

**EDEN CITY COUNCIL  
REGULAR MEETING AGENDA  
January 17, 2023 at 6 p.m.  
Council Chambers, 308 E. Stadium Drive**

1. Meeting called to order by: Neville Hall, Mayor
2. Invocation: Pastor Dennis Clements, First Baptist of Draper
3. Pledge of Allegiance: Led by Chris White, Fire Chief
4. Council Member Appointment:
  - a. Consideration to appoint a Council Member to fill the unexpired term as Council Member representing Ward 6.
  - b. Introduction of the Honorable Judge Stan Allen and swearing in of newly appointed Council Member.
5. Proclamations and Recognitions:
  - a. Proclamation: Black History Month
6. Audit Report:
  - a. Presentation of the 2021-2022 Audit by Rouse, Rouse, Rouse & Gardner
7. Roll Call
8. Set Meeting Agenda
9. Public Hearings:
  - a. (1) Consideration of a zoning map amendment request and adoption of an ordinance to rezone approximately 89 acres off of S. Edgewood Road from Residential 20 to Residential Mixed Use. Zoning case Z-22-07. **Kelly Stultz, Planning & Community Development Director**  
  
(2) Consideration of a resolution adopting a statement of consistency regarding the proposed map amendment. **Kelly Stultz, Planning & Community Development Director**
  - b. (1) Consideration of a zoning map amendment request and adoption of an ordinance to rezone approximately 15 acres located at 1711 Mill Avenue from Open Space to Heavy Industrial. Zoning case Z-22-09. **Kelly Stultz, Planning & Community Development Director**  
  
(2) Consideration of a resolution adopting a statement of consistency regarding the proposed map amendment. **Kelly Stultz, Planning & Community Development Director**
  - c. Consideration to approve an economic development proposal that would include a conveyance to Mabe Trucking Properties, LLC of a fee simple interest in Parcel D containing 14.862 acres, Tax Parcel ID 111078, as currently shown on Plat of Survey for Fieldcrest Mills, Inc., dated January 27, 1986 by C.E. Robertson & Associates and recorded in Plat Book 30 Page 89 in Rockingham County Register of Deeds. **Kelly Stultz, Planning & Community Development Director**
10. Requests and Petitions of Citizens
11. Unfinished Business:
  - a. Consideration of boards and commissions appointments. **Kelly Stultz, Planning & Community Development Director**

12. New Business:
  - a. Consideration of approval to remove the out-of-service Byrd Street water tank.  
**Melinda Ward, Utilities Manager**
  - b. Consideration to adopt an ordinance to amend the backflow/cross connection portion of Chapter 16 of the Eden City Code of Ordinances. **Melinda Ward, Utilities Manager**
13. Reports from Staff:
  - a. City Manager's Report. **Jon Mendenhall, City Manager**
14. Consent Agenda:
  - a. Approval and adoption of the December 20, 2022 Council meeting minutes.  
**Deanna Hunt, City Clerk**
  - b. Approval and adoption of a contract regarding the Conduct of Municipal Elections with the Rockingham County Board of Elections. **Erin Gilley, City Attorney**
  - c. Approval and adoption of Budget Amendment #4.  
**Tammie McMichael, Finance and Personnel Director**
  - d. Approval and adoption of a resolution in support of seeking and sourcing funding for traffic reconfiguration at the Bridge Street, Boone Road and Washington Street intersection.  
**Erin Gilley, City Attorney**
15. Announcements
16. Adjournment



**PROCLAMATION  
Black History Month 2023**

**WHEREAS**, during Black History Month, we celebrate the many achievements and contributions made by African Americans to our economic, cultural, spiritual, and political development; and

**WHEREAS**, this annual observance is an opportunity to remember the challenges of our past, but also to honor countless African American heroes who inspire us to shape our country's future, and

**WHEREAS**, we remember and celebrate the lives of Rosa Parks, Sojourner Truth, Frederick Douglass, George Washington Carver, Harriet Tubman, and countless other African Americans who triumphed over ignorance, oppression, and injustice to make indelible contributions to our American history. They are an integral part of our Nation's story. We are indebted to the individual and collective perseverance and patriotism of these outstanding men and women;

**WHEREAS**, during Black History Month, we recommit to being a community of opportunity and hope for every citizen;

**NOW, THEREFORE**, I, Neville Hall, Mayor of the City of Eden, do hereby proclaim the month of February 2023 to be

**BLACK HISTORY MONTH**

in the City of Eden and encourage all City of Eden residents to join me in celebrating the collective ingenuity, creativity, cultures and traditions of African Americans and commit ourselves to raise awareness and appreciation of Black History Month by participating in educational events honoring the contributions of Black Americans.

This the 17 day of January, 2023.

\_\_\_\_\_  
Neville Hall  
Mayor

ATTEST:

\_\_\_\_\_  
Deanna Hunt  
City Clerk



# Planning and Inspections Department

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P. O. Box 70, 308 E Stadium Drive, Eden NC 27289-0070/Telephone 336-623-2110/Fax 336-623-4057

## MEMO

**To:** Honorable Mayor and City Council  
**Thru:** Jon Mendenhall, City Manager  
**From:** Kelly K. Stultz, AICP, Director  
**Subject:** **Zoning Case Z-22-07 – Approx. 89 acres off S. Edgewood Road**  
**Date:** January 6, 2023

The City has received a zoning map amendment request filed by Kenan Wright, Agent for the property owners, Homer E. Wright, Jr., MG Holding, LLC and Meadow Greens Place LLC to rezone approximately 89 acres off of S. Edgewood Road. The request is to rezone the property from Residential-20 to Residential Mixed Use.

The Planning and Community Development Department recommends approval of the map amendment request. At a regular meeting in October, the Planning Board voted to recommend that the City Council approve this request.

*CERTIFICATE SHOWING THAT NOTICES WERE MAILED TO THE OWNER(S) OF PROPERTY SUBJECT TO REZONING AND TO OWNER(S) OF ALL PARCELS OF LAND ABUTTING SUBJECT PROPERTY AND/OR WITHIN 100 FEET OF SUBJECT PROPERTY.*

RE: ZONING CASE Z-22-07  
Approx. 89 acres off S. Edgewood Road

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF EDEN:

I, Kelly K. Stultz, Planning & Community Development Director of the City of Eden North Carolina, do hereby certify that notices of the proposed zoning map amendment requested by Kenan Wright, Agent for the property owners, Homer E. Wright, Jr., MG Holding, LLC and Meadow Greens Place LLC, Inc. to rezone approximately 89 acres off S. Edgewood Road from Residential-20 to Residential Mixed Use were mailed first-class mail to the owners of the property in the proposed rezoning and all property owners adjacent to or within 100 feet of the subject area on the 6th day January, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand this the 6th day of January, 2023.

  
\_\_\_\_\_  
Kelly K. Stultz, AICP  
Planning and Community Development Director



# Rezoning (Map Amendment) Application

Planning and Inspections Department  
308 E. Stadium Dr., Eden, NC 27288  
Phone: 336-623-2110 x2 / Fax: 336-623-4057  
[www.edennc.us](http://www.edennc.us)

## CONTACT INFORMATION

Contact Name Kenan Wright  
Contact Address 222 East Meadow Road  
City Eden State NC Zip 27288  
Phone Number 336-552-9975 Email Kenanwright@triad.twcbc.com  
Contact's Property Interest or Legal Relationship to Owner Legal Representative

## PROPERTY OWNER INFORMATION

Property Owner Name Homer Wright  
Property Owner Mailing Address 222 East Meadow Road  
City Eden State NC Zip 27288  
Phone 336-623 8481 Email Kenanwright@triad.twcbc.com

## PROPERTY INFORMATION

Tax Property ID No. (PIN) 7080-1961-1372  
Deed Book and Page No. 1454 Page 2410  
Physical Address Gallagher's Way  
City Eden State NC Zip 27288  
Year Current Owner Acquired Property 2013 Acreage 2.2 AC<sup>±</sup>  
Public Water Available?  Yes  No Public Sewer Available?  Yes  No  
Current Use of Property Vacant  
City Jurisdiction:  In-City Limits  ETJ

Existing land use/zoning on adjoining properties:

North: Golf Course  
South: Golf Course  
East: Golf Course  
West: Golf Course

## ADDITIONAL INFORMATION

Attach the following documents to this application form:

- Recorded deed to the property
- Copy of the recorded plat or survey for the property\* or  A map showing dimensions of the property

\*Preferred

## PROCESS & FILING INFORMATION

**Submission Requirements:** Per Article 3 of the Eden Unified Development Ordinance (UDO), every applicant for a rezoning (map amendment) is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application. Upon application submittal, the Administrator shall review the application to ensure that it is complete.

**Review Process:** After review and recommendation of the application by the Administrator, the Planning Board shall review and provide a recommendation to the City Council. Upon receiving a recommendation from the Planning Board, the City Council shall hold a legislative public hearing on the proposal for official action.

**Required Application Information:** A petitioner must complete this application in full. This application will not be processed unless all information requested is provided.

**General Rezoning Requests:** These are "general" requests involving a zoning change to an individual parcel of land. The request is to amend or change the City's Official Zoning Map in a certain area from one zoning district to another. "General" rezoning requests are not specific and if approved, any permitted land use within the new zoning district as illustrated in Section 5.06 (Table of Permitted Uses) of the Eden UDO could be permitted.

**Conditional Zoning District Requests:** Conditional Zoning Districts (CZ) are districts with conditions voluntarily added by the applicant. Conditional Zoning Districts provide for orderly and flexible development under the general policies of this ordinance without the constraints of some of the prescribed standards guiding by-right development. Conditional Zoning Districts may be used in any district but is not intended to relieve hardships that would otherwise be handled using a variance procedure. Conditional Zoning District rezonings can include restrictive land uses, site/subdivision master plans and other information as described in Section 3.10 of the UDO.

## ZONING INFORMATION

Request Type:  General Rezoning  Conditional Zoning District

Current Zoning District R-20

Requested Zoning District RMX

If the request is to a Conditional Zoning District this application should be accompanied by an Existing Conditions Map, a Sketch Plan (may be waived by the Administrator as appropriate), and Master Plan; as well as any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the City Council. At a minimum, the following should be provided:

1. The underlying zoning districts and a full list of proposed uses consistent in character with those zoning districts. Such use classifications may be selected from any of the uses, whether permitted, by right or with supplemental



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Phone: 336-623-2110 x2 / Fax: 336-623-4057

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standards, allowed in the general zoning district upon which the Conditional Zoning District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional Zoning District.

2. General traffic routes (external and internal) to and from the development with major access points identified.
3. Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios and impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development.
4. A proposed development schedule if the project is to be phased.

Proposed Land Use(s):

**Residential**

Proposed Conditions Offered by Applicant:

## APPLICANT/OWNER CERTIFICATION

I hereby certify that, to the best of my knowledge, the information on this application is true and accurate, and I hereby petition the Planning Board to recommend and the City Council to approve this application for a rezoning (map amendment).

Applicant Signature

*Keray Wright*

Date

*10/3/2022*

Property Owner Signature

*John Elwood*

Date

*10/3/2022*

## Office Use Only

Staff Member (Initial upon Receipt)

*OM*

Date

*10/3/2022*

Application Number

*2-22-07*

Fee Paid



# Rezoning (Map Amendment) Application

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## CONTACT INFORMATION

Contact Name Kenan Wright  
Contact Address 222 East Meadow Road  
City Eden State NC Zip 27288  
Phone Number 336-552-9975 Email Kenanwright@triad.twcbc.com  
Contact's Property Interest or Legal Relationship to Owner Partner

## PROPERTY OWNER INFORMATION

Property Owner Name MG Holding, LLC  
Property Owner Mailing Address 222 East Meadow Road  
City Eden State NC Zip 27288  
Phone 336-623 8481 Email Kenanwright@triad.twcbc.com

## PROPERTY INFORMATION

Tax Property ID No. (PIN) 7080-1951-5024  
Deed Book and Page No. 1574 Page 1772  
Physical Address Stadium Drive & Edgewood Drive  
City Eden State NC Zip 27288  
Year Current Owner Acquired Property 2009 Acreage 60 AC +/-  
Public Water Available?  Yes  No Public Sewer Available?  Yes  No  
Current Use of Property Vacant  
City Jurisdiction:  In-City Limits  ETJ

Existing land use/zoning on adjoining properties:

North: Single Family  
South: Golf Course  
East: Single family  
West: Golf Course

Part of PIN  
7080-19-51-5025



ExploreEdenNC.com



## ADDITIONAL INFORMATION

Attach the following documents to this application form:

- Recorded deed to the property
- Copy of the recorded plat or survey for the property\* or  A map showing dimensions of the property

\*Preferred

## PROCESS & FILING INFORMATION

**Submission Requirements:** Per Article 3 of the Eden Unified Development Ordinance (UDO), every applicant for a rezoning (map amendment) is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application. Upon application submittal, the Administrator shall review the application to ensure that it is complete.

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## ZONING INFORMATION

Request Type:  General Rezoning  Conditional Zoning District

Current Zoning District R-20

Requested Zoning District RMX

If the request is to a Conditional Zoning District this application should be accompanied by an Existing Conditions Map, a Sketch Plan (may be waived by the Administrator as appropriate), and Master Plan; as well as any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the City Council. At a minimum, the following should be provided:

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standards, allowed in the general zoning district upon which the Conditional Zoning District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional Zoning District.

2. General traffic routes (external and internal) to and from the development with major access points identified.
3. Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios and impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development.
4. A proposed development schedule if the project is to be phased.

Proposed Land Use(s):

**Residential**

Proposed Conditions Offered by Applicant:

## APPLICANT/OWNER CERTIFICATION

I hereby certify that, to the best of my knowledge, the information on this application is true and accurate, and I hereby petition the Planning Board to recommend and the City Council to approve this application for a rezoning (map amendment).

Applicant Signature Keran Wright Date 10/3/2022  
 Property Owner Signature Keran Wright Date 10/3/2022

## Office Use Only

Staff Member (Initial upon Receipt) DN Date 10/3/2022  
 Application Number 2-22-07 Fee Paid \_\_\_\_\_



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Contact Name Kenan Wright

Contact Address 222 East Meadow Road

City Eden State NC Zip 27288

Phone Number 336-552-9975 Email Kenanwright@triad.twcbc.com

Contact's Property Interest or Legal Relationship to Owner Partner

## PROPERTY OWNER INFORMATION

Property Owner Name Meadow Greens Place, LLC

Property Owner Mailing Address 222 East Meadow Road

City Eden State NC Zip 27288

Phone 336-623 8481 Email Kenanwright@triad.twcbc.com

## PROPERTY INFORMATION

Tax Property ID No. (PIN) 7080-2070-3558

Deed Book and Page No. 1018 Page: 1722

Physical Address Edgewood Road

City Eden State NC Zip 27288

Year Current Owner Acquired Property July 1999 Acreage 7 AC<sup>+</sup>

Public Water Available?  Yes  No Public Sewer Available?  Yes  No

Current Use of Property Vacant

City Jurisdiction:  In-City Limits  FT.I

Existing land use/zoning on adjoining properties:

North: Golf Course

South: Golf Course

East: Single Family

West: Golf Course

Part of PIN  
7080-19-72-4269  
Eden



ExploreEdenNC.com



## ADDITIONAL INFORMATION

Attach the following documents to this application form:

Recorded deed to the property

Copy of the recorded plat or survey for the property\* or  A map showing dimensions of the property

\*Preferred

## PROCESS & FILING INFORMATION

**Submission Requirements:** Per Article 3 of the Eden Unified Development Ordinance (UDO), every applicant for a rezoning (map amendment) is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application. Upon application submittal, the Administrator shall review the application to ensure that it is complete.

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## ZONING INFORMATION

Request Type:  General Rezoning  Conditional Zoning District

Current Zoning District R-20

Requested Zoning District RMX

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standards, allowed in the general zoning district upon which the Conditional Zoning District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional Zoning District.

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4. A proposed development schedule if the project is to be phased.

Proposed Land Use(s):

**Residential**

Proposed Conditions Offered by Applicant:

## APPLICANT/OWNER CERTIFICATION

I hereby certify that, to the best of my knowledge, the information on this application is true and accurate, and I hereby petition the Planning Board to recommend and the City Council to approve this application for a rezoning (map amendment).

Applicant Signature

*Keron Wright*

Date

*10/3/2022*

Property Owner Signature

*Keron Wright*

Date

*10/3/2022*

## Office Use Only

Staff Member (Initial upon Receipt)

*EW*

Date

*10/3/2022*

Application Number

*Z-22-07*

Fee Paid

**PLANNING AND INSPECTIONS DEPARTMENT  
ZONING MAP AMENDMENT REPORT  
October 25, 2022, Revised November 1, 2022**

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<b>CASE NUMBER:</b>	<b>Z-22-07</b>
<b>EXISTING ZONING DISTRICT:</b>	<b>R20</b>
<b>REQUESTED ZONING DISTRICT:</b>	<b>RMX</b>
<b>APPLICANT:</b>	<b>Kenan Wright</b>
<b>APPLICANT'S STATUS:</b>	<b>Agent for Homer E. Wright, Jr., MG Holding, LLC, and Meadow Greens Place LLC, Property Owners</b>

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**PROPERTY INFORMATION**

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<b>LOCATION:</b>	(Off) Gallagher's Way, (Off) Bermuda Drive, (Off) S. Edgewood Road
<b>PIN:</b>	Part of 7080-19-61-1372, 7080-19-51-5025, 7080-19-72-4269
<b>SIZE:</b>	Approximately 89 acres
<b>ACCESS:</b>	S. Edgewood Road
<b>LAND USE:</b>	Residential
<b>ZONING HISTORY:</b>	Previously zoned R20 as part of UDO updates in 2021

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**AREA INFORMATION**

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<b>CHARACTERISTICS:</b>	Bordered on the north by R20 property containing an existing golf course and developed residential property (along E. Stadium Drive) and two parcels of NMX property. Bordered on the south by developed R20 properties containing single-family residential uses and an existing golf course. Bordered on the west by undeveloped R20 properties and developed R20 properties containing single-family residential uses and an existing golf course. Bordered on the east by developed R20, R20 (CZ) properties and an existing golf course (along S. Edgewood Road).		
<b>ADJACENT ZONING:</b>	North:	R20, NMX	
	East:	R20, R20 (CZ)	
	West:	R20	
	South:	R20	

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**PLANNING AND DEVELOPMENT INFORMATION**

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<b>STREET IMPROVEMENTS:</b>	Yes
<b>PUBLIC WATER AVAILABLE:</b>	Yes
<b>PUBLIC SEWER AVAILABLE:</b>	Yes
<b>2021 COMPREHENSIVE PLAN:</b>	Suburban Residential (SR)

FLOOD HAZARD AREA: None

WATER SUPPLY WATERSHED: None

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### STAFF ANALYSIS

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The request is to rezone part of three (3) parcels of approximately 89 acres from Residential 20 (R20) to Residential Mixed Use (RMX). The R20 districts are established for residential developments and related recreational, religious and educational facilities. They are intended to act as transitional zoning districts between rural development and the more urban development of the City. These regulations are further intended to discourage any use which would be detrimental to the predominately residential nature of the areas included within the district. The Residential Mixed Use (RMX) district is established to accommodate a variety of housing types in a neighborhood setting and is intended to provide areas for higher density residential development near commercial areas such as the BC, NMX and BH districts. The intent is to create higher density residential areas that compliment commercial districts with physical proximity and pedestrian connectivity.

The subject parcel is located off of S. Edgewood Road and surrounded by the Oak Hills Golf Course. The RMX district would permit single-family residential uses, as well as single-family attached housing (townhomes) and multi-family housing. The RMX district would also permit smaller scaled, low impact commercial and office uses so as not to adversely affect the residential nature of the area. Staff is of the opinion that the uses allowed in the RMX district would not negatively impact the surrounding residential areas, and could be beneficial to the area by providing small scaled commercial and office uses for the neighboring neighborhoods. Therefore, staff recommends in favor of the request.

Based upon the character of the area and the existing uses in the area, staff recommends in favor of the RMX request.

**STAFF RECOMMENDATION:**

**Approval of the RMX request.**



Subject Property

**ZONING CASE**

**Z-22-07**

**AERIAL MAP**



**Part of PIN's:  
7080-19-61-1372,  
7080-19-51-5025 and  
7080-19-72-4269**

**Zoned:  
Residential 20**

**Request:  
Residential Mixed Use**



**ZONING CASE**

**Z-22-07**

**ZONING MAP**



**Part of PIN's:  
7080-19-61-1372,  
7080-19-51-5025 and  
7080-19-72-4269**

**Zoned:  
Residential 20**

**Request:  
Residential Mixed Use**

AN ORDINANCE AMENDING THE ZONING  
ORDINANCE OF THE CITY OF EDEN

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BE IT ORDAINED BY THE CITY COUNCIL of the City of Eden, North Carolina, that, after having fully complied with all legal requirements, including publication of notice of a public hearing and the holding of a public hearing relative thereto, the Unified Development Ordinance of the City of Eden is hereby amended as follows:

**Section 1 - Change from Residential 20 to Residential Mixed Use the following property:**

BEGINNING at an iron stake marking the southwest corner of Lot 6, Section C of a map entitled "Tri-City Meadow Greens Development" prepared by W. T. Combs, C.E., December 31, 1955, revised July 10, 1957, and recorded in Map Book 7, page 140; thence with the rear lines of Lots 1 – 6, Section C, and a 60 foot road easement as shown on the above referenced map, South 03 deg. 21 min. 18 sec. West 660.03 feet to an iron stake marking the southwest corner of Lot 25, Section B, Tri-City Meadow Greens Development; thence with the rear lines of Lots 19 – 25, Section B, and a portion of Lot 18, Section B, South 03 deg. 21 min. 18 sec. West 755.60 feet to an iron stake in the rear line of Lot 18, Section B; thence with the south line of Parcel A as shown on a Composite Map for Peter F. Osborne, John Smith, Jr. & Homer E. Wright, Jr. recorded in Map Book 41, page 82, North 69 deg. 49 min. 48 sec. West 259.60 feet, North 77 deg. 26 min. 28 sec. West 206.95 feet, North 13 deg. 28 min. 51 sec. West 72.96 feet and South 69 deg. 21 min. 22 sec. West 414.19 feet to an iron stake; thence North 20 deg. 34 min. 49 sec. West 60.50 feet to an iron stake marking the south east corner of Lot 7, Section A, Tri-City Meadow Greens Development; thence with the rear lines of Lots 2 – 7, Section A, South 69 deg. 22 min. 54 sec. East 600 feet to the rear corner for Lots 1 and 2, Section A; thence South 20 deg. 39 min. 03 sec. East 122.32 feet to an iron; thence South 69 deg. 22 min. 54 sec. West 128.39 feet to an iron marking the center line of Moir Branch; thence South 19 deg. 17 min. 37 sec. West 14.03 feet to an iron stake; thence South 48 deg. 22 min. 37 sec. East 71.93 feet to an iron stake; thence with the south line of the Meadow Greens Country Club, Inc. as shown on the Composite Map, South 69 deg. 21 min. 36 sec. West 1,153.29 feet to an iron stake; thence South 2 deg. 36 min. 07 sec. West 607.37 feet to an iron stake; thence South 48 deg. 49 min. 37 sec. East 500.66 feet to an iron stake; thence South 30 deg. 36 min. 57 sec. West 405.49 feet to an iron stake; thence South 6 deg. 20 min. 20 sec. East 520.23 feet to an iron stake; thence South 86 deg. 38 min. 42 sec. East 779.28 feet to an iron stake; thence North 10 deg. 14 min. 41 sec. East 1,250.43 feet to an iron stake; thence South 86 deg. 38 min. 42 sec. East 394.57 feet to an iron stake; thence North 32 deg. 17 min. 36 sec. East 92.15 feet to an iron stake; thence North 04 deg. 35 min. 17 sec. East 190 feet to an iron stake marking the

northeast corner for Easement 6 (Map Book 41, page 82); thence with the north lines of Easements 4, 5 and 6, South 85 deg. 24 min. 43 sec. East 140 feet, North 81 deg. 34 min. 25 sec. East 118.72 chord distance, 119.75 arc distance, North 56 deg. 00 min. 36 sec. East 114.54 chord distance, 115.46 arc distance, North 43 deg. 27 min. 42 sec. East 53.49 feet and North 43 deg. 27 min. 42 sec. East 124.07 feet to an iron stake in the west line of Parcel B (Map Book 41, page 82); thence with the west line of Parcel B, South 19 deg. 21 min. 43 sec. West 447.99 feet to an iron stake; thence South 15 deg. 45 min. 35 sec. East 88.77 feet to an iron stake; thence South 86 deg. 38 min. 42 sec. East 143.05 feet to the POINT OF BEGINNING.

The above described property being portions of properties commonly identified by the Rockingham County Tax Dept. as PIN 7080-19-51-5025, PIN 7080-19-72-4269 and PIN 7080-19-61-1372.

**Section 2 - The Official Zoning Map of the City of Eden is hereby amended to conform with this Ordinance.**

APPROVED, ADOPTED AND EFFECTIVE, this 17th day of January, 2023.

CITY OF EDEN

BY: \_\_\_\_\_  
Neville A. Hall, Mayor

ATTEST:

\_\_\_\_\_  
Deanna Hunt, City Clerk

A RESOLUTION ADOPTING A  
STATEMENT OF CONSISTENCY REGARDING  
A PROPOSED AMENDMENT TO THE  
CITY OF EDEN UNIFIED DEVELOPMENT ORDINANCE  
**CASE NUMBER Z-22-07**  
**MAP AMENDMENT**

WHEREAS, pursuant to North Carolina General Statutes Chapter 160D-605, prior to adoption or rejection of any zoning amendment, the Eden City Council is required to adopt a statement as to whether the amendment is consistent with the Land Development Plan and why the City Council considers the action taken to be reasonable and in the public interest;

WHEREAS, on May 17, 2022, the Eden City Council adopted the Comprehensive Plan which included a Future Land Use Map. Plans such as the City of Eden Comprehensive Plan are not designed to be static but are meant to reflect the City of Eden's needs, plans for future development and to remain in compliance with North Carolina State Law and the City of Eden's ordinances;

WHEREAS, the City of Eden Planning Board received a request to rezone approximately 89 acres off South Edgewood Road from Residential 20 to Residential Mixed Use.

WHEREAS, On October 25, 2022, the City of Eden Planning Board voted to recommend to the Eden City Council that the rezoning request be approved.

STATEMENT OF NEED:

The RMX district would permit single-family residential uses, as well as single-family attached housing (townhomes) and multi-family housing. The RMX district would also permit smaller scaled, low impact commercial and office uses so as not to adversely affect the residential nature of the area. The uses allowed in the RMX district would not negatively impact the surrounding residential areas, and could be beneficial to the area by providing small scaled commercial and office uses for the neighboring residential areas.

STATEMENT OF CONSISTENCY:

The goals of the 2022 City of Eden Comprehensive Plan are to make smart growth decisions by carefully managing growth to:

- A. Strategically locate new land development in the most appropriate places.
- B. Maintain and enhance Eden's community character and heritage.
- C. Use infrastructure investments as effectively as possible.
- D. Attract new jobs and a more diverse tax base.

E. Protect natural, cultural and historic resources and open space as we grow.

WHEREAS, The Eden City Council has considered the written recommendation of the City of Eden Planning Board and has held a public hearing on the proposed amendment, and the Council desires to adopt a statement describing why the adoption of the proposed amendment is consistent with the City of Eden Comprehensive Plan and why the City Council considers the proposed amendment to be reasonable and in the public interest;

NOW THEREFORE, BE IT RESOLVED BY THE EDEN CITY COUNCIL THAT:

1. The Eden City Council finds that the proposed amendment to the City of Eden Unified Development Ordinance is consistent with the goals and recommendations of the 2022 City of Eden Comprehensive Plan.
2. At no time are land use regulations or plans of the City of Eden or any jurisdiction in the State of North Carolina permitted to be in violation of the North Carolina General Statutes.
3. Therefore, based upon the foregoing information, the amendment to the Unified Development Ordinance is reasonable and in the public's, best interest.

Approved and adopted and effective this 17th day of January, 2023.

CITY OF EDEN

BY: \_\_\_\_\_  
Neville Hall, Mayor

ATTEST:

\_\_\_\_\_  
Deanna Hunt, City Clerk



# Planning and Inspections Department

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P. O. Box 70, 308 E Stadium Drive, Eden NC 27289-0070/Telephone 336-623-2110/Fax 336-623-4057

## MEMO

**To:** Honorable Mayor and City Council  
**Thru:** Jon Mendenhall, City Manager  
**From:** Kelly K. Stultz, AICP, Director  
**Subject:** **Zoning Case Z-22-09 – Approx. 15 acres at 1711 Mill Avenue**  
**Date:** January 6, 2023

The City has received a zoning map amendment request filed by the City of Eden City Council, Representative for the property owner, the City of Eden, to rezone approximately 15 acres at 1711 Mill Avenue. The request is to rezone the property from Open Space to Heavy Industrial.

The Planning and Community Development Department recommends approval of the map amendment request. At a special request meeting on January 3, the Planning Board voted to recommend that the City Council approve this request.

