

A G E N D A

LINCOLNTON CITY COUNCIL



August 1, 2024

7:00 p.m.

Council Chambers

City hall



**LINCOLNTON
AGENDA
August 1, 2024
7:00 PM**

CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

1. AGENDA APPROVALS

1a Approval of REGULAR AGENDA

1b Approval of CONSENT AGENDA

- June 27, 2024 - Regular Meeting Minutes
- Lincoln County Tax Department - City Releases June 16 to July 15, 2024

2. PUBLIC COMMENT

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

3. SPECIAL RECOGNITIONS

3a Certifications / Training / Accomplishments

Noah Watson
David Ramsey
Chris Jones
Pamela McBryde
Julie McIntyre
Electric Department
Fire Department - Old Hulley

4. PUBLIC HEARINGS

4a O-09-24 Ordinance Amendment - Request to Change Speed Limit on Water Street from East Side of Court Square to North Flint Street and Sycamore Street from East Side of Court Square to North Flint S. to 22 mph

Ritchie Haynes, City Manager

**114 WEST SYCAMORE STREET • P.O. BOX 617 • LINCOLNTON, NORTH CAROLINA 28093-0617
PHONE (704) 736-8980**

4b CZ-4-2022A Piedmont Companies - The applicant is requesting to amend the site plan for CZ-4-2022 originally approved on June 2, 2022.

Jean Derby, Planning Director

4c CZ-3-2024A Olga R. Epple The applicant is requesting to amend the site plan for CZ-3-2024, Lincoln Meadows Phase II originally approved on March 7, 2024.

Jean Derby, Planning Director

5. PUBLIC HEARINGS

5a ZTA-5-2022 Zoning Text Amendments to Chapter 153.121 WSW Water Supply Watershed Overlay District of the Unified Development Ordinance

Jean Derby, Planning Director

6. REGULAR AGENDA

6a O-10-24 Consideration of Request to Amend the city's Code of Ordinances - Title V: Public Works Chapter 51: Water - Backflow and Cross-Connections

Todd Elmore, Water Resources Director

6b R-09-2024 Consideration/Approval of State Emergency Loan for WWTP Clarifiers

Pamela McBryde, Finance Director

6c O-11-24 Capital Project Budget Ordinance - Project No. SEL-W-0057

Pamela McBryde, Finance Director

7. REGULAR AGENDA

7a O-12-24 Consideration of Ordinance Amendment to Traffic Code: Chapter 75: Parking Schedule - Request to Add Cul-de-sacs to Schedule 1

Nathan Eurey, Public Services Director

7b O-13-24 Consideration of Ordinance Amendment to Traffic Code: Chapter 75: Parking Schedule - Request to Add Section VIII- Parking on Dead End Streets

Nathan Eurey, Public Services Director

7c O-14-24 Consideration of Request to Amend Golf Cart Ordinance

Brian Greene, Police Chief

8. OTHER BUSINESS

8a O-15-24 Consideration of Request to amend Title XIII: General Offenses: Chapter 130: 130.09 Urban Camping and Improper Use of Public and Private Places

Brian Greene, Police Chief

8b Manager's Activity Report/Update

NEWS MEDIA

ADJOURNMENT

REGULAR MEETING – June 27, 2024

The Lincolnton City Council met in Regular Session on Thursday, June 27th, 2024 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton, NC.

Upon calling the meeting to order, Mayor Ed Hatley asked those in attendance to stand for a moment of silence and the pledge of allegiance. The following Council members were present and accounted for:

DEMENY TIPTON

Note: Both Councilmember Christine Poinsette and Councilmember Roby Jetton were absent.

Councilmember Jill Tipton made a motion to approve the Regular Agenda. Members voted 2-0 in favor of the motion.

Councilmember Kevin Demeny made a motion to approve items listed under the *CONSENT AGENDA* as follows:

- Minutes from the June 6, 2024 Regular Meeting
- Lincoln County Tax Department – Request for Releases May 16, 2024 – June 15, 2024

Members voted 2-0 in favor of the motion.

PUBLIC COMMENT

Mr. Trent Mason, 207 Mockingbird Lane, Lincolnton, spoke during the Public Comment portion of the meeting. Mr. Mason congratulated the Lincolnton Fire Dept. for winning Best In Show for “Hulley”, and expressed his thanks to council for the various events that are hosted for the residents. He also acknowledged the passing of Mr. Wayne Howard and noted the display setup in Council Chambers. In conclusion, Mr. Mason spoke to the recent meeting of the Young Adult Steering Committee. He invited members to provide suggestions to the group as they enter the beginning stages of planning the next event.

REGULAR AGENDA:

O-07-24

Capital Project Budget Ordinance – Water AIA-W-ARP-0243

Pamela McBryde, Finance Director, presented the following capital project budget ordinance to council for consideration and approval. Ms. McBryde explained that having capital project budget ordinance documentation in place is a requirement for the AIA grant. The ordinance is as follows:

Capital Project Budget Ordinance

BE IT ORDAINED by the Councilmembers of the City of Lincolnton, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the Asset Inventory and Assessment (AIA) study **Water Project No. AIA-W-ARP-0243**, to be financed by a State Fiscal Recovery Funds (ARP) Grant.

Section 2. The officers of the City of Lincolnton are hereby directed to proceed with the capital project within the terms of the funding program requirements and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Account Description	Account Code	Amount
Project Management/Admin	50-7100-50000	\$15,000
Distribution Line Evaluation	50-7100-50000	55,000
CIP Update	50-7100-50000	15,000
Asset Management Plan	50-7100-50000	15,000
Total		<u>\$100,000</u>

Section 4. The following revenues are anticipated to be available to complete this project:

Revenue Description	Account Code	Amount
State Fiscal Recovery Funds (ARP) Grant	50-3302-00505	\$100,000
Total		<u>\$100,000</u>

Section 5. The Treasurer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the funding agency, the funding agreements, and federal regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the funding agency in an orderly and timely manner.

Section 7. The Treasurer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total revenues received or claimed.

Section 8. The Treasurer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 9. Copies of this capital project budget ordinance shall be furnished to the Secretary to the Board, and to the Treasurer for direction in carrying out this project.

Adopted this ____ day of _____, 2024 at Lincolnton, North Carolina.

With no questions from questions from members, Councilmember Kevin Demeny made a motion to approve the budget ordinance. Members voted 2-0 in favor of the motion.

O-08-24

Capital Project Budget Ordinance – Wastewater AIA-W-ARP-0242

Finance Director Pamela McBryde presented a capital project budget ordinance for the Wastewater AIA grant. Ms. McBryde explained that, just like for the water, this ordinance is required documentation and is needed to finalize the grant. The project budget ordinance is as follows:

Capital Project Budget Ordinance

BE IT ORDAINED by the Councilmembers of the City of Lincolnton, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the Asset Inventory and Assessment (AIA) study **Wastewater Project No. AIA-W-ARP-0242**, to be financed by a State Fiscal Recovery Funds (ARP) Grant.

Section 2. The officers of the City of Lincolnton are hereby directed to proceed with the capital project within the terms of the funding program requirements and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Account Description	Account Code	Amount
Project Management/Admin	50-7120-50000	\$ 25,000
Mobilization/Demobilization	50-7120-50000	1,500
Manhole Inspections	50-7120-50000	33,500
CCTV Inspections	50-7120-50000	155,250
CCTV Inspections-COL	61-7120-59600	60,000
CIP Update	50-7120-50000	20,000
Asset Management Plan	50-7120-50000	20,000
WWTP Assessment	50-7120-50000	44,750
Total		<u>\$360,000</u>

Section 4. The following revenues are anticipated to be available to complete this project:

Revenue Description	Account Code	Amount
City of Lincolnton for Additional CCTV	61-3832-00000	\$ 60,000
State Fiscal Recovery Funds (ARP) Grant	50-3302-00504	300,000
Total		<u>\$360,000</u>

Section 5. The Treasurer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the funding agency, the funding agreements, and federal regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the funding agency in an orderly and timely manner.

Section 7. The Treasurer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total revenues received or claimed.

Section 8. The Treasurer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Councilmember Jill Tipton made a motion to approve the budget ordinance as presented. Members voted 2-0 in favor of the motion.

BA-04-24
Budget Amendment – Fiscal Year End

Finance Director Pamela McBryde informed members that the budget amendment being presented will be the last amendment for fiscal year 23-24. The budget amendment was presented as follows:

BE IT ORDAINED by the Governing Board of the City of Lincolnton, North Carolina, that the following amendment be made to the Annual Budget Ordinance for the fiscal year ending June 30, 2024.

Section 1: To amend the General Fund, the expenditures are to be changes as follows:

General Expense	\$	1,702,126
Police		235
Fire		2,375
Solid Waste		675
Planning/Zoning		2,435
Bus & Comm. Dev		202
Recreation		9,773
	\$	<u>1,717,820</u>

Section 2: To amend the General Fund, the revenues are to be changed as follows:

General: Ad Valorem Levy	\$	82,541
General: Lease/Rental Vehicle Tax		2,129
General: Franchise Tax		70,218
SW: Rollout Fees		675
General: Cemetery Lot Sales		300
PD: Inspection Fees		200
PD: Sidewalk Café Permit		35
P&Z: Zoning Department Fees		2,435
FD: Inspection Fees		2,375
Rec: Admission & Concession		2,464
Rec: Registration & Entry Fees		6,874
Rec: Rental Fees		436
BC&D: Event Fees		202
General: Interest		56,567
General: Misc. Rev-Contributed Property		1,416,191
General: Sale of Capital Assets		2,342
General: Insurance Settlement		300
General: WEX-Fuel Rebates		497
General: Federal Equitable Deposits		0
Loan Proceeds		71,041

REGULAR MEETING – June 27, 2024

\$	1,717,820
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General Fund: Various tax/fee revenues (recurring), Franchise tax, Interest income, Insurance settlement-S. Cedar/E Water Street, GASB 96-SBITAS, Asset sales @ PSC bldg, & Contributed Property - transfer of ownership with Lincoln County: Oaklawn, W Church St, W Water St.

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

Boger Ciy Fire Tax	\$	1,270
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Section 4: To amend the Boger City Fire District Fund, the revenues are to be changed as follows:

Investment Income	\$	1,270
	\$	1,270

Boger City Fire District: Record interest income earned.

Section 5: To amend the Powell Bill Fund, the expenditures are to be changes as follows:

Powell Bill Construction/Other	\$	2,180
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Section 6: To amend the Powell Bill Fund, the revenues are to be changed as follows:

Investment Income	\$	2,180
	\$	2,180

Powell Bill Fund: Record interest income earned.

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

Distribution and Collection	\$	225,764
Wastewater Treatment Plant		36,880
	\$	262,644

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

Investment Income	\$	35,613
Connection Charges		13,650
Other Operating Revenues		13,381
Fund Balance Appropriated		200,000
	\$	262,644

Water and Sewer Fund: Record interest income earned, water and sewer connection charges, default fees, and Fund balance appropriation for PY Capital Projects completed in FY2324: Clarks Creek Rebuild Upgrade (2022-011); S Cedar Street Sewer Line (2023-027) & E Pine Street Sewer Line (2023-028).

Section 9: To amend the Electric Fund, the expenditures are to be changes as follows:

Electric Operations	\$	64,565
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Section 10: To amend the Electric Fund, the revenues are to be changed as follows:

REGULAR MEETING – June 27, 2024

Investment Income	\$	26,175
Other Operating Revenue		16,774
Loan Proceeds-Interest		21,616
	\$	64,565

Electric Fund: Record interest income earned, Default fees, Security light charges, Rental fees, "Due to Other Funds" interest [GF to Electric] and Insurance settlement-S. Cedar/E Water Street.

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

AIA Grants-Water-D-ARP-0243	\$	11,902
	\$	11,902

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

AIA Grants-Water-D-ARP-0243	\$	11,902
	\$	11,902

Special Revenue Fund: Record NCDEQ-AIA Grant Reimbursements for Water.

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.

Section 18: 2023-2024 Year-end budget adjustments and authorization to make amendments that may result from adjustments made by auditors to entries, with a report being made to Council at the next scheduled meeting.

TOTAL AMENDMENT	\$	2,060,381
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Adopted this 27h day of June, 2024

Finance Director Pamela McBryde she reviewed the amendment by fund and spoke to the reason for the request in each fund. Ms. McBryde also reported and updated council on the surplus currently in the General Fund, Powell Bill Fund and the Electric Fund.

Councilmember Kevin Demeny made a motion to approve the budget amendment as presented. Members voted 2-0 in favor of the motion.

C-14-24

**Consideration and Approval of Contract and Fee for Preconstruction
Scope of Services from Edifice Const. for New Public Service Center**

Mr. David Ramsey, Business Services Director, appeared before council to request approval of the contract with Edifice to be the Construction Manager at Risk. Mr. Ramsey stated that the contract will include everything up to the construction phase of the project. City Manager Ritchie Haynes commented and expressed his opinion on how this relationship has already benefited and will continue to benefit the city, as well as, save money on this project.

With there being no questions, Councilmember Jill Tipton made a motion to approve the contract. Members voted 2-0 in favor of the motion.

C-15-24

Placer AI Order Form

City Manager Ritchie Haynes presented a contract with Placer AI for approval. Mr. Haynes explained that Placer AI is a company that was previously approved to conduct the Geo fencing for the City. He explained and spoke to the various other services they offer and provide. He also informed of his wishes to have the upcoming July 4th event geo fenced.

Councilmember Kevin Demeny made a motion to approve the contract presented. Members voted 2-0 in favor of the motion.

OTHER BUSINESS

Under other business, City Manager Ritchie Hayne presented an agreement for professional services regarding a class action lawsuit in reference to the forever chemical PFAS. Mr. Haynes gave some background information on this case and provided council with information on what the next steps would be. He explained his recommendation for Council to direct the City Attorney to review the contract, and if comfortable with it, direct the City Manager to proceed with entering into the contract. City Attorney explained the organizations involved and how the contracts are set up. He also spoke to the terms and conditions of the contract, and voiced his recommendations regarding this agreement. Some discussion was generated around the topic and how things actually came about. City Attorney John Friguglietti confirmed his

REGULAR MEETING – June 27, 2024

recommendation that the City proceed to the next steps in being a part of the lawsuit, stressing that nothing is paid up front as this is contingency based. City Manager Ritchie Haynes further educated members on what this class action suit came about and what it entails.

Councilmember Kevin Demeny made a motion to proceed with the possible litigation as outlined. Members voted 2-0 in favor of the motion
(Councilmember Demeny recommended that Attorney be tasked with checking it out and if it's good send it to the City Manager and go ahead and sign on)

NEWS MEDIA:

None present

ADJOURNMENT:

With no further business, Councilmember Demeny made a motion to adjourn the meeting. Members voted 2-0 in favor of the motion.

