

## AUGUST 7, 2007 CITY COUNCIL MEETING

The City Council of the City of Clinton, North Carolina met in regular session at 7:00 p.m. on August 7, 2007 at city hall auditorium. Mayor Starling presided. All councilmembers were present. The city attorney Dale Johnson; city clerk Betty Fortner; deputy clerk Elaine Hunt; city manager John Connet; finance director Betty Brewer; fire chief Phillip Miller; planning and community development director Jeff Vreugdenhil; planner Mary Rose; police chief Mike Brim; public works director Chris Doherty; and recreation director Judi Nicholson were present.

Chris Fann gave the invocation.

Upon a motion made by Councilmember Becton, seconded by Councilmember Harris, the minutes of the July 10, 2007 city council meeting were unanimously approved.

### PROCLAMATIONS

Mayor Starling presented Robert Boykin a proclamation recognizing National Truck Driver Appreciation Week August 26 through September 1, 2007.

### OATHS

The city clerk administered oaths to Jeff Vreugdenhil and Candra Capers.

### **P& Z—SOUTHWOOD DRIVE—CAPERS**

Mayor Starling opened a public hearing on a request by Candra Capers for a conditional use permit to operate an in-home daycare at 590 Southwood Drive. Planning Director Vreugdenhil presented the planning and zoning board's recommendation to approve the permit and to require fencing around the play area. (Note: Fencing requirements not delineated.)

No one else wished to be heard, and the hearing was closed.

Mayor Starling read Standard 1: The use will not endanger the public health, safety, or general welfare if located where proposed and developed according to plan. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 2: The use meets all required conditions and specifications as outlined in the conditional use application, and/or as imposed by the city council. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 3: The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood, or is a public necessity. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Mayor Starling read Standard 4: The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in conformity with the Clinton Development Plan. He then called for a vote on whether the requested use would meet this standard. Five voted that the standard would be met. No one voted no.

Upon a motion made by Councilmember Strickland, seconded by Councilmember Harris, a conditional use permit was unanimously approved for an in-home day care at 590 Southwood Drive subject to erecting a fence around any play areas.

### **STREET CLOSING—RALEIGH ROAD**

Mayor Starling opened a public hearing on a request by Ronnie Jackson for the closing of Old Raleigh Road lying between East Cutchin Street and the dead end. City Manager Connet recommended the closing subject to the city obtaining easements for utilities located within the street requested to be closed and asked that if the request is approved to delay the effective date for thirty days. No one else wished to be heard, and the hearing was closed.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Strickland, the following resolution was unanimously adopted:

#### **A RESOLUTION ORDERING THE CLOSING OF A PORTION OF OLD RALEIGH ROAD**

**WHEREAS**, on the 19th day of June, 2007, the City Council of the City of Clinton directed the City Clerk to publish Resolution of Intent of the City Council to consider closing that portion of Old Raleigh Road between East Cutchin Street and the previously closed section of Old Raleigh Road and being more particularly described as follows:

BEGINNING at an iron stake located at the point of intersection of the northern right of way line of East Cutchin Street and the western right of way line of Old Raleigh Road and running with the eastern boundary lines of Lots 6, 5 and 4 (now owned by Clinton Truck & Tractor, Inc.), North 18 degrees 25 minutes 59 seconds West 160.30 feet to a point in the western right of way line of Old Raleigh Road; thence North 66 degrees 26 minutes 59 seconds East 45 feet to a point in the eastern right of way line of Old Raleigh Road (being also the western boundary line of Ronald V. Jackson as described in Book 1109 at Page 100 of the Sampson County Registry); thence, with the said line of Ronald V. Jackson South 18 degrees 25 minutes 59 seconds East 160.3 feet; thence South 68 degrees 37 minutes 27 seconds West 45 feet to a point in the western right of way line of Old Raleigh Road, the point of BEGINNING; and

**WHEREAS**, the City Clerk has advised the City Council of the City of Clinton that she sent a letter to each of the abutting property owners advising them of the day, time and place of the meeting, enclosing a copy of the Resolution on Intent, and advising the abutting property owners that the question as to said closing would be considered and acted upon; and

**WHEREAS**, the City Clerk has advised the City Council of the City of Clinton that adequate notices were posted on the applicable streets as required by N.C.G.S. 160A-299; and

**WHEREAS**, after full and complete opportunity of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to said street closings in the public hearings held on August 7, 2007.

**NOW, THEREFORE**, subject to all easements, private or public, recorded or unrecorded, that portion of Old Raleigh Road between East Cutchin Street and the previously closed section of Old Raleigh Road and being more particularly described as follows:

BEGINNING at an iron stake located at the point of intersection of the northern right of way line of East Cutchin Street and the western right of way line of Old Raleigh Road and running with the eastern boundary lines of Lots 6, 5 and 4 (now owned by Clinton Truck & Tractor, Inc.), North 18 degrees 25 minutes 59 seconds West 160.30 feet to a point in the western right of way line of Old Raleigh Road; thence North 66 degrees 26 minutes 59 seconds East 45 feet to a point in the eastern right of way line of Old Raleigh Road (being also the western boundary line of Ronald V. Jackson as described in Book 1109 at Page 100 of the Sampson County Registry); thence, with the said line of Ronald V. Jackson South 18 degrees 25 minutes 59 seconds East 160.3 feet; thence South 68 degrees 37 minutes 27 seconds West 45 feet to a point in the western right of way line of Old Raleigh Road, the point of BEGINNING.

As to such portion of Old Raleigh Road being closed, all right, title and interest may be vested in the public for street purposes are hereby released and quitclaimed to the abutting owners in accordance with N.C.G.S. 160A-299 effective September 6, 2007.

The City Clerk is hereby ordered and directed to file in the Office of the Register of Deeds a certified copy of this resolution and order.

#### **ANNEXATION—HARDISON—FOX LAKE**

Mayor Starling opened a public hearing on a request by Christopher and Stacey B. Hardison for the petition annexation of 306 Fox Lake Drive. City Manager Connet said the city can furnish the required utilities to the lot and recommended annexation. No one else wished to be heard, and the hearing was closed.

Upon a motion made by Councilmember Turlington, seconded by Councilmember Harris, the following ordinance #2007.08.01 was unanimously adopted:

#### **AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF CLINTON, NORTH CAROLINA**

**WHEREAS**, the City Council of the City of Clinton, North Carolina has been petitioned under G.S. 160A-31 to annex the area described below; and

**WHEREAS**, the City Council of the City of Clinton has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

**WHEREAS**, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall Auditorium at 7:00 P.M. on August 7, 2007, after due notice by publication on July 24, 2007.

**WHEREAS**, the City Council of the City of Clinton finds that the petition meets the requirements of G.S. 160A-31;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Clinton, North Carolina that:

**Section 1.** By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Clinton as of August 7, 2007: BEING ALL OF LOT NO. 2, containing .59 of an acre, more or less, in the Cooper's Mill Subdivision, "Section One", according to a map prepared by Owens Surveying, dated September, 1990 and recorded in Map Book 24 , Page 68, of the Sampson County Registry, to which map reference is hereby made for a more complete description by metes and bounds.

**Section 2.** Upon and after August 7, 2007, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Clinton and shall be entitled to the same privileges and benefits as other parts of the City of Clinton. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

**Section 3.** The Mayor of the City of Clinton shall cause to be recorded in the office of the Register of Deeds of Sampson County, and in the office of the Secretary of State, Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Sampson County Board of Elections, as required by G.S. 163-288.1.

### **APPOINTMENTS**

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton and unanimously passed, Perry Solice was reappointed to the ABC Board for a three year term ending August 2010.

Notice was given of Cecil Harris' resignation from the Library Board.

### **RECOGNITIONS**

Mayor Starling recognized Carolina Price, Girl Scout Troup 363, who is working on a Silver Badge.

### **CITY CODE—WATER & SEWER**

Upon a motion made by Councilmember Strickland, seconded by Councilmember Harris, the following ordinance #2007.08.02 was unanimously adopted:

Be It Ordained by the City Council of the City of Clinton, North Carolina that Chapter 22, Article V, of the Clinton City Code of 1987 is hereby amended to read as follows:

#### **DIVISION 1 - GENERAL PROVISIONS**

##### **22-76 Purpose and Policy**

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the **City of Clinton**, hereafter referred to as the City, and enables the City to

comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

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

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

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

#### **22-77 Definitions and Abbreviations**

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:
  - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, *et seq.*
  - (2) Approval Authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
  - (3) Authorized Representative of the Industrial User.
    - (i) If the industrial user is a corporation, authorized representative shall mean:
      - A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
      - B) the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment DECISIONS, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
  - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
  - (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
  - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
  - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
  - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
  - (8) Director. The person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.
  - (9) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
  - (10) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
  - (11) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
  - (12) Indirect Discharge or Discharge. The discharge or the introduction from any non-domestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
  - (13) Industrial User or User. Any person which is a source of indirect discharge.
  - (14) Interference. The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
  - (15) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

- (16) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (17) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section **22-81** of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (18) New Source.
  - (i) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
    - (A) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
    - (B) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - (C) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - (ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (i)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.
  - (iii) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
    - (A) Begun, or caused to begin, as part of a continuous on-site construction program:
      - 1. Any placement, assembly, or installation of facilities or equipment; or
      - 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
    - (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility , engineering, and design studies do not constitute a contractual obligation under this definition.
- (19) Non-contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (20) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (21) Non-discharge Permit. A disposal system permit issued by the State pursuant to N.C.G.S. 143-215.1.
- (22) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or Non-discharge Permit, or a downstream water quality standard.
- (23) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.

- (24) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (25) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (26) POTW Director (Director). The City administrator designated with the responsibility for the pretreatment program and enforcement of this Sewer Use Ordinance.
- (27) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (28) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (29) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (30) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (31) Pretreatment Standards. Prohibited discharge standards, categorical standards, and local limits.
- (32) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, or in any other way, users of the POTW of the City.
- (33) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (34) Significant Industrial User. Any industrial user of the wastewater disposal system who
- (i) has an average daily process wastewater flow of 25,000 gallons or more, or
  - (ii) contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or
  - (iii) is required to meet a National categorical pretreatment standard, or
  - (iv) is found by the City, the Division Of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- (35) Significant Noncompliance or Reportable Noncompliance. A status of noncompliance defined as follows:
- (i) Violations of wastewater discharge limits.

- A. Chronic Violations. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.
  - B. Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements equal or exceed the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:
    - For the conventional pollutants: BOD, TSS, fats, oil and grease TRC = 1.4
    - For all other pollutants TRC = 1.2
  - C. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.
  - D. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (ii) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
  - (iii) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
  - (iv) Failure to accurately report noncompliance.
  - (v) Any other violation or group of violations that the control authority considers to be significant.
- (36) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section **22-81** of this ordinance.
  - (37) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
  - (38) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting there from.
  - (39) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
  - (40) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.
  - (41) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
  - (42) Wastewater Permit. As set forth in section **22-122** of this ordinance.
  - (43) Waters of the State. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.

- (c) Shall is mandatory; may is permissive or discretionary.
- (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
- (e) The following abbreviations when used in this ordinance shall have the designated meanings:

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

**Secs. 22-78—22-80 Reserved.**

## **DIVISION 2 - GENERAL SEWER USE REQUIREMENTS**

### **22-81 Prohibited Discharge Standards**

- (a) **General Prohibitions.** No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) **Specific Prohibitions.** No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
  - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
  - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.
  - (3) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
  - (4) Any wastewater having a pH less than 5.0 or more than 10.0, unless by special provision or permit, or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
  - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
  - (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
  - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  - (8) Any trucked or hauled pollutants, except at discharge points designated by the Director in accordance with section **22-89** of this ordinance.

- (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
- (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations.
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water and unpolluted industrial wastewater, unless specifically authorized by the Director.
- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l, provided that up to five hundred (500) mg/L may be discharged by permit authorization.
- (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (16) Any medical wastes, except as specifically authorized by the Director in a wastewater discharge permit.
- (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the Director.
- (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
- (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (21) Recognizable portions of the human or animal anatomy.
- (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

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

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

- 1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with section **22-161**; and
- 2) take appropriate actions in accordance with division **4** for such user to protect the POTW from interference or pass through.

**22-82 National Categorical Pretreatment Standards**

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

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

**22-83 Local Limits**

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	250	mg/l	
TSS	250	mg/l	
NH <sub>3</sub>	25	mg/l	
Aluminum	3	mg/l	
Arsenic	0.003	mg/l	
Cadmium	0.003	mg/l	
Chromium	0.05	mg/l	(total chromium)
Copper	0.061	mg/l	
Cyanide	0.015	mg/l	
Lead	0.049	mg/l	
Mercury	0.0003	mg/l	
Molybdenum	0.060	mg/l	
Nickel	0.021	mg/l	
Silver	0.005	mg/l	
Zinc	0.175	mg/l	

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

**22-84 State Requirements**

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

**22-85 Right of Revision**

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section 22-76 of this ordinance or the general and specific prohibitions in section 22-81 of this ordinance, as is allowed by 40 CFR 403.4.

**22-86 Dilution**

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

## **22-87 Pretreatment of Wastewater**

### **(a) Pretreatment Facilities**

Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under section **22-122** of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in section **22-81** of this ordinance within the time limitations as specified by EPA, the State, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Director prior to the user's initiation of the changes.

### **(b) Additional Pretreatment Measures**

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

## **22-88 Accidental Discharge/Slug Control Plans**

- (a) The Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 22-77(a)(36). All SIUs must be evaluated within one year of being designated an SIU. The Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Director may develop such a plan for any user.
- (b) All SIU's are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 22-135 and 22-136.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
  - (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the Director of any accidental or slug discharge, as required by section **22-136** of this ordinance; and
  - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

## **22-89 Hauled Wastewater**

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate division 2 of this ordinance or any other requirements established by the City. The Director may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The Director shall require haulers of industrial waste to obtain wastewater discharge permits. The Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- (c) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

## **22-90 Protection from Damages**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any element or appurtenance of the POTW including equipment belonging to the city used for the purposes of making tests or examinations and left upon the premises of a person discharging wastes into the sewers.

## **22-91 Use of Public Sewers Required**

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property in areas under the jurisdiction of the local government any human or animal excrement, garbage or objectionable waste. It shall be unlawful to discharge to any natural outlet in areas under the jurisdiction of the local government any wastewater except where suitable treatment has been provided in accordance with subsequent provisions of this article and with regulations of the DEM. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, abutting on any street, alley, or right-of-way in which there is a public sanitary sewer, is hereby required at the expense of the owner to install suitable toilet facilities therein, and to connect such facilities directly with the public sewer in accordance with the provisions of this article, within ninety (90) days after date of official notice to do so, provided that said public sewer is one hundred fifty (150) feet of the property line. Under unusual or specific circumstances, the local government may waive this provision.

An owner who has a private wastewater disposal system that complies with all recommendations of the Sampson County health department and the DEM shall have the option of paying the sewer use fee in lieu of connecting to the public sewer. In such case, the owner shall operate and maintain the private wastewater disposal facility in a sanitary manner in accordance with the recommendations of the Sampson County health department and the DEM and shall bear the cost of operating and maintaining the private wastewater disposal system at no expense to the local government.

Where a sanitary sewer is not available within one hundred fifty (150) feet of a property line, the owner shall not be required to pay a sewer use fee. At such time as a public sanitary sewer becomes available to a property served by a private wastewater disposal system, the owner shall be required to pay the sewer use fee whether or not he elects to connect to the public system.

## **22-92 Connecting Unpolluted Waters**

No person shall make any connection of roof down spouts, exterior foundation drains, area drains, or other sources of inflow, groundwater, or other unpolluted waters to a building sewer or building drain which in turn is connected, directly or indirectly, to a public sanitary sewer. Unpolluted waters may be discharged to city storm sewers and drainage ditches subject to approval of the Director and provided that all required federal, state, and local permits required for such a discharge are secured by the person causing the discharge.

### **22-93 Multiple Connections through One-Building Sewer**

A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no sanitary sewer is available nor can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

### **22-94 Use of Old Building Sewers**

Old building sewers may be used in connection with new buildings only when they are found, upon examination and testing by the Director, to meet all requirements of the local government and this article.

### **22-95 Connection of Building Sewer to Public Sewer**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written approval from the Director. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the local government from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer provided; however, that such indemnification shall not extend to loss or damage due solely to willful misconduct or negligence on the part of the local government.

All new building sewers including any necessary replacement of existing building sewers shall comply with the State Building Code, Volume II, Plumbing. It shall be the responsibility of the property owner to keep and maintain the building sewer connected to the public sewer in good repair. The owner shall be responsible for making necessary repairs, at his own expense, to the building sewer when notified in writing by the Director that repairs are necessary. Should the owner fail to repair the building sewer within fifteen (15) days after receiving written notification that such repairs are necessary, the local government may make the necessary repairs and shall assess the owner for the cost of the repairs.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain may be lifted by a means approved by the local government and discharged to the building sewer. The connection of the building sewer into the public sewer shall conform to the requirements of applicable building and plumbing codes and other applicable rules and regulations of the local government. All such connections shall be made gastight and watertight. Any connection to a public sewer shall be made at an existing manhole or one built for that connection at the expense of the user. Any deviation from the prescribed procedures shall be approved by the local government before installation.

### **22-96 Special Interceptors**

Grease, oil, and sand interceptor sewers shall be provided when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing floatable oil in excessive amounts, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection. Where installed, all grease, oil, and sand interceptors shall be maintained by the owner at his expense in continuously efficient operation at all times. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates and means of disposal, which are subject to review by the state, county, or the Director. Any removal and hauling of collected materials shall be performed according to applicable state, federal and local regulations.

### **22-97 Outside Connections**

Any person owning or controlling premises located beyond the corporate limits of the city and desiring to install a plumbing system for the purpose of discharging domestic sewage and/or industrial waste into the sanitary sewers of the city may do so by complying with the requirements of this article and paying an additional permit fee and a yearly sewer rental charge to be fixed by the City Council.

**Secs. 22-98—22-110 Reserved.**

## **DIVISION 3 - FEES**

### **22-111 Purpose**

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the City for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the Director and approved by the City Council. A copy of these charges and fees will be made available from the Director.

### **22-112 User Charges**

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

- (a) *Authority.* Pursuant to the provisions of Public Law 92-500 Section 240 (b) and subsequent amendments to it, the City, having received EPA financial assistance for the construction of treatment works, shall adopt a system of charges to assure each user pays a share of the cost of debt service, operation and maintenance (including replacement) of the POTW, and annual administration.
- (b) *Intent.* The intent of such user charges is to equitably distribute the cost of administration, operation, and maintenance of the POTW to each user proportional to the amount of wastewater treatment service each user receives; and to promote self-sufficiency of the POTW with respect to administration, operation, and maintenance costs.
- (c) *User Class.* Each user shall be charged a share of the treatment works operation and maintenance cost based on the measured proportional contribution to the treatment works loading. Generally, the user charge will be dependent upon the volume of flow insofar as BOD, COD, TSS and other pollutant contributions discharged by all users are approximately equal. Where such pollutants exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge will be added to the base charge as stipulated in section **22-113**. The models used in calculating the user charge are defined in subsection **22-113 (d)**.
- (d) *User Charge Criteria.* The user charge system shall be approved by the Regional Administrator of the Environmental Protection Agency and shall be maintained by the City in accordance with the following requirements:
  - (1) The user charge system must result in the distribution of the cost of operation and maintenance of treatment works within the city jurisdiction to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the treatment works. Factors such as strength, volume and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).
  - (2) The user charge system must generate sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the City.
- (e) The City Manager shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the City Council for adjustments in the schedule of charges and fees as necessary.
- (f) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

**22-113 Surcharges:** The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

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

- (d) The Model User Charge System adopted by the City shall result in the equitable distribution of annual treatment works administration, operation, and maintenance costs to each user (or user class) in approximate proportion to each user's (or user class') contribution towards the total wastewater loading of the treatment works. The following user charge models shall be used for this purpose. The symbols used in the models are as defined below:

$C_f$	=	Total fixed operation and maintenance (O&M) costs per unit of time.
$C_t$	=	Total variable operation and maintenance (O&M) costs per unit of time.
$C_u$	=	A user's charge for O&M per unit of time.
$C_s$	=	A surcharge for wastewaters of excessive strength.
$V_u$	=	Volume contribution from a user per unit of time.
$V_t$	=	Total volume contribution from all users per unit of time.
$B_c$	=	O&M cost for treatment of a unit of biological oxygen demand (BOD).
$B$	=	Contribution of BOD from a user above a base level.
$S_c$	=	O&M cost for treatment of a unit of suspended solids (SS).
$S$	=	Contribution of SS from a user above a base level.
$N_c$	=	O&M cost for treatment of a unit of ammonia nitrogen ( $NH_3N$ ).
$N$	=	Contribution of $NH_3N$ from a user above a base level.
$P_c$	=	O&M cost for treatment of a unit of any pollutant having identifiable contributions to overall treatment costs.
$P$	=	Concentration of a pollutant from a user above a base level.

- (1) Model No. 1: Whereas the treatment works is primarily flow dependent as the BOD, SS, and other pollutant concentrations discharged by the majority of users are approximately equal; therefore, the user charge will be developed on a volume basis in accordance with the model below:

$$C_u = \frac{C_f}{\text{No. of Users}} + \frac{V_u C_t}{V_t}$$

- (2) Model No. 2: When determined by the City that BOD, COD, TSS,  $NH_3N$  and any other appropriate pollutant concentrations from a user exceeds the range of concentration of these pollutants typically found in normal domestic sewage, a surcharge shall be levied in addition to the base sewer use charge. The surcharge shall be computed by the model below:

$$C_s = [B_c(B) + S_c(S) + N_c(N) + P_c(P)]$$

- (e) Baseline pollutant concentrations shall be BOD – 250 mg/L, TSS – 250 mg/L, and  $NH_3N$  – 25 mg/L or as established by the Director and held as a standard for the City.
- (f) Model No. 1 shall include all costs for operation and maintenance associated with extraneous flows not attributable to any one user or user class, thereby distributing these costs to all users.
- (g) User charges may be established bases on a percentage of the charge for water usage. However, the unit rate sewer charge for the largest volume users must be as great as or greater than the unit cost of operation and maintenance (excluding debt service). In any event, a surcharge shall still be levied in accordance with the provisions of Model No. 2 above. The system of user charges for the wastewater treatment system shall be based on total annual system costs, including operation and maintenance expenses.
- (h) Each user shall be notified no less often than annually of the rates for user charges. Such notification shall be done in conjunction with a regular bill, and, if the regular bill also includes charges for other services, shall clearly identify the portion of the bill attributable to wastewater user charges.
- (i) The user charge system shall take precedence over any terms or conditions of any contracts or agreements that are inconsistent with Section 204(b)(1)(a) of the Clean Water Act (“the Act” as defined by this article).

## **22-114 Pretreatment Program Administration Charges**

The Director has reserved the authority to establish a schedule of charges and fees for the reimbursement of costs incurred in operating and administering the required local pretreatment program in conjunction with 40 CFR 403. The schedule of charges and fees adopted by the City may include charges and fees for:

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

**Secs. 22-115 – 22-120 Reserved.**

## **DIVISION 4 WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE**

### **22-121 Wastewater Dischargers**

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

### **22-122 Wastewater Permits**

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

- (a) **Significant Industrial User Determination**  
All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the Director a significant industrial user determination. If the Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.
- (b) **Significant Industrial User Permit Application**  
Users required to obtain a significant industrial user permit shall complete and file with the City, an application in the form prescribed by the Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the Director's determination in **22-122(a)** above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
  - (1) Name, address, and location, (if different from the address);
  - (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
  - (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in division 2 of this ordinance, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in Section 22-140 and 22-141;
  - (4) Time and duration of the indirect discharge;
  - (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
  - (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
  - (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
  - (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
    - (i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
    - (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director.
  - (10) Each product produced by type, amount, process or processes and rate of production;
  - (11) Type and amount of raw materials processed (average and maximum per day);
  - (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
  - (13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in section **22-131** of this ordinance.
  - (14) Any other information as may be deemed by the Director to be necessary to evaluate the permit application.
- (c) **Application Signatories and Certification**  
All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the City as defined in Section 22-77 (a)(3) and contain the following certification statement:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
- (d) **Application Review and Evaluation**  
The Director will evaluate the data furnished by the user and may require additional information.
- (1) The Director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
  - (2) Within 30 days of receipt the Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

- (e) Tentative Determination and Draft Permit
- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
  - (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
    - (i) proposed discharge limitations for those pollutants proposed to be limited;
    - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
    - (iii) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
  - (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the City into a significant industrial user permit.
- (f) Permit Synopsis
- A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:
- (1) a sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
  - (2) a quantitative description of the discharge described in the application which includes at least the following:
    - (i) the rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;
    - (ii) the actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,
    - (iii) the basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.
- (g) Final Action On Significant Industrial User Permit Applications
- (1) The Director shall take final action on all applications not later than 90 days following receipt of a complete application.
  - (2) The Director is authorized to:
    - (i) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
    - (ii) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
    - (iii) modify any permit upon not less than 60 days notice and pursuant to subsection **22-122(9)** of this ordinance;
    - (iv) revoke any permit pursuant to section **22-161** of this ordinance;
    - (v) suspend a permit pursuant to section **22-161** of this Ordinance;
    - (vi) deny a permit application when in the opinion of the Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (h) Hearings: The local government may conduct hearings in accordance with its regular hearing procedure.
- (1) Initial Adjudicatory Hearing. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section **22-162**, or one issued an administrative order under section **22-161** shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user

permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within **45** days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.

- (i) **New Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
  - (ii) **Renewed Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (2) **Final Appeal Hearing.** Any decision of a hearing officer made as a result of an adjudicatory hearing held under subsection **22-122(h)(1)** above may be appealed, to the City Council upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this subsection 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 Council shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
  - (3) **Official record.** When a final decision is issued under subsection **22-122(h)(2)** above, the City Council shall prepare an official record of the case that includes:
    - (i) All notices, motions, and other like pleadings;
    - (ii) A copy of all documentary evidence introduced;
    - (iii) 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.
    - (iv) A copy of the final decision of the City Council.
  - (4) **Judicial Review.** Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under subsection **22-122(h)(2)** above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the **Superior Court of Sampson County** along with a copy to the City. Within 30 days after receipt of the copy of the petition of judicial review, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.
- (i) **Permit Modification**
    - (1) **Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance**
      - (i) changes in the ownership of the discharge when no other change in the permit is indicated,
      - (ii) a single modification of any compliance schedule not in excess of four months,
      - (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
    - (2) **Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section **22-122**, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.**

- (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.
- (j) Permit Conditions
- (1) The Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
    - (i) a statement of duration ( in no case more than five years);
    - (ii) a statement of non-transferability;
    - (iii) applicable effluent limits based on categorical standards or local limits or both;
    - (iv) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
    - (v) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 22-77 (a)(36); and,
    - (vi) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 22-77 (a)(36)
    - (vii) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 22-77 (a)(36). Also see Sections 22-135 and 22-136.
    - (viii) a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
  - (2) In addition, permits may contain, but are not limited to, the following:
    - (i) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
    - (ii) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
    - (iii) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
    - (iv) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
    - (v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
    - (vi) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
    - (vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
    - (viii) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
    - (ix) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
    - (x) Compliance schedules for meeting pretreatment standards and requirements.
    - (xi) Requirements for submission of periodic self-monitoring or special notification reports.
    - (xii) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section **22-143** and affording the Director, or his representatives, access thereto.
    - (xiii) Requirements for prior notification and approval by the Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
    - (xiv) Requirements for the prior notification and approval by the Director of any change in the manufacturing and/or pretreatment process used by the permittee.
    - (xv) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.

- (xvi) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
  - (xvii) Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (k) **Permit Duration**  
Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
  - (l) **Permit Transfer**  
Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
  - (m) **Permit Reissuance**  
A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section **22-122** a minimum of 180 days prior to the expiration of the existing permit.

**Secs. 22-123 – 22-130 Reserved.**

## **DIVISION 5 - REPORTING REQUIREMENTS**

### **22-131 Baseline Monitoring Reports**

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) *Users described above shall submit the information set forth below.*
  - (1) **Identifying Information.** The name and address of the facility, including the name of the operator and owner.
  - (2) **Environmental Permits.** A list of any environmental control permits held by or for the facility.
  - (3) **Description of Operations.** A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - (4) **Flow Measurement.** Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
  - (5) **Measurement of Pollutants.**
    - (i) The categorical pretreatment standards applicable to each regulated process.
    - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section **22-140** of this ordinance.
    - (iii) Sampling must be performed in accordance with procedures set out in section **22-141** of this ordinance and 40 CFR 403.12(b) and (g), including CFR 403.12(g)(4)..
  - (6) **Certification.** A statement, reviewed by the user's current authorized representative as defined in Section 22-77 (a)(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether

additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section **22-132** of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section **22-122(c)** of this ordinance.

#### **22-132 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by subsection **22-131(b)(7)** of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the Director.

#### **22-133 Reports on Compliance with Categorical Pretreatment Standard, Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in subsections **22-131(b)4—6** of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection **22-122(c)** of this ordinance.

#### **22-134 Periodic Compliance Reports**

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows measured for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 22-140 and 22-141 of this ordinance. All periodic compliance reports must be signed and certified in accordance with subsection **22-122(c)** of this ordinance.
- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in section **22-140 and 22-141** of this ordinance, the results of this monitoring shall be included in the report.

### **22-135 Reports of Changed Conditions**

Each user must notify the Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. See section 22-136 (d) for other reporting requirements.

- (a) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section **22-122** of this ordinance.
- (b) The Director may issue a wastewater discharge permit under section **22-122** of this ordinance or modify an existing wastewater discharge permit under section **22-122** of this ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty percent (20%) or greater, and/or the discharge of any previously unreported pollutants.

### **22-136 Reports of Potential Problems**

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in section 22-77 (a)(36), that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 22-77 (a)(36).

### **22-137 Reports from Unpermitted Users**

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

### **22-138 Notice of Violation/Repeat Sampling and Reporting**

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

- iii. The Director requires the user to perform sampling and submit the results to the Director within the 30 day deadline of the POTW becoming aware of the violation.

### **22-139 Notification of the Discharge of Hazardous Waste**

The City prohibits the discharge of any hazardous wastes without notification and approval of the Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section **22-135** of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections **22-131**, **22-132** and **22-134** of this ordinance.
- (b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable Federal or State law.

### **22-140 Analytical Requirements**

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

### **22-141 Grab and Composite Sample Collection**

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports.

Additionally, the Director may allow the collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.

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

#### **22-142 Timing**

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

#### **22-143 Record Keeping**

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

#### **22-144 Electronic Reporting**

The Director may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Division 8 of this Ordinance.

#### **Secs. 22-145 – 22-150 Reserved.**

### **DIVISION 6 - COMPLIANCE MONITORING**

#### **22-151 Monitoring Facilities**

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

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

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

#### **22-152 Inspection and Sampling**

The City will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The City, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards

so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the Director's approval authority or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

### **22-153 Search Warrants**

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

**Secs. 22-154 – 22-160 Reserved.**

### **DIVISION 7 - CONFIDENTIAL INFORMATION**

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

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

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

### **DIVISION 8 - ENFORCEMENT**

#### **22-161 Administrative Remedies**

(a) Notification of Violation

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

(b) Consent Orders

The City Manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection **22-161(d)**, below.

(c) Show Cause Hearing

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

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

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section **22-162** nor is any action or inaction taken by the City Manager under this section subject to an administrative appeal under subsection **22-122(h)**.

(d) Administrative Orders

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

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

(e) Emergency Suspensions

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

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

(f) Termination of Permit or Permission to Discharge

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

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

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

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under subsection **22-161(c)** of this ordinance why the proposed action should not be taken.

#### **22-162 Civil Penalties**

- (a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be fined up to twenty-five thousand dollars (\$25,000) per day per violation.
  - a. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
    - i. For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
    - ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the City Manager determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the City Manager shall consider the following:
  - (i) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
  - (ii) The duration and gravity of the violation;
  - (iii) The effect on ground or surface water quantity or quality or on air quality;
  - (iv) The cost of rectifying the damage;
  - (v) The amount of money saved by noncompliance;
  - (vi) Whether the violation was committed willfully or intentionally;
  - (vii) The prior record of the violator in complying or failing to comply with the pretreatment program;
  - (viii) The costs of enforcement to the City.
- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in subsection **22-122(h)**.

#### **22-163 Other Available Remedies**

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

- (a) Criminal Violations.

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

(b) Injunctive Relief

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

(c) Water Supply Severance

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

(d) Public Nuisances

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

**22-164 Remedies Nonexclusive**

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

**Secs. 22-165 – 22-170 Reserved.**

**DIVISION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE**

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

**DIVISION 10 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**22-171 Upset**

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and the user can identify the cause(s) of the upset;
  - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - (3) The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
    - (i) A description of the indirect discharge and cause of noncompliance;
    - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**22-172 Prohibited Discharge Standards Defense**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section **22-81(a)** of this ordinance or the specific prohibitions in sections **22-81(b)(2), (3), and (5 - 7)** of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) The references in Section 22-172 refers only to the specific prohibitions actually listed in this ordinance. Pursuant to 40 CFR Section 403.5(a)(2), the affirmative defense outlined in section 22-172 cannot apply to the specific prohibitions in sections 22-81(b)(1) and (4), and (8).

**22-173 Bypass**

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs **(b)** and **(c)** of this section.
- (b)
  - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.
  - (2) A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (c)
  - (1) Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless
    - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (iii) The user submitted notices as required under paragraph (b) of this section.

- (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (c)(1) of this section.

#### **DIVISION 11 - SEVERABILITY**

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

#### **DIVISION 12 - CONFLICT**

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

#### **CONTRACTS—POLICE**

Police Chief Brim presented a contract in the amount of \$28,000 between the City and East Carolina Regional Housing Authority for community policing and recommended adoption. He said he is working with ECRHA to get increased funding since the current cost to place an officer at the housing authority property is \$35,000. Upon a motion made by Councilmember Harris, seconded by Councilmember Becton, the contract was unanimously approved.

#### **ORDINANCES—OFFICIAL TRAFFIC MAP**

Jeff Vreugdenhil recognized Eagle Scout Matthew Fulton who inventoried existing traffic control signs within the city. Jeff requested council to adopt a revised Official Traffic Map. Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Turlington, the following ordinance #2007.08.03 was unanimously adopted:

Whereas, the Section 15-2 of City Code of the City of Clinton states that certain traffic regulations shall be codified by insertion on an Official Traffic Map; and

Whereas, said map was adopted in 1976; and

Whereas, the city desires to update said map.

Now, Therefore, Be It Ordained by the City Council of the City of Clinton, North Carolina that the Traffic Map of the city of Clinton, N. C. dated July 9, 2007 and prepared by Jimmy Fannin be and it is hereby adopted by the City Council in every respect and the City Clerk is hereby directed to place her certificate upon said map showing its adoption by this ordinance.

#### **RESOLUTIONS—DOT—DOWNTOWN**

Jeff Vreugdenhil presented an agreement with NC DOT for the striping of a portion of Fayetteville and Chesnutt Streets and a resolution authorizing the mayor and clerk to execute the agreement. Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Becton, the following resolution was unanimously adopted:

WHEREAS, Municipality proposed plans consist of finalizing the second phase of revitalization project – 1244' of 4' and 175' of 6' thermoplastic road markings on Fayetteville Street (SR 1296) and Chesnutt Street (1281).

WHEREAS, the Department of Transportation and the Municipality propose to enter into an agreement for construction of the aforementioned highway improvement whereby the Municipality agrees to design the project plans, acquire right of way and easements, and adjust utilities, award the construction contract, and supervise project construction; and

WHEREAS, said agreement further provides for the Department of Transportation to reimburse the Municipality to the maximum extent of \$4,164.80 for work performed under the terms of this Agreement.

NOW, THEREFORE, BE IT RESOLVED that WBS 3.208212, Sampson County, is hereby formally approved by the City Council of the City of Clinton and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

### **STREETS NAMES**

Jeff Vreugdenhil presented a request from Sampson County Emergency Management requesting Bethune Court be re named to Byron Butler Court since most residents of the Byron Butler senior housing complex when calling 911 give their address as Byron Butler Court and not Bethune Court, the official street name. The planning department was instructed to renumber the Butler Court Housing units to reflect Bethune Court addresses.

### **REPORTS**

The finance, fire, code and police reports were acknowledged.

City Manager Connet reported on items he declared surplus and were valued under \$2,500.00.

City Manager Connet informed council of a Lundy/Waste Water Treatment task force was formed and will meet monthly.

### **MISCELLANEOUS**

District 5 Councilmember Harris thanked the mayor, city manager and police chief for their work to help improve District 5.

### **RESOLUTIONS—ORDINANCES--POLICE DEPARTMENT**

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the following resolution was unanimously adopted:

North Carolina Governor's Highway Safety Program  
LOCAL GOVERNMENTAL RESOLUTION  
PT 7 04 04 19  
Form GHSP-02-A

WHEREAS, the Clinton Police Department (herein called the "Agency") has completed an application contract for traffic safety funding; and that the City Council of the City of Clinton (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLBED BY THE City Council of the City of Clinton in open meeting assembled in the city of Clinton, North Carolina, this the 7<sup>th</sup> day of August, 2007, as follows:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That R. M. Brim, chief of police, is authorized to file on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$34,279.00 to be made to the Governing Boy to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution if \$34,279.00 as required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangements for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the following ordinance #2007.08.04 was unanimously adopted:

**GOVERNOR'S HIGHWAY GRANT BUDGET ORDINANCE**

**BE IT ORDAINED** by the City Council of the City of Clinton, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance adopted February 7, 2006 and amended June 12, 2007 is hereby amended as follows:

**Section 1.** The following amounts are appropriated for the project:

<u>Account Number</u>	<u>Account Title</u>	<u>Increase</u>	<u>Decrease</u>
795500.0200	Salaries	56,000.00	
795500.0500	FICA	2,872.00	
795500.0600	Insurance	5,248.00	
795500.0700	Retirement	1,648.00	
795500.0701	401(k)	1,724.00	
795500.5401	Worker Comp	1,066.00	
TOTAL EXPENDITURES		68,558.00	

**Section 2.** The following revenues are anticipated to be available to complete this project:

<u>Account Number</u>	<u>Account Title</u>	<u>Increase</u>	<u>Decrease</u>
793010.0500	GHSP GRANT	34,279.00	
793020.0100	CITY SHARE	<u>34,279.00</u>	
TOTAL REVENUES		68,558.00	

**Section 3.** The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to satisfy the requirements of the grant agreements and federal regulations.

**Section 4.** Copies of this Grant Project Ordinance shall be furnished to the Clerk to the City Council and the Finance Officer for direction in carrying out this project.

**RESOLUTIONS—CLOSED SESSION**

Upon a motion made by Councilmember Stefanovich, seconded by Councilmember Harris, the following resolution was unanimously adopted:

RESOLUTION TO ENTER CLOSED SESSION

Be It Resolved that the regular meeting of the City Council of the City of Clinton, North Carolina held June 12, 2007 enter closed session as allowed by G. S. 143-318.11(a)(3) to confer with the city attorney regarding possible foreclosure and a lease on property.

Council re-entered regular session. Mayor Starling reported council discussed possible litigation and negotiating a lease on property.

Upon a motion duly made, seconded and passed the meeting adjourned at 7:45 p.m.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor