



Agenda

Greenville City Council

January 12, 2012
7:00 PM
City Council Chambers
200 West Fifth Street

Assistive listening devices are available upon request for meetings held in the Council Chambers. If an interpreter is needed for deaf or hearing impaired citizens, please call 252-329-4422 (voice) or 252-329-4060 (TDD) no later than two business days prior to the meeting.

I. Call Meeting To Order

II. Invocation - Council Member Joyner

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Agenda

VI. Special Recognitions

- Johnny Wayne Mitchell - Public Works Department Retiree

VII. Appointments

1. Appointments to Boards and Commissions

VIII. New Business

Public Hearings

2. Ordinance relating to a procedure to refuse to issue a local license for the retail sale of beer and wine.
3. Order to close a portion of Skinner Street and Smith Street
4. Ordinance amending the Zoning Ordinance standards for portable temporary storage units

5. Ordinance to annex Southwest Commercial Park, Lot 19, involving 1.984 acres located on the southern right-of-way of Dickinson Avenue Extension (US 13 & 264A) approximately 840 feet west of its intersection with Southwest Greenville Boulevard/Allen Road
6. Community Development Block Grant and HOME Investment Partnerships Annual Action Plan for 2012-2013

Public Comment Period

- The Public Comment Period is a period reserved for comments by the public. Items that were or are scheduled to be the subject of public hearings conducted at the same meeting or another meeting during the same week shall not be discussed. A total of 30 minutes is allocated with each individual being allowed no more than 3 minutes. Individuals who registered with the City Clerk to speak will speak in the order registered until the allocated 30 minutes expires. If time remains after all persons who registered have spoken, individuals who did not register will have an opportunity to speak until the allocated 30 minutes expires.

Other Items of Business

7. Lead Based Paint Hazard Control Grant application
8. Report on City's role in economic development

IX. Comments from Mayor and City Council

X. City Manager's Report

XI. Adjournment



City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Appointments to Boards and Commissions

Explanation: City Council appointments or reappointments need to be made to the Affordable Housing Loan Committee, Community Appearance Commission, Firefighters Relief Fund Committee, Greenville Bicycle and Pedestrian Commission, Historic Preservation Commission, Human Relations Council, Police Community Relations Committee, Public Transportation and Parking Commission, and the Youth Council.

Fiscal Note: No direct fiscal impact.

Recommendation: Make appointments or reappointments to the Affordable Housing Loan Committee, Community Appearance Commission, Firefighters Relief Fund Committee, Greenville Bicycle and Pedestrian Commission, Historic Preservation Commission, Human Relations Council, Police Community Relations Committee, Public Transportation and Parking Commission, and the Youth Council.

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[City Council Meeting Appointments to Boards and Commissions_914698](#)

Appointments to Boards and Commissions

January 12, 2011

Affordable Housing Loan Committee

Council Liaison: Council Member Kandie Smith

Name	District #	Current Term	Reappointment Status	Expiration Date
Karalee Coughlin	4	Filling unexpired term	Resigned	February 2012
John Martin (Alternate)	4	Filling unexpired term	Resigned	February 2012
Sterling Reid	5	Filling unexpired term	Did not meet attendance requirements	February 2012

Community Appearance Commission

Council Liaison: Council Member Calvin Mercer

Name	District #	Current Term	Reappointment Status	Expiration Date
Valerie Guess	5	First term	Did not meet attendance requirements	July 2014

Firefighters Relief Fund Committee

Council Liaison: Not Applicable

Name	District #	Current Term	Reappointment Status	Expiration Date
George Powell	5	Second term	Eligible	January 2012

Greenville Bicycle and Pedestrian Commission

Council Liaison: Council Member Calvin Mercer

Name	District #	Current Term	Reappointment Status	Expiration Date
Mitchell Craib	4	Initial term	Eligible	January 2012
<i>Greenville Bicycle and Pedestrian Commission continued</i>				
Cori Hines		Filling unexpired term	Eligible	January 2012
Allison Moran-	4	Filling unexpired term	Eligible	January 2012

Wasklewicz

J. P. Walsh 4 Initial term Eligible January 2012

Historic Preservation Commission

Council Liaison: Council Member Marion Blackburn

Name	District #	Current Term	Reappointment Status	Expiration Date
Kerry Carlin	1	Filling unexpired term	Eligible	January 2012
Dennis Chestnut	3	Second term	Ineligible	January 2012
Charlotte Cohen	3	Filling unexpired term	Resigned	January 2012

Human Relations Council

Council Liaison: Mayor Pro-Tem Rose Glover

Student Representatives from Higher Educational Institutions

Name	District #	Current Term	Reappointment Status	Expiration Date
Guillaume Bagal (ECU)	1	First term	Moved out of state	October 2011
Michael Rouse (PCC)	5	First term	Moved out of city limits	October 2011

Police Community Relations Committee

Council Liaison: Mayor Pro-Tem Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
Norwood Bradshaw (Council Member Smith)	1	Second term	Ineligible	October 2011
Willie Roberts (Mayor Pro-Tem Glover)	2	First term	Did not meet attendance requirements	October 2013

Public Transportation and Parking Commission

Council Liaison: Council Member Calvin Mercer

Name	District #	Current Term	Reappointment Status	Expiration Date
Eric Foushee	5	Filling unexpired term	Eligible	January 2012
Robert Thompson	1	Filling unexpired term	Eligible	January 2012
Marsha Wyly	4	First term	Eligible	January 2012

Youth Council

Council Liaison: Council Member Marion Blackburn

Name	District #	Current Term	Reappointment Status	Expiration Date
Ten Available Slots		Unexpired term		September 2012

Applicants for Affordable Housing Loan Committee

Thomas Hines
211 Patrick Street
Greenville, NC 27834

District #: 1

Application Date: 10/6/2011

Home Phone: (252) 864-4907
Business Phone: (252) 695-9066
Email: thinesg@aol.com

Jackie Parker
3709 Live Oak Lane
Greenville, NC 27858

District #: 5

Application Date: 7/8/2010

Home Phone:
Business Phone:
Email: mrjparker@aol.com

Applicants for Community Appearance Commission

NONE

Applicants for Firefighters Relief Fund Committee

NONE

Applicants for Greenville Bicycle and Pedestrian Commission

Patrick Harris
1609 Rondo Drive
Greenville, NC 27858

District #: 4

Application Date: 6/28/2011

Home Phone: (252) 355-2813

Business Phone: (252) 737-2082

Email: patharrisnc@gmail.com

Liz Brown-Pickren
112-B North Holly
Greenville, NC 27858

District #: 3

Application Date: 11/1/2011

Home Phone: (919) 399-3536

Business Phone: (252) 737-4371

Email: brownpickrene09@students.ecu.edu

Applicants for Historic Preservation Commission

Terry King
1310 Thomas Langston Rd. #7
Winterville, NC 28590

District #: 5

Application Date: 2/11/2011

Home Phone: (252) 412-5228

Business Phone:

Email: terryeu2@aol.com

Richard Weir
2074-3 Old Firetower Rd.
Greenville, NC 27858

District #: 5

Application Date: 8/21/2011

Home Phone: (252) 565-5663

Business Phone: (252) 216-9347

Email: raw03@gmailcom

Applicants for Human Relations Council

Wanda Carr
2304 British Court
Greenville, NC 27834

Application Date: 10/13/2010

District #: 1

Home Phone: (252) 321-1409
Business Phone:
Email: carrwdc@hotmail.com

Aaron Lucier
1516 Thayer Drive
Winterville, NC 28590

Application Date: 2/23/2011

District #: 5

Home Phone: (252) 321-3910
Business Phone: (252) 328-2758
Email: luciera@ecu.edu

Angela Marshall
2609B Boone Court
Greenville, NC 27834

Application Date: 4/29/2011

District #: 1

Home Phone: (252) 258-4104
Business Phone: (252) 328-4173
Email: marshalla@ecu.edu

Brittney Partridge
925 Spring Forest Road, Apt. 9
Greenville, NC 27834

Application Date: 7/15/2010

District #: 1

Home Phone: (252) 489-8390
Business Phone:
Email: partridgeb06@students.ecu.edu

Shawan Sutton
903 Douglas Avenue
Greenville, NC 27834

Application Date: 10/14/2011

District #: 1

Home Phone: (252) 414-3384
Business Phone: (252) 328-5803
Email: shawrasc@aol.com

Richard Weir
2074-3 Old Firetower Rd.
Greenville, NC 27858

Application Date: 8/21/2011

District #: 5

Home Phone: (252) 565-5663
Business Phone: (252) 216-9347
Email: raw03@gmail.com

Applicants for Police Community Relations Committee

Ann Eleanor
102 Lindenwood Drive
Greenville, NC 27834

Application Date: 2/13/2011

District #: 5

Home Phone: (252) 227-4240
Business Phone:
Email: aeleonor@suddenlink.net

Terry King
1310 Thomas Langston Rd. #7
Winterville, NC 28590

Application Date: 2/11/2011

District #: 5

Home Phone: (252) 412-5228
Business Phone:
Email: terryeu2@aol.com

Adam Lawler
502 Treybrooke Circle, Apt. 32
Greenville, NC 27858

Application Date: 10/26/2011

District #: 1

Home Phone: (252) 558-2037
Business Phone: (252) 737-4640
Email: adam.e.lawler@gmail.com

Aaron Lucier
1516 Thayer Drive
Winterville, NC 28590

Application Date: 2/23/2011

District #: 5

Home Phone: (252) 321-3910
Business Phone: (252) 328-2758
Email: luciera@ecu.edu

Howard Stearn
2818 Jefferson
Greenville, NC 27858

Application Date: 11/9/2011

District #: 3

Home Phone: (252) 862-6683
Business Phone: (252) 321-1101
Email: howardmstearn@gmail.com

Shawan Sutton
903 Douglas Avenue
Greenville, NC 27834

Application Date: 10/14/2011

District #: 1

Home Phone: (252) 414-3384
Business Phone: (252) 328-5803
Email: shawrasc@aol.com

Applicants for Public Transportation and Parking Commission

NONE

Applicants for Youth Council

Daniel Barondes
3517 Wallingford Road
Greenville, NC 27858

Application Date: 11/21/2011

Home Phone: (252) 353-1797

Business Phone:

Email: dbarondes@gmail.com

District #: 5



City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Ordinance relating to a procedure to refuse to issue a local license for the retail sale of beer and wine.

Explanation: The Special Task Force on Public Safety was created by City Council in January, 2010. Its creation was a recommendation of the Greenville-Pitt County Chamber of Commerce. City Council charged the Task Force with the mission to study crime in Greenville and make recommendations to improve public safety in the community. The Task Force met for over a year, and the Task Force set its own direction and agenda while utilizing the Police Department as a resource. In June, 2011, the Task Force issued a report which contained its recommendations.

At its September 8, 2011 meeting, City Council reviewed the recommendations of the Task Force and provided direction on those it desired to further pursue. Of the 22 recommendations, City Council determined to further pursue 7 of the recommendations. When Council determined to do this, it also directed that any implementing action brought before Council also be the subject of a public hearing even if a public hearing is not required by law.

One of the recommendations which Council determined to further pursue is "enact an ordinance which establishes the procedure for the City to refuse to issue, as allowed by G.S. 105-113.71, a local license for the sale of beer and wine if the applicant committed any, or permitted any, act that would be grounds for suspension or revocation of its ABC permit under G.S. 18B-104. (Chapel Hill, Wilmington)" At its December 8, 2011, meeting, a proposed ordinance was provided to City Council and City Council set a public hearing date of January 12, 2012, on the proposed ordinance.

North Carolina General Statute 18B-901 provides that all ABC permits are issued by the North Carolina Alcoholic Beverage Control Commission. G.S. 18B-901(d) states the Commission has the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit and has the authority to determine the suitability of a location. To be a suitable place, the establishment must be in compliance with all building and fire codes.

Additionally, G.S. 18B-901(c) lists other factors which the Commission is to consider in determining whether the applicant and the location are suitable. These factors are to be considered (but are not mandated to be followed) by the Commission in making its determination. The City has the opportunity to comment on the applicant and the location prior to the ABC Commission making its determination.

Although the ABC Commission has the sole authority to issue an ABC retail permit, the attached G.S. 105-113.71 authorizes City Council to refuse to issue a local license for the retail sale of beer and wine if City Council finds, after notice and hearing, that there are grounds for suspension or revocation of the permit under G.S. 18B-104. Grounds for suspension or revocation include any violation of any statute in Chapter 18B or Article 2C of Chapter 105 or the Rules issued by the ABC Commission pursuant to the provisions of Chapter 18B. Only local licenses relating to retail sale of beer and wine are included in this authority since these are the only local retail licenses relating to alcoholic beverages which the City is statutorily authorized to issue (on-premises and off-premises beer and wine sales). Additionally, this statute authorizes City Council to refuse to issue the annual license only. This statute does not authorize City Council to revoke or suspend a license after issuance. G.S. 18B-113.70(b) provides that the annual licenses issued are for the period from May 1 to April 30.

The Town of Chapel Hill has adopted an ordinance which sets forth the procedure to implement this authority. Although Chapel Hill has not used this authority to refuse to issue a license, the Town Attorney has advised that he believes that the existence of the ordinance and the fact that it may be utilized has likely resulted in some applications not being submitted when an establishment has not been able to comply with ABC laws.

Attached is a proposed ordinance to implement this recommendation. It is modeled after the attached Chapel Hill ordinance. The main difference between the proposed ordinance and the Chapel Hill ordinance is that the proposed ordinance defines (in subsection (b)(2)c) what is considered as sufficient reason for an application to be referred by the City Manager or designee for consideration by Council for denial after a recommendation for denial is received from the Police Department, Fire Department, or Inspections Division of the Public Works Department. A referral for consideration by Council is to occur if the applicant has committed an act or permitted an activity, other than a violation relating to tax stamps or audit reports, at least three (3) times during the most recent twelve (12) month period, that would be grounds for suspension or revocation of the applicant's permit under the provisions of North Carolina General Statute 18B-104 and the City Manager or designee determines that it is in the public interest to not issue the annual local license. The Chapel Hill ordinance does not define what is considered as sufficient reason for an application to be referred to the Town Council but allows the Town Manager to make a referral to the Town Council after receiving a recommendation from either the Police, Fire, or Inspections Department to deny the application, if he determines there is sufficient reason to consider denial or non-renewal of an application.

Notice of the public hearing was published in The Daily Reflector on January 2 and 9, 2012. Additionally, the attached Notice of Public Hearing was mailed to all persons with a City of Greenville privilege license for the retail sale of beer and wine on December 20, 2012.

* * *

For your information, attached is information provided by the North Carolina Alcoholic Beverage Control Commission in response to a request for a listing of all ABC violations during the most recent 2-year period by each ABC permittee in Greenville and, for each permittee, by the type of violation. From this listing the following locations within the City had 3 ABC violations (other than violations relating to tax stamps or audit reports) within a 12-month period during the 2-year period: Club 519 (2 violations on 4/6/10 and 4 violations on 1/21/11), Japan Inn (4 violations on 3/8/10), Kangaroo Express 901 (1 violation on 1/21/11, 1 violation on 1/23/11, and 1 violation on 5/24/11), Other Place (2 violations on 8/2/10 and 6 violations on 7/6/11), Still Life (3 violations on 11/20/09, 1 violation on 1/29/10, 3 violations on 5/16/11), and Tavern on 4th Street (3 violations on 9/13/10).

Attached is the following:

1. Ordinance
2. Chapel Hill Ordinance
3. North Carolina General Statute 105-113.71
4. Notice of public hearing mailed on December 20, 2011.
5. Information provided by the North Carolina Alcoholic Beverage Control Commission in response to a request for a listing of all ABC violations during the most recent 2-year period by each ABC permittee in Greenville and, for each permittee, by the type of violation.
6. Information provided by the North Carolina Alcoholic Beverage Control Commission which lists violation types

Fiscal Note:

There is no fiscal impact as a result of the adoption of the ordinance. There will be an expense incurred when hearings are conducted.

Recommendation:

Approval of the attached ordinance will establish the procedure for City Council to refuse to issue, as allowed by G.S. 105-113.71, a local license for the retail sale of beer and wine if the applicant committed any, or permitted any, act that would be grounds for suspension

Attachments / click to download

- [📄 Chapel Hill Ordinance](#)
 - [📄 Notice of Public Hearing](#)
 - [📄 ABC Violations](#)
 - [📄 AN_ORDINANCE_ESTABLISHING_SECTION_3_2_45_OF_THE_GREENVILLE_CITY_CODE_RELATING_TO_SPECIAL_PROVISIONS_RELAT](#)
 - [📄 NCGS_105_113.71_914926](#)
 - [📄 Numbered_ABC_Violation_explanation_913690](#)
-

ORDINANCE NO. 12-
AN ORDINANCE ESTABLISHING SECTION 3-2-45 OF THE GREENVILLE CITY
CODE CONCERNING SPECIAL PROVISIONS RELATING TO LICENSES FOR
ESTABLISHMENTS HOLDING ABC PERMITS

The City Council of the City of Greenville, North Carolina does hereby ordain:

Section 1. That the Code of Ordinances, City of Greenville, is hereby amended by adding a section to be numbered 3-2-45 , which section reads as follows:

Sec. 3-2-45. - Special provisions relating to licenses for establishments holding ABC permits.

(a) *Authority to deny ABC permit.* Pursuant to North Carolina General Statute 105-113.71, the City Council may refuse to issue an annual local license, or renewal thereof, for an establishment required to receive an alcohol beverage privilege license from the city if the City Council finds that the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of the applicant's permit under the provisions of North Carolina General Statute 18B-104.

(b) *Consideration of applications.* Initial applications for an alcohol beverage privilege license issued by the city and applications for the renewal of an alcohol beverage privilege license issued by the city shall be submitted to the City Collector of Revenue for evaluation by the City Manager or designee. Specifically, but without limitation, the City Collector of Revenue shall refer all such applications and all annual license renewals to the Police Department, Fire/Rescue Department, and the Inspections Division of the Public Works Department.

(1) If none of the three (3) departments recommends the license be denied, the City Collector of Revenue shall issue the license upon payment of the annual license fee.

(2) If any one (1) of the three (3) departments recommends that denial of said application be considered, the matter shall be referred to the City Manager or designee, who shall review the recommendations of the three (3) departments and any other relevant information received by the City Manager or designee.

a. If the City Manager or designee determines that there is not sufficient reason to consider denial or non-renewal of an application, he shall issue his determination and direct that the license be issued.

b. If the City Manager or designee determines that there is sufficient reason to consider denial or non-renewal of an application on grounds provided for in paragraph (a) above, the City Manager or designee shall refer the application to the City Council for its consideration.

c. For the purpose of this section, sufficient reason for the City Manager or designee to refer the application for consideration by City Council shall mean that the applicant has committed an act or permitted an activity, other than a violation relating to tax stamps or audit reports, at least three (3) times during the most recent twelve

(12) month period, that would be grounds for suspension or revocation of the applicant's permit under the provisions of North Carolina General Statute 18B-104 and the City Manager or designee determines that it is in the public interest to not issue the annual local license.

(c) *Consideration by City Council.* Upon receiving a recommendation from the City Manager or designee that an application for an alcohol beverage privilege license or renewal be denied, before considering whether to deny the license, the City Council shall give the applicant an opportunity to appear at a hearing before the City Council and to offer evidence. Any hearing held under the provisions of this section shall be upon at least ten (10) days' notice to the applicant. All persons who present evidence at such a hearing shall be sworn and parties shall have the right to cross-examine witnesses.