DAPHNE INGRAM, CMC
CITY CLERK

ED HATLEY
MAYOR

LINCOLN COUNTY
TAX DEPARTMENT

REQUEST FOR RELEASES

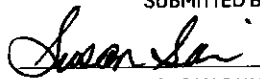
1

CITY OVER \$100

PERIOD COVERED
June 16, 2024 through July 15, 2024

<u>NAME</u>	<u>YEAR</u>	<u>DISTRICT</u>	<u>A/C NUMBER</u>	<u>AMOUNT</u>	<u>REASON</u>
HOMESTEAD EVENTS LLC	2024	22	0289907	\$12,625.20	CORRECT HISTORIC
NSC BEHAVIORAL CONCEPTS LLC	2024	22	0263412	\$287.80	DISSOLVED 2/2023
SOMERS LAWN CARE & LANDSCAPE	2024	22	0298394	\$137.38	CORRECTED SITUS
TOTAL				\$13,050.38	

SUBMITTED BY:

 DATE: 7-19-24
SUSAN SAIN TAX ADMINISTRATOR

APPROVED BY:

RICHARD HAYNES CITY MANAGER

Lincoln County Tax Department
100 East Main St
Lincolnton NC 28092

REQUEST FOR RELEASES

1

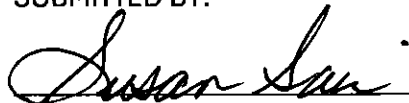
PERIOD COVERED
June 16, 2024 through July 15, 2024

City Releases under \$100.00

NAME	YEAR	DISTRICT	A/C NUMB	AMOUNT	REASON
BLASINI GUTIERREZ LUIS DAVID	2024	22	0304622	\$48.73	ONE MONTH GAP BILL
BOLLINGER SANDRA ABERNATHY	2024	22	0162031	\$3.08	ONE MONTH GAP BILL
BOSTIC LULA MAE	2024	22	0304148	\$38.00	CORRECT FIRE DIS
BROWN BILLY JOE JR	2024	22	48044	\$10.54	ONE MONTH GAP BILL
HOLLAND TIMOTHY ANDREW	2024	22	0304573	\$4.03	ONE MONTH GAP BILL
RATHBONE DALTON LEE	2024	22	0236491	\$6.27	ONE MONTH GAP BILL
STROUP MICHAEL ANDREW	2024	22	0075262	\$9.31	ONE MONTH GAP BILL
WHIDDEN LISA JEANNINE	2024	22	0304250	\$80.22	LISTED IN GASTON COUNTY
WILSON SCOTTIE EVERETT	2024	22	0304110	\$2.68	LISTED IN CATAWBA COUNTY
WOODS RITA CAROL	2024	22	0304618	\$10.12	ONE MONTH GAP BILL

Total \$212.98

SUBMITTED BY:



SUSAN SAIN

DATE: 7-19-24
TAX ADMINISTRATOR

APPROVED BY:

DATE: _____
RICHARD HAYNES CITY MANAGER



LINCOLNTON
AGENDA ITEM SUMMARY

To: The Honorable Mayor and City Council
Date: August 1, 2024
From: Ritchie Haynes, City Manager
Subject: Ordinance Amendment - Request to Change Speed Limit on Water Street from East Side of Court Square to North Flint Street and Sycamore Street from East Side of Court Square to North Flint S. to 22 mph

Summary:

Consideration of amendment to the City's Code of Ordinances Traffic Schedule - Schedule VII changing the speed limit on city maintained streets from 25 mph to 22 mph to bring awareness to the 22 veterans who commit suicide each day.

Background:

Mr. Chris Duschel, accompanied by a number of local veterans, submitted a request to City Council at the June 6th City Council Meeting, to change the speed limit from 25 mph to 22 mph on both Water Street and Sycamore Street from the court square to Flint Street as a way to increase awareness of the 22 U.S. veterans, on average, who commit suicide each day. City Manager Ritchie Haynes recommended that a public hearing be scheduled, after which, action can be taken at this August 1st meeting.

Fiscal Impact:

None

Recommendation:

Approve Request to Amend Ordinance

Attachments:

1. O-09-24 - Speed Limit Change 22 mph

CITY COUNCIL

Ed L. Hatley, Mayor
Christine Poinsette, Mayor Pro-Tem
Kevin Demeny
Jill Tipton
Roby Jetton



CITY MANAGER

Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
Daphne Ingram
[dingram@lincolntonnc.org](mailto:d Ingram@lincolntonnc.org)
CITY ATTORNEY
John M. Friguglietti, Jr.

O-09-24
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINCOLNTON TO AMEND
THE CODE OF ORDINANCES AS FOLLOWS:

Chapter 74 TRAFFIC SCHEDULES

SCHEDULE VII: SPEED LIMITS ON CITY MAINTAINED STREETS

CHANGE: Water Street from South Grove St. to west side of Court Square	25 mph
Water Street from east side of Court Square to North Flint	22 mph
Sycamore Street from North Grove St. to west side of Court Square	25mph
Sycamore Street from east side of Court Square to North Flint St.	22 mph

This ordinance shall become effective upon adoption. This the 1st day of August 2024.

DAPHNE INGRAM
CITY CLERK

ED HATLEY
MAYOR



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Public Hearing Staff Analysis
CZ-2-2022A

Piedmont Companies

North Generals Blvd, Parcel IDs 80962 and 52992

SUMMARY

Background: The subject property is 5.87 acres in size and is located on the west side of N. Generals Boulevard directly across from the intersection of Timken Drive and North Generals Blvd. (Parcel IDs 80962 and 52992).

On June 2, 2022, City Council approved a conditional rezoning to Planned Residential Development to allow for 52 townhomes.

Proposed Changes:

- Reduced number of units
- Reduced front set back
- Reconfiguration of layout



STREET VIEWS







Aerial showing power line right of way

15891

80962

NORTH GENER

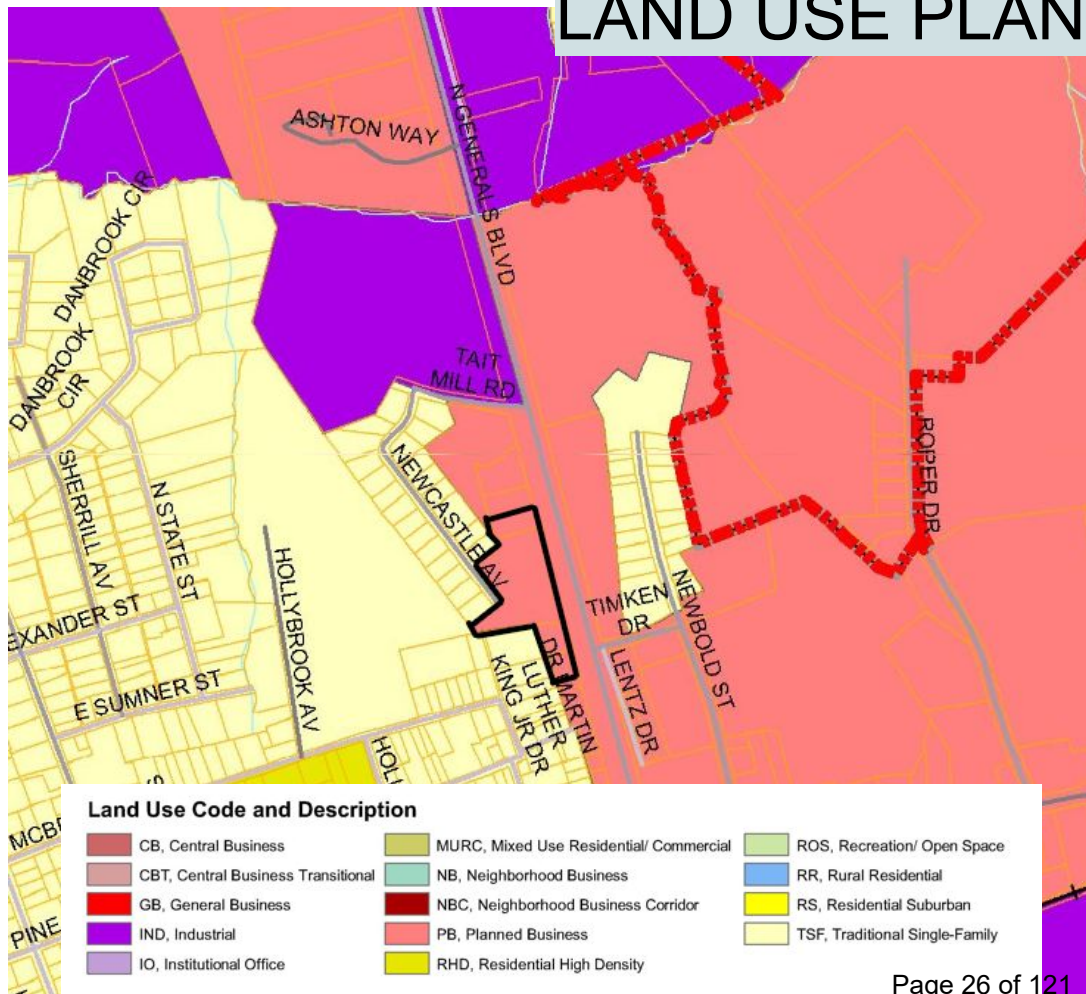




LAND USE PLAN COMPLIANCE

The Land Use Plan shows the property in the Planned Business area. Planned Business areas are designed to be the City's destination shopping areas and encompass most larger shopping centers and commercial areas along the City's major corridors. Mixed-use residential/commercial developments are strongly encouraged. Additionally, well-designed residential development interspersed along N. Generals Boulevard will create pockets of mixed use development, break up long strips of commercial development and help to reduce automobile dependency.

Staff views the request as consistent with the Land Use Plan.



STAFF COMMENTS /CONDITIONS OF APPROVAL

****All Conditions of Approval from CZ-4-2022 will apply in addition to the following comments:**

Planning Department - All boundaries and setbacks need to be shown on plan. Show distance between buildings (25' required per PRD).

City Water/Sewer - When moving the sewer line, a bypass will need to be installed. Sewer has to remain in use while under construction.

Soil and Erosion - All slopes will need to be benched according to state standards or retaining walls installed.

NCDOT - No issues with reduction of front setback.

**Staff's Proposed Statement of Consistency
and Reasonableness
for **APPROVAL** of Application***

Case No. CZ-4-2022A
Applicant: Piedmont Companies
Parcel ID#: 52992 and 80962
Location: N. Generals Blvd.
Request: Amend previously approved site plan

Proposed Consistency and Reasonableness Statement:

Planned Business areas are designed to be the City's destination shopping areas and encompass most larger shopping centers and commercial areas along the City's major corridors. Mixed-use residential/commercial developments are strongly encouraged. Additionally, well-designed residential development interspersed along N. Generals Boulevard will create pockets of mixed use development, break up long strips of commercial development and help to reduce automobile dependency. The amendment to the site plan would not change the consistency and reasonableness.

Staff views the request as consistent with the Land Use Plan.

Therefore, **approval of the proposed amendment is reasonable and in the public interest.**

STATEMENTS

**Staff's Proposed Statement of Consistency and
Reasonableness
for **DENIAL** of Application***

Case No. CZ-4-2022A
Applicant: Piedmont Companies
Parcel ID#: 52992 and 80962
Location: N. Generals Blvd.
Request: Amend previously approved site plan

Proposed Consistency and Reasonableness Statement:

The proposed rezoning request is viewed as consistent with the Lincolnton Land Use Plan. However, the proposed residential use is not viewed as desirable in this commercial area. It would be preferable to continue with commercial type used in the area. Therefore, denial of the proposed amendment is reasonable and in the public interest.

**This is an amendment to the site plan, these are the statements that were used for the original conditional zoning case*

PLANNING BOARD RECOMMENDATIONS

Planning Board recommends the following action:

1. Recommend approval of amending the site plan as presented
2. Approval of the statement of consistency for approval of the amended plan
3. Zoning be effective upon receipt of signed conditions of approval

MOTION

For approval of the request:

- Motion to approve as recommended by Planning Board

For denial of the request:

- Motion to deny request for amendment
- Motion to approve the statement of consistency for denial of request



Lincolnton NC

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Public Hearing Staff Analysis
CZ-3-2024A

Lincoln Meadows Phase II

Parcel IDS 17645, 01047 and a portion of 01049

Background:

The applicant is requesting to amend the site plan for CZ-3-2024, Lincoln Meadows Phase II, originally approved on March 7, 2024. The original application from Olga R. Epple requested a conditional district rezoning of approximately 71.20 acres of land from R-8, R-15, and RMF to Planned Residential District (PRD) to develop a residential community consisting of 80 single-family detached dwellings and 107 townhomes. The subject property is located along Wilma Sigmon Rd, Mull Rd, U.S. Highway 321, and the end of Mallory Tai Drive (adjacent to Lincoln Meadows Subdivision). (Parcel ID 01047, 17645, and a portion of 01049).

Proposed Changes:

The amendment is to allow an adjustment of the proposed boundary line along the portion of the parcel that is zoned N-B (Neighborhood Business). The portion no longer in N-B (Neighborhood Business) would then be rezoned to be included in the Planned Residential District PRD.



STREET VIEWS

View from Mallory Tai Drive



STREET VIEWS

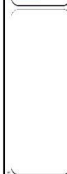
View from Mull Road



View from Wilma Sigmon Road



SEI
2005, 2006, 2007, 2008, 2009
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OVERALL SITE PLAN

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Know what's below.
Call before you dig.



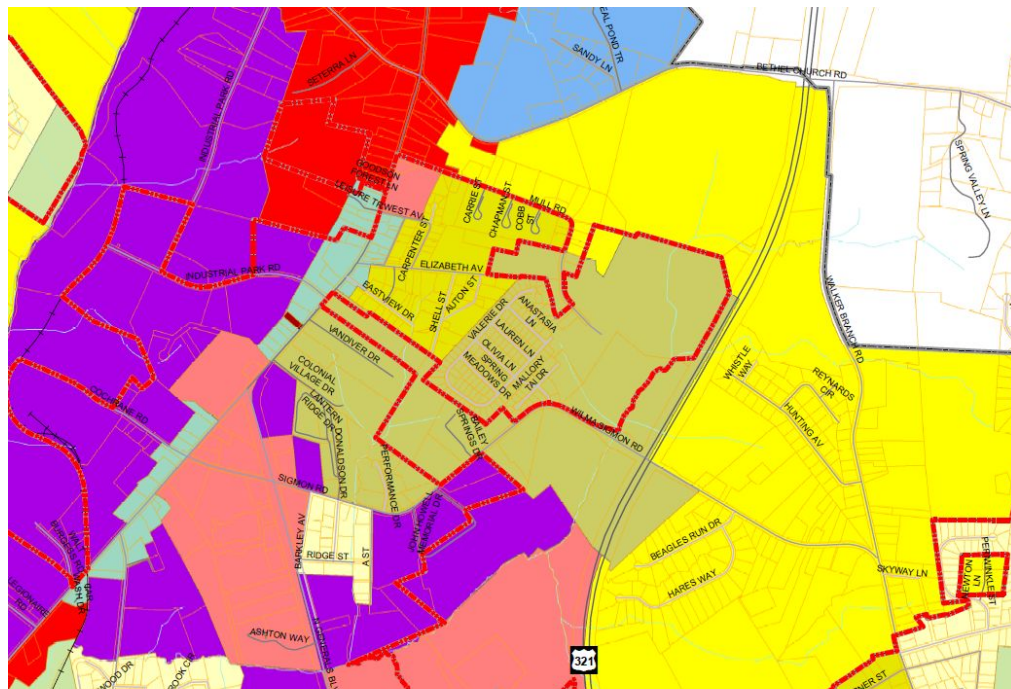
LAND USE PLAN COMPLIANCE

The land use plan shows the property in the mostly in the Neighborhood Business area with a portion in Mixed-Use Residential/Commercial Planning Area.

Mixed-Use Residential/Commercial These are planning areas in select, older portions of the City where true "urban villages" consisting of high-density residential uses (both single- and multi-family) and associated small-scale and pedestrian-oriented offices and retail uses may be located. The thrust behind these planning areas is to create areas in which persons are able to both live, work and shop. They are designed to emulate development patterns from the early and mid portions of the twentieth century when reliance on the automobile was not paramount. In order for such a concept to be feasible, an area of significant size must be so designated thus ensuring that there will be ample room for the variety of uses needed to create a "village."

Staff views this project as consistent with the Land Use Plan.

LAND USE PLAN



Land Use Code and Description

CB, Central Business	MURC, Mixed Use Residential/ Commercial	ROS, Recreation/ Open Space
CBT, Central Business Transitional	NB, Neighborhood Business	RR, Rural Residential
GB, General Business	NBC, Neighborhood Business Corridor	RS, Residential Suburban
IND, Industrial	PB, Planned Business	TSF, Traditional Single-Family
IO, Institutional Office	RHD, Residential High Density	

STAFF COMMENTS /CONDITIONS OF APPROVAL

****All Conditions of Approval from CZ-3-2024 will apply in addition to the following comment:**

Planning Department - If the amendment is approved, a subdivision plat to reconfigure the property line will need to be submitted as well as recording new deeds to show the new property boundaries.