*CERTIFICATE SHOWING THAT NOTICES WERE MAILED TO THE OWNER(S) OF PROPERTY SUBJECT TO REZONING AND TO OWNER(S) OF ALL PARCELS OF LAND ABUTTING SUBJECT PROPERTY AND/OR WITHIN 100 FEET OF SUBJECT PROPERTY.*

RE: ZONING CASE Z-22-09  
Approx. 15 acres at 1711 Mill Avenue

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF EDEN:

I, Kelly K. Stultz, Planning & Community Development Director of the City of Eden North Carolina, do hereby certify that notices of the proposed zoning map amendment requested by the City of Eden City Council, representative for the property owner, the City of Eden, to rezone approximately 15 acres at 1711 Mill Avenue from Open Space to Heavy Industrial were mailed first-class mail to the owners of the property in the proposed rezoning and all property owners adjacent to or within 100 feet of the subject area on the 6th day January, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand this the 6th day of January, 2023.

  
\_\_\_\_\_  
Kelly K. Stultz, AICP  
Planning and Community Development Director



# Rezoning (Map Amendment) Application

Planning and Inspections Department  
308 E. Stadium Dr., Eden, NC 27288  
Phone: 336-623-2110 x2 / Fax: 336-623-4057  
[www.edennc.us](http://www.edennc.us)

## CONTACT INFORMATION

Contact Name City of Eden City Council  
Contact Address 308 E. Stadium Drive  
City Eden State NC Zip 27288  
Phone Number 336-623-2110 Email \_\_\_\_\_  
Contact's Property Interest or Legal Relationship to Owner Representative for the City of Eden

## PROPERTY OWNER INFORMATION

Property Owner Name City of Eden  
Property Owner Mailing Address 308 E. Stadium Drive  
City Eden State NC Zip 27288  
Phone 336-623-2110 Email \_\_\_\_\_

## PROPERTY INFORMATION

Tax Property ID No. (PIN) 709007794019  
Deed Book and Page No. 0905/0553  
Physical Address 1711 Mill Avenue  
City Eden State NC Zip 27288  
Year Current Owner Acquired Property 1994-07-14 Acreage Approximately 15 acres  
Public Water Available?  Yes  No Public Sewer Available?  Yes  No  
Current Use of Property Open Space  
City Jurisdiction: Yes In-City Limits  ETJ

Existing land use/zoning on adjoining properties:

North: RA, R12 and HI Districts  
South: RMX District  
East: RA and R12 Districts  
West: HI District

## ADDITIONAL INFORMATION

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Attach the following documents to this application form:

- Recorded deed to the property  
 Copy of the recorded plat or survey for the property\* or  A map showing dimensions of the property

\*Preferred

## PROCESS & FILING INFORMATION

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**Submission Requirements:** Per Article 3 of the Eden Unified Development Ordinance (UDO), every applicant for a rezoning (map amendment) is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application. Upon application submittal, the Administrator shall review the application to ensure that it is complete.

**Review Process:** After review and recommendation of the application by the Administrator, the Planning Board shall review and provide a recommendation to the City Council. Upon receiving a recommendation from the Planning Board, the City Council shall hold a legislative public hearing on the proposal for official action.

**Required Application Information:** A petitioner must complete this application in full. This application will not be processed unless all information requested is provided.

**General Rezoning Requests:** These are "general" requests involving a zoning change to an individual parcel of land. The request is to amend or change the City's Official Zoning Map in a certain area from one zoning district to another. "General" rezoning requests are not specific and if approved, any permitted land use within the new zoning district as illustrated in Section 5.06 (Table of Permitted Uses) of the Eden UDO could be permitted.

**Conditional Zoning District Requests:** Conditional Zoning Districts (CZ) are districts with conditions voluntarily added by the applicant. Conditional Zoning Districts provide for orderly and flexible development under the general policies of this ordinance without the constraints of some of the prescribed standards guiding by-right development. Conditional Zoning Districts may be used in any district but is not intended to relieve hardships that would otherwise be handled using a variance procedure. Conditional Zoning District rezonings can include restrictive land uses, site/subdivision master plans and other information as described in Section 3.10 of the UDO.

## ZONING INFORMATION

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Request Type: Yes General Rezoning  Conditional Zoning District

Current Zoning District Open Space (OS)

Requested Zoning District Heavy Industrial (HI)

If the request is to a Conditional Zoning District this application should be accompanied by an Existing Conditions Map, a Sketch Plan (may be waived by the Administrator as appropriate), and Master Plan; as well as any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the City Council. At a minimum, the following should be provided:

1. The underlying zoning districts and a full list of proposed uses consistent in character with those zoning districts. Such use classifications may be selected from any of the uses, whether permitted, by right or with supplemental



# Rezoning (Map Amendment) Application

Planning and Inspections Department

308 E. Stadium Dr., Eden, NC 27288

Phone: 336-623-2110 x2 / Fax: 336-623-4057

[www.edennc.us](http://www.edennc.us)

standards, allowed in the general zoning district upon which the Conditional Zoning District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional Zoning District.

2. General traffic routes (external and internal) to and from the development with major access points identified.
3. Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios and impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development.
4. A proposed development schedule if the project is to be phased.

Proposed Land Use(s):

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Proposed Conditions Offered by Applicant: \_\_\_\_\_

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## APPLICANT/OWNER CERTIFICATION

I hereby certify that, to the best of my knowledge, the information on this application is true and accurate, and I hereby petition the Planning Board to recommend and the City Council to approve this application for a rezoning (map amendment).

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Property Owner Signature *Kelly K. Huty - Initiated By City Council* Date \_\_\_\_\_  
*at their regular meeting December 2022*

## Office Use Only

Staff Member (Initial upon Receipt) \_\_\_\_\_ Date \_\_\_\_\_

Application Number \_\_\_\_\_ Fee Paid \_\_\_\_\_

Unofficial Document

553 Unofficial Document



\$54.00

Real Estate Excise Tax

RECORDED  
REGISTER OF DEEDS  
ROCKINGHAM CO., N.C.

JUL 14 3 26 PM '94

Book 905, Page 553

Rec. Fee: \$10.00  
Probate: \$2.00

Excise Tax 54.00

Recording Time, Book and Page

Tax Lot No. Parcel Identifier No.  
Verified by County on the day of 19  
by

Mail after recording to Charles J. Nooe, Attorney

This instrument was prepared by Michael E. Williams, Attorney

Brief description for the Index 14.862 acres, Fieldcrest Mills

### NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made this 30th day of June, 1994, by and between

**GRANTOR**

FIELDCREST CANNON, INC., a  
Delaware Corporation  
326 East Stadium Drive  
Eden, North Carolina 27288

**GRANTEE**

CITY OF EDEN, a  
North Carolina Municipal Corporation  
350 West Stadium Drive  
Eden, North Carolina 27288

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Eden, Leaksville Township, Rockingham County, North Carolina and more particularly described as follows:

SEE ATTACHED EXHIBIT A

553

000009050553

**PLANNING AND INSPECTIONS DEPARTMENT  
ZONING MAP AMENDMENT REPORT  
January 3, 2023**

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**CASE NUMBER:** Z-22-09

**EXISTING ZONING DISTRICT:** Open Space (OS)

**REQUESTED ZONING DISTRICT:** Heavy Industrial (HI)

**APPLICANT:** City Council

**APPLICANT'S STATUS:** Representative for the City of Eden, Property Owner

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**PROPERTY INFORMATION**

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**LOCATION:** 1711 Mill Avenue  
**PIN:** 7090-07-79-4019  
**SIZE:** Approximately 15 acres  
**ACCESS:** Mill Avenue  
**LAND USE:** Open Space  
**ZONING HISTORY:** Previously zoned OS as part of UDO updates in 2021

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**AREA INFORMATION**

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**CHARACTERISTICS:** Bordered on the north by a railroad. Bordered on the south by Mill Avenue. Bordered on the west by HI property. Bordered on the east by undeveloped RA and developed R12 properties.

**ADJACENT ZONING:**

North:	RA, R12 and HI Districts
East:	RA and R12 Districts
West:	HI District
South:	RMX District

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**PLANNING AND DEVELOPMENT INFORMATION**

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**STREET IMPROVEMENTS:** Yes

**PUBLIC WATER AVAILABLE:** Yes

**PUBLIC SEWER AVAILABLE:** Yes

**2021 COMPREHENSIVE PLAN:** Parks and Open Space (OS)

**FLOOD HAZARD AREA:** Yes

**WATER SUPPLY WATERSHED:** None

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## STAFF ANALYSIS

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The request is to rezone a single parcel of approximately 15 acres from Open Space (OS) to Heavy Industrial (HI). The OS District is intended to preserve and protect environmentally sensitive lands and properties that are restricted for open space, parks and recreational type uses. The HI District is intended to accommodate those industrial, manufacturing, or large-scale utility operations that are known to pose levels of noise, vibration, odor, or truck traffic that are considered nuisances to surrounding development. This district is customarily located in proximity to railroad sidings and/or major thoroughfares.

The subject parcel is located at 1711 Mill Avenue. The owner of subject property currently has no future use plans for the property. The rezoning of subject property would enable the property to be purchased and utilized for uses that would benefit the City of Eden in future development and growth. Staff is of the opinion that these uses are compatible with the surrounding commercial and residential uses. Staff is also of the opinion that the other types of uses allowed in the HI district would not be detrimental to the surrounding area. Therefore, staff recommends in favor of the request.

Based upon the character of the area and the existing uses in the area, staff recommends in favor of the HI request.

**STAFF RECOMMENDATION:**

**Approval of the HI request.**





**ZONING CASE**

**Z-22-09**

**2021 ZONING MAP**



**PIN:  
7090-07-79-4019**

**Zoned:  
Open Space**

**Request:  
Heavy Industrial**

AN ORDINANCE AMENDING THE ZONING  
ORDINANCE OF THE CITY OF EDEN

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BE IT ORDAINED BY THE CITY COUNCIL of the City of Eden, North Carolina, that, after having fully complied with all legal requirements, including publication of notice of a public hearing and the holding of a public hearing relative thereto, the Unified Development Ordinance of the City of Eden is hereby amended as follows:

**Section 1 - Change from Open Space to Heavy Industrial the following property:**

Being a lot 734 feet x 932 feet located at 1711 Mill Avenue which contains approximately 15 acres and is identified by the Rockingham County Tax Department as PIN 7090-07-79-4019 and Parcel No. 111078.

**Section 2 - The Official Zoning Map of the City of Eden is hereby amended to conform with this Ordinance.**

APPROVED, ADOPTED AND EFFECTIVE, this 17th day of January, 2023.

CITY OF EDEN

BY: \_\_\_\_\_  
Neville A. Hall, Mayor

ATTEST:

\_\_\_\_\_  
Deanna Hunt, City Clerk

A RESOLUTION ADOPTING A  
STATEMENT OF CONSISTENCY REGARDING  
A PROPOSED AMENDMENT TO THE  
CITY OF EDEN UNIFIED DEVELOPMENT ORDINANCE  
**CASE NUMBER Z-22-09**  
**MAP AMENDMENT**

WHEREAS, pursuant to North Carolina General Statutes Chapter 160D-605, prior to adoption or rejection of any zoning amendment, the Eden City Council is required to adopt a statement as to whether the amendment is consistent with the Land Development Plan and why the City Council considers the action taken to be reasonable and in the public interest;

WHEREAS, on May 17, 2022, the Eden City Council adopted the Comprehensive Plan which included a Future Land Use Map. Plans such as the City of Eden Comprehensive Plan are not designed to be static but are meant to reflect the City of Eden's needs, plans for future development and to remain in compliance with North Carolina State Law and the City of Eden's ordinances;

WHEREAS, the City of Eden Planning Board received a request to rezone approximately 15 acres located at 1711 Mill Avenue from Open Space District (OS) to Heavy Industrial District (HI).

WHEREAS, On January 3, 2023, the City of Eden Planning Board voted to recommend to the Eden City Council that the rezoning request be approved.

STATEMENT OF NEED:

The HI District is intended to accommodate those industrial, manufacturing, or large-scale utility operations that are known to pose levels of noise, vibration, odor, or truck traffic that are considered nuisances to surrounding development. This district is customarily located in proximity to railroad sidings and/or major thoroughfares.

STATEMENT OF CONSISTENCY:

The goals of the 2022 City of Eden Comprehensive Plan are to make smart growth decisions by carefully managing growth to:

- A. Strategically locate new land development in the most appropriate places.
- B. Maintain and enhance Eden's community character and heritage.
- C. Use infrastructure investments as effectively as possible.
- D. Attract new jobs and a more diverse tax base.
- E. Protect natural, cultural and historic resources and open space as we grow.

WHEREAS, The Eden City Council has considered the written recommendation of the City of Eden Planning Board and has held a public hearing on the proposed amendment, and the Council desires to adopt a statement describing why the adoption of the proposed amendment is consistent with the City of Eden Comprehensive Plan and why the City Council considers the proposed amendment to be reasonable and in the public interest;

NOW THEREFORE, BE IT RESOLVED BY THE EDEN CITY COUNCIL THAT:

1. The Eden City Council finds that the proposed amendment to the City of Eden Unified Development Ordinance is consistent with the goals and recommendations of the 2022 City of Eden Comprehensive Plan.
2. At no time are land use regulations or plans of the City of Eden or any jurisdiction in the State of North Carolina permitted to be in violation of the North Carolina General Statutes.
3. Therefore, based upon the foregoing information, the amendment to the Unified Development Ordinance is reasonable and in the public's, best interest.

Approved and adopted and effective this 17th day of January, 2023.

CITY OF EDEN

BY: \_\_\_\_\_  
Neville Hall, Mayor

ATTEST:

\_\_\_\_\_  
Deanna Hunt, City Clerk

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**CITY OF EDEN – MEMORANDUM**

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**TO:** HONORABLE MAYOR AND CITY COUNCIL

**THRU:** JON MENDENHALL, CITY MANAGER

**FROM:** KELLY STULTZ, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT  
AND ERIN GILLEY, CITY ATTORNEY

**DATE:** JANUARY 10, 2023

**SUBJECT:** MABE TRUCKING PROPERTIES LLC LAND CONVEYANCE AND PERFORMANCE AGREEMENT

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Staff has prepared a proposed land sale to Mabe Trucking Properties, LLC. This Company has offered to purchase the 14.862 acres of land owned by the City between East Meadow Road and Mill Avenue, adjacent to the existing Mabe Trucking Properties facility. The Company plans to expand onto the land and desires to purchase it from the City. Pursuant to NC law, NCGS 158-7.1, the City determined the fair market value of the land at \$174,500 (\$11,741.35 per acre). The Company has agreed to invest at least \$500,000 in real and personal property improvements at the site and to create and fill 25 additional full-time jobs at an average salary of \$47,000 over the next three years.

Based upon that consideration, Staff has negotiated a sale of the property for \$100,000 and those investment promises. Those promises will be handled in a Performance Agreement similar to the previous ones the City and County has adopted and followed. The Performance Agreement and Purchase Sale Agreement are attached for your review. There are recapture provisions that are addressed in the Performance Agreement in case the Company does not meet its expectations. The Agreement will be recorded in the Register of Deeds and will run with the land until all obligations are met.

Staff recommends that you adopt this attached Resolution and Agreement as a means of encouraging and supporting local industry and economic development at your January 17, 2023 meeting. Please do not hesitate to contact me if you should have any questions or concerns.

**Resolution of the City Council, City of Eden  
Authorizing Economic Development Incentives**

**Background.** In order to induce Mabe Trucking Properties LLC, (the “**Company**”), to make a significant capital investment in Rockingham County, a political subdivision of the State of North Carolina (the “**County**”), by making substantial improvements to an existing manufacturing facility and surrounding property in the City of Eden, a municipality incorporated and existing under the laws of the State of North Carolina (the “**City**”), and to create a substantial number of new jobs at the Facility, the Company requested that the City provide certain economic development incentives to the Company, specifically a subsidized land conveyance, as described in the **Purchase Sale Agreement** by and between the Company and the City, a copy of which is attached to this Resolution as **Exhibit A**

As stated in a proposed performance agreement (“**Performance Agreement**”) by and between the Company and the City, a copy of which is attached to this Resolution as **Exhibit B**, the Company proposes to (a) invest at least \$500,000 in the City, and (b) employ at least 25 persons at the Facility at an annual average wage of at least \$47,000, which is higher than the average private sector wage for the County as reported by the North Carolina Department of Commerce.

The Company’s proposed investment in the Facility will enhance the tax base at the Facility employment in the City. The City Council of the City (“**City Council**”) has determined that it is desirable and in the best interests of the City and the businesses and residents in the City to offer certain economic development incentives (a subsidized land conveyance) to the Company in order to induce the Company to improve and operate the Facility in the County near the City, and to authorize City officials to enter into a performance agreement with the Company substantially in the form of the Agreement.

**Resolution.** Therefore, the City Council hereby resolves as follows:

The City Council hereby approves and adopts the following:

- To implement these incentives, the subsidized land conveyance, the Purchase Sale Agreement and the Performance Agreement, and the reduction in those incentives for the Company’s failure to meet the minimum capital investment and job creation requirements, the City Council hereby adopts and approves the Agreement and authorizes the Mayor and the City Manager (or either of them) to execute, deliver, and perform the Agreement on the City’s behalf and to take all actions necessary to implement the actions and incentives required by the Agreement, as applicable. The City Council also authorizes the Mayor and the City Manager (or either of them), before executing the Agreement, to negotiate and approve changes to the Agreement that do not increase the amounts of the incentives the City is required to pay the Company under the Agreement.

Effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST

CITY COUNCIL, CITY OF EDEN

\_\_\_\_\_

By: \_\_\_\_\_

Deann Hunt, Clerk

Neville Hall, Mayor

APPROVED AS TO FORM

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Erin Gilley, City Attorney

**EXHIBIT A**

**Purchase Sale Agreement**

*[see attached]*

**EXHIBIT B**

**Performance Agreement**

*[see attached]*

**NORTH CAROLINA  
ROCKINGHAM COUNTY**

**PURCHASE AND SALE AGREEMENT**

**THIS OFFER TO PURCHASE AND CONTRACT** made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between **City of Eden**, party of the first part (“**SELLER**”) and **Mabe Trucking Properties, LLC**, party of the second (“**PURCHASER**”).

**1. Property.** **SELLER** is the owner of certain real property, together with easements, rights of way, or other rights relating thereto, located in the Leaksville Township, Rockingham County, North Carolina, being more particularly described as follows (the “**Property**”):

**BEING** further described as Parcel D containing 14.862 acres as shown on plat of survey for Fieldcrest Mills, Inc. dated January 27, 1986 and last revised February 10, 1994, said survey being recorded in the Office of the Register of Deeds of Rockingham County, North Carolina, in Map Book 30 at Page 89 and reference is hereby made to said survey for a more accurate and particular description of said parcel. Save and **EXCEPT** the right-of-way of Danville and Western Railroad as described in Deed Book 3<sup>rd</sup> S at Page 283 and subject to the rights-of-way in Deed Book 669 at Page 280 and /deed Book 206 at Page 300. Subject to any and recorded and unrecorded water, sewer and access easements of the City of Eden. Said easements to be identified and depicted on new survey prior to Closing.

**2. Purchase Price.** The purchase to be paid by Purchaser to Seller price for the Property shall be an amount equal to the cost of the Land, at a price of One Hundred Thousand Dollars (\$100,000) and all other good and valid consideration set forth in that certain Performance Agreement, dated as of January \_\_, 2023 (“**Performance Agreement**”), between Seller and Purchaser herein, subject to nonperformance reconveyance provisions in said Performance Agreement. Said agreement is attached hereto and incorporated herein by reference.

**3. Closing.** Closing shall be defined as the date and time of recording the deed. **PURCHASER** may terminate this Agreement at any time prior to Closing by written notice to **SELLER**. All parties agree to execute any and all documents and papers necessary in connection with Closing and transfer of title at a place designated by **SELLER** in Rockingham County, North Carolina or remotely by mail.

**4. Survey, Access and Tests.** **SELLER** shall cause a survey of the Property to be prepared by a registered land surveyor of Purchaser’s choosing. Survey shall delineate the boundaries of the Property and shall indicate the location of all the specific easements and rights of way to be reserved by **SELLER**. The Deed of conveyance of the Property shall contain the description obtained from such survey. **SELLER** hereby grants to **PURCHASER** right of entry prior to closing to enter upon the Properties to inspect the Properties, cause boundary and topographical surveys to be prepared, and conduct such engineering and environmental and subsurface investigations as **PURCHASER** may require.

**5. Title to the Properties and Risk of Loss.** **PURCHASER** shall be entitled to receive a good and marketable fee simple title to the Properties, free and clear of all liens, encumbrances, conditions and restrictions, except (a) ad valorem taxes for the current year not yet due and payable (which shall not include any “rollback” or delinquent taxes); (b) **SELLER’S** personal property taxes, which are to be paid by **SELLER** or, if not then payable, credited to **PURCHASER**; (c) easements and rights of way of record which do not materially affect the value of the Properties or **PURCHASER’S** intended use thereof; and (d) such other matters as **PURCHASER** may, at its election, waive in writing. All risk of loss as a result of any exercise of the power of eminent domain or by reason of fire or other casualty shall remain on **SELLER** until the transfer of legal title. If an examination of title to the Properties discloses defects of title which **SELLER** is unable or fails to remove or correct prior to the Closing Date, or any postponement thereof to which **PURCHASER** may agree in writing, or in the event of any material loss or damage to the Properties as a result of any exercise of the power of eminent domain or by fire or other casualty prior to the transfer of legal title, **PURCHASER** may, at its election, either (i) terminate this contract, or (ii) waive the foregoing rights and enforce its right to purchase the Properties as provided herein.

**6. Settlement.** At the settlement, **PURCHASER** shall pay to **SELLER** the purchase price in cash, certified check or other form of payment acceptable to **SELLER**, and simultaneously **SELLER** shall deliver to **PURCHASER** or its representative a special warranty deed in the North Carolina state bar form. **PURCHASER** shall pay the costs of examination of title, title insurance, if any, notary fees, recording charges, surveys made under its direction, deed preparation, revenue stamps, its prorated share of the current year ad valorem taxes, its prorated share of any other public or private assessments and overnight mailing charges. **SELLER** shall pay all mortgages, deeds of trust, liens or other encumbrances upon or against the Properties so that **SELLER** may transfer free and clear fee simple title, or such other title as **PURCHASER** may have otherwise agreed in writing to accept, its prorated share of the current year ad valorem taxes and its prorated share of any other public or private assessments. All other charges or adjustments not specifically provided for herein shall be allocated in accordance with local custom and usage.

**7. Conditions to Settlement.**

i. The obligation of **PURCHASER** to consummate the purchase of the Properties is subject to the fulfillment of all of the following conditions:

A. There shall be no suit or proceeding pending or threatened by or against **SELLER**;

B. **SELLER** shall have fully performed all of **SELLER’S** agreements and obligations required hereunder;

C. **SELLER** shall not, prior to closing, impose any liens, covenants, conditions or restrictions of record or otherwise which would encumber or in any manner limit or restrict the title or use of the Properties;

D. **SELLER** shall pay all ad valorem rollback taxes and all delinquent ad valorem taxes due Rockingham County at or prior to Closing; and

E. The results of any engineering, environmental, and/or subsurface tests shall be satisfactory to the **PURCHASER**.

F. The Performance Agreement must be in full force and effect.

ii. The obligation of **SELLER** to consummate the sale of the Properties is subject to the fulfillment of all of the following conditions:

A. **PURCHASER** shall have fully performed all of **PURCHASER**'s agreements and obligations required hereunder.

B. The Performance Agreement must be in full force and effect.

**8. SELLER's Representations. SELLER hereby makes the following representations to PURCHASER:**

- i. **SELLER** has fee simple title to the Property free and clear of all encumbrances other than public rights-of-way crossing the Property and utility easements of record and utility easements that are to be depicted on **SELLER'S** survey as described in Section 4 above, including the matters that appear on the recorded plat. There are no mineral rights reservations or exceptions affecting the Property. **SELLER** has full right, power and authority and has taken all requisite action to enter into this Agreement and to sell and convey the Property to **PURCHASER** as provided in this Agreement and to carry out its obligations as set forth hereunder.
- ii. **SELLER** has received no notice of any violations of any federal, state, county or municipal law, ordinance, order, regulation or requirement affecting any portion of the Property.
- iii. **SELLER** has received no notice of any action, suit, proceeding or claim affecting **SELLER** or the Property, or any portion thereof, relating to or arising out of the ownership, operation, use or occupancy of the Property pending or being prosecuted in any court or by or before any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality that impairs or affects **SELLER's** ability to enter into this Agreement and perform its obligations hereunder, including, without limitation, the conveyance of the Property to **PURCHASER**.
- iv. **SELLER** has received no written notice of any pending condemnation or similar proceeding affecting the Property, or any portion thereof.
- v. There are no written or oral tenant leases or service or maintenance contracts that affect or bind the Property in any way.
- vi. To the best of **SELLER's** knowledge, no consent or approval of any person, entity or governmental agency or authority is required with respect to the execution and

delivery of this Agreement by **SELLER** or the consummation by **SELLER** of the transaction contemplated in this Agreement.

- vii. To the best of **SELLER**'s knowledge, there are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any debtor relief laws pending against **SELLER** or the Property.
- viii. **SELLER** is not a "foreign person," as that term is used in Section 1445 of the Internal Revenue Code of 1986, as amended.

All representations of **SELLER** contained in this Agreement or any document or exhibit required to be executed by **SELLER** pursuant hereto shall be true at the Closing as though such representations were made at such time. If any such representation is not true as of the Agreement Date and remains untrue at the Closing, **PURCHASER** may consider same as an event of default hereunder and may pursue such remedies as set forth herein. Additionally, if any such representation is true as of the Agreement Date but is not true at the Closing, **PURCHASER** may consider same as an event of default hereunder and may pursue such remedies as set forth herein. The representations set forth in this Section 8 will survive Closing for 6 months.

**9. PURCHASER's Representations.** **PURCHASER** hereby makes the following representations to **SELLER** as of the Agreement Date and as of the Closing hereunder:

- i. **PURCHASER** is a corporation duly formed and validly existing in good standing under the laws of the state of its organization.
- ii. **PURCHASER** has full power and right to enter into and perform **PURCHASER**'s obligations under this Agreement and to purchase the Property as herein provided.
- iii. To the best of **PURCHASER**'s knowledge, there are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any debtor relief laws pending against **PURCHASER**.

All representations of **PURCHASER** contained in this Agreement or any document or exhibit required to be executed by **PURCHASER** pursuant hereto shall be true at the Closing as though such representations were made at such time. If any such representation is not true as of the Agreement Date and remains untrue at the Closing, **SELLER** may consider same as an event of default hereunder and may pursue such remedies as set forth herein. Additionally, if any such representation is true as of the Agreement Date but is not true at the Closing, **SELLER** may consider same as an event of default hereunder and may pursue such remedies as set forth herein. The representations set forth in this Section 9 will survive Closing for 6 months.

**10. Default and Remedies.** If **SELLER** defaults by (i) failing to close in accordance with the terms of this Agreement, (ii) breaching or failing to satisfy any of its obligations in this Agreement or (iii) breaching any representation or warranty contained in this Agreement, then **BUYER** may, in addition to any other remedies available to **BUYER** at law or in equity due to **SELLER**'s failure or breach, (a) obtain specific performance against **SELLER** and recover from **SELLER**

attorney's fees to enforce specific performance or (b) waive that failure or breach and proceed to Closing. If **BUYER** defaults by breaching or failing to satisfy any of its obligations in this Agreement or breaching any representation or warranty contained in this Agreement, then **SELLER** may, as **SELLER's** sole remedy, terminate this Agreement.

**11. Agents and Brokers.** **PURCHASER** warrants that it has not dealt with any real estate agent in connection with this contract. **SELLER** acknowledges that the Properties are not listed with any Realtor or firm and if so, **SELLER** shall pay all charges for fees and commissions of the real estate agent retained by him in connection with this contract or with the Properties at closing.

**12. Notices.** Any written notice or communication required by this agreement shall be delivered in person, by certified mail or by nationally recognized overnight courier service. Notices shall be effective as of the time of delivery except notices by certified mail which shall be effective as of the date three business days following the date of the postmark. All notices shall be addressed or delivered to the following addresses or such other addresses as the parties may designate in writing:

To **SELLER:** City of Eden  
308 E. Stadium Drive  
P.O. Box 70  
Eden, NC 27288

**[NOTE: PHYSICAL LOCATION NEEDED (AKA NO PO BOX) FOR OVERNIGHT DELIVERY]**

To **PURCHASER:** Mabe Trucking Properties, LLC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**13. Assignment.** This agreement may not be assigned by **SELLER** without the written consent of **PURCHASER**. This Agreement may not be assigned by **PURCHASER** without the written consent of **SELLER**.

**14. Entire Agreement.** This instrument contains the entire agreement between the parties relating to the Properties and supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties. This Agreement shall not be amended or

modified and no waiver of any provision hereof shall be effective, unless set forth in a written instrument authorized and executed with the same formality as this Agreement.

**[Signature page follows]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Offer to Purchase and Contract as of the date hereof.

