employee (75 hours bi-weekly)

Years of Service	Hours Accrued Per Pay Period
0 thru 4 Years	2.89
5 thru 9 Years	3.47
10 thru 14 Years	4.33
15 thru 19 Years	5.20
20 + Years	6.35

Table 2 - 40 Hour per FLSA Work Week Employee (80 hours bi-weekly)

Years of Service	Hours Accrued Per Pay Period
0 thru 4 Years	3.08
5 thru 9 Years	3.70
10 thru 14 Years	4.62
15 thru 19 Years	5.54
20 + Years	6.77

Table 3 – 84 Hours per Bi-Weekly Work Period Employee

Years of Service	Hours Accrued Per Pay Period
0 thru 4 Years	3.24
5 thru 9 Years	3.88
10 thru 14 Years	4.85
15 thru 19 Years	5.82
20 + Years	7.11

Table 4 – 106 Hours per Bi-Weekly Work Period

Years of Service	Hours Accrued Per Pay Period
0 thru 4 Years	4.08
5 thru 9 Years	4.90
10 thru 14 Years	6.12
15 thru 19 Years	7.34
20 + Years	8.97

- A. An employee will begin earning vacation leave immediately upon employment, and vacation leave is accrued in each payroll period.
- B. Employees serving a probationary period shall be permitted to take accumulated vacation leave during the probationary period.
- C. Vacation leave will continue to accumulate while an employee is on an approved paid leave.
- D. An employee on vacation cannot work for the City, nor is an employee authorized to use vacation that is accrued by another employee.
- E. Employees wishing to schedule time off for religious observances, other than those observed by the City, may request vacation leave from their respective department head. The department head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observances may be denied only when granting leave would create an undue hardship for the City.
- F. Vacation leave records will be maintained in the Finance Department.

Vacation Leave - Maximum Accumulation

The maximum hours of vacation that can be carried from one year to the next is 240 hours. Any employee with more than 240 hours of accumulated leave during the last pay period of each calendar year shall have the excess accumulation removed so that only 240 hours are carried forward to the first pay period of the next calendar year. All excess vacation hours over 240 will be converted to the employee's sick leave account.

Employees retiring under the provisions of the North Carolina Local Governmental Employees' Retirement System shall have vacation hours in excess of 240 converted to their sick leave account with their final payout from the City.

Employees are cautioned not to retain excess accumulation of vacation leave until late in the calendar year. Due to the necessity to keep all City functions in operation, large numbers of employees cannot be granted vacation leave at any one time.

Vacation Leave - Manner of Taking Leave

Vacation leave may be taken as earned by a regular employee subject to the approval of the supervisor. Employees should request vacation leave two weeks in advance, and supervisors are responsible for ensuring approved vacation leave does not hinder the effectiveness of normal operations of the City.

If an employee uses Vacation Leave for an event that is covered under the Family and Medical Leave Act (FMLA), the time that is charged to Vacation Leave and the FMLA entitlement will run concurrently (See Article VI Section 13 FMLA).

An employee who leaves City employment before completing six (6) months of full time employment is not eligible to be paid accrued vacation. A regular employee will forfeit accrued vacation pay if they fail to leave under other than satisfactory conditions. (See Article VII, Section 1A). If an employee separates from service, payment for accumulated vacation leave shall not exceed 240 hours.

For employees leaving the City's employment, other than retirement, the last day actually worked will be considered the last day of employment. An employee may not use Vacation Leave or Sick Leave time to extend duty status at the end of the individual's employment with the City.

The estate of an employee who dies while employed by the City shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed 240 hours.

Vacation Leave - Previous Leave Credit

Vacation leave credit accumulated by each employee as of the adoption of these personnel administration policies shall be retained as of the effective date of these policies.

ITEM #

4c

CITY COUNCIL

Ed L. Hatley, Mayor
 Martin A. Eaddy, Mayor Pro-Tem
 Christine Poinsette
 Mary Frances White
 Roby D. Jetton

**CITY MANGER**

Richard Haynes
rhaynes@lincolntonnc.org

CITY CLERK

Daphne Ingram
[dingram@lincolntonnc.org](mailto:d Ingram@lincolntonnc.org)

CITY ATTORNEY

Thomas J. Wilson, Jr.

BA-02-22

Section 3: To amend the Boger City Fire District Fund, the expenditures are to be changes as follows:

Boger Ciy Fire Tax	\$	240,500
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Section 4: To amend the Boger City Fire District Fund, the revenues are to be changed as follows:

Fund Balance Appropriated	\$	240,500
	\$	240,500

Boger City Fire District: Appropriate fund balance for payroll, grounds maintenance, equipment repairs and purchase of Fire Engine from Denver Volunteer FD.