**Staff's Proposed Statement of Consistency
and Reasonableness
for **APPROVAL** of Application***

Case No. CZ-3-2024
Applicant: Olga Epple
Parcel ID#: 17645, 01047 and a portion of 01049
Location: Wilma Sigmon Road, Mull Road and Hwy 321
Request: Rezone from R-8, R-15 and RMF to PRD

Proposed Consistency and Reasonableness Statement:

The Lincolnton Land Use Plan designates this property as part of the Mixed Use Residential/Commercial. The proposed rezoning request **is consistent** with the Lincolnton Land Use Plan. The proposed development is consistent and reasonable with the Land Use Plan in the following ways:

- The site has access to city utilities with available capacity.
- Additional home ownership opportunities are provided.
- Additional housing type choices are provided.
- Additional lot sizes are provided.

Therefore, **approval of the proposed amendment is reasonable and in the public interest.**

**Staff's Proposed Statement of Consistency and
Reasonableness
for **DENIAL** of Application***

Case No. CZ-3-2024
Applicant: Olga Epple
Parcel ID#: 17645, 01047 and a portion of 01049
Location: Wilma Sigmon Road, Mull Road and Hwy 321
Request: Rezone from R-8, R-15 and RMF to PRD

Proposed Consistency and Reasonableness Statement:

The Lincolnton Land Use Plan designates this property as part of the Mixed Use Residential/Commercial. The proposed rezoning request **is consistent** with the Lincolnton Land Use Plan. Additionally, the proposed use is not viewed as desirable in the area, and therefore, **denial of the proposed amendment is reasonable and in the public interest.**

**This is an amendment to the site plan, these are the statements that were used for the original conditional zoning case*

PLANNING BOARD RECOMMENDATIONS

Planning Board recommends the following action:

1. Recommend approval of amending the site plan as presented
2. Approval of the statement of consistency for approval of the amended plan
3. Zoning be effective upon receipt of signed conditions of approval

MOTION

For approval of the request:

- Motion to approve as recommended by Planning Board

For denial of the request:

- Motion to deny request for amendment
- Motion to approve the statement of consistency for denial of request

MEMO TO: Mayor and City Council

FROM: Planning Staff

SUBJECT: ZTA-5-2024 - Zoning Text Amendments to Chapter 153 Unified Development Ordinance

DATE: August 1, 2024

Background

The Department of Environmental Quality has updated the Water Supply Watershed Ordinance for the State of North Carolina. The adoption of this ordinance will allow our UDO to reflect the most recent version.

**Zoning Amendment
Staff's Proposed Statement of Consistency
for **APPROVAL** of Application**

Case No. ZTA-5-2024

Applicant: City of Lincolnton Planning Department

Request: ZTA-5-2024 - Zoning Text Amendments to Chapter 153 Unified Development Ordinance

Proposed Consistency and Reasonableness Statement:

This amendment is consistent because it updates text language to match current state regulations.

The proposed amendment is **consistent** with the adopted Lincolnton Land Use Plan in that it is not contrary to the goals and objectives outlined by the Plan and **approval of the amendment is reasonable and in the public interest.**

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ARTICLE 100: DEFINITIONS

Section 101. General Definitions.

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

Balance of Watershed (BW). The area adjoining and upstream of the critical area in a WS-II and WS-III water supply watershed. The "balance of watershed" is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where a water supply intake is located.

Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Built-upon area. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious (does not allow water to infiltrate from surface to subsurface) cover including buildings, pavement, gravel areas (e.g.

roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Cluster Development. Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed use development are considered as cluster development.

Common Plan of Development – site where multiple separate and distinct development activities may be taking place at different times or different schedules but governed by a single development plan regardless of ownership of parcels.

Critical Area. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Customary Home Occupations. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one or more persons.

Existing Development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (1) substantial expenditures of resources (time, labor, money) based on a

good faith reliance upon having received a valid local government approval to proceed with the project, or

- (2) having an outstanding valid building permit as authorized by the General Statutes (160D-102), or
- (3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 160D-102).

Existing Lot (Lot of Record). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

Family Subdivision. Family subdivision means a division of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Major Variance. A variance that is not a Minor Variance as defined in this ordinance.

Minor Variance. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low density option. For variances to a vegetated setback requirement, the percent variation

shall be calculated using the foot print of the built-upon area proposed to encroach with the vegetated setback divided by the total area of the vegetated setback within the project.

Nonconforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

Non-residential Development. All development other than residential development, agriculture, and silviculture.

Plat. A map or plan of a parcel of land which is to be, or has been subdivided.

Protected Area. The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

Qualified Individual. A person certified to perform stream determinations by completing and passing the Surface Water Identification Training and Certification (SWITC) course offered by the N.C. Div. of Water Resources at N.C. State University.

Residential Development. Buildings for residences such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc., and customary home occupations.

Residuals. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility is permitted under the authority of the Environmental Management Commission.

Single Family Residential. Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

Stormwater Control Measure (SCM). means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

Street (Road). A right-of-way for vehicular traffic which affords the principal means of

access to abutting properties.

Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having a permanent location on the land.

Subdivider. Any person, firm corporation, or official who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the this ordinance;
- (5) The division of a tract into plots or lots used as a cemetery.
- (6) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Surface Waters: All waters of the State as defined in NCGS 143-212 except underground waters.

Toxic Substance. Any substance or combination of substances (including disease-causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such

organisms or their offspring or other adverse health effects.

Variance. A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

Vested Right – The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan. Refer to the North Carolina General Statutes Section 160D- 108 for more information.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purposes, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.) or alternatively, the geographic region within which water drains to a particular river, stream, or body of water.

Watershed Administrator. An official or designated person of the City of Lincolnton responsible for administration and enforcement of this ordinance.

Section 102. Word Interpretation.

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

The word "lot" shall include the words, "plot," "parcel," or "tract."

The word "shall" is always mandatory and not merely directory.

The word "will" is always mandatory and not merely directory.

ARTICLE 200: AUTHORITY AND GENERAL REGULATIONS

Section 201. Authority and Enactment.

The Legislature of the State of North Carolina has, in Chapter 160A, Article 8, Section 174, General Ordinance Making Power; and in Chapter 143, Article 21, Water and Air Resources, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. In addition, GS 160D-926 refers specifically to water supply watershed management. The Governing Board of City of Lincolnton hereby ordains and enacts into law the following articles as the Water Supply Watershed Protection Ordinance of City of Lincolnton.¹

Section 202. Jurisdiction.

The provisions of this Ordinance shall apply within the areas designated as a Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on a water supply watershed protection map of City of Lincolnton, North Carolina which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the City of Lincolnton.²

Section 203. Exceptions to Applicability.

(A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of the City of Lincolnton; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the City of Lincolnton at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(C) Existing Development, as defined in this ordinance, is not subject to the requirements of this ordinance.

(D) Expansions to existing development must meet the requirements of this ordinance, except single-family residential development unless the expansion is part of common plan of development. In an expansion, the built-upon area of the existing development

is not required to be included in the density calculations. Where there is a net increase of built-upon area, only the area of net increase is subject to this ordinance. Where existing development is being replaced with new built-upon area, and there is a net increase of built-upon area, only areas of the net increase shall be subject to this ordinance.

(E) If a Non-Conforming Lot of Record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. Local governments may require the combination of contiguous nonconforming lots of record owned by the same party to establish a lot or lots that meet requirements in Article 300 of this ordinance.

(F) Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. If a local government does not enforce subdivision regulations, then that local government may or may not allow the exemption for family subdivisions.

(G) Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.³

Section 204. Repeal of Existing Watershed Ordinance. (Optional)

This ordinance in part carries forward by re-enactment, some of the **Watershed Ordinance of the City of Lincolnton, North Carolina** (adopted by the Lincolnton City Council on August 1, 2024), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Watershed Ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this ordinance, but shall be prosecuted to their finality the same as if this ordinance had not been adopted; and any and all violations of the existing Watershed Protection Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

Section 205. Criminal Penalties. .⁴

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues

shall constitute a separate offense.

Section 206. Remedies.

(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the City of Lincolnton Governing Board may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100.00 per day, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.

(B) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

Section 207. Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 208. Effective Date.

This Ordinance shall take effect on August 1, 2024.⁴

ARTICLE 300: SUBDIVISION REGULATIONS.

Section 301. General Provisions.

(A) No subdivision plat of land within the Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Article. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would conflict with this Article.

(B) The approval of a plat does not constitute or effect the acceptance by the City of Lincolnton or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.

(C) All subdivisions shall conform with the mapping requirements contained in G.S.47-30.

(D) All subdivisions of land within the jurisdiction of the City of Lincolnton] after the effective date of this ordinance shall require a plat to be prepared, approved, and recorded pursuant to this ordinance.⁵

Section 302. Subdivision Application and Review Procedures.

(A) All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within the designated Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this ordinance and may be recorded provided the Watershed Administrator initials the vicinity map. Subdivisions within a WS-IV watershed are subject to the provisions of this ordinance only when an erosion and sedimentation plan is required under the provisions of State law or an approved local program unless another stormwater program applies. Local government should always be aware that other post-construction requirements may apply even when water supply watershed protection requirements do not. Subdivisions within the designated watershed area shall comply with the provisions of this Article and all other state and local requirements that may apply.

(B) Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, two (2) copies of the plat, a description of the proposed method of providing storm water drainage, and supporting documentation deemed necessary by the Watershed Administrator or the Watershed Review Board (see appendix A).

(C) The Watershed Administrator shall review the completed application and shall either approve, approve conditionally, or disapprove each application. The Watershed

Administrator shall take final action within forty-five (45) days of submission of the application. The Watershed Administrator or the Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit. Said public agencies may include but are not limited to, the following:

(1) The NCDOT district highway engineer with regard to proposed streets and highways.

(2) The director of the Health Department with regard to the proposed private water systems or sewer systems normally approved by the Health Department.

(3) The state Division of Water Resources with regard to proposed sewer systems normally approved by the Division.

(4) The state Division of Energy, Mineral, and Land Resources with regard to engineered stormwater controls or storm water management in general.

(5) The county for subdivisions located in the Extraterritorial Jurisdiction (ETJ) of a municipality.

(6) Local government entities responsible for proposed sewer and/or water systems

(7) Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

(D) If the Watershed Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Watershed Administrator:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

Date

Watershed Administrator

NOTICE: This property is located within a Water Supply Watershed - development restrictions may apply.

(E) If the Watershed Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and may be entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.

(F) As a condition for approval, all subdivision plats shall comply with the requirements for recording of the County Register of Deeds.

(G) The plat shall be recorded within 21 days of approval. The Subdivider shall provide the Watershed Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days.

Section 303. Subdivision Standards and Required Improvements.

(A) All lots shall provide adequate building space in accordance with the development standards contained in Article 400. Lots smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Article 400.

(B) For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.

(C) Storm Water Drainage Facilities: The application shall be accompanied by a description of the proposed method of providing stormwater drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters, incorporates Stormwater Control Measures to minimize water quality impacts, and meets any local requirements.

(D) Erosion and Sedimentation Control: The application shall, where required, be accompanied by the Sedimentation and Erosion Control Plan approval by the Lincoln County Natural Resources Division or the North Carolina Division of Energy, Mineral, and Land Resources (Where Applicable)

(E) Roads constructed in critical areas and watershed vegetated conveyance areas: Where possible, roads should be located outside of critical areas and watershed vegetated conveyance areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

Section 304. Construction Procedures.

(A) No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved.

(B) No building or other permits shall be issued for the erection of a structure on any lot not on record at the time of adoption of this Ordinance until all requirements of this Ordinance have been met. The subdivider, prior to commencing any work within the

subdivision, shall make arrangements with the Watershed Administrator to provide for adequate inspection.

Section 305. Penalties for Transferring Lots in Unapproved Subdivisions.

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the City of Lincoln, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the register of deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The City of Lincoln may bring an action for an injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

ARTICLE 400: DEVELOPMENT REGULATIONS

Section 401. Establishment of Watershed Areas.

The purpose of this Article is to list and describe the watershed areas herein adopted.

For purposes of this ordinance the City of Lincoln and its one-mile extraterritorial jurisdiction are hereby divided into the following area[s], as appropriate:

WS-IV-CA (Critical Area)
WS-IV-PA (Protected Area)

Section 402. Watershed Areas - Allowed and Not Allowed Uses

Activity/Use	Water Supply Watershed Classification ¹
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	WS -I	WS -II CA	WS- II BW	WS- III CA	WS- III BW	WS- IV CA	WS- IV PA	WS -V
New landfills	No	No	Yes	No	Yes	No	Yes	Yes
New permitted residual land application	No	No	Yes	No	Yes	No	Yes	Yes
New permitted petroleum contaminated soils sites	No	No	Yes	No	Yes	No	Yes	Yes
NPDES General or Individual Stormwater discharges	Yes ^a	Yes	Yes	Yes	Yes	Yes	Yes	Yes
NPDES General Permit Wastewater Discharges pursuant to 15A NCAC 02H .0127	Yes ^a	Yes	Yes	Yes	Yes	Yes	Yes	Yes
NPDES Individual Permit trout farm discharges	Yes ^a	Yes	Yes	Yes	Yes	Yes	Yes	Yes
New NPDES Individual Permit domestic treated wastewater discharge	No	No	No	No	Yes	Yes	Yes	Yes
New NPDES Individual Permit industrial treated wastewater discharge	No	No	No	No ^b	No ^b	Yes	Yes	Yes
Non-process industrial waste	No	No	No	Yes	Yes	Yes	Yes	Yes
New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0904	No	No	No	No	No	Yes	Yes	Yes
Sewage	No	No ^c	No ^c	No ^c	No ^c	No ^c	No ^c	Yes ^d
Industrial Waste	No	No ^c	No ^c	No ^c	No ^c	No ^c	No ^c	Yes ^d
Other wastes	No	No ^c	No ^c	No ^c	No ^c	No ^c	No ^c	Yes ^d
Groundwater remediation project discharges ^e	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Agriculture ^f	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Silviculture ^g	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Residential Development ^h	No ^j	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-residential Development ^{hi}	No ^j	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Nonpoint Source Pollution ^k	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Animal Operations ^l	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Notes:

^a Permitted pursuant to 15A NCAC 02B .0104

^b Except non-process industrial discharges are allowed

^c Only allowed if specified in 15A NCAC 02B .0104

^d Not allowed if activity(ies) has/have an adverse impact on human health

^e Where no other practical alternative exists

^f In WS-I watersheds and Critical Areas of WS-II, WS-III, and WS-IV watersheds, agricultural activities conducted after 1/1/1993 shall maintain a minimum 10 foot vegetated setback or equivalent control as determined by SWCC along all perennial waters indicated on the most recent version of USGS 1:24000 scale (7.5 minute) topographic maps or as determined by local government studies

^g Subject to Forest Practice Guidelines Related to Water Quality (02 NCAC 60C .0100 to .0209) Effective 4/1/2018

^h See density requirements in 15A NCAC 02B .0624

ⁱ See different allowed and not allowed in this table

^j See the following WS-I note

^k NPS pollution shall not have an adverse impact, as defined in 15A NCAC 02H .1002, on use as water supply or any other designated use

^l Deemed permitted, as defined in 15A NCAC 02T .0103 and permitted under 15A NCAC 2H .0217

Section 403. Watershed Areas – Density and Built-Up Limits.

(A) PROJECT DENSITY. The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development:

Water Supply Classification	Location in the Watershed	Maximum Allowable Project Density or Minimum Lot Size		
		Low Density Development (a)		High Density Development (a)
		Single-family detached residential	Non-residential and all other residential	All types
WS-I	Not Applicable: Watershed shall remain undeveloped except for the following uses when they cannot be avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment, and distribution of the WS-I water. Built-upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.			