**SELLER**

By: \_\_\_\_\_  
**CITY OF EDEN**

**PURCHASER**

By: \_\_\_\_\_  
**MABE TRUCKING PROPERTIES, LLC**

## Public Notice

Please take notice that pursuant to N.C.G.S § 158-7.1, the City Council of the City of Eden, North Carolina will hold a Public Hearing on January 17, 2023 at 6:00 pm in the Council Chambers of the City of Eden City Hall, 308 E. Stadium Drive, Eden, NC. The purpose of the hearing will be to consider approval of an economic development proposal that would include a conveyance to Mabe Trucking Properties, LLC (the Company) of a fee simple interest in Parcel D containing 14.862 acres, Tax Parcel ID 111078, as currently shown on Plat of Survey for Fieldcrest Mills, Inc dated January 27, 1986 by C.E. Robertson & Associates and recorded in Plat book 30 Page 89 in Rockingham County Register of Deeds.

The fair market value of this property is \$174,500 (\$11,741.35 per acre). The consideration for the conveyance shall be \$100,000 (\$6,728.57 per acre) and a contractual obligation by the Company to invest up to \$500,000 in real and personal property improvements following the project parameters outlined in the performance agreement. The Company also agrees to create 25 new full-time positions following the project parameters as outlined in the company performance agreement. It is anticipated that the investment will generate increased tax base and other revenues to City of Eden.

Persons interested are invited to attend and participate in the hearing.

Deanna Hunt  
City Clerk  
Eden City Council

Publish ONE TIME

Mail Printer's Affidavit & Statement to:

Deanna Hunt  
Eden City Council  
P.O. Box 70  
Eden, NC 27289



# Planning and Community Development Department

308 East Stadium Drive, Eden, North Carolina 27288 Phone: (336) 623-2110 Fax: (336) 623-4057

## MEMO

**To:** Honorable Mayor and City Council  
**Thru:** Jon Mendenhall, City Manager  
**From:** Kelly K. Stultz, Director  
**Subject:** **2023 Boards and Commissions Appointments**  
**Date:** January 6, 2023

The following seats on the City Boards and Commissions are up for appointment or reappointment in 2023. When making appointments, please consider whether these persons have the time or the ability (for whatever reason) to attend regular meetings and participate in the activities of the board or commission.

If you have questions, please do not hesitate to call.

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### **Ward 1 Councilman Moore**

None to report

### **Ward 2 Councilman Nooe**

None to report

### **Ward 3 Councilman Kirkman**

None to report

### **Ward 4 Councilman Epps**

None to report

### **Ward 5 Councilman Underwood**

None to report

### **Ward 6 VACANT**

Community Appearance – James Cherry (Resigned)

### **Ward 7 Councilman Ellis**

Tree Board – Gina Ellis (Term expired) **Recommendation of reappointing Gina Ellis**

### **Mayor Hall**

None to report

### **ETJ (Must be appointed by City Council and approved by County Commissioners)**

None to report

The following are the days and times that each board meets each month:

<b><u>Board</u></b>	<b><u>Day</u></b>	<b><u>Time</u></b>
Board of Adjustment	1st Thursday each month When required by applications	5:30 pm
Community Appearance Commission	1st Tuesday each month	5:30 pm
Historic Preservation Commission	2nd Monday each month	5:30 pm
Planning Board	4th Tuesday each month	5:30 pm
Tree Board	3rd Monday of each month	Noon

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**CITY OF EDEN – MEMORANDUM**

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**TO:** HONORABLE MAYOR AND CITY COUNCIL

**THRU:** JON MENDENHALL, CITY MANAGER

**THRU:** PAUL DISHMON, PUBLIC WORKS DIRECTOR

**FROM:** MELINDA WARD, UTILITIES MANAGER

**DATE:** JANUARY 17, 2023

**SUBJECT:** CONSIDERATION OF APPROVAL TO REMOVE THE BYRD ST. WATER TANK

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The Byrd St. Water Tank has been out of service for several years and has become unsightly. In 2021, we began looking at options for preserving and improving the look of the tank. We asked our tank contractor to provide a quote, but in August, we received analysis that showed high levels of lead paint. We were told that with a cost of approximately \$250,000, it was too cost prohibitive to improve considering it would never be placed in service again.

We then began looking into the costs of removing the tank. There was an option presented for listing the tank on public auction to see if it could be sold for scrap, so in July 2022, it was listed for sale. There were several inquiries and a few serious buyers, but each one fell through at the last minute. With this option no longer viable, we returned to the option of tank demolition.

With the help of our tank service contractor, we received three bids for demolition from experienced tank companies. Boles Restoration Services gave us a cost of \$95,000, Veolia, through Utility Services, gave us a cost of \$85,500, and RE McLean Tank Company gave us a cost of \$59,950. A representative from McLean has already visited the site and proposed a safe way to dismantle and remove the tank with cooperation from the property owners. The surrounding property owners have already been contacted to make sure they are aware of the potential work and have no issue with granting access to their property for the work. Both have stated no issues with granting access. City crews will assist in blocking Byrd Street during this period of work.

We are informing Council of our options and asking that the option of removal by RE McLean Tank Company be approved as the lowest bidder.

# **R. E. McLEAN TANK COMPANY, INC.**

Telephone (704) 810-0090

Fax: (704) 810-0460 • Email: [mclean90@bellsouth.net](mailto:mclean90@bellsouth.net)

Office and Shop:  
4950 York Highway (US 321 South)  
Gastonia, North Carolina 28052

Mailing Address:  
P.O. Box 1062  
Gastonia, North Carolina 28053

November 17, 2022

Ms. Melinda S. Ward  
Utilities Manager  
City of Eden

**Email: [mward@edennnc.us](mailto:mward@edennnc.us)**

**Subject:** Dismantle and disposal of approximately 100,000-Gallon Elevated Water Tank at Intersection of Stadium Drive and Byrd Street, Eden, North Carolina

## **PROPOSAL:**

Subject to the City of Eden arranging at no expense to McLean Tank Company temporary use of space for equipment, lay down area and working room on vacant portion of lots/parcel numbers 169308 and 169052.

We purpose to furnish necessary labor, equipment and supplies to cut tank into sections, mechanically lower by crane, further cut up and load on trucks and properly dispose of same as salvage material of McLean Tank Company. We will routinely protect our workmen with appropriate masks in the possible presence of heavy metal-based paint.

Tank will be removed to top of concrete foundation, anchor bolts will be cut off flush with concrete foundation. Pipe will be cut off flush with concrete foundation. Site will be left in a reasonably neat condition similar to beginning of job. Owner will have tank drained prior to our beginning work.

## **CONDITIONS:**

We will furnish all necessary labor, equipment and materials for the above job. Owner will receive a certificate of insurance covering Workmen's Compensation, Public Liability and Property Damage.

## R.E. McLEAN TANK COMPANY, INC.

Owner will furnish 110-volt electrical connections with which to operate our equipment. Owner will insulate or de-energize any electrical lines within fifteen (15) feet and will cooperate in having cars moved from work area.

Owner will provide firehose and water outlet of sixteen (16) gallons per minute. Owner will provide proper access road to work site to accommodate tractor, trailer and/or crane as needed. We will typically clean up our work site; however, any debris generated from cleaning operations determined to be hazardous due to existing material removed from tanks will be disposed of at an appropriate additional charge to the owner.

### PRICING:

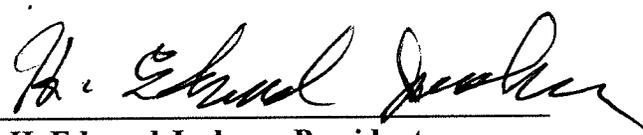
To complete project as described above: \$59,950.00 and salvage material.

### TERMS:

Payable on completion of project.

R. E. McLEAN TANK COMPANY, INC.

BY: \_\_\_\_\_

  
H. Edward Jackson, President

ACCEPTED: CITY OF EDEN

By: \_\_\_\_\_

Date: \_\_\_\_\_

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**CITY OF EDEN – MEMORANDUM**

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**TO:** HONORABLE MAYOR AND CITY COUNCIL

**THRU:** JON MENDENHALL, CITY MANAGER

**THRU:** PAUL DISHMON, DIRECTOR OF PUBLIC WORKS

**FROM:** MELINDA WARD, UTILITY MANAGER

**DATE:** JANUARY 17, 2023

**SUBJECT:** WATER AND SEWER USE ORDINANCE UPDATES

---

The Backflow/Cross Connection portion of the Ordinance needed to be updated to reflect the current practices of the City. Because of how the document was originally set up, I took this opportunity to reformat the titles and page numbers for the entire document so that it could be easily changed in the future. Since this resulted in changes throughout the ordinance, I proceeded with revisions through all of the sections to keep everything cohesive. The formatting changes have already been saved to alleviate confusion, but changes to the wording is shown as tracked.

The following is a list of the basic changes that were made:

- Titles throughout have been updated and/or changed to eliminate specific people and just refer to the position that will be considered.
- Department and Division names have been updated.
- The City of Eden is referred to as just the City throughout the document, but the distinction is noted at the beginning.
- Mistakes have been corrected or clarified.
- Backflow and Cross Connection have been combined throughout the section for titles and device descriptions.
- The NC Plumbing Code has been added as a reference for approved Backflow devices in two separate sections.
- Future installations are being asked to be lead free.
- The testing requirement for Backflow devices by the City is being removed because we feel this will never be a possibility. It is currently contracted out by business and home owners.
- We will provide a list of approved plumbers but will not specify what type of Backflow device is required, as long as it is an approved device.
- A precedence has been set for irrigation installations, so that will be followed hereafter.
- Any reference to article has been replaced by ordinance.

Eden - Utilities

AN ORDINANCE AMENDING  
THE CITY CODE  
OF THE CITY OF EDEN

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BE IT ORDAINED BY THE CITY COUNCIL of the City of Eden, North Carolina, that Chapter 16 of the Eden City Code is amended as follows:

**CHAPTER 16: UTILITIES**

Article

**I. IN GENERAL**

**II. WATER USE**

**III. WASTEWATER SYSTEM**

**IV. EXTENSION OF SERVICE LINES**

**V. RATES AND CHARGES**

Eden - Utilities

**ARTICLE I: IN GENERAL**

[Reserved]

**ARTICLE II: WATER USE**

Section

***Division 1 Generally***

[Reserved]

***Division 2 Water System***

- 16-36 Supervision; appointment of supervising employees
- 16-37 Authority to enter for plumbing inspection
- 16-38 Authority to temporarily discontinue service
- 16-39 Application for service
- 16-40 Connections; separate water meters; permit for private fire protection; restrictions on cross-connections
- 16-41 Meters required
- 16-42 Installation of corporation cock; maintenance of connections and fixtures
- 16-43 Owner's responsibility for connection; licensed plumber required; inspection
- 16-44 Unauthorized use of water prohibited
- 16-45 Damaging, obstructing water system prohibited

***Division 2A Cross-Connection Control***

- 16-46 Purpose of cross-connection control
- 16-47 Authority for implementing a Cross-Connection control program
- 16-48 Definitions
- 16-49 Responsibility
- 16-50 Right of entry; authorization
- 16-51 Law; unprotected cross-connection prohibited
- 16-52 Installation
- 16-53 Degree of hazard
- 16-54 Notice of contamination or pollution
- 16-55 Violations and civil penalties

***Division 3 Private Fire Hydrants and Sprinkler Systems***

- 16-61 Connections
- 16-62 Submission and approval of plans
- 16-63 Installation requirements

Eden - Utilities  
***Division 4 Enforcement***

- 16-71 Enforcement
- 16-72 Penalty

***Division 5 Conservation***

- 16-81 Definition
- 16-82 Water Shortage Response Plan (WSRP)
- 16-83 Notification of Water Shortage Response Plan Implementation.
- 16-84 Unlawful to Violate Mandatory Restriction.
- 16-85 Measures to be Implemented at Various Stages of Water Conservation.
- 16-86 Enforcement
- 16-87 Discontinuance of Service; Right of Appeal; Other Remedies; Penalty not to Excuse Violation
- 16-88 Guideline Triggers to Initiate Conservation Stages in Drought Situations.
- 16-89 Return to Normal Water Supply Conditions.
- 16-90 Variance from Water Conservation Stages.
- 16-91 Review of the Effectiveness of Water Conservation Stages.
- 16-92 Adoption of the Water Shortage Response Plan.
- 16-93 Review and Updating of Water Shortage Response Plan.

***Statutory reference:***

*Pipes below surface of streets and sidewalks, see G.S. § 160A-296*

*Public utilities, see G.S. Ch. 62*

*Water resources, see G.S. § 143-211 et seq.*

Eden - Utilities  
Water Use

***DIVISION 1 GENERALLY***

[Reserved]

***DIVISION 2 WATER SYSTEM***

**§ 16-36 SUPERVISION; APPOINTMENT OF SUPERVISING EMPLOYEES.**

(A) The water system of the City of Eden, hereafter referred to as the City, shall be under the direct supervision and control of the City Council, which may from time to time make such rules and regulations not inconsistent with this article as it deems necessary.

(B) The City Manager shall appoint a qualified person to supervise the operation of the system, and such person appointed may assign the duties of supervising the system to an employee of the City in addition to their other duties.

('89 Code, § 16-36)

**§ 16-37 AUTHORITY TO ENTER FOR PLUMBING INSPECTION.**

Personnel authorized by the Distribution Operator in Responsible Charge (ORC) or Distribution Division head may enter the premises of any water customer between the hours of 8:00 a.m. and 6:00 p.m. to examine the pipes and fixtures, the quantity of water used and the manner of its use.

('89 Code, § 16-37)

**§ 16-38 AUTHORITY TO TEMPORARILY DISCONTINUE SERVICE.**

The City reserves the right at any time to shut off water in any main in case of accident or damage or for the purpose of making connections, alterations or repairs.

('89 Code, § 16-38)

**§ 16-39 APPLICATION FOR SERVICE.**

All applications for the use of water must be made at the office of Finance on the prescribed form and signed by the owner of the property or his authorized agent. The application when approved shall be a contract to take the supply and shall bind the applicant, so long as the water is taken, to pay to the City the established rates and to comply with all reasonable rules and regulations prescribed by the city.

('89 Code, § 16-39)

**§ 16-40 CONNECTIONS; SEPARATE WATER METERS; PERMIT FOR PRIVATE FIRE PROTECTION; RESTRICTIONS ON CROSS-CONNECTIONS.**

(A) The City will furnish all material and make all connections to the water mains and install all water service pipes from the mains to the inside of the property line. Each separate business, residence, mobile home or other structure shall have a separate water meter, including irrigation systems.

(B) All plans for private fire protection shall be submitted to and a permit obtained from the Chief Building Official before installation or extensions to existing installations are made. No person will be allowed to make a cross-connection between the Water Department's supply and a private well, spring or other source. There shall be no cross-connection between the city waterlines and air lines used for washing automobiles or for any other purpose. Where water passes through recirculating systems such as cooling towers, etc., there shall be no physical connection between the waterworks system and the pressure lines from the recirculating system. ('89 Code, § 16-40) Penalty, see § 16-72

**§ 16-41 METERS REQUIRED.**

No person within or without the city limits shall connect with the City water system or with waterlines belonging to any person connected with the city systems unless and until a meter approved by the City for measuring the amount or quantity of water used is installed in conjunction with such connection. ('89 Code, § 16-41) Penalty, see § 16-72

**§ 16-42 INSTALLATION OF CORPORATION COCK; MAINTENANCE OF CONNECTIONS AND FIXTURES.**

There shall be installed on each water service line at a convenient place a corporation cock for the control of the water service by the property owner or his/her agent or tenant. The pipe and connections in the street shall be maintained by the Division of Distribution without expense to the consumer or owner of the property. All fixtures within the premises must be kept in repair by the property owner or consumer. ('89 Code, § 16-42) Penalty, see § 16-72

**§ 16-43 OWNER'S RESPONSIBILITY FOR CONNECTION; LICENSED PLUMBER REQUIRED; INSPECTION.**

The property owner shall be responsible for installing waterlines from the property line to connect with the city system. All waterlines, fixtures and plumbing shall be installed by a plumber licensed to engage in plumbing work in the city by the state, and all material used in such installation shall be approved by the City. Water shall not be turned on at any premises until the installation on private property has been inspected and approved by the City. ('89 Code, § 16-43) Penalty, see § 16-72

**§ 16-44 UNAUTHORIZED USE OF WATER PROHIBITED.**

It shall be unlawful for any person to fill any lake, pool, pond or other reservoir or use a stream of water larger than two inches for washing or flushing purposes without permission from the Distribution ORC. It shall be unlawful to supply or sell water, either before or after using it, to other persons or families, nor shall any person take away or carry water from any hydrant, public fountain or other outlet without the consent of the Distribution ORC. The fire hydrants are for the use of the Fire Department and are not to be used by any other person for any purpose without permission from the Distribution ORC.

(’89 Code, § 16-44) Penalty, see § 16-72

**§ 16-45 DAMAGING, OBSTRUCTING WATER SYSTEM PROHIBITED.**

It shall be unlawful for any person other than an authorized employee of the City to tamper with, manipulate, damage, remove, obstruct or otherwise harm the water mains, service lines or other apparatus or appurtenances which are a part of the water system of the City.

(’89 Code, § 16-45) Penalty, see § 16-72

***DIVISION 2A CROSS-CONNECTION CONTROL***

**§ 16-46 PURPOSE OF CROSS-CONNECTION CONTROL.**

The purpose of this cross-connection section is:

(1) To protect the public potable water supply of the City of Eden from the possibility of contamination or pollution, which could backflow into the public water system, due to backsiphonage or backpressure, by containing such pollution or contamination at the water service within customer's private water system.

(2) To define the authority of the City of Eden as the water purveyor entitled to eliminating all cross-connections, new or existing, within its public water system.

(3) To provide for a continuing program of inspections and testing of existing cross-connections, and those which may be installed in the future.

(Ord. passed 6-19-18; Am. Ord. passed 1-21-20)

**§ 16-47 AUTHORITY FOR IMPLEMENTING A CROSS-CONNECTION CONTROL PROGRAM.**

Cross-Connections between potable water systems and non-potable sources are a significant threat to water quality and to the health of the public water supply. This ordinance is designed to maintain the safety and potability of the water in the City of Eden public water system by establishing rules and procedures to prevent the pollution and contamination of public drinking water by backflow from any non-potable source.

The authority for the following backflow and cross-connection rules are found in the

## Eden - Utilities

- 1) Federal Safe Drinking Water Act of 1974, 1986 & 1996 (42 US Federal Code, Chapter 6A, Subchapter XII) and the EPA Cross-Connection Control Manual.
- 2) NCAC title 15A; Title 15A, subchapter 18C .0102 (c) DEFINITIONS, .0307 (c)(5)(A), cross-connection control, and .0406 (b) Cross-Connections.

(Ord. passed 6-19-18; Am. Ord. passed 1-21-20)

### § 16-48 DEFINITIONS.

- A. **Backflow:** Any reverse flow of water, gas or any other substance back into the public water system of the City of Eden from any source other than the approved water supply.
  - 1) **Back pressure backflow:** Any elevation of pressure in the downstream piping system caused by pumps, elevation of piping, heat or steam and/or air pressure above the supply pressure at the point of consideration, which would cause a reversal of the normal direction of flow of water.
  - 2) **Backsiphonage backflow:** A reversal of the normal direction of flow of water in the pipes due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure. This can occur because of water main breaks or during fire suppression events.
- B. **Backflow/Cross-Connection ORC:** An employee of the City of Eden, trained and certified by the State of North Carolina as a Cross-Connection Control Operator in Responsible Charge, designated to administer and enforce this ordinance.
- C. **Backflow Prevention Assembly (Approved):** An assembly that has been investigated and approved by the City of Eden Backflow/Cross-Connection ORC and has been approved to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), the North Carolina State Plumbing Code, and has been tested and approved for specific applications by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC FCCCHR). FM (Factory Mutual) and Underwriters Laboratory (UL) approvals shall be required for backflow prevention assemblies installed on fire suppression lines. Installation on a potable water system must use lead free devices.
  - 1) **Air gap (fixed) -** A permanently fixed, unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water from any source to a tank, plumbing fixture, or other device and the flood level rim of the device. An approved air gap separation shall be at least double the diameter of the supply pipe. In no case shall the air gap separation be less than two inches. An approved air gap may be considered as a backflow prevention assembly.
  - 2) **Double check valve assembly -** An assembly composed of two single, independently operating, approved check valves, plumbed in series. The assembly must include four resilient-seated test cocks that are properly located for testing the assembly and two tightly closing shut-off valves located at each end of the assembly.

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- 3) **Double check detector assembly** - An assembly composed of an approved double check valve assembly with a bypass water meter and a meter-sized approved double check valve device. The meter shall register accurately for very low flow rates and shall register all flow rates. The check valves shall allow for water to flow through the water meter prior to flowing through the larger assembly. This shall be for the purpose of detecting leaks or usage on fire suppression water systems.
  - 4) **Dual check valve device** - A backflow prevention device comprised of two independently operating, approved check valves, plumbed in series. The device is not testable and is generally installed downstream from a water meter and is used for the containment of single-family water services as part of a residential backflow prevention program.
  - 5) **Pressure vacuum breaker assembly** - A device containing an independently operating spring-loaded check valve and an independently operated spring-loaded air inlet valve located on the discharge side of the check valve. The device includes tightly closing shut-off valves on each side of the assembly and two properly located test cocks for the testing of the assembly.
  - 6) **Reduced pressure zone assembly** - An approved, properly functioning assembly containing two, independently operating approved check valves plumbed in series, with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves that discharges to atmosphere. The assembly must include four resilient-seated test cocks that are properly located for testing the assembly and two tightly closing shut-off valves located at each end of the assembly.
  - 7) **Reduced pressure detector assembly** - An assembly composed of an approved reduced pressure zone backflow prevention assembly with a bypass water meter and meter-sized approved reduced pressure zone device. The meter shall register accurately for very low flow. The water flowing through the meter shall be protected to same level as the water through the main assembly. The check valves shall allow for water to flow through the water meter prior to flowing through the larger assembly. This shall be for the purpose of detecting leaks or usage on fire suppression water systems.
- D. **Certified Backflow Prevention Assembly Tester:** Any individual person who holds a certificate of completion from a certified training program in the testing and repair of backflow prevention assemblies and cross-connection control. The certification school must be approved by the Backflow/Cross-Connection ORC for the City and based on the quality of training provided as compared to NC AWWA and NCRWA standards.
- E. **Construction Meter:** A water meter assembly that includes a Reduced Pressure Zone backflow preventer for the protection of the potable water system, usually  $\frac{3}{4}$  by  $\frac{5}{8}$  inch designated for the purpose of providing temporary waster service for a construction site.

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It may be set up to take advantage of an existing water connection or be connected to a fire hydrant and shall have a  $\frac{3}{4}$  inch hose bib connection.

- F. **Containment:** The prevention of backflow from a non-potable system utilizing an approved, properly functioning backflow prevention assembly which is installed, operated, and maintained in accordance with the provisions of this article.
- G. **Contamination:** An impairment of the quality of the water to a degree that it creates an actual hazard to the public health through poisoning or through the spread of disease.
- H. **Cross-Connection:** Any actual or potential connection or piping arrangement between a potable water supply and any other non-potable source or system whereby water or other liquids, mixtures, or substances may flow into or enter the potable water supply system.
- I. **Hazard (Health/High):** A potential threat of contamination to the public water system or to a water service customer's potable water system that could cause serious illness or death.
- J. **Hazard (Imminent):** An immediate threat of contamination to the public water system that could cause serious illness or death.
- K. **Hazard (Non-health/Low):** An actual or potential threat of damage to the physical components comprising the public water system or to a water service customer's potable water system, or of pollution to the public water system or to a water service customer's potable water system.
- L. **Homeowner:** An individual who resides on the property that he/she owns by proper title and/or deed. The owner-occupant of a home.
- M. **Hydrant Meter:** A water meter designed to be connected to a fire hydrant for the purpose of obtaining water on a temporary basis where no regular water connection is available that will perform the purpose needed. This device should include a Reduced Pressure Zone (RPZ) backflow preventer to protect the potable water system from contamination. This assembly shall be fitted with a 2  $\frac{1}{2}$  inch fire hose connection.
- N. **Isolation:** The prevention of backflow in which a backflow preventer, such as a hose bib or an atmospheric vacuum breaker, is located to correct a cross-connection at a specific location on a private potable water system rather than at a water service connection. This protects the drinking water in the building and is covered by NC Plumbing Code.
- O. **Owner:** Any person who has legal title to, or license to operate or habitat in, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.
- P. **Pollution:** An impairment of the quality of the potable water to a degree that does not create a hazard to public health but that does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use.

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- Q. **Potable Water:** Water from any source which has been approved for human consumption by the State of North Carolina, Department of Environmental Quality, Water Resources Division, and the Public Water Supply Section.
- R. **Person:** Any individual, partnership, company, public or private corporation, political subdivision or government agency or any other legal entity.
- S. **Private Water System:** Any water system located on the water service customer's premise, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.
- T. **Public Water System:** The potable water system owned and operated by the City. This includes all storage tanks, distribution mains, lines, pipes, connections, fixtures and other facilities, conveying potable water from the water treatment plants to the service connections of each water service customer.
- U. **Service Connection:** The terminal end of a service connection from the public potable water system, immediately after the water meter, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the water service customer's private water system.
- V. **Used Water:** Any water supplied by a water purveyor from a public potable water system to a water service customer's private water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.
- W. **Water Service Customer:** Any person, firm, or corporation receiving water from the City of Eden by way of a water service connected to the City's public water system.
- X. **Water Purveyor:** Owner or operator of a public potable water system providing approved potable water supply to the public.
- Y. **Water Supply (Auxiliary):** Any water supply on or available to the water customer's premises other than the water purveyor's public potable water system. The auxiliary water may include water from another purveyor's public potable water system or any natural source such as a well, spring, river, stream, etc., and used or objectionable.
- Z. **Water Supply (Unapproved):** Any water supply, which has not been approved for human consumption by the State of North Carolina, Department of Environmental Quality, Water Resources Division, or the Public Water Supply Section.  
(Ord. passed 6-19-18; Am. Ord. passed 1-21-20)

### § 16-49 RESPONSIBILITY.

#### A. Responsibility: City of Eden

(1) The City's designated ORC will be primarily responsible for preventing any contamination or pollution of the public water system. This responsibility begins at the point of origin of the public water system supply and includes all of the public water distribution system, and ends at the service connection, under the Safe Drinking Water Act. The

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Backflow/Cross-Connection ORC shall exercise vigilance to ensure that the water customer has taken the proper steps to protect the public potable water system.

(2) When it has been determined by an inspection of the water service customer's private water system that a backflow protection system is required for the protection of the public water system, the Backflow/Cross-Connection ORC shall notify the owner, in writing, of any such building or premises, to correct within a time set by this article, any plumbing installed or existing that is in violation of this article.

(3) The Backflow/Cross-Connection ORC will select an approved backflow prevention assembly type to be installed at the service connection. The owner shall be notified that the installation of a backflow prevention assembly may create a closed system, and as a result thermal expansion may occur. In these circumstances the owner must understand and assume all liability and responsibilities for that phenomenon.

### B. Responsibility: Water Service Customer

(1) The water service customer has the responsibility of preventing contaminants and pollutants from entering the water service customer's private water system or the public water system operated by the City. The water service customer, at his/her own expense, shall install, operate, test, repair and maintain all backflow prevention assemblies specified within this article.

(2) If a water service customer is a tenant and does not maintain the private water system and has no authority to bring the system into compliance with the provisions of this article, the City may assert any available action against the tenant water service customer to assure the private water system is brought into compliance with this article.

(Ord. passed 6-19-18)

### **§ 16-50 RIGHT OF ENTRY; AUTHORIZATION.**

(1) Any authorized representative from the City shall have the right to enter any building, structure or premises during normal business hours to perform any duty imposed upon him/her by this ordinance and in accordance with the North Carolina Administrative Code. Those duties may include sampling and testing of water, or inspection and observation of all piping systems connected to the public water supply. Refusal to allow these representatives to enter for these purposes shall result in disconnection of water service.

(2) On request, the water service customer shall furnish to the water purveyor any pertinent information regarding the water supply system on such property where cross-connection and backflow are deemed possible.

(Ord. passed 6-19-18; Am. Ord. passed 1-21-20)

### **§ 16-51 LAW; UNPROTECTED CROSS CONNECTION PROHIBITED.**

(1) No water service connection to any private water system shall be installed or maintained by the City unless the water supply is protected as required by this article and in accordance with the North Carolina Administrative Code. Service of water to any premises

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shall be discontinued by the City if a backflow prevention assembly required by this article, is not installed, tested and maintained, or if a backflow prevention assembly has been removed, bypassed or if an unprotected cross-connection exists on the premises. Service will be restored after all such conditions or defects are corrected.

(2) No water service customer shall allow an unprotected cross-connection to be made or to remain that involves the water service customer's private water system.

(3) No connection shall be made to an unapproved auxiliary water supply unless the public water supply is protected against backflow by an approved backflow prevention assembly, appropriate to the degree of hazard.

(4) No interconnection to any other water purveyor's water system shall be made unless it is protected against backflow by an approved backflow prevention assembly.

(5) No water service customer shall fail to maintain in good operating condition any backflow prevention assembly, which is part of the water service customer's private water system and is required by this article.

(6) No water service customer shall fail to submit to the City any records, which are required by this article.

(Ord. passed 6-19-18; Am. Ord. passed 1-21-20)

### **§ 16-52 INSTALLATION.**

(A) Installation and testing requirements:

(1) The purpose of this section is to require that, when a cross-connection to the City public water system has been identified, all water flowing from the public water system into that private water system, must flow through an approved backflow prevention assembly. Furthermore, each backflow prevention assembly must be properly located, installed, tested, and maintained per the City requirements so that the backflow prevention assembly is effective in protecting the public water system from any possible contamination or pollution.

(2) The installation or replacement of a backflow prevention assembly for domestic water, irrigation, commercial and industrial use shall only be performed by a licensed plumber, utility contractor or homeowner. The installation or replacement of a backflow prevention assembly on a dedicated fire sprinkler service shall only be performed by a licensed fire sprinkler contractor. **ALL** backflow prevention assemblies shall be tested and repaired by a certified backflow prevention assembly tester authorized by the City.

(3) For premises existing prior to the start of this program, the Backflow/Cross-Connection ORC and Building Official will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary.

(4) All new and change of use construction plans and specifications which will receive service from the City public water system shall be made available to the Backflow/Cross-Connection ORC for review, approval, and to determine the degree of hazard, and any required backflow prevention assembly to be installed.

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(5) All facilities zoned commercial or industrial that have existing water services with the City and requesting Certificate of Occupancy from the City or County Planning and Zoning offices, whether for new construction or change of use, shall be inspected for compliance of backflow prevention and cross-connection control. Any facility not having backflow protection or changing the degree of hazard shall be brought into compliance before the Backflow/Cross-Connection ORC may release the Certificate of Occupancy.

(6) The Backflow Administrator will determine if a water service customer must install a backflow prevention assembly, and provide the water service customer with a letter of notification and list of approved licensed plumbers. Any unapproved backflow prevention assembly must be replaced, with an approved backflow prevention assembly, within a time period set by the Backflow/Cross-Connection ORC. The following time periods shall be set forth for the installation of the specified backflow prevention assemblies:

*New construction:* No water meter will be installed by the City until the proper backflow prevention assembly is installed, tested, and approved.

*Change of use/change of ownership:* No water service will be activated by the City until the proper backflow prevention assembly is installed, tested, and approved.

Existing facility evaluation compliance schedule:

Health hazard	60 days
Non-health hazard	90 days

Testing and repair compliance schedule:

Failure to test backflow prevention assembly by anniversary date	30 days
Failure to repair or replace a failed backflow prevention assembly	14 days

If an IMMEDIATE HAZARD or an UNREASONABLE THREAT OF CONTAMINATION OR POLLUTION to the City's public water system is detected, the Backflow/Cross-Connection ORC may require the installation of the required backflow prevention assembly IMMEDIATELY, or within a shorter time period than specified above. If installation is not completed within the specified time period, or if contamination is presently occurring, WATER SERVICE MAY BE IMMEDIATELY DISCONNECTED in order to protect the potable water system and public health.

(7) All backflow prevention assemblies must be installed and maintained on the water

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service customer's premises as part of the water service customer's private water system at or near the service connection and before the service line is connected to any other pipes except as authorized by the Backflow/Cross-Connection ORC.

(8) If it has been determined that a backflow prevention assembly cannot be installed at the meter service, due to Zoning or DOT Right-of-Way, an approved backflow prevention assembly must be installed before any branch of plumbing that is installed between the service meter and the service backflow prevention assembly.

(9) Any branch of plumbing installed on the private water system that may be subject to a greater hazard than the supply line, (example: Irrigation systems or pump systems, etc.) shall be protected with the appropriate backflow prevention device, as determined by the Backflow/Cross-Connection ORC.

(10) Approved backflow prevention assemblies: Meets American Society of Sanitary Engineers (ASSE) standard and carries ASSE seal or is on the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC FCCHR) approval list. Must also meet the NC State Plumbing Code. Also see the current revision of the City Backflow Assembly Specification sheets.

(11) Any water service customer installing any backflow prevention assembly must provide the following information to the Backflow Administrator:

- a. Owner's name and address;
- b. Service address where assembly is installed;
- c. Description of assembly's location;
- d. Date of installation;
- e. Size of assembly;
- f. Type of assembly;
- g. Manufacturer;
- h. Model number;
- i. Serial number;
- j. Test results/reports.

(12) Each backflow prevention assembly that is required must function properly at time of installation. Each water service customer will be required to maintain and repair each assembly required as part of their private water system. Testing shall be done immediately following installation of any backflow prevention assembly prior to receiving a CO (certificate of occupancy) and annually thereafter. The owner at their own expense shall have a certified backflow prevention assembly tester conduct the tests and forward the results to the City within ten business days.

(13) If an assembly needs to be repaired, it must be re-tested immediately following any repairs. The owner at their own expense shall have a certified backflow prevention assembly tester conduct tests and forward the results to the City. A complete duplicate copy of any testing and/or repair shall be sent to the Backflow/Cross-Connection ORC within ten

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business days of completion of test or repair. Each water service customer must maintain a complete copy of test or repair for no less than five years. All test and repair records must be maintained on forms approved by the Backflow/Cross-Connection ORC of the City.

(14) All rubber components must be replaced every five years in every backflow prevention assembly or as often as needed, according to manufacturer's directions and components condition.

(15) Any existing backflow prevention assembly that was installed prior to the adoption of this article, which does offer the proper level of protection type for the hazard will need to be replaced. At that point the assembly shall be replaced, by the water customer, with the proper type of assembly for the current hazard classification.

(B) Installation location requirements:

(1) Backflow prevention assemblies must be located in a place where it is readily accessible for regular testing, maintenance, repair, and inspection. Any customer's water service that is critical and cannot be shut down for annual testing or maintenance shall install parallel backflow prevention assemblies in order to maintain the continuity of water flow for testing and repair; or in the case of the assembly failing. Bypass lines parallel to a backflow prevention assembly shall have an approved backflow prevention assembly that is equal to that on the main line.

(2) No backflow preventer shall be installed in a manner by which it is subject to freezing. All above ground backflow preventers shall be installed in an ASSE standard 1060 "freeze retardant" enclosure with a minimum R value of 8.0. All above ground backflow preventers shall be installed with permanent piped electrical service to a thermostatically controlled heater or heat tape. Backflow for lawn irrigation systems may be installed with unions and an upstream shut off valve not subject to freezing. All underground piping must be installed a minimum of 12 inches below grade and must meet the requirements of underground water service piping.

(3) Reduced pressure zone assembly (RPZ).

- a. Above ground outdoor installation is preferred and encouraged.
- b. Below ground and indoor installations are strongly discouraged, and shall only be allowed in special cases as approved by the Backflow/Cross-Connection ORC. The vault shall have positive drainage with adequate gravity drainage to atmosphere to accommodate for the maximum discharge of the relief valve(s) on the assembly(s) and must be in a location where no portion of assembly can become submerged at any time or under any circumstances or conditions.
- c. Twelve inches minimum and a maximum of 36 inches clearance from vault floor and a minimum of 24 inches clearance from a wall or another fixture for the purpose of testing and repair.
- d. No vertical installation unless USC FCCHR approvals allow otherwise.
- e. Installation in accordance with manufacturer's recommendations.

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- f. Located where it is readily accessible for regular testing, maintenance, and inspection.
- g. Must be in a location where no portion of assembly can become submerged at any time under any circumstances or conditions.

### (4) Double check valve assembly (DCVA).

- a. Above ground outdoor installation is preferred and encouraged.
- b. Below ground installation is strongly discouraged, and shall only be allowed in special cases as approved by the Backflow/Cross-Connection ORC. The vault shall have positive drainage with adequate gravity drainage to atmosphere and must be in a location where no portion of assembly can become submerged at any time or under any circumstances or conditions.
- c. Twelve inches minimum and a maximum of 36 inches clearance from vault floor and a minimum of 24 inches clearance from a wall or another fixture for the purpose of testing and repair.
- d. Vertical or horizontal installation acceptable with USC FCCHR approvals.
- e. Installation in accordance with manufacturer's recommendations.
- f. Located where it is readily accessible for regular testing, maintenance, and inspection.

### (5) Air gap (AG).

- a. Above ground installation only.
- b. Must be in a location where no portion of assembly can become submerged at any time under any circumstances or conditions.

(Ord. passed 6-19-18)

## § 16-53 DEGREE OF HAZARD.

### A. Determination.

(1) No service shall be approved until the Backflow/Cross-Connection ORC has been provided with information or has surveyed the private water system to determine the degree of hazard and decides the type of backflow prevention assembly to be installed to protect the City public water supply.

(2) Any water service customer, making any modification to the private water system's use or configuration, which may change the degree of hazard, shall notify in writing the Backflow/Cross-Connection ORC before any modification is made. If the Backflow ORC determines that such modification requires a greater degree of backflow prevention assembly, that assembly must be installed prior to any modification of use or configuration.

(3) If the City's Backflow/Cross-Connection ORC or his/her designee is unable to survey

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any portion of a private water system to determine the degree of hazard, due to confidential activities, a reduced pressure zone assembly will be required.

### B. Degree of Hazard

(1) Health hazard: Actual or potential threat of contamination that presents an imminent danger to the public health with consequence of serious illness or death.

(2) Non-health hazard: One that presents foreseeable and significant potential for pollution, nuisance, aesthetically objectionable or other undesirable alterations of the City public drinking water supply.

(3) Imminent hazard: If it has been determined a water service customer's private water system has an imminent hazard, the water service customer must install an approved backflow prevention assembly specified by the City Backflow/Cross-Connection ORC and this ordinance. This assembly must be installed within 24 hours of notification from the Backflow/Cross-Connection ORC. If the water service customer fails to install the specified assembly within the allowed time period, water service to the water service customer's private water system will be terminated and the water service customer may be subject to civil penalties. In the event the Backflow/Cross-Connection ORC is unable to notify the water service customer within 24 hours of determining an imminent hazard exists, the Backflow/Cross-Connection ORC may terminate water service until the specified assembly is installed. These actions may be carried out under the Safe Drinking Water Act.

(Ord. passed 6-19-18; Am. Ord. passed 1-21-20)

### C. Minimum backflow prevention assembly requirements

Degree of Hazard:	RPZ or RPDA	DCVA or DCDA	AG
Health hazard	X		X
Non-health hazard		X	
AG = Air gap			
DCVA = Double check valve assembly;			
DCDA=Double Check Detector Assembly (Fire protection systems w/o chemicals or pumps)			

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RPZ = Reduced pressure zone assembly

RPDA=Reduced Pressure Detector Assembly (Fire protection systems with chemicals or pumps)

- (1) Facilities that require a backflow prevention assembly:
- (a) Residential dual check valve. If no other backflow prevention assembly is specified a dual check valve assembly must be installed on all private water systems.
  - (b) Non-health hazard.
    - (i) Connection to tanks, lines, and vessels that handle non-toxic substances
    - (ii) Fire sprinkler systems without chemicals
    - (iii) Most commercial establishments
    - (iv) Churches
    - (v) Other facilities as determined by the Backflow/Cross-Connection ORC
  - (c) Health hazard.
    - 1. Irrigation systems\*
    - 2. Wastewater treatment plants
    - 3. Beauty shop and salons
    - 4. Connection to tanks, lines, boilers or vessels that handle sewage, lethal substances, toxic or radioactive substances
    - 5. Connection to an unapproved water system or auxiliary water supply
    - 6. Buildings with five or more stories above ground
    - 7. Hospitals and other medical facilities
    - 8. Morgues, mortuaries and autopsy facilities
    - 9. Metal plating facilities
    - 10. Breweries, bottling plants
    - 11. Schools, daycares and colleges
    - 12. Bakeries, restaurants, etc.
    - 13. Solar hot-water systems
    - 14. Canneries
    - 15. Battery manufacturers
    - 16. Exterminators and lawn care companies
    - 17. Chemical processing plants
    - 18. Dairies

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19. Film laboratories
20. Car wash facilities
21. Dye work
22. Laundries
23. Swimming pools
24. Waterfront facilities
25. Concrete/ asphalt plants
26. Airports
27. Oil and gas production, storage, or transmission facilities
28. Sand and gravel plants.
29. Furniture manufacturing plants
30. Interconnection with other water purveyor's potable water systems
31. Gas/service stations
32. Other facilities as determined by the Backflow Administrator\*\*

\*All double check valve assemblies installed on irrigation systems prior to 2020 shall be allowed to remain in service until they fail and can no longer be repaired. At that time, they shall be replaced with a reduced pressure principle assembly in order for the irrigation system to remain in service.

\*\* This is not intended to be an exhaustive list. Any other type facility or service not listed above may also be required to install an approved backflow prevention assembly if determined by the Backflow/Cross-Connection ORC. All assemblies and installations shall be subject to inspection and approval by the City Backflow/Cross-Connection ORC or their designee.

(2) Filling of tanks/tankers or any other container from a City fire hydrant is strictly prohibited unless it has been equipped with the proper meter and approved backflow prevention assembly. The City will issue a permit for this tank/tanker or container. Any unauthorized connection to a fire hydrant is considered an illegal cross-connection to the City public water system and will be subject to penalties as set forth in the City Fee Schedule.

Exemption: All fire apparatuses are exempt from the backflow prevention requirements only if fighting fire or training. If training they are asked to notify the Backflow ORC. However, if fire apparatus has been used to haul non-potable water, it is to be cleaned and re-certified prior to connecting to a City fire hydrant.

### **§ 16-54 NOTICE OF CONTAMINATION OR POLLUTION.**

(1) In the event the water service customer's private water system becomes contaminated or polluted, the water service customer shall immediately notify the City Backflow/Cross-Connection ORC or the Distribution Superintendent.

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(2) In the event the water service customer has reason to believe that a backflow incident has occurred between the water service customer's private water system and the public water system, the water service customer shall immediately notify the City Backflow/Cross-Connection ORC or the Distribution Superintendent so that appropriate actions can be taken to isolate and remove the contamination or pollution.

(Ord. passed 6-19-18)

### § 16-55 VIOLATIONS AND CIVIL PENALTIES.

#### A. Notification of violation

(1) A written notice will be presented to any water service customer who has been found to be in violation of any part of this ordinance.

(2) This first notice must explain the violation and give the time period within which the violation must be corrected.

(3) A second notice will give 30 additional days to correct all violations as required by this ordinance.

(4) A third notice will be a civil penalty allowing 15 more days to comply before the penalties begin.

(5) In the event a water service customer found to be in violation of this ordinance fails to correct the violation within the specified time or, fails to pay any civil penalties expense assessed under this ordinance, water service will be terminated.

#### B. Civil and other penalties

(1) Unprotected cross-connection involving a private water system, which is of a health hazard: \$1,000.00 per day not to exceed \$10,000.00.

(2) Unprotected cross-connection involving a tank/tanker or other container hooked to a fire hydrant—\$1,000.00 per occurrence.

(3) Unprotected cross-connection involving a private water system, which is of a non-health hazard—\$500.00 per day not to exceed \$5,000.00.

(4). Any violation of the requirements and prohibitions of this ordinance including failure to address an unprotected cross connection is hereby declared a public nuisance and shall be corrected or abated as directed by the requirements of this ordinance. Any person(s) creating a public nuisance or failing to abate such shall be subject to the provisions of City Code, Chapter 6 Article II: *Nuisances*, governing such nuisances, including reimbursing the City of Eden for any costs incurred in removing, abating or remedying said nuisance.

(5) Tester submitting false records which are required by this ordinance—\$1,000.00.

*Also, this will result in removal of the tester from the approved testers list. Notification of the school where the tester was certified and the tester's behavior shall be reported to the North Carolina Division of Water Resources.*

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(6) Failure to submit records which are required by this ordinance—\$500.00.

(7) Failure to test or maintain backflow prevention assemblies as required by this ordinance—\$100.00 per day up to and including termination of water service.  
(Ord. passed 6-19-18; Am. Ord. passed 1-21-20)

### ***DIVISION 3 PRIVATE FIRE HYDRANTS AND SPRINKLER SYSTEMS***

#### **§ 16-61 CONNECTIONS.**

All connections and systems for private fire hydrants or sprinkler systems shall be made according to the requirements of this ordinance.  
(‘89 Code, § 16-61) Penalty, see § 16-72

#### **§ 16-62 SUBMISSION AND APPROVAL OF PLANS.**

(A) Plans for the proposed installation of private fire hydrants and sprinkler systems must be approved by the property owner's insurance carrier.

(B) A copy of the approved plans must be submitted to the city for review by the City Project Manager and Chief Building Official who shall make recommendations to the City Manager for final approval.

(C) Connections for systems outside the City limits must be approved by the City Council or City Manager prior to compliance with subsections (A) and (B).  
(‘89 Code, § 16-62)

#### **§ 16-63 INSTALLATION REQUIREMENTS.**

(A) On all new systems referred to in this division and on all such systems being renovated, the owner shall:

(1) Provide and install at his expense a fire line meter where it is anticipated that water for purposes other than fire water will be used. The make, design and size must be approved, before purchase, by the City;

(2) Provide and install at his expense a detector check or fire line detector meter where it is anticipated that only fire water will be used. The make, design and size shall be approved by the City;

(3) A double check valve system shall be installed between the sprinkler system and the city water supply to prevent backflow. The detector check may be considered one check valve.

(B) If, after installation of the system and a detector check or fire line detector meter, it is determined that other than fire water is being used, the property owner shall be required to provide and install at his expense a fire line meter within 60 days of notification by the City

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according to subsection (A).  
(’89 Code, § 16-63) Penalty, see § 16-72

***DIVISION 4 ENFORCEMENT***

**§ 16-71 ENFORCEMENT.**

It shall be the duty of the Distribution ORC, Backflow/Cross-Connection ORC, and/or Chief Building Official to enforce all provisions of this chapter, and to make all necessary inspections to determine whether or not the provisions of the chapter are being met.  
(Ord. passed 2-16-16)

**§ 16-72 PENALTY.**

(A) Each violation of any provision of Divisions 1 through 3 of this ordinance shall constitute a Class 3 misdemeanor, punishable by a fine of not more than \$500, as provided by G.S. §14-4, as amended. Each calendar day during which a violation continues shall constitute a separate and distinct offense.

(B) The provisions of this ordinance may also be enforced through any equitable or other legal remedy authorized by § 1-16 of the City Code or as otherwise permitted by law.

(C) Violations of this chapter may also be punished by a civil penalty in the amount of \$100 for each violation, which penalty shall be enforced as provided by § 1-16.2 of the City Code. This remedy shall be nonexclusive.  
(Ord. passed 2-16-16)

***DIVISION 5 CONSERVATION***

**§ 16-81 DEFINITION.**

The following term when used in this division, shall have the meaning ascribed to it in this section, except where the context clearly indicates a different meaning:

***WATER SHORTAGE*** shall be deemed to exist when the ordinary demands and requirements of water consumers served by the City cannot be satisfied without depleting the water supply to or below a critical level, the level at which the continued availability of water for human consumption, sanitation, and fire protection is jeopardized. Situations also occur that can interrupt the availability of water supply or its distribution to our customers. This Water Shortage Response Plan has been developed to allow the City to adapt to these situations and continue to supply water to our customer. These situations can be caused by drought, storms, water line breaks, power failures, or harmful acts of human beings. This plan will set forth protocol for how the City Water System will respond to these situations.  
(’89 Code, § 16-81) (Ord. passed 8-19-86; Am Ord. passed 5-18-10)

**§ 16-82 WATER SHORTAGE RESPONSE PLAN (WSRP).**

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### Implementation of the WSRP

(A) To avoid further depletion of the City's water supply during a water shortage, the City Manager will authorize the implementation of what level of response is needed based on the criteria set forth in this plan. The current situation will be communicated to the Mayor and City Council.

(B) Whenever the City Manager finds a water shortage exists, he shall proclaim one or more water conservation stages. The City Manager's proclamation shall be based upon a recommendation from the Water Plant Superintendent, the Distribution System Superintendent, or the Utilities Manager to the City Manager of what response is required to continue meeting the human consumption, sanitation and fire protection needs of our customers. Recommendations of the Water Plant Superintendent or the Distribution System Superintendent shall be based on a review of factors such as current water supply, stream flow, drought conditions, presettling impoundment reservoir level, seasonal effect on water supply, condition of the distribution system, pumping capacity, and average current consumption rates.

(C) In the absence of the City Manager, the Assistant City Manager will be authorized to implement the required response within the plan.  
(89 Code, § 16-82) (Ord. passed 8-19-86; Am. Ord. passed 11-19-02; Am. Ord. passed 5-18-10)

*Sections § 16-82 through 16-92 of this ordinance will constitute the City's Water Shortage Response Plan as required under North Carolina Administrative Code 15A NCAC 02E0.607 and General Statute 143-355(l)*

### **§ 16-83 NOTIFICATION OF WATER SHORTAGE RESPONSE PLAN IMPLEMENTATION.**

When the WSRP is activated water users and City employees will be notified by the following means, as time will allow:

- 1) Post information to the City's Website
- 2) Code Red – rapid dialing telephone alerts to affected zones
- 3) Department Heads and supervisor will brief their employees
- 4) Press release for the Local Newspaper if time appropriate for publishing
- 5) Public Service Announcements (PSAs) for TV and/or radio as appropriate
- 6) Messages printed on the water bills

(Ord. passed 5-18-10)

### **§ 16-84 UNLAWFUL TO VIOLATE MANDATORY RESTRICTION.**

If the City Manager declares one or more stages of water conservation, it shall be unlawful for any person to use or permit the use of water supplied by the City in violation of any mandatory restriction instituted pursuant to that declaration.

(89 Code, § 16-83) (Ord. passed 8-19-86; Am. Ord. passed 11-19-02; Am. Ord. passed 5-18-

10)

**§ 16-85 MEASURES TO BE IMPLEMENTED AT VARIOUS STAGES OF WATER CONSERVATION**

*Water Conservation* will be encouraged at all times. The following water use habits are to be recommended in an ongoing public information campaign to reduce wasting of water:

- 1) Check for leaks in toilets at least once a year by putting a few drops of food coloring in the storage tank. If the color comes through to the toilet bowl without flushing, the toilet needs adjustment or repair.
- 2) Repair leaking faucets whenever they develop.
- 3) Store water for drinking in the refrigerator to avoid trying to run it cool at the tap. The storage also eliminates chlorine taste that some customers find objectionable in drinking water.
- 4) Use shower for bathing or reduce the depth of water used for tub bath. Limit the length of each shower.
- 5) Do not leave faucets running while shaving or rinsing dishes.
- 6) Install water flow restrictive devices in showerheads.
- 7) Install water-saving devices such as plastic bottles or commercial units in toilet tanks, unless you already have a new water-saving type unit.
- 8) Always wash full loads in clothes washers and dishwashers.
- 9) Do not use the toilet for a trash basket; make every flush count.
- 10) Commercial and industrial customers should review their water uses and where feasible install recycle systems. The savings on water and sewer bills will often pay for the installation in a reasonable period.

The following water conservation stages, associated recommendations, and mandatory measures may be instituted by the City Manager when a Water Shortage exists:

***Stage 1 Water Supply Alert Conservation.*** Continue all recommendations of Continuous Water Conservation and increase the level of conservation effort by publicizing the following measures:

- 1) Limit use of clothes washers and dishwashers and when used, operate fully loaded.
- 2) Limit flushing of toilets by multiple usages.
- 3) Limit lawn watering and only then, when grass shows signs of withering. Apply water as slowly as possible to achieve deep penetration.
- 4) Water shrubbery the minimum required, reusing household water when possible.
- 5) Limit car washing to the minimum.
- 6) Limit wash-down of outside impervious areas such as sidewalks, patios, etc.
- 7) Limit hours of operation of water-cooled air conditioners if possible.
- 8) Limit non-essential water use for commercial and industrial activities.

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- 9) Encourage a goal of 10% reduction in water use by all customers.
- 10) Begin 5% Water Conservation Surcharge on Customer Water Rate.

***Stage 2 Water Supply Warning Conservation.*** Continue all recommendations of Stage I and increase the levels of conservation effort by enforcing the following measures:

- 1) No watering of lawns, shrubbery, flowers or vegetable gardens except after 6:00 p.m. on Saturday and Sunday. Golf courses to water only on even numbered calendar days.
- 2) No water to be introduced into swimming pools except to the extent necessary to maintain operation.
- 3) No washing down of outside areas such as sidewalks, patios or driveways, or other similar purposes.
- 4) Do not introduce water into any decorative fountain, pool or pond.
- 5) No serving of water in a public restaurant except upon request.
- 6) Do not use water for any unnecessary purpose or intentionally waste water.
- 7) Use disposable and biodegradable dishes.
- 8) Commercial and Industrial will reduce water use by 10%.
- 9) Encourage a goal of 30% reduction in water use by all customers.
- 10) Begin 15% Water Conservation Surcharge on Customer Water Rate.

***Stage 3 Mandatory Conservation.*** Continue all less severe water conservation stages and increase the level of conservation effort by enforcing the following measures:

- 1) No lawn sprinkling.
- 2) No watering of any vegetable garden or ornamental shrubs except during the hours of 4:00 p.m. and 8:00 p.m. on Saturday.
- 3) No filling of any swimming pool; no replenishment of any filled pools except to the minimum essential for operation of chemical feed equipment.
- 4) No nonessential use of water for commercial or public use. The use of single-service plates and utensils is encouraged and recommended in restaurants.
- 5) Do not operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- 6) Discontinue washing exterior of motor vehicles except where 50% or more of the water is recycled, or where a private well water system is used.
- 7) Commercial and Industrial will reduce water use by 30%.
- 8) Encourage a goal of 50% reduction in water use by all customers.
- 9) Begin 25% Water Conservation Surcharge on Customer Water Rate.

***Stage 4 Emergency Conservation (Rationing).*** Continue all less severe water conservation stages and increase the level of conservation effort by strictly enforcing the following measures:

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- 1) It will be unlawful to fail to act in accordance with this section or use water contrary to this section or attempt to evade or avoid such water rationing restrictions.
- 2) Fire protection will be maintained, but where possible, tank trucks shall use raw water.
- 3) Close all swimming pools.
- 4) No washing of any motor vehicles, including commercial washing.
- 5) All industrial uses of water are prohibited.
- 6) All other uses of water will be limited to those necessary to meet minimum health and safety needs of the customers.

('89 Code, § 16-84) (Ord. passed 8-19-86; Am. Ord. passed 11-19-02; Am. Ord. 5-18-10) Penalty, see § 16-86

**§ 16-86 ENFORCEMENT.**

It shall be the duty of the Utilities Manager to investigate violations of the mandatory restrictions and issue orders consistent with the purpose and intent of this division. All customers shall cease any violation of the mandatory restrictions upon the order of the Utilities Manager. Any customer who violates any provision of this division, or who shall violate or fail to comply with any order made pursuant to this division shall be subject to penalty or a combination of the penalties set forth in § 16-87. The Public Works Department Personnel, Fire Department Personnel, or Police Officers will be responsible for enforcement of this ordinance as they go about their daily duties about the City.

('89 Code, § 16-85) (Ord. passed 8-19-86; Am. Ord. passed 5-18-10)

**§ 16-87 DISCONTINUANCE OF SERVICE; RIGHT OF APPEAL; OTHER REMEDIES; PENALTY NOT TO EXCUSE VIOLATION.**

(A) When customers are found to be in violation of the MANDATORY RESTRICTIONS, the City's personnel listed above (§ 16-85) will issue citations and penalties will be assessed as follows:

1 <sup>st</sup> Violation	Warning
2 <sup>nd</sup> Violation	\$100 Fine
3 <sup>rd</sup> Violation	\$250 Fine
4 <sup>th</sup> Violation	\$250 Fine and discontinuation of service

(B) The City may discontinue water service to any structure or parcel when the Utilities Manager gives written notice of any violation of mandatory restrictions and intent to discontinue service. Water service shall be discontinued within 24 hours unless the violator shall cease voluntarily. When service is discontinued pursuant to the provisions of this section, service shall not be reinstated unless and until the Utilities Manager determines that, the risk to the City water supply has been alleviated.

(C) The customers shall have a right of appeal to the City Manager, upon serving written notice of appeal on the City Manager within five days after receiving notice of any violation and intent

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to discontinue service. The appellant will be notified by the City Manager of the time and place for the hearing of the appeal. The City Manager shall act on the appeal as expeditiously as possible and shall notify the appellant in writing no later than two days after the final decision.

(D) The provisions of this article may be enforced by an appropriate remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction.

(E) The imposition of one or more penalties for any violation shall not excuse any violation or permit it to continue.