Section 7: To amend the Water and Sewer Fund, the expenditures are to be changes as follows:

Distribution and Collection	\$	120,000
	\$	120,000

Section 8: To amend the Water and Sewer Fund, the revenues are to be changed as follows:

Connection Charges	\$	120,000
	\$	120,000

Water and Sewer Fund: Allocate additional revenues received for water and sewer connections.

Section 11: To amend the Special Revenue Fund, the expenditures are to be changed as follows:

SCIF Grants	\$	433,950
	\$	433,950

Section 12: To amend the Special Revenue Fund, the revenues are to be changed as follows:

SCIF Grants	\$	433,950
	\$	433,950

Special Revenue Fund: SCIF (State Capital and Infrastructure Fund Directed Grant) allocations received for the following projects: City of Lincolnton-Capital Improvements- \$100,000; City of Lincolnton-Playground-\$242,650; and City of Lincolnton-Rail Trail-\$91,300.

Section 16: Appropriations are authorized by fund totals. The City Manager is authorized to reallocate fund appropriations among line item objects of expenditures and revenues as necessary during the budget year.

Section 17: Copies of this Budget Ordinance shall be furnished to the Clerk to the Governing Board and to the Budget Officer and Finance Director to be kept on file by them for their direction in the disbursement of funds.

TOTAL AMENDMENT \$ 794,450

Adopted this 7th day of April, 2022

Attest:

Daphne Ingram
City Clerk

Edward L Hatley
Mayor

ITEM #

5

OTHER BUSINESS

ITEM #

5a

MEMO TO: Mayor and City Council Members
FROM: Planning Department
SUBJECT: Deadline Extension for the RFP for the Sale and Adaptive Reuse of Second and Third Floors of 119 East Court Square
DATE: April 7, 2022

SUMMARY OF RFP

The RFP:

- Seeks proposals from qualified development teams for the sale and adaptive reuse of the second and third floors of the building for residential purposes,
- Allows responses to propose multi-family residential uses and/or live-work units,
- Notes the City's intent is to sell the second and third floors of the building to the selected development team, and
- Notes the City and the selected development team will enter into a contract including a development agreement/purchase agreement.

ADAPTIVE REUSE GOALS

The RFP establishes the following goals for the reuse:

- New downtown housing opportunities,
- Additional downtown pedestrian traffic,
- Additional customers for downtown businesses, and
- Additional downtown revitalization through increased private investment, increased property values and increased tax revenues

REVISED ANTICIPATED SCHEDULE

1. Council Approval of RFP Extension: April 7, 2022
2. Advertisement of RFP with new deadline:
 - City website: April 2022 - May 2022
 - Direct mailings: April 2022
 - Lincoln Times News/Lincoln Herald: April 2022
3. Deadline for Responses to RFP: May 16, 2022
4. Advisory Committee Review: May - July 2022
5. Presentations by Development Teams to City Council: August 4, 2022
6. Selection of Development Team by City Council: September 1, 2022

Action Requested

Staff recommends extending the deadline of the RFP.

ITEM #

5b

FOR THE EXCLUSIVE USE OF CLIFF@LINCOLNEDA.ORG

From the Charlotte Business Journal:

<https://www.bizjournals.com/charlotte/news/2022/03/24/census-bureau-releases-latest-population-estimates.html>

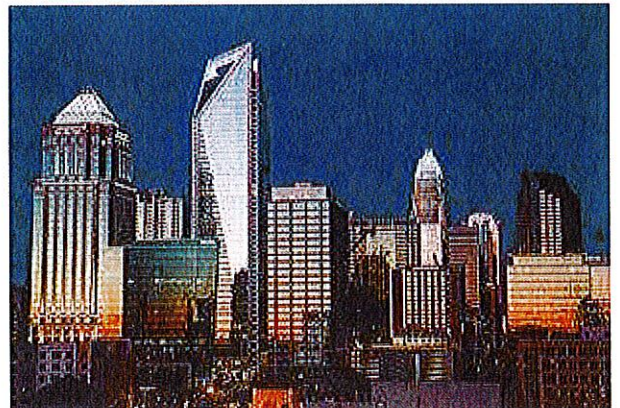
Charlotte metro adds 31K-plus people last year. Which counties are behind that growth?

Mar 24, 2022, 6:50am EDT

The Charlotte metro area continued to add among the nation's highest count of new residents last year, but outlying counties — rather than Mecklenburg — were the big drivers of that growth.

The Charlotte-Concord-Gastonia metropolitan statistical area grew by about 31,381 people between July 1, 2020 and 2021 to reach more than 2.7 million residents, according to the latest round of population estimates released this morning by the U.S. Census Bureau.

That was the ninth-highest numeric increase of U.S. metro areas over the year period. And it just edged out the addition of 28,186 people in the Raleigh-Cary area, which had the 10th-highest increase to result in an estimated population count of about 1.45 million.



MELISSA KEY/CBJ

New towers along the Stonewall corridor are seen in uptown Charlotte in early 2021.

The Durham-Chapel Hill metro increased by an estimated 2,820 people to reach a population of about 654,012. The Greensboro-High Point area's population rose by 2,087 residents to come in at about 778,848 residents. And the Winston-Salem metro picked up 5,069 residents to reach 681,438 people.

On the western edge of the region, the Hickory-Lenoir-Morganton metro area saw about 1,206 people added to reach a population of 366,441.

The Charlotte metro's estimated population from 2020 to 2021 increased at a rate of 1.2%, which was 70th highest of its U.S. counterparts.

In terms of counties, Mecklenburg's population over the year increased by 0.4% — nearly 4,000 people — to about 1.12 million, the bureau's estimates show. Its growth was driven by a natural increase, with births outpacing deaths by about 5,831. On the other hand, it saw a negative net migration of nearly 2,100 people. That was fueled by a drop in domestic migration of close to 4,300 people, while international migration increased by about 2,200 residents.

Mecklenburg has the second-highest population in the state, trailing Wake County's 1.15 million residents. Wake added 16,651 residents over the year, more than any other county in the state.

The Charlotte metro area's population growth was fueled by counties like Lancaster in South Carolina, which hit a milestone by reaching 100,000 residents in 2021. It should be noted that, although not a part of the local metro, Cleveland County — about 40 miles west of Charlotte — passed that same threshold, notching an estimated population count of 100,359.

Lancaster County logged the highest year-over-year growth rate of counties included in the local metro, at 3.8%. That was followed by Lincoln County in the northwest part of the region, with a 2.8% population increase, and Iredell County, with a 2.3% increase.

Just one county in the Charlotte metro had a decrease in population last year. Chester County lost about 67 residents — a 0.2% drop.

The list at the bottom of this article has a breakdown of population estimates by local county.

The statistics released by the Census Bureau today cover the nation's 384 metropolitan statistical areas, 543 micropolitan statistical areas and 3,143 counties.

In its news release that accompanied the population estimates, the bureau noted the Covid-19 pandemic's impact. More than 73% of counties saw more deaths than births — called natural decrease — in 2021. The bureau attributed that to fewer births, an aging population and increased mortality, which it said was intensified by the pandemic. All counties in Delaware, Maine, New Hampshire and Rhode Island experienced a natural decrease in population last year.

On the other hand, more than 65% of U.S. counties had positive domestic migration from 2020 to 2021.

"Even though over time we've seen a higher number of counties with natural decrease and net international migration continuing to decline, in the past year, the contribution of domestic migration counteracted these trends so there were actually more counties growing than losing population," Dr. Christine Hartley, assistant division chief for estimates and projections in the Census Bureau's Population Division. "In many cases, there was a shift from larger, more populous counties to medium and smaller ones."

In total, 58% of U.S. counties saw population increases, 41.8% lost residents and 0.3% had no change between 2020 and 2021. Of the metros, 65% logged an increase in population. Among the micro areas, 52.9% posted a population increase.

The population data comes from the bureau's Vintage 2021 estimates. This marks the second data release on population that integrates the 2020 Census, as well as Vintage 2020 and 2020 Demographic Analysis estimates.

The first set of population estimates derived this way focused on states. Released in December, that data showed North Carolina logged the fourth-highest population growth in terms of raw

numbers from July 2020 to 2021, adding nearly 94,000 people. That brought the state's population to an estimated 10.55 million.

South Carolina added almost 60,000 people during the year period, with its population growing to an estimated 5.19 million. It had the sixth-largest numeric increase and the fifth-highest percentage growth, at 1.2%.

More information on the methodology behind these estimates can be found [here](#).

Below is a ranking of local counties by fastest population growth rate between July 2020 and 2021.

Lancaster County (South Carolina)

Growth rate: 3.8%
Numeric increase: 3,684
Population estimate: 100,336

Lincoln County

Growth rate: 2.8%
Numeric increase: 2,480
Population estimate: 89,670

Iredell County

Growth rate: 2.3%
Numeric increase: 4,338
Population estimate: 191,968

Cabarrus County

Growth rate: 1.9%
Numeric increase: 4,213
Population estimate: 231,278

Union County

Growth rate: 1.8%
Numeric increase: 4,361
Population estimate: 243,648

York County (South Carolina)

Growth rate: 1.7%
Numeric increase: 4,696
Population estimate: 288,595

Gaston County

Growth rate: 1.1%
Numeric increase: 2,587
Population estimate: 230,856

Rowan County

Growth rate: 0.8%
Numeric increase: 1,123
Population estimate: 148,150

Mecklenburg County

Growth rate: 0.4%
Numeric increase: 3,936
Population estimate: 1,122,276

Anson County

Growth rate: 0.1%
Numeric increase: 30
Population estimate: 22,060

Chester County (South Carolina)

Growth rate: down 0.2%
Numeric decrease: 67
Population estimate: 32,209

Jenna Martin

Managing Editor, Digital
Charlotte Business Journal



ITEM #

5c