WS-II	Critical Area	1 dwelling unit (du) per 2 acres or 1 du per 80,000 square foot lot excluding roadway right-of-way or 6% built-upon area	6% built-upon area	6 to 24% built-upon area
	Balance of Watershed	1 du per 1 acre or 1 du per 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area
WS-III	Critical Area	1 du per 1 acre or 1 du per 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area
	Balance of Watershed	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
WS-IV	Critical Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
	Protected Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding	24% built-upon area; or 36% built-upon area	24 to 70% built-upon area

		roadway right-of-way or 24% built-upon; or 3 dus per acre or 36% built-upon area without curb and gutter street system	without curb and gutter street system	
WS-V	Not Applicable			

(a) 2021-House Bill 218 – NCGS 143-214.5 (d3)

Local government must allow applicant to exceed allowable density if all of the following apply:

- (1) The property was developed prior to the effective date of the local water supply watershed program.
- (2) The property has not been combined with additional lots after January 1, 2021.
- (3) The property has not been a participant in a density averaging transaction under subsection (d2) of this section.
- (4) The current use of the property is nonresidential.
- (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- (6) The remaining vegetated buffers on the property are preserved in accordance with the local water supply watershed protection program requirements

(B) CALCULATION OF PROJECT DENSITY. The following requirements shall apply to the calculation of project density:

- (1) Project density shall be calculated as the total built-upon area divided by the total project area;
- (2) A project with "existing development," as that term is defined in 15A NCAC 02B .0621, may use the calculation method in Sub-Item (1) of this Item or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area.
- (3) Expansions to existing development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule 15A NCAC 02B .0622 (1)(d).

- (4) Where there is a net increase of built-upon area, only the area of net increase shall be subject to 15A NCAC 02B .0624.
- (5) Where existing development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to 15A NCAC 02B .0624;
- (6) Total project area shall exclude the following:
 - (a) areas below the Normal High Water Line (NHWL); and
 - (b) areas defined as "coastal wetlands" pursuant to 15A NCAC 07H .0205, herein incorporated by reference, including subsequent amendments and editions, and available at no cost at <http://reports.oah.state.nc.us/ncac.asp>, as measured landward from the NHWL; and
- (7) Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low-density areas based on one or more of the following criteria:
 - (a) natural drainage area boundaries;
 - (b) variations in land use throughout the project; or
 - (c) construction phasing.

(C) **LOW DENSITY PROJECTS.** In addition to complying with the project density requirements of Item (A) of this Rule, low-density projects shall comply with the following:

- (1) **VEGETATED CONVEYANCES.** Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, the local government shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:
 - (a) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
 - (b) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.
- (2) **CURB OUTLET SYSTEMS.** In lieu of vegetated conveyances, low-density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

- (a) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;
- (b) The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;
- (c) The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;
- (d) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
- (e) The minimum length of the swale or vegetated area shall be 100 feet; and
- (f) Low-density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (a) through (e) of this Sub-Item.

(D) **HIGH DENSITY PROJECTS.** In addition to complying with the project density requirements of Item (A) of this Rule, high-density projects shall comply with the following:

- (1) Stormwater Control Measures (SCMs) shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in 15A NCAC 02B .0621;
- (2) For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
- (3) Stormwater runoff from off-site areas and "existing development," as that term is defined in 15A NCAC 02B .0621, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in the sizing of on-site SCMs;
- (4) SCMs shall meet the relevant MDC set forth in 15A NCAC 02H .1050 through .1062; and
- (5) Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

(E) **OPTIONS FOR IMPLEMENTING PROJECT DENSITY.** Local governments shall have the following options in place of or in addition to the requirements of Item (A) above, as appropriate:

- (1) Local governments may allow only low-density development in their water supply watershed areas in accordance with this Section.
- (2) Local governments may regulate low-density single-family detached residential development using the minimum lot size requirements,

dwelling unit per acre requirements, built-upon area percentages, or some combination of these.

- (3) 10/70 OPTION. Outside of WS-I watersheds and the critical areas of WS-II, WS-III, and WS-IV watersheds, local governments may regulate new development under the "10/70 option" in accordance with the following requirements:
 - (a) A maximum of 10 percent of the land area of a water supply watershed outside of the critical area and within a local government's planning jurisdiction may be developed with new development projects and expansions of existing development of up to 70 percent built-upon area.
 - (b) In water supply watersheds classified on or before August 3, 1992, the beginning amount of acreage available under this option shall be based on a local government's jurisdiction as delineated on July 1, 1993. In water supply watersheds classified after August 3, 1992, the beginning amount of acreage available under this option shall be based on a local government's jurisdiction as delineated on the date the water supply watershed classification became effective. The acreage within the critical area shall not be counted towards the allowable 10/70 option acreage;
 - (c) Projects that are covered under the 10/70 option shall comply with the low-density requirements set forth in Item (C) above unless the local government allows high-density development, in which case the local government may require these projects to comply with the high-density requirements set forth in Item (D);
 - (d) The maximum built-upon area allowed on any given new development project shall be 70 percent;
 - (e) A local government having jurisdiction within a designated water supply watershed may transfer, in whole or in part, its right to the 10/70 land area to another local government within the same water supply watershed upon submittal of a joint resolution and approval by the Commission; and
 - (f) When the water supply watershed is composed of public lands, such as National Forest land, local governments may count the public land acreage within the watershed outside of the critical area in calculating the acreage allowed under this provision.
- (4) New development shall meet the development requirements on a project-by-project basis except local governments may submit ordinances that use density or built-upon area criteria averaged throughout the local government's watershed jurisdiction instead of on a project-by-project basis within the watershed. Prior to approval of the ordinance, the local government shall demonstrate to the Commission that the provisions as averaged meet or exceed the

statewide minimum requirements and that a mechanism exists to ensure the planned distribution of development potential throughout the local government's jurisdiction within the watershed.

- (5) Local governments may administer oversight of future development activities in single-family detached residential developments that exceed the applicable low density requirements by tracking dwelling units rather than percentage built-upon area, as long as the SCM is sized to capture and treat runoff from 1) all pervious and built-upon surfaces shown on the development plan and 2) any off-site drainage from pervious and built-upon surfaces, and when an additional safety factor of 15 percent of built-upon area of the project site is figured in.

Section 404. Density Averaging

(A) An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

- (1) The properties are within the same water supply watershed. If one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
- (2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
- (3) Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.
- (4) Built-upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
- (6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as a common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deeds and shall be irrevocable.
- (7) Development permitted under density averaging and meeting applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

- (8) A special use permit or other such permit or certificate shall be obtained from the local Watershed Review Board or Board of Adjustment to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have a record of how the watershed regulations were applied to the properties.

Section 405. Cluster Development

Cluster development is allowed in all Watershed Areas [except WS-I] under the following conditions:

- (A) Minimum lot sizes do not apply to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 303. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
- (B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (C) Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainageways.
- (D) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
- (E) Cluster developments that meet the applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

Section 406. Vegetated Setbacks Required

- (A) A minimum one hundred (100) foot vegetative setback is required for all new development activities that exceed the low-density option; otherwise, a minimum thirty (30) foot vegetative setback for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

(B) Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.

(C) No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs, and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

Section 407. Application of Regulations.

(A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.

(C) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 306

(D) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

Section 408. Rules Governing the Interpretation of Watershed Area Boundaries

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

(A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.

(B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the City of Lincolnton as evidence that one or more properties along these boundaries do not lie within the watershed area.

(C) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall

be determined by use of the scale appearing on the watershed map. The Environmental Management Commission adopted this provision with intention of locating built-upon surface area in the least environmentally sensitive area of the project.

(D) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(E) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

Section 409. Existing Development

Existing development as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations. Please see Section 303 (B) Calculation of Project Density. This section deals with all existing developments as defined in the EMC rules. All existing development, whether or not it meets the statewide minimum standards, is exempt from the provisions of this ordinance.

(A) Uses of Land. This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such use of land shall be changed only to an allowed use.

(3) When such use ceases for a period of at least one year, it shall not be reestablished.

(B) Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(2) The total amount of space devoted to the built-upon area may not be

increased unless stormwater control that equals or exceeds the previous development is provided.

Section 410. Watershed Protection Permit

(A) Except where single family residence is constructed on a lot deeded prior to effective date of this ordinance (from 1995 ordinance) or for single family residential redevelopment, (even if there is net increase in built-upon area or if stormwater controls are not equal to that of previous single family residential development), no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.

(B) Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form (see Appendix A) and supporting documentation deemed necessary by the Watershed Administrator.

(C) Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

(D) A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

Section 411. Building Permit Required

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

Section 412. Watershed Protection Occupancy Permit

(A) The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered, or moved and/or prior to the change of use of any building or land.

(B) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) business days after the erection or structural alterations of the building. The applicant should notify the Watershed Administrator and request the issued WSPOP when building is complete.

(C) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

(D) If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for the denial.

(E) No building or structure that has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

ARTICLE 500: PUBLIC HEALTH REGULATIONS

Section 501. Public Health, in general.

No activity, situation, structure, or land use shall be allowed within the watershed that poses a threat to water quality and the public health, safety, and welfare.

Section 502. Abatement.

(C) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

© Where the Watershed Review Board finds a threat to water quality and the public health, safety, and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct, or abate the condition and/or violation.

ARTICLE 600: ADMINISTRATION, ENFORCEMENT AND APPEALS⁷

Section 601. Watershed Administrator and Duties thereof.

The City of Lincoln shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

(A) The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

(B) The Watershed Administrator shall serve as clerk to the Watershed Review Board.

(C) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the City of Lincoln. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.

(D) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Stormwater Branch of the Division of Energy, Mineral, and Land Resources. For additional information, refer to commentary under Article 300

(E) The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten percent (10%) of the non-critical area of WS-II, WS-III, and, WS-IV watersheds may be developed with new development at a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use, and stormwater management plan (if applicable).

(F) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(G) The Watershed Administrator is responsible for ensuring that Stormwater Control Measures are inspected at least once a year and shall keep a record of SCM inspections.

Section 602. Appeal from the Watershed Administrator

Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty 30 calendar days from the date the order, interpretation, decision, or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate of approval for recording, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

The Board shall set a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

Section 603. Changes and Amendments to the Watershed Protection Ordinance.

(A) The City of Lincoln City Council may, on its own motion or own petition, after public notice and hearing, amend, supplement, change, or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the City of Lincoln City Council may proceed as though a favorable report had been received.

(C) Under no circumstances shall the City of Lincoln City Council adopt such amendments, supplements, or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management

Commission. All amendments must be filed with the N.C. Division of Energy, Mineral and Land Resources.

Section 604. Public Notice and Hearing Required.

Before adopting or amending this ordinance, the City of Lincolnton City Council shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date for the hearing.

Section 605. Establishment of Watershed Review Board.

(A) There shall be and hereby is created the Watershed Review Board (City of Lincolnton Board of Adjustment) consisting of five (5) members appointed by the City of Lincolnton City Council.

- Board members shall be appointed for three year terms and may be reappointed.

(B) Two (2) alternate members shall be appointed to serve on the Watershed Review Board in the absence of any regular member and shall be appointed for three (3) year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all the powers and duties of the absent regular member.

- The town shall appoint two (2) alternate members.

Section 606. Rules of Conduct for Watershed Review Board Members.

Members of the Board may be removed by the City of Lincolnton City Council for cause, including violation of the rules stated below:

(A) Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.

(B) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case will: 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns a 10 percent or greater interest, or is

involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his immediate family (i.e., parent, spouse, or child). The intent is to prohibit members of the Board from acting in situations where they have a conflict of interest in a manner similar to the prohibition in NCGS 14-234(c)(1).

(C) No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, or its secretary prior to the hearing.

(D) Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.

(E) Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.

(F) No Board member shall vote on any matter that decides an application or appeal unless he has attended the public hearing on that application or appeal.

Section 607. Powers and Duties of the Watershed Review Board.

(A) Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

(B) Variances. This section outlines the procedures for local governments to use in approving minor variances. Major variances may be granted for certain projects; however, the major variance must be reviewed by and receive approval from the Environmental Management Commission prior to the local government issuing the watershed protection permit. Procedures for local government review of major variance requests and submission of a recommendation to the Commission are also included. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the [county][town] shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the

variance is being considered.

(1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

(a) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate the north point, name, and address of the person who prepared the plan, the date of the original drawing, and an accurate record of any later revisions.

(b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

(c) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

(2) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

(a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

(1) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(2) The hardship results from the application of the

Ordinance to the property rather than from other factors such as deed restrictions or other hardships.

(3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(5) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created by the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

(b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

(c) By granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(3) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration, or use of property is granted, such construction, alteration, or use shall be in accordance with the approved site plan.

(4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(5) A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

(6) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The

preliminary record of the hearing shall include:

- (a) The variance application;
- (b) The hearing notices;
- (c) The evidence presented;
- (d) Motions, offers of proof, objections to evidence, and rulings on them;
- (e) Proposed findings and exceptions;
- (f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(C) Subdivision approval. See Article 200.

(D) Public Health. See Article 400.

(E) Approval of all development greater than the low-density option. See Appendix C.

Section 608. Appeals from the Watershed Review Board.

Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision. Decisions by the Superior Court will be in the manner of certiorari.

FOOTNOTES PAGE

House Bill 124, enacted in 1991, provides that watershed regulations may be adopted by a local government pursuant to its "general police power," to its power to adopt a land subdivision ordinance, to its zoning power, or to some combination of these powers. The model ordinance, since it has been established as a free-standing ordinance, cites the general police power statutes as its authority along with the watershed statutes. Local governments must choose which authority they wish to use and should not cite all legislative authorities because each authority has its own corresponding jurisdictional implications. Local governments should decide whether or not they intend to adopt a free-standing ordinance, or as an alternative, separate (or amendments to) zoning and subdivision ordinances. Whichever method is chosen, the appropriate authorities should be cited in this section and elsewhere in the ordinance whenever needed.

Coordination between the jurisdictions is very important. A county may enforce the watershed protection regulations for a municipality within that county if a resolution is passed by both the county and municipal governing boards.

² Statutory authority for this section is derived from N.C. General Statutes Chapter [153A][160A], Article [6][8], Section [121][174], Section [140][193] and Chapter 143-214.5.

³ This section states the watershed protection ordinance will not affect existing ordinances or agreements between parties unless those ordinances or agreements are less restrictive than the watershed protection ordinance. In those situations, the watershed protection ordinance will take precedence.

⁴ Please note that the prohibition on criminal penalties for certain ordinance violations in SL 2021 -138, Part XIII is not clear regarding ordinances that may have multiple sources of authority. Water quality protection rules are primarily drawn from Chapter 143, so one could interpret this rule to allow criminal penalties for violations of water supply watershed regulations. Again, however, it is unclear exactly how and whether SL 2021 -138 applies to water supply watershed protection ordinances.

⁴ The latest date on which an ordinance shall become effective is as follows:

- by July 1, 1993: Affected municipalities with a population of 5,000 or greater
- by October 1, 1993: Affected municipalities with a population of less than 5,000
- by January 1, 1994: Affected counties.

⁵ Statutory authority for this section is derived from N.C. General Statutes Chapter [153A][160A], Article [6][8], Section [121][174], Section [140][193] and Chapter 143-214.5

⁶ Statutory authority for this section is derived from N.C. General Statutes Chapter [153A][160A], Article [6][8], Section [121][174], Section [140][193] and Chapter 143-214.5. This article contains development regulations for each of the watershed classifications. Watersheds designated WS-V require no local government regulatory program. Local governments will only need to include the regulations corresponding to the classifications assigned to watersheds in their jurisdiction. For WS-II, WS-III and WS-IV watershed areas, the EMC rules provide for single family residential development to be controlled either by limiting built-upon area or by limiting density (dwelling units per acre). Those involved in drafting the model ordinance felt that most local units of government would find it easier to enforce single family residential requirements through density controls rather than limiting built-upon area. All other residential and non-residential development is controlled by regulating the amount of built-upon area as required by the EMC rules.