(’89 Code, § 16-86) (Ord. passed 8-19-86; Am. Ord. passed 5-18-10)

**§ 16-88 GUIDELINE TRIGGERS TO INITIATE CONSERVATION STAGES IN DROUGHT SITUATIONS**

System Supply Type	Water Supply Alert Conservation Level 1 US Drought Monitor indicates abnormally dry in our area	Water Supply Warning Conservation Level 2 US Drought Monitor indicates severe drought in our area	Mandatory Conservation Level 3 Us Drought Monitor indicates extreme drought in our area	Emergency Conservation Level 4 Us Drought Monitor indicates exceptional drought in our area
<p><b>Run-of-River</b> (Measure stream flow daily and inventory watershed for upstream water users during a water shortage situation.)</p>	<ul style="list-style-type: none"> <li>• Steam Flow less than 180 cubic feet per second</li> <li>• Water demand does not exceed gravity flow at the intake</li> <li>• Gravity flow into the intake screens is adequate to meet pumping demand</li> <li>• 6 Days of normal demand remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 11 MGD for 5 consecutive days</li> <li>• Withdrawing 10% of flow past the intake</li> <li>• Presettling Impoundment is 5 feet down from full pond. 61 MGD supply remaining*</li> </ul>	<ul style="list-style-type: none"> <li>• Steam Flow less than 100 cubic feet per second</li> <li>• Water demand exceeds gravity flow at the intake.</li> <li>• Supplemental pumps are put into operation with some gravity flow in intake</li> <li>• 6 Days of normal supply remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 10 MGD for 5 consecutive days</li> <li>• Withdrawing 17 % of flow past the intake</li> <li>• Presettling Impoundment is 9 feet down from full pond. 48 MGD supply remaining *</li> </ul>	<ul style="list-style-type: none"> <li>• Steam Flow less than 75 cubic feet per second</li> <li>• Water demand exceeds gravity flow at the intake. Intake screens more than 12 inches out of water</li> <li>• Supplemental pumps are in operation with limited gravity flow in intake</li> <li>• &lt; 6 Days of normal supply remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 7 MGD for 5 consecutive days</li> <li>• Withdrawing 20 % of flow past the intake</li> <li>• Presettling Impoundment is 13 feet down from full pond. 36 MGD supply remaining *</li> </ul>	<ul style="list-style-type: none"> <li>• Steam Flow less than 40 cubic feet per second</li> <li>• Water demand exceeds gravity flow at the intake. Intake more than 24 inches out of water.</li> <li>• Only supplemental pumping will get water into wetwells</li> <li>• &lt; 6 Days of normal supply remaining in Presettling Impoundment</li> <li>• Average daily use &gt; 2 MGD for 5 consecutive days</li> <li>• Withdrawing 5 % of flow past the intake</li> <li>• Presettling Impoundment is 17 feet down from full pond. 25 MGD supply remaining *</li> </ul>

\* Presettling Impoundment volumes based on September 2003 Dewberry Davis Study

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Triggers in the table above are to be used as guidelines and actual conditions may dictate some variations from the guidelines listed above. Any one or more of the trigger guidelines may be sufficient to implement conservation stages if an immediate situation threatens public health, public safety, or has potentially severe economical impacts.

Triggers for conditions such as operational difficulties at the water plant, contamination, water line breaks, and power failures may lead to Emergency Level 3 by the instant severity of the situation creating nearly instantaneous water shortage.

(Ord. passed 5-18-10)

### **§ 16-89 RETURN TO NORMAL WATER SUPPLY CONDITIONS**

When the Water Shortage conditions have abated and the water supply situation is returning to normal, water conservation measures employed during the Water Supply Alert Conservation, Water Supply Warning Conservation, Mandatory Conservation and Emergency Conservation can be decreased in the reverse order of implementation. Permanent measures directed toward long-term monitoring and conservation should be implemented or continued.

(Ord. passed 5-18-10)

### **§ 16-90 VARIANCE FROM WATER CONSERVATION STAGES**

Applications to apply for a variance from Various Water Conservation Stages are available from the Billing and Collections Division. Completed application will be submitted to the Billing and Collections Division; questions concerning the application may be directed to the ORC for assistance. Applications will be reviewed and a recommendation will be made by an appeals committee composed of the Public Works Director, the Utilities Manager, and the Water Plant Superintendent. Recommendations will be made based on the following criteria:

- 1) Impact on the City's Water demand
- 2) Essential use of drinking water
- 3) How long would a variance be needed
- 4) Does an alternative water source exist
- 5) Social and economical importance
- 6) Prevention of structural damage

(Ord. passed 5-18-10)

### **§ 16-91 REVIEW OF THE EFFECTIVENESS OF WATER CONSERVATION STAGES**

The effectiveness of conservation stages will be evaluated in a timetable appropriate to the reason for invoking the conservation stages. For example, a large water main break would be evaluated hours as to how fast elevated storage is being depleted. In a drought situation, the water source availability would be evaluated daily versus the service water demand, to see if the conservation stages are keeping the service water demand less than source availability.

(Ord. passed 5-18-10)

**§ 16-92 ADOPTION OF THE WATER SHORTAGE RESPONSE PLAN**

When this draft copy Water Shortage Response Plan is approved by the State Division of Water Resources, it will be submitted to the City Attorney for review. Once the City Attorney has completed a review and approved the WSRP, it will be submitted to City Council for consideration at the next regular meeting and scheduling of a public hearing at the following month's regular council meeting. A copy of this Water Shortage Response Plan and future revisions will be posted on the City's Website for public inspection when it is submitted to the City Council for consideration and approval.

(Ord. passed 5-18-10)

**§ 16-93 REVIEW AND UPDATING OF WATER SHORTAGE RESPONSE PLAN**

The Water Shortage Response Plan will be reviewed annually or more often as necessary when conditions change requiring modification to the plan. Updates and changes will follow the procedure set forth in § 16-91 of this WSRP.

(Ord. passed 5-18-10)

**ARTICLE III: WASTEWATER SYSTEM**

Section

***Division 1 Generally***

- 16-101 Supervision; appointment of supervisor
- 16-102 Connections required
- 16-103 Same - permit required
- 16-104 Same - made by licensed plumbers
- 16-105 Same - separate for each dwelling or building
- 16-106 Same - maintenance, repair, cleaning
- 16-107 Construction of building drains and sewers
- 16-108 Damaging, obstructing system prohibited
- 16-109 Private wastewater disposal

***Division 2 Use Regulations***

*Subdivision A General Provisions*

- 16-121 Purpose and policy
- 16-122 Definitions and abbreviations

*Subdivision B General Sewer Use Requirements*

- 16-126 Prohibited discharge standards
- 16-127 National Categorical Pretreatment Standards
- 16-128 Industrial waste survey and local limits
- 16-129 State requirements
- 16-130 Right of revision
- 16-131 Dilution
- 16-132 Pretreatment of wastewater
- 16-133 Accidental discharge/slug control plans
- 16-134 Hauled wastewater
- 16-135 Fats, oils and grease control

*Subdivision C Fees*

- 16-140 Purpose
- 16-141 User charges
- 16-142 Surcharges
- 16-143 Pretreatment program administration charges

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### *Subdivision D Wastewater Discharge Permit Application and Issuance*

- 16-149 Wastewater dischargers
- 16-150 Wastewater permits

### *Subdivision E Reporting Requirements*

- 16-156 Baseline monitoring reports
- 16-157 Compliance schedule progress reports
- 16-158 Reports on compliance with categorical pretreatment standards deadline
- 16-159 Periodic compliance reports
- 16-160 Reports of changed conditions
- 16-161 Reports of potential problems
- 16-162 Reports from unpermitted users
- 16-163 Notice of violation/repeat sampling and reporting
- 16-164 Notification of the discharge of hazardous waste
- 16-165 Analytical requirements
- 16-166 Grab and Composite Sample collection
- 16-167 Timing
- 16-168 Record keeping

### *Subdivision F Compliance Monitoring*

- 16-174 Monitoring facilities
- 16-175 Inspection and sampling
- 16-176 Search warrants

### *Subdivision G Confidential Information*

- 16-181 Confidential information

### *Subdivision H Enforcement*

- 16-185 Administrative remedies
- 16-186 Civil penalties
- 16-187 Other available remedies
- 16-188 Remedies nonexclusive

### *Subdivision I Annual Publication of Significant Noncompliance*

- 16-193 Annual publication of significant noncompliance

### *Subdivision J Affirmative Defenses to Discharge Violations*

- 16-197 Upset
- 16-198 Prohibited discharge standards defense
- 16-199 Bypass

***DIVISION 1 GENERALLY***

**§ 16-101 SUPERVISION; APPOINTMENT OF SUPERVISOR.**

(A) The wastewater system of the City shall be under the general control and supervision of the City Council and shall be regulated and operated as it shall from time to time direct.

(B) The City Manager shall appoint a qualified person to supervise the operation of the system, and such person appointed may assign the duties of supervising the system to an employee of the City in addition to his/her other duties.

('89 Code, § 16-101) (Am. Ord. passed 11-20-12)

**§ 16-102 CONNECTIONS REQUIRED.**

(A) Every person owning a dwelling, building or other structure which is used for human habitation or occupancy within the City situated on a lot or parcel of land which abuts or adjoins a street or other public way along which is located a sanitary sewer, shall connect such dwelling, building or structure to the wastewater system at the owner's expense within 180 days after date of receiving notice to do so; provided, however, that a connection shall not be required to the system unless the lot or parcel of land on which the dwelling, building or other structure is situated is accessible within 200 feet. No person shall be required to cross private property of any other person to make such connection. Where connections are required, all toilets, sinks, and other plumbing fixtures shall be installed, arranged or rearranged to drain into the sanitary sewer.

(B) When public sewer mains become available to property as described in subsection (A), the property owner shall be made aware that connection to the public sewer is required and that such connection shall be made within 180 calendar days from the date of such notification. Nonuse of the public sewer mains shall only be as approved by the City Council on a case-by-case basis when making sewer available to a property would be impractical or cost prohibitive to the City.

(C) With exception to subsection (A) and (B), a property owner, who is using a septic tank system in good working condition, in lieu of connection, may elect to pay a periodic availability charge in the amount of the minimum periodic service charge for properties that are connected. The aforesaid exception shall cease being available at such point in time as the Rockingham County Health Department deems that the septic tank system has failed. At such time, the property owner shall follow the procedure set forth in subsection (A) and (B).

(D) Privies, cesspools and septic tanks are prohibited within the corporate limits of the City except where public sewer service is not available as described in subsection (A). Privies, cesspools and septic tanks shall be installed as provided for by ordinance and as required by the Rockingham County Health Department.

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(E) In those circumstances where public sewer service is not available and septic tanks are used, as permitted and described in subsection (A) above, then the City will refund to the property owner reasonable fees for pumping such tanks on an annual basis. This will only continue until such time as the public sewer is available. Refunds for pumping such tanks are not available for property owners electing to retain septic tank systems under subsection (C).

('89 Code, § 16-102) (Ord. passed 10-15-85; Am. Ord. passed 1-21-03; Am. Ord. passed 11-20-12; Am. Ord. passed 12-20-16) Penalty, see § 1-16 *et seq.*

### **§ 16-103 SAME - PERMIT REQUIRED.**

No person shall make any connections to the wastewater system unless and until a permit has been issued by the City. Permits shall be issued for connections only after the Chief Codes Inspector or other authorized official has determined the type of connection required, the type of waste to be placed in the system and has approved the plumbing system to be installed within the dwelling, building or structure. All sewer connections must comply with the North Carolina State Building Code, Volume II, Plumbing. ('89 Code, § 16-103) (Ord. passed 10-15-85; Am. Ord. passed 11-20-12) Penalty, see § 1-16 *et seq.*

### **§ 16-104 SAME - MADE BY LICENSED PLUMBERS.**

All connections to the wastewater system shall be made by authorized employees of the City. All connections shall be made by plumbers licensed to perform plumbing work in the State and by the City. Any sewer connections made by a licensed plumber shall be inspected by the City after such work has been completed and prior to the time such connection is covered. (Am. Ord. passed 11-20-12) ('89 Code, § 16-104)

### **§ 16-105 SAME - SEPARATE FOR EACH DWELLING OR BUILDING.**

Each separate dwelling, structure or other building shall have a separate connection to the wastewater system, provided that apartments or other multiuse or occupancy buildings may have one combined connection.

('89 Code, § 16-105) Penalty, see § 1-16 *et seq.*

### **§ 16-106 SAME - MAINTENANCE, REPAIR, CLEANING.**

(A) Whenever the sewer service line to any building or premises becomes clogged, broken, out of order, the City shall determine if the break or obstruction is within the City's right-of-way. If the break or obstruction is within the City's right-of-way, the City shall correct the defect or repair or replace the sewer service line to the edge of the right-of-way. In the event there is no sewer clean out on the

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service line, the property owner shall immediately cause a clean out to be installed in the service line and unless the clean out is installed, the property owner shall be solely responsible for locating any future breaks or obstructions in the service line. If the problem lies outside of the City's right-of-way, it shall be the owner's responsibility to correct the defect or repair or replace the sewer service line.

(B) Employees of the City shall not make repairs on private property or place sewer solvent in commodes, vents, etc. If needed, sewer solvent may be put into the line at the point at which the cleanout is being installed. City employees shall not give sewer solvent to any person for use inside residences or other structures.

('89 Code, § 16-106) (Am. Ord. passed 6-19-01; Am. Ord. passed 11-20-01; Am. Ord. passed 11-20-12 )

### **§ 16-107 CONSTRUCTION OF BUILDING DRAINS AND SEWERS.**

(A) The building drain and building sewer as defined in the State plumbing code shall be constructed only of cast-iron pipe. The grade of pipe, fittings and size shall meet all requirements of the plumbing code. The system shall be installed according to the plumbing code, and all work shall be performed by a licensed plumber.

(B) Each and every building sewer, as defined in the State plumbing code, installed or replaced, wholly or in part, shall have installed a cleanout facility at the end of the lateral installed by the City. Such cleanout shall be a part of the building sewer and shall extend to the finished grade to be readily accessible.

(Am. Ord. passed 11-20-12) ('89 Code, § 16-107)

### **§ 16-108 DAMAGING, OBSTRUCTING SYSTEM PROHIBITED.**

(A) It shall be unlawful for any person, firm or corporation to damage, tamper with or in any manner obstruct the normal functions or operations of the water distribution system, the wastewater collection system, the storm drainage system, the raw water treatment plants, or the wastewater treatment plants of the City. As used in this section, *UTILITY* shall include all of the foregoing systems and plants and all appurtenances, appliances and facilities including, but not limited to, manholes and pump stations used in connection with the operation of said systems and plants.

(B) Furthermore, it shall be unlawful for any person, firm, or corporation to alter or significantly change the ground elevations over any City-owned water, sanitary sewer or storm drain line, manholes or associated appurtenances, without prior written approval from the Division of Design and Construction. The property owner or the duly authorized representative of the property owner, on or under whose property such utility lines, manholes, appurtenances or facilities lie, must submit a grading site plan for the proposed work or changes to the Division of Design and Construction for its approval before any work can begin.

(C) The grading plan required by this section shall include, but is not limited to, a grading site plan showing existing and proposed grades, and engineering data tables from a reliable source (pipe manufacturers catalog data or ASTM standards, etc.) that provide information on the maximum and minimum allowable depth or height of cover above the top of pipe for the type of pipe in question, together with certified calculations under the seal of a professional engineer licensed in the State. The certified calculations shall specify the maximum allowable cut or fill of earthen material over the existing

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pipe, without jeopardizing the structural integrity of the utility.

(D) If alterations or changes are proposed around manhole structures, the manhole structure shall be raised or lowered to the required elevation as determined by the Division of Design and Construction.

(E) In no case shall the maximum depth or height of cover above the top of pipe exceed 25 feet, nor shall the minimum depth or height of cover above the top of pipe be less than three feet.

(F) All costs associated with modifying the existing underground utility shall be borne by the property owner.

(G) If the City does not have a fully executed, recorded easement for the existing utility in question, the property owner shall grant an easement to the City. After full execution and recording of the easement, the City will raise or lower any existing manholes in question to a maximum change in elevation of eight feet, with this cost being borne by the City. If the property owner desires and has approval by the City to raise or lower any manholes more than eight feet, all costs associated with this work shall be borne by the property owner.

('89 Code, § 16-108) (Ord. passed 10-15-85; Am. Ord. passed 5-15-01; Am. Ord. passed 11-20-12) Penalty, see § 1-16 *et seq.*

### **§ 16-109 PRIVATE WASTEWATER DISPOSAL.**

(A) Where a public sewer main is not available, a building sewer shall be connected to a private wastewater disposal system complying with all applicable State and local regulations concerning use of such systems. The City, in conjunction with the County Health Department shall have the authority to approve or reject such plans and usage of private wastewater facilities presently located within or proposed for location within the corporate limits of the City. The minimum lot area that shall be approved for a private wastewater disposal system shall be regulated by the State law and the County Health Department. The application for such permit shall be made on a form furnished by the County Health Department which the applicant shall supplement by any plans, specifications and other information as are deemed necessary. Approval for private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the County Health Department. The local sanitarian shall be allowed to inspect the work at any stage of construction. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Public Health and the Division of Environmental Management of the State.

(B) No septic tank or cesspool shall be permitted to discharge to any drain, ditch, stream, natural outlet, or well penetrating water-bearing formations. The property owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the local government.

(C) At such times as a public sewer becomes available to the property served by the private wastewater disposal system, a direct connection shall be made to the public sewer within 180 days. Under unusual or special circumstances, the City Council may waive this requirement. Applications for such a waiver must be submitted to the City Manager. The City Manager will study the application, make appropriate comments and have it sent to the City Council for approval or disapproval.

('89 Code, § 16-109) (Ord. passed 10-15-85; Am. Ord. passed 11-20-12) Penalty, see § 1-16 *et seq.*

***DIVISION 2 USE REGULATIONS***

***SUBDIVISION A GENERAL PROVISIONS***

**§ 16-121 PURPOSE AND POLICY.**

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

(B) The objectives of this division are:

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

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

(D) This division shall apply to all users of the municipal wastewater system as authorized by G.S. § 160A-312 and/or G.S. § 153A-275. The City shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Superintendent. Except as otherwise provided herein, the POTW Superintendent shall administer, implement, and enforce the provisions of this division. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other City personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the City limits agree to comply with the terms and conditions established in this division, as well as any permits, enforcement actions, or orders issued hereunder.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

§ 16-122 DEFINITIONS AND ABBREVIATIONS.

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

1. **ACT** or **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 *et seq.*
2. **APPROVAL AUTHORITY**. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
3. **AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER**.
  - (a) If the industrial user is a corporation, authorized representative shall mean:
    - (i) The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
    - (ii) The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
  - (c) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (d) The individuals described in subsections (a) through (c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
  - (e) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.
4. **BIOCHEMICAL OXYGEN DEMAND (BOD)**. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° C, usually expressed as a concentration (e.g. mg/l).
5. **BUILDING SEWER**. A sewer conveying wastewater from the premises of a user to the POTW.
6. **BYPASS**. The intentional diversion of wastestreams from any portion of a user's treatment facility.
7. **CATEGORICAL STANDARDS**. National Categorical Pretreatment Standards or Pretreatment Standard.
8. **CONTROL AUTHORITY**. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.

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9. **ENVIRONMENTAL PROTECTION AGENCY** or **EPA**. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
10. **GRAB SAMPLE**. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
11. **HOLDING TANK WASTE**. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
12. **INDIRECT DISCHARGE** or **DISCHARGE**. The discharge or the introduction from any nondomestic source regulated under § 307(b), (c), or (d) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system).
13. **INDUSTRIAL USER** or **USER**. Any person which is a source of indirect discharge.
14. **INTERFERENCE**. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES, collection system, or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act, being 42 USC 6901 *et seq.*, the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
15. **MEDICAL WASTE**. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
16. **NATIONAL CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD**. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§ 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subpart N, Parts 405 through 471.
17. **NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGE STANDARD**. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 16-126 of this chapter and are developed under the authority of 307(b) (33 USC 1317(b)) of the Act and 40 CFR 403.5.
18. **NEW SOURCE**. As defined in 40 CFR 403.3(m), including any subsequent amendments and additions.
19. **NONCONTACT COOLING WATER**. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
20. **NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM, OR NPDES, PERMIT**. A permit issued pursuant to section 402 of the Act (33 USC 1342), or pursuant to G.S. § 143-215.1 by the State under delegation from EPA.
21. **NON-DISCHARGE PERMIT**. A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
22. **PASS THROUGH**. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES or Non-discharge Permit, or a downstream water

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quality standard even if not included in the permit.

23. **PERSON.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
24. **pH.** A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
25. **POLLUTANT.** Any “waste” as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (for example, pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).
26. **POTW DIRECTOR.** The chief administrative officer of the Control Authority or his/her delegate.
27. **POTW TREATMENT PLANT.** That portion of the POTW designed to provide treatment to wastewater.
28. **PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).
29. **PRETREATMENT PROGRAM.** The program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. § 143-215.3(a)(14) in accordance with 40 CFR 403.11.
30. **PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
31. **PRETREATMENT STANDARD.** Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.
32. **PUBLICLY OWNED TREATMENT WORKS (POTW) or MUNICIPAL WASTEWATER SYSTEM.** A treatment works as defined by § 212 of the Act, (33 USC 1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this division “**POTW**” shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, or in any other way, users of the City's POTW.
33. **SEVERE PROPERTY DAMAGE.** Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
34. **SIGNIFICANT INDUSTRIAL USER or SIU.** An industrial user that discharges wastewater into a publicly owned treatment works and that:
  - (a) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow-down wastewaters); or
  - (b) contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and Ammonia; or

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- (c) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
- (d) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.
35. **SIGNIFICANT NONCOMPLIANCE** or **SNC**. The status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (B)(35), Parts (c), (d), or (h) shall also be SNC.
- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
- (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oils, and grease, 1.2 for all other pollutants (except flow and pH));
- (c) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (d) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different than the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section [8.1(e)] of this SUO to halt or prevent such a discharge;
- (e) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (f) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and compliance reports within 30 days from the due date.
- (g) Failure to accurately report noncompliance.
- (h) Any other violation or group of violations that the Control Authority and/or POTW determine will adversely affect the operation or implementation of the local pretreatment program.
36. **SLUG LOAD or DISCHARGE**. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in § 16-126 of this chapter.
37. **STANDARD INDUSTRIAL CLASSIFICATION (SIC)**. A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1987.
38. **STORM WATER**. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

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39. **SUPERINTENDENT.** The person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.
40. **SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
41. **UPSET.** An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
42. **WASTEWATER.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
43. **WASTEWATER PERMIT.** As set forth in § 16-150 of this chapter.
44. **WATERS OF THE STATE.** All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(B) This division is gender neutral and the masculine gender shall include the feminine and vice-versa.

(C) Shall is mandatory; may is permissive or discretionary.

(D) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

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

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

(Ord. passed 5-17-94; Am. Ord. passed 11-19-02; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

*SUBDIVISION B GENERAL SEWER USE REQUIREMENTS*

**§ 16-126 PROHIBITED DISCHARGE STANDARDS.**

(A) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, State, or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
- (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than ½-inch in any dimension.
- (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (4) Any wastewater having a pH less than 5.0 or more than 12.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
- (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
- (6) Any wastewater having a temperature greater than 131°F (55°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).
- (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 16-134 of this division.
- (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act (33 USC 1345); the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

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- (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.
- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 125 mg/l unless authorized by the POTW Director.
- (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
- (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
- (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
- (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (21) Recognizable portions of the human or animal anatomy.
- (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (23) At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

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

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

- (1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 16-185 of this division; and
  - (2) Take appropriate actions in accordance with subdivision (D) for such user to protect the POTW from interference or pass through.
- (Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

#### **§ 16-127 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR 405 through 471 and incorporated herein.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

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(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(E) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### **§ 16-128 INDUSTRIAL WASTE SURVEY AND LOCAL LIMITS.**

(A) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following daily average discharge limits. The limit duration should be defined in § 16-122 Definitions and Abbreviations:

175	mg/l	BOD
200	mg/l	TSS
40	mg/l	TKN
0.003	mg/l	arsenic
0.005	mg/l	cadmium
0.061	mg/l	copper
0.04	mg/l	cyanide
0.05	mg/l	lead
0.0003	mg/l	mercury
0.06	mg/l	nickel
0.005	mg/l	silver
0.05	mg/l	total chromium
0.2	mg/l	zinc

(B) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass limits in addition to, or in place of, concentration-based limits.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

### **§ 16-129 STATE REQUIREMENTS.**

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

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-130 RIGHT OF REVISION.**

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in § 16-121 of this division and specific prohibitions in § 16-126 of this division, as is allowed by 40 CFR 403.4.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-131 DILUTION.**

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

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-132 PRETREATMENT OF WASTEWATER.**

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this division and wastewater permits issued under § 16-150 of this division and shall achieve compliance with all National Categorical Pretreatment Standards, local limits, and the prohibitions set out in § 16-126 of this division within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

(2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for

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residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### **§ 16-133 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.**

(A) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 16-122 of this division. All SIUs must be evaluated within one year of being designated a SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.

(B) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 16-159 and 16-160 of this division.

(C) An accidental discharge/slug control plan shall address, at a minimum, the following.

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 16-161 of this division; and

(4.) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

### **§ 16-134 HAULED WASTEWATER.**

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate subdivision (B) of this division or any other requirements established by the City. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division.

(C) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW

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Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

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

(Ord. passed 5-17-94)

### § 16-135 FATS, OILS AND GREASE CONTROL.

(A) *Purpose.* The purpose of this section is to aid in the prevention of sanitary sewer blockages and overflows due to the accumulations of fats, oils and greases in the sanitary sewer from commercial establishments, particularly food preparation and food serving facilities, by requiring all food service facilities to install properly sized and maintained grease traps or interceptors to prevent excess fats, oils, and greases from entering the City's collection system.

(B) *Definitions.* Whenever used in this section, the following words shall be as herein defined, unless a different meaning clearly appears from the context.

1. **FATS, OILS, and GREASES.** Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are measured using analytical test procedures established in 40 C.F.R. Part 136. Fats, oils, and greases are collectively referred to herein as "greases."
2. **FOOD SERVICE FACILITIES.** Those facilities primarily engaged in activities of preparing, serving, or making available for consumption by the public such as restaurant, commercial kitchen, grocery store, caterer, hotel, school, hospital, prison, correctional facility, and care institution. These facilities use one or more of the following preparation activities: frying, baking, grilling, sautéing, rotisserie cooking, broiling, boiling, blanching, roasting, toasting, poaching, infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot non-drinkable food product in or on a receptacle that requires washing.
3. **GREASE INTERCEPTOR MINIMUM DESIGN CAPABILITY.** The design features of a grease interceptor and its ability or volume to effectively intercept and retain greases from grease laden wastewaters discharge to the sanitary sewer.
4. **GREASE TRAP or INTERCEPTOR.** A device for separating and retaining greases and like compounds prior to entry into the sanitary sewer collection and treatment system. These devices also serve to remove and collect settleable solids from food service facilities prior to entry into the sanitary sewer. Grease traps and interceptors are collectively referred to herein as **GREASE INTERCEPTORS.**
5. **NON-COOKING FACILITIES.** Those facilities primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving facilities.
6. **NORTH CAROLINA PLUMBING CODE.** Written guidelines, regulations and ordinances governing the plumbing criteria for type and use of plumbing systems in the State and its political subdivisions.
7. **PUBLICLY OWNED TREATMENT WORKS or POTW.** The collective wastewater

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treatment system owned and/or operated by the City, including all devices, systems and appurtenances thereto used in the collection, storage, treatment, recycling, distribution and reclamation of municipal sewage, industrial wastes of liquid nature, or other wastewater.

8. **SANITARY SEWER.** A pipe or conduit intended to carry wastewater or waterborne wastes from homes, businesses, and industries to the POTW. A sewer collection system.
9. **USER.** Any person, including those located outside the jurisdictional limits of the City, who contributes, or causes or permit the contribution of, wastewater into the POTW.

### (C) *Grease interceptors.*

(1) All food service facilities shall install a minimum 1,000 gallon in ground grease interceptor, unless an alternative pretreatment method is approved by the City in accordance with division (D)(9). All grease interceptors shall be provided and maintained in continuously efficient operation at all times by and at the expense of the user.

(2) Existing food service facilities without a grease interceptor may be required by the City to install, operate and maintain a new grease interceptor that complies with the requirements of this section. If an overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease from an existing facility without a grease interceptor, the City will require the facility to install a grease interceptor within 180 days of written notification. Any additional fixtures that are added to the existing facility and discharges a grease-laden waste stream shall be plumbed into the interceptor and/or a new interceptor may be required.

(3) Exterior in ground grease interceptors shall be serviced and emptied of all waste content as required to maintain minimum design capability, but not less often than every 60 days. In floor and under the counter grease interceptors shall be cleaned not less often than weekly.

(4) In ground interceptors must have access manholes, minimum diameter of 24 inches shall be provided over influent and effluent chambers and sanitary tee. The access manholes shall extend at least to finished grade and shall be designed and maintained to prevent inflow and infiltration. The manhole also shall have readily movable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(5) Minimum design criteria for grease interceptors shall be approved by the City Planning and Inspections Department in accordance with the NC Plumbing Code and provide for a minimum hydraulic retention time of 24 minutes at actual peak flow, between influent and effluent baffles with 20% of the volume of the grease interceptor being allowed for the sludge to settle and accumulate.

(6) Grease interceptors shall be kept free of inorganic materials such as rocks, grit, gravel, sand, eating utensils, cigarettes, shells, towels, rags, and the like, which could settle and reduce the effective volume of the grease interceptor.

(7) There shall be no reintroduction of wastewater back into the grease interceptor.

(8) The use of biological additives as a grease degradation agent is not permissible.

(9) A user may request to the Planning and Inspection department, an alternative to an inground interceptor because of documented space constraints. The request shall contain the following information:

- (a) Location of the City's sewer main and easement in relation to available exterior space outside of the building.
- (b) Existing plumbing at or in an establishment that uses common plumbing for all services.
- (c) Detailed list of all potential sources of grease at the subject premises.