(d) *Process following City Council hearing.* At the conclusion of the hearing, the City Council shall make written findings of fact based on the evidence presented at the hearing. If the City Council finds that the application should be issued, it shall direct the requested license be issued. If the City Council finds that the license should be denied, it shall direct the requested license not be issued.

(e) *Appeal to superior court.* The applicant may appeal the denial of a license to the Pitt County Superior Court, by an action in the nature of certiorari, if notice of appeal is given within ten (10) days of the denial.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 4. This ordinance shall become effective upon its adoption.

This the 12th day of January, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

NORTH CAROLINA GENERAL STATUTE

§ 105-113.71. Local government may refuse to issue license.

(a) Refusal to Issue. – Notwithstanding G.S. 105-113.70, the governing board of a city or county may refuse to issue a license if it finds that the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of his permit under G.S. 18B-104. Before denying the license, the governing board shall give the applicant an opportunity to appear at a hearing before the board and to offer evidence. The applicant shall be given at least 10 days' notice of the hearing. At the conclusion of the hearing the board shall make written findings of fact based on the evidence at the hearing. The applicant may appeal the denial of a license to the superior court for that county, if notice of appeal is given within 10 days of the denial.

(b) Local Exceptions. – The governing bodies of the following counties and cities in their discretion may decline to issue on-premises unfortified wine licenses: the counties of Alamance, Alexander, Ashe, Avery, Chatham, Clay, Duplin, Granville, Greene, Haywood, Jackson, Macon, Madison, McDowell, Montgomery, Nash, Pender, Randolph, Robeson, Sampson, Transylvania, Vance, Watauga, Wilkes, Yadkin; any city within any of those counties; and the cities of Greensboro, Aulander, Pink Hill, and Zebulon. (1985, c. 114, s. 1.)

<u>VIOLATION CODE</u>	<u>VIOLATION</u>	<u>VIOLATION DESCRIPTION</u>
1	After hour - sales	<<Title>>, <<Name>>, sold alcoholic beverages between the hours of 2:00 AM and 7:00 AM, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1004(a).
2	STU	<<Title>>, <<Name>>, sold/gave a malt beverage to <<third>>, a person less than 21 years old, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-302(a)(1)/(a1)(1).
3	Tax stamp missing	<<Title>>, <<Name>>, possessed containers of spirituous liquor not bearing mixed beverage tax stamps, while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1007(b)(4).
4	-Select-	none
5	Tax stamp not defaced	<<Title>>, <<Name>>, possessed empty containers of spirituous liquor purchased for resale in mixed beverages bearing mixed beverage tax stamps which had not been permanently defaced, while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0513(9).
6	Emp intoxicated	<<Title>>, <<Name>> was or became intoxicated while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0212(b).
7	Gambling - equip	<<Title>>, <<Name>>, knowingly possessed gambling equipment while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1005(a)(3).
8	Open to public	<<Title>>, <<Name>>, allowed the establishment to be open to the general public by failing to limit use of the facilities of the private club to members and their guests, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0234(a)(1).
9	Sale to intox	<<Title>>, <<Name>>, knowingly sold alcoholic beverages to <<third>>, an intoxicated person, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-305(a).
10	Advertising - cooperative	<<Title>>, <<Name>>, did cooperate in a joint effort to advertise alcoholic beverages / retailer's business / or other promotion or event with a retailer (to wit, NAME OF RETAILER located in) without the prior written approval of the ABC Commission, on or about <<Date>>, in violation of ABC Commission Rule 4 NCAC 2S.1007.
11	Fail clear tables	<<Title>>, <<Name>>, failed to clear all tables and counters of all alcoholic beverages, bottles, cans, glasses and containers by 2:30 AM, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0202(a).
12	Controlled substance	<<Title>>, <<Name>>, knowingly allowed violations of the controlled substance statutes to occur upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1005(a)(3).
13	Allow intox consume	<<Title>>, <<Name>>, allowed <<third>>, an intoxicated person, to consume alcoholic beverages while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0206.
14	Perform service after	<<Title>>, <<Name>>, performed services while or after having consumed alcoholic beverages while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0212(a)(3).

15	Fail purchase from WS	Failure to purchase only from wholesaler	<<Title>>, <<Name>>, failed to purchase malt beverages / fortified wine only from a wholesaler who maintains a place of business in this State and has the proper permit, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1006(h).
16	Underage poss/consume	Underage Possession/Consumption	<<Title>>, <<Name>>, knowingly allowed <<third>>, a person under the age of 21 years to possess and or consume alcoholic beverages while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0233(a).
17	After hr - consume	After Hour Consumption	<<Title>>, <<Name>>, allowed the consumption of alcoholic beverages between the hours of 2:30 AM and 7:00 AM [a violation of G.S. §18B-1004(a)], while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1005(a)(1).
18	Sunday sales/consume	Sunday sales & consumption of alcoholic beverages	<<Title>>, <<Name>>, sold/consumed alcoholic beverages on Sunday between the hours of 2:00/2:30 AM and 12:00 Noon, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1004(a) and (c).
19	Video poker	Possession video poker (slot machine)	<<Title>>, <<Name>>, possessed a slot machine, while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §14-306 and G.S. §18B-1005(a)(3).
20	Consume - off prem only	Consumption off premise only	<<Title>>, <<Name>>, allowed the consumption of malt beverages while upon premises having only an Off Premise Malt Beverage permit, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-300(b).
21	Unauthorized spirits/fort	Unauthorized spirits/fortified wine	<<Title>>, <<Name>>, possessed or consumed spirituous liquor fortified wine upon premises where such possession or consumption is not authorized by law, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-301(f)(4).
22	Sell/possess w/o permit	Sales/Possess without permit	<<Title>>, <<Name>>, sold or possessed alcoholic beverages for sale without first obtaining the applicable ABC Permit and revenue license, while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-304(a).
23	BB - label	Brown-bagging violation	<<Title>>, <<Name>>, failed to ensure that each container brought onto the premises is labeled immediately with the member's name substantially as it appears on the membership roster, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0402(b).
24	Fail post permit	Failure to post permit	<<Title>>, <<Name>>, failed to post each ABC permit held by the establishment in a prominent place on the premises, on or about <<Date>>, at <<Time>>, in violation G.S. §18B-904(b).
25	Fail clean	Failure to keep clean and well lighted	<<Title>>, <<Name>>, failed to keep the licensed premises clean, arranged and well-lighted to allow ready access and observation by enforcement officers and to avoid any undue hazards to patrons, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0215(b).
26	Fail main receipts	Retailer fails maintain records of beer and wine	<<Title>>, <<Name>>, failed to keep the sales tickets and delivery receipts furnished by the wholesaler, as well as all other records of purchases of malt beverages and wine, filed separate and apart from all other records, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2T.0602(d).
27	Resist delay obstruct	Resist Delay Obstruct	<<Title>>, <<Name>>, resisted or obstructed, <<third>>, an officer attempting to make a lawful inspection of the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-502(b).
28	Underage in charge	Under 18 Emp	<<Title>>, <<Name>>, a person who was not at least 18 years old, was left in charge of the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0205(b).

Attachment
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29	Fail superintend	Fail to Superintend	Permittee, <<Name>>, failed to superintend in person or through a manager the business for which a permit was issued, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1005(b).
30	Refilling	Refilling Mixed Beverage liquor	<<Title>>, <<Name>>, refilled spirituous liquor containers having a mixed beverage stamp with other alcoholic beverages or added to the contents of such containers from other alcoholic beverages, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1007(b)(2).
31	Drug paraphernalia	Possession of drug paraphernalia	<<Title>>, <<Name>>, knowingly possessed drug paraphernalia to inject, inhale or otherwise introduce into the body a controlled substance which would be unlawful to possess, while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of NCGS §18B-1005(a)(3) and NCGS §90-113.22(a).
32	Tax stamp transfer	Moving tax stamp from one bottle to another	<<Title>>, <<Name>>, transferred a mixed beverage tax stamp from one spirituous liquor container to another, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 25.0513(2).
33	Poss stolen property	Poss Stolen Property	<<Title>>, <<Name>>, possessed stolen property knowing the same to have been feloniously taken or carried away, while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1005(a)(3) and G.S. §14-71.1.
34	More than one brand open	More than one of the same brand open at bar	<<Title>>, <<Name>>, possessed more than one open bottle of the same brand of spirituous liquor at the same mixing station, upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 25.0512(b).
35	Ineligible permittee	Ineligible due to conviction	Permittee, <<Name>>, was convicted of (statute and charge), on (date of conviction), in (court of conviction). Therefore, permittee is ineligible to hold ABC permits pursuant to G.S. §18B-900(a)(3).
36	Allow fighting	Knowingly allow fight or other disorderly conduct	<<Title>>, <<Name>>, knowingly allowed fighting or other disorderly conduct that could have been prevented without undue danger to the permittee, his employees or his patrons, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1005(a)(2).
37	WS w/o retail perm	Wholesaler sells to an unlicensed retailer	<<Title>> and holder of a Salesman permit, <<Name>>, sold fortified wine for the purpose of resale, to <<third>>, a person who holds neither a fortified wine wholesaler nor a retailer license, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1107(2).
38	Happy hour	Happy Hour	<<Title>>, <<Name>>, gave away or sold alcoholic drinks at a price that is different from the usual price / for less than the entire business day / to a segment of the population, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 25.0232(b).
39	Sale during suspension	Conduct sales during active suspension of permits	<<Title>>, <<Name>>, conducted sales of alcoholic beverages on the licensed premises while the permit authorizing that activity was under suspension and allowed alcoholic beverages to be removed from the premises during the suspension period, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 25.1101(a).
40	Fail file manager change	Fail to file mgr change	<<Title>>, <<Name>>, failed to submit to the Commission an application for substitution of a manager within 30 days after his/her employment as manager, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-904(d).
41	Fail register permits	Failure to Register Permits	Permittee failed to register ABC permits by May 1, 201x, in violation of G.S. §18B-903(b1).
42	Aid & abet underage	aid and abet underage purchase of beer	<<Title>>, <<Name>>, a person over 21 years of age, did aid and abet <<third>>, a person less than 21 years of age, to possess malt beverages, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-302(c)(2).
43	Emp consume in uniform	Employee wearing uniform while consuming	<<Title>>, <<Name>>, consumed alcoholic beverages upon the licensed premises while wearing his/her employee uniform, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 25.0212(a)(2).

44	Maintain living quarters	Maintain Living Qtrs directly attached to ABC bus.	<<Title>>, <<Name>>, established or maintained living quarters in or connected to the licensed premises, on or about the <<Date>>, in violation of ABC Commission Rule 4 NCAC 2S.0102(e).
45	Possess nontaxpaid	Possessed Nontaxpaid Liquor	<<Title>>, <<Name>>, possessed nontaxpaid alcoholic beverages, while upon the licensed premises, on or about <<Date>>, in violation of G.S. §18B-111.
46	Fail membership roster	Failure keep membership roster for a private club	<<Title>>, <<Name>>, failed to maintain on the premises a current alphabetical roster of all members and their complete addresses, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0107(c)(7).
47	Fail food available	restaurant fails to have food avail and serves alc	<<Title>>, <<Name>>, failed to have food available at all times that alcoholic beverages are being served, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0105(a).
48	Premix	Mixed bev premixing without authorization	<<Title>>, <<Name>>, premixed mixed beverages prior to receiving an order for the beverage from a customer and without receiving ABC Commission approval, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0511(a) and/or (b).
49	Fail coop w/ LEO	Failure to cooperate with law enforcement officer	<<Title>>, <<Name>>, interfered with or failed to cooperate with <<third>>, an officer engaged in the performance of his duties, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0213.
50	Disorderly conduct	P	<<Title>>, <<Name>>, engaged in an affray or disorderly conduct while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0210.
51	Fail coop w/ inspection	Failure to cooperate with an inspection	<<Title>>, <<Name>>, refused to permit ALE Special Agent <<third>> to enter an area of the premises to make a lawful ABC inspection, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-502 (a) OR (b).
52	WS poss unapvd prdct	Sale of unapproved malt beverage by a wholesaler	<<Title>>, <<Name>>, sold and offered for sale, malt beverage products that had not been first approved by the ABC Commission for sale in this State, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rules 4 NCAC 2T.0201(a) and 4 NCAC 2T.0601.
53	WS del MB rtir no pmt	Wslr Delvr Malt Bev to Retailer w/o proper permits	<<Title>>, <<Name>>, did sell, deliver or ship closed containers of malt beverage to <<Third>>, a retailer not in possession of a malt beverage permit, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1109(a)(2).
54	Gambling - pools	Gambling catchall where no equipment involved	<<Title>>, <<Name>>, did participate in or did allow the operation of a game of chance where money, property, or other thing of value was bet, on or about <<Date>>, at <<Time>>, in violation of G.S. §14-292 and G.S. §18B-1005(a)(3).
55	Ad - Happy Hour	Advertising drink special violation Happy Hour	<<Title>>, <<Name>>, did advertise a promotion of the purchase of more than one alcoholic beverage for a single price or requiring the purchase of more than one alcoholic beverage, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0232 and 4 NCAC 2S.1006(f).
56	Fail destroy unconsumed	Failure to destroy unconsumed alcoholic beverages	<<Title>>, <<Name>>, did fail to destroy immediately the unconsumed portion of an alcoholic beverage left by a customer while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0229.
57	Fail qualify - hotel	Fail Qualify as Hotel	The establishment has failed to qualify as being substantially engaged in the business of furnishing lodging, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1000(4).
58	Fail dispose	Fail to dispose spirituous liquor container	<<Title>>, <<Name>>, failed to dispose of a bottle of spirituous liquor immediately upon the container becoming empty, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0512(e).

59	WS del wine - no permit	W	<<Title>>, <<Name>>, a wine wholesaler, did sell fortified wine or unfortified wine to <<Third>>, a person who did not hold a retail or wholesale fortified or unfortified wine permit, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2T.0602(a).
60	Nonapproved area	Alcohol on nonapproved areas of licensed premises	<<Title>>, <<Name>>, did allow the sale, possession, consumption or storage of alcoholic beverages in an area of the premises other than those specifically approved by the Commission, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0231(a).
61	Happy hour - # of drinks	Happy Hour - more than one drink per customer	<<Title>>, <<Name>>, did deliver more than one drink at one time to a single patron for his/her personal consumption, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0232(a)(3).
62	Fail main food inventory	Fail to maintain food inventory	<<Name>>, <<Title>>, did have an off-premise fortified wine permit and failed to maintain an inventory of staple foods worth at least \$1,500, while on licensed premises that did not qualify as a wine shop, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0102(k).
63	Fail qualify - restaurant	Fail to maintain food percentage of sales	The establishment failed to qualify as a restaurant by maintaining less than 30% of total gross receipts from food and nonalcoholic beverages, from <<Date>> through <<Date>>, in violation of G.S. §18B-1000(6), and is therefore ineligible to have a Mixed Beverages Restaurant permit pursuant to G.S. §18B-1001(10).
64	Fail main inventory rec	Fail main 1st yr - daily inventory records	<<Title>>, <<Name>>, failed to maintain on a daily basis, during the first year of operation, an accurate inventory of spirituous liquor on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0512(f).
65	Transfer alc btwn stores	Transfer Alc between stores w/ same owner	<<Title>>, <<Name>>, did own more than one licensed retail establishment and transferred alcoholic beverages between establishments without getting prior approval in writing from the ABC Commission, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0236.
66	Deface before empty	Deface Tax Stamp / seal before empty	<<Title>>, <<Name>>, did destroy, alter or deface the mixed beverage tax stamp, or other label or seal required to be affixed to a liquor container, before the container had been emptied, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0513(3).
67	Fail determine age	Fail to determine age of person possess alcohol	<<Title>>, <<Name>>, failed to determine the age of <<third>>, a person possessing (or consuming) alcoholic beverages on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0233(b).
68	Solicitation	Knowingly solicit crime against nature	<<Title>>, <<Name>>, did knowingly solicit <<third>>, to engage in a crime against nature, to wit: fellatio, while upon the licensed premises, on or about <<Date>> at <<Time>>, in violation of G.S. §14-177 and G.S. §18B-1005(a)(3).
69	Improper exterior sign	Fail have exterior sign w/ trade name	<<Title>>, <<Name>>, failed to have, within 60 days of receipt of permit, at least one exterior sign stating the trade name of the licensed premises as it appears on the permit, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0220.
70	Fail key available	Fail to have key available for storage of liquor	<<Title>>, <<Name>>, failed to have a key available on the premises at all times to unlock a locked designated storage area for spirituous liquor, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0512(c).
71	Permit eligibility	Fail main corporate status - no longer eligible	On <<Date>>, Permittee's status as a corporation was suspended by the Secretary of State of North Carolina pursuant to G.S. §105-230 and G.S. §105-232. Therefore, Permittee no longer meets the definition of "person" under G.S. §18B-101(12) and as a result is no longer eligible to receive and hold an ABC permit pursuant to G.S. §18B-900(a).
72	Membership	Improper membership procedures	<<Title>>, <<Name>>, granted a membership to the private club sooner than three days after receipt of the application, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0107(c)(5).

73	Unlawful act	Miscellaneous rare offenses	<<Title>>, <<Name>>, did....., while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of
74	Allow unauth possess	Allow unauthorized possession of alcohol	<<Title>>, <<Name>>, did allow <<Third>> to possess or consume (spirituous liquor or fortified wine or mixed beverages) on the licensed premises where such possession or consumption of (spirituous liquor or fortified wine or mixed beverages) was not authorized, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-301(f)(3) OR (4).
75	Advertising - content	Advertising content violation	<<Title>>, <<Name>>, a mixed beverage permittee, did name, display, picture or make reference to a particular spirituous liquor brand or company name in media advertising (circular, newspaper, magazine, radio or television), (to wit, "Crown & Coke"), on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.1010(c)(1).
76	Permit - copy	Permit - facsimile or false	<<Title>>, <<Name>>, did produce, possess or display a false or facsimile permit, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1006(e).
77	Transfer permit	Transfer permit between persons or locations	<<Title>>, <<Name>>, did transfer an ABC permit from one person to another (or from one location to another), on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-903(e).
78	Fail entire premises open	Fail to have entire premises open for inspection	<<Title>>, <<Name>>, failed to have the entire licensed premises open for viewing during inspection by an alcohol law-enforcement agent or officer, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-502(a).
79	Underage employee	Employee not sufficient age to serve alcohol	<<Title>>, <<Name>>, a person under the age of 18, did prepare, serve, sell, dispense or deliver alcoholic beverages, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §95-25.5(j)(2) and ABC Commission Rule 4 NCAC 2S.0205(d) and (e).
80	Unlawful possess/consume	Possess/consume w/o proper permit	<<Title>>, <<Name>>, did sell, offer for sale, possess or knowingly allow the possession or consumption of alcoholic beverages (to wit, TYPE OF ALCOHOL), the sale or possession of which is not authorized by the ABC laws or by the permits issued to that permittee, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0211.
81	Pvt Club - 2S.0107(c)	Private Club Membership Requirements	<<Title>>, <<Name>>, failed to -----, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0107(c)(xxx).
82	BB - storage	BB storage of members alcohol	<<Title>>, <<Name>>, failed to insure that members' alcohol was stored in....., while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0103(a)(1), (2) OR (3).
83	Local license	Fail to obtain/post Local license	<<Title>>, <<Name>>, failed to obtain or post the appropriate city/county beer and wine retail license, on or about <<Date>>, at <<Time>>, in violation of G.S. §105-113.70(a), [[§105-113.77(a) OR G.S. §105-113.78]], §105-113.73 and §18B-1005(a)(3).
84	Fail file audit reports	Fail to file reports as required by Audit	<<Title>>, <<Name>>, a mixed beverage permittee, failed to file financial reports on a (monthly/ quarterly/ annual) basis, as of <<Date>>, regarding the sale of alcohol and other related information, as requested by the Audit Division of the NC ABC Commission, from (date) through (date), in violation of ABC Commission Rule 4 NCAC 2S.0518(d) OR 2S.0520(d).
85	Prohibited employee	Ineligible employee due to conviction	<<Title>>, <<Name>>, did knowingly employ in the sale or distribution of alcoholic beverages a person, <<Third>>, who is prohibited due to a conviction of felony within three years OR alcoholic beverage offense within two years OR misdemeanor controlled substance offense within two years (conviction info), on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1003(c)(1) OR (3) OR (4).

86	Audit reports	Audit Report - inaccurate, false	<<Title>>, <<Name>>, failed to, on or about <<Date>>, at <<Time>>, in violation of
87	Employ disqualified persn	Employing a disqualified person	<<Title>>, <<Name>> knowingly employed <<Third>> in the sale and distribution of alcoholic beverages, after <<Third>> had been convicted of (charge) on or about (date of conviction), in (court of conviction), in violation of G.S. §18B-1003(c)(3).
88	WS trade practice	Wholesale - Retail Services & Things of Value	<<Title>>, <<Name>>, did provide to RETAILER, on or about <<Date>>, in violation of ABC Commission Rule 4 NCAC 2T.0711 / .0712 / .0713.
89	No longer suitable	Business or location no longer suitable	The location occupied by the permittee is no longer suitable to hold ABC permits or the operation of the business with an ABC permit at that location is detrimental to the neighborhood due to (description), occurring on or about <<Date>>, at <<Time>>, pursuant to G.S. §18B-904(e). Permittee's (xxx, Inc./LLC) status as a corporation/limited liability company has been suspended (administratively dissolved) by the Secretary of State of North Carolina pursuant to G.S. §105-230 and 232 (or G.S. §55-14-21). Therefore, Permittee no longer meets the definition of "person" under G.S. §18B-101(12), and as a result is no longer eligible "to receive and to hold an ABC permit" pursuant to G.S. §18B-900(a).
90	Sec of State susp	Corp susp/dissolved by Sec of State	Permittee, <<Name>>, a wholesaler, did distribute malt beverages to a retailer in a location in which permittee does not have a distribution agreement with the supplier for the distribution of said malt beverages, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1303(a).
91	WS no dist agreement	WS Deliver products outside distribution agreement	<<Title>>, <<Name>>, sold an amount of alcohol greater than the amount authorized by G.S. §18B-303(a) (to wit, TYPE OF ALCOHOL AND AMOUNT) to <<Third>>, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-303(b).
92	Unauth sale - amount	Exceed amount of alcohol that may be sold	<<Title>>, <<Name>>, failed to collect the full amount of the sale price, in cash or bona fide check, at the time of or prior to delivery of malt beverages or wine to <<Third>>, a retailer located in CITY, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2T.0604(a).
93	WS fail collect payment	WS Fail Collect at Delivery	<<Title>>, <<Name>>, did display the brand name of a malt beverage / wine to be viewed from the exterior of the premises / on the exterior of the premises on other than a food menu, on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.1008(a)(6) and/or 2S.1008(b)(1)(D).
94	Advertising - exterior	Brand name on exterior of premises	
95	Open container	Sale of Open Container - off-premise permit	<<Title>>, <<Name>>, did sell alcoholic beverages in an improper container for the permit issued [to wit,], while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0228(xx).
96	Consignment sales	Consignment sales of alcoholic beverages	Permittee, a malt beverage industry member, did sell, offer for sale, or contract to sell to (RETAIL permittee) [OR RETAIL permittee did purchase...from INDUSTRY member] any alcoholic beverages on consignment or under conditional sale, or waive the privilege of return, or on any basis other than a bona fide cash sale, on or about <<Date>>, in violation of ABC Commission Rule 4 NCAC 2T.0709(a).
97	Purch-trans permit	Fail to maintain purchase transportation permit	<<Title>>, <<Name>>, failed to maintain Purchase-Transportation Permit Invoices on the licensed premises for three years, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0502(c).
98	WS - no salesman permit	WS - Fail to obtain Salesman permit	<<Title>>, <<Name>>, failed to obtain a Salesman permit which authorizes the sale and delivery of malt beverages/wine, and did transport and deliver malt beverages/wine to (RETAILER), on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1111(b).
99	Sexual conduct	Sexually Explicit Conduct	<<Title>>, <<Name>>, did knowingly allow or engage in sexually explicit conduct, (to wit, [details]), while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1005.1(a)(1) or (2).
100	Video gaming machine	Possession of Video Gaming Machine	<<Title>>, <<Name>>, possessed a video gaming machine, while upon the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §14-306.1A, §14-306.2 and §18B-1005(a)(3).

101	Label alteration	Alter label on alc bev container	<<Title>>, <<Name>>, did alter, mutilate, destroy, obliterate or remove the mark, brand or label on wine or malt beverages kept for sale in North Carolina, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2T.0306.
102	Prescription meds	Dispense Rx meds w/o being licensed pharmacist	<<Title>>, <<Name>>, did dispense a prescription drug without being licensed as a pharmacist, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §90-85.3(f), §90-85.40(c) and §18B-1005(a)(3).
103	Emp possess cont sub	Employee possess controlled substance	<<Title>>, <<Name>>, possessed or used, or knowingly allowed <<Third>> to possess or use, a controlled substance or other illegal drug in violation of Chapter 90 of the North Carolina General Statutes, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0208.
104	Fail main invoices	Fail maintain records of alcoholic bev purchases	<<Title>>, <<Name>>, failed to maintain on the premises, available for inspection or audit for three years, all records including original invoices related to alcoholic beverages and mixed beverages, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0520(c).
105	Local lic. (business)	Local Business Privilege License	<<Title>>, <<Name>>, sold, or possessed for sale, alcoholic beverages after failing to obtain or renew applicable revenue license(s), on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-304(a).
106	Fail recycle	Failure to recycle beverage containers	<<Title>>, <<Name>>, an on-premise permittee, failed to separate, store and provide for the collection for recycling of all recyclable beverage containers of all beverages sold at retail on the premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §18B-1006.1.
107	Sale of bottle of liquor	Sell entire bottle of spirituous liquor	<<Title>>, <<Name>>, gave or sold to a patron a container of spirituous liquor that was purchased for resale as mixed beverages, whether the container is full or partially full, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.0513(8).
108	Possess weapon	Possess weapon where alcohol sold	<<Title>>, <<Name>>, did carry a gun, rifle or pistol into an establishment in which alcoholic beverages are sold and consumed, on or about <<Date>>, at <<Time>>, in violation of G.S. §14-269.3 and §18B-1005(a)(3).
109	Deliver paraphernalia	Manufacture or deliver drug paraphernalia	<<Title>>, <<Name>>, delivered, possessed with intent to deliver, or manufactured with intent to deliver, drug paraphernalia knowing that it will be used with a controlled substance which it would be unlawful to possess, on or about <<Date>>, at <<Time>>, in violation of G.S. §90-113.23 and §18B-1005(a)(3).
110	Glass tubes/splitters	Illegal transfer of glass tubes or splitters	<<Title>>, <<Name>>, did transfer a glass tubes or splitter without requiring, while on the licensed premises, on or about <<Date>>, at <<Time>>, in violation of G.S. §90-113.82(a), (b)(1)(2)(3), (c) and §18B-1005(a)(3).
111	Advertise - Private Club	Exterior Advertising prohibited for private clubs	Permittee, a private club, did advertise the availability of malt beverages, wine or mixed beverage products on an exterior sign, on or about <<Date>>, at <<Time>>, in violation of ABC Commission Rule 4 NCAC 2S.1008(b)(1)(F).

Sec. 10-18.1. - Special provisions relating to licenses for establishments holding ABC permits.

- (a) *Authority to deny ABC permit.* Pursuant to N.C.G.S. Sec. 105-113.71, the town council may refuse to issue an annual local license, or renewal thereof, for the operation of an establishment required to receive an alcohol beverage privilege license from the town if the council finds that the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of the applicant's permit under the provisions of North Carolina General Statute 18B-104.
- (b) *Applications to be considered by town manager.* Initial applications for a town-issued alcohol beverage privilege license shall be submitted to the town revenue collector for evaluation by the town manager and the manager's designee(s). Specifically, but without limitation, the revenue collector shall refer all such applications and all annual license renewals to the police, fire, and inspections departments.
- (1) If none of the three (3) departments recommends the license be denied and no other information is received by town manager indicating grounds for the manager to consider denial, the revenue collector shall issue the license upon payment of the annual license fee.
- (2) If any one (1) of the three departments recommends that denial of said application be considered, the matter shall be referred to the town manager, who shall review the recommendations of the three (3) departments and any other relevant information received by the manager.
- a. If the manager determines that there is not sufficient reason to consider denial or non-renewal of an application, he shall issue his determination and direct that the license be issued.
- b. If the manager determines that there is sufficient reason to consider denial or non-renewal of an application on grounds provided for in paragraph (a) above, the manager shall refer the application to the town council for its consideration at the next regular meeting of the council.
- (c) *Consideration by town council.* Upon receiving a recommendation from the town manager that an application for an alcohol beverage privilege license or renewal be denied, before considering whether to deny the license, the council shall give the applicant an opportunity to appear at a hearing before the council and to offer evidence. Any hearing held under the provisions of this section shall be upon at least ten (10) days' notice to the applicant. All persons who present evidence at such a hearing shall be sworn and parties shall have the right to cross-examine witnesses.
- (d) *Process following council hearing.* At the conclusion of the hearing the council shall make written findings of fact based on the evidence presented at the hearing. If the council finds that the application should be issued, it shall direct the manager to issue the requested license. If the council finds that the license should be denied, it shall enter its decision.
- (e) *Appeal to superior court.* The applicant may appeal the denial of a license to the Orange County Superior Court, by an action in the nature of certiorari, if notice of appeal is given within ten (10) days of the denial.
- (f) *Manager to establish administrative policies.* The town manager shall establish any administrative policies and application forms necessary to implement this section.

(Ord No 96-4-2 O-3, § 2 Ord No 2001-04-09/O-5, § 1)

State law reference— Local government may refuse to issue license, G.S. § 105-113.71(a).



City Attorney's Office

CITY OF GREENVILLE

North Carolina

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TO: Persons with a City of Greenville Privilege License for
the Retail Sale of Beer and Wine

FROM: David A. Holec, City Attorney

DATE: December 20, 2011

SUBJECT: NOTICE OF PUBLIC HEARING

The City Council of the City of Greenville will hold a public hearing on the 12th day of January, 2012, at 7:00 P.M., in the Council Chambers of City Hall, 200 West Fifth Street, Greenville, North Carolina in order to consider the adoption of an ordinance which establishes the procedure for the City Council to refuse to issue, as allowed by North Carolina General Statute 105-113.71, an annual local license for the retail sale of beer and wine if the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of the applicant's permit under the provisions of North Carolina General Statute 18B-104.

A copy of the proposed ordinance is on the reverse side of this sheet and is also on file in the City Clerk's office located at 200 West Fifth Street where it is available for public inspection during normal working hours Monday through Friday.

On the basis of objections, debate and discussion at the hearing, changes may be made from what has been proposed.

Persons having interest in this matter and desiring to speak either for or against the proposed Ordinance are invited to be present and will be given an opportunity to be heard.

If you have any questions, please contact City Attorney David A. Holec at 252-329-4426.

Sec. 3-2-45. - Special provisions relating to licenses for establishments holding ABC permits.

(a) *Authority to deny ABC permit.* Pursuant to North Carolina General Statute 105-113.71, the City Council may refuse to issue an annual local license, or renewal thereof, for an establishment required to receive an alcohol beverage privilege license from the city if the City Council finds that the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of the applicant's permit under the provisions of North Carolina General Statute 18B-104.

(b) *Consideration of applications.* Initial applications for an alcohol beverage privilege license issued by the city and applications for the renewal of an alcohol beverage privilege license issued by the city shall be submitted to the City Collector of Revenue for evaluation by the City Manager or designee. Specifically, but without limitation, the City Collector of Revenue shall refer all such applications and all annual license renewals to the Police Department, Fire/Rescue Department, and the Inspections Division of the Public Works Department.

(1) If none of the three (3) departments recommends the license be denied, the City Collector of Revenue shall issue the license upon payment of the annual license fee.

(2) If any one (1) of the three (3) departments recommends that denial of said application be considered, the matter shall be referred to the City Manager or designee, who shall review the recommendations of the three (3) departments and any other relevant information received by the City Manager or designee.

a. If the City Manager or designee determines that there is not sufficient reason to consider denial or non-renewal of an application, he shall issue his determination and direct that the license be issued.

b. If the City Manager or designee determines that there is sufficient reason to consider denial or non-renewal of an application on grounds provided for in paragraph (a) above, the City Manager or designee shall refer the application to the City Council for its consideration.

c. For the purpose of this section, sufficient reason for the City Manager or designee to refer the application for consideration by City Council shall mean that the applicant has committed an act or permitted an activity, other than a violation relating to tax stamps or audit reports, at least three (3) times during the most recent twelve (12) month period, that would be grounds for suspension or revocation of the applicant's permit under the provisions of North Carolina General Statute 18B-104 and the City Manager or designee determines that it is in the public interest to not issue the annual local license.

(c) *Consideration by City Council.* Upon receiving a recommendation from the City Manager or designee that an application for an alcohol beverage privilege license or renewal be denied, before considering whether to deny the license, the City Council shall give the applicant an opportunity to appear at a hearing before the City Council and to offer evidence. Any hearing held under the provisions of this section shall be upon at least ten (10) days' notice to the applicant. All persons who present evidence at such a hearing shall be sworn and parties shall have the right to cross-examine witnesses.

(d) *Process following City Council hearing.* At the conclusion of the hearing, the City Council shall make written findings of fact based on the evidence presented at the hearing. If the City Council finds that the application should be issued, it shall direct the requested license be issued. If the City Council finds that the license should be denied, it shall direct the requested license not be issued.

(e) *Appeal to superior court.* The applicant may appeal the denial of a license to the Pitt County Superior Court, by an action in the nature of certiorari, if notice of appeal is given within ten (10) days of the denial.

Trade Name	Address	City	Stat	Zip	Received Date	Reporting Officer	Violation Type
5th Street Distillery	120 East 5th Street	Greenville	NC	27858	7/22/2010 11:43	Chad Roeder	Perform service after, Unlawful possess/consume
A J McMurphys	1914 Turnbury Drive	Greenville	NC	27858	8/25/2011 12:53	Chad Roeder	Perform service after,Emp intoxicated
Boli's 5th Street Pizzeria	123 East 5th Street	Greenville	NC	27858	4/26/2010 8:42	Darci K. Lanaghan	Fail file audit reports
Charles Grill	5135 County Home Road	Greenville	NC	27858	2/2/2011 17:28	NULL	STU,STU
Chefs 505	505-C Red Banks Road	Greenville	NC	27858	9/20/2010 17:00	NULL	Tax stamp not defaced,Refilling, Tax stamp missing
Chilis Grill and Bar	3050 South Evans Street	Greenville	NC	27834	2/24/2011 13:13	Randy Andrews	STU
City Gas	1799 North Greene Street	Greenville	NC	27834	3/23/2011 10:06	Chad Roeder	STU
Club 519	519 Cotanche Street	Greenville	NC	27858	4/6/2010 15:23	Chad Roeder	Fail clear tables,Fail membership roster
Club 519	519 Cotanche Street	Greenville	NC	27858	1/21/2011 17:45	Chad Roeder	After hr - consume,Fail clear tables,Emp intoxicated,Perform service after
D and M City Market Food Store	211 South Jarvis Street	Greenville	NC	27858	7/14/2011 10:46	Randy Andrews	STU
Dolce Vita Wine and Beer	3110-F South Evans Street	Greenville	NC	27834	3/23/2011 9:05	Chad Roeder	STU
Duck Thru Food Store 13	621 Greenville Blvd	Greenville	NC	27858	7/15/2011 16:03	NULL	STU
Duck Thru Food Store 15	1301 Charles Blvd	Greenville	NC	27834	3/9/2011 16:56	Matt Knight	STU
Duck Thru Food Store 15	1301 Charles Blvd	Greenville	NC	27834	6/1/2011 12:50	Greg Murphy	STU
Duck Thru Food Store 20	1900 Greenville Blvd	Greenville	NC	27858	7/14/2011 10:46	Randy Andrews	STU
Faces	2713 East 10th Street	Greenville	NC	27858	12/17/2009 16:40	NULL	Fail purchase from WS,Fail file audit reports
Faiz	1311 West 5th Street	Greenville	NC	27834	2/4/2010 15:34	Greg Murphy	Fail purchase from WS
Food Lion 1492	3700 South Memorial Drive	Greenville	NC	27834	6/24/2011 13:28	Randy Andrews	STU
Fresh Market	950 Criswell Drive Unit 111	Greenville	NC	27834	7/14/2011 10:47	Randy Andrews	STU
Georges Lounge	2394 Bell Arthur Road	Greenville	NC	27834	4/5/2011 9:17	Chad Roeder	STU
Hillsdale Club	Route 15, Hillsdale Community	Greenville	NC	27834	5/13/2010 13:16	Randy Andrews	Sell/possess w/o permit
Japan Inn	739 Red Banks Road	Greenville	NC	27858	3/8/2010 14:53	NULL	Fail clear tables,Transfer Alc Btwn Stores,Fail Recycle,Unauthorized Spirits/Fort
Jolly Roger	405 East 14th Street	Greenville	NC	27858	9/30/2011 16:47	Russell King	STU
Jolly Rogers	405 East 14th Street	Greenville	NC	27858	2/22/2011 16:23	Chad Roeder	STU
Kangaroo Express 901	2600 South Charles Street	Greenville	NC	27858	1/23/2011 18:01	Russell King	STU,Emp possess cont sub
Kangaroo Express 901	2600 South Charles Street	Greenville	NC	27858	1/21/2011 17:46	Chad Roeder	STU
Kangaroo Express 901	2600 South Charles Street	Greenville	NC	27858	5/24/2011 11:23	Matt Knight	STU
La Hacienda Mexican Grill	315 East 10th Street	Greenville	NC	27858	9/13/2011 11:01	Russell King	Underage in charge,Premix,Tax stamp missing
Levels	111 East 5th Street	Greenville	NC	27858	8/25/2011 12:55	Randy Andrews	Perform service after,Fail clear tables
Mac Billiards	517 Cotanche Street	Greenville	NC	27858	1/12/2011 10:53	Greg Murphy	STU
Marks Food Market	2205 Pactolus Hwy	Greenville	NC	27834	1/7/2011 15:03	Greg Murphy	STU
Mazatlan Mexican Restaurant III	101 Eastbrook Drive	Greenville	NC	27858	1/7/2010 13:34	Russell King	Tax Stamp Missing,Tax Stamp Not Defaced,Fail dispose
Mazatlan Mexican Restaurant III	101 Eastbrook Drive	Greenville	NC	27858	7/5/2011 11:22	Chad Roeder	Refilling, Tax stamp missing
O'Charley's 382	610 SE Greenville Blvd	Greenville	NC	27858	9/20/2010 17:00	Randy Andrews	STU
O'Kupas Pub and Grill	610 SW Greenville Blvd	Greenville	NC	27858	5/9/2011 11:58	Chad Roeder	STU
Other Place	207 East 5th Street	Greenville	NC	27858	8/2/2010 11:01	Russell King	Allow intox consume,Fail clear tables
Other Place	207 East 5th Street	Greenville	NC	27858	7/6/2011 9:53	NULL	Local license,Fail dispose,Fail recycle,Fail main receipts,Open to public,Open to public
Other Place	207 East 5th Street	Greenville	NC	27858	8/22/2011 17:04	James Casteen	Fail file audit reports
Pantana Bobs	513 Cotanche Street	Greenville	NC	27858	12/29/2009 9:22	Randy Andrews	Fail clear tables
Pastime Billiards and Pub	3400 South Memorial Drive Suite 3	Greenville	NC	27834	11/6/2009 16:11	Greg Murphy	Open to Public,Gambling - pools
Pirates Choice Exxon	100 SE Greenville Blvd	Greenville	NC	27858	3/8/2010 14:54	Chad Roeder	STU,STU
Pitt Street Mini Mart	1701 South Pitt Street	Greenville	NC	27834	8/2/2010 11:08	NULL	Controlled substance
Players Retreat	1631 Pactolus Hwy	Greenville	NC	27834	10/18/2011 14:53	James Sasser	Allow fighting,Fail superintend
Plaza Azteca Restaurante Mexicano	400 SW Greenville Blvd	Greenville	NC	27834	2/24/2011 13:10	Chad Roeder	STU
Plaza Azteca Restaurante Mexicano	400 SW Greenville Blvd	Greenville	NC	27834	7/6/2011 9:54	Randy Andrews	NULL
Professor O'Cool's	605-A Greenville Blvd SE	Greenville	NC	27834	7/6/2011 9:54	Randy Andrews	STU,STU

Rehab Lounge	218 East 5th Street	Greenville	NC	27858	8/22/2011 16:24	James Casteen	Fail file audit reports
Rehab Lounge	218 East 5th Street	Greenville	NC	27858	9/30/2011 16:43	Greg Murphy	Fail file audit reports,Emp possess cont sub,Drug paraphernalia
Rumors	417 Cotanche Street	Greenville	NC	27858	7/15/2011 16:36	Ashley Weaver	STU
Sheetz	1201 Portertown Road	Greenville	NC	27858	9/20/2010 17:00	Randy Andrews	STU
Sheetz	1201 Portertown Road	Greenville	NC	27858	10/18/2011 15:03	Randy Andrews	Perform service after,Emp intoxicated
Still Life	511 Cotanche Street	Greenville	NC	27858	11/20/2009 14:57	Robert Daughtry	NULL
Still Life	511 Cotanche Street	Greenville	NC	27858	11/20/2009 15:00	Russell King	Fail determine age,Fail superintend,Open to Public
Still Life	511 Cotanche Street	Greenville	NC	27858	1/29/2010 9:49	Chad Roeder	Sale to Intox
Still Life	511 Cotanche Street	Greenville	NC	27858	5/16/2011 16:11	James Sasser	Aid & abet underage,Open to public,Fail superintend
T Rayz	4551 Hwy 43	Greenville	NC	27858	8/12/2011 13:17	James Sasser	After hr - consume,Sell/possess w/o permit,BB - storage,Open to public,Fail clear tables
Tank	420 Cotanche Street	Greenville	NC	27858	12/18/2009 8:54	Darci lanaghan	Fail file audit reports
Tank	420 Cotanche Street	Greenville	NC	27858	1/11/2011 13:59	Greg Murphy	NULL
Tank	420 Cotanche Street	Greenville	NC	27858	1/21/2011 17:46	Chad Roeder	NULL
Tavern on 4th Street	110 East Fourth Street	Greenville	NC	27858	9/13/2010 12:49	NULL	STU,Open to public,Allow intox consume
Tie Breakers Sports Bar and Billiards	1920 Smythewyck Drive Suite A-B	Greenville	NC	27858	9/8/2011 16:42	Chad Roeder	NULL
Upper Deck Sports Bar and Grill	703 SE Greenville Blvd	Greenville	NC	27858	6/24/2011 13:28	Randy Andrews	Tax stamp missing,Fail recycle
Wilco 1801	1601 Greenville Blvd	Greenville	NC	27834	2/2/2011 17:27	Chad Roeder	STU
Winslows Deli	120 West 5th Street	Greenville	NC	27858	5/13/2010 16:42	Greg Murphy	STU



City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Order to close a portion of Skinner Street and Smith Street

Explanation: Attached for City Council's consideration is an Order to Close a Portion of Skinner Street and Smith Street. The attached map identifies the segments of right-of-ways to be closed.

City Council adopted a Resolution of Intent to close these street segments during their December 8, 2011 meeting and also set the date for the public hearing on the request for its January 12, 2012 City Council meeting.

In pursuant to the provisions of G.S. 160A-299, the Resolution of Intent was advertised in the Daily Reflector on four consecutive Mondays (December 19 & 26, 2011 and January 2, & 9, 2012). Signs displaying the notice of a public hearing, the adopted Resolution of Intent, and a site map were posted on December 14th, 2011 at two prominent locations on the street sections to be closed. The resolution was also delivered by certified mail to adjoining property owners as listed on the Pitt County tax records.

The Municipal and Crossing Closures Agreement with North Carolina Department of Transportation, CSX Transportation, Inc., Carolina Coastal Railway, and Norfolk Southern Railway Company, dated May 7, 2010, and approved by City Council on June 7, 2011 as Contract No. 1863, lists five (5) at-grade municipal street crossings to be removed and permanently closed. The Skinner Street crossing, Crossing No. 645 509U, is one of these crossings.

At the Skinner Street crossing the City of Greenville is the adjoining property owner on the south side of Carolina Coastal Railway and along both sides of Skinner Street for a distance of about 369 feet. Once the Skinner Street railroad crossing is closed, the section of Skinner Street adjoining City property will no longer be needed to provide access to privately owned property or other City streets.

Fiscal Note: Budgeted funds for the maintenance of these street sections will no longer be

required upon adoption of a Resolution to Close by City Council. The City will no longer receive Powell Funds for these street sections.

Recommendation: City Council hold a public hearing and approve the Order to Close the Portions of Skinner Street and Smith Street identified on the attached street closing map.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

- [Municipal Agreement](#)
 - [Skinner Street and Smith Street Closing Map](#)
 - [Resolution to Close a portion of Skinner Street and Smith Street 914948](#)
-

STATE OF NORTH CAROLINA
COUNTY OF PITT

Prepared by: City of Greenville
Return to: City of Greenville
PO Box 7207
Greenville, NC 27834

**RESOLUTION CLOSING A PUBLIC STREET
PORTION OF SKINNER STREET AND SMITH STREET**

**RESOLUTION NO. _____
AN ORDER OF THE CITY COUNCIL
OF THE CITY OF GREENVILLE, NORTH CAROLINA
TO CLOSE A PORTION OF SKINNER STREET AND SMITH STREET**

WHEREAS, the City Council of the City of Greenville, at its December 8th, 2011 meeting, adopted a resolution declaring its intent to close a portion of Skinner Street and Smith Street and

WHEREAS, pursuant to the provisions of G.S. 160A-299, said resolution was published once a week for four (4) successive weeks in The Daily Reflector setting forth that a hearing will be held on the 12th day of January 2012, on the question of the closing a portion of Skinner Street and Smith Street; and

WHEREAS, a copy of the resolution was sent by certified mail to all owners of the property adjoining the portion Skinner Street and Smith Street, as shown on the County tax records, and a notice of the closing and the public hearing was prominently posted in at least two (2) places along said portions of streets; and

WHEREAS, a hearing was conducted on the 12th day of January 2012, at which time all persons interested were afforded an opportunity to be heard on the question of whether or not the closing will be detrimental to the public interest or the property rights of any individual; and

WHEREAS, it appears to the satisfaction of the City Council of the City of Greenville, North Carolina, after conduction of said hearing, that the closing of a portion of West Gum Road is not contrary to the public interest, and that no individual owning property in the vicinity of said street or in the subdivision in which said street is located would thereby be deprived of reasonable means of ingress and egress to their property; and

IT IS NOW THEREFORE ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that, upon the effective date of this Order, the property described below be and the same is closed, and all right, title and interest that may be vested in the public to said area for street purposes is released in accordance with the provisions of G.S. 160A-299:

- To Wit: Being a portion of the 1700 block of Skinner Street and Smith Street as shown on the plat entitled, "Street Closing Map, Portion of Skinner Street and Smith Street", prepared by the City of Greenville, dated November 22, 2011.
- Location: Lying and being in the City of Greenville, Pitt County, North Carolina, south of Carolina Coastal Railway and north of Norris Street with said street sections being more accurately described as follows:
- Description: BEGINNING at a point at the intersection of the eastern right of way line of Skinner Street with the southern right of way of Carolina Coastal Railway, thence from said located POINT OF BEGINNING and running along the eastern right of way line of Skinner Street, S07°20'39"E - 369.26 feet to a point; thence running along a line perpendicular to Skinner Street, S 82°39'21"W - 50.00 feet to a point in the western right of way line of Skinner Street; along the western right of way line of Skinner Street, N 07°20'39"W - 15.0 feet to an existing iron pipe; thence continuing with the western right of way line of Skinner Street, N 07°20'39"W - 344.68 feet to an existing iron pipe located at the intersection of the western right of way line of Skinner Street with the southern right of way line of Smith Street; thence running along the southern right of way line of Smith Street, S 83°07'49"W - 408.89 feet to a point in a ditch; thence running along the center of the ditch, N21°16'32"E - 11.34 feet to a point in the southern right of way of Carolina Coastal Railway; thence running along the southern right of way line of Carolina Coastal Railway, N 83°07'49"E - 453.46 feet to a point in the eastern right of way of Skinner Street, the POINT OF BEGINNING, containing 0.5173 acres more or less as shown on a map titled "Street Closing Map, Portion of Skinner Street and Smith Street", prepared by the City of Greenville, dated November 22, 2011.

IT IS FURTHER ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that the City of Greenville does hereby reserve its right, title, and interest in any utility improvement or easement within the street closed pursuant to this order. Such reservation also extends, in accordance with the provisions of G.S. 160A-299(f), to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the City of Greenville.

IT IS FURTHER ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that this Order shall become effective on the first day work begins to remove and permanently close the at-grade municipal street crossing of Skinner Street, being designated as Crossing No. 645 509U, in the Municipal and Crossing Closures Agreement with North Carolina Department of Transportation, CSX Transportation, Inc., Carolina Coastal Railway, and Norfolk Southern Railway Company, dated May 7, 2010, and approved by City Council as Contract No. 1863 on June 7, 2011.

IT IS FURTHER ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that, upon the effective date of this Order, the Mayor and City Clerk are authorized to execute quit-claim deeds or other legal documents to prove vesting of any right, title or interest to those persons owning lots or parcels adjacent to the street in accordance with G.S. 160A-299(c), provided all costs shall be paid by any adjoining

landowner requesting such action, all documents must be approved by the City Attorney and all documents, when appropriate, must reserve to the City any easements retained by the City. The intent of this paragraph is to authorize the execution of quit-claim deeds when requested by adjacent property owners; however, none are required and this paragraph is not intended to alter the vesting of title by operation of law as established by G.S. 160A-299(c).

IT IS FURTHER ORDERED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE that a copy of this Order shall be filed in the Office of the Register of Deeds of Pitt County.

Duly adopted this the 12th day of January, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol Barwick, City Clerk

NORTH CAROLINA
PITT COUNTY

I, _____, a Notary Public, do hereby certify that Carol L. Barwick, City Clerk, personally appeared before me this day and acknowledged the due execution of the foregoing certification, for the purposes therein expressed.

WITNESS my hand and notarial seal this 12th day of January, 2012.

NOTARY PUBLIC

My Commission Expires: _____

NORTH CAROLINA
PITT COUNTY

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

AND

CITY OF GREENVILLE

AND

CSX TRANSPORTATION, INC.

AND

CAROLINA COASTAL RAILWAY

AND

NORFOLK SOUTHERN RAILWAY
COMPANY

5/7/2010

MUNICIPAL AND CROSSING
CLOSURES AGREEMENT

TIP #: Y-4802I

WBS Elements:

OTHER FUNDING:

THIS AGREEMENT is made and entered into on the last date executed below, by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, an agency of the State of North Carolina, hereinafter referred to as the "Department", the CITY OF GREENVILLE, a local government entity, hereinafter referred to as the "Municipality", CSX TRANSPORTATION, INC., a corporation of Virginia, hereinafter referred to as "CSXT" and CAROLINA COASTAL RAILWAY, a corporation of Virginia, hereinafter referred to as "CLNA" and NORFOLK SOUTHERN RAILWAY COMPANY, a corporation of Virginia, hereinafter referred to as "NS".

WITNESSETH:

WHEREAS, the Department, CSXT, CLNA and NS entered into separate Master Agreements for Grade Crossing Warning Devices executed 10/16/08, 1/22/08 and 3/28/08 respectively for the construction and implementation of signal improvements statewide, including but not limited to those municipal crossings referenced in this Agreement; and,

WHEREAS, said Master Agreements serve as a guide and set forth a process

between the Department, Municipality, CSXT, CLNA and NS for crossing improvements;
and,

WHEREAS, the Department and the Municipality, on the 4th day of September 2003, entered into an Agreement to conduct a Greenville Traffic Separation Study completed July 2008 that outlines certain near-term, mid-term and long-term recommendations for highway-rail at-grade crossings within the Municipality to include crossing closures, roadway improvements, and safety device enhancements as shown on the attached "Final Improvements Listing" (Exhibit "A"); and,

WHEREAS, said Agreement was supplemented on the 26th day of April, 2005 to include an investigation of the feasibility to improve rail capacity and transference of freight between CSX Transportation and Norfolk Southern Railway at the CSXT/NS railroad at-grade crossing; thereby dividing the Traffic Separation Study in two - (2) phases; and,

WHEREAS, Phase 1 consists of the feasibility study of improving the rail capacity and transference of freight at the CSXT/NS railroad at-grade crossing; and,

WHEREAS, Phase 2 consists of the comprehensive study and highway/railroad at-grade crossing analysis of the public crossing of the tracks of CSX Transportation and Norfolk Southern Railway within the Municipality; and,

WHEREAS, the analysis has been completed and the Municipality, by resolution on the 11th day of August 2008, has approved the recommendations in the Greenville Railroad Congestion Project Study (Phase 1) dated April 2008 and the Traffic Separation Study for the City of Greenville (Phase 2) , which include the closure of specific at-grade crossings; and,

WHEREAS, the Department and the Municipality have agreed to make a "best effort" to adhere to the finding of the analysis and implement the recommendations of the analysis; and,

WHEREAS, the Resolution adopted on the 11th day of August, 2008 ("Exhibit B") by the City Council of the City of Greenville approved the recommendations in the "Traffic Separation Study for the City of Greenville" and the "Greenville Rail Improvements Study"

including the closure and removal of the following municipal crossings: Gum Road (Crossing No. 641 859V), Dudley Street (Crossing No. 641 553R), Alley Street (Crossing No. 641 610C), Skinner Street (Crossing No. 465 509U), and S. Pitt Street (Crossing No. 465 496V) in Pitt County; and,

WHEREAS, the Department, Municipality, CSXT, CLNA and NS have agreed to participate in certain costs and/or other responsibilities in the manner and to the extent as hereinafter set out; and,

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

1. SCOPE OF PROJECT

The project consists of the following safety improvements:

(A) removal and permanent closure of the Crossing No. 641 859V (Gum Road), Crossing No. 641 553R (Dudley Street), Crossing No. 641 610C (Alley Street), Crossing No. 465 509U (Skinner Street), and Crossing No. 465 496V (S. Pitt Street) in Pitt County; and,

(B) construction of a new at-grade crossing on the CSXT rail line at Mile Post AA-152.95 to include signals and gates; said new crossing, including signals and gates to be funded entirely by the Municipality and covered by a separate agreement between CSXT and Municipality. In accordance with CSXT procedures, the removal and permanent closure of Crossing No. 641 859V (Gum Road), Crossing No. 641 553R (Dudley Street), Crossing No. 641 610C (Alley Street) shall be counted towards the Municipality receiving approval for the approval of the new at-grade crossing on the CSXT rail line; and,

(C) design and install/upgrade of grade crossing warning devices (automatic warning devices) and crossing surface widening improvements, as noted on attached Exhibit A; and,

(D) install railroad-preempted traffic signals on municipal system streets at the

grade crossing improvement project, as noted on attached Exhibit A.

2. FUNDING

Subject to compliance by all parties with the provisions set forth in this Agreement, and the availability of federal funds, the Department's Rail Division shall be responsible for the cost of the design and construction of those improvements as shown on Exhibit A, at no expense to the Municipality. Said work shall be charged against the Department's Rail Division Federal funds, Federal-aid Crossing Hazard Elimination Program, under TIP Project No. Y-4802I

3. PLANNING AND DESIGN

CONTENT OF PLAN PACKAGE

The Department, and/or its agent, shall be responsible for the preparation of the environmental and/or planning document, obtain any environmental permits, needed to construct the project, prepare a State approved erosion and sedimentation control plan, be responsible for the design of the project plans and specifications for the project and estimates (PS&E package) as appropriate, and administer and/or award the construction contract and supervise project construction as outlined in Provision 1 of this Agreement. Work will be determined by the environmental planning process and specified in the final construction plans. Said work shall be performed by the Department in accordance with Departmental and Federal standards and specifications, policies, procedures and local codes and ordinances, at no expense to the Municipality. Plans for said work shall be prepared by the Department and submitted to the Municipality, CSXT and CLNA for review. Written review comments from the Municipality CSXT and CLNA shall be received by the Department within sixty (60) days of submittal. If comments are not received within sixty days, the Department will presume plan approval and concurrence by the Municipality, and CSXT and CLNA. The Department shall have the right to abandon the project at any time before the Municipality has been called upon to perform any part of its agreement. All sites

selected for improvement, all plans for improvements and all contracts with CSXT and CLNA will be subject to the approval of the Municipality prior to CSXT and CLNA performing any work.

4. RIGHT OF WAY (ROW)/ UTILITY AUTHORIZATION

The acquisition for right of way, construction easements, and/or utility relocation may be undertaken only after the Municipality receives written authorization from the Department to proceed.

TIME FRAME FOR ROW ACTIVITY

The Municipality will accomplish all ROW activities, to include certification of ROW, within sixty (60) days after receipt of written authorization from the Department to proceed.

5. PROJECT LIMITS AND RIGHT OF WAY (ROW)

The Municipality, at no liability or expense whatsoever to the Department, shall be responsible for providing and/or acquiring any required right of way and/or easements for the Project.

The Department shall coordinate closures and removal of crossing surfaces within the operating right-of way with the Municipality, CSXT, NS, and CLNA.

RIGHT OF WAY GUIDANCE

The Municipality shall accomplish all right of way (ROW) activities, including acquisition and relocation, in accordance with the following: Federal Aid Policy Guide, Title 23 of the Code of Federal Regulations, Part 710, Subpart B, and Title 49 of the Code of Federal Regulations, Part 24, [Uniform Act] incorporated by reference at www.fhwa.dot.gov/legregs/directives/fapgtoc.htm; North Carolina General Statutes, Chapter 133, Article 2, Sections 133-5 through 133-18, Relocation Assistance, incorporated by reference at www.ncleg.net/gascripts/Statutes/Statutes.asp; and the North Carolina Department of Transportation Right of Way Manual.

CLEARANCE OF PROJECT LIMITS/RIGHT OF WAY

The Municipality shall remove and dispose of all obstructions and encroachments of any kind or character (including hazardous and contaminated materials) from said right of way, with the exception that the Municipality shall secure an encroachment agreement for any utilities (which shall remain or are) to be installed within said right of way. The Municipality shall indemnify and save harmless the Department, Federal Railroad Administration, and the State of North Carolina, from any and all damages and claims for damages that might arise on account of said right of way acquisition, drainage, and construction easements for the construction of said Project.

RELOCATION ASSISTANCE

The Municipality shall provide relocation assistance services and payments for families, businesses, and non-profit organizations being displaced by the Project in full accordance with the Federal relocation requirements of 49 Code of Federal Regulations, Part 24 [Uniform Act], as amended. Relocation assistance services and payments may be accomplished by contract with any other municipal corporation, or State or Federal agency, rendering such services upon approval by the Department and Federal Railroad Administration.

6. UTILITIES

The Municipality, and/or its agent, at no expense or liability to the Department, CSXT, CLNA or NS, shall exercise any rights which it may have under any franchise to effect all necessary changes, adjustments, and relocations of telephone, telegraph, and electric power lines; underground cables, gas lines, and other pipelines or conduits. All utility work shall be performed in a manner satisfactory to and in conformance with State and Federal rules and regulations, prior to beginning construction of the project. The Municipality shall submit a request, in writing, to all utility owners to relocate or adjust their facilities in accordance with the Right of Way Acquisition Policy contained in the Federal-

Aid Policy Guide, Title 23 of the Code of Federal Regulations, Part 710, Subpart B, incorporated by reference at: www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm.

If the Municipality and other authorized utility providers must maintain service in the areas proximate to the crossing, CSXT, CLNA and NS shall work with said parties to enter into standard license agreements for any utility transverse crossings for aerial or underground electric, telecommunication, water, sanitary sewer, storm sewer, natural gas and other facilities, public and/or private that presently exist and are being maintained. The Municipality or other authorized utility providers shall be responsible for providing a description of said utilities and descriptions of facilities and locations to CSXT, CLNA and NS for the development of the necessary instruments and shall sign and comply with said instruments. The Municipality shall not be responsible for payment of the normal and customary licensing fees for utilities it owns and maintains at the project site.

7. RIGHT OF WAY CERTIFICATION

The Municipality, upon acquisition of all right of way/property necessary for projects on a street maintained by the Municipality, shall provide the Right of Way Agent, located at the Agency's Local Right of Way Office, all required documentation (deeds/leases/easement/plans) to secure right of way certification from that office. Certification is only issued after all ROW is in public ownership or property is publicly accessible by a legal document and utilities in conflict with the project are relocated.

8. CONSTRUCTION

Subject to successful completion of the planning document and all required environmental work, the Department, and/or its agent, will construct the project in accordance with the plans and specifications adopted therefore or as altered or amended by the Department. The Department shall perform, or cause to be performed, the necessary construction engineering, sampling and testing, and supervision required prior to and during the construction of the Project. The Department shall have the right to abandon

the project at any time before the Municipality has been called upon to perform any part of its agreement.

The Department shall be responsible for all improvements to and repair of the municipal street approaches to the subject grade crossing closure project. Improvements shall consist of, but not be limited to, installation of all pavement markings, signs, drainage, sidewalk relocation/repair, fill materials, and pipe extensions. All work shall be performed within the existing rights of way and in accordance with Departmental and Federal standards and specifications, policies, procedures and local codes and ordinances, and the current CSXT, CLNA, and NS standard track construction specifications, the current AREMA Manual, Volume 1, the current NC DOT's Standard Specifications for Roads and Structures, and the grade crossing system manufacturers' specifications.

The Municipality shall allow the Department to install and/or construct said crossing signals and/or related safety improvements on city maintained streets at the specified at-grade crossings shown in the "Final Improvements Listing" (Exhibit "A").

The Department will notify the Municipality, CSXT and CLNA as to the date when Crossing No. 641 859V (Gum Road), Crossing No. 641 553R (Dudley Street), Crossing No. 641 610C (Alley Street), Crossing No. 465 509U (Skinner Street), and Crossing No. 465 496V (S. Pitt Street) in Pitt County can be closed and removed. The closing of Crossing No. 641 859V (Gum Road), Crossing No. 641 553R (Dudley Street), Crossing No. 641 610C (Alley Street) shall occur after CSXT has approved the new at-grade crossing on the CSXT rail line at Mile Post AA-152.95. CSXT and CLNA shall have sixty (60) days after this date to close and remove crossings. Said crossing will not be closed until written authority is given by the Department to permanently close the crossings.

9. RAILROAD OBLIGATIONS

CSXT and CLNA will coordinate the removal of Crossing No. 641 859V (Gum Road), Crossing No. 641 553R (Dudley Street), Crossing No. 641 610C (Alley Street), Crossing No.

465 509U (Skinner Street), and Crossing No. 465 496V (S. Pitt Street)in Pitt County with the Department's Division 2 District Engineer, who may be contacted at (252) 946-7433 or the Department's Rail Division Project Engineer, Nancy Horne, who may be contacted at (919) 715-3686 or via email: nhorne@ncdot.gov.

The pavement in the operating railroad's right of way will be removed by CSXT and CLNA, at their respective crossings, including the removal of tile and continuation of any drainage ditches that exist parallel to CSXT and CLNA. The Department will haul and dispose of all asphalt, if requested to do so by CSXT and CLNA. CSXT and CLNA will be responsible for removal of the crossing timbers. The Department will grade and seed these areas to prevent erosion of the adjacent roadway and/or track bed. CSXT and CLNA agrees to provide flagging protection as necessary for work related to the crossing closure and said improvement projects. CSXT and CLNA shall remove related whistle posts and any grade crossing protection devices previously installed at Gum Road (Crossing No. 641 859V), Dudley Street (Crossing No. 641 553R), Alley Street (Crossing No. 641 610C), Skinner Street (Crossing No. 465 509U), and S. Pitt Street (Crossing No. 465 496V) in Pitt County and perform all work with its forces at no cost to the Department or Municipality. All closure related work, hereinafter referred to under Railroad Obligations, will be completed by CSXT and CLNA on their respective lines, at no cost to the Department or Municipality. All closure related work, hereinafter referred to in this section, will be completed by CSXT and CLNA on their respective lines at no cost to the Department or Municipality. The Department will also make a final inspection of the improvements upon completion of all work.

10. PROJECT EVALUATION REPORTS

The Department, CSX, CLNA and Municipality shall each assign a representative that will serve as a project manager on behalf of each party. The process shall be governed and guided by the Department's Rail Division representative that will serve as the lead

agency. The Department and Municipality will hold project coordination and progress meetings at least every ninety (90) days to discuss and review project progress. The Department, through its engineering consultant, will develop and maintain project evaluation reports that detail the progress achieved and potential benefits realized to date for the project and addresses short-term and long-term concerns. The Municipality shall provide information and updates for said reports in a timely manner. Project Evaluation Reports shall be completed for identified funded projects.

11. INDEMNIFICATION

The Municipality agrees to indemnify and hold harmless the Department and the State of North Carolina, to the extent allowed by law, for any and all claims for payment, damages and/or liabilities of any nature, asserted against the Department in connection with the Municipality's Project activities performed pursuant to this Agreement.

To the extent allowed under North Carolina law, CSXT, CLNA and NS will indemnify and hold harmless the Department and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damages and/or liabilities of any nature in connection with CSXT's, CLNA's and NS's Project activities performed pursuant to this Agreement. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

To the extent allowed under North Carolina law, the Department and the State of North Carolina will indemnify and hold harmless the Municipality, CSXT, CLNA and NS, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damages and/or liabilities of any nature in connection with the Department's and State of North Carolina's Project activities performed pursuant to this Agreement.

12. DEBARMENT POLICY

Per OMB Circular A-133, CSXT, CLNA and NS are prohibited from contracting with or making subawards under transactions covered by this agreement to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and all nonprocurement transactions (e.g., subawards to subrecipients). Contractors receiving individual awards for \$25,000 or more and all subrecipients must certify that the organization and its principals are not suspended or debarred. CSXT, CLNA and NS may rely upon the certification unless it knows that the certification is erroneous. CSXT, CLNA and NS agree that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by Federal department or agency.

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, CSXT, CLNA and NS certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

13. COMPLIANCE

The Department shall be responsible for ensuring compliance with all applicable State, Federal and local environmental laws and regulations and ordinances and shall be responsible for any fines, assessments or other penalties resulting from non-compliance by any entity performing work under contract with the Department.

14. AGREEMENT MODIFICATIONS

Any modification to this Agreement will be agreed upon in writing by all parties prior to being implemented. Any changes to the project description will be agreed upon by all parties by means of a Supplemental Agreement.

15. AVAILABILITY OF FUNDS

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of departmental funding and fiscal constraints and the Agreement shall automatically terminate if funds cease to be available.

16. TERMINATION OF PROJECT

The Department shall have the right to abandon the project at any time before the Municipality has been called upon to perform any part of its agreement.

If CSXT, CLNA and NS decide to terminate the Project without the concurrence of the Department, CSXT, CLNA and NS shall reimburse the Department and the Municipality one hundred percent (100%) of all costs expended by the Department and the Municipality as associated with the Project.

If, upon completion of the design phase of the Project, the Municipality decides to terminate the Project, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project. If the Department decides to terminate the Project, the Department shall reimburse the Municipality one hundred percent (100%) of all costs expended by the Municipality associated with said Project. Any notification of termination of this Project shall be in writing to the other party. Reimbursement to the Department shall be made in one lump sum payment within sixty (60) days of billing. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23.

17. TRAFFIC AND MAINTENANCE

It is further agreed that, upon completion of the project, the Department shall establish, enforce, install and maintain all traffic operating controls and devices in

accordance with the project plans, the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the Policy on Street and Driveway Access to North Carolina Highways, and all departmental criteria. Maintenance responsibility for the roadway improvements shall be assigned in accordance with the current Powell Bill Map and any subsequent revisions and the maintenance of the completed signal revision shall be accomplished in the same manner as maintenance of other State system signalized intersections and/or in accordance with Municipal Maintenance Agreements Schedule C and D.

Upon completion of the improvements as specified in this agreement, it is understood that the appropriate Railroad will be responsible for the maintenance of the warning devices (crossing signals and gates) on Municipal system streets, and the Municipality shall be responsible for payment to the operating Railroad for the proportional share of the annual maintenance costs of the new automatic warning devices or fifty percent (50%) of the operating Railroad's cost of maintenance of said devices pursuant to the provision of G.S. 160A-298(c) and G.S.136-20(h). Maintenance shall be performed in accordance with all applicable State and Federal specifications and ordinances. Maintenance of the highway/railroad grade crossing improvements and devices shall be at no expense to the Department, CSXT, CLNA or NS.

Upon completion of the project, the Municipality shall be responsible for the maintenance of all non-railroad signal and roadway improvements located on the municipally maintained street system, at no expense to the Department, CSXT, CLNA or NS.

18. ADDITIONAL PROVISIONS

The Department, Municipality, CSXT, CLNA and NS fully recognize that these closings are intended to be perpetual, and that one party shall not petition any other party

or entity to reopen the subject at-grade crossings to be closed or to open any new at-grade public or private crossing in proximity to the closure locations.

This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or any person or to the public at large.

The Department must approve any assignment or transfer of the responsibilities of the Municipality, CSXT and CLNA set forth in this Agreement to other parties or entities.

No member, officer or employee of the Department, Municipality, CSXT, CLNA or NS shall have any interest, direct or indirect, in this Agreement or the proceeds there from.

19. ETHICS PROVISION

The parties acknowledge the requirements of N.C.G.S. § 133-32. In addition, the Department and its employees are bound by the provisions of Executive Order 24 (issued by Governor Perdue on October 1, 2009), which bans State employees from accepting or receiving gifts. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (i) have a contract with a governmental agency; or
- (ii) have performed under such a contract within the past year; or
- (iii) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

SUNSET PROVISION

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

This Agreement is made under, and shall be governed and construed in accordance with, the laws of the State of North Carolina.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality, CSXT, CLNA and NS.

ATTACHMENT – EXHIBIT A

Grossing Number	Street Name	Recommendation
465 482M	SR 1726/Portertown Rd	No Action
465 483U	SR 1809/Windsor Rd	Add Gates/Re-do pavement
465 485H	SR 1807/Oxford Rd	No Action
465 488D	SR 1704/14th St	Add Median Barrier & Pedestrian Improvements across RR Crossing
465 489K	US 264/Greenville Blvd	Add Concrete Barrier/Replace crossing surface & Pedestrian Improvements across RR Crossing
465 490E	Brownlea Dr	No Action
465 491L	Elm St	Add Gates & Signal Preemption
465 492T	W. Berkley Rd	Add Gates
465 495N	SR 1702/Evans St	Add Concrete Barrier & Pedestrian Improvements across RR Crossing
465 496V	S. Pitt St	Railroad Closure
465 506Y	Beatty St	Add Gates & Signal Preemption
465 509U	Skinner St	Railroad Closure
465 512C	US 13/Memorial Dr	Replace Concrete Median & Pedestrian Improvements across RR Crossing
465 514R	SR 1324/W.H. Smith Blvd	Add Concrete Barrier & Pedestrian Improvements across RR Crossing
465 515X	Arlington Blvd	Add Concrete Barrier & Pedestrian Improvements across RR Crossing
465 516E	Spring Forest Rd	Add Gates
465 517L	SR 1203/Allen Rd	No Action
465 709D	W. 9th St	Removal of Spur once there is no longer service
	Ficklen St	Removal of Spur once there is no longer service
465 708W	W. 10th St	Removal of Spur once there is no longer service
465 707P	W. 11th St	Removal of Spur once there is no longer service
465 706H	W. 12th St	Removal of Spur once there is no longer service

465 705B	W. 13th St	Removal of Spur once there is no longer service
465 704U	W. 14th St	Removal of Spur once there is no longer service
641 847B	NC 903	No Action
641 850J	SR 1579/Staton Rd	Add Median Barrier
641 851R	SR 1527/N. Greene St	No Action
641 852X	NC 33/N. Greene St	Add Gates
641 853E	SR 1591/Industrial Blvd	Removal of Spur
641 857G	SR 1528/W. Belvoir Rd	Improve Pavement Markings
641 859V	Gum Rd	Railroad Closure
641 860P	SR 1530/Airport Rd	Pedestrian Improvements across RR Crossing
641 553R	Dudley St	No Action
641 557T	W. 3rd St	No Action
641 558A	W. 4th St	Add Gates
641 609H	5th St	Add Gates
641 610C	Alley St	No Action
641 854L	10th St Connector: SR 1598/W. 10th St	TIP Project
641 855T	10th St Connector: SR 1531/Dickinson Ave	TIP Project
641 614E	14th St	Add Median Barrier & Pedestrian Improvements across RR Crossing
641 615L	Howell St	Add Median Barrier
904 748H	Moye Hooker Connection/Line Ave	Add Median Barrier
642 719W	Arlington Blvd	Add Median Barrier
641 618G	US 264 Alt./Greenville Blvd	Add Median Barrier
641 620H	SR 1708/Fire Tower Rd	Add Median Barrier

IN WITNESS WHEREOF, this Agreement has been executed, the day and year heretofore set out, on the part of the Department, Municipality, CSXT, CLNA and NS by authority duly given.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

ATTEST:
BY: *Carol L. Barwick*
Carol L. Barwick
TITLE: City Clerk
DATE: 6/7/2010

CITY OF GREENVILLE
BY: *Patricia C. Dunn*
Patricia C. Dunn
TITLE: Mayor, City of Greenville
DATE: 6/7/2010

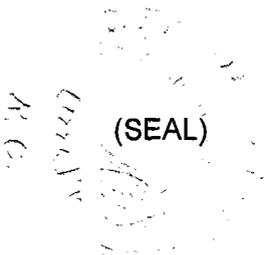
Approved by City Council of the City of Greenville as attested to by the signature of Carol L. Barwick, Clerk of the City Council on 6/7/2010 (Date)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Bernita W. Demery
Finance Officer

Federal Tax Identification Number
566000229
City of Greenville

Remittance Address:
P.O. Box 7207
Greenville, NC 27835



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N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any

L.S.

ATTEST:

CSX TRANSPORTATION, INC.

BY: Paul R. Hitchcock

BY: Charles E. Gullakson

TITLE: PAUL R. HITCHCOCK
CORPORATE SECRETARY

TITLE: Charles E. Gullakson
Assistant Chief Engineer

DATE: November 15, 2010

DATE: November 15, 2010
Public Projects

IN WITNESS WHEREOF, this Agreement has been executed, the day and year heretofore set out, on the part of the Department, Municipality, CSXT, CLNA and NS by authority duly given.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any

L.S.

ATTEST:

BY: May Cullen
TITLE: Secretary
DATE: 6-22-10

CAROLINA COASTAL RAILWAY

BY: [Signature]
TITLE: President
DATE: 6/22/10

IN WITNESS WHEREOF, this Agreement has been executed, the day and year heretofore set out, on the part of the Department, Municipality, CSXT, CLNA and NS by authority duly given.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any

L.S.

ATTEST:

BY: [Signature]
TITLE: Asst. Corp. Secy
DATE: 8-2-10



NORFOLK SOUTHERN RAILWAY COMPANY

BY: [Signature]
TITLE: General Manager
DATE: August 30, 2010

IN WITNESS WHEREOF, this Agreement has been executed, the day and year heretofore set out, on the part of the Department, Municipality, CSXT, CLNA and NS by authority duly given.