**ORDINANCE
O-10-24**

**AN ORDINANCE AMENDING TITLE V: PUBLIC WORKS
Chapter 51: WATER
BACKFLOW AND CROSS-CONNECTIONS**

WHEREAS, the Back Flow and Cross-Connections section of the Lincolnton Code of Ordinances needs to be updated; and

WHEREAS, the City of Lincolnton Water Resources Department has asked that the current section be revised and brought into compliance; and

WHEREAS, Ordinances are the written laws of a municipality, which have been adopted by its governing body and can be amended or repealed through the adoption of a new ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincolnton that the Back Flow and Cross-Connections section of the Lincolnton Code of Ordinances be updated as follows:

CROSS-CONNECTION CONTROL ORDINANCE

City of Lincolnton (Lincolnton, NC)

§51.45 INTRODUCTION

The purpose of this Cross-Connection Control Ordinance is to define the authority of the City of Lincolnton (Lincolnton NC) as the water purveyor (hereinafter the “City”) in the elimination of all cross-connections within its public potable water supply.

This Ordinance shall apply to all users connected to the City of Lincolnton’s public potable water supply regardless of whether the user is located within the city limits or outside of the city limits.

This Ordinance will comply with the Federal Safe Drinking Water Act (P.L. 93-523), the North Carolina State Administrative Code (Title 15A, Subchapter 8C), and the North Carolina State Building Code (Volume II) as they pertain to cross-connections with the public water supply.

§51.46 OBJECTIVES OF ORDINANCE

The specific objectives of the Cross-connection Control Ordinance for the City of Lincolnton are as follows:

- a. To protect the public potable water supply against actual or potential contamination by isolating within each consumer’s water system, contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross-connections into the public water system.
- b. To eliminate or control existing cross-connections, actual or potential, between each consumer’s potable water system and non-potable or industrial piping system(s).

c. To provide a continuing inspection program of cross-connection control which will systematically and effectively control all actual or potential cross-connections that may be installed in the future.

§51.47 RESPONSIBILITIES

Health Agency, Water Purveyor, Plumbing Official, Consumer, Certified Tester.

1. Responsibility: Health Agency

The North Carolina Department of Environmental Quality (Division of Health Services) has the responsibility for promulgating and enforcing laws, rules, regulations, and policies to be followed in carrying out an effective Cross-connection Control Program.

The N.C. Division of Health Services also has the primary responsibility of insuring that the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross-connections. They have the further responsibility of insuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system and, further, that the purveyor requires the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection as required.

2. Responsibility: Water Purveyor

Except as otherwise provided herein, it is the City's responsibility to take reasonable steps to prevent foreseeable risks to a safe water supply, beginning at the purveyor's raw water intake and ending at the point of delivery to each consumer's water system. In addition, the City is required to exercise reasonable vigilance to insure that the consumer has taken the proper steps to protect the public potable water system. To insure that the proper precautions are taken, the City is required to determine the degree of hazard or potential hazard to the public potable water system, to determine the degree of protection required, and to ensure proper containment protection through an on-going inspection program.

When it is determined that a backflow prevention assembly is required for the protection of the public system, the City shall require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at each service connection, to test immediately upon installation, and thereafter at a frequency as determined by the City, to properly repair and maintain such assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.

3. Responsibility: Plumbing Inspections

By contractual arrangement between the City of Lincolnton and Lincoln County Department of Planning, Permitting and Development (the "Building Department") has the responsibility to review building plans and inspect plumbing as it is installed; pursuant to this ordinance the City delegates to the Building Department the explicit authority to prevent cross-connections from being designed and built into the plumbing system within its jurisdiction. Where the review of building plans suggests or specifies designs with the potential for cross-connections being made an integral part of the plumbing system, the plumbing inspector has the responsibility, under the North Carolina Building Code, for requiring that such cross-connections be either eliminated or provided with backflow prevention equipment approved pursuant to the Code.

The plumbing inspector's responsibility begins at the point of delivery (downstream of the first installed backflow prevention assembly) and continues throughout the entire length of the consumer's water system. The plan inspector should inquire about the intended use of water at any point where it is suspected that a cross-connection might be made or where one is actually

called for by the plans. When such actual or potential cross-connection is discovered it shall be mandatory that a suitable backflow prevention assembly, approved by the North Carolina Building Code, the Division of Environmental Quality and/or the City as applicable, be required by the plans and be properly installed.

4. Responsibility: Consumer

The consumer has the primary responsibility of preventing pollutants and contaminants from entering the consumer's potable water system and the public potable water system. The consumer's responsibility starts at the point of delivery from the public potable water system and includes all components of the consumer's water system or systems. The consumer, at the consumer's own expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the City or the County's Building Department. The consumer shall maintain accurate records of tests and repairs made to the backflow prevention assemblies and shall maintain such records for a minimum period of three (3) years. The records shall be on forms approved by the City and shall include the list of materials or replacement parts used. Following any repair, overhaul, re-piping or relocation of an assembly, the consumer shall have it tested to insure that it is in good operating condition and will prevent backflow. Tests, maintenance and repairs of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester.

5. Responsibility: Certified Backflow Prevention Assembly Tester

When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities: The tester will be responsible for making competent inspections and for repairing or overhauling backflow prevention assemblies and making reports of such repair to the consumer and responsible authorities on forms approved by the City of Lincoln. The tester shall include the list of materials or replacement parts used. The tester shall be equipped with and be competent to use all the necessary tools, gauges, manometers and other equipment necessary to properly test, repair, and maintain backflow prevention assemblies. It will be the tester's responsibility to insure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material or operational characteristics of an assembly during repair or maintenance without prior approval of the City and the County's Building Department. A certified tester shall perform the work and be responsible for the competency and accuracy of all tests and reports. A certified tester shall provide a copy of all test and repair reports to the consumer and to the City within ten (10) business days of any completed test or repair work. A certified tester shall maintain such records for a minimum period of three (3) years.

All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment that has been evaluated and/or approved by the City and the Building Department. All test equipment shall be registered with the City, and shall be checked for accuracy at least annually, calibrated if necessary, and certified as to such calibration, employing an accuracy/calibration method acceptable to the City.

All certified backflow prevention assembly testers must be certified or recertified within the prior 24 months through an approved backflow prevention certification program before submitting an acceptable verification pursuant to this ordinance.

§51.48 DEFINITIONS

1. Air-Gap Separation

The term “air-gap separation” shall mean a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An approved air-gap separation shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the receiving vessel - in no case less than 1 inch (2.54 cm).

2. Approved

The term “approved” as herein used in reference to a water supply shall mean a water supply that has been approved by the North Carolina Department of Environmental Quality (DEQ). The term “approved” as herein used in reference to Air-gap Separation, a pressure vacuum breaker, a double check valve assembly, a double check detector assembly, a reduced-pressure principle backflow prevention assembly, a reduced pressure principle detector assembly, or other backflow prevention assemblies or methods shall mean an approval by the City.

3. Backflow

The term “backflow” shall mean the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the consumer or public potable water system from any source or sources.

4. Backflow Prevention Assembly, Approved

The term “approved backflow prevention assembly” shall mean an assembly used for containment and/or isolation purposes that has been investigated and approved by the City and has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), or the Foundation for Cross-connection Control and Hydraulic Research of the University of Southern California. The approval of backflow prevention assemblies by the City is based on a favorable report by the Foundation for Cross-connection Control and Hydraulic Research of the University of Southern California, recommending such an approval. To be approved, an assembly must be readily accessible for in-line testing and maintenance, and shall successfully complete a one-year field evaluation within the City of Lincolnton’s water system.

5. Backflow Prevention Device, Approved

The term “approved backflow prevention device” shall mean a device used for isolation purposes that has been investigated by the City and found to be acceptable, based upon it meeting the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), or other equivalent association.

6. Backflow Prevention Assembly, Unapproved

The term “unapproved backflow prevention assembly” shall mean an assembly that has been investigated by the City and has been determined to be unacceptable for installation. Consideration for disapproval and removal from the “Approved List” shall be based upon, but not limited to, the following criteria:

- a) poor performance standards (significant failure rate);
- b) lack of, or unavailability of, repair parts; and/or,
- c) poor service or response from assembly’s factory representative(s).

7. Backflow Prevention Assembly, Types

A “backflow prevention assembly” shall mean an assembly used to prevent backflow into a consumer or public potable water system. The type of assembly used should be based on the degree of hazard, either existing or potential (as defined herein). The types are:

- a. Double Check Valve Assembly (DCVA)
- b. Double Check Detector Assembly (Fire System) (DCDA)
- c. Pressure Vacuum Breaker (PVB)
- d. Reduced Pressure Principle Assembly (RP)
- e. Reduced Pressure Principle-Detector Assembly (Fire System) (RPDA)

8. Backflow Prevention Assembly Tester, Certified

The term “certified backflow prevention assembly tester” shall mean a person who has proven their competency to the satisfaction of the City. Each person who is certified to make competent tests, or to repair, overhaul, and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules and regulations, and must hold a current certificate of completion from an approved training program in the testing and repair of backflow prevention assemblies.

9. Back-Pressure Backflow

“Back-Pressure backflow” shall mean any elevation in the consumer water system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of delivery which would cause - or tend to cause - a reversal of the normal direction of flow.

10. Back-Siphonage Backflow

“Back-siphonage backflow” shall mean a reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

11. Check Valve, Approved

The term “approved check valve” shall mean a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one (1) psi and the outlet pressure is zero. The check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (e.g. clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly - i.e., pressure vacuum breaker, double check valve assembly, double check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly.

12. Consumer

The term “consumer” shall mean any person, firm, or corporation using or receiving water from the City’s water system.

13. Consumer’s Water System

The term “consumer’s water system” shall include any water system commencing at the point of delivery and continuing throughout the consumer’s plumbing system, located on the consumer’s premises, whether supplied by a public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

14. Consumer’s Potable Water System

The term “consumer’s potable water system” shall mean that portion of the privately owned potable water system lying between the point of delivery and point of use and/or isolation protection. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or use potable water.

15. Containment

The term “containment” shall mean preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.

16. Contamination

The term “contamination” shall mean an impairment of the quality of the water that creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or through the spread of disease by sewage, industrial fluids, or waste.

17. Cross-connection

The term “cross-connection” shall mean any unprotected actual or potential connection or structural arrangement between a public or a consumer’s water system and any other source or system through which it is possible to introduce any contamination or pollution, other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.

18. Double Check Valve Assembly

The term “double check valve assembly” shall mean an assembly composed of two (2) independently acting, approved check valves, including tightly closing shut-off valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a non-health hazard (i.e. pollutants).

19. Double Check-Detector Assembly

The term “double check-detector assembly” shall mean a specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass water meter and a meter-sized approved double check valve assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a non-health hazard (i.e., pollutant).

20. Hazard, Degree of

The term “degree of hazard” shall be derived from the evaluation of conditions within a system that can be classified as either a pollutant (non-health) hazard or a contamination (health) hazard.

21. Hazard, Health

The term “health hazard” shall mean an actual or potential threat of contamination of a physical, hazardous or toxic nature to the public or consumer’s potable water system to such a degree or intensity that there would be a danger to health.

22. Hazard, Non-Health

The term “non-health hazard” shall mean an actual or potential threat to the quality of the public or the consumer’s potable water system. A non-health hazard is one that, if introduced into the public water supply system could be a nuisance to water customers, but would not adversely affect human health.

23. Hazard, Pollutant

The term “pollutant hazard” shall mean an actual or potential threat to the quality or the potability of the public or the consumer’s potable water system but that would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable, or could cause minor damage to the system or its appurtenances.

24. Health Agency

The term “health agency” shall mean the North Carolina Department of Environmental Quality.

25. Industrial Fluids

The term “industrial fluids” shall mean any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health or non-health hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to: process waters; chemicals in fluid form; acids and alkalis; oils, gases; etc.

26. Industrial Piping System, Consumer’s

The term “consumer’s industrial piping system” shall mean any system used by the consumer for transmission of or to confine or store any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances that are or may be polluted or contaminated.

27. Isolation

“Isolation” is the act of confining a localized hazard within a consumer’s water system by installing approved backflow prevention assemblies.

28. Point Of Delivery

“Point of delivery” shall generally be at the property line of the customer, adjacent to the public street where the City’s mains are located, or at a point on the customer’s property where the meter is located. The customer shall be responsible for all water piping and control devices located on the customer’s side of the point of delivery.

29. Pollution

The term “pollution” shall mean an impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such water for domestic use.

30. Potable Water

The term “potable water” shall mean water from any source that has been investigated by the North Carolina Department of Environmental Quality and which has been approved for human consumption.

31. Public Potable Water System

The term “public potable water system” shall mean any publicly or privately owned water system operated as a public utility, under a current North Carolina Department of Environmental Quality permit, to supply water for public consumption or use. This system will include all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store potable water for public consumption or use.

32. Reduced Pressure Principle Backflow Prevention Assembly

The term “reduced pressure principle backflow prevention assembly” shall mean an assembly containing within its structure a minimum of two (2) independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the

supply pressure. The unit shall include tightly closing shut-off valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e. contaminant).

33. Reduced Pressure Principle-Detector Assembly

The term “reduced pressure principle-detector assembly” shall mean a specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter sized approved reduced pressure principle backflow prevention assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against health hazard (i.e. contaminant).

34. Service Connections

The term “service connection” shall mean the terminal end of a service connection from the public potable water system, i.e., where the City loses jurisdiction and sanitary control over the water at its point of delivery to the consumer’s water system.

35. Vacuum Breaker, Atmospheric

The term “atmospheric vacuum breaker” shall mean the terminal end of a service connection from the public potable water system, i.e., where the City loses jurisdiction and sanitary control over the water at its point of delivery to the consumer’s water system.

36. Vacuum Breaker, Pressure

The term “pressure vacuum breaker” shall mean an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shut-off valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (i.e., contaminant) under a backsiphonage condition only.

37. Water Purveyor

The term “water purveyor” shall mean the owner or operator of a public potable water system, providing an approved water supply to the public.

38. Water Supply, Approved

The term “approved water supply” shall mean any public potable water supply that has been approved by the North Carolina Department of Environmental Quality.

39. Water Supply, Auxiliary

The term “auxiliary water supply” shall mean any water supply on or available to the premises other than the purveyor’s approved public potable water supply. Auxiliary water supplies may include water from another purveyor’s public water supply or any natural source such as well, spring, river, stream, etc. These waters may be polluted, contaminated, or objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

40. Water Supply, Unapproved

The term “unapproved water supply” shall mean a water supply which has not been approved for human consumption by the North Carolina Department of Environmental Quality.

41. Water, Used

The term “used water” shall mean any water supplied by a water purveyor from a public water system to a consumer’s water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

§51.49 RIGHT OF ENTRY

Authorized representative(s) from the City of Lincoln shall have the right to enter, upon presentation of proper credentials and identification, any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this Ordinance. Those duties may include sampling and testing of water, or inspections and observations of all piping systems connected to the public water supply. Where a user has security measures in force that would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with the security guards so that upon presentation of suitable identification, City personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Refusal to allow entry for these purposes may result in discontinuance of water service. On request, the consumer shall furnish to the City any pertinent information regarding the water supply system on such property where cross-connections and backflow are deemed possible.

§51.50 ELIMINATION OF CROSS-CONNECTIONS: DEGREE OF HAZARD

When cross-connections are found to exist, the owner, his agent, occupant, or tenant will be notified in writing to disconnect the same within the time limit established by the City. Degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. The maximum time limits are as follows:

- a. Cross-connections with private wells or other auxiliary water supplies shall be immediately disconnected.
- b. All facilities which pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle backflow prevention assembly within 60 days.
- c. All industrial and commercial facilities not identified as a “health hazard” shall be considered non-health hazard facilities. All non-health hazard facilities must install, as a minimum containment assembly, a double check valve assembly within 90 days.
- d. If, in the judgment of the City, an imminent health hazard exists, water service to the building or premises where a cross-connection exists may be terminated unless an air gap is immediately provided, or the cross-connection is immediately eliminated.
 - e. Based upon recommendation from the City, the consumer is responsible for installing sufficient internal isolation backflow prevention assemblies and/or methods (i.e., air gap, pressure vacuum breakers, reduced pressure principle backflow prevention assembly, double check valve assembly). Disclaimer: The City of Lincoln may make recommendations, upon facility inspection, as to the usages of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.
- f. In the event that the City Water Resources Director or designee does not have sufficient access to every portion of a private water system (i.e. classified research and development facilities; federal government property, etc.) to allow a complete evaluation of the degree of hazard associated with such private water systems, an approved reduced pressure principle assembly shall be required as a minimum of protection.
- g. No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.

§51.51 INSTALLATION OF ASSEMBLIES

1. All backflow prevention assemblies shall be installed in accordance with the specifications furnished by the City and/or the manufacturer's installation instructions and/or in the latest edition of the North Carolina Building Code, whichever is most restrictive.
2. All new construction plans and specifications, when required by the North Carolina Building Code and the North Carolina Department of Environmental Quality, shall be made available to the City of Lincolnton for review and approval, and to determine the degree of hazard.
3. Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.
4. All double check valve assemblies must be installed in drainable pits wherever below ground installation is necessary.
5. Reduced pressure principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances (pit and/or below grade installations are prohibited). Double check valve assemblies may be installed in a vertical position with prior approval from the City, provided the flow of water is in an upward direction.
6. Any installed unapproved backflow prevention assembly must be replaced with an approved backflow prevention assembly.
7. The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the City within fifteen (15) days after a reduced pressure principle backflow preventer (RP), double check-detector assembly (DCDA), pressure vacuum breaker (PVB), or reduced pressure principle detector assembly (RPDA) is installed:
 - a. service address where assembly is located;
 - b. owner (and address, if different from service address);
 - c. description of assembly's location;
 - d. date of installation;
 - e. installer (include name, certification number, and project permit number);
 - f. type of assembly, size of assembly;
 - g. manufacturer, model number, serial number; and
 - h. test results/reports.
8. When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The City of Lincolnton will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.
9. The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:
Health Hazard.....60 days
Non-Health Hazard.....90 days
10. Following installation, all RP, DCVA, PVB, DCDA, and RPDA assemblies are required to be tested by a certified backflow prevention assembly tester within ten (10) days.

§51.52 TESTING AND REPAIR OF ASSEMBLIES

1. Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester. Such tests are to be conducted upon installation and annually thereafter, or at a frequency established by the City. A record of all testing and repairs is to be retained by the

customer. Copies of the records must be provided to the City within ten (10) business days after the completion of any testing and/or repair work.

2. Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or by the City, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:

Health Hazard Facilities 14 days

Non-Health Hazard Facilities 21 days

3. All backflow prevention assemblies with test cocks are required to be tested annually or at frequency established by City's regulations. Testing requires a water shutdown, usually lasting five (5) to twenty (20) minutes. For facilities that require an uninterrupted supply of water, and when it is not possible to provide water service from two separate meters, provisions shall be made for a parallel installation of backflow prevention assemblies.

4. All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the City. All test equipment shall be registered with the City. All test equipment shall be checked for accuracy annually (at a minimum), calibrated if necessary, and certified to the City as to such accuracy/calibration, employing a calibration method acceptable to the City.

5. It shall be unlawful for any customer or certified tester to submit any record to the City which is false or incomplete in any material respect. It shall be unlawful for any customer or certified tester to fail to submit to the City any record which is required by this Ordinance.

§51.53 FACILITIES REQUIRING PROTECTION

Approved backflow prevention assemblies shall be installed on the service line to any premises that the City has identified as having a potential for backflow.

The following types of facilities or services have been identified by the City as having a potential for backflow of non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the City. As a minimum requirement, all commercial services will be required to install a Double Check Valve

Assembly, unless otherwise listed below.

DCVA = Double Check Valve Assembly

RP = Reduced Pressure Principle Assembly

DCDA = Double Check Detector Assembly

RPDA = Reduced Pressure Detector Assembly

AG = Air Gap

PVB = Pressure Vacuum Breaker

1. Aircraft and Missile Plants: RP

2. Automotive Services Stations, Dealerships, etc.

a. No Health Hazard: DCVA

b. Health Hazard: RP

3. Automotive Plants: RP

4. Auxiliary Water Systems:

a. Approved Public/Private Water Supply: DCVA

- b. Unapproved Public/Private Water Supply: AG
 - c. Used Water and Industrial Fluids: RP
- 5. Bakeries:
 - a. No Health Hazard: DCVA
 - b. Health Hazard: RP
- 6. Beauty Shops/Barber Shops
 - a. No Health Hazard: DCVA
 - b. Health Hazard: RP
- 7. Beverage Bottling Plants: RP
- 8. Breweries: RP
- 9. Buildings - Hotels, apartment houses, public and private buildings, or other structures having unprotected cross-connections.
 - a. (Under five stories) No Health Hazard: DCVA
 - b. (Under five stories) Health Hazard: RP
 - c. (Over five stories) All: RP
- 10. Canneries, packing houses, and rendering plants: RP
- 11. Chemical plants - Manufacturing, processing, compounding or treatment: RP
- 12. Chemically contaminated water systems: RP
- 13. Commercial car-wash facilities: RP
- 14. Commercial greenhouses: RI.
- 15. Commercial sales establishments (department stores, malls, etc.)
 - a. No Health Hazard: DCVA
 - b. Health Hazard: RP
- 16. Concrete/asphalt plants: RP
- 17. Dairies and cold storage plants: RI.
- 18. Dye works: RI.
- 19. Film laboratories: RI.
- 20. Fire systems
 - Systems $\frac{3}{4}$ -inch to 2-inch
 - a. No Health Hazard: DCDA
 - b. Health Hazard (Booster Pumps, Foam, Antifreeze Solution, etc.) RPDA
- Systems 2 $\frac{1}{2}$ -inch to 10-inch, or larger
 - a. No Health Hazard: DCDA
 - b. Health Hazard (Booster Pumps, Foam, Antifreeze Solution, etc.) RPDA
- 21. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP.
 - 22. Industrial facilities:
 - a. No Health Hazard: DCVA
 - b. Health Hazard: RP
 - 23. Laundries:
 - a. No Health Hazard: DCVA
 - b. Health Hazard: (i.e., Dry Cleaners): RP

- 24. Lawn irrigation systems (split taps):
 - a. No Health Hazard: DCVA
 - b. Health Hazard: (Booster Pumps, Chemical Systems): RP
- 25. Metal manufacturing, cleaning, processing, and fabricating plants: RP
- 26. Mobile home parks:
 - a. No Health Hazard: DCVA
 - b. Health Hazard: RI
- 27. Oil and gas production, storage or transmission properties: RP
- 28. Paper and paper products plants: RP
- 29. Pest control (exterminating and fumigation): RP
- 30. Plating Plant: RP
- 31. Power Plants: RP
- 32. Radioactive materials or substances, plants or facilities handling: RP
- 33. Restaurants
 - a. No Health Hazard: DCDA
 - b. Health Hazard: RP
- 34. Restricted, classified, or other closed facilities: RP
- 35. Rubber plants (natural or synthetic): RP
- 36. Sand and gravel plants: RP
- 37. Schools and colleges: RP
- 38. Sewage and storm drain facilities: RP
- 39. Swimming Pools: RP
- 40. Waterfront facilities and industries: RP

All assemblies and installations shall be subject to inspection and approval by the City.

§51.54 CONNECTIONS WITH UNAPPROVED SOURCES OF SUPPLY

1. No person shall connect or cause to be connected any supply of water not approved by the North Carolina Department of Environmental Quality to the water system supplied by the City. Any such connections allowed by the City must be in conformance with the backflow prevention requirements of the Ordinance.
2. In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the City immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

§51.55 FIRE PROTECTION SYSTEMS

1. All connections for fire protection systems connected with the public water system, two (2) inches and smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.
2. All connections for fire protection systems connected with the public water system greater than two (2) inches, shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.
3. All existing backflow prevention assemblies two and one-half (2 ½) inches and larger installed on fire protection systems (that were initially approved by the City and/or Lincoln County, as applicable) shall be allowed to remain on the premises, as long as they are being properly

maintained, tested and repaired as required by this Ordinance. If, however, the existing assembly must be replaced (once it can no longer be repaired), or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by this provision.

§51.56 ENFORCEMENT

1. The owner, manager, supervisor, or person in charge of any installation found not to be in compliance with the provisions of this Ordinance shall be notified in writing with regard to the corrective action(s) to be taken. The time for compliance shall be in accordance with this Ordinance.
2. The owner, manager, supervisor, or person in charge of any installation which remains in non-compliance after the time prescribed in the initial notification, shall be considered in violation of this Ordinance, and may be issued a civil citation by the City. Said citation shall specify the nature of the violation and the provision(s) of this Ordinance violated, and further notify the offender that the civil penalty for said violation is as set forth in paragraph (3) below and is to be paid to the City and payment remitted at City Hall within thirty (30) days. If the penalty prescribed herein is not paid within the time allowed, the City of Lincolnton may initiate a civil action in the nature of a debt and recover the sums set forth in paragraph (3) below plus the cost of the action.
3. Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to a civil penalty of up to \$1,000.00 per violation. Each day in which a violation of any provision of this Ordinance shall occur or continue shall constitute a separate and distinct offense.
4. If, in the judgment of the City, any owner, manager, supervisor, or person in charge of any installation is found to be in non-compliance with the provisions of this Ordinance neglects their responsibility to correct any violation, it may result in discontinuance of water service until compliance is achieved.
5. Failure of a customer (or certified tester on behalf of a customer) to submit any record required by this Ordinance, or the submission of falsified reports/records may result in a civil penalty of up to \$1,000.00 per violation assessed against the customer. If a certified backflow prevention assembly tester submits falsified records to the City, the City shall take the necessary actions to revoke certification to test backflow prevention assemblies within the potable water system for a time period not to exceed five (5) years. The tester will then be required to complete an approved certification course to acquire a new certification. Falsification made to records/reports after becoming re-certified shall result in the permanent revocation of backflow testing certification, in addition to a civil penalty (as stated herein).
6. Enforcement of this program shall be administered by the Director of Water Resources or his authorized representative.
7. Requests for extension of time shall be made in writing to the Director of Water Resources or his authorized representative. All other appeals shall be made in accordance with the following procedures:
 - (A) Adjudicatory Hearings. A customer assessed a civil penalty under this section shall have the right to an adjudicatory hearing before a hearing officer designated by the Director of Water Resources upon making written demand, identifying the specific issues to be contended, to the Director of Water Resources within 30 days following notice of final decision to assess a civil

penalty. Unless such demand is made within the time specified herein, the decision on the civil penalty assessment shall be final and binding.

(B) Appeal Hearings. Any decision of the City hearing officer made as a result of an adjudicatory hearing held under Paragraph (A) of this Section may be appealed by any party to the City Manager upon filing a written demand within ten (10) days of receipt of notice of the decision. Hearings held under this section shall be conducted in accordance with the City's hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The City Manager shall make a decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of his or her decision by registered or certified mail.

(C) Official Record. When a final decision is issued under Section (B) above, the City shall prepare an official record of the case that includes:

- (1) All notices, motions, and other like pleadings;
- (2) A copy of all documentary evidence introduced;
- (3) 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;
- (4) A copy of the final decision of the City Manager.

(D) Any customer against whom a final decision of the City of Lincoln is entered, pursuant to the hearing procedure under Section (B) above, may appeal the order or decision by filing a written petition for judicial review within 30 days after receipt of notice by certified mail of the order or decision to the General Court of Justice of Lincoln County or of the county where the order or decision is effective, along with a copy to the City. Within 30 days after receipt of the copy of the petition of judicial review, the City shall transmit to the reviewing court the original or a certified copy of the official record, as outlined

This ordinance shall be effective upon adoption.

This the 1st day of August, 2024.

By: _____
Mayor

ATTEST:

City Clerk



LINCOLNTON
AGENDA ITEM SUMMARY

To: The Honorable Mayor and City Council
Date: August 1, 2024
From: Pamela McBryde, Finance Director
Subject: Consideration/Approval of State Emergency Loan for WWTP Clarifiers

Summary:

Background:

Fiscal Impact:

Recommendation:

Attachments:

1. SEL Resolution

CITY COUNCIL
Ed L. Hatley, Mayor
Christine Poinsette, Mayor Pro-Tem
Roby D. Jetton
Kevin Demeny
Jill Tipton



CITY MANAGER
Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
Daphne Ingram
digram@lincolntonnc.org
CITY ATTORNEY
John M. Friguglietti, Jr., P.A.
john@davidsonlawyers.net

RESOLUTION BY THE LINCOLNTON CITY COUNCIL

OF THE CITY OF LINCOLNTON

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects, and

WHEREAS, the North Carolina Department of Environmental Quality has offered a State Reserve Loan (Emergency) in the amount of **\$1,640,150** for the construction of the **Rehabilitation of Clarifier and Replacement of 2 RAS Pumps; Project#: SEL-W-0057**, and

WHEREAS, The City of Lincolnton intends to construct said project in accordance with the approved plans and specifications,

NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF THE CITY OF LINCOLNTON:

That the City of Lincolnton does hereby accept the State Reserve Loan (Emergency) offer of **\$1,640,150.**

That the **City of Lincolnton** does hereby give assurance to the North Carolina Department of Environmental Quality that and Conditions or Assurances contained in the Award Offer will be adhered to.

That **Richard Haynes, City Manager**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to

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

That the **City of Lincolnton** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants pertaining thereto.

Upon motion duly made by Councilmember _____, and unanimously approved, the above resolution was duly adopted this the _____ day of _____, 2024 at Lincolnton City Hall in Lincolnton, North Carolina by the Lincolnton City Council.

(Signature of Chief Executive Officer)

Ed Hatley, Mayor

ATTEST:

Daphne Ingram, City Clerk



LINCOLNTON
AGENDA ITEM SUMMARY

To: The Honorable Mayor and City Council
Date: August 1, 2024
From: Pamela McBryde, Finance Director
Subject: Capital Project Budget Ordinance - Project No. SEL-W-0057

Summary:

Background:

Fiscal Impact:

Recommendation:

Attachments:

1. Lincolnton Cap Proj Budget Ordinance SEL-W-0057-Revised

CITY COUNCIL
 Ed L. Hatley, Mayor
 Christine Poinsette, Mayor Pro-Tem
 Roby D. Jetton
 Kevin Demeny
 Jill Tipton



CITY MANAGER
 Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
 Daphne Ingram
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CITY ATTORNEY
 John M. Friguglietti, Jr., P.A.
john@davidsonlawyers.net

City of Lincolnton
114 West Sycamore St.
PO Box 617
Lincolnton, NC 28093

Capital Project Budget Ordinance

BE IT ORDAINED by the Councilmembers of the City of Lincolnton, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the Rehabilitation of Clarifier and Replacement of 2 RAS Pumps **Project No. SEL-W-0057**, to be financed by a State Reserve Loan (Emergency).

Section 2. The officers of the City of Lincolnton are hereby directed to proceed with the capital project within the terms of the board resolution, loan documents and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Mobilization/Demobilization		\$ 16,050
Clarifier 1 and 2 Disassembly		\$ 344,451
Clarifier 1 and 2 Cleaning		\$ 214,942
Gear Box Rebuild Clarifier 1 and 2		\$ 93,251
Scum Baffle Relacement Clarifier 1&2		\$ 146,960
Density Current Baffle Replacement 1&2		\$ 322,071
RAS Pump Factory Rebuild		\$ 106,092
Clarifer Concrete Floor Coating		\$ 75,295
Ebara Duplex Pump Control Panel		\$ 52,508
Bid and Performance Bonds		\$ 18,150
Project Administration		\$ 45,000
Contingency		\$ 173,221
Closing		\$ 32,160
		\$1,640,150

Section 4. The following revenues are anticipated to be available to complete this project:

State Reserve Loan (Emergency)		\$1,640,150
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114 WEST SYCAMORE STREET • P.O. BOX 617 • LINCOLNTON, NORTH CAROLINA 28093-0617
PHONE (704) 736-8980

SEL-W-0057 CAPITAL PROJECT BUDGET ORDINANCE

Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements, and federal regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Disbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total grant/loan revenues received or claimed.

