

RESOLUTION NUMBER 02-046

A RESOLUTION

RESOLUTION FOR AMENDMENT TO POLICY ON PUBLIC WATER AND SEWER

WHEREAS, the City is getting numerous requests by property owners outside the corporate limits to connect to the water and/or sewer system; and

WHEREAS, the policy on public water and sewer, adopted on October 5, 1995, allows outside properties to connect to water if a line is on the property or immediately adjacent to it; and

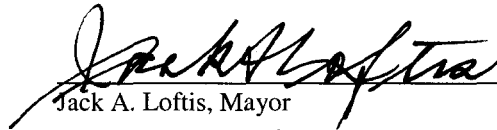
WHEREAS, the policy does not allow properties to have to seek easements from neighboring properties to connect nor does it allow any properties to connect to sewer, without Board approval; and

WHEREAS, it is the recommendation of the City Staff that the section (9), (10) and (11) be amended to allow outside residential properties to connect to the sewer system without Board approval, and to allow outside properties to have to seek easements from neighboring properties to connect (subject to conditions listed in item 10) without Board approval.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF MOUNT AIRY BOARD OF COMMISSIONERS MEETING IN OPEN SESSION THAT:

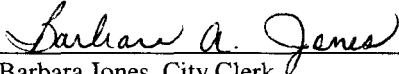
- Section 1. The City of Mount Airy Mayor and Board of Commissioners hereby amends the existing policy on public water and sewer adopted October 5, 1995 to reflect the attached changes.
- Section 2. This Resolution shall become effective upon approval by the Board of Commissioners of the City of Mount Airy.

Adopted and approved this the 7th day of February, 2002.

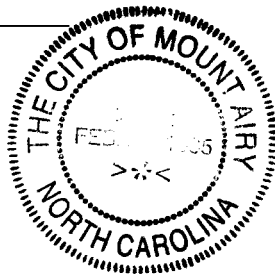


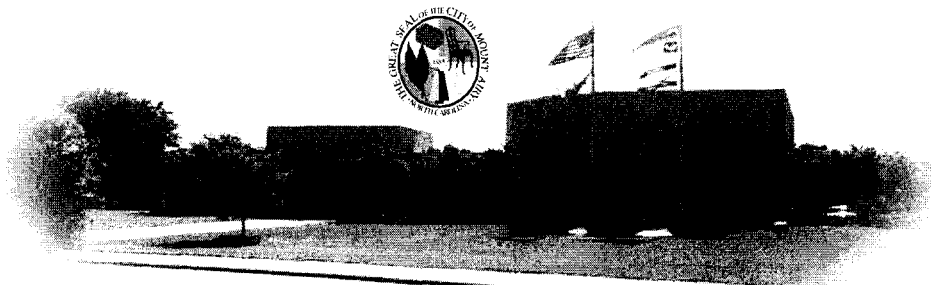
Jack A. Loftis, Mayor

ATTEST:



Barbara Jones, City Clerk





CITY OF MOUNT AIRY, NORTH CAROLINA

POLICY ON PUBLIC WATER AND SANITARY SEWER

ADOPTED OCTOBER 5, 1995

REVISED FEBRUARY 7, 2002

Water and Sewer Extensions

1. All design and construction of line extensions shall be in accordance with the City's **Manual of Standards** and applicable State regulations. All design and construction shall be subject to the review and approval of the City. In addition, North Carolina Department of Environment, and Natural Resources approval is required for all public line extensions. The Public Works Department shall be notified in advance of the beginning of all work related to public utility installation.
2. The developer shall guarantee that all materials and equipment furnished and work performed shall be free from all defects for a period of one year from the date of completion. At the end of the one year period, the City will re-inspect the installation and, if it is satisfactory, accept the utility lines into the City system, whereupon it becomes the property of the City.
3. Extensions shall be located on public right-of-way where practical. Minimum sewer depth shall be that necessary to serve structures located at street elevation. If plumbing fixtures are below street elevation, a pump (installed by the individual property owner) may be necessary for connection to the sanitary sewer system.
4. If it is necessary to install public water or sewer lines on private property, the necessary easements must be obtained and dedicated by the developer at no expense to the City.
5. The developer is required to pay for all costs related to water and sewer line extension to serve the property in question. If the City requires a public utility line to be larger than that required by the development, the City will pay the difference in cost.
6. Outside the corporate limits, extension of the City water or sanitary sewer system must be **approved** by the Mount Airy Board of Commissioners.
7. Construction of a permanent structure on any portion of an existing public sanitary sewer or water line or easement is strictly forbidden. The property owner must relocate the existing lines, bearing 100% of the cost of the material and labor, with no participation from the City.

Water and Sewer Connections

1. All uses of the sewer system must be in accordance with the most recently adopted version of the **Sewer Use Ordinance** of the City of Mount Airy.
2. All improved property within the corporate limits located where connection is practical must connect to the water and sewer systems by the later of March 1, 1996, or 18 months from the time service becomes available.
3. In the case where a customer wants to connect only to the water system, a contract may be entered into between the City and the property owner that permits a customer to postpone connecting to the sewer system in exchange for agreeing to pay a monthly sewer charge based on metered water consumption as though they were connected to the sewer system. The benefit to the customer would be in delaying the payment of the tap fee and plumbing costs associated with connecting until such time as the customer's current septic system failed or needed replacing.
4. A standard tap fee will be charged at whatever rate is current and set by city commissioners. This tap fee must be paid when service is requested.
5. Financing is available through the finance office in cases where fees would be determined to be a hardship and in accordance with city policy.
6. For the purpose of requiring property to connect to the existing system, connection is deemed to be practical if (a) the structure to be served is within 200 feet of the existing utility, and (b) the public utility is within the street frontage of the property, or is on or immediately adjacent to the property (easement from adjoining property owner is not required). Elevation differences are not a factor in determining whether or not a connection is practical. (For example, a pump may be required for some situations.)
7. If a property owner desires to connect to the existing system and must cross adjoining private property to do so, the applicant must obtain the required easement.
8. All future developed or annexed properties must be connected to the water and sewer system, where practical. If costs are incurred in excess of the normal tap fees, the owner shall pay the actual cost of the installation. Examples of excessive costs include open cut of multi-lane highway, boring for larger diameter pipes, extreme length of run required, or rock excavation. The City, at its option, may install the lines and be reimbursed by the owner, or may require the owner to install the pipes.
9. Developed residential property outside the corporate limits that has a public water line or public sewer line within its street frontage (or which has a water or sewer easement on or immediately adjacent to it) may be connected to City water or sewer to serve an individual home. Connections to serve multiple homes (with water and/or sewer) and businesses (with sewer) must be approved by the Board of Commissioners.