ATTEST:

BY: *James Dennis*
Secretary to the Board of Transportation

DEPARTMENT OF TRANSPORTATION

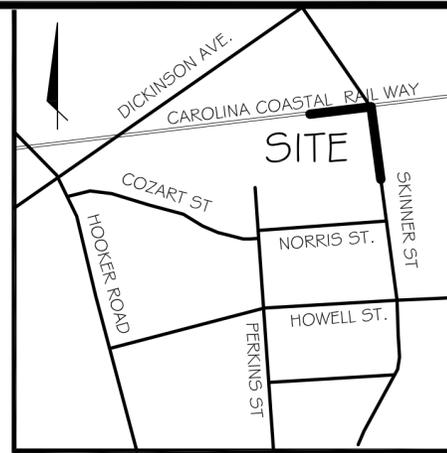
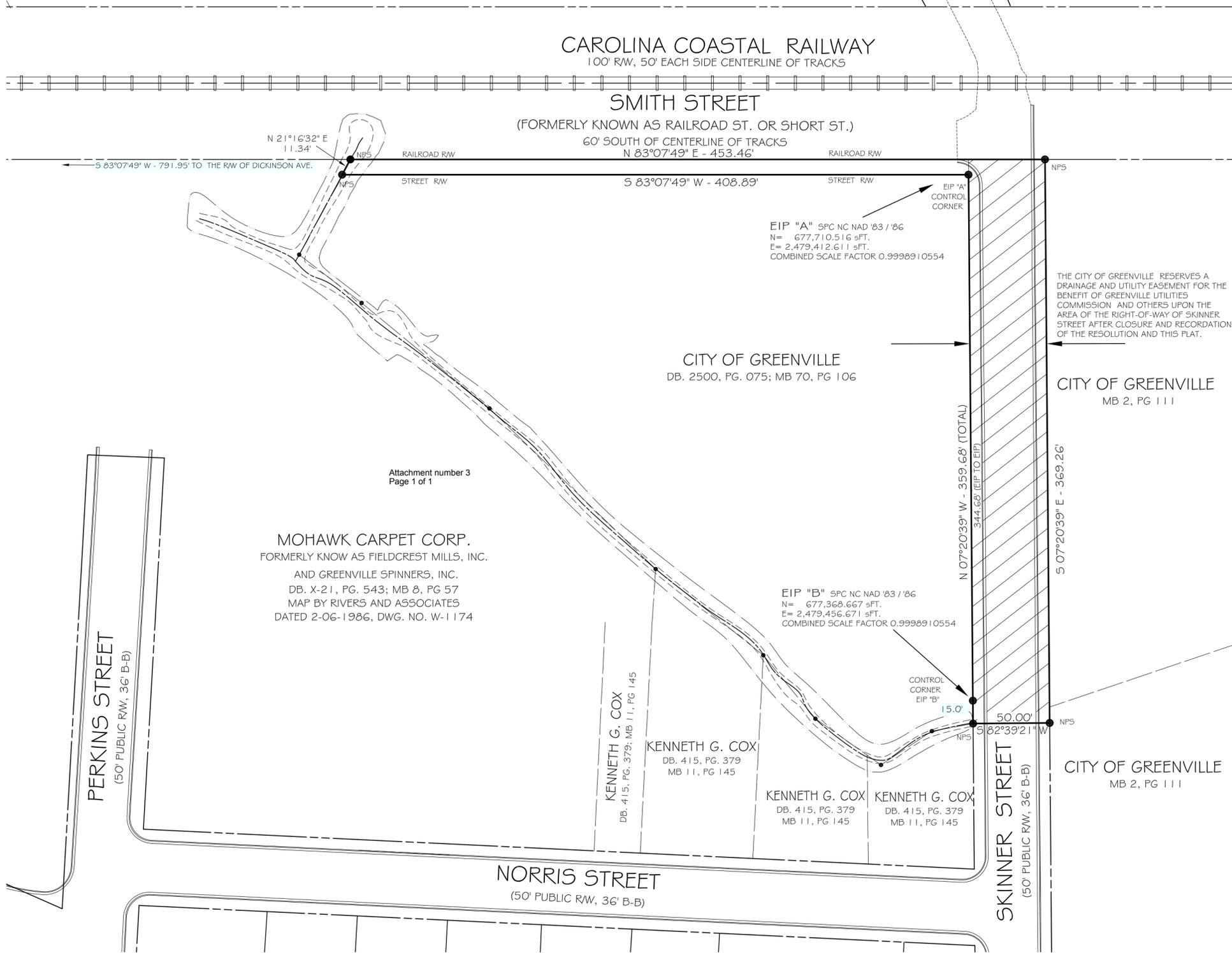
^{MMH}
BY: *R. Real*
DIRECTOR - ENGINEERING & SAFETY
RAIL DIVISION

DATE: 11-24-10

DATE: 11/23/10

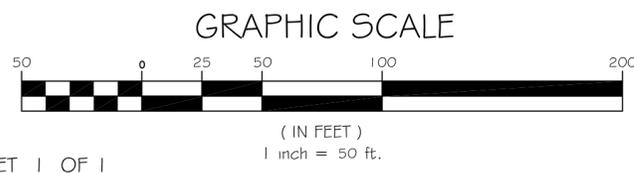
Remittance Address:
North Carolina Department of Transportation
Rail Division, Engineering & Safety Branch
1556 MSC
Raleigh, NC 27699-1556
Attn: Nancy M. Horne, PE, Project Engineer

APPROVED BY BOARD OF TRANSPORTATION ITEM O: 9/3/2009
(Date)



- LEGEND**
- NCGS CONTROL MONUMENT
 - PKS = P.K. NAIL SET
 - IPS = IRON PIPE SET
 - EIP = EXISTING IRON PIPE
 - NPS = NO POINT SET (POINTS NOT LABELED)
 - ERB = EXISTING REBAR
 - DB. = DEED BOOK
 - MB. = MAP BOOK
 - PG. = PAGE
 - RW = RIGHT OF WAY

- GENERAL NOTES**
1. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
 2. ALL BEARINGS ARE NC GRID; ALL DISTANCES ARE GROUND MEASUREMENTS UNLESS OTHERWISE NOTED.
 3. PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. REF: FIRM 3720468700J, DATED JANUARY 2, 2004.
 4. THE CITY OF GREENVILLE RESERVES A DRAINAGE AND UTILITY EASEMENT UPON THE AREA OF THE RIGHT-OF-WAY OF SKINNER STREET AFTER CLOSURE AND RECORDATION OF THE RESOLUTION AND THIS PLAT.



STREET CLOSING MAP
PORTION SKINNER STREET
AND SMITH STREET
BEING SOUTH OF CAROLINA COASTAL RAILWAY
AND NORTH OF NORRIS STREET
GREENVILLE, GREENVILLE TOWNSHIP, PITT COUNTY NORTH CAROLINA

City of Greenville
Public Works Dept., Engineering Division
1500 BEATTY STREET
GREENVILLE NC, 27834

SURVEYED: BLM APPROVED: WBA
DRAWN: BLM DATE: 11/22/11
CHECKED: TEC SCALE: 1" = 50'

SUBDIVISION EXEMPTION CERTIFICATE

THE CITY OF GREENVILLE HEREBY ACKNOWLEDGES THAT THIS SURVEY IS EXEMPT FROM THE DEFINITION OF A SUBDIVISION.

CITY OF GREENVILLE PLANNING DEPARTMENT

REVIEW OFFICER'S CERTIFICATE

I, _____, REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER _____ DATE _____

MAYORS CERTIFICATION

THIS IS TO CERTIFY THAT THE CITY COUNCIL OF THE CITY OF GREENVILLE HAS PASSED A RESOLUTION TO CLOSE A PORTION OF SKINNER STREET AND SMITH STREET AS SHOWN HEREON.

RESOLUTION NO. _____

SIGNED _____
ALLEN THOMAS, MAYOR

ATTEST _____
CAROL BARWICK, CITY CLERK

SURVEYOR'S CERTIFICATION

I, BILLY LEE MERRILL, CERTIFY THAT THIS PLAT WAS DRAWN BY ME FROM AN ACTUAL FIELD SURVEY PERFORMED BY ME. DEED DESCRIPTIONS RECORDED IN BOOKS REFERENCED HEREON; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOKS REFERENCED HEREON; THAT THE RATIO OF PRECISION FOR TRADITIONAL SURVEY METHODS IS 1:10,000; THAT THE GLOBAL POSITIONING SYSTEM (GPS) OBSERVATIONS WERE PERFORMED TO THE GEOSPATIAL POSITIONING ACCURACY STANDARDS, PART 2: STANDARDS FOR GEODETIC NETWORKS AT THE CLASS "A" ACCURACY CLASSIFICATION (95% CONFIDENCE) AND THE FOLLOWING INFORMATION WAS USING TO PERFORM THE GPS SURVEY:

POSITIONAL ACCURACY: 0.07 FEET +/- 50 PPM TYPE OF GPS FIELD PROCEDURE: REAL-TIME KINEMATIC NETWORK UNITS: US SURVEY FOOT
DATE(S) OF SURVEY: DEC. 2, 2010 PUBLISHED/FIXED-CONTROL MONUMENTS USED: "STADIUM", "LUPTON", "OLIN"
DATUM / EPOCH: NAD 83 (2007) GEOD MODEL: GEOD09 COMBINED GRID FACTOR: 0.9998910554

THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I, FURTHER CERTIFY PURSUANT TO G.S. 47-30 (f)(1)(a), THIS SURVEY IS OF ANOTHER CATEGORY AND IS AN EXEMPTION TO THE DEFINITION OF A SUBDIVISION.

WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 22nd DAY OF NOVEMBER, 2011.

SIGNED _____
PROFESSIONAL LAND SURVEYOR No. L-2956



City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Ordinance amending the Zoning Ordinance standards for portable temporary storage units

Explanation:

Background

Beginning in 2005, the availability and use of portable temporary storage units, typically called “PODS”, within the city increased significantly. This was in part due to several companies that were established or expanded to carry and rent these units to individuals and businesses. Consequently, the City began getting numerous complaints about individuals renting and locating portable temporary storage units in their front yards within residential neighborhoods. At that time, the City did not have regulations in place to address these temporary structures.

On March 9, 2006, City Council adopted Ordinance 06-25. This ordinance amended the zoning ordinance to include a new definition entitled “portable temporary storage unit” and to include minimum standards concerning the location, duration, frequency, number, and use of units on residential and nonresidential lots. Adoption of this ordinance followed a six-month process, which included extensive communication with several companies that were actively renting these units within the City’s planning and zoning jurisdiction.

The City now receives far fewer complaints related to portable temporary storage units than it did prior to the development and adoption of standards to address them. The few complaints received recently have involved units being used by businesses located along commercial corridors. The standards adopted in 2006 prohibit these units from being used as permanent accessory structures on residential lots; however, the units may be used as permanent accessory structures on commercial lots so long as they meet the minimum requirements applicable to an accessory building and/or structure for the district in which they are proposed (i.e. setbacks, lot coverage, height, etc.). There is no limitation on the number of accessory structures that can be located on a lot with a commercial, industrial, or office primary use.

Current Request

The topic of portable temporary storage units was discussed by City Council at their November 14, 2011, meeting. Planning Division staff presented the attached report as a means of providing information related to these land uses at City Council's request. The result of this discussion was City Council initiating a Zoning Ordinance text amendment that limits the number of portable temporary storage units that can be used as permanent accessory structures on non-residential lots and prohibits their use as permanent accessory structures in the CD (Downtown Commercial) and CDF (Downtown Commercial Fringe) districts.

Specifically, the draft text amendment proposes to replace Section 9-4-103 (R) (25) with the following:

Any storage units to be located and used as permanent accessory structures on a nonresidential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes shall meet the minimum requirements applicable to an accessory building and/or structure for the district and use as well as the following:

(a) The number of units that may be located and utilized as permanent accessory structures will be determined by the size of the lot on which the unit(s) is (are) proposed to be located as follows: (i) If the lot is one acre or less in area, then no more than one unit totaling no more than 320 square feet in total floor surface storage area may be utilized as a permanent accessory structure. (ii) If the lot is greater than one acre, but less than three acres in area, then no more than two units totaling no more than 640 square feet in combined total floor surface storage area may be utilized as permanent accessory structures. (iii) If the lot is three acres or greater in area, then no more than three units totaling no more than 960 square feet in combined total floor surface storage area may be utilized as permanent accessory structures.

(b) No storage unit shall be used as a permanent accessory structure in the CD or CDF districts.

Staff Comments

In staff's opinion, the proposed text amendment will benefit the community by providing standards to help improve the community's aesthetic quality while continuing to provide a range of storage opportunities for businesses. Specific provisions of **Horizons: Greenville's Community Plan** that will be furthered or supported by this text amendment include:

Community Character Goal: To enhance the appearance of all areas of the city.

Objective E12: To revitalize the downtown area.

Objective CC3: To restore the historic character of downtown.

Objective CC11: To ensure that new development in historic areas is

compatible in style, scale and character with existing development.

Objective UF8: To enhance the appearance of highway and gateway corridors.

Fiscal Note: No fiscal impact anticipated.

Recommendation: In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with **Horizons: Greenville's Community Plan**.

The Planning and Zoning Commission unanimously recommended approval of the proposed ordinance amendment at their December 13, 2011, meeting.

If City Council determines to approve the request, a motion to adopt the attached ordinance will be needed. The ordinance includes the statutorily required statement describing whether the action taken is consistent with the comprehensive plan and explaining why City Council considers the action taken to be reasonable and in the public interest.

If City Council determines to deny the amendment request, in order to comply with statutory requirements, it is recommended that the motion be as follows:

Motion to deny the proposed text amendment and to make a finding and determination that the denial of the text amendment request is consistent with the comprehensive plan and that the denial of the text amendment request is reasonable and in the public interest due to the denial being consistent with the comprehensive plan and, as a result, the denial furthers the goals and objectives of the comprehensive plan.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

- [Report on Portable Temporary Storage Units](#)
- [Portable Temporary Storage Units Ordinance 914782](#)
- [P_Z Excerpt Portable Temporary Storage Units 914839](#)

ORDINANCE NO. 12-
AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 19, Chapter 160A, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on January 12, 2012 at 7:00 p.m., in the City Council Chambers of City Hall in the City of Greenville, NC, conduct a public hearing on the adoption of an ordinance amending the City Code; and

WHEREAS, in accordance with the provisions of North Carolina General Statute 160A-383, the City Council does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and that the adoption of the ordinance involving the text amendment is reasonable and in the public interest due to its consistency with the comprehensive plan and, as a result, its furtherance of the goals and objectives of the comprehensive plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1: That Title 9, Chapter 4, Article F, Section 9-4-103(R)(25), of the City Code, is hereby amended by deleting said subsection in its entirety and substituting new subsection as follows:

(25) Any storage units to be located and used as permanent accessory structures on a nonresidential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes shall meet the minimum requirements applicable to an accessory building and/or structure for the district and use as well as the following:

(a) The number of units that may be located and utilized as permanent accessory structures will be determined by the size of the lot on which the unit(s) is (are) proposed to be located as follows: (i) If the lot is one acre or less in area, then no more than one unit totaling no more than 320 square feet in total floor surface storage area may be utilized as a permanent accessory structure. (ii) If the lot is greater than one acre, but less than three acres in area, then no more than two units totaling no more than 640 square feet in combined total floor surface storage area may be utilized as permanent accessory structures. (iii) If the lot is three acres or greater in area, then no more than three units totaling no more than 960 square feet in combined total floor surface storage area may be utilized as permanent accessory structures.

(b) No storage unit shall be used as a permanent accessory structure in the CD or CDF districts.

Section 2. That any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the

ordinance.

Section 3. That this ordinance shall become effective upon its adoption.

Adopted this 12th day of January, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

Excerpt from the DRAFT Planning & Zoning Minutes (12/13/11)

Zoning Ordinance Text Amendment modifications the standards for portable temporary storage units – APPROVED.

Mr. Christopher Padgett provided background information on this request to the Commission. City Council initiated the text amendment at their November 14, 2011, meeting following a presentation from staff on the current standards applicable to portable temporary storage units and examples of how they are being used as permanent accessory structures on commercial lots. The current standards appear to be effective in residential areas, but the city has been getting complaints about businesses utilizing portable temporary storage units as permanent accessory structures along the city's primary thoroughfares. City Council initiated a text amendment that limits the number of portable temporary storage units that can be used as permanent accessory structures on non-residential lots and prohibits their use as permanent accessory structures in the CD (Downtown Commercial) and CDF (Downtown Commercial Fringe) districts.

Mr. Padgett presented the specific text of the proposed standards as follows:

“Any storage units to be located and used as permanent accessory structures on a nonresidential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes shall meet the minimum requirements applicable to an accessory building and/or structure for the district and use as well as the following:

(a) The number of units that may be located and utilized as permanent accessory structures will be determined by the size of the lot on which the unit(s) is (are) proposed to be located as follows: (i) If the lot is one acre or less in area, then no more than one unit totaling no more than 320 square feet in total floor surface storage area may be utilized as a permanent accessory structure. (ii) If the lot is greater than one acre, but less than three acres in area, then no more than two units totaling no more than 640 square feet in combined total floor surface storage area may be utilized as permanent accessory structures. (iii) If the lot is three acres or greater in area, then no more than three units totaling no more than 960 square feet in combined total floor surface storage area may be utilized as permanent accessory structures.

(b) No storage unit shall be used as a permanent accessory structure in the CD or CDF districts.”

No one spoke in favor of the request.

No one spoke in opposition of the request.

Mr. Bell asked whether existing businesses that use these units as permanent accessory structures would be permitted to keep them? Mr. Padgett responded that if the units were legally permitted as accessory structures, then they would be legal nonconforming uses and could remain.

Mrs. Bellis asked how many nonconforming situations existed in the city? Mr. Padgett said that he thought there were two locations that would qualify as nonconforming.

Mr. Parker stated that he wanted to be sure that the number of units is based on a per lot basis, not per business? Mr. Padgett stated that he was correct.

Mr. Bell made a motion to approve the proposed text amendment to advise that it is consistent with the Comprehensive Plan and other applicable plans and to adopt the staff report which addresses plan consistency and other matters. Mr. Gordon seconded the motion. Mr. Bell, Mr. Parker, Mr. Maxwell, Ms. Basnight, Ms. Rich, Ms. Bellis, Mr. Smith and Mr. Gordon voted in favor, and the motion carried.

Report on Standards for Portable Temporary Storage Units

Contents:

- Section I. Report Purpose – Page 2
- Section II. History and Background Information – Page 2
- Section III. Summary of Existing Standards – Page 3
- Section IV. Examples of Portable Temporary Storage Units Currently
Located in Nonresidential Districts – Page 7

**Report Developed by the City of Greenville
Community Development Department - Planning Division
October 20, 2011**

SECTION I – Report Purpose

The topic of portable temporary storage units has been placed on the November 14, 2011, City Council meeting agenda at the request of Council Member Joyner. This report developed by the Community Development Department, Planning Division, provides City Council with information related to these land uses. Specifically, the report provides history and background information related to the development of the city’s current standards; a summary of the city’s existing standards; and examples of portable temporary storage units currently located in nonresidential areas within the city.

SECTION II – History and Background Information

Beginning in 2005, the availability and use of portable temporary storage units, typically called “PODS”, within the city increased significantly. This was in part due to several companies that were established or expanded to carry and rent these units to individuals and businesses. Consequently, the City began getting numerous complaints about individuals renting and locating portable temporary storage units in their front yards within residential neighborhoods. At that time, the City did not have regulations in place to address these temporary structures.

On March 9, 2006, City Council adopted Ordinance 06-25. This ordinance amended the zoning ordinance to include a new definition entitled “portable temporary storage unit” and to include minimum standards concerning the location, duration, frequency, number and use of units on residential and nonresidential lots. Adoption of this ordinance followed a six-month process, which included extensive communication with several companies that were actively renting these units within the City’s planning and zoning jurisdiction.

The City now receives far fewer complaints related to portable temporary storage units than it did prior to the development and adoption of standards to address them. The few complaints received recently have involved units being used by businesses located along commercial corridors. The standards adopted in 2006 prohibit these units from being used as permanent accessory structures on residential lots; however, the units may be used as permanent accessory structures on commercial lots so long as they meet the minimum requirements applicable to an accessory building and/or structure for the district in which they are proposed (i.e. setbacks, lot coverage, height, etc...). There is no limitation on the number of accessory structures that can be located on a lot with a commercial, industrial, or office primary use.

SECTION III – Summary of Existing Standards

Section 9-4-22. Definitions.

Portable temporary storage unit. Any temporary and portable accessory use container, trailer, cart, sled or other portable structure that exceeds ten square feet in floor surface storage area, that is owned, leased or rented for the purpose of temporary storage and/or transport of personal property, items and materials and which is located on any lot, other than the unit owner's commercial storage lot or facility, for more than 336 continuous hours. This definition shall include motorized and nonmotorized units, enclosed and unenclosed units, and wheeled and non-wheeled units. Exempt from this definition are licensed motor vehicles and trailers customarily associated with the on-site principal use and approved garbage and waste containers located on nonresidential or multi-family sites.

Section 9-4-103(R): Special Standards for Certain Specific Uses

(R) *Portable temporary storage unit.*

- (1) No individual unit shall exceed 320 square feet in floor surface storage area.
- (2) No storage unit shall be utilized as a principal use structure.
- (3) Except as further provided below under subsection (R)(10), not more than two units totaling 320 square feet in combined total floor surface storage area shall be permitted concurrently on any residential zoned lot and/or on any lot used for residential purposes. Exempt from this requirement are lots containing residential quarters for resident managers, supervisors or caretakers as set forth under section 9-4-78 and Appendix A to this chapter. For purposes of this section, the on-site and/or right-of-way placement of the first unit shall begin the running of time set forth under subsection (R)(7) below. See also subsection (R)(8) below.
- (4) Except as further provided below under subsection (R)(10), not more than three units totaling 960 square feet in combined floor surface storage area shall be permitted concurrently on any non-residential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes. For purposes of this section, the on-site and/or right-of-way placement of the first unit shall begin the running of time set forth under subsection (R)(7) below. See also subsection (R)(9) below.
- (5) Except as further provided below under subsection (R)(10), all unit(s) subject to this subsection shall be located on an improved parking surface in accordance with

Article O. Units located on any site for 336 continuous hours or less may be located on an unimproved surface.

- (6) Except as further provided below under subsection (R)(10), no unit on-site parking area, in addition to other improved on-site vehicle parking areas, shall exceed 30% of the front yard area of a single-family dwelling lot or more than 40% of any two-family attached dwelling lot in accordance with Article O.
- (7) Except as further provided below under subsection (R)(10), the maximum duration of any temporary unit located on any lot shall not exceed 120 continuous days or more than 120 total days in any 12-month period. The placement of the first unit shall begin the running of time under this subsection.
- (8) Except as further provided below under subsection (R)(10), the maximum frequency of any temporary unit located on any residential zoned lot and/or on any lot used for residential purposes shall not exceed three separate occurrences in any 12-month period. Exempt from this requirement are lots containing residential quarters for resident managers, supervisors or caretakers as set forth under section 9-4-78 and Appendix A. Each separate period of one or more concurrently placed units shall count toward the maximum frequency.
- (9) Except as further provided below under subsection (R)(10), the maximum frequency of any temporary unit located on any non-residential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes shall not exceed three separate occurrences in any 12-month period. Each separate period of one or more concurrently placed units shall count toward the maximum frequency.
- (10) Placement in conjunction with an active construction permit, natural disaster damage repair permit or other building permit may exceed the maximum number, duration and frequency set forth above under subsections (R)(3), (4), (7), (8) and (9) above, and the improved parking surface material and maximum coverage requirements set forth above under subsections (R)(5) and (6), provided the unit(s) shall be removed immediately following completion of the associated permit activity; provided, however, no unit(s) located on a single-family or duplex lot, excepting placement in conjunction with a building permit for the construction of the principal dwelling(s) and/or in conjunction with a natural disaster damage repair permit for any single-family or duplex dwelling(s), shall exceed 180 continuous days. Maximum frequency under this section shall not exceed one occurrence in any 12-month period.

- (11) When located on property containing a principal residential use the unit shall only be used for temporary incidental residential accessory use purposes. No unit located on any principal use residential property shall be used for commercial, office, institutional and/or industrial purposes or storage. No unit shall be used in conjunction with any home occupation.
- (12) The unit may temporarily displace minimum required parking for the associated principal use dwelling or nonresidential use.
- (13) Any unit located on a residential lot may encroach into the minimum public and/or private street (MBL) setback; provided, however, no unit shall be located within any public street right-of-way or private street easement, except as further provided. No such unit shall be located in any minimum side and/or rear yard setback or minimum bufferyard setback applicable to an accessory structure except when located on an existing improved driveway or qualified parking area. A unit may be located within a public street right-of-way upon issuance of an encroachment agreement from the authority having jurisdiction, provided compliance with all other provisions of this section.
- (14) Any unit located on a commercial, office, institutional and/or industrial lot may encroach into the minimum public and/or private street (MBL) setback, provided however no unit shall be located within any minimum perimeter and/or street bufferyard.
- (15) No unit shall encroach within the area of minimum protection (by plant material type) set forth under section 9-4-265(G)(2) for required vegetation.
- (16) No unit shall contain or receive permanent or temporary electric service, water and/or sanitary sewer service.
- (17) No unit shall be used for human or animal occupancy.
- (18) The unit shall comply with Accessory Structure Building Code placement, tie-down and other applicable standards as determined by the Building Inspector in the particular case.
- (19) Except as further provided, no unit shall be stored in any public street right-of-way or private street easement. A licensed motor vehicle unit or wheeled trailer unit attached to a licensed motor vehicle may be stored in the street right-of-way or street easement on a temporary basis in accordance with this section and applicable zoning and traffic regulations. A unit may be located within a public street

right-of-way upon issuance of an encroachment agreement from the authority having jurisdiction, provided compliance with all other provisions of this section.

- (20) Permanent signage attached to a licensed motor vehicle unit, licensed wheeled trailer unit or other non-wheeled container unit transported to the lot on a removable chassis shall be exempt from the sign regulations; provided, however, any permanent use of any unit shall not be exempt from the sign regulations.
- (21) No unit shall be located in any street sight distance area, or in any manner that obstructs vehicle or pedestrian access or lines of sight.
- (22) No unit shall be located and/or used in any manner that creates a nuisance, public health or safety hazard. When a nuisance, public health or safety hazard condition is found to exist, the owner of the lot and/or unit shall immediately remove the unit to a location in compliance with this section following personal and/or written notice from any building Inspector, nuisance abatement officer or Zoning Enforcement Officer. Any location or use inconsistent with the provisions of this section shall be construed as both a nuisance and a violation of the zoning regulations.
- (23) No unit shall be located in any manner that obstructs any designated fire lane or that otherwise obstructs or blocks access to any fire hydrant, building or structure.
- (24) Except as provided above under subsection (R)(18) above, no additional permit shall be required for any unit regulated under this section.
- (25) Permanent location and placement of an approved unit on a nonresidential zoned lot and/or on any lot used for commercial, office, institutional and/or industrial purposes shall be in accordance with the minimum requirements applicable to an accessory building and/or structure for the district and use.
- (26) No storage unit shall be used as a permanent accessory structure or building on any residential zoned lot and/or on any lot containing a residential use; provided, however, lots containing residential quarters for resident managers, supervisors or caretakers as set forth under section 9-4-78 and Appendix A shall be exempt from this requirement.

**SECTION IV. Examples of Portable Temporary Storage Units
Currently Located in Nonresidential Districts**

Photograph 1: Wal-Mart (Greenville Boulevard)



Photograph 2: Sears (Memorial Drive)



Photograph 3: Applebee's (Greenville Boulevard)



Photograph 4: 2 Give to the Troops (Landmark Street)



Photograph 5: Village Pawn (N.W. Corner of Arlington Boulevard and Evans Street)



Photograph 6: Dickinson Tire and Service Center (Dickinson Avenue)





City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Ordinance to annex Southwest Commercial Park, Lot 19, involving 1.984 acres located on the southern right-of-way of Dickinson Avenue Extension (US 13 & 264A) approximately 840 feet west of its intersection with Southwest Greenville Boulevard/Allen Road

Explanation: ANNEXATION PROFILE

A. SCHEDULE

1. Advertising date: January 2, 2012
2. City Council public hearing date: January 12, 2012
3. Effective date: June 30, 2012

B. CHARACTERISTICS

1. Relation to Primary City Limits: Non-Contiguous
2. Relation to Recognized Industrial Area: Outside
3. Acreage: 1.984
4. Voting District: 2
5. Township: Arthur
6. Vision Area: E
7. Zoning: CH, Heavy Commercial

8. Land Use: Existing: Vacant
Anticipated: 9100 sq. ft. Dollar General Retail Store

9. Population:

	Formula	Number of People
Total Current	-----	0
Estimated at full development	-----	0
Current Minority	-----	0
Estimated Minority at full development	-----	0
Current White	-----	0
Estimated White at full development	-----	0

10. Rural Fire Tax District: Red Oak

11. Greenville Fire District: Station #5 (Distance of 1.75 miles)

12. Present Tax Value: \$63,387
Estimated Future Tax Value: \$925,887

Fiscal Note: The total estimated tax value at full development is \$925,887.

Recommendation: Approve the attached ordinance to annex Southwest Commercial Park, Lot 19.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

[Southwest Commercial Park, Lot 19 Annexation Map](#)

[Southwest Commercial Park Lot 19 Annexation 914486](#)

ORDINANCE NO. 12-_____
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

Attachment number 1
Page 1 of 3

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1, as amended, to annex the area described herein; and

WHEREAS, the City Council has directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:00 p.m. on the 12th day of January, 2012 after due notice by publication in The Daily Reflector on the 2nd day of January, 2012; and

WHEREAS, the City Council further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the City of Greenville.
- b. No point on the proposed satellite corporate limits is closer to another city than to the City of Greenville.
- c. The area described is so situated that the City of Greenville will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits.
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation.

WHEREAS, the City Council 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 meets all other requirements of G.S. 160A-58.1, as amended; and

WHEREAS, the City Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City of Greenville and of the area proposed for annexation will be best served by annexing the area described herein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA DOES ORDAIN:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following described noncontiguous territory is hereby annexed and made part of the City of Greenville:

To Wit: Being all of that certain property as shown on the annexation map entitled "Southwest Commercial Park, Lot 19", involving 1.984 acres as prepared by Baldwin Design Consultants, PA.

Location: Lying and being situated in Arthur Township, Pitt County, North Carolina, located on the southern right of way of Dickinson Avenue Extension (US 13 & 264A) approximately 840 feet west of its intersection with Southwest Greenville Boulevard (Allen Road).

General Description:

All that parcel of land, lying and being in Arthur Township, Pitt County, North Carolina, and being further located as follows:

Beginning at an iron pipe on the southern right-of-way of US Hwy 13 (Hwy 264A) said iron pipe being the northwestern corner of the Alma J. Allen Property as described in Deed Book 1264, Page 808 of the Pitt County Register of Deeds Office, said iron pipe also being located S 61°49'13" W 840.12' (chord) from a P.K. Nail located in the centerline intersection of NCSR 1203 (Allen Road/Greenville Boulevard Southwest) and US Hwy 13 (Hwy 264A). From the above described beginning, so located running thence as follows:

Leaving the southern right-of-way of US Hwy 13 (Hwy 264A) and with the western lines of referenced Alma J. Allen Property and the Alma J. Allen Property as described in Deed Book K-46, Page 217 and the Nancy A. Beardsworth Property as described in Deed Book I-34, Page 604 both of the Pitt County Register of Deeds Office, S 20°40'44" E 456.19' to an iron pipe, thence leaving the western line of said Nancy A. Beardsworth Property, S 65°10'27" W 170.00' to an iron pipe, thence N 24°49'33" W 455.00' to an iron pipe on the southern right-of-way of US Hwy 13 (Hwy 264A), thence with the southern right-of-way of US Hwy 13 (Hwy 264A), N 65°10'27" E 202.99' to the point of beginning containing 1.948 acres and being a portion of the property described in Deed Book 2386, Page 244 of the Pitt County Register of Deeds Office.

Section 2. The territory annexed to the City of Greenville by this ordinance shall, pursuant to the terms of G.S. 160A-23, be annexed into Greenville municipal election district two. The City Clerk, City Engineer, representatives of the Board of Elections and any other person having responsibility or charge of official maps or documents shall amend those maps or documents to reflect the annexation of this territory into municipal election district two.

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Greenville and shall be entitled to the same privileges and benefits as other parts of the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 4. The Mayor of the City of Greenville, North Carolina, shall cause a copy of the map of the territory annexed by this ordinance and a certified copy of this ordinance to be recorded in the office of the Register of Deeds of Pitt County and in the Office of the Secretary of State in Raleigh, North Carolina. Such a map shall also be delivered to the Pitt County Board of Elections as required by G.S. 163-288.1.

Section 5. This annexation shall take effect from and after the 30th day of June, 2012.

ADOPTED this 12th day of January, 2012.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk

NORTH CAROLINA
PITT COUNTY

I, Polly Jones, Notary Public for said County and State, certify that Carol L. Barwick personally came before me this day and acknowledged that she is City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality, the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

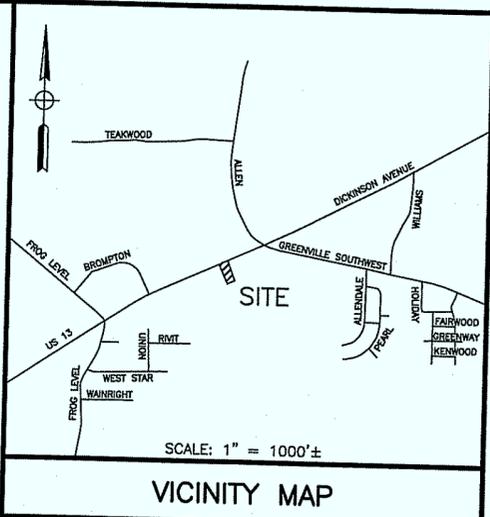
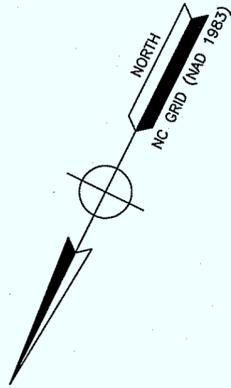
WITNESS my hand and official seal, this the 12th day of January, 2012.

Attachment number 1
Page 3 of 3

Polly Jones, Notary Public

My Commission Expires:

#914486



NOTES

1. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARDOUS AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. REF: FIRM 3720466600J, DATED JANUARY 2, 2004.
2. ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
3. THIS MAP IS A SURVEY OF AN EXISTING PARCEL(S) OF LAND.
4. THIS MAP IS OF A SURVEY OF ANOTHER CATEGORY.
5. REFERENCE: BEING A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 2386, PAGE 244 OF THE PITT COUNTY REGISTRY.

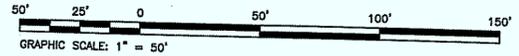
LEGEND

- R/W = RIGHT-OF-WAY
- EPKN = EXISTING PARKER KALON NAIL
- EIP = EXISTING IRON PIPE
- SIP = SET IRON PIPE
- C/L = CENTERLINE
- DB = DEED BOOK
- PG = PAGE
- = NOT TO SCALE

- LEGEND**
- NEW CITY LIMIT LINE = - - - - -
 - OLD CITY LIMIT LINE = - - - - -
 - CITY LIMIT LINE = - - - - -

Attachment number 2
Page 1 of 1

US HWY 13 (HWY 264A)
SOUTHWEST GREENVILLE BOULEVARD
ALLEN ROAD (NCSR 1203)



NCGS MONUMENT "REDOAK"
ELEV.=74.61
X=2,466,405.133
Y=668,524.946
(NAD 1983)

NCGS MONUMENT "LAYTON"
ELEV.=80.31
X=2,464,073.700
Y=667,555.948
(NAD 1983)

US HWY 13 (HWY 264A)
(100' R/W 69' B/B PUBLIC)

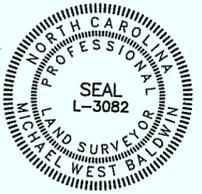
NANCY A. BEARDSWORTH
DB I-34, PG 604
MB 44, PG 118

ALMA J. ALLEN
DB K-46, PG 217

ALMA J. ALLEN
DB 1284, PG 808

OUTDOOR PROPERTIES II, LLC
DB 2386, PG 244

OUTDOOR PROPERTIES II, LLC
DB 2386, PG 244



CERTIFICATION

I, MICHAEL WEST BALDWIN CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION, THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY MADE BY _____ THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000. THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM DEED INFORMATION THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

WITNESS MY HAND AND SEAL THIS 12th DAY OF DECEMBER, 2011.

SIGNED _____
REGISTRATION NO. L-3082

STATE OF NORTH CAROLINA
COUNTY OF PITT

I, _____ REVIEW OFFICER OF PITT COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE _____

REVIEW OFFICER _____

A PORTION OF PARCEL #05363
TAX MAP# 4666.06-48-7663

ANNEXATION MAP FOR
SOUTHWEST COMMERCIAL PARK, LOT 19
OWNER: OUTDOOR PROPERTIES II, LLC
PO BOX 3435
GREENVILLE, NC 27836
(252) 355-4610

<p>Baldwin Design Consultants, PA ENGINEERING - LAND PLANNING - SURVEYING 708-D CROMWELL DRIVE GREENVILLE, NC 27858 252.756.1390</p>	LICENSE# C-3498	SURVEYED: DF	APPROVED: MWB
		DRAWN: CNS/JJB	DATE: 12/12/11
		CHECKED: MWB	SCALE: 1 = 50'

MAP NO.	PLATS RECORDED	MAP BOOK	PAGE

MAP SHOWING AREA ANNEXED BY
THE CITY OF GREENVILLE, N.C
(EFFECTIVE DATE _____ ORDINANCE # _____ AREA 1.948 AC.)
_____ ARTHUR _____ TOWNSHIP, PITT COUNTY, N.C.



City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Community Development Block Grant and HOME Investment Partnerships
Annual Action Plan for 2012-2013

Explanation: The Community Development Department, Housing Division is in the process of identifying possible activities for the upcoming 2012-13 fiscal year Annual Action Plan. As a requirement of receiving Community Development Block Grant (CDBG) and HOME Investment Partnerships Funds, the Housing Division must prepare an Annual Action Plan each year covered by the 2008-2013 Consolidated Plan. The Consolidated Plan outlines proposed activities and funding amounts and was adopted by the City Council on May 15, 2008.

The City of Greenville is an "Entitlement City" under the CDBG program and a "Participating Jurisdiction" under the HOME Investment Partnerships program. Those designations result in an annual formula allocation of CDBG and HOME funds to the City by the U.S. Department of Housing and Urban Development to benefit low to moderate income residents. Expenditure of CDBG and HOME funds must meet grant program national objectives.

The Annual Action planning process requires that the City hold two public hearings prior to the adoption of a final resolution approving the Annual Action Plan. The first hearing held is considered a "planning" hearing to allow for public participation in the process of identifying possible activities that might be carried out in this fiscal year in accordance with the 2008-2013 Consolidated Plan.

An Annual Action Plan development schedule is attached for review.

Fiscal Note: It is anticipated that the City will receive **\$781,404** in CDBG funds and **\$384,258** from the HOME program for fiscal year 2012-2013, based upon the December 12, 2011 projections released by Assistant Secretary Mercedes Marquez of the U.S. Department of Housing and Urban Development.

Recommendation: Conduct the first public hearing to allow citizen participation in the planning of fiscal year 2012-2013 Annual Action Plan for CDBG and HOME programs and approve the attached Annual Action Plan development schedule.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

 [2012_AA_Schedule_852270](#)

2012-2013 ANNUAL ACTION PLAN **PROPOSED DEVELOPMENT SCHEDULE**

December 26, 2011, January 9, 2012	Notice of First Public Hearing Publication
January 6, 2012	Deadline for Submission of Subrecipient Applications for funding
January 12, 2012	First Public Hearing
February 8, 2012	Subrecipient Organizations present funding request to Affordable Housing Loan Committee
February 9, 2012	Community Meeting to receive comments
March 5-April 13, 2012	Thirty (30) Day Public Comment Period
March 6, 2012	Redevelopment Commission Review of Draft Annual Action Plan
March 14, 2012	Continuum of Care Group Review of Draft Annual Action Plan
March 14, 2012	Affordable Housing Loan Committee Review/Recommendation of Subrecipient Funding
March 26, April 9, 2012	Notice of Second Public Hearing Publication
April 11, 2012	Affordable Housing Loan Committee Review of Draft Annual Action Plan
April 12, 2012	Second and Final Public Hearing
April 12, 2012	City Council Adoption/Resolution
April 20, 2012	Submission to U.S. Dept. of H.U.D.



City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Lead Based Paint Hazard Control Grant application

Explanation: This is a request to submit a three-year Lead Based Paint Hazard Control Grant application to the Office of Healthy Homes and Lead Hazard Control of the United States Department of Housing and Urban Development (HUD) in response to a Notice of Funding Availability No. FR-5600-N-04, which City staff received on November 29, 2011. The grant's purpose is to assist local governments in the undertaking of comprehensive programs to identify and control lead-based paint hazards within eligible privately owned rental or owner-occupied housing with children under six years of age residing.

The City serves currently as a grantee with the Office of Healthy Homes and Lead Hazard Control under a program called the Lead Safe Greenville. HUD awarded the City a \$1.9 million grant in 2009. The Community Development Department Housing Division is in the completion phase of the grant. As of December 2011, staff has enrolled 200 households, assessed 125 housing units for lead hazards, and cleared 92 housing units of lead hazards.

Throughout the 2009 grant period, the City has maintained the highest HUD evaluation rating during each of the quarterly reporting periods. As a result of this grant, 27 jobs were created and 59 persons received job training. In addition, the City's grant program was recognized by HUD as a "best practices" program for successfully implementing this new grant program. As a result of this recognition, the City's Grant Project Director and Grant Project Coordinator were invited to present the program at the December 2010 grant training workshop held in Annapolis, Maryland.

Staff proposes submitting a 2012 application for \$2 million to continue the City's current Lead Safe Greenville Program. HUD's application period has a short submission window. Staff is finalizing the grant application and must submit the application before January 18, 2012.

If the application is funded, the grant program funding cycle will begin in

October 2012.

Fiscal Note:

The grant amount would be \$2 million with a \$200,000 required local match provided from fiscal years 2011 and 2012 Community Development Block Grant awards.

Recommendation:

Authorize the submission of a Lead Based Paint Hazard Control Grant Program application to the United States Department of Housing and Urban Development.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / [click to download](#)



City of Greenville, North Carolina

Meeting Date: 1/12/2012
Time: 7:00 PM

Title of Item: Report on City's role in economic development

Explanation: **Background**

During the December 8, 2011, City Council meeting, Council Member Mitchell moved that the meeting agenda be amended to include a discussion of shifting resources toward economic development. The City Council approved Council Member Mitchell's motion and directed staff to present a report in January.

Further, the City Council expressed its interest in redirecting existing Community Development Department resources to economic development without impacting the budget. The City Council direction to staff included that staff look for ways to complement existing entities that possess an economic development mission/role and do not duplicate efforts performed by those entities.

The Greenville and Pitt County community have several partners that work in the areas related to economic development. The City Council gave staff economic development parameters that included coordination and collaboration with those partners. Community-based economic development partners include:

- Greenville-Pitt County Chamber of Commerce
- Pitt County Development Commission
- Pitt Community College (Workforce development/job training)
- East Carolina University Office of Engagement, Innovation and Economic Development
- The Pitt County Committee of 100
- North Carolina Eastern Region

- Greenville Utilities Commission
- Region Q Workforce Development Board
- North Carolina Biotechnology Center
- Greenville-Pitt County Convention and Visitors Bureau
- Small Business Center, Pitt Community College
- Small Business & Technology Development Center, East Carolina University

As mentioned by Council Member Mercer at the December 8 City Council meeting, the Chamber of Commerce does have an expressed desire to become more active in economic development. To that end, the Chamber of Commerce board of directors on December 20, 2011, adopted the Chamber's Strategic Plan 2012-2015. The plan includes seven board areas, one of which is economic development. Goals under the economic development area include:

- Create a collaborative vision and plan for creating jobs in Greenville & Pitt County
- Convene stakeholders in Economic Development for visioning process
- Provide support and build bridges of communication with economic development entities and stakeholders in Pitt County
- Provide structural and promotional support for the development of small and entrepreneurial businesses for job creation

The Chamber of Commerce's strategic plan 2012 Work Plan includes the following economic development elements:

1. Collaborate with Economic Development Partners to work toward WORKREADY Community status.
2. Convene Economic Development Stakeholders for collaboration and visioning.
3. Collaborate with City of Greenville and other partners to investigate opportunities to encourage and assist entrepreneurial development.

Based on the Chamber of Commerce's elevated role in economic development, an opportunity exists to work closely with the Chamber.

Shifting Resources

The Community Development Department's Urban Development Division is best suited to shift resources towards economic development. Urban

Development Division activities performed by staff under the West Greenville Revitalization Program are nearing completion, since nearly all of the original \$5 million in bond funds have been expended. Meanwhile, the City Center Revitalization Program is approaching the 50% mark in terms of spending down its \$5 million in bond funds. The wayfinding sign installation process is underway, and the Evans Street streetscape construction project is set to get underway later this year.

The Urban Development Division also oversees the following responsibility areas:

- Greenville Redevelopment Commission
- Neighborhood Advisory Board
- Community Appearance Commission
- Neighborhood improvement grant program
- Business plan competition grant program
- Community garden program
- Liaison with Uptown Greenville and downtown development interest

The Urban Development Division is staffed with four positions:

- Senior Planner
- Planner II
- Neighborhood Liaison/Community Ombudsman
- Staff Support Specialist III

Staff intends to carry out the economic development plan using the current positions allocated in the Urban Development Division. To supplement this information, Community Development Department staff's 2010 North Carolina Municipal Economic Development Survey is attached.

Economic Development Recommendations:

Create Mayor's Economic Development Advisory Council

Staff recommends that a Mayor's Economic Development Advisory Council (MEDAC) be created and that it meet at least quarterly to advise the mayor and staff on matters related to economic development policy, including economic development strategy, and city regulations, services, and amenities impacting economic development. Membership to the MEDAC should be broad

enough to leverage resources and ensure that Greenville and Pitt County community economic development partners are working together. Urban Development Division staff will provide administrative support and serve as a liaison to the MEDAC. In addition to the below recommendations, staff suggests that the Mayor's Economic Development Advisory Council draft a City of Greenville economic development strategy for City Council consideration in May 2012.

Collaborate with Chamber of Commerce

Staff will contact the Greenville-Pitt County Chamber of Commerce and seek to work closely with the Chamber's Strategic Plan 2012-2015 economic goals and 2012 economic development work plan.

Create Business Retention and Business Expansion (Jobs) Program

Staff will study successful business retention and business expansion (BRBE) policies and programs from across the state and country. Staff will provide City Council with a report in April 2012, identifying short-term goals to establish a BRBE work plan for fiscal year 2012-2013.

Brand and Market Greenville

Staff will coordinate the work necessary to see that the brand development and marketing campaign gets underway by May 2012. This action will have a budget impact and will require the City Council to allocate funds for it.

Pursue Ecotourism Initiative

Staff will seek to partner with the East Carolina University Center for Sustainable Tourism to establish a leadership role to bring together the county and regional stakeholders to identify, promote, and cultivate new ecotourism assets. Staff will present its fiscal year 2012-2013 work plan to City Council for comment in May 2012.

Fiscal Note:

The current personnel budget will remain unchanged. However, staff anticipates that a brand development process, which is essential to marketing Greenville, will require an investment of \$65,000 to \$100,000. This transition into the economic development arena requires elevated staff responsibilities and performance expectations. The Community Development Director will submit updated job descriptions to the Human Resources Department to assign the positions to the pay classification schedule. Staff anticipates that the updated job descriptions will result in higher pay classifications and impact the budget to some degree. An additional \$10,000 to \$20,000 will likely be needed for contractual/professional services, additional staff training, administrative expenses, and occasional staff overtime.

Recommendation: Consider staff's economic development recommendations and authorize staff to rename the Urban Development Division to the Economic Development Division.

Viewing Attachments Requires Adobe Acrobat. [Click here](#) to download.

Attachments / click to download

 [Staff 2010 Economic Development Survey](#)

NORTH CAROLINA MUNICIPAL ECONOMIC DEVELOPMENT SURVEY

August 2010

Edited November 2010

Question 1) How does your city administer its economic development (ED) functions?

City	Response
High Point	The City of High Point has a department dedicated to economic development.
Wilmington	The City of Wilmington administers its own economic development policies, but also partners with the county on some projects.
Cary	The Town of Cary uses the Chamber of Commerce to administer the economic development functions.
Asheville	The City of Asheville has a department dedicated to economic development.
Winston Salem	The City of Winston Salem has a department dedicated to economic development.
Gastonia	The City of Gastonia administers the downtown and small business economic development functions, while the county has the core responsibility for ED.
Chapel Hill	The Town of Chapel Hill has an Economic Development Officer that administers all the town's ED policies.
Fayetteville	The City of Fayetteville has a department dedicated to economic development and community development.
Raleigh	The City of Raleigh contracts its economic development functions to the county.
Greensboro	The City of Greensboro has staff dedicated to its economic development functions.

Question 2) What are some of the economic development responsibilities/focus areas administered by your city?

City	Response
High Point	The City of High Point is responsible for many areas – from retention to expansion to recruiting. The City maintains lists of available buildings and sites and handle incentives.
Wilmington	Business and Film industry incentives. Film incentives stem from new legislation, effective January 1, 2010 qualifying productions spending over \$250,000 in NC will receive a 25% tax credit on in-state purchases for good and services and not to exceed a per project credit of \$7.5M (approximately \$30M in-state spend.)
Cary	Staff members work in concert with the Cary Chamber. Generally work to create an environment where economic development related activities can take place through normal operations on a daily basis through support efforts needed by the position at the Chamber. Specific examples include land use plan analysis, water and sewer capacity analysis, processing of requests for incentives, etc.
Asheville	Farmers Market, Brownfield sites and grants coordination as well as destination creation, and facilitation of the development of city-owned property.

Winston Salem	The Development Office provides general economic development assistance throughout the City of Winston-Salem. The goals of city programs are to create economic development through business vitality, job creation, and increased tax base. Ongoing projects are located in the downtown business district, Piedmont Triad Research Park, Airport Business Park, Union Cross Business park and other areas. Primary initiatives in the area are relocation assistance, financial assistance, and the urban progress zone.
Gastonia	The City assumes full economic development functions for downtown/center city area due to emphasis on center city revitalization. This is mainly commercial development but also includes residential projects. The City has also been heavily involved with the commercial redevelopment of an old mall, which is outside of the center city area. The emphasis of the EDC remains largely in industrial recruitment although they have done some recruitment in non-industrial business such as offices and corporate centers, lab facilities, technology facilities and call centers, back-office processing facilities.
Chapel Hill	Chapel Hill is working on a number of programs. The Economic Development Office coordinates all planning that has a non-residential component.
Fayetteville	The City handles economic development functions such as business and industry recruitment, as well as marketing. The City's Economic Development Administrator manages four Economic Development Programs that are funded with entitlement grants from HUD.
Raleigh	The City manages Brownfield Programs, Façade Grant Program, Capital Projects, the Raleigh Convention and Conference Center, and real property disposition.
Greensboro	<p>The City ED staff coordinates resources from various disciplines to include planning, water resources, zoning, engineering & inspections to rapidly respond to inquiries regarding Greensboro development sites form prospects as well as works with existing businesses to creatively and collaboratively solve issues.</p> <p>The City has adopted Urban Development Investment Guidelines and ED Guidelines to provide a consistent framework regarding how incentives requests will be evaluated. The City has created and administers a small business loan pool to fund new and expanding local small businesses in areas experiencing high poverty.</p> <p>The City also plans and conducts seminars on financing businesses, tax credits, urban progress zones, HUB Zones, etc. The City works with businesses to fast-track approvals and permits when necessary. The City also administers the workforce development program and has a minority and woman owned business team to reach out to minority and woman owned contractors and make them aware of business opportunities.</p>

Question 3) For those economic development functions NOT administered directly by your city, who are some of your key ED partners and how do they assist your city with ED?

City	Response
High Point	The Piedmont Triad Partnership handles regional marketing for our 12-county region. The City coordinates with the NC Dept. of Commerce for state issues affecting our local companies.
Wilmington	New Hanover County handles all industrial recruitment, retention, and expansion.
Cary	Wake County Economic Development, the Greater Raleigh Convention and Visitor's Bureau, the North Carolina Department of Commerce. They market Cary's the quality of life to companies considering relocating to or expanding in Cary.
Asheville	Chamber, Regional Partnership, COG, NCDOC, TDA
Winston Salem	The city has a partnership with an outside agency that handles recruitment and also partners with the local Chamber.
Gastonia	Gaston County Economic Development Commission (EDC)
Chapel Hill	The City handles most in house, some things are a County partnership.

Fayetteville	Cumberland County and the Chamber of Commerce to administer economic development functions that do not pertain to small business or redevelopment.
Raleigh	Raleigh Economic Development (Wake Chamber of Commerce), Downtown Raleigh Alliance, Hillsborough Street Partnership, Raleigh Area Development Authority
Greensboro	Greensboro Economic Development Alliance, Greensboro Chamber of Commerce, Piedmont Triad Partnership, NC Department of Commerce. GEDA is the primary marketer of the City. They will typically maintain relationships with site selection consultants nationally, respond to RFP's from prospects considering Greensboro, attend tradeshows, maintain a website with demographic and area information on Greensboro, and show clients specific sites around the community during on-site visits to the area. They also coordinate the City/County /State team effort to pull together a site and potential incentive package necessary to secure a project.

Question 4) For the economic development functions administered by the City, which department or agency is responsible?

City	Response
High Point	The High Point Economic Development Corporation.
Wilmington	The City Manager's Office.
Cary	Typically, the Town Manager's office has responsibility with key technical support as needed from a variety of departments as needed which usually includes Planning, Engineering, and Public Works and Utilities.
Asheville	Office of Economic Development
Winston Salem	The City's Development Office
Gastonia	City Manager's Office
Chapel Hill	City Manager's Office
Fayetteville	The City's Economic Development Department.
Raleigh	City Manager's Office, Administrative Services, Department of City Planning, Raleigh Convention and Conference Center
Greensboro	City Manager's Office

Question 5) Is there a board or commission other than your city/town council that is responsible for oversight of city-administered economic development projects or programs?

City	Response
High Point	No. The High Point EDC has a board of directors, but the board is an <u>advisory</u> board. The HPEDC reports to the City Manager.
Wilmington	No. City Council
Cary	Yes, The Town Council established an Economic Development Governing Board to help oversee the economic development program. It meets quarterly to get a status update on execution of the strategic plan.
Asheville	No. City Council Committee
Winston Salem	No. The Development Office is a City department which monitors and promotes economic development opportunities with City Council having final authority.
Gastonia	No. City Council
Chapel Hill	Yes, The Town Council has a Council Committee on Economic Development and the Mayor also

	sits on the Committee. There is not any other board or commission.
Fayetteville	Yes, The Fayetteville Redevelopment Commission has oversight and makes recommendations to City Council on programs funded by the City's Community Development Department.
Raleigh	No. The City Council developed a Budget and Economic Development Committee composed of council members, the committee meets the second and fourth Tuesday of every month.
Greensboro	No. The City Economic Development Office oversees all City economic development activities, provides support services to Greensboro businesses, serves as a liaison between City government and the business community and reports to City Council.

Question 6) How are your city’s economic development programs funded?

City	Response
High Point	The bulk of our funding comes from the city budget. The High Point Partners (a group of High Point business leaders) contribute \$42,000 per year. Guilford County budgets \$75,000 per year. High Point has small portions of its city limits in three other counties – Randolph, Davidson, and Forsyth – but none of those counties contribute.
Wilmington	The program is funded through the General Fund.
Cary	The program is funded through general fund revenues and matching grant funds provided through the state and other corporate partners as documented in the Economic Development Strategic Fund
Asheville	The program is funded through the General Fund .
Winston Salem	Economic development is funded through the City's General Fund, bond funds, CDBG funds, and private investment.
Gastonia	Economic development programs are funded through the General Fund, water/sewer fund, and electric funds. Some downtown economic development and downtown capital improvements are funded by a special tax district.
Chapel Hill	The program is funded through the General Fund, but the Committee is considering dedicating a portion of the funds from the business license to the ED budget in the next year.
Fayetteville	Economic development programs are mostly through entitlements grants funded by HUD.
Raleigh	The program is funded from the general fund, with the exception of the Raleigh Convention and Conference Center, which is funded from a County-wide hotel and meals tax levied pursuant to an inter local agreement.
Greensboro	General fund covers staff. Voters approved \$10 Million ED Bond Fund, which covers infrastructure investment in public/private partnerships. Incremental property and sales taxes associated with new jobs and capital investment funds new incentive grants.

Question 7) How many full or part time staff are assigned to administration of your city’s economic development functions?

City	Response
High Point	The City of High Point has four (4) fulltime positions – a president, a senior vice president, a research/information manager, and an executive assistant.
Wilmington	1 Full Time position
Cary	The Chamber has assigned the Vice President of Economic Development to oversee and administer the program directly. This position receives some allocated support from other staff members already staffed within the Chamber.
Asheville	5 Full Time positions
Winston Salem	The City's Development Office manages a variety of programs, not all economic development

	centered, with a total staff of 2.5
Gastonia	No full time positions; however, economic development activities are woven into many positions.
Chapel Hill	1 Full Time Position
Fayetteville	Four (4) full time positions dedicated to the program which includes the staff in Inspections, CD and the Assistant City Manager who all play a part.
Raleigh	No city staff currently has economic development as their primary job function.
Greensboro	Two (2) full-time staff

Question 8) Is your city considering any expansion or new economic development functions in the near future?

City	Response
High Point	No.
Wilmington	No
Cary	Not at this time. The Town commissioned its current strategy study in 2006, so it is likely that the Town will consider an update to that plan within the next two (2) years.
Asheville	No.
Winston Salem	Yes, a green initiative to offer incentives for businesses in the environmental industries. Also, a program to assist businesses in blighted commercial areas.
Gastonia	No; however, a multi-departmental approach to economic development has been increasing.
Chapel Hill	Yes, the City has discussed a minimum of one (1) additional staff person.
Fayetteville	No.
Raleigh	Yes, the City is partnering with RADA on a study of economic development in the City with a view towards the expansion of economic development functions within the City. The economic development element of the 2030 Comprehensive Plan contains several policies and actions related to place-based economic development and revitalization which require new tools and a new administrative structure for implementation. It is anticipated that these functions would complement existing economic development activities rather than replacing them.
Greensboro	Yes, possibly an office of small business assistance to better help and support entrepreneurs and small businesses.

City	Contact
High Point	Loren Hill [Loren.Hill@highpointnc.gov]
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