Section 8. The Finance Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 9. Copies of this capital project budget ordinance shall be furnished to the Clerk to the Governing Board, and to the Finance Officer for direction in carrying out this project.

Adopted this ____ day of _____, 2024 at Lincolnton, North Carolina.

Ed Hatley, Mayor

ATTEST:

Daphne Ingram, City Clerk

City of Lincolnton
P. O. Box 617
128 Motz Avenue
Lincolnton, North Carolina
28093-0617



Public Works
Phone (704) 736-8940
FAX (704) 736-8959
www.lincolntonnc.org

TO: Ritchie Haynes, City Manager

FROM: Nathan Eurey, Public Services Director

SUBJECT: (1.) Consideration to approve the amendment of Title VII Traffic Code
– Chapter 75: Parking Schedule – Schedule I: Parking prohibited
in Cul-De-Sacs at all times.

(2.) Consideration to approve the amendment of Title VII Traffic Code
– Chapter 75: Parking Schedule – Adding Schedule VIII: Dead End
Street Parking

Date: July 29, 2024

The Traffic Safety Committee brings before Council two amendment recommendations regarding Title 7 of the Traffic Code of Ordinances; Chapter 75 – Parking Schedules.

The first recommendation for consideration is to add cul-de-sacs to the listing of streets where parking is prohibited at all times. The reasoning for this recommendation is because cul-de-sacs are meant to be turn around areas for vehicles at the dead-end of streets. It's very difficult for our public service and public safety vehicles to get turned around in cul-de-sacs with vehicles parked on or along these areas. Prohibiting vehicles to park in cul-de-sacs will allow our garbage trucks, knuckle boom trucks, street sweepers, and fire trucks; along with school buses, to be able to turn-around safely without the risk of damaging personal property.

The second recommendation for consideration is adding an additional schedule to Chapter 75 – Parking Schedules. The addition of chapter 8 would pertain to dead-end street parking, as well as prohibit on-street parking where signage indicates. The reasoning for this recommendation is to allow adequate street width for emergency vehicles to have a lane of travel, especially on narrow dead-end streets.

Let me know if you have any questions.

Thank you for your time and consideration with this matter!

**ORDINANCE
O-12-24**

**AN ORDINANCE AMENDING TITLE VII: TRAFFIC CODE
CHAPTER 75: PARKING SCHEDULES
SCHEDULE 1: PARKING IN CUL-DE-SACS PROHIBITED AT ALL TIMES**

WHEREAS, Chapter 75: Parking schedules – Schedule 1: Parking Prohibited at all times needs to be amended to include cul-de-sacs so that emergency response vehicles, garbage trucks and street sweepers will have uninhibited access; and

WHEREAS, Ordinances are adopted by its governing body and can be amended and/or repealed through the adoption of a new ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincolnnton that Title VII, TRAFFIC CODE, CHAPTER 75 – PARKING SCHEDULES, be amended and enacted to read as follows:

SCHEDULE 1: PARKING PROHIBITED AT ALL TIMES

Parking is prohibited at all times in cul-de-sacs and on the following streets or portions of streets

This ordinance shall be effective upon adoption.

This the 1st day of August, 2024.

By: _____
Mayor

ATTEST:

City Clerk

**change indicated in red*

City of Lincolnton
P. O. Box 617
128 Motz Avenue
Lincolnton, North Carolina
28093-0617



Public Works
Phone (704) 736-8940
FAX (704) 736-8959
www.lincolntonnc.org

TO: Ritchie Haynes, City Manager

FROM: Nathan Eurey, Public Services Director

SUBJECT: (1.) Consideration to approve the amendment of Title VII Traffic Code
– Chapter 75: Parking Schedule – Schedule I: Parking prohibited
in Cul-De-Sacs at all times.

(2.) Consideration to approve the amendment of Title VII Traffic Code
– Chapter 75: Parking Schedule – Adding Schedule VIII: Dead End
Street Parking

Date: July 29, 2024

The Traffic Safety Committee brings before Council two amendment recommendations regarding Title 7 of the Traffic Code of Ordinances; Chapter 75 – Parking Schedules.

The first recommendation for consideration is to add cul-de-sacs to the listing of streets where parking is prohibited at all times. The reasoning for this recommendation is because cul-de-sacs are meant to be turn around areas for vehicles at the dead-end of streets. It's very difficult for our public service and public safety vehicles to get turned around in cul-de-sacs with vehicles parked on or along these areas. Prohibiting vehicles to park in cul-de-sacs will allow our garbage trucks, knuckle boom trucks, street sweepers, and fire trucks; along with school buses, to be able to turn-around safely without the risk of damaging personal property.

The second recommendation for consideration is adding an additional schedule to Chapter 75 – Parking Schedules. The addition of chapter 8 would pertain to dead-end street parking, as well as prohibit on-street parking where signage indicates. The reasoning for this recommendation is to allow adequate street width for emergency vehicles to have a lane of travel, especially on narrow dead-end streets.

Let me know if you have any questions.
Thank you for your time and consideration with this matter!

**ORDINANCE
O-13-24**

**AN ORDINANCE AMENDING TITLE VII: TRAFFIC CODE
CHAPTER 75: PARKING SCHEDULES
ADDING SCHEDULE VIII: DEAD END STREET PARKING**

WHEREAS, the Lincolnton Code of Ordinances currently regulates parking on city streets; and

WHEREAS, the Public Services Department is requesting that parking be restricted on dead end streets; and

WHEREAS, Ordinances are adopted by its governing body and can be added, amended and/or repealed through the adoption of a new ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincolnton that **SCHEDULE VIII: PARKING ON DEAD END STREETS** be added and enacted to read as follows:

On-Street parking prohibited where indicated by signage

This ordinance shall be effective upon adoption.

This the 1st day of August, 2024.

By: _____
Mayor

ATTEST:

City Clerk

***change indicated in red**

**ORDINANCE
O-13-24**

**AN ORDINANCE AMENDING TITLE VII: TRAFFIC CODE
Chapter 70: GENERAL PROVISIONS
GOLF CARTS ON PUBLIC STREETS**

WHEREAS, the City of Lincolnton Code of Ordinances currently permits the use of golf carts on public streets; and

WHEREAS, Lincolnton Police Department has asked for amendments to the current golf cart ordinance; and

WHEREAS, Ordinances are the written laws of a municipality, which have been adopted by its governing body and can be amended or repealed only through adoption of a new ordinance.

NOW, THEREFOR, BE IT ORDAINED by the City Council of the City of Lincolnton at Title VII: Traffic Code, Chapter 70, General Provisions: Golf Carts on Public Streets is rewritten as follows:

§ 70.30 PURPOSE.

This subchapter is intended to establish a golf cart transportation program for the city. This plan will extend the use of golf carts for transportation above and beyond that of use on public golf courses. This plan is aimed to assist functional travel needs for residents who may have no other form of transportation and to assist the city with its quest to attract persons who are considering retiring to the area.

(Ord. passed - -)

§ 70.31 FINDINGS; AUTHORITY.

(A) The city finds and determines that:

(1) Establishment of a golf cart transportation plan will serve to expand mobility to those persons not operating automobiles;

(2) The selected areas for golf cart travel will be roads and highways within the city limits of Lincolnton and with speed limits of 35 miles per hour or less (unless otherwise stated) and will not cause an adverse impact upon traffic safety; and

(3) The regulations and use of golf carts on streets and highways in the city will fall under the provisions outlined throughout this ordinance and will require liability insurance sufficient to cover the risks involved in using a cart on the streets of the city.

(B) Authority is contingent upon approval of legislation.

(Ord. passed - -; Ord. O-09-14, passed 11-6-2014)

§ 70.32 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Lincolnton, NC.

GOLF CART. A motor vehicle having not less than four wheels in contact with the ground and unladen weight less than 1,300 pounds which is designed to be operated at not more than 25 miles per hour and is designed to carry golf equipment. This does not include vehicles known as all terrain vehicles (ATVs), utility vehicles (UTVs) or go-carts.

GOLF CART OPERATOR. A person having a valid North Carolina driver's license (or a recognized valid license from another state) who is driving the golf cart and has full control of its operation and passengers.

PLAN AREA. The area within the city limits that golf carts will be allowed to travel which includes any public street or highway (not restricted elsewhere in this ordinance) within the city limits with a speed limit of 35 miles per hour or less.

UTV. A UTV or Utility Vehicle is a vehicle having not less than four wheels in contact with the ground and is designed as a work type usually off road vehicle to assist with work related issues and projects. The only UTV's allowed on the streets of Lincolnton are those utilized by Law Enforcement, Fire Department, Public Works and Parks and Recreation when performing city work functions. Police UTV's will be clearly marked as a police type unit. No other ATV or UTV's are allowed on streets in the City Limits.

(Ord. passed - -; Ord. O-09-14, passed 11-6-2014; Ord. O-15-20, passed 10-1-2020)

Statutory reference:

Golf cart defined, see G.S. § 20-4.01(12b)

§ 70.33 GOLF CART DESIGN CRITERIA.

(A) Minimum golf cart vehicle design criteria and travel plan areas are hereby established. Golf Carts must meet the requirements or minimum standards of safety equipment as set forth in this ordinance. Golf carts must have basic equipment supplied

by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a rear triangle reflector of the same type required by North Carolina law.

(B) The following elements are minimum design and equipment requirements:

(1) The golf cart must be the shape and size that conforms to industry standards for manufactured golf carts; and

(2) The golf cart must be equipped and safely operated with:

(a) All other factory installed safety equipment

(b) All mechanical systems must be in good working order, including no gasoline or propane leaks for gas powered cart;

(c) Either a left side and right side mirror, or a wide-angle cross bar rear-view mirror;

(d) Head lights and tail lights if it is to be driven after dark, and slow moving vehicle emblems that conform to G.S. § 20-129;

(e) Rubber or equivalent tires;

(f) Adequate steering gear, brakes, emergency or parking brake;

(g) Speed governor if gasoline powered; and

(h) Golf carts may have "lift kits" but no golf cart may be more than 22 inches high measured from the ground to the floor board of the cart; and

(Ord. passed - -; Ord. O-09-14, passed 11-6-2014)

§ 70.34 REGISTRATION PROCESS AND FEE PRIOR TO USAGE.

(A) All golf carts must complete a golf cart registration application and submit to the City of Lincoln for approval. Before driving on public roads, the operator of a golf cart must have a valid issued registration. The cost for the registration shall be established and published in the Schedule of Fees which will be paid at the time of registration and is to be renewed annually.

(B) Each owner must have proof of ownership, and liability insurance, and a completed waiver of liability, releasing the City from liability that may arise as a result of operation of a golf cart inside the City. Proof of liability insurance must be in the golf cart at all times while in operation on public roads.

(C) All golf carts must meet the requirements or minimum standards of safety equipment as set forth in this ordinance. Each owner must complete a Golf Cart Rules and Safety Regulations Acknowledgment form.

(D) All golf cart operators must present a valid driver's license while operating a golf cart on a public road.

(E) The registration sticker shall be valid from January 1 to December 31 each year. For example, all permits issued on or after January 1 and prior to December 31 of any given year will expire on December 31 of the year in which the registration sticker was issued.

(F) The registration sticker must be visible on a golf cart operated on a public road.

(G) Lost or stolen registration stickers are the responsibility of the owner and must be replaced before the golf cart is operated on a public road.

(H) The initial registration of a golf cart may be denied or subsequently revoked by the City of Lincoln if it is determined that:

(1) the application contains any material misrepresentation; or

(2) financial responsibility requirements (liability insurance) of the State of North Carolina have not been met; or

(3) the golf cart is not in compliance with the requirements set out in this ordinance; or

(4) safety equipment supplied by the manufacturer, has been removed from the golf cart or the vehicle identification/serial number has been removed; or

(5) other good cause shown, including repeated violation of this Chapter.

(Ord. passed - -; Ord. O-09-14, passed 11-6-2014)

§ 70.35 OPERATION RESTRICTIONS.

The following restrictions limiting the operation of golf carts in the city shall apply:

(A) Only those golf carts that have the necessary safety equipment specified herein, and have obtained the proper registration sticker from the city may be operated under the provisions of this subchapter;

(B) Golf cart transportation is limited to those streets and highways within the city limits which have a posted speed limit of 35 miles per hour or less (unless otherwise noted below). Golf carts may not be operated on the following streets or roadways regardless of the speed limit:

(1) Any part of Main Street Hwy 27 from Flint Street East to the city limits (four lane).

(2) Any portion of US 321.

(3) Any portion of Generals Blvd.

(C) A golf cart operator must maintain his or her golf cart in a safe condition at all times;

(D) The golf cart must have displayed a slow moving vehicle emblem on the back of the cart; and

(E) Golf carts without lights may be operated only during daylight hours. Golf carts meeting the requirements set forth below may operate at any time:

(1) Golf carts having two operating headlights, one on each side of the front of the golf cart, and two operating tail lights, one on each side of the rear of the cart; all four lights must be visible from a distance of 500 feet; and

(2) If a mechanical turn signal indicator is not installed, then hand signals are required for turns.

(F) Golf carts may cross a road with a posted speed limit greater than 35 mph. However, once this segment of road has been transversed, the golf cart is still required to travel only on or along a roadway with a speed limit of 35 mph or less. Golf carts must cross in a manner that is the most direct route in order to decrease crossing distance, i.e., no riding along a road or crossing at an angle. Under no circumstance is a golf cart allowed to cross a control access facility other than at bridges which cross over or under a control access facility.

(G) This chapter does not apply to UTV type vehicles being utilized by city official in an official capacity such as Law Enforcement, Fire Department, Public Works and Parks and Recreation.

(Ord. passed - -; Ord. O-09-14, passed 11-6-2014; Ord. O-15-20, passed 10-1-2020)

§ 70.36 OPERATION ON PUBLIC HIGHWAYS.

It shall be unlawful to operate a golf cart on a public street or highway in the city unless the following requirements are met:

(A) Golf cart must display a slow moving vehicle emblem on the back of the golf cart;

(B) Golf carts must display a valid city registration sticker;

(C) No person shall operate a golf cart on a public street or highway in the city unless said person has a valid North Carolina driver's license or a valid, recognized, out-of-state license in accordance with G.S. § 20-7;

(D) Golf carts must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and use of drugs and alcoholic beverages. In addition, no golf cart containing any open container of alcohol shall be operated on public roads;

(E) Only the number of people the golf cart is designed to seat may ride on a golf cart. Additionally, passengers shall not be carried on the part of a golf cart designed to carry golf bags;

(F) Golf carts shall not be operated during inclement weather or when visibility is impaired by weather, smoke, fog or other conditions;

(G) Golf carts shall not be operated in a negligent manner. For the purpose of this division (G), TO OPERATE IN A NEGLIGENT MANNER is defined as the operation of a golf cart in such a manner as to endanger any person or property, or to obstruct, hinder or impede the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways or parks;

(H) The city may prohibit the operation of golf carts on any street or highway if the City Council determines that the prohibition is necessary in the interest of safety;

(I) Golf carts may not be operated on any public street or roadway in the city during one-half hour after sunset to one-half hour before sunrise unless equipped with the proper headlights and tail lights listed above;

(J) Golf carts must be parked in accordance with the laws and ordinances which apply to any parked vehicle in the city;

(K) Golf carts are strictly prohibited from traveling upon or parking on any sidewalk within the city;

(L) Golf carts are required to follow the rules and regulations of any other vehicle during special events and are not permitted to enter special event areas unless the golf cart is listed on the special event permit and a part of the event; and

(M) Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.

(Ord. passed --; Ord. O-09-14, passed 11-6-2014)

§ 70.37 SAFETY EQUIPMENT, REQUIRED.

(A) No golf cart may be operated on any street or highway in the city without the following safety features installed:

- (1) Headlights and taillights if the operator plans to drive after dark;
- (2) Rubber or equivalent tires;
- (3) Adequate steering gear, brakes, emergency or parking brake, rear-view mirror, adequately fixed drivers seat;
- (4) All other factory installed safety or mechanical systems, including no gasoline or propane leaks;
- (5) Speed governor if gasoline powered;
- (6) Golf carts with "lift kits" may not be more than 22 inches high measured from floorboard of cart to the ground; and
- (7) Either a left side and right side mirror, or a wide-angle cross bar rear-view mirror.

(B) Furthermore, no registration sticker will be issued until the operator presents proof that the golf cart is fully insured, and the operator has a valid North Carolina driver's license or recognized valid driver's license from another state.

(Ord. passed - -; Ord. O-09-14, passed 11-6-2014)

§ 70.38 INSURANCE REQUIREMENTS.

Every golf cart and driver thereof shall have in full force and effect, a valid insurance policy as set forth in G.S. § 20-309 of the state motor vehicle laws.

(Ord. passed - -)

§ 70.39 LIABILITY DISCLAIMER.

This section is adopted to address the interest of public safety. Golf carts are not designed or manufactured to be used on public streets, and the city in no way advocates or endorses their operation on public streets and roadways. The city, by regulating such operation, is merely trying to address obvious safety issues, and adoption of this section is not to be relied upon as a determination that operating on public streets and roadways is safe or advisable if done in accordance with this section. All persons who operate or ride upon golf carts on public streets, or rides, do so at their own risk and peril, and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicycles and pedestrians. The city has no liability under any theory of liability and the city assumes no liability for permitting golf

carts to be operated on public streets and roadways. Any person who operates a golf cart is responsible for procuring liability insurance sufficient to cover the risk involved in using a golf cart on the public streets and roadways.

(Ord. passed - -)

§ 70.40 VIOLATIONS.

Any operation of a golf cart in violation of either this subchapter or the motor vehicle laws of the state shall be guilty of the same traffic law violations and charged the same as any other driver of any registered vehicle in the state and will lose its special use permit with the city for a period of not less than one year.

(Ord. passed - -; Ord. O-09-14, passed 11-6-2014)

§ 70.99 PENALTY FOR TITLE VII.

Any violation of the sections of this chapter set forth below shall subject the violator to those civil penalties hereinafter enumerated. Civil penalties that are not voluntarily paid by the violator may be recovered by the city by a civil action in the nature of a debt.

(A) Generally. Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Notice to be affixed. Whenever a member of the Police Department of the city or other person authorized with the enforcement of the provisions of this chapter regulating parking of vehicles shall find that any of those provisions are being, or have been violated by the owner and/or operator of the vehicle, the officer or person shall notify the owner and/or operator of the vehicle of the violation by conspicuously attaching to the vehicle a parking violation notice or citation.

(C) Responsibility for penalty. Upon receiving a notice or citation serving as notice of violation of the parking regulations set forth in these sections, the owner and/or operator of the vehicle found in violation shall be responsible for penalties herein established.

(D) Penalty.

(1) Any penalty for parking violation that is not paid within 15 days of issuance will accrue an additional penalty of \$5 per 15 days it remains unpaid. After 15 days of issuance of a parking violation, a delinquent notice will be mailed to the registered owner of the vehicle.

(2) The maximum total combined fines and penalties for a single \$20 violation shall be \$50. When the maximum is reached for either a single violation or receives three or

more for the same owner and/or operator, he or she will be notified in writing of the intent of the city to pursue claims through appropriate civil action or through referral to a collection agency. Once a civil action is initiated, any fees or costs, including but not limited to, attorney fees, involved in the civil action shall be added to the settlement in each action and shall be due and payable by the owner and/or operator.

(3) The penalty for any violation of § 72.02, Chapter 75 and Chapter 74, Schedule V shall be \$20.

(Prior Code, § 13-12) (Ord. O-49-97, passed 4-10-1997; Ord. O-05-10, passed 12-2-2010)

This ordinance shall be effective upon adoption.

This the 1st day of August, 2024.

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



Lincolnton NC

Near the City. Near the Mountains. Near Perfect.

**City of Lincolnton
114 W Sycamore Street
Lincolnton, NC 28092
(704) 736-8980**

GOLF CART REGISTRATION INSTRUCTIONS

Packets are available at City Hall

Or

<https://lincolntonnc.org/>

****PLEASE READ CAREFULLY ALL THE INFORMATION BELOW****

REGISTRATION: No golf cart shall be driven in the City of Lincolnton without a registration sticker. The registration sticker must be attached to the front, left side of the golf cart. The annual fee for a golf cart permit is set July 1st each budget year. Permits are valid from January 1 to December 31 of each year.

NOTE: ATV's, Gators, and/or Mules are NOT considered a golf cart

**REGISTER AT: CITY HALL, 114 W SYCAMORE STREET, MONDAY – FRIDAY
8:30AM to 5:00PM**

PLEASE BRING THE FOLLOWING:

1. Completed registration Application with signatures
2. Signed Golf Cart Rules and Safety Acknowledgement
3. Driver's License
4. Proof of Insurance

For questions about registration, please call the City of Lincolnton (704) 736-8980



City of Lincolnton Golf Cart Rules and Safety Regulations Acknowledgment

Lincolnton Golf Cart Rules:

- Carts must have liability insurance coverage.
- Cart operators must be at least 16 years of age and possess a valid driver's license.
- Carts shall only be driven on roads posted 35 miles per hour or less. This does not prohibit a cart from crossing a road or street at an intersection where the road or street being crossed has a posted speed limit of more than 35 miles per hour.
- Carts are prohibited on:
 - Any part of Main Street (Hwy27) from Flint Street East to the city limits (Four Lane)
 - Any portion of US 321
 - Any portion of Generals Blvd
- No one is allowed to stand on a golf cart while it is in operation and may only have the appropriate amount of people that the golf cart is designed to carry.
- Carts without lights may be operated only during daylight hours.
- Hand signals are required if mechanical turn signal indicators are not installed.
- Carts must display a slow-moving vehicle emblem on the back of the cart.
- Drivers of carts shall stay to the far right of the traveled portion of the road and yield the right-of-way to overtaking motor vehicles.
- Any person who operates a golf cart on public streets and roads must adhere to all applicable state and local laws, regulations and ordinances, including but not limited to those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.
- Cart operators shall comply with all traffic rules and regulations adopted by the State of North Carolina and the City of Lincolnton which governs the operation of motor vehicles

Carts must be equipped and safely operated with:

- All factory installed safety equipment.
- All mechanical systems must be in good working order, including no leaks on gas powered carts.
- Unobstructed rear-view mirror and left side mirror, or a wide-angle cross bar rear-view mirror.
- Headlights and taillights if the cart is to be operated after dark.
- Rubber or equivalent tires
- Adequate steering system and braking system including an emergency or park brake.
- Speed limited to 25MPH.
- Cart height of 22 inches or less when measured from ground to the floorboard of the cart.
- Either a left-side and right-side mirror, or a wide-angle cross bar rear-view mirror.

By signing below, I certify that I have read, understand, and agree to follow the above rules and safety regulations, and acknowledge that if I am found in violation of the above rules and/or safety regulations, I may be subject to fines, tow fees and/or the revocation of my Golf Cart Registration.

Owner Signature

Printed Name

Date



City of Lincolnton
Golf Cart Registration Application

Owner's Information:

Full Name: _____

Physical Address: _____

City/Town: _____ State: _____ Zip: _____

Phone: _____ E-mail: _____

Driver's License Number: _____ State: _____

Golf Cart Information:

Make (MFG): _____ Model (Year): _____

Color(s): _____ Gas/Electric: _____ No. of Seats: _____

Serial Number (VIN): _____

Insurance Company: _____ Policy Number: _____

Disclaimer, Liability and Assumption of Risk

I have received, read, and understand the Lincolnton Golf Cart Ordinance. I acknowledge that I will assume all liability, and I am fully responsible for the operation of the above cart and its passengers on the streets and roads in the City of Lincolnton. I also acknowledge that the City of Lincolnton, in providing this privilege, is in no way endorsing the operation of this cart on the streets and roads, and does not and will not assume any liability in the operation of the cart. I agree to indemnify and hold harmless the City of Lincolnton for any and all liability arising from the use of this golf cart. I will ensure that the assigned registration sticker will remain attached to the driver's side of the cart at all times. I furthermore ensure that I will obey all the rules and regulations set forth by the City of Lincolnton concerning the operation of a cart within the town limits. **I also understand that the Lincolnton Police Department's interpretation of all the rules and regulations are final.**

By signing below, I certify that I have read, understand, and agree to follow the rules set forth in the Lincolnton Golf Cart Ordinance. I further certify my Golf Cart meets or exceeds the safety equipment required in section 70.37 Safety Equipment, Required of the Lincolnton Golf Cart Ordinance. I acknowledge that if I am found in violation of the Lincolnton Golf Cart Ordinance, I may be subject to fines, tow fees and/or the revocation of my Golf Cart Registration.

Owner Signature Printed Name Date

Witness Signature Printed Name Date

STAFF ONLY: REGISTRATION #: _____ EMPLOYEE: _____

**ORDINANCE
O-15-24**

**AN ORDINANCE AMENDING TITLE XIII: GENERAL OFFENSES
CHAPTER 130: OFFENSES AGAINST PUBLIC PEACE AND SAFETY
130.09 URBAN CAMPING AND IMPROPER USE OF PUBLIC AND
PRIVATE PLACES**

WHEREAS, Section 130.09, Urban Camping and Improper use of public and private places, needs to be amended/revised so that definitions and rules align; and

WHEREAS, Ordinances are adopted by its governing body and can be amended or repealed through the adoption of a new ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincolnton that Title XIII, GENERAL OFFENSES, CHAPTER 130, OFFENSES AGAINST PUBLIC PEACE AND SAFETY, 130.09 URBAN CAMPING AND IMPROPER USE OF PUBLIC AND PRIVATE PLACES be amended and enacted to read as follows (**NOTE**: amended text struck through and/or highlighted) :

§ 130.09 URBAN CAMPING AND IMPROPER USE OF PUBLIC AND PRIVATE PLACES.

(A) Purpose. The streets and public areas within the city should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes interferes with the rights of others to use the areas for which they were intended. Such activity can constitute a public health and safety hazard, which adversely affects neighborhoods and commercial spaces. Camping on private property without the owner's consent, without proper sanitary measures, and for other than a minimal duration adversely affects private property rights as well as public health, safety, and welfare of the city. The purpose of this section is to maintain streets, parks, and other public and private areas within the city in a clean, sanitary, and accessible condition and to protect the health, safety, and public welfare of the community while recognizing that subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city. Nothing in this section is intended to interfere with otherwise lawful and ordinary uses of public or private property.

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~AVAILABLE SHELTER. A public or private shelter, with an available overnight space, open to an individual or family unit experiencing homelessness at no charge. A shelter shall not be considered available when the individual cannot occupy said space due to overcapacity, exhaustion of stay limitations, or when religious observance is required as~~

a condition of gaining shelter. If the individual cannot utilize the overnight shelter space due to voluntary actions including, but not limited to, intoxication, drug use, unruly behavior, or violation of shelter rules, the overnight shelter space shall be considered available.

CAMP. Residing in or using a public street, sidewalk, public park or private land for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; parking of a motor vehicle, motor home or trailer, or mooring of a vessel or any other type of structure for living accommodation purposes; sleeping in a single place for any substantial prolonged period of time; regularly cooking or preparing meals; or other similar activities. Camping as defined in this section is deemed a public nuisance, and the city may summarily remove a temporary shelter, bedding, or personal belongings.

OTHER PUBLIC PROPERTY. Includes all public or municipal buildings, facilities, structures, properties upon which the buildings, facilities or structures are located, lots, parcels, and any other public properties.

PRIVATE PROPERTY. All privately-owned property including, but not limited to, streets, sidewalks, alleys, and improved or unimproved land.

PUBLIC PARK. Includes all municipal parks, public playgrounds, public plazas, attractions and monuments.

PUBLIC STREET. Includes all public streets, highways, rights-of-way, public sidewalks, public benches, public parking lots and medians.

STORING PERSONAL PROPERTY. Leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. The term STORING PERSONAL PROPERTY shall not include parking a bicycle or other mode of transportation.

TEMPORARY SHELTER. Tents, tarps, or any type of structure or cover that provides partial shelter for persons, animals or personal property from the elements.

(C) Rules.

(1) Unlawful camping on public property.

(a) Permit required. So long as a public or private shelter is available, It shall be unlawful to camp or stay overnight in or on any city park, greenway, street, or any other city property without first receiving a permit from the Director of Parks and Recreation. Camping shall include, but not be limited to, the use of park land, greenway, street, public right-of way, or under any bridge or viaduct, or any other city property for living accommodations, such as sleeping, storing personal belongings, making fires, digging, or cooking.

(b) Removal of campsite. Upon discovery of an unattended campsite, removal of the campsite by the city may occur under the following circumstances:

1. Prior to removing the campsite, the city shall post a notice, 24 hours in advance.

~~2. At the time that a 24-hour notice is posted, the city shall may inform a local agency that delivers social services to homeless individuals where the notice has been posted.~~

~~3. The local agency may arrange for outreach workers to visit the campsite where a notice has been posted to assess the need for social service assistance in arranging shelter and other assistance.~~

~~4~~². All personal property shall be given to the Police Department whether 24-hour notice is required or not. The property shall be stored for a minimum of 14 ⁷ days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for 14 ⁷ days may be disposed of. For purposes of this division, PERSONAL PROPERTY means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to the Police Department.

~~5~~³. The 24-hour notice required under division (b)1. of this section shall not apply:

a. When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring.

b. In the event of an exceptional emergency such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety.

c. Application outside city. This chapter applies to acts committed on property owned by the city that is located outside the city.

(2) No tents or temporary shelters on public property.

(a) It shall be unlawful to place tents, temporary shelters or other camping gear on public property owned by the city regardless of whether the tents are occupied and/or contain bedding or camping gear without a permit.

(b) Umbrellas or unenclosed tents of a "pop-up" nature may be used in city parks subject to compliance with applicable provisions of the N.C. State Building Code, or park rules or regulations.

~~(2)~~⁽³⁾ Unlawful camping on private property.

(a) It is unlawful to camp upon private property within the city except as otherwise provided in this section.

(b) This section shall not apply to persons camping upon their own land or to persons camping with the written consent of the owner of the land, provided that such written consent is in their possession at the time and is shown upon demand of any peace officer. No person shall camp, or permit to camp, on private property for a period of time exceeding five consecutive days without an interruption of at least seven consecutive non-camping days. For purposes of this section, camping for any portion of a day shall count as a full camping day.

~~(3)~~(4) Unlawful storing of personal property. It shall be unlawful to leave one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. The term storing personal property shall not include parking a bicycle or other mode of transportation.

~~(4)~~(5) Exceptions. This section shall not be construed to prohibit the following behavior:

- (a) Persons sitting or lying down as a result of a medical emergency;
- (b) Persons in wheelchairs sitting on sidewalks;
- (c) Persons sitting down while attending parades;
- (d) Persons sitting down while patronizing sidewalk cafes; or
- (e) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage.

~~(5)~~(6) Enforcement. Any sworn law enforcement officer shall have the authority to enforce this section.

(a) Penalty. Any person who violates any of the provisions of this section shall be guilty of a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. § 160A-175 and as provided in G.S. § 14-4.

(b) Any encampment on publicly-owned property within the city that is deemed a high risk to the public's health and safety will be posted "No Trespass", removed, and cleaned.

(c) Severability. If any provision of this section is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and shall continue in full force and effect.

(Ord. O-11-23, passed 8-3-2023)

This ordinance shall be effective upon adoption.

This the 1st day of August, 2024.

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney