The Lincolnton City Council met in Regular Session on Thursday, August 1, 2024 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton, NC.

Meeting was called to order by Mayor Ed Hatley. He asked those in attendance to stand for a moment of silence, afterwhich, he invited Chris Duschel, District Senior vice Counselor of the American Legion, to lead the pledge of allegiance. The following Council members were present and accounted for:

DEMENY POINSETTE TIPTON JETTON

Councilmember Christine Poinsette made a motion to approve the Regular Agenda as presented. Members voted 4-0 in favor of the motion.

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

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

Members voted 4-0 in favor of the motion.

PUBLIC COMMENT

Mayor Hatley opened the floor for the public comment. Mr. Trent Mason and Mr. Alan Hoyle addressed the governing board during this potion of the meeting.

SPECIAL RECOGNITION:

Several individuals were recognized for recent achievements and accomplishments. Chief Brian Greene and Major Dwayne McAllister, started by presenting Noah Watson his intermediate certificate issued by the state of North Carolina. He explained that the certificate is earned through a combination of training, education and experience.

City Manager Ritchie Haynes recognized David Ramsey, Chris Jones, Pamela McBryde, Julie McIntrye, for their recent accomplishments. Mr. Haynes also recognized all those that assisted during the major power outage that recently occurred. He commended everyone on a job well done.

Chief Rhyne Heavner and members of the Fire Department recognized "Old Hulley" for winning the "Best in Show" award. Chief Heavner gave some background on fire truck and recognized both Firemen Colt Henderson and Justin Ford for going above and beyond to represent Lincolnton and the Lincolnton Fire Department.

PUBLIC HEARINGS:

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

Mayor Ed Hatley opened the Public Hearing, after which he recognized City Manager Ritchie Haynes to speak to the item. Mr. Haynes reminded council of the request received to change the speed limit to 22 mph on specific city streets to bring awareness to suicide among veterans. He explained that the city's traffic safety committee found no issues with granting this request and recommended approve this change to the ordinance.

Mayor Ed Hatley recognized Mr. Chris Dushel, the requestor, who spoke on behalf of the veterans and the various organizations that support this cause and thanked Mayor and City Council for their consideration. He explained that anyone, not just veterans, can call the hotline to get help.

Members of council expressed the importance of informing the public about the change and the purpose for the change. The proposed ordinance change was submitted as follows:

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

Chapter 74 TRAFFIC SCHEDULES

SCHEDULE VII: SPEED LIMITS ON CITY MAINTAINTED STREETS

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

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

Mayor Ed Hatley invited public input on request. Mr. Frank Keenan expressed his views on the subject noting his support of the 22 mph change.

Councilmember Christine Poinsette made a motion to close the Public Hearing. Members voted 4-0 in favor of the motion

Councilmember Kevin Demeny made a motion to approve the change to the ordinance. Members voted 4-0 in favor of the motion.

CZ-4-2022A
Piedmont Companies – Request to amend the Site Plan for CZ-4-2022Aoriginally approved on June 2, 2022

Mayor Ed Hatley opened the Public Hearing. Planning Director Jean Derby presented a request from Piedmont Companies to amend the site plan for conditional zoning. Ms. Derby gave a brief background summary stating that the original zoning is located on the west side of North Generals Blvd. and was approved on June 2, 2022. Ms. Derby explained that due to the topography, the applicant is asking for changes to the site plan. She submitted proposed changes to reduce the number of units from 52 to 37, reduce the font setbacks and reconfiguration the layout. Ms. Derby explained in detail what changes are being requested, why they are being requested and the positive impact the changes will have on the project. The land use plan was addressed, as well as staff comments and conditions of approval.

Ms. Derby informed that the Planning Board recommended approval of amending the site plan as presented. The recommended approval of the statement of consistency for approval of the amended plan and that zoning be effective upon receipt of signed conditions of approval.

Councilmember Jill Tipton made a motion to close the Public Hearing. Members voted 4-0 in favor of the motion.

Councilmember Christine Poinsette made a motion to approve the Planning Boards recommendation. Members voted 3-1 in favor of the motion with Councilmembers Kevin Demeny, Christine Poinsette and Jill Tipton voting in favor of the motion. And Councilmember Roby Jetton voting against.

CZ-3-2024A
Olga R. Epple – Request to amend the site plan for CZ-3-2024, Lincoln Meadows Phase II originally approved on March 7, 2024

Mayor Ed Hatley opened the Public Hearing. Planning Director Jean Derby presented a request from applicant, Olga R. Epple, to amend the site plan for Lincoln Meadows Phase II, originally approved on March 7, 2024. She explained that the amendment will allow an adjustment of the proposed boundary line along the potion of the parcel that is zoned N-B (Neighborhood Business). The portion is no longer in N-B would then be rezoned to be included in the Planned Residential District.

She reminded council of the location of the site and the size of the project. Staff comments and conditions of approval were reviewed, as well as Planning Boards recommendations to approve amending the site plan as presented, approval of the statement of consistency for approval of the amended plan and that zoning be effective upon receipt of signed conditions of approval.

Mr. Rob Brown, attorney for the applicant, briefly spoke and offered to answer any questions. He explained that the request basically a land swap to accommodate the site plan. He reported that there is no change in density, no additional units but more administrative clean-up.

Councilmember Kevin Demeny made a motion to close the Public Hearing. Members voted 4-0 in favor of the motion.

Councilmember Christine Poinsette made a motion (recommended) for approval as amended. Members voted 4-0 in favor of the motion.

ZTA-5-2024
Zoning Text Amendments to Chapter 153.121 WSW Water Supply Watershed Overlay District of the United Development Ordinance

Planning Director Jean Derby addressed council to request approval of Zoning Test Amendments. Ms. Derby explained that the Department of Environmental Quality

has updated the Water Supply Watershed Ordinance for the state of North Carolina. She informed that most of Lincolnton is in the Watershed Water Supply Area and that the adoption of the proposed ordinance will allow for the City's UDO to reflect the most recent version of what the state statute has. She also stated that the updated ordinance must to be adopted to be eligible for FEMA funds.

Councilmember Christine Poinsette made a motion to close the Public Hearing. Members voted 4-0 in favor of the motion.

Councilmember Jill Tipton made a motion to approve the zoning text amendments as outlined. Members voted 4-0 in favor of the motion.

REGULAR AGENDA:

O-10-24
Consideration of Request to amend the City's Code of Ordinances – Title V: Public Works Chapter 51: Water – Backflow and Cross Connections

Water Resources Director Todd Elmore appeared before council to request an amendment to the City's Code of Ordinances regarding backflow and cross connections. Mr. Elmore explained that North Carolina Department of Water Quality requires the testing of back flows yearly. He stated that the current ordinance is not sufficient and needs to be updated. These changes will add the vital information needed in the ordinance and give staff the authority to enforce the guidelines outlined in the ordinance. The preamble and ordaining clause was presented as follows:

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

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

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

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

CROSS-CONNECTION CONTROL ORDINANCE
City of Lincolnton (Lincolnton, NC)

§51.45 INTRODUCTION

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

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

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

§51.46 OBJECTIVES OF ORDINANCE

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

a. To protect the public potable water supply against actual or potential contamination by isolating within each consumer's water system, contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross-connections into the public water system.

b. To eliminate or control existing cross-connections, actual or potential, between each consumer's potable water system and non-potable or industrial piping system(s).

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

§51.47 RESPONSIBILITIES

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

1. Responsibility: Health Agency

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

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

2. Responsibility: Water Purveyor

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

system, to determine the degree of protection required, and to ensure proper containment protection through an on-going inspection program.

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

3. Responsibility: Plumbing Inspections

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

The plumbing inspector's responsibility begins at the point of delivery (downstream of the first installed backflow prevention assembly) and continues throughout the entire length of the consumer's water system. The plan inspector should inquire about the intended use of water at any point where it is suspected that a cross-connection might be made or where one is actually called for by the plans. When such actual or potential cross-connection is discovered it shall be mandatory that a suitable backflow prevention assembly, approved by the North Carolina Building Code, the Division of Environmental Quality and/or the City as applicable, be required by the plans and be properly installed.

4. Responsibility: Consumer

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

5. Responsibility: Certified Backflow Prevention Assembly Tester

When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities: The tester will be responsible for making competent inspections and for repairing or overhauling backflow prevention assemblies and making reports of such repair to the consumer and

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

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

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

§51.48 DEFINITIONS

1. Air-Gap Separation

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

2. Approved

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

3. Backflow

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

4. Backflow Prevention Assembly, Approved

The term "approved backflow prevention assembly" shall mean an assembly used for containment and/or isolation purposes that has been investigated and approved by the City and has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), or the Foundation for Cross-connection Control and Hydraulic Research of the University of Southern

California. The approval of backflow prevention assemblies by the City is based on a favorable report by the Foundation for Cross-connection Control and Hydraulic Research of the University of Southern California, recommending such an approval. To be approved, an assembly must be readily accessible for in-line testing and maintenance, and shall successfully complete a one-year field evaluation within the City of Lincolnton's water system.

5. Backflow Prevention Device, Approved

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

6. Backflow Prevention Assembly, Unapproved

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

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

7. Backflow Prevention Assembly, Types

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

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

8. Backflow Prevention Assembly Tester, Certified

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

9. Back-Pressure Backflow

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

10. Back-Siphonage Backflow

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

11. Check Valve, Approved

The term "approved check valve" shall mean a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one (1) psi and the outlet pressure is zero. The

check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (e.g. clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly - i.e., pressure vacuum breaker, double check valve assembly, double check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly.

12. Consumer

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

13. Consumer's Water System

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

14. Consumer's Potable Water System

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

15. Containment

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

16. Contamination

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

17. Cross-connection

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

18. Double Check Valve Assembly

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

19. Double Check-Detector Assembly

The term "double check-detector assembly" shall mean a specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass water meter and a meter-sized approved double check valve assembly. The meter shall register (in U.S. gallons)

accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a non-health hazard (i.e., pollutant).

20. Hazard, Degree of

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

21. Hazard, Health

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

22. Hazard, Non-Health

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

23. Hazard, Pollutant

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

24. Health Agency

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

25. Industrial Fluids

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

26. Industrial Piping System, Consumer's

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

27. Isolation

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

28. Point Of Delivery

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

29. Pollution

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

30. Potable Water

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

31. Public Potable Water System

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

32. Reduced Pressure Principle Backflow Prevention Assembly

The term "reduced pressure principle backflow prevention assembly" shall mean an assembly containing within its structure a minimum of two (2) independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shut-off valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e. contaminant).

33. Reduced Pressure Principle-Detector Assembly

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

34. Service Connections

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

35. Vacuum Breaker, Atmospheric

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

36. Vacuum Breaker, Pressure

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

37. Water Purveyor

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

38. Water Supply, Approved

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

39. Water Supply, Auxiliary

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

40. Water Supply, Unapproved

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

41. Water, Used

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

§51.49 RIGHT OF ENTRY

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

§51.50 ELIMINATION OF CROSS-CONNECTIONS: DEGREE OF HAZARD

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

a. Cross-connections with private wells or other auxiliary water supplies shall be immediately disconnected.

b. All facilities which pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle backflow prevention assembly within 60 days.

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

§51.51 INSTALLATION OF ASSEMBLIES

1. All backflow prevention assemblies shall be installed in accordance with the specifications furnished by the City and/or the manufacturer's installation instructions and/or in the latest edition of the North Carolina Building Code, whichever is most restrictive.
2. All new construction plans and specifications, when required by the North Carolina Building Code and the North Carolina Department of Environmental Quality, shall be made available to the City of Lincolnton for review and approval, and to determine the degree of hazard.
3. Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.
4. All double check valve assemblies must be installed in drainable pits wherever below ground installation is necessary.
5. Reduced pressure principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances (pit and/or below grade installations are prohibited). Double check valve assemblies may be installed in a vertical position with prior approval from the City, provided the flow of water is in an upward direction.
6. Any installed unapproved backflow prevention assembly must be replaced with an approved backflow prevention assembly.
7. The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the City within fifteen (15) days after a reduced pressure principle backflow preventer (RP), double check-detector assembly (DCDA), pressure vacuum breaker (PVB), or reduced pressure principle detector assembly (RPDA) is installed:

a. service address where assembly is located;
b. owner (and address, if different from service address);
c. description of assembly's location;
d. date of installation;
e. installer (include name, certification number, and project permit number);
f. type of assembly, size of assembly;
g. manufacturer, model number, serial number; and
h. test results/reports.

8. When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The City of Lincolnton will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.

9. The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:

Health Hazard.....60 days
Non-Health Hazard.....90 days

10. Following installation, all RP, DCVA, PVB, DCDA, and RPDA assemblies are required to be tested by a certified backflow prevention assembly tester within ten (10) days.

§51.52 TESTING AND REPAIR OF ASSEMBLIES

1. Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester. Such tests are to be conducted upon installation and annually thereafter, or at a frequency established by the City. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the City within ten (10) business days after the completion of any testing and/or repair work.

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

Health Hazard Facilities …… 14 days
Non-Health Hazard Facilities ……. 21 days

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

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

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

§51.53 FACILITIES REQUIRING PROTECTION

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

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

DCVA = Double Check Valve Assembly

RP = Reduced Pressure Principle Assembly

DCDA = Double Check Detector Assembly

RPDA = Reduced Pressure Detector Assembly

AG = Air Gap

PVB = Pressure Vacuum Breaker

1. Aircraft and Missile Plants: RP
2. Automotive Services Stations, Dealerships, etc.
   a. No Health Hazard: DCVA
   b. Health Hazard: RP
3. Automotive Plants: RP
4. Auxiliary Water Systems:
   a. Approved Public/Private Water Supply: DCVA
   b. Unapproved Public/Private Water Supply: AG
   c. Used Water and Industrial Fluids: RP
5. Bakeries:
   a. No Health Hazard: DCVA
   b. Health Hazard: RP
6. Beauty Shops/Barber Shops
   a. No Health Hazard: DCVA
   b. Health Hazard: RP
7. Beverage Bottling Plants: RP
8. Breweries: RP
9. Buildings - Hotels, apartment houses, public and private buildings, or other structures having unprotected cross-connections.
   a. (Under five stories) No Health Hazard: DCVA
   b. (Under five stories) Health Hazard: RP
   c. (Over five stories) All: RP
10. Canneries, packing houses, and rendering plants: RP
11. Chemical plants - Manufacturing, processing, compounding or treatment: RP
12. Chemically contaminated water systems: RP
13. Commercial car-wash facilities: RP
14. Commercial greenhouses: RI.
15. Commercial sales establishments (department stores, malls, etc.)
    a. No Health Hazard: DCVA
    b. Health Hazard: RP

16. Concrete/asphalt plants: RP
17. Dairies and cold storage plants: RI.
18. Dye works: RI.
19. Film laboratories: RI.
20. Fire systems

Systems ¾-inch to 2-inch
a. No Health Hazard: DCDA
b. Health Hazard (Booster Pumps, Foam, Antifreeze Solution, etc.) RPDA
Systems 2 ½-inch to 10-inch, or larger
a. No Health Hazard: DCDA
b. Health Hazard (Booster Pumps, Foam, Antifreeze Solution, etc.) RPDA

21. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP.
22. Industrial facilities:
a. No Health Hazard: DCVA
b. Health Hazard: RP
23. Laundries:
a. No Health Hazard: DCVA
b. Health Hazard: (i.e., Dry Cleaners): RP
24. Lawn irrigation systems (split taps):
a. No Health Hazard: DCVA
b. Health Hazard: (Booster Pumps, Chemical Systems): RP
25. Metal manufacturing, cleaning, processing, and fabricating plants: RP
26. Mobile home parks:
a. No Health Hazard: DCVA
b. Health Hazard: RI
27. Oil and gas production, storage or transmission properties: RP
28. Paper and paper products plants: RP
29. Pest control (exterminating and fumigation): RP
30. Plating Plant: RP
31. Power Plants: RP
32. Radioactive materials or substances, plants or facilities handling: RP
33. Restaurants
a. No Health Hazard: DCDA
b. Health Hazard: RP
34. Restricted, classified, or other closed facilities: RP
35. Rubber plants (natural or synthetic): RP
36. Sand and gravel plants: RP
37. Schools and colleges: RP
38. Sewage and storm drain facilities: RP
39. Swimming Pools: RP
40. Waterfront facilities and industries: RP
All assemblies and installations shall be subject to inspection and approval by the City.

§51.54 CONNECTIONS WITH UNAPPROVED SOURCES OF SUPPLY

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

§51.55 FIRE PROTECTION SYSTEMS

1. All connections for fire protection systems connected with the public water system, two (2) inches and smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.
2. All connections for fire protection systems connected with the public water system greater than two (2) inches, shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.
3. All existing backflow prevention assemblies two and one-half (2 ½) inches and larger installed on fire protection systems (that were initially approved by the City and/or Lincoln County, as applicable) shall be allowed to remain on the premises, as long as they are being properly maintained, tested and repaired as required by this Ordinance. If, however, the existing assembly must be replaced (once it can no longer be repaired), or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by this provision.

§51.56 ENFORCEMENT

1. The owner, manager, supervisor, or person in charge of any installation found not to be in compliance with the provisions of this Ordinance shall be notified in writing with regard to the corrective action(s) to be taken. The time for compliance shall be in accordance with this Ordinance.
2. The owner, manager, supervisor, or person in charge of any installation which remains in non-compliance after the time prescribed in the initial notification, shall be considered in violation of this Ordinance, and may be issued a civil citation by the City. Said citation shall specify the nature of the violation and the provision(s) of this Ordinance violated, and further notify the offender that the civil penalty for said violation is as set forth in paragraph (3) below and is to be paid to the City and payment remitted at City Hall within thirty (30) days. If the penalty prescribed herein is not paid within the time allowed, the City of Lincolnton may initiate a civil action in the nature of a debt and recover the sums set forth in paragraph (3) below plus the cost of the action.
3. Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to a civil penalty of up to $1,000.00 per violation. Each day in which a violation of any provision of this Ordinance shall occur or continue shall constitute a separate and distinct offense.

4. If, in the judgment of the City, any owner, manager, supervisor, or person in charge of any installation is found to be in non-compliance with the provisions of this Ordinance neglects their responsibility to correct any violation, it may result in discontinuance of water service until compliance is achieved.

5. Failure of a customer (or certified tester on behalf of a customer) to submit any record required by this Ordinance, or the submission of falsified reports/records may result in a civil penalty of up to $1,000.00 per violation assessed against the customer. If a certified backflow prevention assembly tester submits falsified records to the City, the City shall take the necessary actions to revoke certification to test backflow prevention assemblies within the potable water system for a time period not to exceed five (5) years. The tester will then be required to complete an approved certification course to acquire a new certification. Falsification made to records/reports after becoming re-certified shall result in the permanent revocation of backflow testing certification, in addition to a civil penalty (as stated herein).

6. Enforcement of this program shall be administered by the Director of Water Resources or his authorized representative.

7. Requests for extension of time shall be made in writing to the Director of Water Resources or his authorized representative. All other appeals shall be made in accordance with the following procedures:

(A) Adjudicatory Hearings. A customer assessed a civil penalty under this section shall have the right to an adjudicatory hearing before a hearing officer designated by the Director of Water Resources upon making written demand, identifying the specific issues to be contended, to the Director of Water Resources within 30 days following notice of final decision to assess a civil penalty. Unless such demand is made within the time specified herein, the decision on the civil penalty assessment shall be final and binding.

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

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

(1) All notices, motions, and other like pleadings;

(2) A copy of all documentary evidence introduced:

(3) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;

(4) A copy of the final decision of the City Manager.

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

This ordinance shall be effective upon adoption.

Councilmember Christine Poinsette made a motion to approve. Members voted 4-0 in favor of the motion.

R-09-2024
Consideration/Approval of State Emergency Loan for WWTP Clarifers

Finance Director Pam McBryde presented the following resolution to the governing board for approval as follows:

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

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

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

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

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

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

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

Rehabilitation of Clarifier and Replacement of 2 RAS Pumps – Project No. SEL-W-0057

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

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

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

Ms. McBryde stated that the Local Government Commission is requiring approval of the proposed resolution in order to release the funding the City has been awarded for the wastewater treatment clarifiers. She explained that this formal action is needed from Council accepting the loan from the state.

Councilmember Jill Tipton made a motion to approve the Emergency Loan. Members voted 4-0 in favor of the motion

O-11-24
Capital Project Budget Ordinance – Project No. DEL-W-0057

Finance Director Pamela McBryde addressed council to request approval of a capital project budget ordinance for the State Emergency Loan. Ms. McBryde explained this is also a requirement of the Local Government Commission. The budget ordinance was presented as follows:

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

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

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

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

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

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

State Reserve Loan (Emergency)		$ 1,640,150

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

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

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

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

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

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

With no question from Council, Councilmember Roby Jetton made a motion to approve the budget ordinance. Members voted 4-0 in favor of the motion.

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

Public Service Director Nathan Eurey, on behalf of the Safety Committee, appeared before Council to request the addition of Cul-de-sacs to Schedule 1 of the Parking Schedule. Mr. Eurey briefly explained the parking issues being experienced and the reason this request is being made. He reminded council of discussion at the budget retreat on the issue held earlier in the year. The recommended amendment to the parking ordinance was presented as follows:

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

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

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

SCHEDULE 1: PARKING PROHIBITED AT ALL TIMES

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

This ordinance shall be effective upon adoption.

Councilmember Kevin Demeny made a motion to approve. Members voted 4-0 in favor of the motion.

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

Public Services Director Nathan Eurey presented a second recommendation to council regarding adding a Section VIII to the current Parking Schedule. This section, he explained, will address parking on Dead End Streets. The proposed change was submitted as follows:

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

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

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

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

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

On-Street parking prohibited where indicated by signage

This ordinance shall be effective upon adoption.

There was some discussion regarding which streets would be effected. Mr. Eurey noted that the list was not included but could be provided.

Councilmember Jill Tipton made a motion to approve. Members voted 4-0 in favor of the motion.

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

Chief of Police Brian Greene began reminding Council of the direction they received at this years budget retreat to review the City's ordinance and streamline the registration process for golf carts for city residents. Chief Greene spoke to proposed changes as compared to the current registration process. The amendment was presented as follows:

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

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

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

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

§ 70.30 PURPOSE.

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

(Ord. passed - -)

§ 70.31 FINDINGS; AUTHORITY.

(A) The city finds and determines that:

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

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

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

(B) Authority is contingent upon approval of legislation.

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

§ 70.32 DEFINITIONS.

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

CITY. The City of Lincolnton, NC.

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

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

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

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

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

Statutory reference:

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

§ 70.33 GOLF CART DESIGN CRITERIA.

(A) Minimum golf cart vehicle design criteria and travel plan areas are hereby established. Golf Carts must meet the requirements or minimum standards of safety equipment as set forth in this ordinance. Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a rear triangle reflector of the same type required by North Carolina law.

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

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

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

(a) All other factory installed safety equipment

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

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

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

(e) Rubber or equivalent tires;

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

(g) Speed governor if gasoline powered; and

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

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

§ 70.34 REGISTRATION PROCESS AND FEE PRIOR TO USAGE.

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

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

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

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

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

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

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

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

(1) the application contains any material misrepresentation; or

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

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

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

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

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

§ 70.35 OPERATION RESTRICTIONS.

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

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

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

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

(2) Any portion of US 321.

(3) Any portion of Generals Blvd.

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

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

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

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

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

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

allowed to cross a control access facility other than at bridges which cross over or under a control access facility.

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

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

§ 70.36 OPERATION ON PUBLIC HIGHWAYS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 70.37 SAFETY EQUIPMENT, REQUIRED.

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

(1) Headlights and taillights if the operator plans to drive after dark;

(2) Rubber or equivalent tires;

(3) Adequate steering gear, brakes, emergency or parking brake, rear-view mirror, adequately fixed drivers seat;

(4) All other factory installed safety or mechanical systems, including no gasoline or propane leaks;

(5) Speed governor if gasoline powered;

(6) Golf carts with “lift kits” may not be more than 22 inches high measured from floorboard of cart to the ground; and

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

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

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

§ 70.38 INSURANCE REQUIREMENTS.

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

(Ord. passed - -)

§ 70.39 LIABILITY DISCLAIMER.

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

(Ord. passed - -)

§ 70.40 VIOLATIONS.

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

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

§ 70.99 PENALTY FOR TITLE VII.

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

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

(B) Notice to be affixed. Whenever a member of the Police Department of the city or other person authorized with the enforcement of the provisions of this chapter

regulating parking of vehicles shall find that any of those provisions are being, or have been violated by the owner and/or operator of the vehicle, the officer or person shall notify the owner and/or operator of the vehicle of the violation by conspicuously attaching to the vehicle a parking violation notice or citation.

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

(D) Penalty.

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

(2) The maximum total combined fines and penalties for a single $20 violation shall be $50. When the maximum is reached for either a single violation or receives three or more for the same owner and/or operator, he or she will be notified in writing of the intent of the city to pursue claims through appropriate civil action or through referral to a collection agency. Once a civil action is initiated, any fees or costs, including but not limited to, attorney fees, involved in the civil action shall be added to the settlement in each action and shall be due and payable by the owner and/or operator.

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

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

This ordinance shall be effective upon adoption.

Chief Green briefly named several of the forms that will be required and where citizens will need to go to complete the registration. He assured that any violations will be handled through enforcement. Chief Greene answered several questions regarding the process from councilmembers clarifying the process.

Councilmember Christine Poinsette made a motion to approve the amended golf cart ordinance. Members voted 4-0 in favor of the motion.

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

Chief Brian Greene appeared before council to request an amendment to the City's Urban Camping Ordinance. Chief Green explained that the changes are based off the recent ruling from the US Supreme Court. The amended ordinance was presented as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Rules.

(1) Unlawful camping on public property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Persons sitting or lying down as a result of a medical emergency;

(b) Persons in wheelchairs sitting on sidewalks;

(c) Persons sitting down while attending parades;

(d) Persons sitting down while patronizing sidewalk cafes; or

(e) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage.

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

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

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

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

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

This ordinance shall be effective upon adoption.

Councilmember Kevin Demeny made a motion to approve the amended Urban Camping Ordinance. Members voted 4-0 in favor of the motion.

Manager's Activity Report / Update

Mayor Ed Hatley recognized City Manager Ritchie Haynes who spoke to a number of activities and upcoming events in the City. He also distributed a packet of materials to council and mentioned several dates during the month for member to be aware of. Mr. Haynes recognized the following employees for different achievements they have attained: Daniel Perry, Justin Elmore, Kobe Heirs, and Asst. Chief Rusty Reynolds. He also mentioned Justin Ford, Austin, Morton, Jamal Mitchell and Chad Hatmaker, who all received their EMT certification. He ended by updating council on the various projects that are currently underway.

News Media

Mayor Ed Hatley opened the floor for questions from members of the media that were in attendance. City Manager Ritchie Haynes responded to several questions from Reporter Mike Powell regarding the economic benefits that is being realized from the Social District and his thoughts on the issued with the July 4th fireworks show.

Adjournment

Councilmember Christine Poinsette made motion to adjourn. Members voted 4-0 in favor of the motion.

_____	_____
DAPHNE INGRAM, CMC	**ED HATLEY**
CITY CLERK	**MAYOR**