



## Town of Waynesville, NC

### Board of Aldermen Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786

Date: December 14, 2021 Time: 6:00 p.m.

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**A. CALL TO ORDER - Mayor Gary Caldwell**

1. Welcome/Calendar/Announcements

**B. PUBLIC COMMENT**

**C. OATH OF OFFICE FOR WNC PUBLIC LANDS COMMISSION**

Judge Kaleb Wingate for Marcy Onieal

**D. CONSENT AGENDA**

*All items below are routine by the Board of Aldermen and will be enacted by one motion. There will be no separate discussion on these items unless a Board member so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.*

- i. Adoption of minutes of the November 23, 2021 regular meeting
- ii. Adoption of minutes of the November 10, 2021 emergency meeting – (Revised)
- iii. Source Water Resiliency and Response Plan, Emergency Response Plan

**E. PUBLIC HEARING**

2. Public Hearing to consider a request for Annexation for property known as "The Queen Subdivision," PIN 8615-98-2217.

- Elizabeth Teague, Development Services Director

***Motion: To adopt Ordinance No. O-24-21 to approve the annexation of property known as the Queen Farm Subdivision, an unaddressed lot on Sunnyside Road – PIN 8615-98-2217.***

3. Public Hearing for December 14, 2021 to present the Town of Waynesville Stormwater Program and provide a platform for public input

- Olga Grooman, Planner

**F. OLD BUSINESS**

4. Refinancing USDA Loan for Fire Station #1

- Town Manager Rob Hites

***Motion: To Approve Resolution # R-09-21 approving the Financing Terms and Documents and Refinancing of Existing 2008 USDA Loan.***

5. Amendment to Chapter 44, Solid Waste and Weeds.

- Town Manager Rob Hites

***Motion: Place Ordinance No. O-23-21 on January 11<sup>th</sup> 2022 meeting for final discussion, amendment and adoption.***

**G. NEW BUSINESS**

6. Proposed Meeting Schedule

- Jesse Fowler, Assistant Town Manager

***Motion: To approve the Board of Aldermen meeting schedule for the year 2022.***

**H. COMMUNICATION FROM STAFF**

7. Manager's Report

- Town Manager, Rob Hites

8. Town Attorney Report

- Town Attorney, Martha Bradley

**I. COMMUNICATIONS FROM THE MAYOR AND BOARD**

**J. CLOSED SESSION**

***Motion: To enter Closed Session in accordance with NCGS §143-318.11(6) to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.***

**K. ADJOURN**



# TOWN OF WAYNESVILLE

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## CALENDAR

December 2021

Tuesday December 14	Board of Aldermen Meeting – Regular Session
December 23, 24 & 27th	Town Offices Closed – Christmas Holidays
Friday December 31	Town Offices Closed – New Year's

## Board and Commission Meetings – December 2021

ABC Board	ABC Office – 52 Dayco Drive	<b>December 21</b> 3 <sup>rd</sup> Tuesday 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	<b>December 7</b> 1 <sup>st</sup> Tuesday 5:30 PM
Firefighters Relief Fund Board	Fire Station 1 – 1022 N. Main Street	<b>Meets as needed</b> <i>No meeting currently scheduled</i>
Historic Preservation Commission	Town Hall – 9 S. Main Street	<b>December 1</b> 1 <sup>st</sup> Wednesday 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	<b>December 20</b> 3 <sup>rd</sup> Monday 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	<b>December 9</b> 2 <sup>nd</sup> Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	<b>December 15</b> 3 <sup>rd</sup> Wednesday 5:30 PM
Waynesville Housing Authority	Waynesville Towers – 65 Church Street	<b>December 14</b> 2 <sup>nd</sup> Tuesday 3:30 PM



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## CALENDAR January 2022

<b>2022</b>	
<b>Tuesday January 11</b>	Board of Aldermen Meeting – Regular Meeting
<b>Monday January 17</b>	Town Offices Closed – Martin Luther King, Jr. Day
<b>Tuesday January 25</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday Feb 8</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday Feb 22</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday March 8</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday March 22</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday April 12</b>	Board of Aldermen Meeting – Regular Session
<b>Friday April 15</b>	Town Offices Closed – Good Friday
<b>Tuesday April 26</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday May 10</b>	Board of Alderman Meeting – Regular Session
<b>Monday May 24</b>	Board of Aldermen Meeting – Regular Session
<b>Monday May 30</b>	Town Offices Closed – Memorial Day
<b>Tuesday June 14</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday June 28</b>	Board of Aldermen Meeting – Regular Session
<b>Monday July 4</b>	Town Offices Closed – Independence Day
<b>Tuesday July 12</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday July 26</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday August 9</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday August 23</b>	Board of Aldermen Meeting – Regular Session
<b>Monday September 5</b>	Town Offices Closed – Labor Day
<b>Tuesday September 13</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday September 27</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday October 11</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday October 25</b>	Board of Aldermen Meeting – Regular Session
<b>Tuesday November 8</b>	Board of Aldermen Meeting – Regular Session
<b>Friday November 11</b>	Town Offices Closed – Veterans Day
<b>Tuesday November 22</b>	Board of Aldermen Meeting – Regular Session
<b>Thursday &amp; Friday Nov 24 &amp; 25</b>	Town Offices Closed - Thanksgiving
<b>Tuesday December 13</b>	Board of Aldermen Meeting – Regular Session
<b>December 23, 26 &amp; 27th</b>	Town Closed – Christmas Holidays

## Board and Commission Meetings – January 2022

ABC Board	ABC Office – 52 Dayco Drive	<b>January 18</b> 3 <sup>rd</sup> Tuesday 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	<b>January 4</b> 1 <sup>st</sup> Tuesday 5:30 PM
Firefighters Relief Fund Board	Fire Station 1 – 1022 N. Main Street	<b>Meets as needed;</b> <i>No meeting currently scheduled</i>
Historic Preservation Commission	Town Hall – 9 S. Main Street	<b>January 5</b> 1 <sup>st</sup> Wednesday 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	<b>January 17</b> 3 <sup>rd</sup> Mondays 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	<b>January 13</b> 2 <sup>nd</sup> Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	<b>January 19</b> 3 <sup>rd</sup> Wednesday 5:30 PM
Waynesville Housing Authority	Waynesville Towers – 65 Church Street	<b>January 11</b> 2 <sup>nd</sup> Tuesday 3:30 PM

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**Regular Meeting**  
**November 23, 2021**

**THE WAYNESVILLE BOARD OF ALDERMEN** held a regular meeting on Tuesday November 23, 2021 at 6:00 pm. in the Town Hall Board Room located at 9 South Main Street Waynesville, NC.

**A. CALL TO ORDER**

Mayor Gary Caldwell called the meeting to order at 6:05 pm with the following members present:

Mayor Gary Caldwell  
Mayor Pro Tem Julia Freeman  
Alderman Anthony Sutton  
Alderman Jon Feichter

Alderman Chuck Dickson was absent.

The following staff members were present:

Rob Hites, Town Manager  
Police Chief David Adams  
Assistant Police Chief, Brandon Gilmore  
Elizabeth Teague, Development Services Director  
Tom Maguire, Chief Building Inspector  
Olga Grooman, Planner

The following media representative was present:

Becky Johnson, Mountaineer

1. Welcome/Calendar/Announcements

Mayor Gary Caldwell welcomed everyone to the meeting and reminded them that Town Offices will be closed on November 25th and 26th, 2021 in observance of Thanksgiving Day. Other events mentioned were the Hazelwood Christmas Parade on December 5<sup>th</sup>, Waynesville Christmas Parade on December 6<sup>th</sup>, and the Night Before Christmas on Saturday December 11<sup>th</sup>. Mayor Caldwell announced that the Tree Lighting for December 3<sup>rd</sup> has been canceled.

**B. PUBLIC COMMENT**

Comments were made by **Ms. Peggy Hannah** and **Mr. Alex McKay** thanking the Board for participating in the Hazelwood Christmas parade, and gave an update on the event.

## C. CONSENT AGENDA

*All items below are routine by the Board of Aldermen and will be enacted by one motion. There will be no separate discussion on these items unless a Board member so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.*

- i. Adoption of minutes of the November 10, 2021 regular meeting
- ii. Adoption of minutes of the November 9, 2021 emergency meeting
- iii. Approval of Forest Stewards Contract

***A motion was made by Alderman Anthony Sutton, seconded by Alderwoman Julia Freeman, to remove Item ii – Adoption of minutes of the November 9, 2021 emergency meeting, to be revised for the next meeting, and approve Item i - Adoption of minutes of the November 10, 2021 regular meeting and Item iii – Approval of Forest Stewards Contract as presented. The motion carried unanimously.***

## D. CALL FOR PUBLIC HEARING

2. Call for a Public Hearing for December 14, 2021 to present the Town of Waynesville Stormwater Program and provide a platform for public input.
  - Olga Grooman

Ms. Olga Grooman, Planner, explained to the Board that the Town holds a National Pollutant Discharge Elimination System Permit (NPDES) that is issued by the NC Department of Environmental Quality in August 2021. This permit authorized discharges of stormwater runoff within the Town with an up-to-date local Stormwater Management Plan. Planner Grooman said there are six main components of the Plan for compliance with the NPDES permit.

The Town is partnering with Haywood Waterways to implement the plan, and that includes holding a Public Hearing for input on stormwater related issues.

***A motion was made by Alderwoman Julia Freeman, seconded by Alderman Jon Feichter, to call for a Public Hearing to be held on Tuesday December 14, 2021 at 6:00 pm or as closely thereafter as possible in the Town Hall Board room located at 9 South Main Street Waynesville to present the Town of Waynesville Stormwater Program. The motion passed unanimously.***

3. Call for a Public Hearing to consider a request for Annexation for property known as “The Queen Subdivision,” PIN 8615-98-2217.
  - Elizabeth Teague, Development Services Director

Elizabeth Teague, Development Services Director, stated that the Town had received a Petition for Annexation of contiguous area known as “The Queen Subdivision – PIN 8615-98-2217. She said this property lies within the Racoon Creek Neighborhood-Residential District (RC-NR), and is

32.67 acres. She asked that a Public Hearing be held at the December 14, 2021 Board of Alderman meet to allow Public Comment concerning the annexation.

***A motion was made by Alderman Anthony Sutton, seconded by Alderwoman Julia Freeman to call for a Public Hearing to be held on Tuesday December 14, 2021 at 6:00 pm or as closely thereafter as possible in the Town Hall Board room located at 9 South Main Street Waynesville to consider a request for Annexation for property known as "The Queen Subdivision," PIN 8615-98-2217. The motion carried unanimously.***

***A motion was made by Alderman Anthony Sutton, seconded by Alderwoman Julia Freeman, to adopt Resolution R- 08-21 to consider an Ordinance to extend the corporate limit of the Town of Waynesville. The motion carried unanimously.***

**E. NEW BUSINESS**

4. Budget Amendment to hire a new Building Inspector Code Official within the Development Services Department
  - Elizabeth Teague, Development Services Director

Ms. Teague told the Board that with the increased development, the Town inspections staff has need of more personnel to meet customer demand. The hiring of a new building inspector and code enforcement official will provide more opportunity for training and department succession planning as current staff nears retirement. Ms. Teague said that to recruit a building inspector with levels of 1, 2, or 3 certifications, the pay grade will be 58 with a range of \$35,086.50 to \$56,138.40. Ms. Teague provided a job description for the Code Enforcement/Building Inspector position.

***A motion was made by Alderman Anthony Sutton, seconded by Alderman Jon Feichter, to approve amendment No. 10 - Ordinance No. O-24-21 for hiring a new Building Inspector - Code Official within the Development Services Department. The motion passed unanimously.***

5. Amendment to Chapter 44, Solid Waste and Weeds
  - Rob Hites, Town Manager

Town Manager Rob Hites reported that the Town will be receiving 4500 rollout recycling containers in the next couple of months. He said the Ordinance that governs garbage and recycling needs to be heavily amended to accommodate the new system of pickup. Manager Hites referred the Board to the updated language in their agenda packet and asked them to review the Ordinance for discussion at the next Board meeting.

He provided two of the bins, 65 gallons and 95 gallons, for inspection by the Alderman and told everyone that each bin would have the Town Logo and a serial number to match the address

where the bin is assigned. If the bin is destroyed, the customer will be charged the cost. This should stop all garbage sitting on the sidewalk, and the containers will be turned so the customer will know when it has been emptied. If there is a topographical issue, customers will be allowed to build garbage enclosures by using fencing materials for the containers next to the curb. A doctor's statement will be required to substantiate a disability.

Lawn trimmings shall be placed in the rollout cans not exceeding 95 gallons or non-tipper compatible containers not exceeding 32 gallons. Back yard pickup shall not be provided for trash, large items or leaf pick-up. A \$50.00 penalty may be issued to any person in violation of this section. Leaves will be collected four times from mid-October until January, with the dates being posted on the Town Website. Outside of these times, leaves must be bagged for collection or placed in containers that can be lifted with tippers.

Commercial businesses are required to make private arrangements to dispose of their bulky items. There will be no collection of such items by the Town or its contractor. Items from business establishments operating from a residential unit will not be collected by the Town. The Town is not responsible for the removal of automobile parts or appliances. It shall be unlawful to place hot ashes, contagious disease material, hypodermic instruments, hazardous waste, and soiled kitty litter in any containers for pick up. Fines will be implemented for any of these items.

***A motion was made by Alderman Anthony Sutton, seconded by Alderman Jon Feichter, to review the ordinance, recommend revisions, and place on the December 14, 2021 Board of Alderman meeting for adoption. The motion carried unanimously.***

**F. COMMUNICATION FROM STAFF**

Manager's Report

- Rob Hites, Town Manager

Manager Hites reported that the bids for the sewer plant will be opened on December 7<sup>th</sup>.

The recent fire boot drive collected \$3300.00 and a truck load of groceries for Haywood Christian Ministry.

6. Town Attorney Report

- Town Attorney, Martha Bradley

Attorney Bradley had nothing to report.

**G. COMMUNICATIONS FROM THE MAYOR AND BOARD**

***A motion was made by Alderman Anthony Sutton, seconded by Alderwoman Julia Freeman, to enter Closed Session at 7:00 pm in accordance with NCGS §143-318.11(6) to hear or investigate***

***a complaint, charge, or grievance by or against an individual public officer or employee. The motion carried unanimously.***

***A motion was made by Alderman Jon Feichter, seconded by Alderwoman Julia Freeman to enter open session at 7:35 pm. The motion passed unanimously.***

**H. ADJOURN**

***With no further business, a motion was made by Alderman Jon Feichter, seconded by Alderwoman Julia Freeman, to adjourn the meeting at 7:40 pm. The motion carried unanimously.***

ATTEST:

\_\_\_\_\_  
Gary Caldwell, Mayor

\_\_\_\_\_  
Robert W. Hites, Jr. Town Manager

\_\_\_\_\_  
Eddie Ward, Town Clerk

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**Emergency Meeting**  
**November 10, 2021**

**THE WAYNESVILLE BOARD OF ALDERMEN** held an emergency meeting on Wednesday November 10, 2021 at 7:00 pm. in the Town Hall Board Room located at 9 South Main Street Waynesville, NC.

**A. CALL TO ORDER**

Mayor Gary Caldwell called the meeting to order at 7:00 pm with the following members present:

Mayor Gary Caldwell  
Mayor Pro Tem Julia Freeman  
Alderman Anthony Sutton  
Alderman Jon Feichter  
Alderman Chuck Dickson

The following staff members were present:

Rob Hites, Town Manager  
Jesse Fowler, Assistant Town Manager  
Eddie Ward, Town Clerk  
Martha Bradley, Town Attorney  
Jeff Stines, Public Works Director  
Wayne Bolin, Water/Sewer Maintenance Superintendent  
Ricky Foster, Public Works Assistant Director  
Lt. Chris Chandler

The following media representatives were present:

Becky Johnson, Mountaineer  
Cory Vaillancourt, Smoky Mountain News

Mayor Caldwell: "I apologize for any inconvenience I caused the Board, but I felt this was a very important issue, this meeting is about postponing a water repair up there near the Walmart up there. I have numerous calls from restaurants and businesses up there. I thought I had this issue worked out with Jeff. If had knew better, I would have brought up this last night. After I talked to Jeff after the meeting, we still didn't have the issues solved, so the reason being I felt that this is a very bad time to do this project because of – as you know the Pandemic is still out there, and it has put a very much hurtin' on our restaurants and businesses, and the calls that I am getting

there are most of these places are working with a skeleton crew right now, and a lot of them are just doing breakfast and lunch, and some of them are doing lunch and dinner.

Anyway, I thought maybe that Haywood Smokehouse might be here – one of the last persons I talked with today about you know what it would do to his business. Brandon is here and the probably the best way to do this with him being a restaurant owner, Brandon do you want to come up and speak on this issue?”

Brandon Green: “Not what I was planning on, but I’ll take it.

Mayor Caldwell: “Thank you for coming.”

Brandon Green: “I guess this has been well planned on, you know a lot of people are involved, and had to reach out to the Mountaineer, Smoky Mountain news, WLOS, and get it out to the public. As far as on the restaurant end, none of us, not anybody I talked to at least, was brought on in the front end of this, of how it would affect us being planned on a Friday. Granted, no time is perfect, and I understand, you know, that it’s going to take a huge effort in itself you know. But when I spoke with Wayne yesterday you know he called me back and assured me that he thought that my end, our restaurant, was serviced from Hendrix Street by the maps that were on file, and that we, you know, likelihood might be ok, and we might not. It would be one of those things that come 7:30 or 8:00 in the morning we’d know. But in the eye of public opinion, you know, if everyone is forced to close, and I be operational, it’s not going to look good on our part if we are open, cause the phone is going to be ringing off the hook at the Health Department I can assure you. I mean they’re gonna to bombard us. Now we don’t open till 11:00 you know that we are just open for lunch and dinner. But we just don’t walk in and turn the lights on, it takes many hours prepping. A lot of the guys come in there at 7:30 in the morning and it is just not something we can create and do, you know, it’s not a lot of wrapping it up in a bag and sending it and when they shut the water off, we cannot begin the prep phase until we are clear. If they are done and 1:00 so be it, or if it is done at 2 or 3 so be it you know, but my concern from the beginning is why can’t we stretch this out and do a night time repair you know and it’s done in other Municipalities, larger cities, I’m not comparing whatever, I’m just asking you know if it could be done at night, something that could be started at say at 11:00, you know, you would still have 6, 7 or 8 hour window, you know if you came in on a day that was at the start of the week, or even if it was lighter, would that not be a possibility? Could we get some you know light towers, do it safely, you know, safety you know being the number 1 safety for the guys that have to do the repair. Could it be done safely at night? I’m sure someone has got the ability to know, to call to the reservoir, what is our usage of water at night that midnight versus 12 noon? You know in the middle of the night it is substantially less. If we have the possibility to affect, you know, 15 percent of the population that live in this area which is less than 70 to 80 percent people were not considered, you know, I understand that’s asking a lot for this big change, but I don’t want to go out and speak on, you know, other restaurant’s situations, but I can pretty well assure you that there is not any of them who want to close on Friday, you know, it’s our last, luckily by weather, we can get one more color weekend season in. You can see that there is still color out

there, and you know, it will be noted we are going to have a great weekend. But it is going start with a thud you know if we lose our Friday, because, I mean, waiting on the anticipation of possibly having water by 1:00, 2:00, 3:00, I just can't open at that time and you know prep and say we will be open at 5:00 or 6:00 calling in help. It's just not possible. So, straight down the line, how does it affect the people on my street, South Main , and then filter down towards Hazelwood Avenue and you know as he spoke on who he thought on who was coming this evening, there's going to be a lot affected, and I would like for just a little bit of consideration that could possibly be done tonight.

That's all, that it's, a lot of my employees are you know, Fridays are good days for them. My servers, my cooks, we are on limited hours. Five days a week and one or two of them they are off, some of them it's gonna be 25 % of their pay they are gonna lose. I can't place tip servers or create stuff for cooks and stuff to do. That's they way I feel about it, I just wish you would have a little consideration for us on our end."

Mayor Caldwell: "Aren't you only open like only Wednesday's through Sunday?"

Brandon Green: "Yes, open Wednesday through Sunday. We are closed Monday and Tuesday. Like I say, I'm just not here on my behalf it's, it's everything because if I had the luxury, I just don't think that its fair the way that it's been presented you know all the west Waynesville, all the restaurants, whatever with social media, I think it has the potential to look bad on us."

Mayor Caldwell: "Thank you. I can speak on behalf of a couple of folks I talked to. Hardees you know their biggest time of selling, you know, their food is their breakfast. If they miss out on their breakfast, they might as well shut down the rest of the day. You know breakfast for Hardees is the is where everybody around here goes. And Taco Bell is probably a little bit into the breakfast across the road there. Also, I got some folks called me from Haywood Smokehouse. This guy here, I mean I'm just telling you what he said, he looked into it to see if his insurance company would cover and his insurance company would not cover his closing on that day because it's not something that happened on his property, it something you know that happened like we do and he said it would probably cost him around \$15,000.00 to shut down for that Friday, you know, for that. But uh, I'll open it up from Anthony over there uh you know like I said, I called this meeting, this is me, and I represent the citizens, I represent the business owners out there, I mean, and I just feel like this burden could be shifted trying to do this on a peak Friday."

Alderman Anthony Sutton: "I'd like to hear from Public Works. I have some questions."

Public Services Director Jeff Stines: "You ask your questions, and then I'll fill in."

Alderman Sutton: "What time does it start on Friday"

Mr. Stines: "We got it scheduled to start shutting it off at 8:00. We actually talked to Brandon and decided to start that a little earlier to see if that did affect him. So, hopefully take care of that."

Alderman Sutton: "Did we consider doing it at night?"

Mr. Stines: "We did. There's some safety issues there where that water line is, there's a steep grade, once you exhume the water line you will have a 8-to-10-foot sheer drop off to the creek bed, so, even with a light tower, we have a light tower, even with that, and with the machinery moving in and out of that light path, it's just it's a danger, it's a huge danger."

Alderman Sutton: "So, OSHA might have some issues with that?"

Mr. Stines: "Oh definitely so. I can't speak for them, but I would definitely say they would."

Alderman Sutton: "Why did you guys determine to do it on Friday?"

Mr. Stines: "We actually, we uh, we knew about the leak a couple months back. We had some parts, we had to order materials, and you know getting parts and materials in is a lengthy thing now. So, we got those in recently, and scheduled just as soon as we can to be proactive. There's some other issues with this, uh it's about 20-to 25 feet from the railroad track. So, in my opinion, like the longer we put this off, if that were to break or blow out whatever you want to call it and that cast iron pipe under the railroad track, then you are going to have many more people, more than Brandon, out for more than six hours. You gonna have them out for days, possibly weeks."

Alderman Sutton: "Does the outage affect schools?"

Mr. Stines: "It will affect Hazelwood Elementary."

Alderman Sutton: "Are they closed on Friday?"

Mr. Stines: "Yes they are closed on Friday."

Alderman Sutton: "So, how many students go to Hazelwood?"

Becky Johnson: "600."

Alderman Sutton: "Ok, thank you."

Mr. Stines: "We thought of every possible scenario we could. This is the best scenario we came up with to fix it, and I apologize to Brandon for it affecting him, but we are trying to do it to affect the least amount of people as possible."

Alderman Jon Feichter: "Is the um, you talked about the possibility of the line breaking and becoming a monumental problem that would result in days maybe weeks of outage, which is obviously unthinkable. So, the question, I also appreciate Mr. Green's comments about this weekend being the last potential weekend of the leaf season, so, what are your thoughts of the possibility of puttin' it off for another week um, would we run the risk of um, it turning into a catastrophe by doing that, and um what I'm looking for is, obviously I appreciate you couldn't know one way or another, but your best guess is um, the risks that we, by postponing it a week, the risks would be extraordinarily high or extraordinarily low."

Mr. Stines: "I think the risks would definitely outweigh, I wouldn't feel comfortable puttin' it off, just based on the location of that water line, and what we would get into with the railroad with the repairs there."

Alderman Sutton: "It's supposed to be down to 28 degrees on Saturday, and 27 degrees on Sunday."

Mr. Stines: "And that's another thing too so, you start cuttin' water off when it's that cold lines start freezing, smaller lines to the homes, you have claims and liabilities to homes they may freeze and bust."

Alderman Feichter: "When it's all said and done, there is no good time to do this."

Mr. Stines: "There is never a good time."

Alderman Feichter: "Um, you know the couple of things on my mind is you would have to request that the Hazelwood School close for the day."

Mr. Stines: "If they are out of water for more than two hours, they have to close."

Alderman Feichter: "It's obvious, I have a deep appreciation for the difficulties that small businessmen face, businessmen and women, you know I was a small businessman for two decades, so I know the ups and downs and the chaos that results for something like this, but um, the flip side of that coin is what with that closure of the school, for a day, and if I understand Mr. Green, on Monday or Tuesday would be a far better day for him so, if we had to go to Hazelwood Elementary and ask them to close down for a day, um what are the repercussions from that. And so, um I thought I had a pretty good idea, you know we have a lot of working families in this community, and we are gonna ask them to have to deal with childcare for an extra day so, um I reached out to a couple of people who have students at the school, and to kinda gage their impressions on what kind of challenges this might put on them. Honestly there were a whole list of things that I never would have considered. The first thing that this one particular parent mentioned was the issue of what is doing to the psychology of our kids. We are, have made so

many significant demands on them over the last what, twenty months, so here we are, I understand it's just one day, but it's one more day on top of twenty months of chaos. And the other really got my attention was the issue of the cafeterias, and so many of these students actually depend on their school day for both of their meals as I understand it. So, they if they close, those kids are gonna miss out on those meals, and the other thing is teachers. Is this a virtual day or are they gonna need to prepare assignments, etc., and certainly last but not least, this is the real major concern of mine is, I did not know this, but apparently if school is not in session, um hourly employees do not get paid, that includes bus drivers, teachers' assistants, custodians, cafeteria workers, and so we would ask them to forgo a day's wages if you were to close school. And so, again you know I completely understand the concerns of small businesses, and appreciate the problems that that would hold, but to me closing schools is a major hardship that we have to take into consideration, and so, um I also was interested in the possibility of doing it at night, but basically what I think is that we need to start it as early as we can, and to finish as quick as we can to get those businesses back open as soon as we possibly can. I shudder to think of postponing this any longer, and potential for damage."

Mr. Stines: "I will say this, and Wayne can verify this, the draining of the line, and the filling of the line is the bulk of the work. The actual labor and repair is minimal compared to that. Just so you know."

Alderman Sutton: "The sun rises at 7:04. Could you start as early as 7?"

Mr. Stines: "Yes"

Wayne Bolin: "Yeah, that's what I told Brandon, we'd start cuttin' it off at 7."

Alderman Feichter: "Forgive me, but I really don't know what these kinds of repairs entails, but you talk about cutting water off. Is that something that could be preloaded that you are doing that ahead of time so when you need to get down in the ditch, you um already have that part out of the way, or is that part of the process?"

Mr. Stines: "We was talking about starting at 7, that was actually turning the water off, so folks can get up and go, having water to work earlier than that. And a lot of folks won't lose their water right away. It's just gradually, pressure's gonna go down. It's just draining on a line that large, it takes so long that and then recharging it, the air off of it, that's the bulk of the work."

Alderman Sutton: "What's the size of the line?"

Mr. Stines: "20-inch water line. You can tell on that map. I gave you all a map with that highlighted circle. That the upper corner of that lot, that's PetSmart just to get you acclimated where it's at. There's a 20 inch and an 8 inch that goes off towards PetSmart, right in that area."

Alderman Sutton: "Jon said something that triggered something else in my mind. He said that if we close school, children that live in that district, in the area where the water is going to be turned off, may be home alone with no water"

Mr. Bolin: "Correct."

Mayor Caldwell: "What is the possibility then of not affecting the school, if you skip this peak weekend, you gonna try to, you feel like it going to, I mean I don't know how bad its leaking or whatever."

Mr. Stines: "I am just being honest with you. I am trying to do what's right and foremost for the Town. And I don't feel comfortable leaving that there for any length of time due to the liability on the railroad tracks. I just feel like if that were to rupture, and I'm thinking worst case scenario here but, I tend to do that when it comes to stuff like this, so, if that were to rupture and split under the railroad tracks then we are talking several days and nights, or several weeks to get it fixed. They are very strict, and if that happened, they would supervise everything we done on that job site."

Alderman Sutton: "Is this in the right-of-way?"

Mr. Stines: "It is. Rob is it 50 foot or 100 foot in that direction off the railroad?"

Alderman Sutton: "50 feet off each side."

Mr. Stines: "Yeah that water line where this leak is about 20 to 25 feet from the tracks."

Alderman Sutton: "So you had to get their permission to do the work to begin with."

Mr. Stines: "Yes."

Alderman Chuck Dickson: "is there any excavation required?"

Mr. Stines: "Yes."

Alderman Dickson: "Are you going to do it at the same time, or could that be done ahead of time or?"

Mr. Stines: "Actually, I think Wayne, while they are cutting the water off, there will be a guy over there diggin' it out gettin' it ready. We got larger machines, so it doesn't take that long."

Alderman Dickson: "So they will have plenty of time to dig while..."

Mr. Stines: "Yes while the water is draining."

Alderman Dickson: "And this won't affect Waynesville Middle School?"

Mr. Bolin: "We don't think it will."

Mr. Stines: "No."

Alderman Sutton: "Do you know how many people it will affect, approximately?"

Mr. Stines: "Wayne, do you know right off the top of your head?"

Alderman Sutton: "It's a guessing game I know."

Mr. Stines: "I could tell you a thousand, it might be 1500, I can't give you an exact number."

Alderwoman Julia Freeman: "And I just want to throw in there, when you look to our neighbors east of us, when you look at Buncombe County which has a terrible and failing infrastructure, when you look at when the water mains break and they are out for days, and you are talking days, so it makes me extremely nervous to put this off."

Mr. Stines: "Well we are just trying to be as proactive as we can, and not run into the chance of that rupturing under the railroad tracks and take care of it before it does."

Alderman Feichter: "Jeff, how long has this been leaking, do you have any idea?"

Mr. Stines: "Well like I said, for a couple of months, we had to order the parts to repair it, so it's been leaking that long but, you know its..."

Alderman Feichter: "Is it getting worse? Can you tell?"

Mr. Bolin: "It has sped up. It ain't no gusher, but it has sped up a little bit."

Alderman Sutton: "So it took you that long to get the parts. What happens if it ruptures, how long will it take to get parts for that?"

Mr. Stines: "I don't know."

Mr. Bolin: "Plus we had to wait on Southern."

Alderman Sutton: "Southern Railroad?"

Mr. Bolin: "Southern Concrete. We had to schedule it with them, they moved down there right beside it, and that is their main water supply, and we was waitin' on them and then we decided we needed to fix it. Now they are moving all their material back to the Boundary Street area so they can run off Boundary Street Friday, and not up yonder on Verago Road.

Mayor Caldwell: "How much of Hazelwood is it going to affect down there?"

Mr. Stines: "We'll keep it as condensed as possible, isolated as much as possible, what do you think Wayne?"

Mr. Bolin: "As far as Hazelwood, it will be Verago Lane, and the sheriff's office. Now Hazelwood Avenue, Elysia, and all that, they lose the water pressure, but they still should have water volume.

Alderman Sutton: "Did you say this won't affect the Haywood Smokehouse?"

Mr. Stines: "They should not be out of water."

Mayor Caldwell: "Somebody had talked to him."

Mr. Stines: "Well what, and to kinda clear things up too, Joey Webb Jr. got with him and he sent out the alert city wide and explained where we are working so that how that got crossed up, I don't know.

Alderman Feichter: "So the Smokehouse is not affected?"

Mr. Stines: "They will not be out of water."

Alderman Feichter: "Ok."

Alderman Sutton: "Will Walmart be out?"

Mr. Stines: "No actually Walmart feeds from Hyatt Creek, and their water lines come to the backside of their building, so it will feed back to the building to the point to where they are working."

Alderman Feichter: "So all those buildings up through there will have water? Belk's and all of them?"

Mr. Sines: "Yes they will have water."

Alderman Sutton: "What about Hardees?"

Mr. Stines: "I'm sorry?"

Alderman Sutton: "What about Hardees?"

Mr. Stines: "Yes they will be out of water. We are hoping that Brandon will have water, you know."

Alderman Dickson: "Urgent Care Center?"

Mr. Stines: "They should have water, yes."

Alderman Sutton: "You said that Haywood Detention Center will not have water?"

Mr. Stines: "They will not have water. We have already been in contact with them, and they are making plans."

Alderman Sutton: "So they have plans in place?"

Mr. Stines: "They will have porta-johns."

Alderman Sutton: "So they have already ordered them and have them in place?"

Mr. Stines: "Yes."

Mayor Caldwell: "You guys have questions for him?"

Alderwoman Freeman: "No, I'm good. Thanks for the answers. I've got a small business myself on Hazelwood Avenue, so, we've already made plans ourselves. We didn't know, we thought we were going to be without water, so. We've already made our plans too."

Mr. Stines: "And looking back, we should have condensed that area a little more with that alert system. It probably would have saved a lot of mayhem, but ..."

Mayor Caldwell: "Ok, so the consensus from the Board, someone give me a motion here to continue with the repair, or maybe put it off, maybe a compromise a Monday or something, Tuesday of next week or something there. We would have to contact the schools if we did that for sure."

Alderman Feichter: "Do we, are we um know if the school um, what are the procedures for something like this? Like I said, I totally sympathize and recognize the hardship that this is going to impose on the small businesses up there. Man, I hate it, but I just think that the risks to

postponing it a few days are unthinkable. I personally would be in favor of moving forward with the plan as is, and like I said, as quick as we can, as early as we can, let's get this done and ?????

Mayor Caldwell: "Ok, um does anybody second his motion?"

Alderwoman Freeman: "I'll second it."

Mayor Caldwell: "Ok, I've got a motion and a second to continue with the repairs, all in favor say I."

***A motion was made by Alderman Jon Feichter, seconded by Alderwoman Julia Freeman to proceed as planned with the repair to the water line in Hazelwood. The motion passed with four ayes (Alderman Chuck Dickson, Alderwoman Julia Freeman, Alderman Jon Feichter, and Alderman Anthony Sutton) and one nay ( Mayor Gary Caldwell.)***

Mayor Caldwell: "I guess I'm the only one opposed. I represent the citizens and the businesses out there you know, and I've been hammered. Nobody else probably got hammered like I did and there would be a little bit more consideration here I think."

#### **ADJOURN**

***With no further business, a motion was made by Alderman Anthony Sutton, seconded by Alderwoman Julia Freeman, to adjourn the meeting at 7:27 p.m. The motion carried unanimously.***

ATTEST:

\_\_\_\_\_  
Gary Caldwell, Mayor

\_\_\_\_\_  
Robert W. Hites, Jr. Town Manager

\_\_\_\_\_  
Eddie Ward, Town Clerk

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REQUEST FOR BOARD ACTION  
Meeting Date: December 14, 2021**

**SUBJECT: SWRRP (Source Water Resiliency and Response Plan), Emergency Response Plan**

**AGENDA INFORMATION:**

**Agenda Location:** Consent Agenda  
**Item Number:** 2aciii  
**Department:** Public Services  
**Contact:** Jeff Stines/Kyle Cook/Ricky Foster  
**Presenter:**

**BRIEF SUMMARY:** To notify the Mayor and Board of Alderman that the Town of Waynesville has implemented and certified the SWRRP (Source Water Resiliency and Response Plan/Emergency Response Plan).

**MOTION FOR CONSIDERATION:** No Board Action Required. Notification only that staff has been trained and the SWRRP/Emergency Response Plan has been implemented and certified per [NC Rule 15 NCAC 18C.1305 - Source Water Protection Planning Rule](#)

**FUNDING SOURCE/IMPACT:** N/A

**ATTACHMENTS:**

- Source Water Resiliency and Response Plan (SWRRP) Certification Form
- Emergency Response Plan

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** N/A



**Town Of Waynesville**  
**Emergency Response Plan**



**Town Of Waynesville**

Emergency Response Plan

### CWS and ERP Information

Please fill in the information below as indicated.

PWSID	01-44-010
Street Address	341 Rocky Branch Rd
City, State Zip Code	Waynesville, NC 28786
Phone number	828-456-8497
Population Served	
Prepared by	Kyle Cook / Hugh Parrott / Cody Stiles
Reviewed by	
Date completed	11/24/2021





# TABLE OF CONTENTS

<b>UTILITY INFORMATION.....</b>	<b>1</b>
i Utility Overview .....	1
ii Personnel Information .....	2
iii Primary Utility Components.....	3
iv Industry Chemical Handling and Storage Facilities .....	5
v Safety .....	5
vi Response Resources.....	7
vii Key Local Services.....	7
<b>1 RESILIENCE STRATEGIES.....</b>	<b>8</b>
1.1 Emergency Response Roles .....	8
1.2 Incident Command System (ICS) Roles .....	10
1.3 Communication .....	10
1.3.1 Internal Communication .....	10
1.3.2 External Response Partner Communication.....	11
1.3.3 Critical Customer Communication.....	12
1.3.4 Communication Equipment Inventory .....	12
1.4 Media Outreach .....	13
1.5 Public Notification Templates .....	13
<b>2 EMERGENCY PLANS AND PROCEDURES.....</b>	<b>14</b>
2.1 Core Response Procedures .....	14
2.2 Incident-Specific Response Procedures.....	16
<b>3 MITIGATION ACTIONS .....</b>	<b>18</b>
3.1 Alternative Source Water Options and Interconnected Utilities.....	18
3.2 Other Mitigation Actions.....	19
<b>4 DETECTION STRATEGIES.....</b>	<b>20</b>

## UTILITY INFORMATION

During an incident, you need to have system information about your water utility readily available for your personnel, first responders, repair contractors/vendors, the media, and other response partner agencies.

### i Utility Overview

Provide basic information about your utility.

Utility Information	
PWSID	01-44-010
Utility name and address	Town Of Waynesville
Owner	Town Of Waynesville
Directions to utility from major roadway, include lat./long. coordinates	
Total population served and total service connections	
Name, title, phone number of primary contact (e.g., ERP Lead)	Kyle Cook 828-456-8497
Alternate contact	Hugh Parrott 828-456-8497
Location of treatment, distribution, collection schematics and operation manuals	On site

Use this checklist to ensure the following additional utility information (as applicable) is included as a part of your ERP.

- Map of distribution systems
- Pressure boundary map
- Process flow diagram
- Site plans and "as built" drawings for the following components of your system (as applicable):
  - Pumping and storage facilities
  - Reservoir facilities
  - Water treatment facilities
  - Chemical storage locations
  - Booster pump stations
  - Pressure-regulating valve (PRV) sites
- Distribution system diagrams and instrumentation information
- Equipment specifications and operation instructions
- Emergency power and light generation operation specifications
- Supervisory Control and Data Acquisition (SCADA) system operation instructions
- Communications systems operation instructions



### iii Primary Utility Components

List all the components necessary to maintain effective operation of your utility. Simply add more rows to the tables below if you have additional components. Text in italics represents examples – be sure to delete italicized text as necessary as you fill out the tables below and throughout this template.

#### Wells

Well Name	Depth/Location	Available Yield	Treatment Requirements/Associated Treatment Plant
Not Applicable			

#### Intakes

Intake Name	Depth/Location	Capacity	Treatment Requirements/Associated Treatment Plant
Allen Creek Reservoir	1-at 3156'	Full Pool @ 3176'	
	1- at 3136'	Est cap. @ 3176' 540,000,000	

#### Treatment Plants

Plant name	Location	Capacity	Treatment Train
Waynesville WTP	341 Rocky Branch Rd	8MGD	Conventional Treatment

### Storage and Distribution System – Tanks, Primary Mains and Pumping Stations

Location	Area Served	Comments
1068 Laurel Ridge Dr	Waynesville distribution system	150,000 Gal Tank
147 High Ridge Dr	Waynesville distribution system	100,000 Gal Tank
2670 Eagles Nest Rd	Waynesville distribution system	100,000 Gal Tank
2255 Gaddis Branch	Waynesville distribution system	160,000 Gal Tank
4045 Eagles Nest Rd	Waynesville distribution system	81,000 Gal Tank
4499 Eagles Nest Rd	Waynesville distribution system	28,000 Gal Tank
234 Woody Lane	Waynesville distribution system	100,000 Gal Tank
739 Woody Lane	Waynesville distribution system	10,000 Gal Tank
512 Hickory Dr	Waynesville distribution system	75,000 Gal Tank
463 Redbank Rd	Waynesville distribution system	100,000 Gal Tank
72 Ellenberger Dr	Waynesville distribution system	30,000 Gal Tank
699 Apple Tree Ct	Waynesville distribution system	10,000 Gal Tank
Shingle Cove Tank	Waynesville distribution system	2,000,000 Gal Tank
Reservoir Drive Tank	Waynesville distribution system	2,000,000 Gal Tank

### Treatment Chemical Storage Facilities

Location	Chemical(s)	Comments
Waynesville WTP	Chlorine	5 tons chlorine gas
Waynesville WTP	Bulk Caustic	2 Bulk Tanks
Waynesville WTP	Hydrofluorosilicic Acid	Bulk Tank
Waynesville WTP	Aluminum Sulfate	Bulk Tank

### Potential Contamination Sources

Location	Function	Comments
35.42682N 83.00946W	Sludge Pond	Source identified by PWS

**Potential Contamination Sources**

Location	Function	Comments

**iv Industry Chemical Handling and Storage Facilities**

List surrounding chemical production, handling or storage industries that could impact your utility during incidents such as accidental releases, hurricanes or earthquakes.

**Industry Chemical Handling Facilities**

Facility Name	Location	Distance	Chemical and Exposure Pathway
<i>None</i>			

**Chemical Storage Tanks**

Facility Name	Location	Distance	Chemical and Exposure Pathway
<i>None</i>			

**v Safety**

List safety materials and important safety information to help protect utility personnel during an incident. You may also reference your utility Health and Safety Plan, if available.

**Safety Materials**

Type	Location
<i>Gas Detector</i>	Superintendent Office
<i>SDS Sheets</i>	Control Room
<i>PSM/RMP</i>	Superintendent Office
<i>Escape Respirators</i>	Pump room downstairs

Safety Information

Topic	Description

**vi Response Resources**

Provide an inventory of available resources (e.g., equipment, supplies) either maintained on site or readily available off site (e.g., neighboring water system) in the table below, or insert an existing inventory sheet.

Resources			
Kind	Type	Quantity	Location
Generator	Diesel 150KW	1	Generator Building
Fuel	Diesel 500Gal Tank	1	Adjacent to generator building
Spare Pumps	Process and feed pumps	Spares for each pump	On site

**vii Key Local Services**

Note the closest locations of key logistical and medical services that you or mutual aid and assistance providers may need during an incident. Include a map if available.

Essential Services	
Facility	Location/Description
Haywood Regional Medical Center	2062 Leroy George Dr
Exxon	16 Old Balsam Rd.
Walmart / Pharmacy	135 Town Center Loop
Ingles	1670 Brown Ave

# 1 RESILIENCE STRATEGIES

This section contains strategies and resources to improve the resilience of the system, including the physical security and cybersecurity of the system.

## 1.1 Emergency Response Roles

Describe the roles and responsibilities for key utility and external response partner personnel in the table below. You can add, edit or delete rows as necessary.

**Water Utility and Partner Roles**

<b>Name/Title</b>	<b>Emergency Response Role</b>	<b>Responsibilities</b>
<i>Kyle Cook Superintendent</i>	<i>On Site emergency Response Lead</i>	<i>Responsible for all on site incident response activities, including developing strategies and tactics and ordering and releasing resources.</i>
<i>Hugh Parrott Chief Operator</i>	<i>Alternate on site emergency Response Lead</i>	<i>Perform duties as assigned by ER Lead; assumes duties listed above when ER Lead is not available.</i>
<i>Cody Stiles Senior Plant Operator</i>	<i>Alternate on site emergency Response Lead</i>	<i>Perform duties as assigned by ER Lead; assumes duties listed above when ER Lead is not available.</i>
<i>Jeff Stines</i>	<i>Public Works Director Off site emergency response lead</i>	<i>Responsible for coordinating response activities and public information</i>
<i>Wayne Bolin</i>	<i>Water / Sewer Superintendent Alternate Off site emergency response lead</i>	<i>Responsible for all off site incident response activities, including developing strategies and tactics and ordering and releasing resources</i>

**External Response Partner Roles**

Name/Title	Organization	Responsibilities During an Incident
Local Partners		
Greg Shuping	<i>County Emergency Management/EOC</i>	Coordinate emergency response
Greg Christopher	<i>Haywood County Sheriff</i>	County Law Enforcement
David Adams	<i>Town Of Waynesville Police Dept.</i>	Security
Joey Webb	<i>Town Of Waynesville Fire Dept</i>	Emergency response
	<i>LEPC</i>	
Board Of Alderman	<i>Elected officials</i>	Emergency Ordinances
	<i>Neighboring Wastewater utility</i>	
	<i>Neighboring Water utility</i>	
Duke Energy	<i>Power utility</i>	
	<i>Health department</i>	
	<i>Contractor/vendor</i>	
	<i>Industry representative</i>	
	<i>Mutual aid</i>	
	Other	
	Other	
State Partners		
NC DENR	<i>Primacy Agency</i>	Issuing of directives and guidance
	<i>Health department</i>	
	<i>Police</i>	
	WARN	
NC Dept Of Health	<i>Laboratories</i>	Issuing of directives and guidance
	Other	
	Other	
Federal Partners		
USEPA	<i>EPA regional office</i>	Issuing of directives and guidance
	<i>FBI field office</i>	
	CDC	
	Other	
	Other	

## 1.2 Incident Command System (ICS) Roles

ICS is used to organize both near-term and long-term field-level operations for a broad spectrum of emergencies, from small to complex incidents, both natural and manmade. An ICS Incident Organization Chart (ICS Form 207), available at FEMA's [ICS Resource Center](#), may be completed for your utility and inserted here or attached to your ERP.

## 1.3 Communication

Communication during an incident is critical to relay information to employees, response partners and critical customers about potential risks to health, infrastructure, and the environment.

### 1.3.1 Internal Communication

List all utility emergency response team members, their response role, title and contact information.

**Contact List**

Name	Role/Title	Phone	Alternate Phone	Email
Kyle Cook	Water Plant Superintendent	828-456-8497		
Hugh Parrott	Chief Operator	828-456-8497		
Cody Stiles	Senior Operator	828-456-8497		
Jeff Stines	Public Works Director	828-456-3706		
Wayne Bolin	Water/Sewer Superintendent	828-456-3706		
Brandon Worley	Pump Mechanic / Backflow ORC	828-456-3706		
Ricky Foster	Assistant Public Works Director	828-456-3706		

**1.3.2 External Response Partner Communication**

List all external response partners, their response role or position as well as contact information.

**External Response Partner Contact List**

Organization or Department	Point Person Name or Position	Phone	Alternate Phone	Email or Website
<b>Local Partners</b>				
County Emergency Management/EOC	Greg Shuping	911		
911	911	911		
Police	David Adams	828-456-5363		
Fire/HazMat	Joey Webb	911		
LEPC				
Elected officials				
Wastewater utility				
Water utility				
Power utility	Duke Energy	1-800-777-9898		
Health department				
Contractor/vendor				
Industry rep.				
Mutual aid				
Other				
<b>State Partners</b>				
Primacy agency	Kimberly Barnette	828-296-4500		
Health department				
Police				
WARN				
Laboratories				
Other				
<b>Federal Partners</b>				
EPA regional office	Chris Walston	404-562-8201		
FBI field office				
CDC				
Other				

### 1.3.3 Critical Customer Communication

List critical customers below who should be given priority notification due to their reliance on the water supply either for medical reasons, based on usage, public health mission or because they may serve customers considered to be sensitive sub-populations.

**Critical Customer Contact List**

Organization or Department	Point Person Name or Position	Contact Instructions	Phone	Alternate Phone	Email or Website
JSD	Josh Nickol		828-564-6424		
Town Of Maggie	Jason Herbert		828-734-6988		
Autumn Care			828-456-7381		
Haywood Regional Hospital			828-456-7311		
Davita Dialysis			1-866-544-6741		
Lake Junaluska Water	Dave Nicholson		252-675-2201		
Transportation center					
Haywood County Schools			828-456-2400		
University					
Daycare center					
Factory					
Government building					
Large water user					
Other					

### 1.3.4 Communication Equipment Inventory

Inventory your utility's communication equipment below.

**Communication Equipment**

Type	Assigned to	Location	Number/Frequency/Channel
Mobile Radio's	Departments / personnel	All town vehicles and utility facilities	3710
Landline/ cell phones			AT&T / Cell Carriers

### 1.4 Media Outreach

List contact information for all media outlets that your utility may coordinate with during notification efforts. Additionally, include existing risk communication procedures, such as composing and delivering messages (e.g. message mapping), or reference an existing Risk Communication Plan.

**Contact List**

Organization or Department	Point Person Name & Position	Phone	Alternate phone	Email or Website
Utility media coordinator	Jeff Stines Public Works Director	828-456-3706		
Newspaper – Local The Mountaineer		828-452-0661		jkey@themountaineer.com
Newspaper – Regional/State				
Radio station				
TV station WLOS		828-456-6020		
Advertising agency				
Other				
Other				

### 1.5 Public Notification Templates

Insert your templates for public notifications here, or reference where they may be found. Ensure that your templates are consistent with the regulatory requirements for public notification contained in the Public Notification Rule (see 40 CFR 141, Subpart Q) and all relevant state regulations.

\*Public notification templates may be found under the public water supply section of the NC DENR website.

## 2 EMERGENCY PLANS AND PROCEDURES

This section contains plans and procedures that can be implemented in the event of a malevolent act or natural hazard that threatens your utility's ability to deliver safe drinking water.

### 2.1 Core Response Procedures

Core procedures are the "building blocks" for incident specific response procedures, as they are typically implemented across a broad variety of incidents (e.g., hurricane, earthquake, flood). List all your core procedures here.

#### Access

Item	Description
Debris clearing	Town Of Waynesville Public Works Employees
Alternate routes	None
Identification badges	None
Other	

#### Physical Security

Item	Description
Access control procedures	Gates and doors of facilities can be locked / Personnel have been issued keys
Restricted areas	Chemical rooms / electrical panels / storage tanks / chemical storage areas / plant entry restricted
Evidence protection measures	Follow procedures as directed by law enforcement
Security culture	Community watch
Other	

#### Cybersecurity

Item	Description
Disconnect procedure	If possible, disconnect compromised computers from the network to isolate breached components and prevent further damage, such as the spreading of malware.

**Cybersecurity**

Item	Description
Notification	Contact IT service provider currently contracted through ELECTRONIC OFFICE
Other	

**Power Loss**

Item	Description
Backup power systems	150 KW Generator on site
Power utility	Duke Power 1-800-777-9898
Fuel plan	500 Gal tank located on site can be resupplied by local vendors
Maintenance plan	Maintained through Startek
Other	

**Emergency Alternate Drinking Water Supplies\***

Item	Description
Bottled water	Provider name: Red Cross / National Guard / Local Emergency Management Phone: Contract No. (if applicable): Available supply: Distribution point (notify public of location):
Bulk water (check with your state first for licensed water haulers)	Provider name: Red Cross / National Guard / Local Emergency Management Phone: Contract No. (if applicable): Available supply: Distribution point (notify public of location):

\* Interconnections are listed and described in Section 3.1

**Sampling and Analysis**

Item	Description
Sampling procedures	Sampling procedures can be found in the SOP book
Pre-identified sampling locations	Sample locations are identified in the sample site plan
Sampling containers and preservatives	Sample containers and preservatives are supplied by contracted lab

**Sampling and Analysis**

Item	Description
Sample collection	Kyle Cook / Hugh Parrott/ Cody Stiles
Sample transportation	Kyle Cook / Hugh Parrott/ Cody Stiles
Laboratory capabilities	Contract lab can analyze any samples not analyzed in house.
Interpreting results	Work with the appropriate lab, utility and regulatory agency personnel to interpret sample results..
Other	

**Local Contract/State/Federal Laboratory Contact List**

Name	Address	Analytes/Methods	Phone	Email or Website
ETS	PO Box 7565 Asheville, NC 28802	Metals, VOCs and SVOCs	828-350-9364	www.etsnclab.com

**Family and Utility Personnel Well Being**

Item	Description
Facility Emergency Response Plan	Implement facility emergency response plan.
Assembly area	Contained in the emergency response plan
Supplies	Food / Water / First aid
Alternate work and shelter locations	NA Personnel must be on site
Extreme temperatures	Umbrellas, Coats, Gloves, Boots, Snow Chains
Other	

**2.2 Incident-Specific Response Procedures**

Insert applicable Incident-Specific Response Procedures (ISRPs), specialized procedures tailored to an incident type. Incidents may include, but are not limited to, the following:

- Cybersecurity
- Drought
- Earthquake
- Extreme Cold and Winter Storms
- Extreme Heat
- Flooding
- Harmful Algal Bloom
- Hurricane
- Tornado
- Tsunami
- Volcanic Activity
- Wildfire
- Source Water Contamination
- Distribution System Contamination

EPA's website provides a number of [incident action checklists](#) (IACs) that you can use to help develop your own ISRPs. EPA also published the [Prepared for Contamination in Your Distribution System?](#) guidance that can help you develop a distribution system contamination ISRP.

\*Reference the Town Of Waynesville "Risk and Resilience Assessment"

Re

### 3 MITIGATION ACTIONS

This section contains actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health and the safety and supply of drinking water provided to your community and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers.

#### 3.1 Alternative Source Water Options and Interconnected Utilities

List information on alternative source water options and interconnected utilities to mitigate impacts during incidents.

##### Alternative Source Water Options

Type	Location	Comments
None		No alternate source water available / not feasible

##### Interconnected Utilities

Utility Name	Location	Contact Information	Comments
None			No interconnections available

### 3.2 Other Mitigation Actions

List any mitigation procedures or projects implemented at your utility, such as raising facilities and controls or constructing berms to protect against flood damage.

Mitigation Actions		
Type	Location	Comments
	<i>Intake 1</i>	<i>This intake is utilized under normal conditions</i>
	<i>Intake 2</i>	<i>This intake can be utilized in times of drought</i>

## 4 DETECTION STRATEGIES

This section contains strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system.

List the detection strategies and methods your utility uses to aid in the detection of malevolent acts or natural hazards. Also list the corresponding procedure to be used if the threat is detected.

Detection Strategies		
Threat	Detection Method	Procedure
Unauthorized entry	<ul style="list-style-type: none"> <li>Cameras</li> </ul>	Call 911
Source water contamination	<ul style="list-style-type: none"> <li>Observation</li> <li>Routine testing</li> </ul>	Contact NC DENR
Distribution system contamination	<ul style="list-style-type: none"> <li>Customer complaint surveillance</li> <li>Public health surveillance</li> <li>Routine testing</li> </ul>	Contact NC DENR
Cyber intrusion	<ul style="list-style-type: none"> <li>Automated IT and operation technology (OT) system intrusion detection monitoring</li> <li>Notification from utility staff</li> </ul>	Contact Contract IT provider
Hazardous chemical release	<ul style="list-style-type: none"> <li>Chlorine gas in air monitors</li> </ul>	Call fire department / Implement Emergency Response Plan
Hurricane	<ul style="list-style-type: none"> <li>Weather Service alerts</li> </ul>	Monitor Flooding and lake level
Flood	<ul style="list-style-type: none"> <li>Visual</li> <li>Weather Service alerts</li> </ul>	Contact EOC
Power outage	<ul style="list-style-type: none"> <li>Automatic Generator Startup</li> </ul>	Contact energy provider
Other		
Other		

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: December 14, 2021**

**SUBJECT:** Public Hearing to consider a request for Annexation for property known as the Queen Farm Subdivision, an unaddressed lot on Sunnyside Road, PIN 8615-98-2217.

**AGENDA INFORMATION:**

**Agenda Location:** Public Hearing  
**Item Number:** E2  
**Department:** Development Services  
**Contact:** Elizabeth Teague, Development Services Director  
**Presenter:** Elizabeth Teague, Development Services Director

**BRIEF SUMMARY:** The Town received the attached Petition for Annexation of Contiguous Area. This property is the future site of a proposed subdivision which received approval by the Planning Board for a preliminary plat on October 26, 2021. The property is within the Town's extra-territorial jurisdiction and urban services boundary, and is contiguous to the Town. The property is zoned Raccoon Creek Neighborhood Residential (RC-NR).

**MOTION FOR CONSIDERATION:**

1. Adoption of attached ordinance to approve the annexation of described property.

**FUNDING SOURCE/IMPACT:** Future action to annex this property will allow the property to receive town municipal services, and be subject to Town property tax.

**ATTACHMENTS:**

1. Petition with metes and bound description
2. Map exhibits
3. Property Posting
4. Annexation Ordinance

**MANAGER'S COMMENTS AND RECOMMENDATIONS:**



# Transmittal

Date: October 25, 2021

Project Name: Queen Subdivision

To: Town of Waynesville – Development Services  
Attn: Elizabeth Teague, AICP, CTP, CFM - Director

Via: Mail  Overnight  Hand Delivered  Pick up @ CDC Office

Copies	Date	Description
1	10/21/21	Executed Annexation Petition for Parcel 8615-98-2217
1	10/21/21	Metes and Bounds Description of the subject parcel
1	10/21/21	Haywood Co. Tax Map of the subject parcel
1	10/22/21	Check in the amount of \$200.00 for the Annexation Request Filing

Remarks:

Elizabeth – Please let me know if you need any additional items in order to begin the requested annexation process for this property.

Thanks

Patrick Bradshaw, PE

Mailing Address: P.O. Box 5432, Asheville, NC 28813

168 Patton Avenue Asheville, NC 28801  
Phone 828-252-5388 Fax 828-252-5365

52 Walnut Street – Suite 9, Waynesville, NC 28786  
Phone: 828-452-4410 Fax: 828-456-5455

**TOWN OF WAYNESVILLE  
PLANNING DEPARTMENT  
P.O. BOX 100, WAYNESVILLE, NC 28786  
828-456-2004**

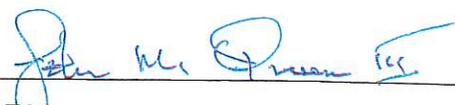
**ANNEXATION UPON PETITION  
OF ALL OWNERS OF REAL PROPERTY**

(G.S. 160A-31, as amended)

Date: October 21, 2021

To: Board of Aldermen of the Town of Waynesville

1. We, the undersigned owners of real property, respectfully request that the area described below be annexed to the Town of Waynesville.
2. Character of area to be annexed:
  - a. Any area which is contiguous to the corporate limits of the Town of Waynesville may be annexed by petition.
  - b. For purposes of these laws, an area is deemed "contiguous" if, at the time the petition is submitted, the area either abuts directly on the municipal boundary or is separated from the municipal boundary by a street, right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State.
3. The area to be annexed is contiguous to the Town of Waynesville and the boundaries of such territory are as follows:
  - a. Metes and bounds description is attached.
  - b. Tax map of the proposed territory is attached.

Name John M. Queen, III Signature   
Address 480 Queen Cove Road, Waynesville, NC 28786

Name \_\_\_\_\_ Signature \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_ Signature \_\_\_\_\_

Address \_\_\_\_\_

(Attach additional sheet if necessary)

(32.608 acres, Sunnyside Road, John M Queen III)

EXHIBIT A

BEGINNING at an existing iron pin on the north side of Sunnyside Road (NC SR 1809), at the southeastern corner of the Carver tract (Deed Book 143, page 543) and runs thence with a fence line, N. 10 deg. 14' 45" E. 230.23 ft. to an existing iron pin at an Allison corner (Deed Book 480, page 1268); thence with the Allison lines and the fence line, 6 calls: N. 13 deg. 57' 45" E. 142.25 ft. to an existing iron pin, N. 79 deg. 40' 00" W. 15.43 ft., N. 10 deg. 54' 56" W. 241.88 ft. to an existing iron pin, N. 1 deg. 32' 43" W. 134.63 ft. to an existing iron pin, N. 0 deg. 30' 59" E. 50.00 ft., and N. 3 deg. 28' 59" E. 99.95 ft. to an existing iron pin in the line of Howell (Deed Book 426, page 549); thence continuing with the fence lines and the lines of Howell, 2 calls: N. 83 deg. 33' 00" E. 129.42 ft. to an existing iron pin and N. 44 deg. 17' 54" W. 87.26 ft. to an existing iron pin in the line of Massie (Deed Book 422, page 974); thence with the Massie lines and continuing with the fence lines, 2 calls: S. 75 deg. 54' 57" E. 345.45 ft. to an existing iron pin and N. 2 deg. 19' 25" E. 272.87 ft. to an existing iron pin in the line of Stovall (Deed Book 479, page 2418); thence with the Stovall line and the fence line, N. 88 deg. 05' 10" E. 531.42 ft. to an iron pin set at a fence corner; thence continuing N. 88 deg. 5' 10" E. 297.26 ft. to an existing iron pin; thence S. 3 deg. 41' 50" W. (passing an iron pin at 1,439.58 ft.) 1,459.58 ft. to a point in the center of a ditch adjacent to the north side of Sunnyside Road in the line of Morrow (Deed Book 390, page 1111); thence with the center of the ditch and the line of Morrow, N. 73 deg. 49' 10" W. 393.05 ft. to a corner with Turner (Deed Book 417, page 852); thence with the Turner lines and the center of the ditch, 3 calls: N. 71 deg. 00' 00" W. 96.09 ft., N. 67 deg. 00' 25" W. 114.33 ft., and N. 61 deg. 43' 35" W. 53.88 ft.; thence leaving the ditch but continuing with the Turner lines, 3 calls: N. 77 deg. 38' 20" W. 68.45 ft., N. 83 deg. 30' 00" W. 99.08 ft. and N. 83 deg. 30' 00" W. 175.06 ft. to a corner with Moody (Deed Book 446, page 1541); thence with the Moody line, N. 85 deg. 08' 45" W. 205.53 ft. to the BEGINNING, containing 32.608 acres as shown on the survey of J. Randy Herron, PLS, dated 11-21-01, entitled "John M. Queen III," Drawing number 1093-181-A.

COMPREHENDING the tracts conveyed to John M. Queen III by deeds recorded in Book 470, page 267 and Book 462, page 2346, Haywood County Registry. TOGETHER WITH the easement described in Deed Book 462, page 2349.

# Report For

QUEEN, JOHN M III  
480 QUEEN COVE RD  
WAYNESVILLE, NC 28785

## Account Information

PIN: 8615-98-2217

Legal Ref: 470/267

Add Ref: A99/27

A01/379

## Site Information

SUNNYSIDE RD

Heated Area:

Year Built:

Total Acreage: 32.67

Township: Waynesville

## Site Value Information

Land Value: \$193,600

Building Value: \$0

Market Value: \$193,600

Deferred Value: \$175,795

Assessed Value: \$17,805

Sale Price: \$66,641

Sale Date: 1/13/1999



1 inch = 200 feet

October 19, 2021

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are computed from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

ORDINANCE NO. O-23-21

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF  
THE TOWN OF WAYNESVILLE, NORTH CAROLINA

WHEREAS, the Board of Aldermen has been petitioned voluntarily under G.S. ~~G.S.~~ 160A-31, to annex the area as described in the petition for a contiguous annexation request, and

WHEREAS, the governing board of any municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all real property located within the area; and

WHEREAS, the Board of Aldermen finds the sufficiency of the petition in accordance with 160A-31, to wit:

- a. The petition follows the form required by statute in which the owner of real property has requested the area described for voluntary annexation; and
- b. That the petitioning owner of record owns 100 percent of the property in question; and
- c. The property is contiguous to the Town's municipal boundary, abutting other contiguous property; and
- d. That the Town Clerk has conducted an investigation in compliance with G.S. 160A-31(c) and has certified the sufficiency of the petition; and
- e.e. That the provisions of G.S. 160A-31(b1) and 160A-31(j) do not apply to the area described in the petition.

WHEREAS, a public hearing on the question of annexation was held at Town Hall at 6:00pm, on the 14th day of December, 2021, and

WHEREAS, the Board of Aldermen does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Board of Aldermen further finds that the petition is otherwise valid, and that the public health safety and welfare of the Town and of the area proposed for annexation will best be served by annexing the area described as PIN # 8615-98-2217.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville, North Carolina:

Section 1. By virtue of the authority granted by North Carolina General Statutes, the following described contiguous territory is hereby annexed and made part of the Town of Waynesville, as of the Fourteenth day of December, 2021. Metes and bounds description is in Exhibit A attached hereto and incorporated by reference.

Section 2. Upon and after the Fourteenth day of December, 2021, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Waynesville and shall be entitled to the same privileges and benefits as other parts of the Town of Waynesville. Said territory shall be subject to municipal taxes according to G.S. 160A.

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

Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the Town of Waynesville.

Adopted this the 14<sup>th</sup> day of December, 2021.

TOWN OF WAYNESVILLE

ATTEST:

\_\_\_\_\_  
J. Gary Caldwell, Mayor

\_\_\_\_\_  
Eddie Ward, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Martha Sharpe Bradley, Town Attorney

EXHIBIT A  
Metes and Bounds Description  
PIN 8615-98-2217

(32.608 acres, Sunnyside Road, John M Queen III)

EXHIBIT A

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COMPREHENDING the tracts conveyed to John M. Queen III by deeds recorded in Book 470, page 267 and Book 462, page 2346, Haywood County Registry. TOGETHER WITH the easement described in Deed Book 462, page 2349.

# Report For

QUEEN, JOHN M III  
480 QUEEN COVE RD  
WAYNESVILLE, NC 28785

## Account Information

**PIN:** 8615-98-2217

**Legal Ref:** 470/267

**Add Ref:** A01/379

## Site Information

SUNNYSIDE RD

**Heated Area:**

**Year Built:**

**Total Acreage:** 32.67

**Township:** Waynesville

## Site Value Information

**Land Value:**

**Building Value:**

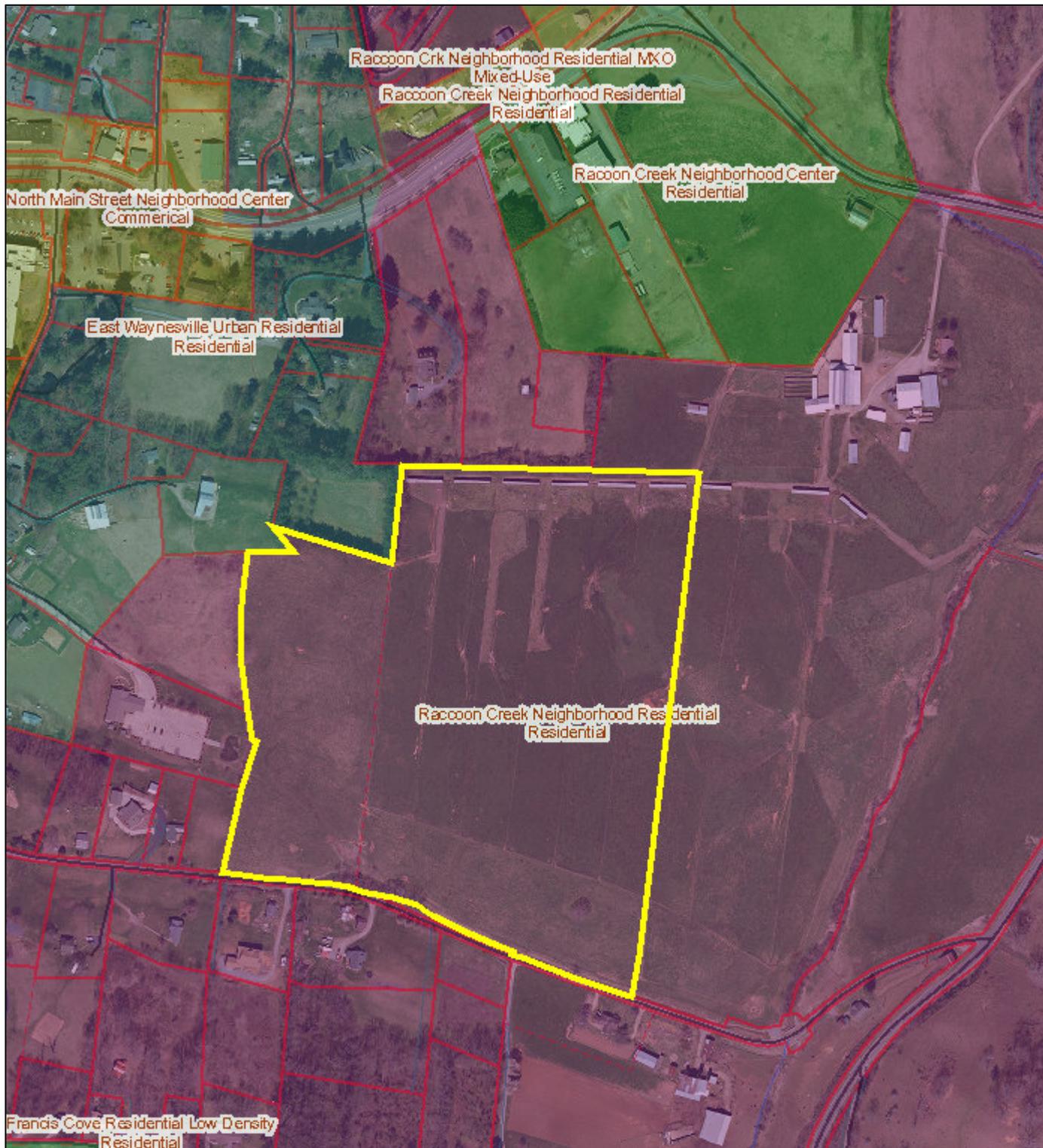
**Market Value:**

**Deferred Value:**

**Assessed Value:**

**Sale Price:**

**Sale Date:** 1/13/1999



1 inch = 400 feet  
November 16, 2021

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

# Report For

QUEEN, JOHN M III  
480 QUEEN COVE RD  
WAYNESVILLE, NC 28785

## Account Information

**PIN:** 8615-98-2217

**Legal Ref:** 470/267

**Add Ref:** A01/379

## Site Information

SUNNYSIDE RD

**Heated Area:**

**Year Built:**

**Total Acreage:** 32.67

**Township:** Waynesville

## Site Value Information

**Land Value:**

**Building Value:**

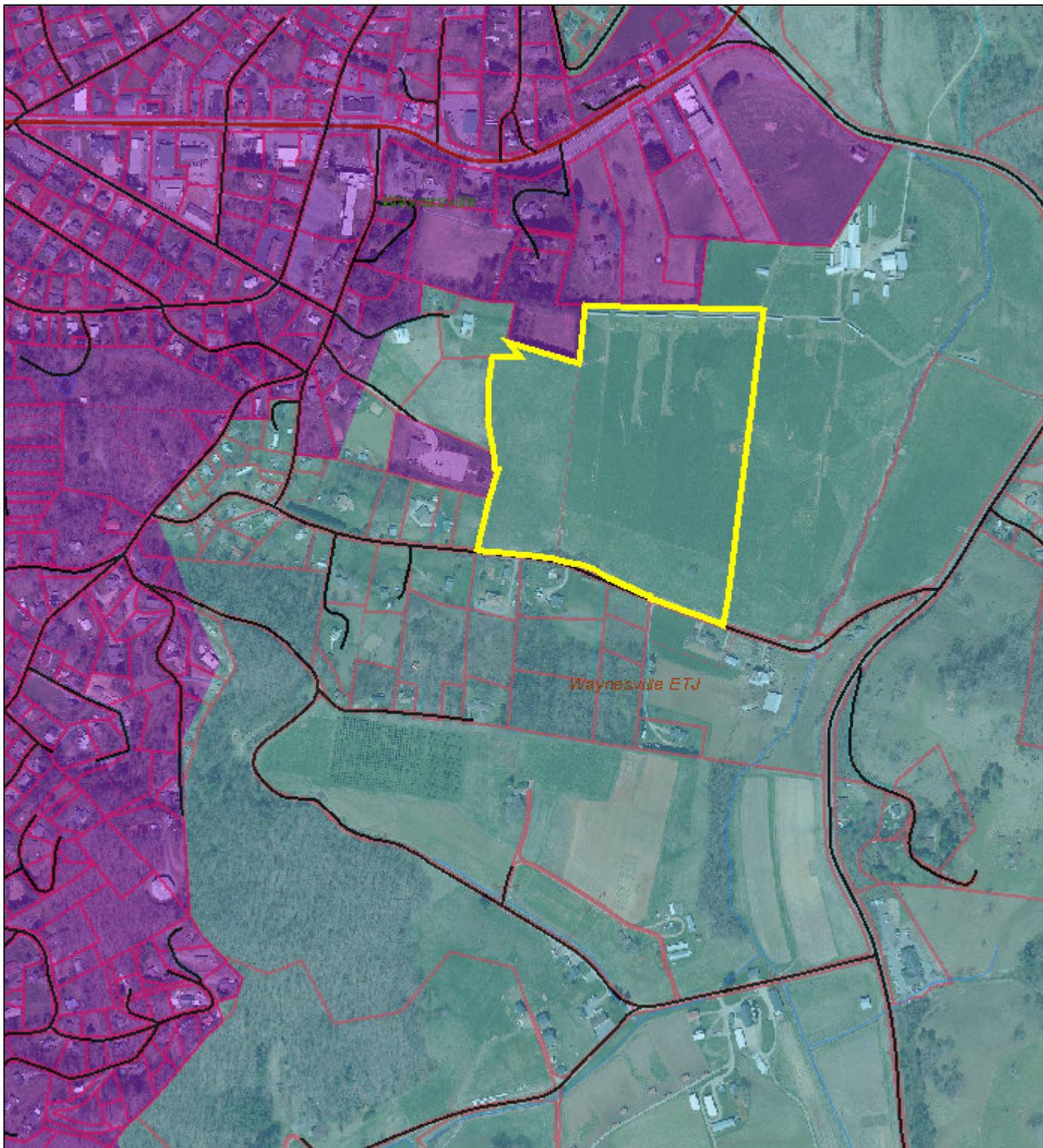
**Market Value:**

**Deferred Value:**

**Assessed Value:**

**Sale Price:**

**Sale Date:** 1/13/1999



1 inch = 667 feet  
November 16, 2021

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

## AFFIDAVIT

The undersigned John M. Queen, III, after being duly sworn, deposes and says:

1. I am the sole owner of the parcel on Sunnyside Road (SR 1809), comprising about 32.67 acres, more or less and having PIN 8615-98-2217 on the Haywood County land records (“Development Tract”).

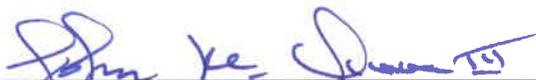
2. The adjacent tract on the east side of the Development Tract is owned by Al & Charlie’s Mountain, LLC, comprising about 57.51 acres, more or less and having PIN 8625-08-4616. I am the manager of Al & Charlie’s Mountain LLC and am authorized to conduct all business matters on behalf of the LLC.

3. The Development Tract is submitting a plan to the Town of Waynesville for approval of its planning board. A part of that plan as prepared by Civil Design Concepts, PA is a notation near the southeast corner of the Development Tract: “Proposed right-of-way for possible future road extension.”

4. On behalf of myself as owner of the Development Tract and as manager of Al & Charlie’s Mountain LLC, the owner of the tract which would be accessed by the “Proposed right-of-way for possible future road extension,” I authorize the use of that notation on the plans of the Development Tract.

5. Upon completion of the final construction drawings for the Development Tract, a secondary access for emergency service access from Sunnyside Road to that tract will be necessary. At the time of the approval of the final drawings, I will provide a suitable easement over the Al & Charlie’s Mountain LLC property for that emergency service access.

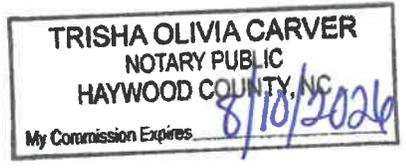
This 15<sup>th</sup> day of October, 2021.

  
\_\_\_\_\_  
John M. Queen, III

Sworn to and subscribed before me, this 15<sup>th</sup> day of October, 2021.

8/10/2026  
My commission expires

Trisha Olivia Carver  
Notary Public



Annexation Posting, Friday December 3, 2021



THE TOWN OF WAYNESVILLE  
**BOARD OF ALDERMEN**  
WILL HAVE A  
**PUBLIC HEARING ON**  
**DECEMBER 14, 2021**  
**AT 6:00 PM**  
IN THE TOWN HALL BOARD ROOM AT  
9 SOUTH MAIN ST.  
**TO CONSIDER AN ANNEXATION**  
CONTACT THE DEVELOPMENT SERVICES DEPARTMENT  
828-456-8647



THE TOWN OF WAYNESVILLE  
**BOARD OF ALDERMEN**  
WILL HAVE A  
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**DECEMBER 14, 2021**  
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THE TOWN OF WAYNESVILLE  
BOARD OF ALDERMEN  
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AT 6:00 PM  
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9 SOUTH MAIN ST  
TO CONSIDER AN ANNEXATION  
CONTACT THE DEVELOPMENT SERVICES DEPARTMENT  
828-426-8647

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: December 14, 2021**

**SUBJECT:** Public Hearing and Presentation on the Town of Waynesville’s Stormwater Program.

**AGENDA INFORMATION:**

**Agenda Location:** Public Hearing  
**Item Number:** E3  
**Department:** Development Services  
**Contact:** Olga Grooman  
**Presenters:** Olga Grooman, Planner, Development Services  
Eric Romaniszyn, Executive Director, Haywood Waterways  
Sam Cullen, Code Enforcement Official, Development Services

**BRIEF SUMMARY:**

The Town of Waynesville holds the National Pollutant Discharge Elimination System Permit (NPDES) issued by the NC Department of the Environmental Quality (NC DEQ) on August 19, 2021. The permit is valid for five (5) years. The main focus of the permit is to manage stormwater runoff, reduce the discharge of pollutants, and protect water quality within the Town’s jurisdiction. In North Carolina, it is required that a permit holder develops a comprehensive Stormwater Management Plan that addresses the following “Six (6) Minimum Measures” to stay in compliance:

1. Public education and outreach
2. Public participation/involvement
3. Illicit discharge detection and elimination
4. Construction site stormwater runoff control
5. Post-construction runoff control
6. Pollution prevention/good housekeeping

One of the requirements of the permit is to “provide mechanisms for public input on stormwater issues and stormwater program.” The purpose of today’s presentation is to educate the Board and the public about the Town’s Stormwater Program, address common stormwater issues, describe ongoing projects, and steps taken to achieve compliance with the permit. This public hearing is an opportunity for the Board and public to provide feedback, ask questions, and share their concerns.

**MOTIONS FOR CONSIDERATION:**

None.

**FUNDING SOURCE/IMPACT:**

The Town’s Stormwater program is administered by the Town’s Development Services Department and Public Services Department with assistance from Haywood Waterways. Additionally, the Town may

contract for engineering services for the purpose of review of engineered stormwater plans.

**ATTACHMENTS:**

1. Power Point Presentation
2. Sample Annual Stormwater Inspection Letter
3. Sample Inspection Form
4. GIS Map of Stormwater Control Measures (SCMs)
5. GIS Map- Detailed SCM Information
6. Sample Operations & Maintenance Agreement
7. Outfalls Map
8. Illicit Discharge/Connection Reporting Form

**MANAGER'S COMMENTS AND RECOMMENDATIONS:**

# TOWN OF WAYNESVILLE STORMWATER PROGRAM

AND LOCAL STORMWATER ISSUES

Presented by:

Olga Grooman, Development Services

Eric Romaniszyn, Haywood Waterways

Sam Cullen, Development Services



# Stormwater Issues:

- Proper Oil Disposal: cool- store- dispose
- Sediment Pollution
- Trash and Chemicals disposal
- Impaired water quality
- Thermal stress and household runoff



# Public Education and Outreach

- Postcards
- Public displays
- Press releases
- Social media
- Public presentations
- Webpages
- Hotline



## Help Keep Trash Out of Our Waterways

All stormdrains in Waynesville transport untreated stormwater to Richland Creek and its tributaries. When trash enters storm drains it ends up in our streams.

### Facts:

- 75% of trash on land ends up in a waterway.
- Each day a person drives or walks by 12,000 pieces of trash.
- 80% of ocean trash comes from land (20% from shipping and cruise lines)
- Trash harms wildlife, interferes with recreation, reduces land value, and deters tourism.



### Solutions:

- When hauling trash make sure it's secure and cover it with a tarp.
- Place trash in a receptacle with a secure lid.
- Don't overflow trash cans.
- Join a local stream or road cleanup.



For more information about protecting our waterways visit:

<http://www.waynesvillenc.gov/departments/development-services/stormwater-management>



### Department Menu

- Permits and Application Forms
- Building Inspections
- Code Enforcement
- Land Use (Zoning) Ordinances
- Planning
- Planning Documents, Reports & Maps
- Comprehensive Plan Updates
- Meeting Schedule & Application Deadlines
- Stormwater Management
- Full Fee Schedule 2020/2021
- Frequently Asked Questions
- Information on Spanish/Information in Spanish

The Town of Waynesville utilizes its [Stormwater Management Plan](#) to improve local water quality and comply with the [National Pollutant Discharge Elimination System Permit](#) (NPDES) and the applicable provisions of the [Clean Water Act](#). The Stormwater Management Plan comprises Public Education and Outreach, Public Participation, Construction Site Runoff Controls, Post-Construction Site Runoff Controls, IDDE (Illicit Discharge, Detection and Elimination), Pollution Prevention and Good Housekeeping, and Annual Self-Assessments. The goal of the stormwater program is to preserve, restore, and protect local waterways as well as address the needs of the local community.

[Town of Waynesville MS4 Public Education Poster](#)

### Stormwater questions or to report an **illicit discharge**:

Development Services: email: [efcague@waynesvillenc.gov](mailto:efcague@waynesvillenc.gov) or call: (828) 456-8547

Monday to Friday, 9 am - 5 pm

Haywood Waterways: email: [info@haywoodwaterways.org](mailto:info@haywoodwaterways.org) or call: (828) 476-4667 EXT 10

Holidays and After Hours

Call: (828) 456-5363

# Public Participation and Involvement

- Public meetings
- Webpages
- Hotline
- Stream clean-ups / Adopt A Stream
- Storm drain stenciling



**Waynesville**  
NORTH CAROLINA

About News Events Contact How Do It?

Services Residents Visitors Businesses Departments Government

Home / Departments / Development Services

## Stormwater Management

**Department Menu**

- Permits and Application Forms
- Building Inspections
- Code Enforcement
- Land Use (Zoning) Ordinances
- Planning
- Planning Documents, Reports & Maps
- Comprehensive Plan Updates
- Meeting Schedule & Application Deadlines
- Stormwater Management
- Full Fee Schedule 2020/2021
- Frequently Asked Questions
- Información en Español/Information in Spanish

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[Town of Waynesville MS4 Public Education Poster](#)

**Stormwater questions or to report an illicit discharge:**

Development Services: email: [eteague@waynesvilenc.gov](mailto:eteague@waynesvilenc.gov) or call: (828) 456-8647

Monday to Friday, 8 am - 5 pm

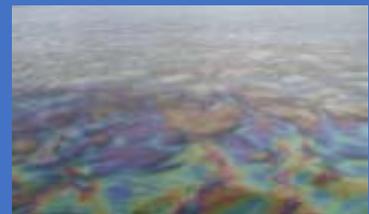
Haywood Waterways: email: [info@haywoodwaterways.org](mailto:info@haywoodwaterways.org) or call: (828) 476-4667 EXT 10

Holidays and After Hours Call: (828) 456-5363



# History of Water Quality Regulations

- 1970 EPA established
- 1972 Clean Water Act regulates discharges, establishes national water quality criteria
- **NPDES permit required:**
  - 1990 Phase I Stormwater (> 100,000 population)
  - 1999 Phase II Stormwater (small MS4s)
- **Goals:** to reduce the discharge of pollutants, manage runoff, and protect water quality



# NPDES and MS4

- **NPDES**- National Pollutant Discharge Elimination System
- **MS4**- Municipal Separate Storm Sewer System, a conveyance or system of conveyances that is:
  - owned by a state, city, town, village, or other public entity that discharges to waters of the US,
  - designed or used to collect or move stormwater (storm drains, pipes, ditches),
  - NOT a combined sewer,
  - not a part of a sewage treatment plant.



# NPDES Permit Requirements

Develop a comprehensive Stormwater Management Plan (SWMP) to address six Minimum Control Measures:

1. Public Education and Outreach
2. Public Participation and Involvement
3. Illicit Discharge Detection and Elimination (IDDE)
4. Construction Site Runoff Controls
5. Post-Construction Runoff Control Program
6. Pollution Prevention/ Good Housekeeping

+ Program Administration (logging, annual self assessments to the NCDEQ)



Town of Waynesville Website → Departments → Development Services → Stormwater Management page (on the sidebar)

<https://www.waynesvillenc.gov/departments/development-services/stormwater-management>

**Stormwater Management Plan**  
Town of Waynesville  
NCS000501

Approved: June 28, 2021



**N.C. Division of Energy, Mineral and Land Resources**  
(DEMLR)

**Stormwater Management**  
**Program Assessment**

512 N.Salisbury Street , Raleigh NC 27604

STATE of NORTH CAROLINA  
DEPARTMENT of ENVIRONMENTAL QUALITY  
DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES

PERMIT NO. NCS000501  
TO DISCHARGE STORMWATER UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

The Town of Waynesville

is hereby authorized to discharge stormwater from their municipal separate storm sewer system located:

within the corporate limits of the Town of Waynesville  
in  
Haywood County

to receiving waters; Richland Creek, Hyatt Creek, Allens Creek, Shelton Branch, Browning Branch, Camp Branch, Plott Creek, Eaglenest Creek, Farmer Branch, Shingle Cove Branch, Raccoon Creek, Factory Branch, and Mauney Cove Branch, and unnamed tributaries within the French Broad River Basin in accordance with the discharge limitations, monitoring requirements, and other conditions set forth in Parts 1 through 8, hereof.

This permit shall become effective August 19, 2021.

This permit and the authorization to discharge shall expire at midnight on June 30, 2026.

Signed this day August 19, 2021.

for Brian Wrenn, Director  
Division of Energy, Mineral, and Land Natural Resources  
By the Authority of the Environmental Management Commission

# Post-Construction Stormwater Management

- **Stormwater Ordinance: LDS Section 12.5.**
  - Establishes minimum post-development stormwater management standards.
  - Ensures that all Stormwater Control Measures (SCMs), such as detention ponds, underground detention systems, rain gardens, are properly maintained and functioning as designed.
- 
- **Projects:**
    - Disturb 1 acre or more
    - Smaller area, but part of the larger project of 1+ acres
    - Disturb <1 acre with 24,000 sq ft of impervious surface
    - Private and Town-owned SCMs



# Post-Construction Stormwater Management

- **LDS Section 12.5.11:** Annual Inspection Requirement.
- The Stormwater Control Measures shall be inspected annually to continue their function in controlling stormwater runoffs to the extent they were originally designed. An inspection can be performed by a qualified service provider, such as a North Carolina professional engineer, landscape architect, or a person certified by the North Carolina Cooperative Extension Service for stormwater inspection and maintenance.
- **SW Management Plan:** inventory of SCMS, inspections, documentation, and tracking mechanisms, issue letters of notification.
  - 2021: 17 properties. As of 12/03/2021- 8 completed.
  - Sample Letter: Exhibit 1
  - Sample Inspection Form: Exhibit 2
  - GIS Mapping: Exhibits 3-4
  - Excel Log
  - Operations and Maintenance Agreements: Exhibit 5
- Blank forms are available on the Stormwater Page



# Municipal Post-Construction Stormwater Management

## SW Management Plan: BMPs #49, 50; p. 36-47.

- Inventory of Town-owned SCMs
- Operation & Maintenance Plans
- Mapping
- Certification for personnel
- SCM inspection forms
- Annual inspections
- Maintenance tasked performed and logged



## TOWN OF WAYNESVILLE, NC

### STORMWATER CONTROL MEASURES (SCM) OPERATION & MAINTENANCE PLAN

This Operation and Maintenance (O&M) Plan has been prepared by the Town of Waynesville Development Services to address stormwater control measure (SCM) operation and maintenance requirements for Permit No. NCS000501 To Discharge Stormwater Under the National Pollutant Discharge Elimination System. This plan shall be evaluated annually and updated as necessary.

This O&M Plan addresses SCMs by describing the activities and procedures the Town of Waynesville will implement so that SCMs are properly maintained to ensure on-going functionality and reduce the potential for discharge of pollutants from the MS4. The O&M Plan outlines inspection and maintenance procedures for structural stormwater control measures (SCMs) owned by the Town of Waynesville, NC.

This O&M Plan is applicable to the following Town owned SCMs:

Town Owned SCMs	
Dry detention pond #1	Fire Station #1
Dry detention pond #2	Fire Station #1
Dry detention pond #3	Fire Station #1
Rain Garden	Waynesville Greenway, Parks and Recreation
Sub. Station Dry detention pond	Public Works, Electric Department

All SCMs, as required by the Town's Stormwater Ordinance, must have a signed Operation and Maintenance Agreement on file with the Town of Waynesville Development Services. Each individual municipal facility with SCMs also maintains a signed copy of the O&M Agreements.

The Operation and Maintenance Agreement outlines necessary operation and maintenance procedures that must be followed to ensure the ongoing function of all Town owned SCMs.

Attached are O&M procedures for typical SCMs approved for installation by Town of Waynesville.

# Illicit Discharge Detection and Elimination Program

- The purpose of the Town's IDDE Program is to prohibit, detect, and eliminate illicit connections, discharging, illegal dumping, and spills into the MS4. The program also focuses on staff training and public awareness of illicit discharges, improper disposal of waste, and reporting procedures.

- IDDE Plan: submit to the State for approval
- Outfall mapping and Inspections: Exhibit 6
- Reporting Form: Exhibit 7
- Track NOVs: GIS map and Excel log
- Train staff
- Website



- Update Stormwater and Illicit Discharge ordinances once per permit term (5 years) to maintain adequate legal authority: this winter.

# Pollution Prevention and Good Housekeeping

- Focus on municipal operations, such as Public Works
- Facility inspections: fleet and facility
- Standard Operating Procedures for leaf collection, street sweeping, stormwater asset inspections and maintenance (outfalls, culverts, drains)
- Spill procedures
- Staff training: spills and good housekeeping practices. Develop a training program. Annual trainings.



# Why Do We Need a Stormwater Program?

Do you like to...

Swim



Fish



Had you rather swim in

This



Or This



# Why Do We Need a Stormwater Program?

Had you rather fish in...

This



Or  
This



An aerial photograph of a dense urban skyline, likely New York City, featuring numerous skyscrapers and mid-rise buildings. The image is dimmed and has a white rectangular frame overlaid in the center. The text 'Municipal Stormwater Projects' is centered within this frame in a white, sans-serif font.

# Municipal Stormwater Projects



Fire Station 1 and  
Calhoun road substation

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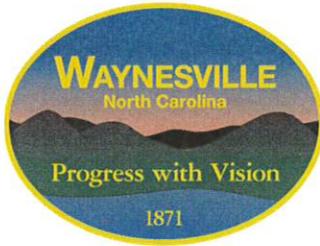


# Waynesville Greenway Rain Garden









# TOWN OF WAYNESVILLE

## Development Services Department

9 South Main Street, Suite 110

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

### **Annual Stormwater Inspection Requirement**

Date: September 1, 2021

To: GENERAL MANAGER, PUBLIX

You are receiving this letter because your property at 124 Frazier Street, Waynesville, NC (PIN 8616-12-7582), falls under the standards of the Town of Waynesville Stormwater ordinance.

This letter is a request to provide the Development Services Department with the annual inspection report of the stormwater control measures installed on your property. An inspection can be performed by a qualified service provider, such as a NC professional engineer, surveyor, or landscape architect. The list of potential service providers in the area is attached to this letter for your reference. However, you are not required to choose your inspector from this list.

The Town of Waynesville Ordinance requires that the stormwater control measures (SCMs) must be inspected annually to continue their function in controlling stormwater runoff to the extent they were designed. The Town holds a National Pollution Discharge and Elimination Permit as mandated by the Environmental Protection Agency. It is required that the Town enforces six minimum measures to comply with this permit. Post-construction stormwater management is one of these measures.

### **Please submit the following documents to the Planning Department by December 31, 2021:**

- Annual Inspection Cover Sheet (attached to this letter)
- Annual Inspection Report form- filled out by a qualified inspector, these forms can be found on the bottom of the Stormwater page of the Town website, and they are specific to each SCM: <https://www.waynesvillenc.gov/departments/development-services/stormwater-management>
- Maintenance and repair records (if any) for every stormwater control measure on your property in 2021

The documents can be submitted to us in person or electronically to [ogrooman@waynesvillenc.gov](mailto:ogrooman@waynesvillenc.gov). For electronic submissions, please indicate "Stormwater Inspection" in the subject field. **Failure to submit the required documents by December 31, 2021 can result in fines or other legal action against you.**

If you were not required to submit a stormwater plan during the initial construction, if you are unable to find any records of your stormwater plan, or if you have any questions, please contact us directly at the number indicated below.

Sincerely,

Olga Grooman | Planner, MPA

Office: (828) 356-1172

**Town of Waynesville Ordinance**  
**Appendix A- Land Development Standards**

**12.5.11 Inspections.**

**A. Function of BMP as Intended:** The owner of each structural BMP installed pursuant to this section shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

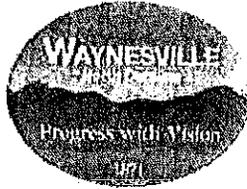
**C. Annual Maintenance Inspections:** Inspections shall be conducted as prescribed by the Operations and Maintenance Agreement. The person responsible for maintenance of any structural BMP installed pursuant to this section shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, landscape architect or person certified by the North Carolina Cooperative Extension Service for stormwater

1. The name and address of the land owner;
2. The recorded book and page number of the lot of each structural BMP;
3. A statement that an inspection was made of all structural BMPs;
4. The date the inspection was made;
5. A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this section; and
6. Signature and seal of a registered engineer, landscape architect, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance.
7. All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built.

## SCM INSPECTORS IN THE AREA

<p><b>Civil Design Concepts</b> 52 Walnut Street, Suite 9 Waynesville, NC 28786 T: (828) 452-4410 <a href="http://www.cdcgo.com">www.cdcgo.com</a></p>	<p><b>Bunnell Lammons Engineering</b> 130 Oval Rd, Suite 200 Arden, NC 28704 T: (828) 277-0100 <a href="http://www.blecorp.com">www.blecorp.com</a></p>	<p><b>Stillwell Engineering</b> 42 Marsh Lily Drive Sylva, NC 28779 T: (828) 586-6066 <a href="http://www.stillwellengineering.net">www.stillwellengineering.net</a></p>
<p><b>WithersRavenel</b> 84 Coxe Avenue, #260 Asheville, NC 28801 T: (828) 255-0313 <a href="http://www.withersravenel.com">www.withersravenel.com</a></p>	<p><b>Fusco Land Planning &amp; Design</b> 795 Merrimon Avenue, #4 Asheville, NC 28804 T: (828) 243-6604 <a href="http://www.fuscola.com">www.fuscola.com</a></p>	<p><b>Davis Civil Solutions</b> 134 Charlotte Hwy Asheville, NC 28803 T: (828) 299-9447</p>
<p><b>McGill Associates</b> 55 Broad Street Asheville, NC 28801 T: (828) 252-0575 <a href="http://www.mcgillassociates.com">www.mcgillassociates.com</a></p>	<p><b>Advantage Civil Engineering</b> 50 S French Broad Avenue, #152 Asheville, NC 28801 T: (828) 545- 5393 <a href="http://www.aceasheville.com">www.aceasheville.com</a></p>	<p><b>Herron Associates</b> 721 Main Street Bryson City, NC 28713 T: (828) 488-8949 <a href="http://www.herronassociates.com">www.herronassociates.com</a></p>
<p><b>Landworks Engineering</b> Grove Arcade Building One Page Avenue, Suite 265 Asheville, NC 28801 T: (828) 230-7958 <a href="http://www.landworksenineering.com">www.landworksenineering.com</a></p>	<p><b>Garner Engineering</b> 20 Glenn Willow Drive, Suite 11 Arden, NC 28704 Email: <a href="mailto:contact@garner-eng.com">contact@garner-eng.com</a> <a href="http://www.garner-eng.com">www.garner-eng.com</a></p>	<p><b>Equinox Environmental Consultant &amp; Landscape Architecture</b> 37 Haywood Street, #100 Asheville, NC 28801 T: (828) 202-7465 <a href="http://www.equinoxasheville.com">www.equinoxasheville.com</a></p>
<p><b>Pesterfield Civil Engineering</b> 4005 Asheville Hwy Hendersonville, NC 28791 T: (828) 252- 8423 <a href="http://www.pestefieldengineering.com">www.pestefieldengineering.com</a></p>	<p><b>Brooks Engineering Associates</b> 17 Arlington Street Asheville, NC 28801 T: (828) 232-4700 <a href="http://www.brooksea.com">www.brooksea.com</a></p>	<p><b>Vaughn &amp; Melton Engineering</b> 40 Colonial Square Sylva, NC 28779 T: (828) 477-4993 <a href="http://www.vaughnmelton.com">www.vaughnmelton.com</a></p>

*This list is not exclusive, and the Town does not endorse any specific inspector. If you are a professional who is qualified to do SCM Inspections, please contact the Development Services Department to be added to this list.*



Town of Waynesville

Stormwater Control Measures (SCMs) - Annual Inspection

Cover Sheet

Section 1 -Project Information

Property Name: Haywood Christians Academy  
 Property Address: 77 Sutton Loop  
 City: WAYNESVILLE State: NC Zip: 28786  
 Property PIN: 866-29-7639  
 Property Owner's Name: \_\_\_\_\_  
 Property Owner's Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Owner's Phone # \_\_\_\_\_ Email: \_\_\_\_\_

Section 2 -SCM Information

SCM:	# on site:	SCM:	# on site:
Dry detention pond	<u>1</u>	Proprietary device (e.g. water quality device)	<u>—</u>
Wet detention pond	<u>—</u>	Pollutant removal/Treatment swale	<u>—</u>
Bioretention cell	<u>—</u>	Stormwater planter box	<u>—</u>
Permeable pavement	<u>—</u>	Level-spreader filter strip	<u>—</u>
Underground detention	<u>—</u>	Other: _____	_____
Infiltration system	<u>—</u>	Other: _____	_____
Permeable pavement	<u>—</u>	Other: _____	_____
Stormwater wetland	<u>—</u>		
Rainwater harvesting	<u>—</u>		
Sand filter	<u>—</u>		
Green roof	<u>—</u>		
Disconnected Impervious Surface	<u>—</u>		

<b>Outlet Device &amp; Sluice Gate</b>		
Clogging has occurred	S	
Device is damaged	S	
Debris on trash rack	S	
Other (describe)	M	Standing water within the outlet structure
<b>Receiving Water</b>		
Erosion or other signs of damage at the outlet	S	
Other (describe)	M	Standing water adjacent to outlet structure
<b>Miscellaneous</b>		
Access	S	
Vandalism	S	
Signage (if applicable)	S	
Other (describe)	S	

**Additional Comments/Recommendations:** Dry basin appears to be functioning as designed.

Forebay had has an accumulation of silt.

Outlet structure has standing water within it.

Standing water observed in front of the stone berm adjacent to the outlet structure.

**\*\*Heavy periods of rain has occurred for the past two days and have likely contributed to the standing water areas\*\***

Describe the maintenance/repair activities performed since the last inspection date (if no previous inspection, describe all maintenance performed). Examples: mowed the grass monthly, watered the plants weekly, picked up trash weekly, had the water quality unit cleaned with a vacuum truck on March 1, 2020, etc. Include current maintenance/repair activities or activities that need to be performed (e.g. the pervious concrete needs to be swept, the green roof needs to be weeded, etc):

Please notify the Administrator when repairs from this report have been completed.



Project: 12100	Project Name: Haywood Christians Academy	Observer: JSS
Date: 09/03/21	Weather: Overcast	Time: 9:45 A.M.

<b>Property Information:</b>
<ul style="list-style-type: none"><li>• 77 Sutton Loop</li><li>• Waynesville, NC 28786</li><li>• Haywood County Tax Map, Pin No# 8616-29-7639, Deed Book 951, Page 2326</li></ul>

<b>Next Steps/ Look Ahead:</b>
<ul style="list-style-type: none"><li>• Please reference attached notes and pictures in the report.</li><li>• CDC does recommend that the storm boxes be cleaned out at some point this year.</li></ul>

<b>General Observations:</b>
<ul style="list-style-type: none"><li>• Representatives from Civil Design Concepts (CDC) visited the above referenced site on September 3rd, 2021 to evaluate the stormwater conveyance system and underground stormwater detention facility.</li><li>• The detention system was found to be in General Compliance with the O&amp;M Agreement.</li></ul>
<i>Disclaimer: Items listed above are not the only issues onsite and are not always within the scope or responsibility of Civil Design Concepts, P.A. Contractor is responsible for means and methods of construction.</i>

SCMs\_Map - ArcMap

File Edit View Bookmarks Insert Selection Geoprocessing Customize Windows Help

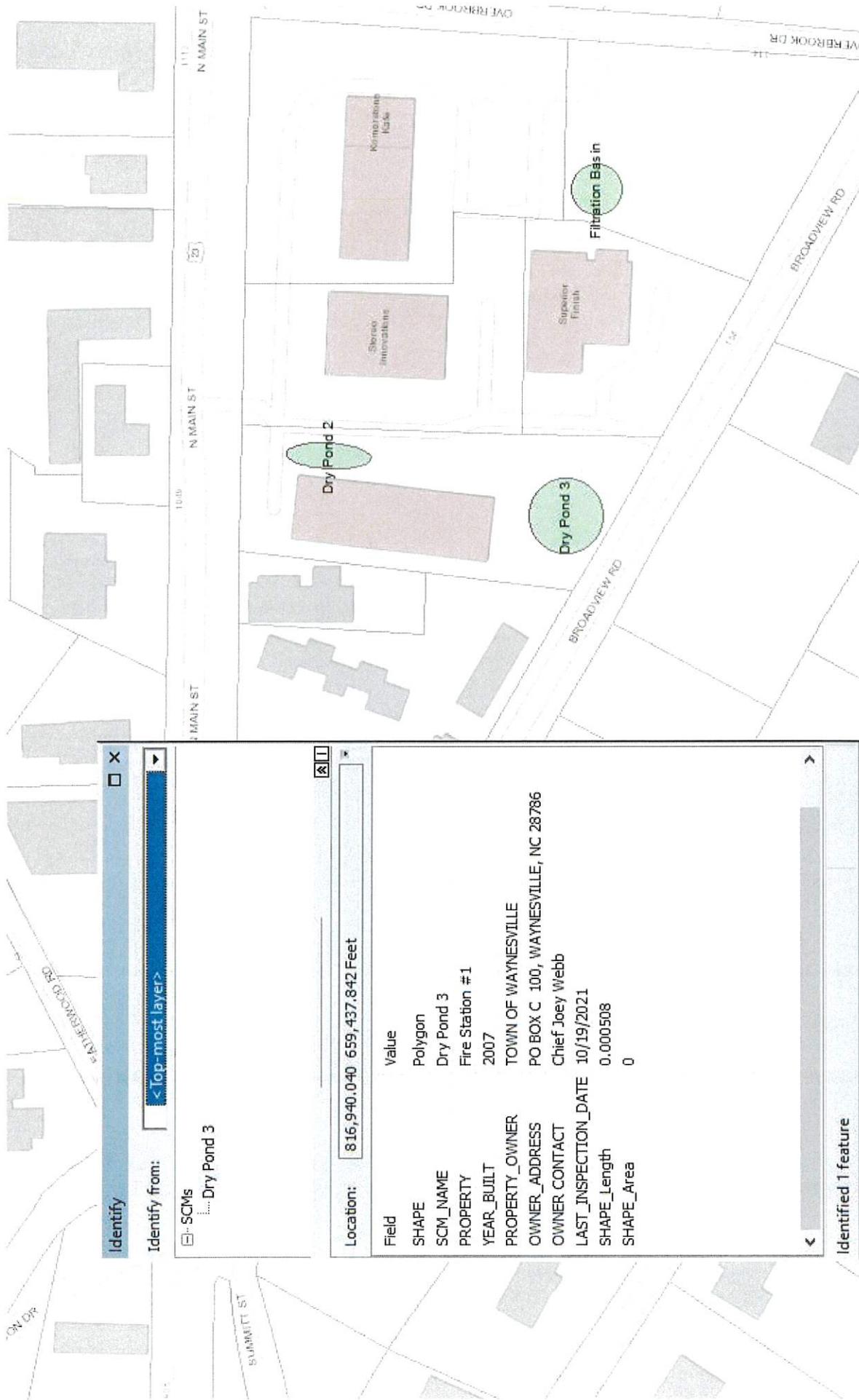
Editor Snapping

Table Of Contents

- Layers
  - SCMs
  - NOVs
  - Town\_of\_Waynesville
  - Parcels
  - Waynesville\_Streets
  - Zoning\_Districts
  - Municipalities
  - Basemap
  - World\_Topographic\_Map
  - Citations

SHAPE*	SCM_NAME	PROPERTY	YEAR_BUILT	PROPERTY_OWNER	OWNER_ADDRESS	OWNER CONTACT	LAST_INSPECTION_DATE
Polygon	Filtration Basin 1	Raytown Heights	2009	CLATTERBUCK, PROPERTIES LLC A VA LLC	6276 BROOK CT, BOSTON, VA 22713	Greg Clatterbuck, T. 540-222-8726.	11/2/2021
Polygon	Filtration Basin 2	Raytown Heights	2009	CLATTERBUCK, PROPERTIES LLC A VA LLC	6276 BROOK CT, BOSTON, VA 22713	Greg Clatterbuck, T. 540-222-8726.	11/2/2021
Polygon	Filtration Basin 3	Raytown Heights	2009	CLATTERBUCK, PROPERTIES LLC A VA LLC	6276 BROOK CT, BOSTON, VA 22713	Greg Clatterbuck, T. 540-222-8726.	11/2/2021
Polygon	Filtration Basin 4	Raytown Heights	2009	CLATTERBUCK, PROPERTIES LLC A VA LLC	6276 BROOK CT, BOSTON, VA 22713	Greg Clatterbuck, T. 540-222-8726.	11/2/2021
Polygon	Sub. Station Dry Pond	Sub. Station at 145 Calhoun R	2004	TOWN OF WAYNESVILLE	PO BOX C 100, WAYNESVILLE, NC 28786	Lenny Smith, Jr. (Electric Department, Public Works)	10/27/2021
Polygon	Underground Detention	Publix	2018	Waynesville Pavilion LLC	PO BOX 704, WAYNESVILLE, NC 28786	Jennifer James, Property Manager, T. 859-877-6473	10/25/2021
Polygon	Dry Pond 1	Fire Station #1	2007	TOWN OF WAYNESVILLE	PO BOX C 100, WAYNESVILLE, NC 28786	Chief Joey Webb	10/19/2021
Polygon	Dry Pond 2	Fire Station #1	2007	TOWN OF WAYNESVILLE	PO BOX C 100, WAYNESVILLE, NC 28786	Chief Joey Webb	10/19/2021
Polygon	Dry Pond 3	Fire Station #1	2007	TOWN OF WAYNESVILLE	PO BOX C 100, WAYNESVILLE, NC 28786	Chief Joey Webb	10/19/2021
Polygon	Rain Gardens/Boretentia	Waynesville Greenway	2007	Lake Junaluska Assembly NC; SCM owned by the TOW	PO BOX 1332, Waynesville, NC 28786	Rhett Langston	10/11/2021
Polygon	Filtration Basin	Overbrook Village	2020	Bowers Tim, Bowers Jackie	PO BOX 609, Lake Junaluska, NC 28745	Bowers, Tim, timbowers@comcast.net	9/2/2021
Polygon	Dry Detention Pond	Haywood Christian Academy	2018	Haywood Christian Academy	416 Stone Haven Dr, Waynesville, NC 28786	Elwood Meyers, CDC Engineers	9/2/2021
Polygon	Permeable Pavement 1	Starbucks	2018	Phoenix Real Estate LLC	416 Stone Haven Dr, Waynesville, NC 28786	Elwood Meyers, CDC Engineers	9/2/2021
Polygon	Permeable Pavement 2	Starbucks	2018	Phoenix Real Estate LLC	416 Stone Haven Dr, Waynesville, NC 28786	Elwood Meyers, CDC Engineers	9/2/2021
Polygon	<Null>	Mountain Credit Union	<Null>	Possible Boretention	<Null>	<Null>	<Null>
Polygon	<Null>	Mountain Credit Union	<Null>	Possible Boretention	<Null>	<Null>	<Null>
Polygon	<Null>	Mountain Credit Union	<Null>	Possible Boretention	<Null>	<Null>	<Null>
Polygon	<Null>	Mountain Credit Union	<Null>	Possible Boretention	<Null>	<Null>	<Null>
Polygon	<Null>	Mountain Credit Union	<Null>	Possible Boretention	<Null>	<Null>	<Null>
Polygon	<Null>	Mountain Credit Union	<Null>	Possible Boretention	<Null>	<Null>	<Null>
Polygon	<Null>	Mountain Credit Union	<Null>	Possible Boretention	<Null>	<Null>	<Null>

Table (0 out of 21 Selected)



Permit Number: \_\_\_\_\_  
 (to be provided by DWQ)  
 Drainage Area Number: \_\_\_\_\_

**Bioretention Operation and Maintenance Agreement**

*Rain Garden - Waynesville Greenway*

I will keep a maintenance record on this BMP. This maintenance record will be kept in a log in a known set location. Any deficient BMP elements noted in the inspection will be corrected, repaired or replaced immediately. These deficiencies can affect the integrity of structures, safety of the public, and the removal efficiency of the BMP.

Important operation and maintenance procedures:

- Immediately after the bioretention cell is established, the plants will be watered twice weekly if needed until the plants become established (commonly six weeks).
- Snow, mulch or any other material will NEVER be piled on the surface of the bioretention cell.
- Heavy equipment will NEVER be driven over the bioretention cell.
- Special care will be taken to prevent sediment from entering the bioretention cell.
- Once a year, a soil test of the soil media will be conducted.

After the bioretention cell is established, I will inspect it **quarterly and within 24 hours after every storm event greater than 1.0 inches (or 1.5 inches if in a Coastal County)**. Records of operation and maintenance will be kept in a known set location and will be available upon request.

Inspection activities shall be performed as follows. Any problems that are found shall be repaired immediately.

BMP element:	Potential problems:	How I will remediate the problem:
The entire BMP	Trash/debris is present.	Remove the trash/debris.
The perimeter of the bioretention cell	Areas of bare soil and/or erosive gullies have formed.	Regrade the soil if necessary to remove the gully, and then plant a ground cover and water until it is established. Provide lime and a one-time fertilizer application.
The inlet device: pipe, stone verge or swale	The pipe is clogged (if applicable).	Unclog the pipe. Dispose of the sediment off-site.
	The pipe is cracked or otherwise damaged (if applicable).	Replace the pipe.
	Erosion is occurring in the swale (if applicable).	Regrade the swale if necessary to smooth it over and provide erosion control devices such as reinforced turf matting or riprap to avoid future problems with erosion.
	Stone verge is clogged or covered in sediment (if applicable).	Remove sediment and clogged stone and replace with clean stone.

<b>BMP element:</b>	<b>Potential problems:</b>	<b>How I will remediate the problem:</b>
<b>The pretreatment area</b>	Flow is bypassing pretreatment area and/or gullies have formed.	Regrade if necessary to route all flow to the pretreatment area. Restabilize the area after grading.
	Sediment has accumulated to a depth greater than three inches.	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and restabilize the pretreatment area.
	Erosion has occurred.	Provide additional erosion protection such as reinforced turf matting or riprap if needed to prevent future erosion problems.
	Weeds are present.	Remove the weeds, preferably by hand.
<b>The bioretention cell: vegetation</b>	Best professional practices show that pruning is needed to maintain optimal plant health.	Prune according to best professional practices.
	Plants are dead, diseased or dying.	Determine the source of the problem: soils, hydrology, disease, etc. Remedy the problem and replace plants. Provide a one-time fertilizer application to establish the ground cover if a soil test indicates it is necessary.
	Tree stakes/wires are present six months after planting.	Remove tree stake/wires (which can kill the tree if not removed).
<b>The bioretention cell: soils and mulch</b>	Mulch is breaking down or has floated away.	Spot mulch if there are only random void areas. Replace whole mulch layer if necessary. Remove the remaining mulch and replace with triple shredded hard wood mulch at a maximum depth of three inches.
	Soils and/or mulch are clogged with sediment.	Determine the extent of the clogging - remove and replace either just the top layers or the entire media as needed. Dispose of the spoil in an appropriate off-site location. Use triple shredded hard wood mulch at a maximum depth of three inches. Search for the source of the sediment and remedy the problem if possible.
	An annual soil test shows that pH has dropped or heavy metals have accumulated in the soil media.	Dolomitic lime shall be applied as recommended per the soil test and toxic soils shall be removed, disposed of properly and replaced with new planting media.

<b>BMP element:</b>	<b>Potential problems:</b>	<b>How I will remediate the problem:</b>
<b>The underdrain system (if applicable)</b>	Clogging has occurred.	Wash out the underdrain system.
<b>The drop inlet</b>	Clogging has occurred.	Clean out the drop inlet. Dispose of the sediment off-site.
	The drop inlet is damaged	Repair or replace the drop inlet.
<b>The receiving water</b>	Erosion or other signs of damage have occurred at the outlet.	Contact the NC Division of Water Quality 401 Oversight Unit at 919-733-1786.

Permit Number: \_\_\_\_\_  
(to be provided by DWQ)

I acknowledge and agree by my signature below that I am responsible for the performance of the maintenance procedures listed above. I agree to notify DWQ of any problems with the system or prior to any changes to the system or responsible party.

Project name: RAIN GARDEN @ WAYNESVILLE GREENWAY

BMP drainage area number: \_\_\_\_\_

Print name: RHETT LANGSTON

Title: DIRECTOR - WAYNESVILLE PARKS & RECREATION

Address: 550 VANCE ST., WAYNESVILLE, 27786

Phone: 828.456.2030

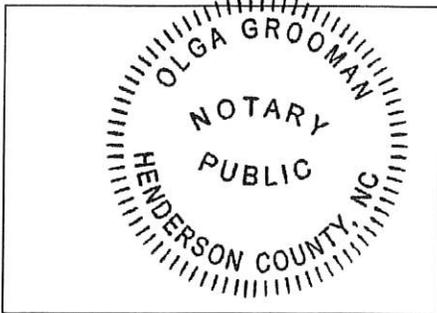
Signature: [Handwritten Signature]

Date: 9.1.21

Note: The legally responsible party should not be a homeowners association unless more than 50% of the lots have been sold and a resident of the subdivision has been named the president.

Haywood County, North Carolina

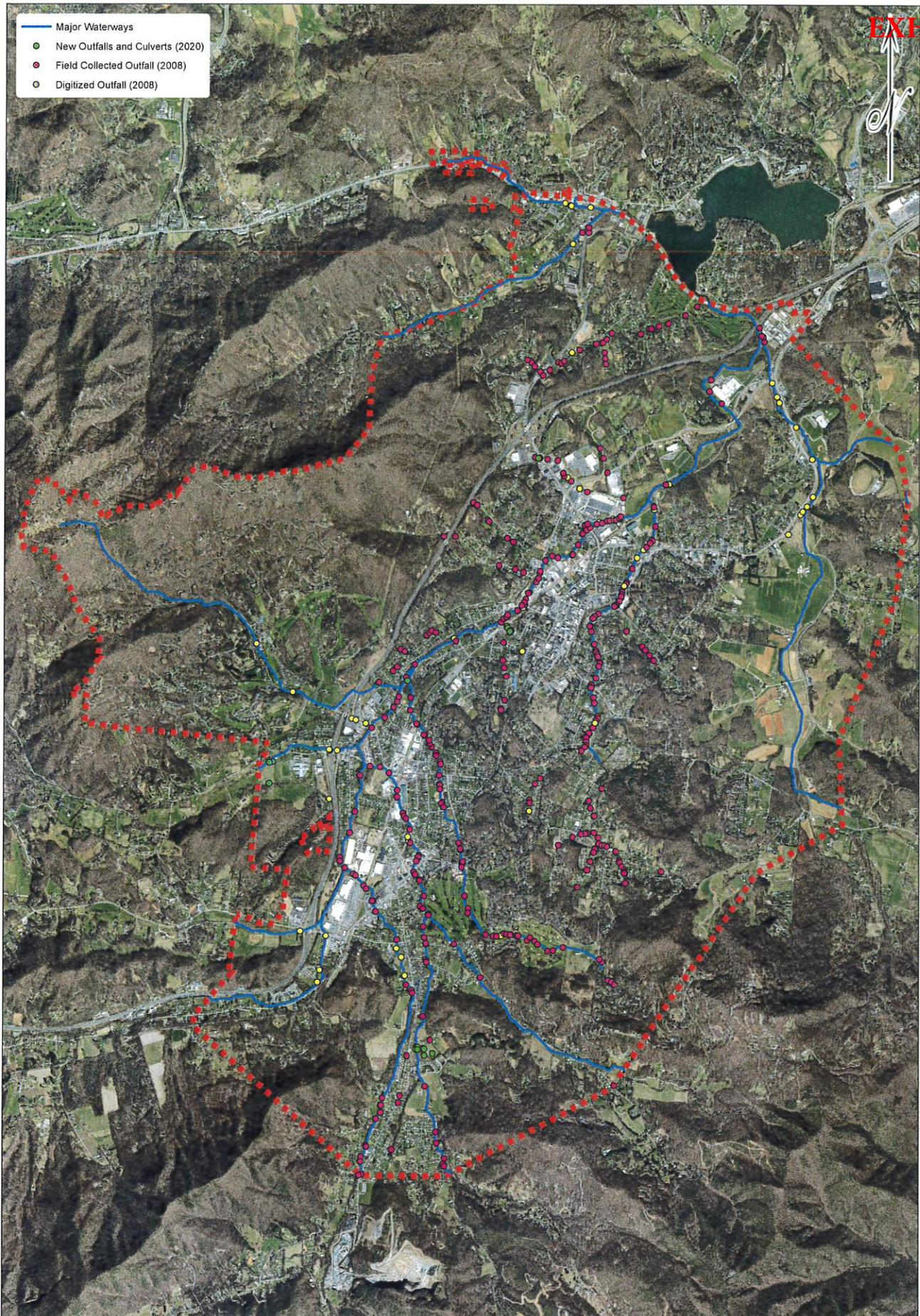
I, Olga Grooman, a Notary Public for the State of North Carolina, County of Henderson, do hereby certify that Rhett Langston personally appeared before me this 1 day of September, 2021, and acknowledge the due execution of the forgoing bioretention maintenance requirements. Witness my hand and official seal,



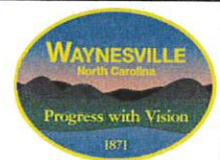
SEAL

My Commission Expires **4-28-2026**

My commission expires \_\_\_\_\_



Town of Waynesville Outfall Map  
Revised & Updated: July, 2020





**Description of the issue/comments:**

**INSTRUCTIONS TO COMPLETE ILLICIT DISCHARGE REPORTING FORM**

**WHAT IS AN ILLICIT DISCHARGE:**

An illicit discharge is any discharge into the storm sewer system that is not composed entirely of stormwater.

Examples: \_\_\_\_\_

- Dry weather discharges of wastewater into the storm sewer system from illegal dumping; spills and other non-stormwater pollution sources
- Discharges of pollutants, contaminants or illicit materials into storm drainage/sewer systems (oil, grease, solvents, metals, nutrients, toxics, viruses, bacteria)
- Improper antifreeze, oil disposal from vehicle maintenance, service stations
- Vehicle washing wastewaters
- Autobody/repair facility waste waters
- Plating shop waste water
- Manufacturers waste water
- Private service agencies waste water
- Wholesale/retail est. waste water
- Sanitary wastewater/connections
- Mobile rug cleaning waste dumping
- Laundry waste waters
- Disposal of auto/household toxics
- Vehicular/accidental spills
- Dairy barn waste waters
- On-lot disposal system- sewage effluent

**WHAT IS NOT AN ILLICIT DISCHARGE:**

The following non-stormwater discharges are not illicit discharges:

- Discharges from firefighting activities
- Potable water sources including dechlorinated waterline and fire hydrant flushings
- Irrigation drainage
- Lawn watering
- Water from individual residential car washing
- Dechlorinated swimming pool discharges
- Water from crawl space pumps
- Uncontaminated water from foundation or footing drains
- Routine external building wash down which does not use detergents or other compounds
- Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless spilled material has been removed) and where detergents are not used
- Air conditioning condensate
- Springs
- Uncontaminated groundwater

**(1.) Property Owner Information:**

Determine property owners name, if available, and street address of the discharge source in the event that follow-up action or elimination is required. If unable to determine owner, write in "undetermined".

**(2.) Description of Discharge for source identification/verification.**

- a. Odor:** Determine which odors apply.
- b. Clarity:** How clear is the discharge?
- c. Color:** Discharge color and colors in swale, pipe, ditch, etc.(Document if red/green deficient)
- d. Solids/Floatables:** Identify indicators of source.

Description of Solids/Floatables: • Iron vs. Oil Sheens:

Iron leaches from soils forming a breakable sheen on stagnant water surfaces when poked with a stick. Oil sheens will conform around and coat the surface of the stick.

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REQUEST FOR BOARD ACTION  
December 14, 2021**

**SUBJECT:** Refinancing USDA Loan for Fire Station #1

**AGENDA INFORMATION:**

**Agenda Location:** Old Business  
**Item Number:** F4  
**Department:** Administration  
**Contact:** Rob Hites, Town Manager  
**Presenter:** Rob Hites, Town Manager

**BRIEF SUMMARY:**

I am attaching the Closing Resolution, Certificate Regarding the Use of Funds and the Financing Deed of Trust that comprise the Closing Documents for the refinancing. The Board will approve the Resolution and the Finance Director, and I will sign the other documents. There is also an IRS Form 8036 that will also be submitted. The Loan Closing will take place on the 21<sup>st</sup> of December.

**MOTION FOR CONSIDERATION:**

**Approve Resolution # R-09-21 for the Financing Terms and Documents and Refinancing of Existing 2008 USDA Loan.**

**FUNDING SOURCE/IMPACT:**

General fund

**ATTACHMENTS: Resolution Approving Financing Terms and Documents, Certificate Regarding Use and Investment of Financing Proceeds, and Financing Agreement and Deed of Trust.**

**MANAGER'S COMMENTS AND RECOMMENDATIONS:**

**Our refinancing attorney Bob Jessup will be present to discuss the closing of the refinancing of the USDA Loan.**

## RESOLUTION No.R-14-21

### Resolution Approving Financing Terms and Documents -- Refinancing of Existing 2008 USDA Loan

#### *Introduction --*

The Board of Aldermen (the "Board") of the Town of Waynesville (the "Town") has previously determined to carry out a plan (the "Project") to refinance the Town's existing loan for a fire station (the "2008 Loan") and thereby save the Town money through a lower interest rate and shorter financing term.

The Town has also determined to carry out the refinancing through the use of an installment financing, as authorized under Section 160A-20 of the General Statutes. In an installment financing, the Town's repayment obligation is secured by a mortgage-type interest in all or part of the property being financed or refinanced, but not by any pledge of the Town's taxing power or any specific revenue stream. The existing 2008 loan for the fire station is also an installment financing.

Truist Bank (the "Lender") has submitted a proposal to provide the desired financing.

This resolution provides the Board's final approval of the financing terms and documents for the Project.

**BE IT THEREFORE RESOLVED by the Board of Alderman of the Town of Waynesville, as follows:**

**1. *Determination To Proceed with Financing*** - The Town confirms its plans to undertake the Project. The Town will carry out the Project with financing from the Lender substantially in accordance with the financing proposal dated September 10, 2021.

Under the financing plan, the Lender will make funds available to the Town to pay off the 2008 Loan and to pay financing costs. The Town will repay the amount advanced, with interest, over time. The Town will grant to the Lender a mortgage-type interest in the existing fire station (and its associated real property) to secure the Town's repayment obligations.

**2. Approval of Financing Contract; Direction To Execute Financing Contract** – The Board approves the form of the draft submitted to this meeting dated November 30, 2021, of a Financing Agreement and Deed of Trust (the “Contract”) for use in the Project. The Board authorizes the Mayor and the Town Manager, or either of them, to execute and deliver the Contract in its final form. The final form Contract must be in substantially the form presented, with changes as the Mayor or the Manager may approve. The execution and delivery of the final Contract by an authorized Town officer will be conclusive evidence of that officer’s approval of any changes.

The Contract in final form, however, must be consistent with the financing plan described in this resolution and must provide (a) for the amount financed not to exceed \$1,700,000, (b) for an annual interest rate not to exceed 1.99% (in the absence of default, or a change in tax status as described in the draft Contract), and (c) for a financing term not to extend beyond December 31, 2033.

**3. Call of Prior Obligations for Prepayment** – The Board authorizes the Finance Officer to make, on the Town’s behalf, an irrevocable call for the prepayment of the Town’s obligations with respect to the 2008 Loan. The Finance Officer will make this call for prepayment by the execution and delivery of an appropriate certificate in connection with the original delivery of the Contract.

**4. Officers To Complete Closing** – The Board authorizes the Town Manager, the Finance Officer and all other Town officers and employees to take all proper steps to complete the financing in cooperation with the Lender and in accordance with this resolution.

The Board authorizes the Manager to hold executed copies of all financing documents authorized or permitted by this resolution in escrow on the Town's behalf until the conditions for their delivery have been completed to that officer's satisfaction, and then to release the executed copies of the documents for delivery to the appropriate persons or organizations.

Without limiting the generality of the foregoing, the Board specifically authorizes the Manager to approve changes to any documents previously signed by Town officers or employees, provided that the changes do not conflict with this

resolution or substantially alter the intent from that expressed in the form originally signed. The Manager's authorization of the release of any document for delivery will constitute conclusive evidence of that officer's approval of any changes.

In addition, the Board authorizes the Manager to take all appropriate steps for the efficient and convenient carrying out of the Town's on-going responsibilities with respect to the Project. This authorization includes, without limitation, contracting with third parties (a) for the custody of loan proceeds pending their use to repay the 2008 Loan and (b) for reports and calculations that may be required under this resolution or otherwise with respect to the Contract.

**5. Resolutions as to Tax Matters** -- The Town will not take or omit to take any action the taking or omission of which will cause its obligations to pay principal and interest under the Contract (the "Obligations") to be "arbitrage bonds," within the meaning of Section 148 of the "Code" (as defined below), or "private activity bonds" within the meaning of Code Section 141, or otherwise cause interest components of its loan payments to be includable in the recipient's gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Town will comply with any Code provision that may require the Town at any time to pay to the United States any part of the earnings derived from the investment of the financing proceeds. In this resolution, "Code" means the United States Internal Revenue Code of 1986, as amended, and includes applicable Treasury regulations.

**6. Obligations are "Bank-Qualified"** - The Town designates its payment Obligations as "qualified tax-exempt obligations" for the purpose of Code Section 265(b)(3), which provides certain tax advantages for financial institutions providing financing to the Town.

**7. Miscellaneous Provisions** -- The Board authorizes all Town officers and employees to take all further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. The Board ratifies all prior actions of Town officers and employees to this end. Upon the absence, unavailability or refusal to act of the Town Manager, the Mayor or the Finance Officer, any other of those officers may assume any responsibility or carry out any function assigned in this resolution. The Board authorizes the Town Clerk to apply the Town's seal, and to attest to the seal, on any document related to the purposes of this resolution. In addition, the Mayor Pro Tem or any Deputy or Assistant Clerk may in any event

assume any responsibility or carry out any function assigned to the Mayor or the Clerk, respectively, in this resolution. All other Board proceedings, or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict. This resolution takes effect immediately.

Adopted this the 14<sup>th</sup> day of December, 2021

Signed: \_\_\_\_\_  
Gary Caldwell, Mayor

Attest: \_\_\_\_\_  
Eddie Ward, Clerk

# **Certificate Regarding Use and Investment Of Financing Proceeds and Related Matters**

## **INTRODUCTION**

1. We are among the officers of the Town of Waynesville, North Carolina (the "Town"), who are responsible for the Town's entering into a Financing Agreement and Deed of Trust dated December 21, 2021 (the "Financing Contract"), for the benefit of Truist Bank (the "Lender"). We are delivering this Certificate as part of the official proceedings for the financing to set out the Town's expectations for the use and investment of financing proceeds and other related matters. We understand that we have an obligation to make the representations in this Certificate both correct and complete.

## **PURPOSE OF OBLIGATIONS**

2. The Town is entering into the Financing Contract to carry out a plan to refinance a 2013 loan (the "Prior Loan," as further described in Exhibit A) that helped finance a fire station (the "Fire Station") at 1022 North Main Street, Waynesville.

## **DESCRIPTION OF OBLIGATIONS**

3. (a) The Town is entering into the Financing Contract today pursuant to a resolution adopted by the Town's governing Board of Aldermen on December 14, 2021 (the "Authorizing Resolution").

(b) The Financing Contract provides for a total amount advanced by the Lender to the Town of \$1,694,509.63 (the "Advance").

(c) Under the Financing Contract, the Town is obligated to pay Installment Payments, as defined in the Financing Contract, to repay the Advance, with interest (the Town's obligations to pay interest and repay principal are referred to in this Certificate as the "Obligations"). As shown in the Financing Contract, each Installment Payment includes a specified interest component. The Installment Payments are subject to prepayment as provided in the Financing Contract, but the

Town does not expect to defease, redeem or prepay the Installment Payment in advance of the scheduled principal payment date.

### **USE OF PROCEEDS**

4. (a) The Lender will today disburse all the proceeds from the execution and delivery of the Financing Contract, as directed by the Town, as follows:

- (i) Paying \$5,900 to the Lender's counsel
- (ii) Paying \$9,500 to the Town's bond counsel
- (iii) Paying the remaining \$1,679,109.63 to the holder of the Prior Loan, to pay the remaining principal balance of the Prior Loan.

(b) The Town has separately paid to the holder of the prior loan an amount sufficient to pay all interest accrued on the Prior Loan to today.

(c) The Town will pay any additional Financing Costs from funds on hand that do not represent the proceeds of any borrowing.

### **THE PRIOR LOAN; PROCEEDS AND FINANCED FACILITIES**

5. (a) The Town has spent all of the proceeds of the Prior Loan, including the original sale proceeds and all investment earnings. At the time the Town contracted the Prior Loan, the Town had a reasonable belief that (i) at least 85% of the amounts made available to the Town through the Prior Loan would be allocated to Capital Expenditures for the Financed Facilities within three years from the issue date of the Prior Loan, and that (ii) the Town would begin to make substantial expenditures of Prior Loan proceeds on Capital Expenditures related to the Financed Facilities within six months after the closing of the Prior Loan. None of the proceeds of the Prior Loan were invested in investments having a substantially guaranteed Yield for more than three years.

(b) At no time has the Town, or any other entity, received payments from the sale or other disposition of Financed Facilities (including payments on insurance policies related to Financed Facilities). The Town still owns all the Financed Facilities.

(c) The Town has no funds on hand that have been legally or, by action of the governing board, formally restricted to the payment of debt service specifically on the Prior Loan.

(d) The Town has undertaken no prior refundings of the Prior Loan. Proceeds of the Prior Loan were not used to pay principal or interest on any other financing, with the possible exception of using proceeds of the Prior Loan to pay principal on money borrowed as construction financing for the Financed Facilities (in any case, within 90 days of the receipt of the Prior Loan proceeds).

### **INVESTMENT PROCEEDS**

6. (a) The Lender is paying all of the Advance today as described in Section 4(a), with no investment by or for the benefit of the Town.

(b) After three years from today, the Town will not invest any of the Gross Proceeds at a Yield in excess of the Yield on the Obligations, except that the Town may re-invest any investment earnings received after the end of this initial three-year period at an unrestricted Yield for a period ending one year from the date of the Town's receipt of those earnings.

(c) No investment will be acquired or disposed of at a cost or price that exceeds its Fair Market Value as of the acquisition date, or which is less than its Fair Market Value as of the disposition date. No portion will be invested in any investment as to which the economic return is substantially guaranteed for more than three years.

(d) No portion of the Gross Proceeds will be used, directly or indirectly, to replace funds that the Town used (directly or indirectly) to acquire securities or obligations producing (or expected to produce) a Yield higher than the Yield on the Obligations. The Town will use no portion of the Gross Proceeds, directly or indirectly, to make or finance loans to two or more ultimate borrowers.

### **NO OVER-ISSUANCE OR EXCESSIVE MATURITY; NO DEVICE**

7. (a) The sum of the Proceeds and the reasonably expected investment earnings does not exceed the amount reasonably expected to be required to retire the Prior Loan.

(b) The term of the Obligations is not longer than reasonably necessary for the governmental purposes of the financing. The Fire Station has an expected remaining useful life of at least 10 years, while the weighted average maturity of the Obligations is approximately 6.00 years. The weighted average maturity of the Obligations is shorter than the remaining weighted average maturity of the Prior Loan.

(c) In connection with the execution and delivery of the Financing Agreement, the Town has not utilized any improper device to circumvent the restrictions of the Code to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage. The Town has not attempted to increase the burden on the market for tax-exempt securities improperly (for example, by selling its obligations in larger amounts or with longer maturities, or selling them sooner, than would otherwise be necessary).

#### **COMPLIANCE WITH REBATE REQUIREMENT**

8. (a) In the Authorizing Resolution, the Town has promised to comply with provisions of the Code which in some circumstances require the Town to pay some of its investment earnings to the United States, as provided in Code Section 148.

(b) The Town expects that there will be no investment earnings on the advance or any other Gross Proceeds, and that the Town will therefore have no rebate payment obligation with respect to the Obligations. The Town's covenant in the Authorizing Resolution would require the Town to calculate and pay any rebate obligation with respect to any Gross Proceeds that may arise later during the term of the Financing Contract (for example, proceeds from the sale of any of the Financed Facilities, or any insurance proceeds relating to a casualty to any of the Financed Facilities).

#### **QUALIFIED TAX-EXEMPT OBLIGATIONS**

9. (a) None of the Obligations are Private Activity Bonds. The aggregate amount of tax-exempt obligations, including the Bonds, issued and reasonably expected as of today to be issued in calendar year 2021 by the entities described in paragraph (b) below does not exceed \$10,000,000. The Town has no reason to believe that the Town and those other entities will issue tax-exempt obligations in 2021 in an aggregate amount that will exceed \$10,000,000.

(b) The entities taken into account for this determination are (i) the Town itself, including all the Town's departments and agencies, (ii) all entities for which the Town's Board of Aldermen serves as the governing body, (iii) all entities as to which the Town has the right or power to approve and remove without cause a controlling portion of the governing body (even if the controlling portion is less than a majority of the governing body), and (iv) all entities as to which the Town has the right or power to require the use of the other entity's funds for any purpose of the Town. We have also taken into account any entity with the power to borrow money that acts on behalf of any of the entities described in this paragraph.

(c) In making these determinations, we have taken into account all bonds, bond anticipation notes, installment or lease-purchase contracts and all other obligations to pay money issued or contracted, or to be issued or contracted, by such entities in calendar year 2021, excluding only current accounts payable and Private Activity Bonds.

(d) The Town has taken no action, and is not aware of any action taken by any other entity, to form or make use of any other entity's borrowing power to avoid the purposes of the small issuer provisions of Code Section 265(b)(3).

### **PRIVATE ACTIVITY TESTS**

10. (a) No payment on the Obligations is secured by property to be used in any private business. No portion of the Financed Facilities will be used in any private trade or business.

(b) The Town has no leases, management contracts or other agreements with private entities or the federal government for either (i) management or operation of the Financed Facilities, or (ii) the use of designated portions or capacity of the Financed Facilities. The Town has no contracts with private entities or the federal government related to any guaranteed capacity of or use of the Financed Facilities, or which provide for such entities or the federal government to pay for any use of or any services furnished by the Financed Facilities on any basis not generally applicable to all customers.

(c) The Town has in place procedures for screening agreements with private parties for the use or operation of the Financed Facilities that, in our opinion, make it reasonably likely that the Town will not violate the private use restrictions of the Code.

## **NO SINKING FUNDS**

111. The Town will pay the Obligations from its general funds, with there being no obligation (or expectation) on the part of the Town, any other governmental unit or any other entity to segregate or identify any particular funds or accounts for the payment or security of the Obligations.

## **ADDITIONAL PROVISIONS**

12. (a) No substantial part of the Financed Facilities will be sold. No arrangement has been or will be entered into with respect to the Financed Facilities that would be treated as a sale for federal income tax purposes. The Town expects to use the Financed Facilities for their currently-intended purposes at least until June 1, 2033 (which is the stated final maturity of the Obligations), in all cases other than such insubstantial portions as may be disposed of in the ordinary course of business due to normal wear or obsolescence.

(b) The Town has not issued or contracted, and does not expect to issue or contract, any other tax-exempt bonds, notes or other obligations within a period that (i) began on August 10, 2021, and (ii) ends thirty days after today.

(c) None of the Proceeds will be used to make any payment on any other Town obligation that was contracted in the exercise of the Town's borrowing power, other than the Prior Loan.

(d) No portion of the payments of principal of or interest on the Obligations is guaranteed by the United States (or any agency or instrumentality thereof). No portion of the Proceeds will be invested in any federally insured deposit or account.

(e) We understand that the Lender is entering into the Financing Contract for its own account with no intent to resell the Financing Contract or any interest in the Financing Contract. Our statements in this paragraph are based on a certificate dated today and signed by a Lender representative. The Town is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of those representations.

(f) We understand that Sanford Holshouser LLP, as the Town's bond counsel with respect to the Obligations, will rely upon the Town's statements in this Certificate. The Town consents to this reliance.

(g) The Town may amend any provisions of this Certificate in any manner (or may apply any Gross Proceeds in a manner inconsistent with this Certificate) if the Town obtains a written opinion of nationally recognized bond counsel to the effect that such change (or application of Gross Proceeds) will not cause the Obligations to become "arbitrage bonds" within the meaning of Code Section 148.

(h) The Town will keep and maintain all records related to this financing as described in Exhibit A. The Internal Revenue Service may from time to time issue additional guidance or requirements concerning the maintenance and retention of records. The Town will comply with any such additional guidance or requirements as the same may be in effect from time to time.

(i) Capitalized terms used in this Certificate and not otherwise defined have the meanings set forth in Exhibit B.

***[The remainder of this page has been left blank intentionally.]***

**REASONABLENESS; BINDING EFFECT**

13. (a) To the best of our knowledge and belief, the expectations set forth above are reasonable and the statements set forth above are correct.

(b) We understand that we have an obligation to make the representations in this Certificate both correct and complete. We have made an inquiry into the factual representations that form part of this Certificate so as to make those representations based on our own knowledge and belief.

(c) The Town's covenants as expressed in this Certificate are intended as binding covenants of the Town.

**WITNESS** our signatures this 21<sup>st</sup> day of December, 2021.

\_\_\_\_\_  
Misty Haywood  
Finance Officer  
Town of Waynesville, North Carolina

\_\_\_\_\_  
Robert W. Hites Jr.  
Town Manager  
Town of Waynesville, North Carolina

Exhibit A -- Record-Keeping Requirements

Exhibit B – Definitions

## **Exhibit A – Record-Keeping Requirements**

The Town will keep and maintain the records described in this Exhibit.

1. All the primary documents related to this financing, including the Authorizing Resolution, the Internal Revenue Service Form 8038-G filed in connection with this financing, this certificate and the bond counsel opinion of Sanford Holshouser LLP delivered in connection with this financing.

2. All records related to the investments made of the Proceeds or of earnings on the original Proceeds, or with the proceeds of any sale or other disposition of any of the Financed Facilities (except for any portions of any of the Financed Facilities disposed of at the end of their respective useful lives in the ordinary course of the Town's business). These records must include the following information, at a minimum: (a) purchase date, (b) purchase price, (c) information establishing that the purchase price is the Fair Market Value as of such date (e.g., the published quoted bid by a dealer in such an investment on the purchase date), (d) any accrued interest paid, (e) face amount, (f) coupon rate, (g) periodicity of interest payments, (h) disposition price, (i) any accrued interest received, (j) disposition date, and (k) information establishing that the disposition price is the Fair Market Value as of such date.

3. Records documenting the expenditure of financing proceeds, including check registers or other records of disbursement (identifying the payee and showing the date and amount of payment), and including copies of invoices or other orders for payment. To the extent financing proceeds are allocated to the payment of internal costs, the records should document the basis for the allocation.

4. Records documenting the use of financed property by public and private entities other than the Town (i.e., copies of management contracts, leases, research agreements or other agreements for temporary use).

5. Records documenting all sources of payment or security for the Obligations, including ledger or journal entries documenting the allocation of funds to payments on the Obligations.

Records must be retained for at least three full years past the last principal payment date on the Obligations, or on any obligations issued to refinance any portion of the Obligations.

The Town must comply with any other State or Federal laws or regulations requiring the maintenance of records.

## **Exhibit B -- Definitions**

"Capital Expenditures" means costs of a type that are properly chargeable to a capital account of a project that is an intended purpose of the financing (or would be so chargeable with a proper election) under federal income tax principles. For example, costs incurred to acquire, construct or improve land, buildings and equipment generally are capital expenditures. Whether an expenditure is a capital expenditure is determined at the time the expenditure is paid with respect to the property, without regard to any later changes in law.

"Code" means the Internal Revenue Code of 1986, as amended, and includes all Treasury Regulations applicable to the Obligations, whenever promulgated. Reference to any specific Code provisions shall be deemed to include any successor provisions.

"Fair Market Value" means Fair Market Value as defined in Treas. Regs. Section 1.148-5(d)(b).

"Financed Facilities" means all the public improvements and undertakings financed in whole or in part from the Gross Proceeds of the Obligations, and in this case particularly means the fire station referenced in paragraph 2.

"Financing Costs" means all professional and administrative costs related to the authorization and issuance of the Obligations, including printing and publication costs and legal, accounting, advisory and other fees and expenses.

"Gross Proceeds" is used with respect to the Obligations and means (1) amounts derived from the sale of the Obligations, (2) amounts reasonably expected or in fact used to pay debt service on the Obligations, (3) other amounts that may be pledged as security for the Obligations, (4) any "replacement proceeds" or "transferred proceeds" with respect to the Obligations, within the meaning of Treas. Regs. Secs. 1.148-1(b) and -1(c), respectively (which generally means funds or proceeds of another borrowing that function as if they were proceeds of the current financing), and (5) any investment earnings on any of these amounts.

"Prior Loan" means the loan for \$2,000,000 made to the Town by the United States of America – Department of Agriculture on or about September 26, 2008.

"Private Activity Bond" has the meaning ascribed in Code Section 141. A

“private activity bond” generally is a borrowing the proceeds of which are used in the trade or business of a non-governmental person or organization (or the federal government), and which is secured for repayment by property of, or payments from, a non-governmental person or organization (or the federal government), in a manner that effectively transfers all or a part of the advantage of tax-exempt financing away from the state or local government borrower.

"Rebate Amount" means (1) the excess of (a) the aggregate amount earned on all Nonpurpose Investments, over (b) the amount which would have been earned if all Nonpurpose Investments had a Yield equal to the Yield on the Obligations, plus (2) any income attributable to the investment of that excess.

"Working Capital Expenditures" means expenditures that are not Capital Expenditures, including expenditures for current operating expenses.

"Yield" means "Yield" as determined under Treas. Regs. Sec. 1.148-4, and is approximately 1.99% with respect to the Obligations.

*Prepared by and return after recording to:*

Robert M. Jessup Jr.  
Sam Smotherman  
Sanford Holshouser LLP  
209 Lloyd St., Suite 350  
Carrboro, NC 27510

## **FINANCING AGREEMENT AND DEED OF TRUST**

**STATE OF NORTH CAROLINA            )        COLLATERAL IS OR**  
  )        **INCLUDES FIXTURES**  
**HAYWOOD COUNTY                    )**

Brief description: Town of Waynesville fire station, 1022 N. Main St., Waynesville

**THIS FINANCING AGREEMENT AND DEED OF TRUST** (this “Contract”) is dated as of December 21, 2021, and is granted by the **TOWN OF WAYNESVILLE, NORTH CAROLINA**, a North Carolina municipal corporation (the “Town”), to BB&T Collateral Service Corporation, a North Carolina business corporation (the “Deed of Trust Trustee”), for the benefit of **TRUIST BANK** (“Truist”).

### **RECITALS:**

The Town has previously determined to carry out a plan (the “Project”) to refinance an existing loan that paid for the acquisition and construction of the Town’s fire station. Truist has agreed to advance funds to the Town for this purpose.

This Contract provides for Truist’s advance of funds, and the Town’s obligation to repay the funds with interest. In accordance with the Town’s authority under Section 160A-20 of the North Carolina General Statutes, the Town will secure its obligations under this Contract by granting to Truist a security interest in the Facility and the Site, as defined below.

The Site includes the property described in Exhibit A. The Town is the record owner of the property described in Exhibit A.

This Contract secures current advances of \$1,694,509.63. The current scheduled date for final repayment is on or about December 21, 2033.

**NOW, THEREFORE,**

(1) in consideration of the execution and delivery of this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged;

(2) to secure the Town's performance of all its covenants under this Contract, including the repayment of amounts advanced and to be advanced, together with interest on all such advances as provided in this Contract or any amendments hereto, and all charges and expenses of collection (including court costs and reasonable legal fees and expenses); and

(3) to charge the Mortgaged Property (as defined below) with such payment and performance,

the Town hereby sells, grants and conveys to the Deed of Trust Trustee, its heirs and assigns forever, in trust, with power of sale, the following (collectively, the "Mortgaged Property"):

(a) the property described in Exhibit A and any real property later acquired by the Town in exchange for, or in consideration of the exchange of, or with the proceeds from any disposition of, all or any part of any property described in this paragraph, and in all cases together with all easements, rights, rights-of-way and appurtenances belonging to any of that property (collectively, the "Site"); and

(b) all buildings and other improvements and fixtures (including any "Fixtures," as defined in Section 1-4) now or later attached to or used in or on those improvements or the Site, including (i) all renewals, replacements, and additions, (ii) all articles in substitution, (iii) all building materials for construction, improvement,

modification or repair of improvements upon their delivery to the Site, and (iv) all proceeds of all the foregoing in whatever form resulting from the loss or disposition of the foregoing, including all proceeds of and unearned premiums for any insurance policies covering the Site and the improvements, proceeds of title insurance and payments related to the exercise of condemnation or eminent domain authority, and all judgments or settlements in lieu of any of the foregoing (collectively, the "Facility"); and

**TO HAVE AND TO HOLD** the Mortgaged Property with all privileges and appurtenances thereunto belonging thereto, to the Deed of Trust Trustee, its heirs and assigns forever, upon the trusts, terms and conditions and for the purposes set out below, in fee simple in trust;

**SUBJECT, HOWEVER,** to the Existing Encumbrances (as defined herein);

**BUT THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST:** if the Required Payments (as defined herein) are paid in full in accordance with this Contract, and the Town complies with all of the terms, covenants and conditions of this Contract, this conveyance shall be null and void, Truist shall cancel it of record at the Town's request and cost, and title shall revert as provided by law.

**BUT IF, HOWEVER, AN EVENT OF DEFAULT OCCURS UNDER THIS CONTRACT,** then Truist shall have the remedies provided for in this Contract, including directing the Deed of Trust Trustee to sell the Mortgaged Property under power of sale.

**THE TOWN COVENANTS AND AGREES** with the Deed of Trust Trustee and Truist (and their respective heirs, successors and assigns), in consideration of the foregoing, as follows:

## **ARTICLE I**

### **DEFINITIONS; INTERPRETATION**

**1.01. Defined Terms.** Unless the context clearly requires otherwise, capitalized terms used in this Contract and not otherwise defined shall have the following meanings:

“Additional Payments” means any of Truist’s reasonable and customary fees and expenses related to the transactions contemplated by this Contract, any of Truist’s expenses (including attorneys’ fees) in prosecuting or defending any action or proceeding in connection with this Contract, any required license or permit fees, state and local sales and use or ownership taxes or property taxes which Truist is required to pay as a result of this Contract, inspection and re-inspection fees, and any other amounts payable by the Town (or paid by Truist on the Town’s behalf) as a result of its covenants under this Contract (together with interest that may accrue on any of the above if the Town shall fail to pay the same, as set forth in this Contract).

“Amount Advanced” has the meaning assigned in Section 2.02.

“Business Day” means any day on which banks in the State are not by law authorized or required to remain closed.

“Closing Date” means December 21, 2021.

“Event of Default” means one or more events of default as defined in Section 9.01.

“Event of Nonappropriation” means a failure or refusal by the Town Board to include funds for Required Payments in the Town’s budget for any Fiscal Year, or any reduction or elimination of an appropriation for Required Payments, all as further described in Section 3.06.

“Existing Encumbrances” means the encumbrances on the Town’s title to the Site existing as of the Closing Date.

“Finance Officer” means the Town’s statutory finance officer, however designated.

“Fiscal Year” means the Town’s fiscal year beginning each July 1, or such other fiscal year as the Town may later lawfully establish, and includes the period between the Closing Date and June 30, 2022.

“Installment Payments” means the payments payable by the Town pursuant to Section 3.01.

“Net Proceeds,” when used with respect to any amounts derived from claims made on account of insurance coverages required under this Contract, any condemnation award arising out of the condemnation of all or any portion of the Mortgaged Property, or any amounts received in lieu or in settlement of any of the foregoing, means the amount remaining after deducting from the gross proceeds thereof all expenses (including legal fees and costs) incurred in the collection of such proceeds, and after reimbursement to the Town or Truist for amounts previously expended to remedy the event giving rise to such payment or proceeds.

“Payment Dates” means the dates indicated in Exhibit B.

“Permitted Encumbrances” means, as of any particular time, (a) the Existing Encumbrances (except that the lien described in Section 5.01(c) ceases to be a Permitted Encumbrance as of May 1, 2022), (b) liens for taxes and assessments not then delinquent, (c) this Contract, and (d) easements, rights-of-way and other such minor defects or restrictions as normally exist with respect to property of the same general character as the Mortgaged Property which will not impair the Town’s intended use of the Mortgaged Property.

“Prime Rate” means the interest rate so denominated and set by Truist (whether or not such bank, or any affiliate thereof, is at any time the beneficiary under this Contract) as its “Prime Rate,” as in effect from time to time.

“Project” has the meaning assigned in the Recitals to this Contract.

“Project Costs” means all costs related to the repayment of the Town’s existing loan for the Facility, as determined in accordance with generally accepted accounting principles, including (a) sums required to reimburse the Town or its agents for advances made for any such costs, and (b) all costs related to the financing of the Project through this Contract and all related transactions.

“Required Payments” means Installment Payments and Additional Payments.

“State” means the State of North Carolina.

“Town” means Town of Waynesville, North Carolina, and its successors.

“Town Certificate” means any written document (in whatever form, however designated) executed and delivered by a Town Representative.

“Town Board” means the Town’s governing board as from time to time constituted.

“Town Representative” means the Town Manager or the Town’s statutory finance officer, or any other officer or representative designated to Truist by a certificate signed by the Town Manager or the presiding officer of the Town Board to act on the Town’s behalf for any purpose (or any specified purpose) under this Contract.

**1.02. Interpretation.** All references in this Contract to designated “Sections” and other subdivisions are to the designated sections and other subdivisions of this Contract. The words “hereof” and “hereunder” and other words of similar import refer to this Contract as a whole and not to any particular Section or other subdivision unless the context indicates otherwise. Words importing the singular number shall include the plural number and vice versa. All uses of the term “including” should be understood to mean “including, but not limited to.”

## ARTICLE II

### SECURITY PROVIDED BY THIS CONTRACT; ADVANCE; OBLIGATIONS OF THE BORROWER

**2.01. Security for Payment and Performance.** This Contract secures the Town’s payment, as and when the same shall become due and payable, of all Required Payments and the Town’s timely compliance with all terms, covenants and conditions of this Contract.

**2.02. Advance.** Truist advances \$1,694,509.63 (the “Amount Advanced”) to the Town. Truist will disburse the full Amount Advanced (less a fee of \$5,900 to be paid directly by Truist to its legal counsel) on the Closing Date as directed by the Town. This transaction will therefore be fully funded at closing.

**2.03. No Abatement.** There shall be no abatement or reduction of the Required Payments for any reason, including, but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or imaginary) arising out of or related to the Site or the Project, except as expressly provided in this Contract. The Town assumes and shall bear the entire risk of loss and damage to the Site, the Facility or any component of the Project, from any cause whatsoever. The Town shall make the Installment Payments in all events unless the Town's obligation to make Installment Payments is terminated as otherwise provided in this Contract.

**2.04. Town's Continuing Obligations.** The Town shall remain liable for full performance of all its covenants under this Contract, including payment of all Required Payments, notwithstanding the occurrence of any event or circumstances whatsoever, including any of the following:

- (a) Trust's waiver of any right granted or remedy available to it;
- (b) The forbearance or extension of time for payment or performance of any obligation under this Contract, whether granted to the Town, a subsequent owner of the Facility or any other person;
- (c) The release of all or part of the Mortgaged Property or the release of any party who assumes all or any part of such performance;
- (d) Any act or omission by Trust (but this provision does not relieve Trust of any of its obligations under this Contract);
- (e) The sale of all or any part of the Mortgaged Property; or
- (f) Another party's assumption of the Town's obligations under this Contract.

**2.05. Security Interest in Fixtures.** This Contract is intended to be a security agreement pursuant to the Uniform Commercial Code as in effect in North Carolina for the "Fixtures," as defined below. The Town grants to Trust and the Deed of Trust Trustee a security interest in the Fixtures to secure the Obligations.

The Town agrees to execute, deliver and file, or cause to be filed, in such place or places as may be requested by Truist or the Deed of Trust Trustee, financing statements (including any continuation statements) in whatever form either party may reasonably request to evidence the security interest provided for in this Section. Upon the occurrence of an Event of Default under this Contract, Truist or the Deed of Trust Trustee is entitled to exercise all rights and remedies of a secured party under the Uniform Commercial Code as in effect in North Carolina and may proceed as to the Fixtures in the same manner as provided in this Contract for the real property.

The "Fixtures" are all items of personal property attached or affixed to the Facility in such a manner that removing the items would cause damage to the Facility. The Fixtures may include plumbing, heating, lighting, electrical, laundry, ventilating, refrigerating, incinerating, air-conditioning, fire and theft protection and sprinkler equipment, including all renewals and replacements thereof and all additions thereto, and all articles in substitution thereof, and all proceeds of all the foregoing in whatever form.

The Town is not obliged to renew, repair or replace any undesirable or unnecessary Fixture. If the Town determines that any Fixture has become undesirable or unnecessary, the Town may remove that Fixture from the Facility and sell, trade-in, exchange or otherwise dispose of it (as a whole or in part), with an amount equivalent to the fair market value of the Fixture as removed becoming Net Proceeds and subject to the provisions of Section 6.09.

With respect to those items of the Mortgaged Property that are or are to become Fixtures, this Contract constitutes a financing statement filed as a fixture filing. The Town agrees that the security interest in the Fixtures granted in this Section is in addition to, and not in lieu of, any security interest in the Fixtures acquired by real property law. The fixtures are located on the land described on Exhibit A, and the Town is the record owner of that land. The name and address of the Town, as debtor, and Truist, as secured party, are set forth in Section 11.01.

## **2.06. Releases; Grants of Easements and Other Transfers.**

(a) So long as no Event of Default is continuing, Truist and the Deed of Trust Trustee are required, upon the Town's request and at any time, to execute and deliver all documents necessary to effect the release of all or a portion of the Mortgaged Property from the lien of this Deed of Trust upon the Town's compliance with the requirements of this Section.

(b) In connection with the release of a portion (but less than all) of the Mortgaged Property, the Town must file with Truist and the Deed of Trust Trustee evidence that the value of the portion of the Mortgaged Property that is proposed to remain subject to the lien of this Deed of Trust will not be less than 100% of the aggregate principal component of the Amount Advanced outstanding at the time the release is effected.

(c) In the case of a proposed release of all the Mortgaged Property, the Town must pay to some fiduciary reasonably acceptable to Truist an amount (i) that is sufficient to provide for the payment in full of the entire outstanding balance of the Amount Advanced and (ii) that is required to be used for that payment.

(d) In any event, the Town must file with Truist and the Deed of Trust Trustee (i) a Town Certificate stating the purpose for which the Town desires the release, giving a brief and general description of the portion of the Mortgaged Property to be released and requesting the release, (ii) a copy of the proposed instrument of grant or release, including a complete legal description of the property to be released, (iii) a Town Certificate requesting the execution and delivery of the instrument and certifying to the effect that (A) that no Event of Default is continuing and (B) the grant or release will not materially impair the intended use of the Facility.

(e) In addition to the provisions for release described above, the Town may from time to time grant easements, licenses, rights-of-way and other similar rights with respect to any part of the Mortgaged Property, and the Town may release similar interests, with or without consideration. The Town must send notice of any grant or release to Truist, along with a Town Certificate to the effect that the grant or release will not materially impair the intended use of the Facility.

(f) In all cases, the Town's written representation as to value will be measured at the time of the release or exchange, and the Town may establish value by reference to appraised, taxable or insured value (and the Town may use different

criteria for different portions of the Mortgaged Property).

### ARTICLE III

#### BORROWER'S PAYMENT OBLIGATION AND RELATED MATTERS

**3.01. Installment Payments.** The Town shall repay the Amount Advanced by making Installment Payments to Truist in lawful money of the United States at the times and in the amounts set forth in Exhibit B, except as otherwise provided in this Contract. As indicated in Exhibit B, the Installment Payments reflect the repayment of the Amount Advanced and include designated interest components, with interest accruing at the annual rate of 1.99%, subject to adjustment as provided in this Contract.

**3.02. Additional Payments.** The Town shall pay all Additional Payments on a timely basis directly to the person or entity to which such Additional Payments are owed in lawful money of the United States.

**3.03. Prepayment.** The Town may prepay the outstanding principal component of the Amount Advanced, at its option, at any time on or after December 21, 2027, in whole but not in part, by paying (a) all Additional Payments then due and payable, (b) all interest accrued and unpaid to the prepayment date, and (c) 100% of the outstanding principal amount, without premium or penalty.

**3.04. Late Payments.** If the Town fails to pay any Installment Payment when due, the Town shall pay additional interest on the principal component of the late Installment Payment (as permitted by law) at an annual rate equal to the Prime Rate from the original due date.

**3.05. Interest Rate and Payment Adjustment.** (a) "Rate Adjustment Event" means (i) any action by the Internal Revenue Service (including the delivery of a deficiency notice) or any other federal court or administrative body determining, or (ii) receipt by Truist of a Bond Counsel Opinion to the effect, (A) that the interest component of Installment Payments related to the Amount Advanced, or any portion thereof, is includable in the gross income for federal income tax purposes of any counterparty to this Contract, or (B) that the Town's obligations under this Contract with respect to the Amount Advanced are not "qualified tax-exempt obligations" within the meaning of Code Section 265 (a "265 Event"), in any case as a result of any misrepresentation by

the Town or as a result of any action the Town takes or fails to take.

(b) Upon any Rate Adjustment Event, (i) the unpaid principal portion of the Amount Advanced shall continue to be payable as shown on Exhibit B, but (ii) the interest components of the Installment Payments shall be recalculated, at an interest rate equal to an annualized interest rate equal to the Prime Rate plus 2% (200 basis points), to the date (retroactively, if need be) determined pursuant to the Rate Adjustment Event to be the date interest became includable in any counterparty's gross income for federal income tax purposes (or in the case of a 265 Event, retroactively to the Closing Date). Truist shall provide to the Town a restated schedule of payments.

(c) The Town shall pay interest at such adjusted rate (subject to credit for interest previously paid) to each affected counterparty, notwithstanding the fact that any particular counterparty may not necessarily be a counterparty to this Contract on the date of a Rate Adjustment Event. The Town shall additionally pay to all affected counterparties any interest, penalties or other charges assessed against or payable by such counterparty and attributable to a Rate Adjustment Event, notwithstanding the prior repayment of the entire Amount Advanced or any transfer to another beneficiary.

### **3.06. Appropriations.**

(a) The Town will cause the officer who prepares the draft Town budget initially submitted for Town Board consideration to include in the initial proposal each year the amount of all Installment Payments and estimated Additional Payments coming due during the Fiscal Year to which the budget applies. Notwithstanding that the initial proposed budget includes an appropriation for Required Payments, the Town Board may determine not to include the appropriation (in whole or in part) in the final Town budget for any Fiscal Year or may amend an adopted budget to reduce or delete an approved appropriation.

(b) (i) If for any Fiscal Year the Town adopts an annual budget that does not appropriate (for that purpose) an amount equal to the Installment Payments and estimated Additional Payments coming due during that Fiscal Year, then the Town will send notice of this failure to Truist and the LGC within fifteen days after the beginning of such Fiscal Year.

(ii) If for any Fiscal Year the Town has not adopted an annual budget that appropriates (for that purpose) an amount equal to the Installment Payments and estimated Additional Payments coming due during that Fiscal Year within 15 days after the beginning of any Fiscal Year, then the Town will send notice of this failure to Truist and the LGC within an additional ten days.

(iii) Similarly, if at any time the Town amends the annual budget to reduce the amounts appropriated for Required Payments below the amounts expected to be required for the remainder of that Fiscal Year, then the Town will send notice of this amendment to Truist and the LGC within ten days.

(iv) The Town shall send notices intended for the LGC to the attention of its Secretary, at 3200 Atlantic Avenue, Longleaf Building, Raleigh NC 27604.

## **ARTICLE IV**

### **TOWN'S LIMITED OBLIGATION**

Notwithstanding any other provision of this Contract, the parties intend that this transaction comply with North Carolina General Statutes Section 160A-20. No deficiency judgment may be entered against the Town in violation of such Section 160A-20.

No provision of this Contract should be construed or interpreted as creating a pledge of the Town's faith and credit within the meaning of any constitutional debt limitation. No provision of this Contract should be construed or interpreted as an illegal delegation of governmental powers or as an improper donation or lending of the Town's credit within the meaning of the North Carolina constitution. The Town's taxing power is not and may not be pledged directly or indirectly or contingently to secure any moneys due under this Contract.

No provision of this Contract should be construed to pledge or to create a lien on any class or source of the Town's moneys (other than the Amount Advanced and any Net Proceeds). No provision of this Contract restricts the Town's future issuance of any of its bonds or other obligations payable from any class or source of the Town's moneys (except to the extent this Contract restricts the incurrence of additional obligations secured by the Mortgaged Property).

To the extent of any conflict between this Article and any other provision of this Contract, this Article takes priority. Nothing in this Article is intended to impair or prohibit foreclosure upon occurrence of an Event of Default under this Contract.

## **ARTICLE V**

### **BORROWER'S COVENANTS, REPRESENTATIONS AND WARRANTIES**

**5.01. Warranties of Title; Marketability.** (a) The Town covenants with the Deed of Trust Trustee and Trust that the Town is seized of and has the right to convey the Mortgaged Property in fee simple, that the Mortgaged Property is free and clear of all liens and encumbrances other than the Permitted Encumbrances, that title to the Mortgaged Property is marketable, and that the Town will forever warrant and defend title to the Mortgaged Property against the claims of all persons.

(b) No parcel comprising a portion of the Mortgaged Property is subject to an existing lease. Each parcel comprising a portion of the Mortgaged Property is accessible from a public road.

(c) As of the Closing Date, some or all of the Mortgaged Property is subject to a lien arising under a Deed of Trust and Security Agreement recorded on September 26, 2008, at Book 745, Page 2345, Haywood County Registry. In connection with the closing the Town will cause the payment of all amounts necessary to release this lien.

**5.02. Validity of Organization and Acts.** The Town is validly organized and existing under State law, has full power to enter into this Contract and has duly authorized and has obtained all required approvals and all other necessary acts required prior to the execution and delivery of this Contract. This Contract is a valid, legal and binding obligation of the Town.

**5.03. Maintenance of Existence.** The Town shall maintain its existence, shall continue to be a municipal corporation validly organized and existing under State law, and shall not consolidate with or merge into another governmental entity, unless the resulting entity assumes the Town's obligations under this Contract.

**5.04. Acquisition of Permits and Approvals.** All permits, consents, approvals or authorizations of all governmental entities and regulatory bodies, and all filings and notices required on the Town's part to have been obtained or completed as of today in connection with the authorization, execution and delivery of this Contract, the consummation of the transactions contemplated hereby and the carrying out of the Project have been obtained and are in full force and effect, and there is no reason why any future required permits, consents, approvals, authorizations or orders cannot be obtained as needed.

**5.05. No Breach of Law or Contract.** Neither the execution and delivery of this Contract nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Contract, (a) to the best of the Town's knowledge, constitutes a violation of any provision of law governing the Town or (b) results in a breach of the terms, conditions or provisions of any contract, agreement or instrument or order, rule or regulation to which the Town is a party or by which the Town is bound.

**5.06. No Litigation.** There is no litigation or any governmental administrative proceeding to which the Town (or any official thereof in an official capacity) is a party that is pending or, to the best of the Town's knowledge after reasonable investigation, threatened with respect to (a) the Town's organization or existence, (b) its authority to execute and deliver this Contract or to comply with the terms of this Contract, (c) the validity or enforceability of this Contract or the transactions contemplated hereby, (d) the title to office of any Town Board member or any other Town officer, (e) any authority or proceedings relating to the Town's execution or delivery of this Contract, or (f) the undertaking of the transactions contemplated by this Contract.

**5.07. No Current Default or Violation.** (a) The Town is not in violation of any existing law, rule or regulation applicable to it, (b) the Town is not in default under any contract, other agreement, order, judgment, decree or other instrument or restriction of any kind to which the Town is a party or by which it is bound or to which any of its assets are subject, including this Contract, and (c) no event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including this Contract, which constitutes or which, with notice or lapse of time, or both, would constitute an event of default hereunder or thereunder.

**5.08. No Misrepresentation.** No representation, covenant or warranty by the Town in this Contract is false or misleading in any material respect.

**5.09. Environmental Warranties.** (a) The Town warrants and represents to Truist as follows:

(i) The Town has no knowledge of, and after reasonable inquiry no reason to believe (A) that any industrial use has been made of the Mortgaged Property, (B) that the Mortgaged Property has been used for the storage, treatment or disposal of chemicals or any wastes or materials that are classified by federal, State or local laws as hazardous or toxic substances, or (C) that any manufacturing, landfilling or chemical production has occurred on the Mortgaged Property.

(ii) The Mortgaged Property is in compliance with all federal, State and local environmental laws and regulations, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Public Law No. 96-510, 94 Stat. 2767, 42 USC 9601 *et seq.*, and the Superfund Amendments and Reauthorization Act of 1986, Public Law No. 99-499, 100 Stat. 1613.

(b) The Town's obligations under this Section shall continue in full effect notwithstanding full payment of the Required Payments or foreclosure under this Contract or delivery of a deed in lieu of foreclosure.

**5.10. Further Instruments.** Upon Truist's request, the Town shall execute, acknowledge and deliver such further instruments reasonably necessary or desired by Truist to carry out more effectively the purposes of this Contract or any other document related to the transactions contemplated hereby, and to subject to the liens and security interests hereof and thereof all or any part of the Mortgaged Property intended to be given or conveyed hereunder or thereunder, whether now given or conveyed or acquired and conveyed subsequent to the date of this Contract.

**5.11. Truist's Advances for Performance of Town's Obligations.** If the Town fails to perform any of its obligations under this Contract, Truist is authorized, but not obligated, to perform the obligation or cause it to be performed. All expenditures incurred by Truist (including any advancement of funds for payment of taxes, insurance

premiums or other costs of maintaining the Mortgaged Property, and any associated legal or other expenses), together with interest thereon at the Prime Rate, shall be secured as Additional Payments under this Contract. The Town promises to pay all such amounts to Truist immediately upon demand.

**5.12. Taxes and Other Governmental Charges.** The Town shall pay, as Additional Payments, the full amount of all taxes, assessments and other governmental charges lawfully made by any governmental body during the term of this Contract. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the Town shall be obligated to provide for Additional Payments only for such installments as are required to be paid during the term of this Contract. The Town shall not allow any liens for taxes, assessments or governmental charges with respect to the Mortgaged Property or any portion thereof to become delinquent (including, without limitation, any taxes levied upon the Mortgaged Property or any portion thereof which, if not paid, will become a charge on any interest in the Mortgaged Property, including Truist's interest, or the rentals and revenues derived therefrom or hereunder).

**5.13. Town's Insurance.** (a) From and after the Closing Date, the Town shall, at its own expense, acquire, carry and maintain broad-form extended coverage property damage insurance with respect to all improvements in or on the Site or otherwise related to the Facility in an amount equal to the estimated replacement cost of those improvements. This property damage insurance shall include standard mortgagee coverage in favor of Truist. The Town shall provide evidence of such coverage to Truist, upon Truist's request, promptly upon such substantial completion of any construction or improvement. Any Net Proceeds of the insurance required by this subsection (a) shall be payable as provided in Section 6.09.

(b) To the extent permitted by law, the Town promises that from and after the Closing Date the Town shall, at its own expense, acquire, carry and maintain comprehensive general liability insurance in accordance with State statute or as customarily held by similar entities in the State.

(c) If the property (building) secured by this Contract has been determined to be in a "Special Flood Hazard" area, as defined by Truist's flood determination vendor, the Town, at its own expense, must acquire, carry, and maintain an adequate policy for

flood insurance for the life of the loan in compliance with the Flood Disaster Protection Act of 1973 (Federal law). If at any time during the term of this Contract, such portion of the Mortgaged Property is classified by FEMA as being located in a special flood hazard area, flood insurance will be mandatory. Should Truist become aware of such an event, federal law requires Truist to notify the Town of the reclassification. If, within forty-five days of receipt of notification from Truist that any portion of the Mortgaged Property has been reclassified by the FEMA as being located in a special flood hazard area, the Town has not provided sufficient evidence of flood insurance, Truist is mandated under federal law to purchase flood insurance on behalf of the Town.

(d) The Town shall maintain all this insurance with generally recognized responsible insurers in accordance with State law. The policies may carry reasonable deductible or risk-retention amounts.

(e) Truist shall not be responsible for the sufficiency or adequacy of any required insurance and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by Truist.

(f) Upon request by Truist, the Town shall deliver to Truist a certificate stating the property coverage required by this Contract is in effect, and stating the carrier, policy number and coverage amount.

**5.14. Financial Information.** The Town will send Truist a copy of the Town's audited financial statements for each Fiscal Year within 30 days of the Town's acceptance of the statements, but in any event within 270 days of the completion of each Fiscal Year. The Town shall also furnish Truist, at such reasonable times as Truist may request, all other financial information (including, without limitation, the Town's annual budget as submitted or approved) as Truist may reasonably request. The Town shall permit Truist or its agents and representatives to inspect the Town's books and records and make extracts therefrom.

## **ARTICLE VI**

### **CARE AND USE OF FACILITY**

**6.01. Compliance with Requirements.** (a) The Town shall observe and comply promptly with all current and future requirements relating to the Mortgaged

Property's use or condition imposed by (i) any judicial, governmental or regulatory body having jurisdiction over the Facility or any portion thereof or (ii) any insurance company writing a policy covering the Facility or any portion thereof, whether or not any such requirement shall necessitate structural changes or improvements or interfere with the use or enjoyment of the Mortgaged Property.

(b) The Town shall not use the Mortgaged Property or any part thereof, nor allow the same to be used, for any unlawful purpose, or suffer any act to be done or any condition to exist with respect to the Mortgaged Property or any part thereof, nor any article to be brought thereon, which may be dangerous, unless safeguarded as required by law, or which may, in law, constitute a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto.

**6.02. Maintenance and Repairs; Additions; Grant and Release of Easements.** (a) The Town shall keep the Mortgaged Property in good order and repair (reasonable wear and tear excepted) and in good operating condition, shall not commit or permit any waste or any other thing to occur whereby the value or usefulness of the Mortgaged Property might be impaired, and shall make from time to time all necessary or appropriate repairs, replacements and renewals.

(b) The Town may, also at its own expense, make from time to time any additions, modifications or improvements to the Mortgaged Property that it may deem desirable for its governmental or proprietary purposes and that do not materially impair the effective use, nor materially decrease the value or substantially alter the intended use, of the Mortgaged Property. The Town shall do, or cause to be done, all such things as may be required by law in order fully to protect the security of and all Truist's rights under this Contract.

(c) Any and all additions to or replacements of the Facility and all parts thereof shall constitute accessions to the Facility and shall be subject to all the terms and conditions of this Contract and included in the "Facility" for the purposes of this Contract.

**6.03. Utilities.** The Town shall pay all charges for utility services furnished to or used on or in connection with the Site and the Facility.

**6.04. Risk of Loss.** The Town shall bear all risk of loss to and condemnation of the Site and the Facility.

**6.05. Condemnation.** (a) The Town shall immediately notify Truist if any governmental authority shall institute, or shall notify the Town of any intent to institute, any action or proceeding for the taking of, or damages to, all or any part of the Mortgaged Property or any interest therein under the power of eminent domain, or if there shall be any damage to the Mortgaged Property due to governmental action, but not resulting in a taking of any portion of the Mortgaged Property. The Town shall file and prosecute its claims for any such awards or payments in good faith and with due diligence and cause the same to be collected and paid over to Truist, and to the extent permitted by law hereby irrevocably authorizes and empowers Truist or the Deed of Trust Trustee, in the Town's name or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claims. If the Town receives any Net Proceeds arising from any such action, the Town shall apply such Net Proceeds as provided in Section 6.09.

(b) If any of the real or personal property acquired or improved by the Town (in whole or in part) using any portion of the Amount Advanced consists of or is located on any real property acquired by the Town through the exercise of the power of eminent domain, or through the threat of the exercise of the power of eminent domain, then during the term of this Contract the Town may not transfer any interest in such real property to any entity other than a local governmental unit without Truist's prior express written consent.

**6.06. Title.** Title to the Site and the Facility and any and all additions, repairs, replacements or modifications thereto shall at all times be in the Town, subject to the lien of this Contract. Upon the Town's payment in full of all Required Payments, Truist, at the Town's expense and request, shall cancel this Contract.

**6.07. Right of Entry and Inspection.** Truist and its representatives and agents shall have the right to enter upon the Site and inspect the Facility from time to time, and the Town shall cause any vendor, contractor or sub-contractor to cooperate with Truist and its representatives and agents during such inspections.

No right of inspection or approval granted in this Section shall be deemed to

impose upon Truist any duty or obligation whatsoever to undertake any inspection or to make any approval. No inspection made or approval given by Truist shall be deemed to impose upon Truist any duty or obligation whatsoever to identify or correct any defects in the Facility or to notify any person with respect thereto, and no liability shall be imposed upon Truist, and no warranties (either express or implied) are made by Truist as to the quality or fitness of any improvement, any such inspection and approval being made solely for Truist's benefit.

**6.08. No Encumbrance, Mortgage or Pledge of Site or Facility.** (a) The Town shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics' and materialmen's liens), charge, encumbrance or other claim in the nature of a lien on or with respect to the Mortgaged Property, except Permitted Encumbrances. The Town shall promptly, at its own expense, take such action as may be duly necessary to discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which it shall have created, incurred or suffered to exist.

(b) The Town shall reimburse Truist for any expense incurred by Truist to discharge or remove any such mortgage, pledge, lien, security interest, encumbrance or claim, with interest thereon at the Prime Rate.

**6.09. Damage and Destruction; Use of Net Proceeds.** (a) The Town shall promptly notify Truist if any of the following events (a "Collateral Loss Event") occurs:

(i) the Mortgaged Property or any portion thereof is stolen or is destroyed or damaged by fire or other casualty,

(ii) a material defect in the construction of the Mortgaged Property becomes apparent, or

(iii) title to or the use of all or any portion of the Mortgaged Property shall be lost by reason of a defect in title.

Each notice shall describe generally the nature and extent of such damage, destruction or taking.

(b) If the Net Proceeds arising from any single Collateral Loss Event, or any single substantially related series of Collateral Loss Events, is not more than \$100,000, the Town shall retain the Net Proceeds and apply the same to the prompt completion, repair or restoration of the Mortgaged Property, and shall promptly thereafter report to Truist regarding the use of such Net Proceeds.

(c) If the Net Proceeds arising from any single Collateral Loss Event, or any single substantially related series of Collateral Loss Events, is more than \$100,000, then the Town shall cause the Net Proceeds to be paid to an escrow agent (which shall be a bank, trust company or similar entity exercising fiduciary responsibilities) designated by Truist for deposit in a special escrow fund to be held by that escrow agent. The Town shall thereafter apply Net Proceeds (i) to the prompt repair or restoration of the Mortgaged Property (and pay any costs in excess of Net Proceeds, if necessary), or (ii) together with other available funds as may be necessary, to the prepayment of all outstanding Required Payments pursuant to Section 3.03. The Town shall promptly report to Truist regarding the use of Net Proceeds.

(d) Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of Net Proceeds shall be the Town's property and shall be part of the Mortgaged Property.

## **ARTICLE VII**

### **INDEMNIFICATION**

To the extent permitted by law, the Town will indemnify, protect and save

- (a) the Deed of Trust Trustee,
- (b) Truist and its officers, employees, and directors, and
- (c) the LGC's members and employees,

in all cases harmless from all liability and losses, including expenses and legal fees, expenses and costs, arising out of, connected with, or resulting directly or indirectly

(A) from or relating to the Mortgaged Property or the transactions contemplated by this Agreement, including without limitation the possession, condition, installation, construction or use of the Mortgaged Property.

(B) as a result of any warranty or representation made by the Town in Section 5.09 being false or untrue in any material respect, or any requirement under any law or regulation which requires the elimination or removal of any hazardous materials, substances, wastes or other environmentally regulated substances by Truist, the Town or any transferee or assignee of the Town or Truist.

The Town has no obligation to indemnify any indemnified party for the gross negligence or intentional misconduct of the indemnified party or any of its employees or representatives. The Town's obligation to provide indemnification under this Article continues even after there is no longer any outstanding principal balance of the Amount Advanced and extends to any successor to Truist. The parties intend that the LGC is a third-party beneficiary of the Town's obligations under this Article VII.

## **ARTICLE VIII**

### **THE DEED OF TRUST TRUSTEE**

**8.01. Deed of Trust Trustee's Liability.** The Deed of Trust Trustee shall suffer no liability by virtue of its acceptance of this trust except such as may be incurred as a result of the Deed of Trust Trustee's failure to account for the proceeds of any sale under this Contract.

**8.02. Substitute Trustees.** If the Deed of Trust Trustee, or any successor, shall die, become incapable of acting or renounce its trust, or if for any reason Truist desires to replace the Deed of Trust Trustee, then Truist shall have the unqualified right to appoint one or more substitute or successor Deed of Trust Trustees by instruments filed for registration in the office of the Register of Deeds where this Contract is recorded. Any such removal or appointment may be made at any time without notice, without specifying any reason therefor and without any court approval. Any such appointee shall become vested with title to the Mortgaged Property and with all rights, powers and duties conferred upon the Deed of Trust Trustee by this Contract in the same manner

and to the same effect as though such Deed of Trust Trustee were named as the original Deed of Trust Trustee.

## ARTICLE IX

### DEFAULTS AND REMEDIES; FORECLOSURE

**9.01. Events of Default.** An “Event of Default” is any of the following:

- (a) The Town’s failing to make any Installment Payment when due.
- (b) The occurrence of an Event of Nonappropriation.
- (c) The Town’s breaching or failing to perform or observe any term, condition or covenant of this Contract on its part to be observed or performed, other than as provided in subsections (a) or (b) above, including payment of any Additional Payment, for a period of 15 days after written notice specifying such failure and requesting that it be remedied shall have been given to the Town by Truist, unless Truist shall agree in writing to an extension of such time prior to its expiration.
- (d) The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law by or against the Town as a debtor, or the appointment of a receiver, custodian or similar officer for the Town or any of its property, and the failure of such proceedings or appointments to be vacated or fully stayed within 30 days after the institution or occurrence thereof.
- (e) Any warranty, representation or statement made by the Town in this Contract is found to be incorrect or misleading in any material respect on the Closing Date (or, if later, on the date made).
- (f) Any lien, charge or encumbrance (other than Permitted Encumbrances) prior to or affecting the validity of this Contract is found to exist, or proceedings are instituted against the Town to enforce any lien, charge or encumbrance against the Mortgaged Property and such lien, charge or encumbrance would be prior to the lien of this Contract.

**9.02. Remedies on Default.** Upon the continuation of any Event of Default, Truist may, without any further demand or notice, exercise any one or more of the following remedies:

(a) Declare the unpaid principal components of the Installment Payments immediately due and payable;

(b) Proceed by appropriate court action to enforce the Town's performance of the applicable covenants of this Contract or to recover for the breach thereof; and

(c) Avail itself of all available remedies under this Contract, including execution and foreclosure as provided in Sections 9.03 and 9.04, and recovery of attorneys' fees and other expenses.

**9.03. Foreclosure; Sale under Power of Sale.** (a) Right to foreclosure or sale. Upon the occurrence and continuation of an Event of Default, at Truist's request, the Deed of Trust Trustee shall foreclose the Mortgaged Property by judicial proceedings or, at Truist's option, the Deed of Trust Trustee shall sell (and is hereby empowered to sell) all or any part of the Mortgaged Property (and if in part, any such sale shall in no way adversely affect the lien created hereby against the remainder) at public sale to the last and highest bidder for cash (free of any equity of redemption, homestead, dower, curtesy or other exemption, all of which the Town expressly waives to the extent permitted by law) after compliance with applicable State laws relating to foreclosure sales under power of sale. The Deed of Trust Trustee shall, at Truist's request, execute a proper deed or deeds to the successful purchaser at such sale.

(b) Bank's bid. Truist may bid and become the purchaser at any sale under this Contract, and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Required Payments the proceeds of sale net of sale expenses, including the Deed of Trust Trustee's commission, and after payment of such taxes and assessments as may be a lien on the Mortgaged Property superior to the lien of this Contract (unless the Mortgaged Property is sold subject to such liens and assessments, as provided by State law).

(c) Town's bid. The Town may bid for all or any part of the Mortgaged Property

at any foreclosure sale; provided, however, that the price bid by the Town may not be less than an amount sufficient to provide for full payment of the Required Payments.

(d) Successful bidder's deposit. At any such sale the Deed of Trust Trustee may, at its option, require any successful bidder (other than Truist) immediately to deposit with the Deed of Trust Trustee cash or a certified check in an amount equal to all or any part of the successful bid, and notice of any such requirement need not be included in the advertisement of the notice of such sale.

(e) Application of sale proceeds. The proceeds of any foreclosure sale shall be applied in the manner and in the order prescribed by State law, it being agreed that the expenses of any such sale shall include a commission to the Deed of Trust Trustee of five percent of the gross sales price for making such sale and for all services performed under this Contract. Any proceeds of any such sale remaining after the payment of all Required Payments and the prior application thereof in accordance with State law shall be paid to the Town.

**9.04. Possession of Mortgaged Property.** During the continuation of an Event of Default, the Town shall immediately lose the right to possess, use and enjoy the Mortgaged Property (but may remain in possession of the Mortgaged Property as a tenant at will of Truist), and thereupon the Town (a) shall pay monthly in advance to Truist a fair and reasonable rental value for the use and occupation of the Mortgaged Property (in an amount Truist shall determine in its reasonable judgment), and (b) upon Truist's demand, shall deliver possession of the Mortgaged Property to Truist or, at Truist's direction, to the purchaser of the Mortgaged Property at any judicial or foreclosure sale under this Contract.

In addition, upon the continuation of any Event of Default, Truist, to the extent permitted by law, is hereby authorized to (i) take possession of the Mortgaged Property, with or without legal action, (ii) lease the Mortgaged Property, (iii) collect all rents and profits therefrom, with or without taking possession of the Mortgaged Property, and (iv) after deducting all costs of collection and administration expenses, apply the net rents and profits first to the payment of necessary maintenance and insurance costs, and then to the Town's account and in reduction of the Town's corresponding Required Payments in such fashion as Truist shall reasonably deem appropriate. Truist shall be liable to account only for rents and profits it actually receives.

**9.05. Due on Sale Provision; Acceleration.** Truist may, at its option, require the immediate payment in full of the Required Payments and the Amount Advanced and all other sums secured by this Contract upon the sale, transfer, conveyance or encumbrance of all or any part of the Mortgaged Property, or any legal or beneficial interest in the Mortgaged Property, without Truist's prior written consent. This option applies whether the sale, transfer, conveyance or encumbrance is voluntary, involuntary, by operation of law or otherwise, and includes (a) any creation of lien or encumbrance, whether or not subordinate to the lien created pursuant to this Contract, (b) the creation of any easement, right-of-way or similar interest other than such as would constitute a Permitted Encumbrance, or (c) the grant of any leasehold or similar interest or any option to purchase, right of first refusal or similar interest.

**9.06. No Remedy Exclusive; Delay Not Waiver.** All remedies under this Contract are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy. If any Event of Default occurs and is thereafter waived by the other parties, that waiver shall be limited to the particular breach so waived and shall not be deemed a waiver of any other breach under this Contract.

**9.07. Payment of Legal Fees and Costs.** If Truist employs an attorney to assist in the enforcement or collection of Required Payments, or if the Deed of Trust Trustee or Truist voluntarily or otherwise shall become a party or parties to any suit or legal proceeding (including a proceeding conducted under any state or federal bankruptcy or insolvency statute) to protect the Mortgaged Property, to protect the lien of this Contract, to enforce collection of the Required Payments or to enforce compliance by the Town with any of the provisions of this Contract, the Town agrees to pay reasonable legal fees and costs that may reasonably be incurred (whether or not any suit or proceeding is commenced), and those fees and costs (together with interest at the Prime Rate) are secured as Required Payments.

## ARTICLE X

### WIRE TRANSFER REQUIREMENTS

In order to prevent unauthorized or fraudulent wire transfers through

cyberfraud and other means, Truist and the Town hereby agree to the provisions of this Article X.

**10.01. Wire Transfer Requirements.** In the event a wire transfer is made by Truist to disburse funds as contemplated by this Contract (a “Disbursement”), said wire transfer shall be delivered as directed in a written “Disbursement Authorization” provided to Truist by a Town Representative, as defined in this Agreement. Any person previously designated as a Town Representative for this purpose may revoke the authorization of any other designated person at any time.

**10.02. Verification Procedures.** Prior to making any Disbursement pursuant to a Disbursement Authorization not delivered to Truist in person by a Town Representative, Truist shall verify such Disbursement Authorization verbally via telephone communication with a Town Representative. The Town shall ensure that a Town Representative will provide such verification to Truist. The Town shall not disclose, or allow to be disclosed, such Truist verification procedures to any third party unless there is a legitimate business need to make such disclosure or such disclosure is required by law, and the Town accepts the risk of such third party knowledge of the security procedures. If the Town has reason to believe that a security procedure has been obtained by or disclosed to an unauthorized person or learns of any unauthorized transfer or of any discrepancy in a transfer request, then the Town shall notify Truist immediately.

**10.03. Payee Identification.** The Town is solely responsible for accurately identifying the wire transfer information contained in the Disbursement Authorization delivered to Truist by a Town Representative, including but not limited to the bank name and its ABA number, beneficiary’s account name and account number and beneficiary’s physical address, together with other information requested by Truist (collectively, “Remittance Instructions”). If the Remittance Instructions describe a beneficiary inconsistently by name and account number, the Town acknowledges that Truist may make payment on the basis of the account number alone, that Truist is not obligated to detect such errors, and that the Town assumes the risk of any loss resulting therefrom.

**10.04. Duty to Reconcile Written Confirmation.** Upon request from a Town Representative, Truist shall use its best efforts to send a Town Representative written confirmation of the Disbursement in the form of a reference number, beneficiary name and wire amount. A Town Representative shall promptly review and reconcile the written confirmation of the Disbursement sent by Truist, and shall report to Truist in writing, promptly, but in no event later than ten Business Days after the date of such written confirmation, any unauthorized, erroneous, unreceived or improperly executed payment. Truist and the Town agree that ten Business Days is a reasonable time for the detection and reporting to Truist of such information. After that time, all items on the written confirmation will be considered correct and the Town will be precluded from recovering from Truist if such wire transfer identified in the written confirmation was actually made by Truist. For the avoidance of doubt, any such writings can be provided electronically.

**10.05. Unauthorized Payments.** Notwithstanding any other provision herein, if a Disbursement has been verified by a Town Representative pursuant to Section 10.02, it shall be binding on the Town if Truist acted in good faith in making such Disbursement.

**10.06. Recordation.** Truist may record any telephone conversation between Truist and a representative of the Town in order to reduce the risk of unauthorized or erroneous transfers. Truist may retain such recordings for as long as Truist may deem necessary.

**10.07. Indemnification and Hold Harmless.** If Truist complies with the provisions of this Article X, the Town agrees that Truist shall not be responsible for any communication or miscommunication by a Town Representative, and the Town further agrees to indemnify, to the extent allowed by law, Truist and hold Truist harmless from and against any and all losses, claims, expenses, suits, costs or damages, demands or liabilities of whatever kind or nature, whether now existing or hereafter relating in any way to a wire transfer made pursuant to this Contract.

**10.08. Applicable Law.** All wire transfer orders are governed by Article 4A of the Uniform Commercial Code, except as any provisions thereof that may be and are modified by the terms hereof. If any part of the applicable wire transfer order involves the use of the Fedwire, the rights and obligations of Truist and the Town

regarding that wire transfer order are governed by Regulation J of the Federal Reserve Board.

## ARTICLE XI

### ADDITIONAL PROVISIONS

**11.01. Notices.** (a) Any communication required or permitted by this Contract must be in writing.

(b) Any communication under this Contract shall be sufficiently given and deemed given when delivered by hand or on the date shown on a certified mail receipt, or delivery receipt from a national commercial package delivery service, if addressed as follows:

(i) if to the Town, to Town Manager, Town of Waynesville, Attention: Notice under 2021 Financing Contract, 16 South Main Street, Waynesville, North Carolina 28786;

(ii) if to the Deed of Trust Trustee, to 5130 Parkway Plaza Boulevard, Charlotte, North Carolina 28217, Attention: Governmental Finance; or

(iii) if to Truist, to 5130 Parkway Plaza Boulevard, Charlotte, North Carolina 28217, Attention: Governmental Finance.

(c) Any communication to the Deed of Trust Trustee shall also be sent to Truist.

(d) Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

**11.02. No Assignments by Town.** The Town shall not sell or assign any interest in this Contract.

**11.03. Assignments by Truist.** Truist may, at any time and from time to time, assign all or any part of its interest in the Site, the Facility or this Contract, including, without limitation, Truist's rights to receive Required Payments. Any assignment made

by Truist or any subsequent assignee shall not purport to convey any greater interest or rights than those held by Truist pursuant to this Contract.

The Town agrees that this Contract may become part of a pool of obligations at Truist's or its assignee's option. Truist or its assignees may assign or reassign all or any part of this Contract, including the assignment or reassignment of any partial interest through the use of certificates evidencing participation interests in this Contract. Any assignment by Truist may be only to a bank, insurance company, or similar financial institution or any other entity approved by the LGC. Notwithstanding the foregoing, no assignment or reassignment of Truist's interest in the Mortgaged Property or this Contract shall be effective unless and until the Town shall receive a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each such assignee.

The Town further agrees that Truist's interest in this Contract may be assigned in whole or in part upon terms which provide in effect that the assignor or assignee will act as a collection and paying agent for any holders of certificates of participation in this Contract, provided the Town receives a copy of such agency contract and such collection and paying agent covenants and agrees to maintain for the full remaining term of this Contract a written record of each assignment and reassignment of such certificates of participation.

The Town agrees to execute any document reasonably required in connection with any assignment. Any assignor must provide notice of any assignment to the Town, and the Town shall keep a complete and accurate record of all assignments as required by the Code. After the giving of any such notice, the Town shall thereafter make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

Notwithstanding any of the foregoing, in no event will the Town ever be required to make Installment Payments to more than one person or entity on any Payment Date.

**11.04. Amendments.** No term or provision of this Contract may be amended, modified or waived without the prior written consent of the Town and Truist.

**11.05. No Marshalling.** To the extent permitted by law, the Town hereby waives any and all rights to require marshalling of assets in connection with the exercise of any remedies provided in this Contract or as permitted by law.

**11.06. Governing Law.** The parties intend that North Carolina law will govern this Contract and all matters of its interpretation.

**11.07. Liability of Officers and Agents.** No officer, agent or employee of the Town shall be subject to any personal liability or accountability by reason of the execution of this Contract or any other documents related to the transactions contemplated hereby. Those officers or agents shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve an officer, agent or employee of the Town from the performance of any official duty provided by law.

**11.08. Covenants Run with the Land.** All covenants contained in this Contract run with the real estate encumbered by this Contract.

**11.09. Severability.** If any provision of this Contract shall be determined to be unenforceable, that shall not affect any other provision of this Contract.

**11.10. Non-Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made, or act performed or right exercised on or before the next preceding Business Day.

**11.11. Entire Agreement.** This Contract constitutes the Town's entire agreement with respect to the general subject matter covered hereby.

**11.12. Binding Effect.** Subject to the specific provisions of this Contract, and in particular Section 11.03, this Contract shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

**11.13. E-Verify.** Truist understands that "E-Verify" is a federal program operated by the United States Department of Homeland Security and other federal

agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. Truist uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. Truist will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

*The remainder of this page left blank intentionally; signature page follows.*

**IN WITNESS WHEREOF**, the parties have caused this instrument to be executed as of the day and year first above written by duly authorized officers.

**(SEAL)**

**ATTEST:**

**TOWN OF WAYNESVILLE,  
NORTH CAROLINA**

\_\_\_\_\_  
Eddie Ward  
Town Clerk

By: \_\_\_\_\_  
Robert W. Hites Jr.  
Town Manager

\* \* \* \* \*

**STATE OF NORTH CAROLINA;  
HAYWOOD COUNTY**

I, a Notary Public of such County and State, certify that Rob Hites and Eddie Ward personally came before me this day and acknowledged that they are the Town Manager and the Town Clerk, respectively, of the Town of Waynesville, North Carolina, and that by authority duly given, the foregoing instrument was signed in the Town’s name by such Town Manager sealed with its corporate seal and attested by such Clerk.

**WITNESS** my hand and official stamp or seal, this \_\_\_\_\_ day of November, 2021.

**[SEAL]**

\_\_\_\_\_  
Notary Public  
Notary’s printed name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

[Financing Agreement and Deed of Trust  
From the Town of Waynesville, North Carolina

dated as of December 21, 2021]

**TRUIST BANK**

By: \_\_\_\_\_  
Andrew G. Smith  
Senior Vice President

This contract has been approved under the provisions of Article 8, Chapter 159 of the General Statutes of North Carolina.

Sharon G. Edmundson  
Secretary, North Carolina  
Local Government Commission

By \_\_\_\_\_  
[Sharon G. Edmundson or  
Designated Assistant]

[Financing Agreement and Deed of Trust  
From the Town of Waynesville, North Carolina  
dated as of December 21, 2021]

## **EXHIBIT A – Site Description**

BEGINNING at an iron pipe in the south margin of Main Street, which iron pipe is located at the northeast corner of the 0.186 acre tract described in that deed to the Town of Waynesville, (Book 665, Page 445) and runs thence from said beginning point S. 06 deg. 17 min. 30 sec. W. 150.98 feet to an iron pipe; thence S. 06 deg. 14 min, 37 sec. W. 125.28 feet to an iron pipe; thence with the north margin of Broadview Road N. 59 deg. 40 min. 19 sec. W. 470.35 feet to a rebar; thence leaving said street and running N, 00 deg. 44 min. 54 sec. E. 43.12 feet to a rebar in the south margin of North Main Street; thence with said margin of said street S. 89 deg. 12 min, 36 sec. E. 375.07 feet to a rebar; thence continuing with said margin of said street S. 89 deg, 11 min, 55 sec. E. 60.56 feet to the BEGINNING, and containing a total of 1.577 acres as per plat and survey of Mattern & Craig Surveyors, dated January 24, 2006.

BEING all of Tract 1 and Tract 2 as described in that deed from HomeTrust Bank to . Town of Waynesville, dated April 2006, recorded in Book 665, Page 445, Haywood County Registry.

## **EXHIBIT B – Schedule of Installment Payments**

Each portion of the Amount Advanced will bear interest from the Closing Date until paid. Principal is payable on dates and in amounts as shown below. Interest is calculated at the annual rate of 1.99%, subject to adjustment as provided in this Contract and payable on each December 21. Interest will be calculated based on a 360-day year consisting of twelve 30-day months. The schedule below shows the expected interest payment amounts.

This Agreement carries Truist contract number \_\_\_\_\_.

<b>Payment Date</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Payment</b>
12/21/2022	141,209.14	33,720.74	174,929.88
12/21/2023	141,209.14	30,910.68	172,119.82
12/21/2024	141,209.14	28,100.62	169,309.75
12/21/2025	141,209.14	25,290.56	166,499.69
12/21/2026	141,209.14	22,480.49	163,689.63
12/21/2027	141,209.14	19,670.43	160,879.57
12/21/2028	141,209.14	16,860.37	158,069.51
12/21/2029	141,209.14	14,050.31	155,259.44
12/21/2030	141,209.14	11,240.25	152,449.38
12/21/2031	141,209.14	8,430.19	149,639.32
12/21/2032	141,209.14	5,620.12	146,829.26
12/21/2033	141,209.14	2,810.06	144,019.20
	1,694,509.63	219,184.82	1,913,694.45

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REQUEST FOR BOARD ACTION  
Meeting Date: December 14, 2020**

**SUBJECT:** Proposed Meeting Schedule

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** G6  
**Department:** Administration  
**Contact:** Eddie Ward, Town Clerk  
**Presenter:** Jesse Fowler, Assistant Town Manager

**BRIEF SUMMARY:**

Each year the Board must approve a meeting schedule for the upcoming year. The schedule provides the date and time of each regular meeting. The meetings will start at 6:00 pm unless otherwise noted. Additional meetings may be called for a Board Retreat in early 2022 and for Budget Development and discussion in spring 2022.

**-MOTION FOR CONSIDERATION:**

To approve the Board of Aldermen meeting schedule for the year 2022.

**FUNDING SOURCE/IMPACT:** None

**ATTACHMENTS:** None

**MANAGER'S COMMENTS AND RECOMMENDATIONS:**



# TOWN OF WAYNESVILLE

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 16 South Main Street  
 Waynesville, NC 28786  
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## PROPOSED REGULAR MEETING SCHEDULE FOR 2022 9 SOUTH MAIN STREET, WAYNESVILLE, NC - 6:00 PM UNLESS OTHERWISE NOTED

2022	
Tues, January 11	Board of Aldermen Meeting – Regular Session
Tues, January 25	Board of Aldermen Meeting – Regular Session
Tues, February 8	Board of Aldermen Meeting – Regular Session
Tues, February 22	Board of Aldermen Meeting – Regular Session
Tues, March 8	Board of Aldermen Meeting – Regular Session
Tues, March 22	Board of Aldermen Meeting – Regular Session
Tues, April 12	Board of Aldermen Meeting – Regular Session
Tues, April 26	Board of Aldermen Meeting – Regular Session
Tues, May 10	Board of Aldermen Meeting – Regular Session
Tues, May 24	Board of Aldermen Meeting – Regular Session
Tues, June 14	Board of Aldermen Meeting – Regular Session
Tues, June 28	Board of Aldermen Meeting – Regular Session
Tues, July 12	Board of Aldermen Meeting – Regular Session
Tues, July 26	Board of Aldermen Meeting – Regular Session
Tues, August 9	Board of Aldermen Meeting – Regular Session
Tues, August 23	Board of Aldermen Meeting – Regular Session
Tues, September 13	Board of Aldermen Meeting – Regular Session
Tues, September 21	Board of Aldermen Meeting – Regular Session
Tues, October 11	Board of Aldermen Meeting – Regular Session
Tues, October 25	Board of Aldermen Meeting – Regular Session
Tues, November 8	Board of Aldermen Meeting – Regular Session
Tues, November 22	Board of Aldermen Meeting – Regular Session
Tues, December 13	Board of Aldermen Meeting – Regular Session

**Additional meetings may be called for a Board Retreat in early 2022 and  
 for Budget Development and Discussion in spring 2022**