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(10) The POTW Director reserves the right to make determinations of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site, and building plan review, and to require repairs to, or modification or replacement of such grease interceptors.

(11) Users are required to ensure that all material removed from grease interceptors is disposed of in a manner that complies with all Federal, State and local statutes, rules, regulations, policies, and ordinances.

(12) The use of hot water flushing to clear the interceptor is prohibited.

### (D) *Grease interceptor inspections.*

(1) The City will inspect an establishment's grease interceptor and maintenance records at the City's discretion. If problems are found during any such inspection, the user must take immediate corrective action as directed by the POTW Director.

(2) At inspection, grease cap and solids measurements will be performed. Grease accumulation shall not be greater than six inches at any point within the grease interceptor. Solids accumulation shall not be greater than 20% of the total water depth from the grease interceptor's interior floor to the static working water level, at any point within the grease interceptor.

(E) *Record keeping.* User shall maintain a written record of all grease interceptor maintenance activities for a period of no less than three years. These records shall consist of clean out dates, the name of the owner or manager of the facility, and the name of the firm that performed the clean out. These records must be located on the premises and available for inspection during all business hours.

(F) *Compliance monitoring.* Any user that is subject to sampling by City staff will be assessed the cost for any analytical testing fees.

(Ord. passed 4-19-05; Am. Ord. passed 11-20-12)

## *SUBDIVISION C FEES*

### **§ 16-140 PURPOSE.**

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

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### **§ 16-141 USER CHARGES.**

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

(A) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

(B) Each user shall pay its proportionate cost based on volume of flow.

(C) The City Manager shall review annually the sewage contributions of users, the total costs of

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debt service, operation and maintenance of the POTW and will make recommendations to the City Council for adjustments in the schedule of charges and fees as necessary.

(D) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

(Ord. passed 5-17-94)

### **§ 16-142 SURCHARGES.**

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

300 mg/l BOD

300 units ADMI Color Units

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

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

(a) Metered water consumption as shown in the records of meter readings maintained by the City; or

(b) If required by the City, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the City. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the City.

(c) Where any user procures all or part of his or her water supply from sources other than the City, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the City.

(2) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the City. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.

(3) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

### **§ 16-143 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.**

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

(A) Reimbursement of costs of setting up and operating the pretreatment program;

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(B) Monitoring, inspections and surveillance procedures;

(C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;

(D) Permitting;

(E) Other fees as the City may deem necessary to carry out the requirements of the pretreatment program.

(Ord. passed 5-17-94)

*SUBDIVISION D WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE*

**§ 16-149 WASTEWATER DISCHARGERS.**

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 90 days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

**§ 16-150 WASTEWATER PERMITS.**

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

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

(B) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in § 16-150(A) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from the address);
- (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to

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those mentioned in Subdivision B of this division, any of the priority pollutants (§ 307(a) of the Act (33 USC 1317(a)) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act (33 USC 1314(g)) and contained in 40 CFR 136, as amended and as required in section 16-165 and 16-166 of this division.

- (4) Time and duration of the indirect discharge;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
  - (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.
  - (b) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the POTW Director.
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in § 16-156 of this division.
- (14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(C) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control Authority and/or Municipality as defined in section 16-122(1)(a)(b) and 16-122(2)(3)(4) of this division and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my

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

(D) *Application review and evaluation.* The POTW Director will evaluate the data furnished by the user and may require additional information.

- (1) The POTW Director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(E) *Tentative determination and draft permit.*

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

(F) Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

- (1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
- (2) The basis, or rationale, for the pretreatment limitations, including the following:
  - (a) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
  - (b) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

(G) *Final action on significant industrial user permit applications.*

- (1) The POTW Director shall take final action on all applications not later than 90 days

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following receipt of a complete application.

- (2) The POTW Director is authorized to:
  - (a) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this division and N.C. G.S. § 143-215.1
  - (b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
  - (c) Modify any permit upon not less than 60 days' notice and pursuant to § 16-150(I) of this division;
  - (d) Revoke any permit pursuant to § 16-185 of this division;
  - (e) Suspend a permit pursuant to § 16-185 of this division;
  - (f) Deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

### (H) *Permit modification.*

- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance
  - (a) Changes in the ownership of the discharge when no other change in the permit is indicated,
  - (b) A single modification of any compliance schedule not in excess of four months,
  - (c) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- (2) Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by § 16-150(B), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. § 143-215.1(b) for modifications.

### (I) *Permit conditions.*

- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this division and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
  - (a) A statement of duration (in no case more than five years);
  - (b) A statement of non-transferability;
  - (c) Applicable effluent limits based on categorical standards or local limits or both;
  - (d) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
  - (e) Requirements for notifying the POTW in the event of an accidental discharge or

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slug load as defined in Section 16-122 of this division.

(f) Requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 16-122 of this division, if determined by the POTW Director to be necessary for the User and,

(g) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 16-122. Also, see Sections 16-160 and 16-161 of this division.

(h) A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

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

(a) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

(b) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(h) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.

(i) Compliance schedules for meeting pretreatment standards and requirements.

(j) Requirements for submission of periodic self-monitoring or special notification reports.

(k) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 16-168 and affording the POTW Director, or his representatives, access thereto.

(l) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

(m) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.

(n) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.

(o) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this division, and State and Federal laws, rules, and regulations.

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

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

(L) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with § 16-150 a minimum of 180 days prior to the expiration of the existing permit.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

### *SUBDIVISION E REPORTING REQUIREMENTS*

#### **§ 16-156 BASELINE MONITORING REPORTS.**

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

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

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director/Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 16-165 of this division.

(c) Sampling must be performed in accordance with procedures set out in § 16-166 of this division and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

(6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in section 16-122(l) and certified by a qualified professional, indicating whether

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pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 16-157 of this division.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 16-150(C) of this division.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

### **§ 16-157 COMPLIANCE SCHEDULE PROGRESS REPORTS.**

The following conditions shall apply to the compliance schedule required by § 16-156(B)(7) of this division:

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(B) No increment referred to above shall exceed nine (9) months;

(C) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

### **§ 16-158 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 16-156(B)(4) through (6) of this division. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 16-150(C) of this division.

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(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

**§ 16-159 PERIODIC COMPLIANCE REPORTS.**

(A) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 16-165 and 16-166 of this division. All periodic compliance reports must be signed and certified in accordance with § 16-150(C) of this division.

(B) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in § 16-165 and 16-166 of this division, the results of this monitoring shall be included in the report.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

**§ 16-160 REPORTS OF CHANGED CONDITIONS.**

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See section 16-161(D) for other reporting requirements.

(A) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 16-150 of this division.

(B) The POTW Director may issue a wastewater discharge permit under § 16-150 of this division or modify an existing wastewater discharge permit under § 16-150 of this division in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 10% or greater, and the discharge of any previously unreported pollutants.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

**§ 16-161 REPORTS OF POTENTIAL PROBLEMS.**

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load as defined in section 16-122, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW,

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natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(D) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 16-122.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

### **§ 16-162 REPORTS FROM UNPERMITTED USERS.**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

### **§ 16-163 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.**

(A) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:

- (1) if the POTW Director monitors at the user's facility at least once a month or
- (2) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

(B) If the POTW Director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the [POTW Director] shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

- (1) the POTW Director monitors at the user's facility at least once a month; or
- (2) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (3) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

### **§ 16-164 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.**

The City of Eden prohibits the discharge of any hazardous wastes without notification to and approval by the POTW Director.

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(A) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State Hazardous Waste Authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the City of Eden. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 16-160 of this division. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 16-156, 16-158, and 16-159 of this division.

(B) Dischargers are exempt from the requirements of paragraph (A), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State Hazardous Waste Authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable Federal or State law. (Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

### **§ 16-165 ANALYTICAL REQUIREMENTS.**

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

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(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

**§ 16-166 GRAB AND COMPOSITE SAMPLE COLLECTION.**

(A) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(B) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

(C) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

**§ 16-167 TIMING.**

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

(Ord. passed 5-17-94)

**§ 16-168 RECORD KEEPING.**

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

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

*SUBDIVISION F COMPLIANCE MONITORING*

**§ 16-174 MONITORING FACILITIES.**

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

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

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

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

### **§ 16-175 INSPECTION AND SAMPLING.**

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

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

### **§ 16-176 SEARCH WARRANTS.**

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

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

## *SUBDIVISION G CONFIDENTIAL INFORMATION*

### **§ 16-181 CONFIDENTIAL INFORMATION.**

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

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

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.  
(Ord. passed 5-17-94; Am. Ord. passed 11-20-12) Penalty, see § 16-185 *et seq.*

### *SUBDIVISION H ENFORCEMENT*

#### **§ 16-185 ADMINISTRATIVE REMEDIES.**

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

(B) *Consent orders.* The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to § 16-185(D), below.

(C) *Show cause hearing.*

(1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this division or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or

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by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

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

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 16-186 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 16-150(H).

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

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

(E) *Emergency suspensions.*

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

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

(F) *Termination of permit or permission to discharge.* The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and

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characteristics;

- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

(G) *Notification.* Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under § 16-185 of this division why the proposed action should not be taken.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

### **§ 16-186 CIVIL PENALTIES.**

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

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

(a) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or

(b) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(B) In determining the amount of civil penalties for a particular violation, the POTW Director shall consider the following:

- (1) The degree and extent of the harm to natural resources, to public health, or to public or private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality, or air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by non-compliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply;
- (8) The costs of enforcement to the City.

(C) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 16-150(H).

(Ord. passed 5-17-94; Am. Ord. passed 3-20-01; Am. Ord. passed 10-20-09; Am. Ord. passed 11-20-12)

### **§ 16-187 OTHER AVAILABLE REMEDIES.**

Remedies, in addition to those previously mentioned in this division, are available to the POTW

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Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(A) *Criminal violations.* The District Attorney for the Judicial District 17A may, at the request of the City, prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. § 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. § 143-215.6B(I)).]

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

(C) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this division or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the users expense, after it has satisfactorily demonstrated ability to comply.

(D) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this division or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of City Code, Chapter 6 Article II, Nuisances governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(E) *Sewage charges.* If it is determined that water from a special use water meter is being returned to the City's wastewater collection system, the Director of Finance and Personnel may assess sewage charges on all water billed through the meter from the date of service. Charges beyond current available billing records shall be based on using the billing and consumption information from current available billing records.

(Ord. passed 5-17-94; Am. Ord. passed 3-18-03)

### **§ 16-188 REMEDIES NONEXCLUSIVE.**

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

(Ord. passed 5-17-94)

**§ 16-193 ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.**

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

*SUBDIVISION J ADJUDICATORY HEARINGS*

**§ 16-194 ADJUDICATORY HEARINGS**

(1) *Initial adjudicatory hearing.* An applicant whose permit is denied, granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under § 16-186, or one issued an administrative order under § 16-185 shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within thirty (30) days following receipt of the significant industrial permit, notice of permit denial, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The hearing officer shall make a final decision on the contested permit, penalty, or order within forty-five (45) days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in paragraph (3) below. The terms and conditions of a permit under appeal shall be as follows:

(a) *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(c) *Terminated Permits.* Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(2) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under paragraph (1) above may be appealed, to the City Council upon filing a written demand within ten (10) days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with Local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The City Council shall make a final decision on the appeal within ninety (90) days from receipt of the demand filed under paragraph (1) and shall transmit a written copy of its decision by registered or certified mail as described in paragraph (3) below. The decision is a final decision for the purposes of seeking judicial review.

(3) *Official record.* When a final decision is issued under paragraph (2) above, the City Council shall prepare an official record of the case that includes:

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- (a) All notices, motions, and other like pleadings;
- (b) A copy of all documentary evidence introduced;
- (c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
- (d) A copy of the final decision of City Council.

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

(Ord. passed 11-20-12)

*SUBDIVISION K AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS*

**§ 16-197 UPSET.**

(A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (B), below, are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the POTW Director within 24 hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five days:
  - (a) A description of the indirect discharge and cause of noncompliance;
  - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(C) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-12)

**§ 16-198 PROHIBITED DISCHARGE STANDARDS DEFENSE.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 16-126(A) of this division or the specific prohibitions in §§ 16-126(B)(9) through (23) of this division if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.  
(Ord. passed 5-17-94)

**§ 16-199 BYPASS.**

(A) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (B) and (C) of this section.

(B) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (B) of this section.

(2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in division (C)(1) of this section.

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(Ord. passed 5-17-94)

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**ARTICLE IV: EXTENSION OF SERVICE LINES**

Section

- 16-211 Purpose of article
- 16-211.1 Extension of services outside the city limits
- 16-212 Prerequisites for permission
- 16-213 Submission of plans and specifications for approval
- 16-214 Prerequisites for connection
- 16-215 Unauthorized connection prohibited; penalty
- 16-216 Cooperative agreements for extension of waterlines; authority to require larger lines
- 16-217 City participation
- 16-218 Creation of water and sewer development account
- 16-219 Receipt of applications
- 16-220 Special conditions precedent to participation
- 16-221 Exceptions

**§ 16-211 PURPOSE OF ARTICLE.**

It is the intent and purpose of this article to provide an orderly method whereby the water and sewerage systems of the city may be extended by individuals, corporations, subdividers and others and to authorize the provision of water and sewer utility outside the corporate limits of the city under specified circumstances with the approval of the City Council. It is the further intent of this article to ensure that the city's utility infrastructure is efficient and that it operates in the best interests of the city and its residents.

('89 Code, § 16-211) (Am. Ord. passed 9-19-06)

**§ 16-211.1 EXTENSION OF SERVICES OUTSIDE THE CITY LIMITS.**

(A) Except under certain conditions the city will provide water and sewer utility services only to properties within the corporate limits of the city and will only allow the extension of such lines to serve properties that are within the corporate limits of the city. No water or sewer service shall be provided to any property outside the corporate limits of the city unless the owner of the property petitions for voluntary annexation and the City Council approves that annexation prior to the receipt of water and or sewer services, or the City Council approves an exception to this section.

(B) A property owner may be permitted to connect onto an existing city water and or sewer line when annexation of the site is judged by the City Council to be premature and when the following conditions are met:

- (1) All plumbing fixtures and facilities shall be in compliance with the appropriate building codes and or County Health Department regulations.
- (2) All owners must execute a written agreement with the city committing to submit a voluntary annexation upon request by the city.
- (3) The City Council may approve the provision of water and sewer utility services to serve other jurisdictions, government entities or private utilities.
- (4) Any property that is outside the city limits and is already served by city water and or sewer shall be deemed exempt from these provisions. However, no further extensions or increases

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may be made on affected property without permission from the city.

(C) Prior to a property authorized by the City Council as an exception to this section receiving water and or sewer services all owners must execute an agreement with the city. This document shall be recorded in the Office of the Register of Deeds of Rockingham County. In such agreement and in return for water and or sewer service, the property owners shall declare and agree that as long as the property remains outside the corporate limits the property shall be subject to the following conditions:

- (1) The property shall be subject to the city's outside water and or sewer rate schedule.
- (2) That the property shall not be further divided or subdivided to create more lots or principal building sites.
- (3) That the property owner or their successors and assigns, upon sufficient notice of by the city, shall execute all documents required to accomplish voluntary annexation.
- (4) That if following such notice, the owner fails to execute the documents to accomplish voluntary annexation, then the city shall terminate the water and or sewer service to the property.
- (5) The owner shall not oppose or support opposition to an annexation initiated by the city that includes any or all of the property to which water and or sewer service was provided by the city.

(Ord. passed 9-19-06)

### **§ 16-212 PREREQUISITES FOR PERMISSION.**

After approval of the plans for the extension of waterlines and sewer lines by the City Manager, permission for extension may be granted by the City Manager, provided that the person receiving permission shall agree in writing that:

(A) He or she shall obtain and grant to the City, at no cost to the City, all necessary easements or rights-of-way of such widths as the City may require.

(B) He or she shall bear all the expense of constructing the water or sewer mains and of connecting them with the water or sewerage system of the City, and such mains shall be of such size as may be required and shall be laid in accordance with specifications approved by the City. Such person shall provide the City with lien waivers as evidence that such waterlines or sewer lines or both are free and clear of any claims for labor and materials used in the construction of such lines.

(C) The work shall be done under the supervision and control of the City.

(D) The City shall be saved harmless from all loss, cost, damage, liability or expense by reason of any injury to any person or property as a result of the construction of such mains. Such person shall provide the City with evidence of liability insurance insuring the city against claims for personal injury or death with limits of not less than \$100,000 for death or injury to any one person and \$300,000 for such damages as a result of any one occurrence or casualty, and insuring the City against claims for property damage for each occurrence or casualty with limits of not less than \$25,000. Evidence of such insurance shall be provided to the City prior to commencement of construction.

(E) The mains, when complete, shall become the absolute property of the City and subject to its control.

('89 Code, § 16-212) Penalty, see § 16-215

### **§ 16-213 SUBMISSION OF PLANS AND SPECIFICATIONS FOR APPROVAL.**

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The person desiring to extend waterlines or sanitary sewer lines shall submit plans, profiles and specifications to the City Manager prior to entering into contract or commencing construction. Detailed sketches for waterline construction may be accepted for the extension of waterlines. Sanitary sewer line plans, profiles and specifications shall be made by an engineer.  
(‘89 Code, § 16-213) Penalty, see § 16-215

### **§ 16-214 PREREQUISITES FOR CONNECTION.**

Prior to connection of waterlines or sewer line extensions to the City systems, such person shall present to the City:

(A) Recorded easements or rights-of-way for all portions of such lines that are installed on private or public property other than property or easements already belonging to the City;

(B) Properly executed lien waivers for all labor and materials used in the construction of such line;

(C) A properly executed and recorded deed conveying the line to the City free and clear of all encumbrances, together with a certificate of title certifying that the deed vests such title in the City;

(D) Each single-family residential structure shall have a waterline and a sewer line which shall extend from the single-family residence to the water distribution system and the sewerage collection system of the City. No other waterline or sewer line shall be connected to the aforesaid lines between the single-family residential structure and the water distribution and sewerage collection system of the City.  
(‘89 Code, § 16-214) (Ord. passed 10-19-82) Penalty, see § 16-215

### **§ 16-215 UNAUTHORIZED CONNECTION PROHIBITED; PENALTY.**

(A) It shall be unlawful for any person to make any unauthorized connection of a waterline or a sewer line to the City system.

(B) The violation of any provision of this article shall be a misdemeanor punishable by a fine of \$50 and imprisonment of up to 30 days. The existence of this penalty is exclusive of civil remedies for enforcement as otherwise provided by law.  
(‘89 Code, § 16-215)

### **§ 16-216 COOPERATIVE AGREEMENTS FOR EXTENSION OF WATERLINES; AUTHORITY TO REQUIRE LARGER LINES.**

(A) The City Council shall retain the right and may enter into a cooperative agreement for the extension of waterlines only six inches and larger within the City limits.

(B) The City Council shall retain the right to require the installation of lines larger than six inches and larger than required for a development. The City shall pay the difference in cost of material only.  
(‘89 Code, § 15-216)

### **§ 16-217 CITY PARTICIPATION.**

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The development, improvement and expansion of property in the City is to be encouraged where such development, expansion and improvement will result in an increase in revenue to the City by virtue of increased real property taxes attributed to such property. When the City Council deems a project presented to be in the public interest the city may participate in the costs associated with the extension of water and sewer facilities to serve such projects within the corporate limits of the city. The participation by the City shall include all portions of the project that would be the property of the City. (Ord. passed 8-22-94)

### **§ 16-218 CREATION OF WATER AND SEWER DEVELOPMENT ACCOUNT.**

Annually the City Council shall allocate funds it deems appropriate to an account within the water and sewer fund for the city's participation in water and sewer development, expansion and improvement. (Ord. passed 8-22-94)

### **§ 16-219 RECEIPT OF APPLICATIONS.**

The City will receive applications for water and sewer extension from property owners or their agents upon the following terms and conditions:

(A) The development or improvements, when completed, must have an actual or proposed value sufficient for the City to realize increased revenue from real property taxes attributable to such development or improvement equal to or greater than the amount determinable under paragraph (B) of this section.

(B) The revenue attributable to the increased real property taxes must be sufficient for the City to recover an amount equal to or exceeding the following:

(1) *Residential*. The City will participate in an amount equal to 50% of the total cost of extension of water and or sewer services for the project. The City shall realize receipt of additional real property taxes in an amount sufficient to cover the City's participation within five consecutive calendar years from the first day of January next succeeding the date of substantial completion of the development on the site. This shall apply only to development projects of ten or more residential units.

(2) *Commercial*. The city will participate in an amount equal to 75% of the total cost of extension of water and or sewer services for the project. The City shall realize receipt of additional real property taxes in an amount sufficient to cover the city's participation within five consecutive calendar years from the first day of January next succeeding the date of substantial completion of the development on the site.

(3) *Industrial*. The City will participate in an amount equal to 100% of the total cost of extension of water and or sewer services for the project. The City shall realize receipt of additional real property taxes in an amount sufficient to cover the City's participation within five consecutive calendar years from the first day of January next succeeding the date of substantial completion of the development on the site.

(C) The application must contain the owner's representation of the estimated increase in the value of the subject property resulting from the development and the estimated date of substantial completion of construction as well as such other information as may be reasonably requested by the City.

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(D) The applicant shall pay the difference between the cost of the extension of services and the percentage that will be paid by the city based upon the formulas set forth in § 16-219(B) of this code. The tax rate for the then current fiscal year of the City shall be used in the computation of estimated additional real property tax revenues for the specified period of years. The difference shall be paid by the applicant prior to the extension of the water and sewer lines or the awarding of contracts for such extension.

(E) The method of calculation of the increase in real property taxes on the property shall be as follows:

(1) A calculation shall be made for the real property taxes that would have been ordinarily assessed and collected on the property had it remained unimproved during the number of years specified in § 16-219(B). The value of the unimproved property for this calculation shall be the value of the real property for Rockingham County real property tax purposes for the year the project commences as determined on January 1 of such year. The total amount of taxes that would have been collected had the property remained unimproved shall be calculated by applying the then current tax rate to the value of the unimproved property as of January 1 of the year the project commences and multiplying the resulting amount by the appropriate number of years as specified in § 16-219(B).

(2) A calculation shall be made of the real property taxes that will be assessed and collected on the improved property during the required number of years based upon the applicant's estimate pursuant to § 16-219(C).

(3) Adjustment to the sum paid prior to the commencement of the project or awarding of contracts for such project pursuant to § 16-219(D) shall be made as follows: In the event the added tax value to the property is determined by the County Tax Department to be less than the applicant's estimate, the applicant shall be liable to the City for the difference between the total of real property taxes that would be payable to the City over the specified number of years and the actual taxes that would be collected based on the County's evaluation. The applicant shall pay the difference to the City, if any, within the 60-day period immediately following the date the County Tax Department determines the assessment valuation of such improvements. In the event such payment is not received within the 60-day period, the City shall proceed with all remedies available to it under North Carolina law for collection.

(Ord. passed 8-22-94)

### **§ 16-220 SPECIAL CONDITIONS PRECEDENT TO PARTICIPATION.**

If a project for which an application is submitted qualified for city participation under §§ 16-217, 16-218, and 16-219 of the City Code, all firms, persons and corporations owning an interest in the property for which the application is submitted shall, as a condition precedent, enter into a written agreement with the City that includes:

(A) In a form satisfactory to the City a guaranty of payment to the City of all sums that might be due to it from the property owner or owners under this Water and Sewer Extension Policy and in particular under § 16-219(E); and

(B) Provisions for requiring the property owner or owners to pay all damages, costs and expenses, including court costs and reasonable attorneys fees, incurred by the City in enforcing the City's rights under this policy in the event the owner or owners default in payment of any sum of money due the City

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hereunder or in the event the owner or owners fail to perform or do any matter of things required of the owner or owners to be performed hereunder; and

(C) A developer or property owner who is a party to a reimbursement agreement with the City authorized under this section shall solicit bids in accordance with G.S. § 143-8 when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the City.  
(Ord. passed 8-22-94; Am. Ord. passed 3-18-08)

### **§ 16-221 EXCEPTIONS.**

The water and sewer extension participation by the City as set out in §§ 16-217 and 16-218 shall not apply to water or sewer line extensions for which the City chooses to make appropriations under the provisions of G.S. § 158-7.1.  
(Ord. passed 8-22-94)

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**ARTICLE V: RATES AND CHARGES**

Section

- 16-231 Charges for connections
- 16-232 Services inside corporate limits
- 16-233 Services outside corporate limits
- 16-234 Surcharge for certain industrial wastes
- 16-235 Reserved
- 16-236 Deposit required for rental property
- 16-237 Discontinuance of service upon failure to pay charges

**§ 16-231 CHARGES FOR CONNECTIONS.**

(A) Charges for water connections - Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(B) Charges for sewer connections -Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(C) If laterals are installed by a subdivider during the course of the installation of water and sewer systems in his subdivision, no charge as in subsections (A) and (B) shall be made. Instead, a charge will be made by the city at the time the city shall set a meter at each water tap - Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(D) If laterals for water are installed by the city but no meter is set until a later date, the charges established in subsection (A) shall be paid at the time of installation, less the meter setting charge fixed by subsection (C), and the meter charge shall be paid at the time the meter is installed.

(E) All charges fixed in this section shall be increased if the site of the connection is located outside of the city limits - Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for connections and services shall be filed with the City Clerk.

(F) If either the water or sewer connection has to be extended a greater length than is normal (generally one-half width of the street), the property owner shall pay the additional cost of materials, labor and equipment.

(G) For the installation of water connections larger than two inches and sewer connections larger than six inches, the charge shall be the total cost of materials, equipment and labor.

(H) Prior to the time a permit for a sewer connection is issued, the connection charge shall be paid in full. Connection charges and charges for sanitary sewer service -Such charges shall be set forth in the Schedule of Tax and Service Rates adopted annually by the City Council, and all current charges for

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connections and services shall be filed with the City Clerk.

('89 Code, § 16-231) (Ord. passed 7-1-85; Am. Ord. passed 9-1-91; Am. Ord. passed 4-19-94; Am. Ord. passed 10-16-2012)

**§ 16-232 SERVICES INSIDE CORPORATE LIMITS.**

(A) Charges for monthly water service inside the corporate limits are on file in the City Clerk's office. In addition to the minimum charge, there shall be a charge based on the amount of water supplied to a customer through each of that customer's meters.

(B) Except as provided in this article for certain industrial users, monthly wastewater charges for all customers with sewer lines available inside the corporate limits shall be as on file in the City Clerk's office. In addition to such minimum charge, there shall be a charge based on the amount of water supplied to each customer through each meter.

(C) The water and sewer rates for multiple dwelling units shall be as on file in the City Clerk's office.

(1) If there is more than one residential house or trailer on the premises or there is more than one housekeeping unit in a residential house or structure on the premises, or there is a housekeeping unit and a business (home occupation that consumes water) in a residence on the premises, regardless of the size of the meter through which water service is furnished to such residential or business unit on such premises, there shall be charged for each residential or business unit on such premises the fixed charges for a ¾-inch meter service as on file in the City Clerk's office for water and sewer service, respectively. In addition to the fixed charges, there shall be charges for water service and sewer service, based upon the amounts of water supplied, as set forth in subsections (A) and (B).

(2) Multiple-dwelling water rates apply only when the owner of the property agrees to pay the total utility bill.

(3) Individual meters for each unit are required if the family or person renting is to pay the utility bills.

('89 Code, § 16-232)

(D) The water and sewer rates for multiple commercial units shall be as on file in the City Clerk's office.

(1) If there is more than one commercial unit or commercial structure on the premises or there is more than one commercial unit in a commercial structure on the premises, regardless of the size of the meter through which water service is furnished to such commercial unit on such premises, there shall be charged for each commercial unit on such premises the fixed charges for a ¾-inch meter service as on file in the City Clerk's office for water and sewer service, respectively. In addition to the fixed charges, there shall be charges for water service and sewer service, based upon the amounts of water supplied, as set forth in subsections (A) and (B).

(2) Multiple commercial unit rates apply only when the owner of the property agrees to pay the total utility bill.

(3) Individual meters for each unit are required if the person renting is to pay the utility bills.

(Ord. Amended 2-18-14)

**§ 16-233 SERVICES OUTSIDE CORPORATE LIMITS.**

Monthly water and sewer charges outside the corporate limits shall be 200% of the rates for inside customers as shown in § 16-232(A) and (B).  
(‘89 Code, § 16-233) (Ord. Amended 5-2-02)

**§ 16-234 SURCHARGE FOR CERTAIN INDUSTRIAL WASTES.**

There shall be a surcharge per pound of biochemical oxygen demand, the amount of which is on file in the City Clerk's office, applied to all industrial waste with a biochemical oxygen demand in excess of 300 parts per million. The strength of waste, biochemical oxygen demand, shall be determined from samples taken on the customer's property at any period of time and of such duration and in such manner as the city may prescribe.  
(‘89 Code, § 16-234)

**§ 16-235 RESERVED.**

**§ 16-236 DEPOSIT REQUIRED FOR RENTAL PROPERTY.**

Any tenant requesting water service for rental property shall be required to make a deposit, the amount of which is on file in the City Clerk's office. Such deposit shall be returned to the customer only after payment of the customer's final bill.  
(‘89 Code, § 16-236) (Ord. passed 6-21-83)

**§ 16-237 DISCONTINUANCE OF SERVICE UPON FAILURE TO PAY CHARGES.**

(A) It is the policy of the City to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The City's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

- (1) That all bills are due and payable on or before the date set forth on the bill; and
- (2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the due date, service will be discontinued for nonpayment; and
- (3) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the City official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been billed and unpaid for at least 30 days.

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(C) For procedures and rates regarding disconnection late fees and delinquent payment penalties, refer to the City Reconnect Policy (Fin-11).

(Am. Ord. passed 6-18-02; Am. Ord. passed 8-17-10; Am. Ord. passed 11-17-15)



**City Manager's Report  
January 2023**

City Manager Jon Mendenhall

**ADMINISTRATION DEPARTMENT**

Marketing & Communications Office

**WINTERFEST THANK YOU**

A huge thank you goes out to all those who came and enjoyed WinterFest in Grogan Park on Friday, December 2. Other thanks go out to Brett Curry and Facilities and Grounds for help before and during the event and all the vendors that made it so special. It was a fun winter night full of holiday activities and community spirit! The night consisted of an outdoor movie with popcorn, basket raffle, cocoa bar, smore's bar, inflatable for kids, oversized games, beautiful decorations and more. A very special thank you to Raymond Uden for lighting our tree. We can't wait for next year.

**NC YEAR OF THE TRAIL**

The NC Year of the Trail campaign aims to showcase and celebrate North Carolina trails, encouraging ongoing participation, investment, and development among locals and legislators. The Year of the Trail celebrates North Carolina's vast and diverse collection of trails and encourages all of us to recognize our role as champions of these special resources.

Eden and Rockingham will be hosting several events throughout the year to celebrate both of our treasured walking and paddle trails. See you out there. Happy Trails!

**CODE RED**

If you would like to stay informed about altered trash routes due to holidays, special weather announcements or any other important city messages, please call 336-623-2110 and let our Customer Service representatives sign you up for Code Red. You as a resident will be alerted by telephone, cell phone, text message or by email regarding time-sensitive general and emergency notifications.

**GET READY FOR AWESOME EVENTS COMING IN 2023**

Our calendar is ready for 2023 and we are going to be busy! All your favorites will be back bigger and better than ever along with some new and exciting events. So, mark your calendars now because you don't want to miss anything!

- April 1 – Native American Youth Powwow in Grogan Park
- April 21-23 – Trail Days celebrating the NC Year of the Trail

- May 18 – Spring Grown & Gathered
- May 20 – Celebration at New Dog Park with Nestle Purina
- June 3 – Piedmont Pottery Festival
- June 17 – Oink & Ale
- July 22 – Shaggin’ on Fieldcrest
- August 10 – Summer Grown & Gathered
- August 19 – Touch-A-Truck
- September 15 & 16 – RiverFest
- December 1 – Winterfest

## **PARKS & RECREATION DEPARTMENT**

### Recreation Division

Bridge Street: In December, the Bridge Street Recreation Center had 1,787 visits by residents. The Meals with Friends had a Christmas party with a visit from Santa Claus on December 20. Meals on Wheels continues to operate out of our Nutrition Center Mondays through Fridays each week. Our center hours are: Monday through Thursday from 12:00 p.m. until 8:00 p.m. and Friday from 10:00 a.m. until 6:00 p.m.

Mill Avenue: We had 1,605 visits to the Mill Avenue Center by residents who participated in our activities. Our women’s volleyball league finished their playoff tournament on December 19. Those attending walked the track, played pickup basketball, pickleball, did their homework or played on the playground. Our morning pickleball begins at 8:30 a.m. on Mondays, Tuesdays, Wednesdays and Fridays and the evening group now play on any evenings available or Sunday evenings. Our regular center hours are: Monday through Thursday from 12:00 p.m. until 8:00 p.m. and Friday from 10:00 a.m. until 6:00 p.m.

Freedom Park: The weather has slowed down business at Freedom Park this month. The dog park is still being utilized unless it’s wet and raining. The basketball courts continue to be a popular place for our teenagers and young adults. Our bocce court and volleyball courts are there for anyone who would like to play on them. The batting cage is being used just about every afternoon. The shelters are not rented out during the colder months but we do have people using them for parties and reunions.

Senior Citizens: We had 802 visits during the month of December. We had 131 people join in for cards/games, 185 in fitness and exercise, 11 in classes/workshops, 10 in off-site excursions, 59 in socializing, 68 in special groups, 338 in sports and a total of 802 in total event sign ins. Special events for the month were Christmas craft day, Eden Drug health information session, Christmas party and breakfast, shopping trip to Hamrick’s and the Christmas Tree Shop in Greensboro, Christmas bingo and a Santa visit. The walking group and pickleball have moved indoors due to the weather.

Youth Athletics: We had our Prowler football awards on Sunday, December 11 at the Trinity Wesleyan Church gym. We had over 300 players, parents, families and friends attend. All players received an award and a nice shirt. Basketball games began on Monday, December 12 with 11 teams playing in four leagues. We are playing an interlocking schedule with the Boys and Girls Club.

## **PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT**

### **Local Codes and Inspections**

Local code complaints have slowed down as they typically do this time of year, however even with colder weather upon us, complaints continue to come in on Click Fix and by phone calls. More are for junk and housing code violations rather than high grass this time of year. While we still only have one inspector, complaints continue to be addressed in a timely manner and notices sent as needed. The inspector is also

checking for other code violations as he sees them out in the field and submitting them to send notices. Most abatements are being handled by outside contractors as facility maintenance is tied up with other duties.

### **Inspections & Permits December 1 – December 31, 2022**

Total Inspections Performed	155 (Does not include fire inspections)
Total Permits Issued	70

### **Boards & Commissions**

The Community Appearance Commission met for the month of December but did not have enough members present to establish a quorum.

The Historic Preservation Commission did not meet for the month of December.

The Tree Board met for the month of December and discussed future project ideas.

The Planning Board did not meet for the month of December, but will have a special request meeting on January 3, 2023 to review the rezoning case of a parcel of approximately 15 acres located at 1711 Mill Avenue. Application filed by the City of Eden City Council, representative for the City of Eden, property owner.

### **General**

Our department has continued to advertise and sell the Christmas ornaments which were a project of the Community Appearance Commission and the Tale of Three Cities books that was a project of the Historic Preservation Commission. Ornaments are now \$1 and are buy one get one. Books are \$20.

### **Grants**

CDBG-Draper: The Piedmont Triad Regional Council and Synterra have been visiting the houses and doing work write-ups for the renovations and radon, asbestos and lead-based paint results. The Fire Station #2 Rehab is to be joined with this existing grant.

CDBG-CV: The City now owns the building and we have been working with Insight Staff to file the budget amendment with the Department of Commerce.

## **POLICE DEPARTMENT**

The Tait portable radios have been fielded and are in current operation. The transition went seamless and the Tait product seems to meet all expectations. The mobile units and the recording units are scheduled to be installed mid-January 2023.

Three FORD F-150 Police Responders have been ordered. There is a tentative build window thru February 2023.

Two Dodge Durango Pursuit Vehicles have been purchased and are in our possession. Brook's Public Safety will be completing the upfitting of these vehicles. Brook's Public Safety will begin the upfitting of the two Durangos on January 11.

We currently are down 4 sworn officers (2 Patrol, 2 Investigators.) We have begun the background investigation with one applicant and anticipate a hire date mid-February.



## CITY OF EDEN, N.C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, December 20, 2022 at 6 p.m. in the Council Chambers, 308 E. Stadium Drive. Those present for the meeting were as follows:

Mayor:	Neville Hall
Council Members:	Gerald Ellis
	Jerry Epps
	Kenny Kirkman
	Bernie Moore
	Bruce Nooe
	Tommy Underwood
City Manager:	Jon Mendenhall
City Attorney:	Erin Gilley
City Clerk:	Deanna Hunt
Media:	Roy Sawyers, Rockingham Update
	Lisa Finney Griffith, Eden's Own Journal

MEETING CONVENED:

Mayor Hall called the regular meeting of the Eden City Council to order and welcomed those in attendance. He noted the media present and said that Mike Moore of Mike Moore Media was out of town for the holidays but the work he did on podcasts to keep citizens informed was appreciated. Pastor Chris Burns of Draper Pentecostal Holiness Church gave an invocation followed by the Pledge of Allegiance led by the Eden Prowlers.

PROCLAMATIONS AND RECOGNITIONS:

## a. Recognition: Prowlers Football Champions

Mayor Hall called the Prowlers players and staff forward. He congratulated the young men and women who participated in the football program. It was the first time there had been three teams win championships and that said a lot about the leadership of the coaches and the parents who were dedicated to bringing the kids to the practices and games. Starting them out playing at that age was the way to eventually improve the high school program, teaching them the fundamentals. There was a great group of volunteers who helped to coach the kids. He called on Parks and Recreation Director Terry Vernon.

Mr. Vernon said there had been a good number of kids who came out for football so they were very blessed. Football Director Earl Fountain and Assistant Director Ben Curtis had led the whole group. It started out a little bit sluggish and slow except for the 8U team who came out busting heads from the start. By the end of the season, each team improved, getting better and better. For the season, there were three teams who won playoff championships. The 8U won Division 1, which was the best of the teams. The 10U and 12U won Division 2. Staff was proud of all of them, they did an excellent job. They looked for the players to get bigger and better when they went to Holmes Middle School and Morehead High School. Hopefully he would be calling their names numerous times over the loudspeaker when they played junior varsity and varsity. He thanked everyone for participating, including the coaches who put their time and effort into the past three months to improve the football program. He thanked the players for participating and the parents who brought the kids to and from the practices. Without them, there would have been no participation. He thanked everyone.

Mayor Hall called on Mr. Fountain.

Mr. Fountain introduced his son, Joe Joe, who was a Prowlers player. He appreciated everyone involved in helping all the things going on, and for everyone who gave time and donated so the team could have all the nice apparel they were wearing. He thanked the other coaches, whom he considered his brothers and friends. He could not do it without them. The previous

year when the Prowlers came to a meeting, he said he would be back. And now he was saying he would be back again the next year. They were building five stars. He thanked everyone.

Mayor Hall asked the City's new Planning and Economic Development Specialist and Main Street Administrator Ken White to come forward and join him for the next two presentations.

b. Recognition: The Vacuum and Sewing Center for 51 years in business

Mayor Hall asked business owner Davis Lee to join them at the podium.

Mayor Hall said The Vacuum and Sewing Center on The Boulevard opened 51 years ago on November 8, 1971. Mr. Lee started the business at 248 The Boulevard and had outgrown that space within a couple of years. He then relocated to his current location of 226 The Boulevard. The business was not only retail, including a large selection of fabric and machine parts, but also serviced all types of sewing and vacuum equipment. Mr. Lee opened on The Boulevard at a time when it was a bustling street and he looked forward to it regaining its vibrancy. We are so glad The Vacuum and Sewing Center are still a fixture on that street and congratulate the business and Mr. Lee on an incredible 51 years of business. He presented Mr. Lee with a plaque from Eden City Council.

Mr. Lee said he did appreciate the recognition. He appreciated his neighbors from The Boulevard – Kendra and Connie – who were both there in support. He noted some of his daughters, grandchildren and great grandchildren were in attendance. Fifty-one years felt like it was yesterday sometimes. When he started his business, The Boulevard was full, every building was full. It was coming back. He asked that people bear with them, it was going to get there. He appreciated the recognition and thanked Council.

c. Recognition: Quality Cleaners for 75 years in business

Mayor Hall called owners J.T. and Doris Hale forward. He said Quality Cleaners opened 75 years ago on December 27, 1947 at its current location of 712 Church Street. It was started by Jessie Hale who stepped down in 1986. Jessie's son and daughter, J.T. and Susan, then operated the dry cleaners until Susan moved out of the area. J.T. and his wife Doris now ran the dry cleaners which offered full services including sewing and wash and fold laundry. The business was open six days a week and offered same-day service. We want to congratulate Quality Cleaners and the Hale family on this incredible milestone of 75 years in business. He presented the Hales with a plaque from Eden City Council.

Ms. Hale said the other two sisters could not make it that night, but Melinda was there as well as the staff of the dry cleaners and she and Mr. Hale could not do it without them. She thanked everyone.

d. Proclamation: Year of the Trail

Mayor Hall called Mr. Vernon, Marketing and Special Events Manager Cindy Adams and Anna Wheeler of the Dan River Basin Association forward to the podium. He noted there were several celebrations planned for 2023. The North Carolina Year of the Trail celebration in Eden would be April 21-23. It would include a kickoff, hikes and walks all over Eden and the county, an Uptown Eden street celebration and more, a chainsaw public art installation on Freedom Park Nature Trail, the 20<sup>th</sup> annual RiverFest, guided night hikes under a full moon and signage, so everyone should stay tuned for more information about Eden and statewide. Eden was one of 11 cities in North Carolina designated as a Trail Town in 2023. He read the proclamation.

Ms. Wheeler thanked Ms. Adams, Mr. Vernon and City Council for all they did for the trails in the City of Eden and the area. The Dan River Basin Association's first Year of the Trail event would be at Matrimony Creek on January 7 at 10 a.m. so they were starting off in the City of Eden. She was thankful for the City and their commitment to trails and protecting the beautiful region.

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Mayor Hall said there should be some exciting events coming up in the year.

PROCLAMATION: Year of the Trail 2023

WHEREAS, the Governor of North Carolina has proclaimed that 2023 is “The Year of the Trail” in our state, with North Carolina already known as the “Great Trails State” and expressing that our state’s natural beauty is important to our citizens’ overall health, quality of life and contributes economically to the state; and,

WHEREAS, the City of Eden and Rockingham County, along with all 100 counties of North Carolina, will host events to highlight the benefits of our trails for recreation and tourism, and will promote greenways and hiking, biking and paddling, with this being the largest statewide celebration of trails and outdoor recreation in our state’s history; and,

WHEREAS, the City of Eden is home to six trails and four river access points that will support the Year of the Trail and contribute to showcasing the City’s natural beauty and diversity; and,

WHEREAS, other objectives of the Year of the Trail are the creation of new trails, increasing outdoor recreation and tourism across our county and state, and promoting safe and responsible use of our trails.

NOW, THEREFORE, in honor and appreciation of the invaluable benefit that trails and outdoor recreation afford the residents of the City of Eden, the Eden City Council proclaims 2023 as the Year of the Trail in the City of Eden, and encourages community involvement in activities celebrating Eden’s natural beauty and resources.

This the 20th day of December, 2022.

By: Neville Hall, Mayor

Attest: Deanna Hunt, City Clerk

e. Proclamation: Martin Luther King Jr. Day

Mayor Hall read the proclamation.

Proclamation: Martin Luther King, Jr. Day

WHEREAS, January 16 marks the observance of the federal legal holiday to honor the birthday of the Reverend Dr. Martin Luther King, Jr., and

WHEREAS, Dr. King dedicated his life to a vision: that all Americans would live free from injustice and enjoy equal opportunity. His peaceful and lifelong crusade against segregation and discrimination brought our communities closer to the founding ideals set forth in the Declaration of Independence and the Constitution; and

WHEREAS, as we honor Dr. King, we know that our community is stronger, more just, and more free because of his life and work; and

WHEREAS, in paying tribute, we are reminded that the call lies with each of us to fulfill Dr. King’s work. Let us use our time, talents, and resources to give back and help those less fortunate. Let us not forget Dr. King’s own tireless spirit and efforts as we work, celebrate, and pray alongside each other.

NOW, THEREFORE, BE IT PROCLAIMED that I, Neville Hall, Mayor of the City of Eden, hereby designate January 16, 2023 be set aside as Martin Luther King, Jr. Day in the City of Eden and urge all citizens to join with me this day to apply Dr. King’s life and teachings of community service.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of December, 2022.

By: Neville Hall, Mayor

Attest: Deanna Hunt, City Clerk

Mayor Hall wanted to give a word of appreciation for Council Member Phil Hunnicutt, who was no longer on Council but had served on Council for more than three years. He brought a wealth of economic development and industrial knowledge to Council. Council appreciated his leadership and service to the City and wished him well.

SET MEETING AGENDA:

Mayor Hall noted an item needed to be added to the consent agenda: approval to accept bid for Junction Pump Station rehabilitation. It was brought before Council by Special Projects Manager Terry Shelton to accept the low bid. Information had been at Council's chairs. It was a time sensitive issue and that was why it was added and not put off until the following month.

A motion was made by Council Member Epps to set the meeting agenda. Council Member Moore seconded the motion. All members voted in favor of the motion. The motion carried.

PUBLIC HEARINGS:

- a. (1) Consideration of an ordinance to adopt a zoning map amendment to rezone a 2.8-acre property on Main Street from Residential Agriculture to Light Industrial. Zoning Case Z-22-08.
- (2) Consideration to adopt a resolution of a statement of consistency regarding the proposed map amendment.

Planning and Community Development Director Kelly Stultz wrote in a memo: The City has received a zoning map amendment request filed by Mark Frederick, Agent for the property owner, Nestle Purina Petcare Company, to rezone a property of 2.8 acres on Main Street in the Draper area. The request is to rezone the property from Residential Agriculture to Light Industrial. The Planning and Community Development Department recommends approval of the map amendment request. At a regular meeting in November, the Planning Board voted to recommend that the City Council approve this request.



Mayor Hall declared the public hearing open and called on Ms. Stultz.

Ms. Stultz said an application had been received from Attorney Mark Frederick of Parker, Poe and Adams to represent Nestle-Purina on a rezoning. As all of Council knew, for many years the property that Nestle-Purina owned had been in single ownership since it was the Nelson Farm. There was one parcel on Main Street that was zoned differently than the rest of the property. When the Unified Development Ordinance was done in 2020-2021, the property was kept as Residential-Agricultural but it was necessary for the company and some of the corporate issues that all the property have the same map

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district. Both she and the Planning Board recommended the property be rezoned as Light Industrial, the same as the rest of the property. They did find it was consistent with the land use plan.

Council Member Ellis asked if everyone on the Planning Board was in favor.

Ms. Stultz replied yes.

Mayor Hall wanted to verify that there was no resistance by the neighbors.

Ms. Stultz said there was none and it had been posted.

As there were no further questions or discussion and no one came forward to speak in favor or opposition, Mayor Hall declared the public hearing closed.

A motion was made by Council Member Ellis to adopt an ordinance for a zoning map amendment to rezone a 2.8-acre property on Main Street from Residential Agriculture to Light Industrial and to adopt a resolution of a statement of consistency regarding the proposed map amendment. Council Member Kirkman seconded the motion.

#### AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF EDEN

BE IT ORDAINED BY THE CITY COUNCIL of the City of Eden, North Carolina, that, after having fully complied with all legal requirements, including publication of notice of a public hearing and the holding of a public hearing relative thereto, the Unified Development Ordinance of the City of Eden is hereby amended as follows:

Section 1 - Change from Residential Agricultural to Light Industrial the following property:

Being a lot 150 feet x 800 feet on the west side of Main Street which contains approximately 2.8 acres and is identified by the Rockingham County Tax Department as PIN 7091-00-41-9281 and Parcel No. 112699.

Section 2 - The Official Zoning Map of the City of Eden is hereby amended to conform with this Ordinance.

APPROVED, ADOPTED AND EFFECTIVE, this 20th day of December, 2022.

CITY OF EDEN

By: Neville Hall, Mayor

Attest: Deanna Hunt, City Clerk

#### A RESOLUTION ADOPTING A STATEMENT OF CONSISTENCY REGARDING A PROPOSED AMENDMENT TO THE CITY OF EDEN UNIFIED DEVELOPMENT ORDINANCE CASE NUMBER Z-22-08 MAP AMENDMENT

WHEREAS, pursuant to North Carolina General Statutes Chapter 160D-605, prior to adoption or rejection of any zoning amendment, the Eden City Council is required to adopt a statement as to whether the amendment is consistent with the Land Development Plan and why the City Council considers the action taken to be reasonable and in the public interest;

WHEREAS, on May 17, 2022, the Eden City Council adopted the Comprehensive Plan which included a Future Land Use Map. Plans such as the City of Eden Comprehensive Plan are not designed to be static but are meant to reflect the City of Eden's needs, plans for future development and to remain in compliance with North Carolina State Law and the City of Eden's ordinances;

WHEREAS, the City of Eden Planning Board received a request to rezone 2.8 acres located on Main Street in the Draper area from Residential Agricultural District (RA) to Light Industrial District (LI).

WHEREAS, On November 22, 2022, the City of Eden Planning Board voted to recommend to the Eden City Council that the rezoning request be approved.

STATEMENT OF NEED:

The LI District is intended to accommodate externally benign industrial and office uses that pose little nuisance to adjacent residential areas.

STATEMENT OF CONSISTENCY:

The goals of the 2022 City of Eden Comprehensive Plan are to make smart growth decisions by carefully managing growth to:

- A. Strategically locate new land development in the most appropriate places.
- B. Maintain and enhance Eden's community character and heritage.
- C. Use infrastructure investments as effectively as possible.
- D. Attract new jobs and a more diverse tax base.
- E. Protect natural, cultural and historic resources and open space as we grow.

WHEREAS, The Eden City Council has considered the written recommendation of the City of Eden Planning Board and has held a public hearing on the proposed amendment, and the Council desires to adopt a statement describing why the adoption of the proposed amendment is consistent with the City of Eden Comprehensive Plan and why the City Council considers the proposed amendment to be reasonable and in the public interest;

NOW THEREFORE, BE IT RESOLVED BY THE EDEN CITY COUNCIL THAT:

- 1. The Eden City Council finds that the proposed amendment to the City of Eden Unified Development Ordinance is consistent with the goals and recommendations of the 2022 City of Eden Comprehensive Plan.
- 2. At no time are land use regulations or plans of the City of Eden or any jurisdiction in the State of North Carolina permitted to be in violation of the North Carolina General Statutes.
- 3. Therefore, based upon the foregoing information, the amendment to the Unified Development Ordinance is reasonable and in the public's, best interest.

Approved and adopted and effective this 20th day of December, 2022.

CITY OF EDEN

By: Neville Hall, Mayor

Attest: Deanna Hunt, City Clerk

- b. Consideration of a program amendment to the City's 2018 Community Development Block Grant Neighborhood Revitalization program.

Mayor Hall declared the public hearing open and called on Ms. Stultz.

Ms. Stultz wrote in a memo: The City of Eden was granted \$750,000 for a grant to assist low to moderate income citizens with housing repairs in the Draper area. After the City discovered that Fire Station No. 2 needed extensive repairs, I reached out to the N.C. Department of Commerce to find out if they had funds that would help with the costs of these repairs which would be approximately \$400,000. A representative from the Department of Commerce has indicated that the funds are available and that they can add these funds to a grant in that area that we are already administering. Please approve the budget amendment request to add the additional funds to the CDBG-NR project. If you have any questions, please let me know.

Ms. Stultz said everyone was aware of the Covid funds the City had received to help the low and moderate income residents with rental, housing and utilities during the time of the pandemic. Eden was unable, like nearly every city and county across the state, to spend the funds. The problem started when the City was given 10 days to send the application in, after which the City was notified of award about six weeks later. It was a year and a half before the City was allowed to start spending the money. Some of it had to do with state offices being closed down. It was a difficult situation everywhere and in fact, the City of Charlotte sent a bunch of money back. With that, she was having a conversation with the City's grant person about the housing grant in Draper and at the time, she mentioned that there were issues with Fire Station 2. She asked if any of the Covid funds could be used for the fire station and was told no. The grant person indicated there was a funding source for it and the City had moved along with that. The project had been bid out the first time following CDBG rules and there was only one bid. It was bid out the second time and by the time that rolled around, the deadline had passed for obligating the funds because there was a very narrow window. Since then, the grant person said there were funds in a different funding source so the City started over. The project was bid again and Cirrus Construction was the low bidder. The fire station's truck bays were now safe. All the repairs that had been made to it were fascinating but it would hold the trucks. Ms. Stultz had emailed the grant person to find out what the City needed to do to be reimbursed and Ms. Stultz was told there were hoops the City should have gone through that Ms. Stultz had not been told of. The project had to be paused. The good news

at that point was the contractor found a considerable amount of additional problems with the station. Some stairs on the east side of the building were removed and it was discovered the block that was originally put in was never waterproofed or sealed in any way, which explained how the water had been getting in all that time. The repairs would be extensive and the grant person had agreed to fund the City the additional amount of money in order to make the repairs. The first thing that needed to be done was the public hearing. She wanted to get it done as soon as possible because she knew Council, the citizens of Draper and staff wanted to see the station reopened and safe as quickly as possible. The City would have to rebid the project but would move forward to get it fixed. Currently, they were estimating it would cost about \$400,000 to get it fixed assuming no other issues were found. That was where they were with it. She hoped Council would approve the application being made.

Council Member Ellis asked what the original bid was.

Ms. Stultz advised staff estimated \$200,000 and the bid came in at \$174,000. There was now reason to believe there may be issues behind the paneling on the interior of the building.

Council Member asked if it would be gutted.

Ms. Stultz said it would.

Council Member Moore asked if the \$400,000 would be added to the existing grant.

Ms. Stultz said it would be a completely new grant but the City would get \$400,000. Staff thought it would take that much more to fix it.

Council Member Ellis asked when she thought the station would be open again.

Ms. Stultz said she was afraid to answer that question. It was being pushed as quickly as possible. There were some hoops the City had to jump through and the state shut down during the holidays. She would keep Council updated with where it was and how quickly they could get started again.

Council Member Kirkman questioned if it had to be rebid again.

Ms. Stultz advised it did.

As there were no further questions or discussion and no one came forward to speak in favor or opposition, Mayor Hall declared the public hearing closed.

A motion was made by Council Member Epps to approve the program amendment to the City's 2018 Community Development Block Grant Neighborhood Revitalization program. Council Member Ellis seconded the motion. All members voted in favor of the motion. The motion carried 6-0.

#### REQUESTS AND PETITIONS OF CITIZENS:

*No one signed up to speak.*

#### UNFINISHED BUSINESS:

- a. Consideration of appointments to Boards and Commissions.

Ms. Stultz wrote in a memo: The following seats on the City Boards and Commissions are up for appointment or reappointment in 2023. When making appointments, please consider whether these persons have the time or the ability (for whatever reason) to attend regular meetings and participate in the activities of the board or commission.

Minutes of the December 20, 2022 meeting of the City Council, City of Eden:

If you have questions, please do not hesitate to call. Ward 1 Councilman Moore: None to report; Ward 2 Councilman Nooe: Historic Preservation – Frank Reid (Term expired); Ward 3 Councilman Kirkman: None to report; Ward 4 Councilman Epps: Board of Adjustment – Doris Hale (Term expired); Community Appearance – Faye Shelton (Term expired); Ward 5 Councilman Underwood: None to report; Ward 6 Councilman Hunnicutt: Tree Board – Recommendation of appointing Melinda Collins; Ward 7 Councilman Ellis: Tree Board – Gina Ellis (Term expired); Mayor Hall: None to report; ETJ (Must be appointed by City Council and approved by County Commissioners): Board of Adjustment – David L. Everett (Term expired)

Mayor Hall called on Ms. Stultz.

Ms. Stultz said Council Member Epps wanted to nominate Rodger Denny to serve on the Board of Adjustment and Faye Shelton to continue on the Community Appearance Commission.

Council Member Nooe nominated Frank Reid to continue on the Historic Preservation Commission.

Council Member Ellis nominated Jim Ivie to serve on the Tree Board.

Mayor Hall said in the absence of the Ward 6 Council Member, he wanted to nominate Melinda Collins to fill the Tree Board seat.

Ms. Stultz agreed and said former Council Member Hunnicutt had intended to nominate her before his resignation.

Mayor Hall said he had a note that Mr. Hunnicutt and Ms. Collins had agreed to the seat.

Mayor Hall appointed Tom Barbour to continue on the ABC Board and Tommy Flynt to continue as ABC Board chair. He said he would have to get with the Council to divide the appointments to the Piedmont Triad Regional Council, Rural Planning Organization Technical Advisory Committee and Eden Downtown Development Incorporated.

Ms. Stultz said the term of David Everett, who was an ETJ member of the Board of Adjustment, had expired and Council would have to make a recommendation and send it to the county for approval.

Council Member Ellis asked if Mr. Everett wanted to continue.

Ms. Stultz advised he did.

Mayor Hall recommended Mr. Everett continue and the nomination should go to the county for approval.

A motion was made by Council Member Kirkman to approve the nominations. Council Member Moore seconded the motion. All members voted in favor of the motion. The motion carried 6-0.

#### NEW BUSINESS:

- a. Mayoral appointments: (1) ABC Board (2) ABC Board Chair (3) Piedmont Triad Regional Council (4) Rural Planning Organization Technical Advisory Committee and (5) Eden Downtown Development Incorporated.

This item was discussed as above under Unfinished Business – a.

- b. Presentation of the Fair Housing Report for the Community Development Block Grant projects.

Ms. Stultz wrote in a memo: One requirement of the N. C. Department of Commerce in administering Community Development Block Grants is to adopt a Fair Housing Plan. This plan includes quarterly activities that the City of Eden must do to help educate the citizens, lenders and realtors on Fair Housing laws and regulations. First Quarter of 2022 – The Fair Housing Complaint Procedure was posted on the City's website. Second Quarter of 2022 – Fair Housing brochures and posters were posted in City Hall on the wall as you enter the building and in the Planning and Community Development Department. Third Quarter of 2022 – Fair Housing brochures were mailed to all local lenders. Fourth Quarter of 2022 – A link to the Piedmont Triad Regional Council's website on Fair Housing was

placed on the City's website and this report is being made to you this month. If you have questions about these activities, please contact me.

Mayor Hall called on Ms. Stultz.

Ms. Stultz said there was a number of requirements the City had to continue to meet to be eligible for grant funding. That was certainly something they wanted to continue to do. Part of that was to prove the City had done a Fair Housing Plan and had done appropriate activities during every quarter of the year. She needed to read them all. She said in the first quarter, the Fair Housing Complaint Procedure was posted on the City's website. In the second quarter, Fair Housing brochures and posters were posted in City Hall on the wall as you enter the building and in the Planning and Community Development Department. In the third quarter of 2022, Fair Housing brochures were mailed to all local lenders. In the fourth quarter of 2022, a link to the Piedmont Triad Regional Council's website on Fair Housing was placed on the City's website and this report is being made to you this month.

Mayor Hall said she and staff had stayed right on task and he appreciated it. He asked City Attorney Erin Gilley if it required any action.

Ms. Gilley advised no.

#### REPORTS FROM STAFF:

- a. Reports from staff.

Mayor Hall called on City Manager Jon Mendenhall.

Mr. Mendenhall said he would be pleased to answer any questions but before he did, he wanted to wish everyone a Merry Christmas and a Happy New Year. He really appreciated being able to work with the Council and employees and he wanted to say Merry Christmas to everyone.

Mayor Hall thanked Mr. Mendenhall. He said there were copies available at the meeting, online and as always, in Eden's Own Journal. He encouraged attendees to get a copy and make note of what had been happening at City Hall.

City Manager's Report  
December 2022  
City Manager Jon Mendenhall

#### ADMINISTRATION DEPARTMENT

##### Marketing & Communications Office CHRISTMAS PARADE THANK YOUS

We would like to thank the Eden Chamber of Commerce, Leaksville Night-Time Christmas Parade organizer, and O.T. Coleman, Draper Children's Christmas Parade organizer. They work very hard fielding hundreds of phone calls, preparing a line-up and then making sure everything runs smooth the day of the event. AWESOME JOB! We appreciate everything you both do to help create special Christmas memories for all of us. Another very special thanks goes out to Peggy Good. Ms. Good organized the Leaksville Night-Time Christmas Parade for 22 years and just this year passed her wisdom on to Sandra Meadows and the Eden Chamber to carry on a great Eden tradition. Thanks for all those years of hard work and love for the parade!

##### DRAPER TREE LIGHTNG THANK YOU

A huge thank you to the Draper Merchants Association, Tim & Diana Biggs, Santa and all the volunteers for a very special Draper Tree Lighting on November 29, where Leroy Young had the honor of lighting the new tree. The tree was beautiful, the hot chocolate and other treats were delicious and the Christmas spirit was amongst us. This event always has a sweet hometown Christmas feeling that brings the community together.

#### PARKS & RECREATION DEPARTMENT

Recreation Division

## Minutes of the December 20, 2022 meeting of the City Council, City of Eden:

Bridge Street: In November, the Bridge Street Recreation Center had 1341 visits by residents. The number of people using our facilities continues to increase. The Meals with Friends has over 20 people attending Mondays through Thursdays each week. The Seniors continue to have exercise classes, walking, pickleball, card games, shuffleboard and other activities several times each week. Meals On Wheels continues to operate out of our Nutrition Center Mondays through Fridays each week. We began our basketball practices and games will begin in December. Our center hours are: Monday through Thursday from 12:00 p.m. until 8:00 p.m. and Friday from 10:00 a.m. until 6:00 p.m. Mill Avenue: We had 2,045 visits to the Mill Avenue Center by residents that participated in our activities. Those attending walked the track, played pickup basketball, pickleball, cornhole or played on the playground. Our morning pickleball begins at 8:00 a.m. on Mondays, Wednesdays and Fridays and the evening group now play on Wednesday and Sunday evenings when the gym is available. Women's Fall Volleyball is being played on Monday nights with eight teams participating. Basketball practices began for all age groups at Mill Avenue and the younger group moved to Bridge Street due the high number of participants. Our center hours are Monday through Thursday from 12:00 p.m. until 8:00 p.m. and on Friday from 10:00 a.m. until 6:00 p.m.

Freedom Park: As the weather gets colder and the days shorter, we have less visitors at the park. People are still coming out on the warmer sunny days and they continue walking in all kinds of weather. The dog park is still being utilized unless it's wet and raining. The basketball courts continue to be a popular place for our teenagers and young adults. Our bocce court and volleyball courts are there for anyone who would like to play on them. The batting cage is being used just about every afternoon. The shelters are not rented out during the colder months but we do have people using them for parties and reunions. The Concert in the Park/Cruise In are on hold until next April. We had one softball tournament in November.

Senior Citizens: We had 859 visits during the month of November. We had an average of 29 people per day take advantage of senior center programs. We had 131 people join in for cards and games, 163 in fitness and exercise, 39 in classes/workshops, 8 in nutrition, 8 in off-site excursions, 67 in socializing, 71 in special groups, 339 in sports and a total of 859 in total event sign ins. Bocce and shuffleboard continued through November. Regular scheduled classes continued for our walking group, pickleball though they have moved indoors due to the weather.

Youth Athletics: All three of our Prowlers football teams won their playoff championship game. Thanks go out to our cheerleaders for their support. Our awards will be presented on Sunday, December 11 at the Trinity Wesleyan Church Gym at 3:00 p.m. for those who would like to attend. Basketball practices are being held twice weekly for each age group. We will be playing an interlocking schedule with the Boys and Girls Club and games will begin in December.

## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### New Staff

We have welcomed two new staff members in November. Chase Lemons is our new Grants Administrator and Ken White is our Main Street Administrator.

### Collections

Rockingham County Tax Department collected \$534.38

### Permits

Total Inspections: 187

Local Codes Sent: 14

Violations Abated: 13

### Boards and Commissions

The Community Appearance Commission met for the month of November and discussed future project ideas.

The Historic Preservation Commission met for the month of November but did not have enough members present to establish a quorum.

The Tree Board met for the month of November but did not have enough members present to establish a quorum.

The Planning Board met for the month of November to review the rezoning case of a 2.8-acre parcel on Main Street in the Draper for Nestle Purina.

### General

Our department has continued to advertise and sell the Christmas ornaments which were a project of the Community Appearance Commission and the Tale of Three Cities books that were a project of the Historic Preservation Commission. We plan to have a table at WinterFest sell both items.

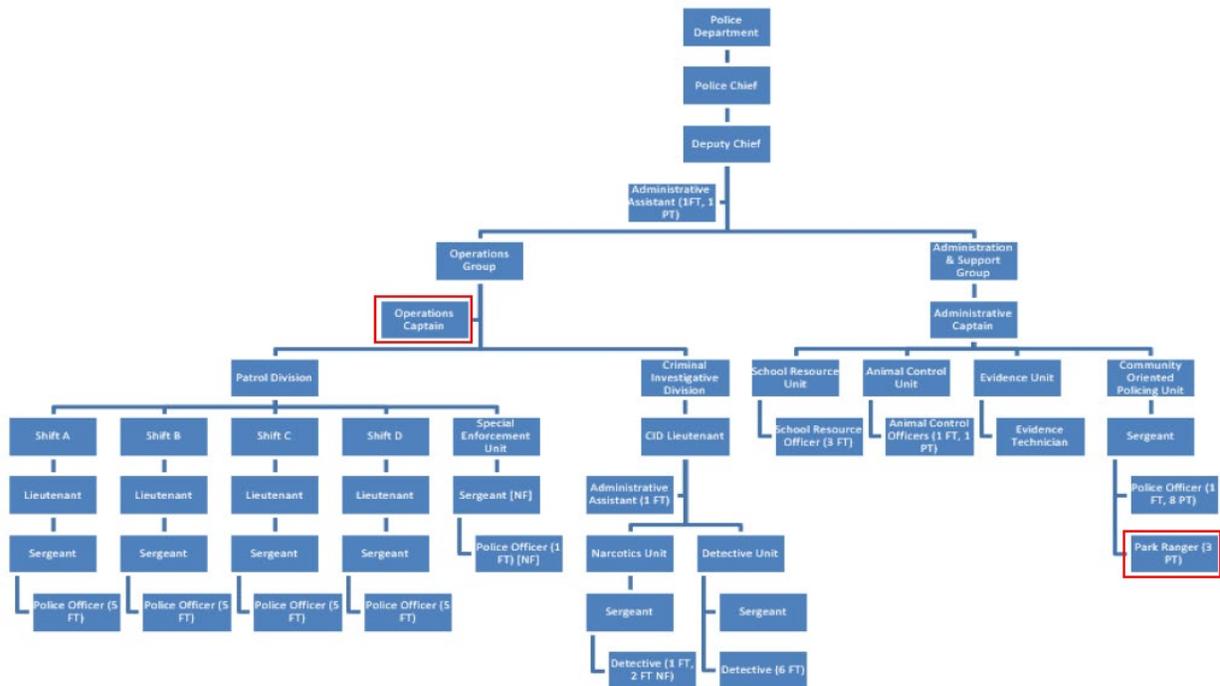
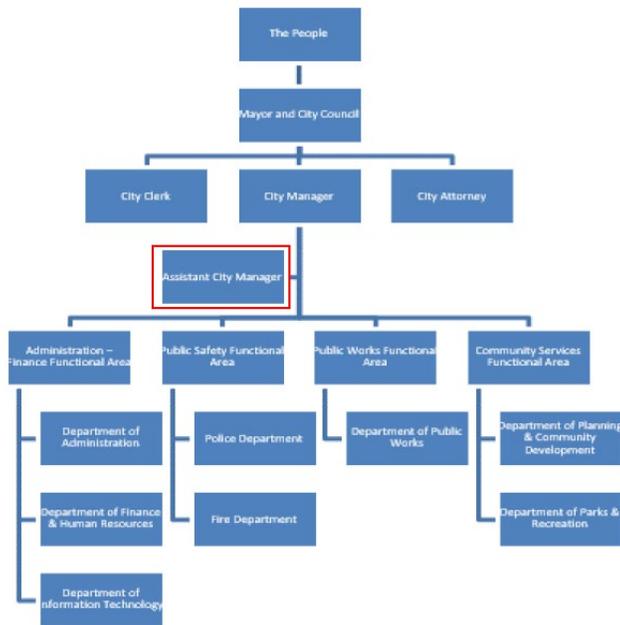
### Grants

CDBG-Draper: The Piedmont Triad Regional Council and Synterra have been visiting the houses and doing work write-ups for the renovations and radon, asbestos and lead-based paint results. The Fire Station #2 rehab is to be joined with this existing grant.

CDBG-CV: The next round of documentation cannot be filed until the deed is recorded and the City of Eden is the legal owner of this property.

## POLICE DEPARTMENT





c. Approval and adoption of an amendment to the City-County Utilities agreement.

Ms. Gilley wrote in a memo: City and County currently have a sewer contract that has been in place for 25 years. The Agreement provides that the City treats sewer for certain areas in the County. Rates are set forth in the Agreement. The Agreement was amended in 2016 to temporarily hold the rates in place. This Agreement is set to expire January of 2023. The City and County staffs have been negotiating an amendment for the past year and are very close to having the agreement ready for review by the respective Boards. We look forward to having this ready in less than 120 days. As such we are presenting the attached interim agreement that would expire in 120 days or until the agreement is finalized (whichever occurs first). We recommend that you adopt the Interim City County Utilities

Minutes of the December 20, 2022 meeting of the City Council, City of Eden:

Agreement so that we can proceed with the finalization. If you should have any questions or concerns, please do not hesitate to contact me.

A copy of the agreement is on file in the City Clerk's Office.

d. Approval and adoption of Budget Amendment #1.

Assistant Finance Director Amy Winn wrote in a memo: The attached budget amendment allocates proceeds from a Purina donation. The donation is for the purchase of K9 supplies for the Police Department. This amendment increases the Police Revenue and the Police K-9 line items.

Subject: Budget Amendment # 1				
	Account #	From	To	Amount
<b>General Fund Revenues</b>				
Police Revenue	10-3431-41700	\$ 6,500.00	\$ 8,000.00	<u>\$ 1,500.00</u>
<b>General Fund Expenditures</b>				
Police K-9	10-4310-29500	\$ 8,000.00	\$ 9,500.00	<u>\$ 1,500.00</u>
Appropriates donation from Purina for Police K-9 expenditures.				
Adopted and effective this 20th day of December, 2022.				
Attest:				
_____ Deanna Hunt, City Clerk		_____ Neville Hall, Mayor		

e. Approval and adoption of Budget Amendment #2

Ms. Winn wrote in a memo: The attached budget amendment allocates proceeds from a Purina grant. The grant is for the purchase of upgrades to the dog park at Freedom Park to include an agility course, entrance sign, benches, shade trees, and leash post. This amendment increases the Recreation Miscellaneous Revenue and the Recreation C/O Land Improvements line items.

Subject: Budget Amendment # 2				
	Account #	From	To	Amount
<b>General Fund Revenues</b>				
Recreation Miscellaneous Revenue	10-3612-86400	\$ 16,000.00	\$ 38,500.00	<u>\$ 22,500.00</u>
<b>General Fund Expenditures</b>				
Recreation C/O Land Improvements	10-6120-52000	\$ 5,000.00	\$ 27,500.00	<u>\$ 22,500.00</u>
Appropriates grant from Purina for upgrades to the dog park at Freedom Park.				
Adopted and effective this 20th day of December, 2022.				
Attest:				
_____ Deanna Hunt, City Clerk		_____ Neville Hall, Mayor		

f. Approval and adoption of Budget Amendment #3.

Ms. Winn wrote in a memo: The attached budget amendment appropriates Municipal Service District Tax fund balance for projects in the downtown areas. This amendment appropriates \$15,400 to the Leaksville District for Christmas decorations. These expenditures are approved by the merchants in each district.

Minutes of the December 20, 2022 meeting of the City Council, City of Eden:

Subject: Budget Amendment # 3		Account #	From	To	Amount
<b>MSD Tax Fund Revenues</b>					
MSD Tax Fund Balance Appropriated	17-3991-99100	\$	-	\$ 15,400.00	<u>\$ 15,400.00</u>
<b>MSD Tax Fund Expenditures</b>					
MSD Tax Expense - Leaksville	17-4150-29900	\$	8,600.00	\$ 24,000.00	<u>\$ 15,400.00</u>

Appropriates MSD tax fund balance for the purchase of Christmas decorations approved for the Leaksville district.

Adopted and effective this 20th day of December, 2022.

Attest

\_\_\_\_\_  
Deanna Hunt, City Clerk

\_\_\_\_\_  
Neville Hall, Mayor

g. Approval and adoption of an easement for the Draper Volunteer Fire Department.

Ms. Gilley wrote in a memo: City Staff was contacted by the Draper Rural Fire Department to request an easement and encroachment (92' x 20') from the City of Eden with regard to their property on 1422 Front Street which is adjacent to the City Fire Station #2. The property owners have plans to expand their building and need to have the ability to perform maintenance on the proposed expansion. A portion of this requested maintenance area will occur on the unopened right of way under the City's jurisdiction and a portion of it will be located on the actual parcel of Fire Station #2. One will need an encroachment agreement and the other will require an easement. Planning and Community Development staff as well as Public Works staff have been consulted and no downsides for the City have been identified. As such, Staff's recommendation is to authorize the maintenance of the proposed expansion and grant the requested encroachment and easement requests in assistance to the Draper Rural Fire Department. If you should have any questions or concerns, please do not hesitate to contact me.



h. Approval to initiate a zoning map amendment to rezone property at 1711 Mill Avenue.

Ms. Stultz wrote in a memo: We are asking the City Council to initiate a zoning map amendment to rezone a property located at 1711 Mill Avenue. For consideration to rezone the property from Open Space to Heavy Industrial.

i. Approval to accept bid for Junction Pump Station rehabilitation.

Special Projects Manager Terry Shelton wrote in a memo: The first bid opening for this project Contract 2b (Rehabilitation and Improvements to the Junction Pump Station) was September 8 and we did not receive three required bids to open the bids. A second bid opening was rescheduled for November 16 to allow additional time for contractors to prepare bids. The November 16 bid opening had two bids submitted and we were able to open bids. The bids submitted were J. Cumby Construction bidding a total of \$5,734,000 and Kiewit Infrastructure South, Co., bidding \$5,771,567. The bids were very close with only \$37,567 of separation. The original engineering estimate that was prepared in early August of this year was for a total cost of \$3,796,479.80. The low bidder was \$1,937,520.20 more than the engineer's estimate. Like all contracts recently bid, this project also came in significantly higher than the estimates had predicted. WK Dickson's engineering staff have reviewed the bids checking for any errors or omissions and also entered into negotiations with the low bidder to see if the price could be reduced by making changes that would not affect the overall performance of the completed project. These bids have been under review for any cost-cutting measures possible and negotiation with the low bidder since November 16. The consulting engineer's recommendation letter for the award of this contract was forwarded to me late on December 15 and had been too late to place it on the agenda. Because this is a pump station, lots of the equipment that will be necessary for the renovation will have long lead times and the sooner we can give the contractor notice to proceed, the better to keep this project within our EPA timeframe. Due to the critical time factor to get this work done by December 2024, we wanted to bring this to Council on December 20, rather than wait until the January meeting. The staff requests that Council approve the low bid from J. Cumby Construction of \$5,734,000 that would be contingent upon the review and approval by the Division of Water Infrastructure. We have the necessary funding available for this project.

A motion was made by Council Member Epps to approve the consent agenda. Council Member Ellis seconded the motion.

Council Member Kirkman recused himself from the vote on item 12g (approval and adoption of an easement for the Draper Volunteer Fire Department) due to a potential conflict of interest.

All members voted in favor of the motion. The motion carried.

ANNOUNCEMENTS:

Mayor Hall congratulated staff on the events that had taken place throughout the winter. They were a huge success and included the parades and WinterFest at Grogan Park. All the events Ms. Adams organized were always good events. He asked Ms. Adams if she had any announcements.

Ms. Adams said there would be three new events in 2023 in addition to the events already planned.

Council Member Epps thanked everyone for the prayers, condolences and cards after the loss of his brother.

Council Member Underwood wished the citizens a Merry Christmas and a big thank you to the City employees for the jobs they did for the City because they provided the services the citizens received. He would like to go on record that Council needed to reach out to the City's employees and let them know they cared about them.

Council Member Ellis wanted to say Merry Christmas and noted the Morehead High School Band represented the City well across the state. The band was looking to another successful year with the new program the band director had brought to the City. He had brought a number of new students into the program. He wished all a Merry Christmas, including the upstanding community of Rockingham County and to the City's employees. He thanked those employees who had to work during the holiday season and noted he was happy with everything they did for the City as a whole.

ADJOURNMENT:

As there was no further business to discuss, a motion was made by unanimous consent to adjourn.

Respectfully submitted,

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Deanna Hunt  
City Clerk

ATTEST:

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Neville Hall  
Mayor



# ROCKINGHAM COUNTY

## BOARD OF ELECTIONS

December 19, 2022

Mr. Jon Mendenhall, City Manager  
City of Eden  
PO Box 70  
Eden, NC 27289

Re: Municipal Contract

Dear Jon:

The Rockingham County Board of Election requires a current copy of our Municipal contact to be in our office prior to each Municipal Election.

The last time the Municipal contract was reviewed, approved, and signed was in 2015. Some of the general statutes have changed since that time so there have been some changes made to the contract but the terms of the contract remain the same. The last page of the contract must be signed by the Mayor and attested to by the Clerk. Your City seal must be attached below the Clerk's signature.

The signed, original copy must be returned to our office.

If you have any questions please feel free to contact me at 336-342-8110.

Sincerely yours,

A handwritten signature in cursive script that reads "Paula Seamster".

Paula Seamster  
Elections Director

**NORTH CAROLINA  
ROCKINGHAM COUNTY**

**CONTRACT REGARDING THE CONDUCT  
OF MUNICIPAL ELECTIONS**

**THIS AGREEMENT**, made and entered into this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the **Municipality of EDEN** a North Carolina municipal corporation, hereinafter called "**CITY or TOWN**" and the **ROCKINGHAM COUNTY BOARD OF ELECTIONS**, hereinafter called "**BOARD OF ELECTIONS**";

**WHEREAS**, pursuant to G.S. 163-284 - The registration of voters and the conduct of all elections in municipalities and special districts shall be under the authority of the county board of elections. Any contested election or allegations of irregularities shall be made to the county board of elections and appeals from such rulings may be made to the State Board of Elections under existing statutory provisions and rules or regulations adopted by the State Board of Elections. Each municipality and special district shall reimburse the county board of elections for the actual cost involved in the administration required under this section, and;

**WHEREAS**, pursuant to G.S. 163-288.1 – Whenever any new city or special district is incorporated or whenever an existing city or district annexes any territory, the city or special district shall cause a map of the corporate or district limits to be prepared from the boundary descriptions in the act, charter or other document creating the city or district or authorizing or implementing the annexation. The map shall be delivered to the county board of elections conducting the elections for the city or special district. The board of elections shall then activate for city or district elections each voter eligible to vote in the city or district who is registered to vote in the county to the extent that residence addresses shown on the county registration certificates can be identified as within the limits of the city or special district. Each voter whose registration is thus activated for city or special district elections shall be so notified by mail. The cost of preparing the map of the newly incorporated city or special district or of the newly annexed area, and of activating voters eligible to vote therein, shall be paid by the city or special district. In lieu of the procedures set forth in this section, the county board of elections may use either of the methods of registration of voters set out in G.S. 163-288.2 when activating voters pursuant to the incorporation of a new city or election of city officials or both under authority of an act of the General Assembly or when activating voters after an annexation of new territory by a city or special district under Chapter 160A, Article 4A, or other general or local law. (b) Each voter whose registration is changed by the county or municipal board of elections in any manner pursuant to any annexation or expunction under this subsection shall be so notified by mail. (c) The State Board of Elections shall have authority to adopt regulations for the more detailed administration of this section, and;

**WHEREAS**, in the general interest of economy and to avoid duplication of records, personnel and other related costs involved in the election process, it is deemed to be to the mutual benefit of the parties hereto and to the citizens of Rockingham County and the **Municipality of EDEN** that the Rockingham County Board of Elections shall, from the effective date of this agreement and thereafter on a continuing annual basis, assume all duties,

responsibilities and legal charge for conducting all city or town elections, both general and special in nature, and;

**WHEREAS**, the **CITY** originally requested on **August 15, 1973**, that the **BOARD OF ELECTIONS** conduct on its behalf all its future municipal elections and shall be in accordance with a previous formula mutually agreed upon by the **BOARD OF ELECTIONS** and the **Eden City Council**.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, terms and conditions by and between each of the parties hereto, it is hereby mutually agreed and understood as follows:

1. The **BOARD OF ELECTIONS** shall hereafter conduct all elections required by law or otherwise duly called by **CITY**, on behalf of the **CITY**, all as by law provided, and shall further maintain full-time registration for the voters of the **CITY**.
2. The **CITY** shall pay to the **BOARD OF ELECTIONS** the sum calculated annually with the registration of voters December 1<sup>st</sup> of each year with adjustments according to the formula used in setting out the proportion as to the Municipality's fair share. This shall continue annually beginning year 2023, and continuing thereafter as its part of the cost full-time registration of voters and other matters done and performed on behalf of the **CITY** by the **BOARD OF ELECTIONS**.
3. In addition to the payments provided in Paragraph #2 hereof, and in the event a municipal election conducted by the **BOARD OF ELECTIONS** does not coincide with the day of a county-wide election, the **CITY** shall pay to the **BOARD OF ELECTIONS** additional sums as follows:
  - (a) An additional charge of **THREE HUNDRED DOLLARS (\$300.00)** shall be made for any special elections held.
  - (b) The **CITY** shall pay actual election expenses for the conduct of such elections by the **BOARD OF ELECTIONS**, said actual expenses being specifically set forth within the following categories and no other:
    - i. Precinct personnel expenses including chief judges, judges, and assistants for all precincts located within the corporate limits of the **CITY**.
    - ii. Printing of ballots and supplies; ballot re-counting and legal expenses in defense of an action contesting a municipal election where the individual or party initiating is not assessed with cost.
    - iii. Voting place rentals, if applicable.

- iv. One-Stop Absentee voting personnel expenses (pro-rated, if applicable) for any One-Stop sites being utilized for said **CITY** election.
  - v. Any and all supplies pertaining to voting equipment programming and operation for election purposes.
  - vi. Mileage and meetings of the Board of Election members pertaining to such election.
  - vii. Delivery of the equipment to specific precinct locations for the municipal election(s).
  - viii. Any other additional costs or expenses associated with the election may be reimbursed fully by the municipality to the Board of Elections as deemed necessary.
4. In the event of a municipal election concurrent with any other matter on the ballot which does not pertain to the municipal-type election, then the expenses within the municipal precinct(s) only shall be pro-rated such that the **CITY** shall pay **FIFTY PERCENT (50%)** of the total expense incurred within the municipal precincts for conducting the election; provided, however, in the event that there is a state-wide election on the same ballot, then there shall be no cost to the **CITY** where such cost of the election is assumed by the State. *(Meaning that any election required by the state, where the state election and municipal election are on the same ballot and where the state reimburses the county for that election, then there will be no cost to the municipality. However, if separate ballots are required then the municipality is responsible for the cost of the printing of the ballots for their municipal election.)*
5. If the amounts herein required to be paid by the **CITY** to the **BOARD OF ELECTIONS** shall become insufficient or should become more than sufficient to compensate the **BOARD OF ELECTIONS** for actual additional cost of conducting the **CITY** election, then said amounts, and any of them, may be increased or decreased by the **BOARD OF ELECTIONS** to any amount or amounts equal to actual costs including the actual cost of acquisition, maintenance, repair and depreciation of election equipment and other applicable capital costs.
6. This Agreement shall continue year to year and revised accordingly until terminated by either party upon written notice to the other party which notice of termination shall be given at least one hundred twenty (120) days prior to the day of the next municipal election.





To: Honorable Mayor and City Council

Thru: Jon Mendenhall, City Manager

From: Amy P. Winn, CPA  
Assistant Director of Finance

Date: January 17, 2023

Re: Budget Amendment # 4

The attached budget amendment appropriates funds received from the NC Office of State Budget & Management for the purchase of SCBA (air packs) for the Fire Department and a fuel tank system for Fleet Maintenance. This amendment appropriates \$360,000 for the air packs and \$500,000 for the fuel tank system.



MEMORANDUM

To: Honorable Mayor and City Council  
Thru: Jon Mendenhall, City Manager  
From: Amy P. Winn  
Assistant Director of Finance  
Date: January 17, 2023  
Subject: Budget Amendment # 4

	Account #	From	To	Amount
<b>General Fund Revenues</b>				
State Grant	10-3412-42000	\$ -	\$ 860,000.00	<u>\$ 860,000.00</u>
<b>General Fund Expenditures</b>				
Fire C/O Equipment - Depr	10-4340-57000	\$ -	\$ 360,000.00	\$ 360,000.00
Fleet Maint C/O Equipment - Depr	10-6920-57000	\$ 215,000.00	\$ 715,000.00	<u>\$ 500,000.00</u>
				<u>\$ 860,000.00</u>

Appropriates State grant funds received for SCBA purchases for the Fire Department and Fuel Tank System for Fleet Maintenance.

Adopted and effective this 17th day of January, 2023.

Attest:

\_\_\_\_\_  
Deanna Hunt, City Clerk

\_\_\_\_\_  
Neville Hall, Mayor

**RESOLUTION IN SUPPORT OF SEEKING AND SOURCING FUNDING FOR  
TRAFFIC RECONFIGURATION AT BRIDGE STREET, BOONE ROAD AND  
WASHINGTON STREET INTERSECTION**

**WHEREAS**, the City of Eden’s historic downtown area located at or near the intersection of Washington Street, Bridge Street and Boone Road has undergone a recent revitalization, adding news businesses and residents; and

**WHEREAS**, Washington Street continues to be a major thoroughfare, connecting western Eden residents to the central area of the City, and more than 11,000 vehicles traverse the Bridge Street, Boone Road and Washington Street intersection daily; and

**WHEREAS**, it is of utmost importance to move traffic efficiently and safely in this importance section of the Eden community;

**WHEREAS**, NC Department of Transportation has assessed this intersection and found that a reconfiguration of the intersection with such a means as a “Round-a-bout” would improve traffic flow; and

**WHEREAS**, such traffic improvements can be costly to taxpayers, and City of Eden desires assistance with securing the funding from NC Department of Transportation and other state partners who may have the means and resources to assist the City in an effort to ease the burden on the local taxpayers; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Eden City Council does hereby endorse this Resolution in support of seeking and sourcing funding for traffic reconfiguration at Bridge Street, Boone Road and Washington Street Intersection.

This the \_\_\_\_ day of January 2023

APPROVED, ADOPTED AND EFFECTIVE this \_\_\_ day of January, 2023.

CITY OF EDEN

By: \_\_\_\_\_

Neville Hall, Mayor

ATTEST:

\_\_\_\_\_  
Deanna Hunt, City Clerk