10 Developed residential properties outside the corporate limits that do not have a public water or sewer line on or immediately adjacent to it may be connected to the City water or sewer system to serve individual homes subject to the following conditions:

- a. The property owner must obtain and have recorded the appropriate easements as directed by City staff. Property owner must pay City fee of \$25.00 for preparation of easements.
- b. The City will set the water meter or sewer cleanout at the right-of-way or easement line. It is the property owner's responsibility to connect their service lines to the water meter and/or clean out.
- c. The connection is for the property in question. No further extension or other connection is permitted.
- d. The water or sewer line cannot encroach into any public street right-of-way.
- e. The property owner must pay the usual and customary tap fee.
- f. The property owner agrees to disconnect the service and reconnect to the City water or sewer system in the right-of-way of the street the property is located on at such time as it becomes available. The property owner will not be charged another tapping fee, but may be assessed a fee for front footage, acreage, or other such method as determined by the Mount Airy Board of Commissioners.

11. Developed properties inside or outside the corporate limits are not allowed to connect to the City sewer system unless the property is also connected to the City water system.

AN ORDINANCE #02-01

**ORDINANCE TO AMEND THE CITY'S CODE OF
ORDINANCES, WATER AND SEWER EXTENSION POLICY**

WHEREAS, the City of Mount Airy is proposing to adopt a water and sewer extension policy; and

WHEREAS, the proposed policy will repeal sections 8-5 and 8-6 of Chapter 8 in the existing Code of Ordinances:

NOW THEREFORE BE IT RESOLVED BY THE CITY OF MOUNT AIRY BOARD OF COMMISSIONERS MEETING IN OPEN SESSION THAT:

Section 1. The City of Mount Airy Board of Commissioners do hereby adopt the proposed Water and Sewer Extension Policy and repeal section 8-5 and 8-6 of Chapter 8 in the existing Code of Ordinances.

Section 2. This Ordinance shall become effective upon approval by the Board of Commissioners of the City of Mount Airy.

Adopted and approved this the 19 day of July, 2001.



Emily B. Taylor, Mayor

ATTEST:



Barbara Jones, City Clerk

**Chapter 8
Article IV**

Water & Sewer System Extension Policy

Article IV	Water and Sewer System Extension Policy	
Div. 1	General principles	8-125
Div. 2	Basic policy	8-126
Div. 3	General extension requirements	8-127

Initiation of Extension: Financing

Div. 4	Application by property owner/developer	8-128
Div. 5	Discretion of town	8-129
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GENERAL PROVISIONS

8-125 GENERAL PRINCIPLES.

The planning and extension of the water and sewer system of the city shall be accomplished in accordance with the following general principles:

- (1) Extension shall be made in a manner so as to promote the orderly growth of the community without regard to city boundaries.
- (2) An acreage charge shall be established to aid in the financing of new major facilities and the replacement or enlargement of existing facilities. This charge shall apply uniformly to all properties after the adoption of this policy.
- (3) Developers of subdivisions shall be responsible for the full cost of installing utilities within their own subdivisions and for sharing in the cost of outfalls. The initial cost or availability shall be borne by one or more developers, with reimbursement for costs in excess of their proportionate shares.
- (4) Extension of utilities to properties located outside of subdivisions under development shall be financed by the owners of the benefited property.
- (5) The city shall be responsible for the maintenance, operation and control of all water and sewer facilities after dedication and acceptance by the city.
- (6) Requests for extension shall be preceded by an application for a specific water and/or sewer capacity allocation in accordance with the procedures established herein.

8-126 BASIC POLICY.

Each developer of land shall be responsible for providing connections between his property and an approved public system or an approved individual system. The developer shall be reimbursed for that portion of the cost of such installation, which is in excess of an acreage charge, such reimbursement to come from front footage charges levied against property developed subsequent to the installation of his connection and utilizing such connection.

8-127 GENERAL EXTENSION REQUIREMENTS.

The general requirements as to extensions of water and sewer systems shall be in keeping with the following principles:

(1) Each developer of land shall be responsible for providing water and sewer line connections and all necessary pump stations, lift stations and fire hydrants between his property and the city systems.

(2) Extension of both water and sewer mains shall be required when service is requested. Extension of one utility without the simultaneous extension of the other shall be permitted only in the event that water or sewer mains are available and considered adequate by the city.

(3) The minimum distance for the extension of water mains or sewer mains shall be determined by the city. In general, the minimum distance for extension shall be one platted block, or in the case of water mains, from main line valve to valve, and in the case of sanitary sewer, from manhole to manhole. However, in no case shall water and sewer lines be extended less than the entire length of the developer's property.

(4) The minimum diameter for a water main shall be six inches and the minimum diameter for a sewer main shall be eight inches. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible.

(5) Within floodway and floodway fringe zones and areas of special flood hazard, the following requirements shall apply:

(a) All new and replacement water supply systems shall be designed to minimize or eliminate filtration of floodwaters into the system.

(b) New and replacement sanitary sewer systems shall be designed to minimize and eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(6) The water and sewer extension policy and all extension requests shall be administered by the City Manager.

(7) No water or sewer service shall be provided to any property outside of the municipal limits of the city, except upon compliance with one of the following:

(a) If the property is contiguous to the municipal limits of the city, the property owners shall immediately petition for and obtain annexation of the property into the municipal limits of the city.

(b) If the property is not then contiguous to the municipal limits of the city, the property owners shall enter into a written agreement with the city for the voluntary annexation thereof at such future date as said property shall be contiguous to the municipal limits of the city, or it is determined by the Board of Commissioners that it is in the best interests of the city to satellite annex the property.

(c) The Board of Commissioners may negotiate terms for voluntary annexation of major industrial or commercial tracts, which require water and/or sewer system extensions.

(d) Under terms of an agreement between the Surry County Board of Commissioners and the Board of Commissioners of the City of Mount Airy.

INITIATION OF EXTENSION; FINANCING

8-128 APPLICATION BY PROPERTY OWNER/DEVELOPER.

(1) Any property owner or developer desiring to have water or sanitary sewer services extended to and along any public street or other area where no water or sanitary sewer main exists shall apply to the City Manager in writing requesting a specific daily allocation for such services.

(2) The application shall contain plans and analysis in sufficient detail to enable the City Manager to verify the adequate size of facilities necessary for the proposed extension and anticipated future growth.

(3) Prior to approval of any application for water or sewer capacity allocation the provisions of 8-127 (7) must be met.

(4) The City shall approve no commercial subdivision, site plan, or conditional or special use permit and no residential subdivision, which proposes to be served for water and/or sewer service by the City utility systems without first receiving an application for water and/or sewer capacity allocation and all other documents, applications and studies specified in this chapter.

8-129 DISCRETION OF TOWN.

The city may extend water and/or sewer lines inside the city in its own discretion in the following circumstances:

(1) To Alleviate Health Problems. When the Surry County Health Department certifies to the city that a health problem exists in a certain area, the city may order the extension of water and/or sewer lines if said extension will alleviate the health problem. The city may finance those extensions through the assessment of adjacent property owners under the same procedure set out in 8-132 or through water and/or sewer fund proceeds.

(2) To Serve Petition Projects. Upon receipt of a valid petition, the city may order the extension of a water and/or sewer line to serve the areas petitioned even though the property owners between the existing water and/or sewer lines and the requested service area have not entered into the petition for water and/or sewer service. The properties to be served as a result will be assessed under the same procedure set out in 8-132.

(3) Greater Public Interest. The Board of Commissioners may upon one letter of request for service from a property owner in a residential subdivision, or at its own discretion, authorize the construction of a water and/or sewer line where it deems said construction to be in the greater public interest and in the general public welfare. The city may finance these extensions through the same procedures set forth in division (2) of this section.

8-130 EXTENSION CHARGES.

(1) There shall be a charge for connecting with the water system of the city, either within or without the corporate limits of \$500 per gross acre for all classes of property to be served by such connection except as noted in division (12) of this section.

(2) The water main acreage charge for all residential development with more than four dwelling units per acre shall be increased above \$500 per acre in proportion to the number of dwelling units per acre above four to be served (for example, the charge for developments with eight dwelling units per acre would double the charge for general residential development, or \$1,000).

(3) There shall be a charge for connection with the sewer system of the city, either within or without the corporate limits, of \$500 per gross acre for all classes of property to be served by such connection.

(4) The sewer acreage charge for all residential development with more than four dwelling units per acre shall be increased above \$500 per acre in proportion to the number of dwelling units per acre, above four, to be served. (For example, the charge for developments with eight dwelling units per acre would be double the charge for general residential development, or \$1,000).

(5) A property owner whose property abuts a water or sewer line installed under the reimbursement plan and from which a direct service connection is made must pay a front foot fee in addition to the acreage fee. Front footage fees shall be as follows:

- (a) \$7 if connection occurs within one year of completion of line.
- (b) \$10 if connection occurs between one and three years after completion of line.
- (c) \$12 if connection occurs after three years after completion of line.

(6) The owner of a tract of residential land or of land in an area zoned for residential use which is owned, occupied and used by a nonprofit organization as a private recreation area and containing more than three acres, who desires to make one tap onto the utility systems of the city, but who has not, and does not, desire to subdivide his property into building lots at the time the tap is made, may tap onto such systems at the rate of charge herein contained for two acres of land. A charge for services to the remaining land shall be made when services are extended to such land.

(7) The total acreage charge for any tract or lot on which there is but one residential dwelling unit shall not exceed the charge for two acres. Provided, in cases covered by this provision, the owner shall designate the two acres against which the charge is to be credited and the acreage charge against any remaining acreage shall be made when service is extended to any structure thereon.

(8) The owner of a tract of land, which is to be developed in phases shall pay the acreage charge for each phase prior to beginning construction of that particular phase.

(9) "GROSS ACRE", as herein used, is defined to include the entire area of a subdivision without exception as to areas included within streets, alleys, private parks, lakes, ponds or floodways or otherwise. However, public parks, greenways, lakes and recreational areas actually accepted by the town for public use and actually conveyed to the town by recorded deed shall be excluded when computing gross acreage. With respect to lots situated upon streets or roads now existing, the term "GROSS ACRE" shall include all of the land extending to the centerline of any abutting street.

(10) Industrial development. A \$2/gallon charge based on maximum daily flow for water and a \$2/gallon charge based on maximum daily flow for sewer shall be charged for all industrial development. The maximum daily flow shall be updated yearly and said industry will be charged for any addition to the original maximum daily flow.

(11) Acreage fees for public schools shall be limited as follows:

- (a) Elementary schools pay a fee for a maximum of four acres.
- (b) Junior high schools pay a fee for a maximum of seven acres.
- (c) Senior high schools pay a fee for a maximum of ten acres.

(d) If any land subject to the provisions of this section is ever conveyed to a grantee other than a school board or used for any other than school purposes, it shall be subject to the then applicable acreage fee without limitation when additional water or sewer capacity is required.

(12) Water Acreage Fees may only be adjusted in accordance with the following circumstances:

(a) Water Acreage Fees shall be waived for new connections or expansions by existing customers meeting each of the following criteria:

(1) The customer is served by a direct connection on a main installed and financed by action of the Surry County Board of Commissioners;

- (2) The property is within the area defined as part of the City of Mount Airy;
- (3) The customer is industrial in nature.

(b) Water Service District Fees.

(1) Water acreage fees shall not be charged for connections to or extensions of water facilities installed, owned and maintained by an established water service district; however, a "Base Charge Replacement Fee" may be due and chargeable in accordance with subsection (14) of this section.

(2) In place of an acreage fee and in addition to the "Base Charge Replacement Fee", the city shall collect an assessment fee for direct connections on or connections on extensions of water service district facilities. The assessment fee charge shall be equal to the fee set for the district less any allowance for capacity replacement.

(13) Furthermore, no acreage charges shall be imposed upon the following conditions:

(a) Property which is actually tapped onto the city water and sewer system and which is actually using such system as of the effective date of this section.

(b) Any usable water or sewer line in existence, adjacent to or within property to be connected with the system, which was in place prior to the effective date of this section. (A usable utility line does not include outfalls or water lines where direct service taps are not permitted).

(c) Any other areas for which separate water and sewer contracts have been made between the city and developers.

(14) "BASE CHARGE REPLACEMENT FEES", as herein used, is defined as a charge for a direct connection with the water system of an established water service district. The "BASE CHARGE REPLACEMENT FEE" shall be due on a per account basis when a city retail water customer shall gain service by access to mains installed, owned and maintained by an established water service district provided the mains have been in operation for a period of less than five years. The "BASE CHARGE REPLACEMENT FEE" shall be calculated based on the present worth cost of the minimum monthly bill set by the District for each service for the balance of five years from the date of initial operation of the facilities. The interest rate for the present worth cost calculation shall be equal to the greater of the rate for a related bond issuance or six percent.

8-131 SUBDIVISIONS

With respect to the installation and financing of utilities to serve subdivisions, the following policies shall apply:

(1) Specifications. All installations shall be made according to such specifications as may be approved by the city or its engineers, including the size of all lines and their locations, grade and material used.

(2) Ownership and control. All lines constructed and connected with the facilities of the town under these policies shall become the property of the city upon their completion, dedication and acceptance. The city shall have exclusive control of all such lines and shall be responsible for their maintenance, repair and operation.

(3) Contracts. All installations made under a reimbursement agreement shall be accomplished under contracts let after the receipt of sealed competitive bids. The city shall exercise general supervision over the letting of such contracts in order to assure the securing of free competition on such contracts.

(4) Reimbursement policy.

(a) A reimbursement agreement shall be entered into between the city and each party installing water and/or sewer lines under the reimbursement policy.

(b) The cost of installing all lines within a subdivision shall be borne initially by the participating developer or developers.

(c) Lines subject to reimbursement shall be:

(1) Those between a subdivision and the facilities of the city and which are so located as to serve other properties; and

(2) Lines within a subdivision, which will serve lands outside the subdivision and are of a size in excess of the needs of the subdivision itself. In this case, the cost subject to reimbursement shall be only the extra cost incurred by installing lines larger than needed to serve the subdivision itself; and

(3) The proportionate cost of lines of any size to which direct service connections may be made by property other than those by the initial investor.

(d) All reimbursement for cost, divisions (c) (1) and (2) above, shall be made from water and sewer acreage charges collected by the city from acreage initially and subsequently served by lines installed under a reimbursement agreement and from these only. Acreage charges due under a reimbursement agreement shall be paid by the city to the developer within 30 days following the end of each quarter from collections made during that quarter. All reimbursement for cost, division (c) (3) above, shall be made only from appropriate front foot charges.

(e) Only the actual cost of the lines shall be included in the calculations of costs subject to reimbursement. No interest on costs pending reimbursement shall be allowed.

(f) No reimbursement of any cost shall be made after ten years from the date of acceptance by the town of the lines installed under a reimbursement agreement.

(g) Acreage charges collected from properties served by lines installed under reimbursement agreements shall be applied so as to satisfy the claims under the different agreements in the order in which they were entered into.

8-132 OTHER PROPERTIES

In accordance with the general principle that benefited property should bear the cost of extending water and sewer lines, one or more of the following methods shall be used in providing for the extension of water and sewer lines to serve properties not located within subdivisions currently under development. Properties which are annexed by the city based upon the properties meeting the necessary standards for annexation as set forth in the N.C. General Statutes (i.e. annexation not based on a petition requesting annexation by the property owners) will have services extended to them with financing arranged by assessments as described in divisions (1) (a) through (g) below.

(1) Assessments for costs.

(a) Lateral water and sewer main extensions will be made by assessment of the cost thereof against property owners to be benefited thereby in conformity with G.S. Chapter 160A, Article 10. In the event it is necessary or desirable to lay a water main larger than a six-inch main, or a sewer main larger than an eight-inch main, the city will bear the cost of the difference between the size of main required and a six-inch water main or eight-inch sewer main.

(b) Lots at the intersection of streets, except lots in a subdivision which are assessed on a per lot basis as authorized by G.S. Chapter 160A, Article 10, shall be assessed as follows:

(1) If water and sewer mains or both are installed simultaneously on both streets on which the lot abuts, assessment of the cost of the installation shall be based upon the entire frontage on one street plus the frontage on the other street in excess of 150 feet.

(2) If such lot is already served by water or sewer mains in a street on which the lot abuts and like main is installed in the other abutting street, the cost of such new installation shall be assessed against the lot to the extent that such frontage abutting the new installation exceeds 150 feet.

(3) If water or sewer service is installed in a street abutting a corner lot, and such service is not a duplicating service, and the method of assessment used is the street frontage method, the assessment shall not exceed the number of feet of the shortest side of said lot abutting the street. Upon installation of a duplicating service to said lot, an exemption as specified in division (A) (2) above shall be credited against the longest side of said lot abutting on the public street.

(c) Where one or more water or sewer lines traverse a lot or tract of land and the method of assessment used is the abutting footage on the improvement, the abutting footage for each lot, tract, or parcel assessed according to the assessment roll shall not exceed the straight line distance between the beginning point and the ending point of said line or lines. However, upon the installation of a duplicating service to a traversed lot or tract of land, an exemption of 150 feet shall be allowed for the duplicating service, whether it is installed separately or simultaneously with the original service.

(d) A lot not on a corner abutting two streets which has a water or sewer service in one street shall not be liable for an assessment for a duplicating service in the other street or streets if the subdivision of such lot or sale of any part thereof for an additional building site or sites is prohibited by the zoning or subdivision standard provisions of the city or any restrictive covenants running for a period of not less than five years from the date of the assessment for such installation.

(e) The term "LOT" as used in this section is defined as a parcel of land without regard to whether or not it is shown on any subdivision map as a separate lot and without regard to how or when acquired, except that when an assessment is made on a per lot basis in a subdivision the term "LOT" shall apply to each separate subdivided lot. However, when a lot in a subdivision is already served by a water or sewer line and the lots in the subdivision are assessed on a per lot basis, the lot so served shall not be assessed a greater amount than the amount which would be assessed against the lot on a linear foot basis after giving credit for the exemptions contained in this section.

(f) The Board of Commissioners shall determine which method of assessment authorized by G.S. 160A-218 would be most equitable to be used in an assessment roll.

(g) When the Board of Commissioners determines that the most equitable method of assessment is that on the basis of the frontage abutting on the project, the Council shall determine the amount of the construction cost to be borne by the abutting property owner and the amount to be borne by the city.

(2) Reimbursement policy.

(a) The reimbursement policy outlined in division (1) (b) of this section shall be available for use by an individual property owner who desires service at some distance from existing lines and when assessment of, or contributions from, intervening property does not appear feasible. This method may also be used in financing extensions both inside and outside the city boundaries.

(b) Extensions under any of the above financing methods may be made either by forces of the city or under contracts let by the city, or by private contracts let under the supervision of the city.

8-133 INTERPRETATION OF ACREAGE CHARGES

The interpretation of the acreage charge policy shall be governed by the following provisions. The charge shall not apply to:

(1) Property which is actually tapped on to the city system and which is actually using such system, except those tapped on to the system who have entered into a reimbursement agreement with the city.

(2) Any other areas for which separate utility contracts have been made between the city and the developer.

Sections 8-5 and 8-6 of Chapter 8 are hereby deleted in their entirety.

Adopted 10/5/95

CITY OF MOUNT AIRY, NORTH CAROLINA
POLICY ON PUBLIC WATER AND SANITARY SEWER
OCTOBER 5, 1995

Water and Sewer Extensions

1. All design and construction of line extensions shall be in accordance with the City's **Manual of Standards** and applicable State regulations. All design and construction shall be subject to the review and approval of the City. In addition, North Carolina Department of Environment, Health, and Natural Resources approval is required for all public line extensions. The Public Works Department shall be notified in advance of the beginning of all work related to public utility installation.
2. The developer shall guarantee that all materials and equipment furnished and work performed shall be free from all defects for a period of one year from the date of completion. At the end of the one year period, the City will re-inspect the installation and, if it is satisfactory, accept the utility lines into the City system, whereupon it becomes the property of the City.
3. Extensions shall be located on public right-of-way where practical. Minimum sewer depth shall be that necessary to serve structures located at street elevation. If plumbing fixtures are below street elevation, a pump (installed by the individual property owner) may be necessary for connection to the sanitary sewer system.
4. If it is necessary to install public water or sewer lines on private property, the necessary easements must be obtained and dedicated by the developer at no expense to the City.
5. The developer is required to pay for all costs related to water and sewer line extension to serve the property in question. If the City requires a public utility line to be larger than that required by the development, the City will pay the difference in cost.
6. Outside the corporate limits, extension of the City water or sanitary sewer system must be approved by the Mount Airy Board of Commissioners.
7. **Construction of a permanent structure on any portion of an existing public sanitary sewer or water line or easement is strictly forbidden.** The property owner must relocate the existing lines, bearing 100% of the cost of the material and labor, with no participation from the City.

Water and Sewer Connections

1. All uses of the sewer system must be in accordance with the most recently adopted version of the **Sewer Use Ordinance** of the City of Mount Airy.
2. All improved property within the corporate limits located where connection is practical must connect to the water and sewer systems by the later of March 1, 1996, or 18 months from the time service becomes available.
3. In the case where a customer wants to connect only to the water system, a contract may be entered into between the City and the property owner that permits a customer to postpone connecting to the sewer system in exchange for agreeing to pay a monthly sewer charge based on metered water consumption as though they were connected to the sewer system. The benefit to the customer would be in delaying the payment of the tap fee and plumbing costs associated with connecting until such time as the customer's current septic system failed or needed replacing.
4. A standard tap fee will be charged at whatever rate is current and set by city commissioners. This tap fee must be paid when service is requested.
5. Financing is available through the finance office in cases where fees would be determined to be a hardship and in accordance with city policy.
6. For the purpose of requiring property to connect to the existing system, connection is deemed to be practical if (a) the structure to be served is within 200 feet of the existing utility, and (b) the public utility is within the street frontage of the property, or is on or immediately adjacent to the property (easement from adjoining property owner is not required). Elevation differences are not a factor in determining whether or not a connection is practical. (For example, a pump may be required for some situations.)
7. If a property owner desires to connect to the existing system and must cross adjoining private property to do so, the applicant must obtain the required easement.
8. All future developed or annexed properties must be connected to the water and sewer system, where practical. If costs are incurred in excess of the normal tap fees, the owner shall pay the actual cost of the installation. Examples of excessive costs include open cut of multi-lane highway, boring for larger diameter pipes, extreme length of run required, or rock excavation. The City, at its option, may install the lines and be reimbursed by the owner, or may require the owner to install the pipes.
9. Developed property outside the corporate limits that has a water line within its street frontage (or which has a water easement on or immediately adjacent to it) may be connected to City water to serve an individual home or business. Connections to serve multiple homes or businesses must be approved by the Board of Commissioners.
10. Connection to the City sanitary sewer system outside the corporate limits is not allowed, except as approved by the Board of Commissioners.

June 15, 1995
City of Mount Airy, NC

MANDATORY WATER AND SEWER CONNECTION: On motion by Commissioner King seconded by Commissioner Lowry and passed unanimously the following resolution was adopted:

RESOLUTION

WHEREAS the Board of Commissioners of the City of Mount Airy adopted a resolution on March 22, 1993 ordaining that all improved properties within the corporate limits connect to the water and sewer system on or before July 1, 1995;

AND WHEREAS the Board of Commissioners wishes to alleviate hardship to those owners of improved property who may not have received actual notice of the July 1, 1995 deadline;

NOW, THEREFORE, BE IT ORDAINED that section 8-7 of the Code of Ordinances be modified as follows:

RESOLUTION

WHEREAS City officials have been searching for a fair and equitable method of figuring assessments and other fees;

AND WHEREAS it is determined that assessments based purely on front footage can be arbitrary and in many cases excessive for property owners;

AND WHEREAS fees should be enforceable and fair;

NOW, THEREFORE, BE IT RESOLVED that the following policy be adopted:

- 1) All improved property within the corporate limits shall be connected to the water and sewer systems with a deadline of July 1995.
- 2) That in the case where a citizen wants to connect only to the water system, a contract be entered into between the city and the property owner that allows for the charges for sewer to be based on water usage as is computed for customers with sewer service.
- 3) That a standard tap fee be charged at whatever rate is current and set by city commissioners. That said tap fee be paid as service is requested. Recommended fees are \$800 for water tap and \$750 for sewer tap.
- 4) That financing be made available through the finance office in cases where fees would be determined to be a hardship and in accordance with city policy.

BE IT FURTHER RESOLVED that the City Attorney is instructed to make the appropriate code changes that will facilitate the newly adopted policy.

Adopted 3/22/93

Section 8-3 of the Code of Ordinances of the City of Mount Airy is hereby amended as follows:

Sec. 8-3. Payment of tap and connection charges

All charges made by the City for water and sewer taps and connections outside the City, if permitted, shall be paid in cash upon receipt of the invoice therefor. Charges for water and sewer taps inside the city shall be paid at the rate and under such terms and conditions for payment as the Board of Commissioners shall from time to time set and establish.

Sec. 8-7. Section 8-7 of the Code of Ordinances of the City of Mount Airy is hereby repealed.

Sec. 8-8. Section 8-8 of the Code of Ordinances of the City of Mount Airy is hereby repealed and a new Section 8-7 is hereby enacted as follows:

Sec. 8-7. Water tap-on required

Where water service is available within the corporate limits of the City of Mount Airy, whether contiguous or satellite, all property owners shall be required to tap onto City of Mount Airy water service not later than 1 July 1995. This section shall apply to all properties presently connected to any private water source or service; all properties in the future connected to any private water source or service and all properties for which the owner or owners are required by law, regulation or ordinance to furnish water to the residents or occupants of such property. Nothing herein shall be construed to require that undeveloped property owners shall be required to establish a water tap.

Secs. 8-8 to 8-19. **Reserved**

Section 8-47 of the Code of Ordinances of the City of Mount Airy is hereby amended as follows:

Sec. 8-47. Use of sewers by persons outside the City

No person owning property outside the corporate limits of the City shall be permitted to tap onto the City sewer system without specific approval of the Board of Commissioners. Such requests for sewer tap on shall be by written petition to the Board of Commissioners.

Adopted 3/22/93

FRONTAGE FEES FOR OUTSIDE WATER CONNECTION

At a meeting of the Board of Commissioners of the City of Mount Airy on January 23, 1992, the Board adopted a recommendation of the Public Works Committee that frontage fees for water connection outside the corporate limits be assessed at \$12 per linear foot and a maximum charge for 350 feet.

Chapter 8

MUNICIPAL UTILITIES*

- Art. I. In General, §§ 8-1-8-19**
- Art. II. Water Regulations, §§ 8-20-8-39**
- Art. III. Sewer Regulations, §§ 8-40-8-109**
 - Div. 1. Generally, §§ 8-40-8-50
 - Div. 2. Regulations, §§ 8-51-8-65
 - Div. 3. Fees, §§ 8-66-8-75
 - Div. 4. Administration, §§ 8-76-8-105
 - Div. 5. Enforcement, §§ 8-106-8-110

ARTICLE I. IN GENERAL

Sec. 8-1. Customers to comply with chapter, rules, regulations, etc.

Each person using the City water or sewer service shall, by virtue of such use, be required to abide by and accept all the provisions of this chapter and other rules, regulations and ordinances relating to the water and sewer systems of the City as fully as if such person agreed in writing to such provisions.

(Code 1963, § 15-2)

Sec. 8-2. Tap, connection and service charges generally.

The charges for water and sewer connections and taps, to be collected by the City and paid by the persons for whom they are made, shall be such as are fixed from time to time by the Board of Commissioners. Likewise, water and sewer service charges or rates, to be collected by the City and paid by its water and sewer customers, and the amount of deposit required to insure the payment of same shall be such as are fixed from time to time by the Board of Commissioners. All such charges and rates shall be on file in the office of the Public Works Director.

(Code 1963, § 15-7)

Charter reference—Authority of Board to demand and collect charges for use of water and sewer systems, § 44.

State law reference—Authority to fix and collect water and sewer rents or rates, G.S. § 160A-314.

***Charter reference**—Waterworks and sewer systems and authority of City relative thereto, § 44 et seq.

Cross references—Plumbing Code, § 4-30 et seq.; water and sewer installations to be completed prior to street paving, § 13-29.

State law reference—Municipal sewer and water systems, G.S. § 160A-311.

- (5) On the date set for a public hearing, the Board of Commissioners shall hold a public hearing and, if it feels that the project in question should be done, shall adopt a final resolution authorizing the work to begin.
- (6) The Public Works Director and the Finance Director shall invite bids and provide specifications, open the bids and recommend to the City Manager the awarding of a contract. Where it is felt to be in the best interest of the City, the installation may be made by the City forces.
- (7) The City Manager shall make a recommendation to the Finance Committee on the awarding of the contract.
- (8) The Finance Committee shall make its contract awarding recommendation to the Board of Commissioners.
- (9) The Board of Commissioners shall make a decision on the awarding of the contract.
(Code 1963, § 15-11)

Cross reference—Appointment of Public Works Committee, § 2-7.

Sec. 8-7. Water tap on required.

Where water service is available within the corporate limits of the City, whether contiguous or satellite, all property owners shall be required to tap onto City water service not later than July 1, 1995. This section shall apply to all properties presently connected to any private water source or service; all properties in the future connected to any private water source or service and all properties for which the owner or owners are required by law, regulation or ordinance to furnish water to the residents or occupants of such property. Nothing herein shall be construed to require that undeveloped property owners shall be required to establish a water tap.

(Ord. of 3-22-93)

Editor's note—An ordinance adopted March 22, 1993, repealed §§ 8-7 and 8-8, which pertained to extension of mains, assessments generally and assessments when mains located outside street rights-of-way respectively, and derived from the Code of 1963, §§ 15-12, 15-13, replacing § 8-7 and reserving § 8-8.

Secs. 8-8—8-19. Reserved.

ARTICLE II. WATER REGULATIONS

Sec. 8-20. Control and management of waterworks system.

The waterworks system of the City shall be under the control and management of the Board of Commissioners; and the duty of securing and enforcing full compliance with all rules and regulations and ordinances governing the water system and the use thereof, and all other matters pertaining in anywise to the waterworks shall be vested in the Board or its duly authorized agent, who is the Public Works Director.

(Code 1963, § 15-1)

Sec. 8-27. Customers to keep water services pipes, etc., in good repair and protected from frost.

Persons using City water must keep their service pipes and fixtures connected thereto in good repair, and protected from frost at their own expense. It is hereby expressly stipulated by and between the City and its water customers that no claims shall be made against the City on account of bursting or leaking of any main, service pipe or attachment in the waterworks. (Code 1963, § 15-15)

Sec. 8-28. Taking water from public hydrants, plugs, etc.

No person except the Public Works Director or the Director's agent shall take any water from any public fire hydrant, plug, street washer, drawer cock, or, hose pipe except where permission is obtained from Public Works Director. (Code 1963, § 15-16)

Sec. 8-29. Right of City to cut off water in emergencies or for repairs, etc.

The City reserves the right to cut off the water in its mains, without notice, in case of accident, or for the purpose of making connections, alterations or repairs, after giving notice to all consumers affected. (Code 1963, § 15-17)

Sec. 8-30. City not liable for failure of water supply.

The City shall not be liable in damages for any failure of the supply of water to any customer. (Code 1963, § 15-18)

Secs. 8-31–8-39. Reserved.

ARTICLE III. SEWER REGULATIONS*

DIVISION 1. GENERALLY

Sec. 8-40. Purpose and policy.

(a) This article sets forth uniform requirements for direct and indirect contributors into the waste water collection and treatment system for the City and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR 403).

***Editor's note**—An ordinance of September 17, 1992, amended Article III in its entirety to read as herein set out. Former Article III, §§ 8-40–8-69, pertained to similar subject matter and derived from the original Code of 1963.

Authorized representative of the industrial user.

- (1) If the industrial user is a corporation, authorized representative shall mean:
 - a. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million (\$25,000,000.00), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the industrial user is a partnership, association, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.
- (3) If the industrial user is representing Federal, State, or local governments, or an agent thereof, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
- (4) The individuals described in paragraphs (1)–(3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the authorization is submitted to the City.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l)).

Building sewer means a sewer conveying waste water from the premises of a user to the POTW.

Categorical standards means the National Categorical Pretreatment Standards or pretreatment standard.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Control authority means the "approval authority," defined herein above; or the POTW Director of the City upon approval of the City's pretreatment program.

Direct discharge means the discharge of treated or untreated waste water directly to the waters of the State.

Environmental Protection Agency, or EPA means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial obligation under this definition in accordance with that section with the provisions as stated in 40 CFR 403.3(K).

National Pollution Discharge Elimination System or NPDES Permit means a permit issued pursuant to section 402 of the Act (33 U.S.C. 1342), or pursuant to North Carolina General Statute 143-215.1 by the State under delegation from the EPA.

Nondischarge permit means a disposal system permit issued by the State pursuant to North Carolina General Statute 143-215.1.

Nondomestic pollutants means any substances other than human excrement and household gray water (shower, dishwashing operations, etc.). Nondomestic pollutants include the characteristics of the waste water (i.e., including but not limited to pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation of the POTW's NPDES or nondischarge permit or a downstream water quality standard.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representative, agents, or assigns.

pH means a measure of the acidity or the alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any "waste" as defined in North Carolina General Statute 143-213 (13), and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

POTW Director means the City's Director of Public Works.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in waste water to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR section 403.6(d).

Storm water means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, waste water or other liquids, and which is removable by laboratory filtering.

Superintendent means the person designated by the City to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other acts.

User means any person who contributes, causes or permits the contribution of waste water into the City's POTW, including persons who contribute such waste from mobile sources.

Waste water means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Water pollution means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Waste water permit means the permit set forth in sections 8-77 through 8-90 of this article.

(b) This article is gender neutral and the masculine gender shall include the feminine and vice versa. Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(c) The following abbreviations shall have the designated meanings:

- BOD - Biochemical oxygen demand
- CFR - Code of Federal Regulations
- COD - Chemical oxygen demand
- EPA - Environmental Protection Agency
- gpd - Gallons per day
- l - Liter
- mg - Milligrams

- (4) Any waste water having a pH less than five (5.0) or waste water having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (5) Any waste water containing pollutants in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to pass through or interfere with the POTW waste water treatment system, any waste water treatment or sludge process, or constitute a hazard to humans or animals.
- (6) Any noxious or malodorous liquids, gases, or solids or other waste water which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance or repair.
- (7) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- (8) Any waste water which imparts color which cannot be removed by the treatment process, such as but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the POTW's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) per cent from the seasonably established norm for aquatic life.
- (9) Any waste water having a temperature greater than one hundred fifty (150) degrees Fahrenheit (fifty-five (55) degrees Celsius), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case waste water with the temperature at the introduction into the POTW to exceed one hundred four (104) degrees Fahrenheit, forty (40) degrees Celsius.
- (10) Any waste water containing any radioactive waste or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
- (11) Any pollutants which result in the presence of toxic gases, vapors or fumes within the system in a quantity that may cause worker health and safety problems.
- (12) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director.
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water

Sec. 8-53. Specific pollutant limitations.

(a) To implement the general and specific prohibitions listed in this article, industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following limits will apply to all users:

250	mg/l	BOD
300	mg/l	TSS
40	mg/l	TKN
0.003	mg/l	arsenic
0.001	mg/l	cadmium
0.031	mg/l	copper
0.041	mg/l	cyanide
0.05	mg/l	lead
0.0003	mg/l	mercury
0.005	mg/l	silver
0.025	mg/l	nickel
0.02	mg/l	total chromium
0.175	mg/l	zinc

(b) Domestic sewage levels for pollutants not listed above shall be determined by the POTW Director and shall be based on either actually measured local domestic sewage levels or literature values.

(c) Industrial user-specific local limits for appropriate pollutants of concern shall be included in waste water permits and are considered pretreatment standards.

(Ord. of 9-17-92)

Sec. 8-54. State requirements.

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

(Ord. of 9-17-92)

Sec. 8-55. Right of revision.

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulations if deemed necessary to comply with the objectives presented in section 8-40 of this article or the general and specific prohibitions in section 8-51 of this article, as is allowed by 40 CFR 403.4.

(Ord. of 9-17-92)

Sec. 8-58. Use of sewers by persons outside the City.

No person owning property outside the corporate limits of the City shall be permitted to tap onto the City sewer system without specific approval of the Board of Commissioners. Such requests for sewer tap on shall be by written petition to the Board of Commissioners.
(Ord. of 9-17-92; Ord. of 3-22-93)

Sec. 8-59. Connections.

(a) All sewer connections shall be made by or under the supervision of the City. No person shall tamper with or connect to any sewer main without permission from the POTW Director.

(b) Every property owner shall connect such property to the City's sewer system if a sewer line is available and if, in the judgment of the POTW Director, it is practicable to extend the line to the premises.

(Ord. of 9-17-92)

Charter reference—Authority of City Council to require sewer connections, §§ 46a, 47.

State law reference—Authority of City to require sewer connections, North Carolina General Statute section 160 A-216 et seq.

Secs. 8-60–8-65. Reserved.

DIVISION 3. FEES

Sec. 8-66. Purpose.

It is the purpose of this division to provide for the recovery of costs from users of the City's waste water disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's Schedule of Charges and Fees.
(Ord. of 9-17-92)

Sec. 8-67. User charges.

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

- (1) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (2) Each user shall pay its proportionate cost based on volume of flow.
- (3) The City Manager shall review annually the sewage contributions of users, the total cost of debt service, operation and maintenance of the POTW and will make recommendations to the City Council for adjustments in the Schedule of Charges and Fees as necessary.

- (3) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (4) Permitting;
- (5) Other fees as the City may deem necessary to carry out the requirements of the pretreatment program.

(Ord. of 9-17-92)

Secs. 8-70–8-75. Reserved.

DIVISION 4. ADMINISTRATION

Sec. 8-76. Waste water dischargers.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City.

(Ord. of 9-17-92)

Sec. 8-77. Waste water permits.

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within one hundred eighty (180) days of receiving notification of the POTW Director's determination. Industrial users who do fit the industrial user criteria may at the discretion of the POTW Director be required to obtain a waste water contribution permit for non-significant industrial users.

(Ord. of 9-17-92)

Sec. 8-78. Same—Significant industrial user determination.

All persons proposing to discharge non-domestic waste water, or proposing to change the volume or characteristics of an existing discharge of non-domestic waste water shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user application be filed.

(Ord. of 9-17-92)

Sec. 8-79. Same—Significant industrial user permit application.

Users required to obtain a significant industrial user permit shall complete and file with the City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the Schedule of Charges and Fees. Significant industrial users shall apply for a significant industrial user permit within ninety (90) days after notification of the POTW Director's determination in section 8-78 above. In support of the

progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

- (10) Each product produced by type, amount, process or processes and rate of production;
 - (11) Type and amount of raw materials processed (average and maximum per day);
 - (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
 - (13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAG 2H. 0908(a);
 - (14) Any necessary certification and/or signatory requirement as outlined in 40 CFR 403.12(1);
 - (15) Any other information as may deemed by the POTW Director to be necessary to evaluate the permit application. The POTW Director will evaluate the data furnished by the user and may require additional information.
- (Ord. of 9-17-92)

Sec. 8-80. Same—Application review and evaluation.

(a) The POTW Director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.

(b) Within thirty (30) days of receipt, the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(Ord. of 9-17-92)

Sec. 8-81. Same—Tentative determination and draft permit.

(a) The POTW staff shall conduct a review of the application and an onsite inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

(b) If the staff's tentative determination in paragraph (a) above is to issue the permit, the following additional determinations shall be made in writing;

- (1) Proposed discharge limitations for those pollutants proposed to be limited;
- (2) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
- (3) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

plant or where necessary to effectuate the purposes of North Carolina General Statute 143-215.1.

(Ord. of 9-17-92)

Sec. 8-84. Same—Hearings.

(a) *Adjudicatory hearings.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contended, to the POTW Director within thirty (30) days following the receipt of the significant industrial user permit. Unless such demand is made, the decision on the application shall be final and binding. The conditions/requirements in the newly issued permit shall be in effect pending the adjudicatory hearing, unless the hearing officer rules that the specific conditions/requirements in question should be stayed pending the outcome of the hearing.

(b) *Appeal hearings.* Any decision of the hearing officer made as a result of an adjudicatory hearing held under subsection (a) above may be appealed, to the City Council upon filing a written demand within ten (10) days of the receipt of notice of the decision. Hearings held under this subsection shall be conducted in accordance with local hearing procedure.

(c) *Further appeals.* Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under subsection (b) above, may appeal from the order or decision, within thirty (30) days after receipt or notice by registered or certified mail of the order of decision, but not thereafter, to the Superior Court of Surry County. Upon such appeal the City shall send a transcript certified by the City Council of all testimony and exhibits introduced before the Council, the order or decision, and the notice of appeal to the Superior Court.

(Ord. of 9-17-92)

Sec. 8-85. Same—Permit modification.

(a) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:

- (1) Modifications of the monitoring program contained in the permit;
- (2) Changes in the ownership of the discharge when no other change in the permit is indicated;
- (3) A single modification of any compliance schedule not in excess of four (4) months;
- (4) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

(b) Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal waste water system.
 - (6) The unit charge or schedule of user charges and fees for the management of the waste water discharged to the system.
 - (7) Requirements for the installation and maintenance of inspection and sampling facilities and equipment.
 - (8) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (9) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
 - (10) Compliance schedules for meeting pretreatment standards and requirements.
 - (11) Requirements for submission of periodic self-monitoring or special notification reports.
 - (12) Requirements for maintaining and retaining plans and records relating to waste water discharges as specified in section 8-88 and affording the POTW Director, or his representatives, access thereto.
 - (13) Requirements for prior notification and approval by the POTW Director of any new introduction of waste water pollutants or of any significant change in the volume or character of the waste water prior to introduction in the system.
 - (14) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
 - (15) Requirements for the immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.
 - (16) A statement that compliance with permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
 - (17) Other conditions as deemed appropriate by the Superintendents to ensure compliance with this article, and State and Federal laws, rules, and regulations; the term of the permit.
- (Ord. of 9-17-92)

Sec. 8-87. Same—Permits duration.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(Ord. of 9-17-92)

premises where waste water is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The City, Approval Authority, and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so upon presentation of suitable identification, personnel from the City, Approval Authority and EPA will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

(Ord. of 9-17-92)

Sec. 8-93. Pretreatment.

Users shall provide necessary waste water treatment as required to comply with this article, waste water permits issued under Division 4 and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the POTW Director. Any facilities required to pretreat waste water to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the POTW Director before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the POTW Director prior to the user's initiation of the changes.

(Ord. of 9-17-92)

Sec. 8-94. Confidential information.

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

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

Secs. 8-97–8-105. Reserved.

DIVISION 5. ENFORCEMENT

Sec. 8-106. Administrative remedies.

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

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

(c) *Show cause hearing.*

- (1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this article or is in noncompliance with a waste water contributor permit to show cause why a proposed enforcement should not be taken. A notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate. The POTW Director's final decision shall be to either proceed with the proposed enforcement action or to modify the action. Such modification may include, but is not limited to, the issuance of an order to the industrial user directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenance shall have been installed and are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(d) *Administrative orders.* When the POTW Director finds that an industrial user has violated or continues to violate this article, permits, or orders issued hereunder, or any other

Sec. 8-107. Civil penalties.

Any user who is found to have failed to comply with any provision of this article, or the orders, rules, regulations and permits issued hereunder, shall be fined up to one thousand dollars (\$1,000.00) per day per violation. Such assessments may be added to the user's next scheduled sewer service charges and the POTW shall have such remedies for the collection of such assessments as it has for the collection of other service charges.

(Ord. of 9-17-92)

Sec. 8-108. Judicial remedies.

If any person violates this article, or any order or permit issued hereunder, or any other pretreatment requirement, the POTW Director, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the General Court of Justice for Surry County.

(1) *Criminal violations.*

- a. Any person who negligently violates any term, condition, or requirement of this article and any person who negligently fails to apply for or secure a permit required by North Carolina General Statute 143-215.1 shall be guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars (\$15,000.00) per day of violation, provided that such fine shall not exceed a cumulative total of two-hundred thousand dollars (\$200,000.00) for each period of thirty (30) days during which a violation continues, or by imprisonment not to exceed six (6) months, or by both.
- b. Any person who knowingly and willfully violates any term, condition, or requirement of this article and any person who knowingly and willfully fails to apply for or to secure a permit required by North Carolina General Statute 143-215.1 shall be guilty of a Class J felony, punishable by a fine not to exceed one hundred thousand dollars (\$100,000.00) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars (\$500,000.00) for each period of thirty (30) days during which a violation continues, or by imprisonment not to exceed three (3) years, or both.
- c. Any person who knowingly violates any term, condition, or requirement of this article and any person who knowingly fails to apply for or to secure a permit required by North Carolina General Statute 143-215.1 and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury shall be guilty of a Class H felony, punishable by a fine not to exceed two hundred fifty thousand dollars (\$250,000.00) per day of violation, provided that this fine shall not exceed a cumulative total of one million dollars (\$1,000,000.00) for each period of thirty (30) days during which a violation continues, or by imprisonment not to exceed ten (10) years, or both.

- (2) *Penalties for falsifying information.* Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other

- (2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to occur;
- (3) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

(b) A documented and verified operating upset, demonstrated as required by 40 CFR 403.16(c), shall constitute an affirmative defense to any enforcement action brought by the POTW Director against the discharger for any noncompliance with this article, or an order or permit issued hereunder, which arises out of violations alleged to have occurred during the period of the upset.

(Ord. of 9-17-92)