

AGENDA

CITY OF NEWTON



May 19, 2020

AGENDA
CITY OF NEWTON
NEWTON CITY COUNCIL - REGULAR MEETING

May 19, 2020
7:00 p.m.

- | | |
|------|---|
| Page | 1. <u>Call to Order – Mayor Eddie Haupt</u> |
| | 2. <u>Opening – Council Member Jody Dixon</u> |
| 3 | 3. <u>Approval of Minutes from the May 5, 2020, Regular Meeting</u> |
| | 4. <u>Consideration of Consent Agenda Items</u> |
| 11 | A. Tax Releases |
| 12 | B. Sewer Adjustments |
| 13 | C. Consideration of Pyrotechnics Display Permit for the American Legion Fairgrounds – July, 4, 2020 |
| 32 | D. Consideration to Approve an Ordinance to Waiver Agreement with North Carolina Municipal Power Agency Number 1 and City of Newton |
| | 5. <u>Comments from the Public:</u> (IF YOU WISH TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS RELATED TO CITY BUSINESS, PLEASE EMAIL CITY CLERK AMY FALOWSKI AT CITYCLERK@NEWTONNC.GOV OR CALL 828-695-4359 TO LEAVE A VOICE COMMENT. ALL EMAILS AND VOICE COMMENTS MUST BE RECEIVED BY 5:00 PM ON MAY 19, 2020) |
| | 6. <u>New Business</u> |
| | A. Presentation of Fiscal Year 2020-2021 Budget |
| | 7. <u>City Manager’s Report</u> |
| | 8. <u>Questions and Comments From Mayor and Council</u> |
| | A. Reports from Appointed Representatives on Outside Boards – Mayor Pro Tem John Stiver |
| | 9. <u>Adjournment</u> |

PERSONS WANTING TO BE PLACED ON THE AGENDA FOR THE NEXT MEETING MUST CONTACT THE CITY MANAGER AT LEAST SEVEN WORKING DAYS BEFORE THE MEETING. The City of Newton does not discriminate on the basis of disability in the provision of its services as charged by the City Council of the City of Newton. All meetings are held in accessible facilities. Any person with a disability needing special accommodations should contact Sean Hovis, ADA Coordinator, at least 48 hours prior to the scheduled meeting.

**MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL**

May 5, 2020 – 7:00 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, May 5, 2020 at Newton City Hall, and also electronically via Zoom.

PRESENT: Mayor Eddie Haupt

PRESENT ELECTRONICALLY VIA ZOOM: Mayor Pro Tem John Stiver and Council Members Jerry Hodge, Anne Wepner, Jody Dixon, Beverly Danner and Ed Sain

STAFF PRESENT: City Manager Todd Clark, Assistant Manager Sean Hovis, City Clerk Amy S. Falowski, City Attorney John Cilley, Public Information Officer Alex Frick, and IS Director Chris Little

PRESENT ELECTRONICALLY VIA ZOOM: City Department Heads and members of the management team

PRESENT IN ADJACENT VIEWING AREA: IS Technician Spencer Hodges

ITEM 1: CALL TO ORDER

Mayor Eddie Haupt welcomed everyone and called the meeting to order.

ITEM 2: OPENING Invocation and Pledge of Allegiance

Council Member Ed Sain provided the opening and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES

Upon motion duly made by Council Member Jerry Hodge, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That the Minutes from the April 21, 2020 Regular Meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Council Member Beverly Danner asked that Item 4C be removed from the Consent Agenda.

City Manager Todd Clark stated that Item 4C will be moved off the Consent Agenda.

Upon motion duly made by Council Member Jody Dixon, seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Consent Agenda with the Removal of Item 4C be – APPROVED

- A. Consideration of Proclamation – Police Week, May 10-16, 2020
- B. Consideration of Proclamation – Public Works Week, May 17-23, 2020
- ~~C. Consideration of Amendment to the Fee Schedule for Splash Pad Department~~

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 5: COMMENTS FROM THE PUBLIC: (IF YOU WISH TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS RELATED TO CITY BUSINESS, PLEASE EMAIL CITY CLERK AMY FALOWSKI AT CITYCLERK@NEWTONNC.GOV OR CALL 828-695-4359 TO

LEAVE A VOICE COMMENT. ALL EMAILS AND VOICE COMMENTS MUST BE RECEIVED BY 5:00 PM ON APRIL 21, 2020)

Mayor Eddie Haupt asked if anyone present would like to make comment concerning non-agenda items.

John Sigmon, commented from the citizen viewing/comment area located in the Gantt Room on the lower level of City Hall, that he thinks having the splash pad is a good thing for Newton and that he does not agree with charging the \$1 fee per person. He said he was glad this discussion was being tabled.

City Attorney John Cilley stated that the item was not tabled, but only moved off the consent agenda for this discussion at this meeting. Mr. Sigmon stated that he just believes that it needs to be done in a public forum where more public can give input.

Phone message from Alfred Jolley, 114 N Frye Ave, stating that he is against charging for the splash pad.

Phone message from Becky Martin, 1601 Brentwood Dr, stating that she is against charging for the splash pad, and against raising rates for utilities.

Phone message from Dana Ramseur, stating that she is against charging for the splash pad.

Phone message from Roberta Coulter, stating that she is against charging for the splash pad.

Phone message from Trevor Hefner, stating that he is against charging for the splash pad.

E-mail letter from Morgan Lane, read by City Manager Todd Clark, stating that he is against charging for the splash pad.

Mr. Clark stated that the splash pad was built with funds from the Frank and Sue Jones Estate.

ITEM 4C: Consideration of Amendment to the Fee Schedule for Splash Pad

City Manager Todd Clark stated that City Council held a series of workshops in January and March for planning purposes. It was during these meetings that City Council reviewed the operations of the newly constructed splash pad located at the Main Recreation Center. Many different aspects of operation were discussed and after due consideration, City Council voted to charge patrons for use of the splash pad at the last work session held on March 2, 2020.

Upon the direction of City Council, the staff was directed to prepare an amendment to the Schedule of Fees and Charges for adoption at an upcoming City Council meeting.

Council Member Ed Sain agreed that this matter was voted on and approved. He also stated that the Recreation Commission voted to approve the charges unanimously.

Council Member Anne Wepner stated that she considers the pool and splash pad an aquatic center and an asset to the city. She stated that she would like to look at ways to assist fees with scholarships.

Council Member Jerry Hodge stated that the Recreation Commission is made of citizens and non voting members of City Council. He said this matter has been discussed and voted on and that it is time to move forward.

Council Member Beverly Danner thanked Council Members for reconsidering this item. She stated that there are concerns, and would like to look at extended options for others to pay.

Council Member Jerry Hodge thanked Ms. Danner for requesting the item be removed from consent, and said that council should be careful about how information is provided based on facts. Ms. Danner stated that there was not enough public present before, so not enough information was provided.

Council Member Ed Sain said there were 3 public people there. And with things like the pool, UV protection filters, showers, and the concession stand, there is value in the \$1 charge.

Council Member Jody Dixon stated that he would be voting against the charge again, but he sees that there is value here that other cities do not have. He stated that he would like to seek corporate sponsorships and does not want to the splash pad to limit anyone. Council Member Ed Sain said he would donate a month of his pay from the city as help. Ms. Danner said she would do the same.

Upon motion duly made by Council Member Jerry Hodge, seconded by Mayor Pro Tem John Stiver, with Mayor Pro Tem John Stiver, and Council Members Jerry Hodge, Ed Sain, and Anne Wepner voting in favor of, and Council Members Jody Dixon and Beverly Danner voting against, it was RESOLVED:

That Amendment to the Fee Schedule for Splash Pad be – APPROVED.

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 6: Public Hearing

A. Consideration of Rezoning - #2020-01 Filed by Kevin McMillan

Mayor Haupt opened the Public Hearing.

Planning Director Randy Williams stated that Kevin McMillan has submitted an application to rezone two (2) parcels. The request is to rezone property located in the northwest quadrant of the intersection of Northwest Blvd and West 1st Street from R-20 Single Family Residential to P-1 Office and Intuitional. Mr. Williams stated that the subject site consists of a 0.84 acres tract identified as Catawba County Pins 3730-11-75-3168 and 3730-11-75-3360.

Mr. Williams stated that the site was zoned R-15 on both the 1958 and 1966 zoning maps. R-15 is the predecessor to the R-20 Single Family Residential zoning district, which is what the property was zoned on the 1983 zoning map and currently. There have been no prior attempts to change the zoning of the subject site. Mr. Williams stated that there have been several changes to the zoning in the proximity of the subject site over the years, which are as follows:

1987 – Property just south of the subject site, where Willis Reynolds, CVS, and Newton Vision Center is located was rezoned from R-20 to P-1 Office and intuitional.

1997 – Property south of Willis Reynolds, where CVS and Newton Vision Center was rezoned from P-1 to B-4 General Business. This property was included in the 1987 request above.

1998 –Property southwest of the subject site, also known as Court Street Commons, which contains Newton Family Physicians and Azalea Glen was rezoned from R-20 to PD-MX Planned Development Mixed Use.

2005 – Property southeast of the subject site was rezoned from R-11 Single family and Two Family Residential to P-1. This property is/was a vacant parcel on Northwest Blvd adjacent to the Insurance and Lawyers offices

Surrounding Land Use and Zoning:

North—Property to the north of the subject property is a part of Hildebrand Heights Subdivision, a single family home development. The zoning is R-20 Single Family Residential.

South—Property to the south of the subject property is Willis Reynolds Funeral Home and is zoned P-1.

West— Property to the west of the subject property is a part of Hildebrand Heights Subdivision, a single family home development. The zoning is R-20 Single Family Residential.

East— Property to the east is First Baptist Church, Allied Financial Service, and State Farm. The zoning is R-11 Single Family and Two Family Residential and P-1 Office and intuitional.

Transportation:

Mr. Williams stated that the property is located on Northwest Blvd (US Hwy 321 Business), a major arterial for the City of Newton, and West 1st Street, local neighborhood street. The 2017 Average Daily Traffic Count for Northwest Blvd was 22,000. This thoroughfare was widened to five lanes in 1992 and has a capacity of 37,400 cars per day. There are no traffic counts for West 1st Street; however, there are no known problems along the street and it is not included in any plans to be improved. Mr. Williams stated that water and sewer are available to the site.

Land Development Plan:

Mr. Williams stated that the subject site is located outside of the City's Adopted Area Plans so it is subject to the guidance provided in the 1988 Land Development Plan. The 1988 future land use map, which is attached, identifies the subject site as a barricade area located between residential and commercial land uses. Land uses in barricade areas are generally moderately intensive land use which in this context could be a higher density residential district or office and intuitional. Mr. Williams explained that one of the major points in the Land Development Plan for Residential Land is to protect the existing stable neighborhoods from inappropriate types of scale and intensity of land use.

Mr. Williams stated that staff recommended approval to the Planning Commission at their meeting held on February 25th at the conclusion of the public hearing, the Planning Commission voted to unanimously to recommend approval to the City Council. Mr. Williams stated that the request is consistent with the Land Development Plan for the area and the site has appropriate utilities. Any adverse impacts to adjoining properties would be mitigated by development standards contained in the City's Zoning Ordinance, which would apply when the property is developed; standards include but are not limited to buffers, screening, structure placement, density of development, and signage.

Mayor Haupt asked if there was anyone that would like to speak concerning this rezoning.

City Manager Todd Clark read a letter submitted by Kevin McMillan. Mr. McMillan explained in his letter the details of his business and expansion of the office building he plans to build.

Upon motion duly made by Council Member Ed Sain, seconded by Council Member Anne Wepner, it was unanimously RESOLVED:

That Public Hearing be – CLOSED

Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That Rezoning - #2020-01 Filed by Kevin McMillan be – APPROVED

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 7: **New Business**

A. Consideration of AIA Acceptance and Award for Engineering for Sewer Investigation

Public Works and Utilities Director Dusty Wentz stated that in September of 2019, Council authorized staff to submit an Asset Inventory and Assessment grant application to the State for the sewer system. The application was successful, and the State has offered grant funding in the amount of \$150,000 with a 15% match (\$22,500) and a grant fee of 1.5% (\$2,250) (See attached approved letter). Mr. Wentz stated that the City's required match is in this fiscal year budget.

Mr. Wentz stated that this grant will help identify inflow and infiltration issues in our sewer collections system that are causing sewer overflow that has led to state violations with fines. Staff will focus on the North Eastern part of the sewer collection system. Mr. Wentz stated that the city will be evaluating over 55,000 feet of sewer mains and over 150 manholes.

Mr. Wentz stated that staff has released a Request for Qualifications (RFQ) to select the best qualified engineering firm to complete this work, and anticipates selection of a firm after this resolutions passes and for the engineering work to begin immediately following.

City Manager Todd Clark stated that Item 4C will be moved off the Consent Agenda.

Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Anne Wepner, it was unanimously RESOLVED:

That AIA Engineering for Sewer Investigation be – AWARDED and ACCEPTED

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

B. Consideration of Agreement with McGill Associates, PA for Lake Dam Retaining Wall Repair Project

Public Works Director Dusty Wentz stated that the City of Newton has a water reservoir (City Lake) that is part of the water treatment process. The reservoir has a dam that was built in 1936 and was rebuilt in 1940 and in 1970. The Dam Safety Law of 1967 provides for the certification and inspection of dams in the interest of public health, safety, and welfare, in order to reduce the risk of failure, to prevent injuries to persons, damage to property, and to insure the maintenance of stream flows. The City of Newton's reservoir dam classification is high hazard. Dams are inspected and classified by North Carolina Department of Environmental Quality. (NCDEQ)

Mr. Wentz stated that In December of 2019, City staff noticed the cinder block retaining wall over the reservoir dam was leaning towards the water and appeared to be getting worse. This cinder block retaining wall provides wave protection and provides erosion protection on top of the dam. City staff called in a contractor to see if something could be done to prevent the wall from collapsing. Mr. Wentz stated that the suggestion was to replace the wall. The contractor also made staff aware that this wall will not last much longer and will collapse. Staff did reach out for a second opinion from an engineer that specializes in structured dams and got the same result. NCDEQ requires engineering plan review on replacing this retaining wall and may include permitting to do this work.

Mr. Wentz stated that in January 2020, staff sent requests for qualifications to five (5) engineering firms for the design, permit, construction, and administration of replacing the retaining wall. On February 4, 2020, three were received from McGill Associates PA., Terracon, and The Wooten Company. City staff reviewed all the engineering firms to do a comparison of proposals and McGill Associates PA. is qualified and has shown they can complete this work.

Mr. Wentz stated that staff is ready to move forward with the engineering contract in the amount of \$88,200. The engineering contract and \$88,200 only applies to engineering services to the cinder block retaining wall. Once design is completed and permitted by the state, a bid will be released for construction.

Staff recommends that Council adopt the attached budget amendment for engineering services in the amount of \$88,200.

*At this time, video connection with Council Member Jerry Hodge was lost. Mayor Haupt called for a 10 minute recess to reestablish Mr. Hodge's connection. Mr. Hodge reconnected and rejoined the meeting within this 10 minute recess.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That the Budget Amendment for Engineering Services in the Amount of \$88,200 to McGill Associates, PA for Lake Dam Retaining Wall Repair be - ADOPTED

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

C. Introduction of Proposed Sidewalk Dining Ordinance

Planning Director Randy Williams stated that at the Council Workshop in January, staff presented a draft for revisions to the Sidewalk Dining Ordinance and received input for the Council. Staff also solicited input and comments from the several restaurants, primarily in the downtown area, on the proposed revisions. The DNDA Board also reviewed the draft.

Mr. Williams stated that the Streetscape Revitalization Project addresses many needs and opportunities in Downtown Newton. One of the design goals was for wider sidewalks to enhance the walkability and provide space to encourage outdoor dining. The Code of Ordinances addresses sidewalk dining with certain regulations, of which upon review, needed to be updated and revised to further encourage and permit this use.

Mr. Williams stated that of the comments received, staff noted there was one primary revision to the draft that should be included. The concept of design standards was originally not included in the draft, however both Council and a public comment indicated this should be included, particularly to not permit plastic street furniture as it was not very durable or visually appealing. Staff is working on specific language to address this revision, but will permit *"wood or metal materials for outdoor dining seating and tables in similar design to the restaurants décor."*

Mr. Williams stated that staff requests any questions or comments by the City Council on this revision, or any others you wish to address. He explained staff will incorporate that in the final draft, with public hearings being held by the Planning Commission and City Council prior to any action.

City Manager Todd Clark stated that this will go to Planning Commission next. Mayor Pro Tem John Stiver stated that it looked good.

D. Introduction of Proposed Food Trucks Ordinance

Planning Director Randy Williams stated that at the Council Workshop in January, staff presented a draft for a new Food Truck Ordinance and received input for the Council. Staff also solicited input and comments from the several restaurants, primarily in the downtown area, on the proposed revisions. The DNDA Board also reviewed the draft.

Mr. Williams explained that food trucks are beginning to have more of present in Newton over the last few years. The Code of Ordinance does not currently address the use or operation of food trucks in the city. Recently there are a few businesses, particularly downtown, that have expressed their concerns over potential effects to their businesses. While food trucks do serve a need for expanded and temporary dining opportunities, staff is cognizant that these operations could negatively impact the established restaurants.

Mr. Williams stated that of the comments received, staff noted there was one primary revision to the draft that should be addressed. He explained that initially in the proposed draft, hours of operation were set at 10:00 am to 8:00 pm. Concerns were made that these hours did not include breakfast hours or late night hours for operation. Both City Council and public comments indicated this should be revised, as they did not permit food trucks to operate with additional hours. Staff has reviewed this request and revises the draft for *hours of operation from 10:00 am to 10:00 pm*. Staff reviewed ordinances from cities across the state and did not find that breakfast hours were generally included.

Mr. Williams stated that in similar course with hours of operation, another comment was received that the 2 hour limit (or on-street parking hours) on food trucks using the public right-of-way (streets) was restrictive. Upon writing the initial draft, staff reviewed this and recommended that this was in keeping with other vehicles using on-street parking. Additionally, there is a concern expressed by some that there is not enough parking in downtown. Mr. Williams stated that staff wanted to address this so that there would not be an overuse, abuse or reduction the available customer / citizen parking by food truck operations.

Mr. Williams stated that staff requests any questions or comments by the City Council on this revision. Staff will incorporate these in the final draft, with public hearings being held by the Planning Commission and City Council prior to any action.

Mayor Pro Tem suggested that language could be added that the trucks be parked at least 100' away from any restaurant, but that otherwise, it looks good.

ITEM 7: City Manager's Report

Meetings & Events

- May 19, 2020 – City Council Meeting, 7:00 p.m.

Other

- Streetscape Construction
- Budget Process Continues
- Report on Utility Revenues
- Pool Opening
- Report on Parks and Recreation Access
- Public Works/Compost

ITEM 8: Questions and Comments from Mayor and Council

Mayor Haupt asked if there were any questions or comments from City Council.

Council Member Anne Wepner gave a report on the Public Arts Commission and DNDA.

ITEM 9: **Adjournment**

Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That the Meeting be – ADJOURNED

Amy S. Falowski, City Clerk

Eddie Haupt, Mayor



CITY OF NEWTON

Inter-office Correspondence

TO: E. Todd Clark, City Manager **DATE:** May 5, 2020

RE: Tax Releases – April 2020

FROM: Vickie Thomas, Finance Director

The following tax releases have been received from the Catawba County Tax Collector. The reason for each release is annotated beside the name.

Tax Year	Tax Release Number	Name	Reason	Amount of Release
2019	115	Boston Printing Co., Inc.	Small underpayment	\$0.20
2019	116	Conopco, Inc.	Small underpayment	\$0.09
2019	117	Ferguson, Kenneth L	Small underpayment	\$0.13
2019	118	Keller, Stephen W	Small underpayment	\$0.33
2019	119	Travis, James C	Small underpayment	\$0.09

Should you have any questions or need clarification, please notify. Releases are submitted as required by NCGS § 105-381(b).

CITY OF NEWTON

Sewer Adjustments

TO: E. Todd Clark, City Manager
RE: Sewer Adjustments – 05/19/2020
FROM: Vickie Thomas, Finance Director

DATE: 5/12/2020

The following sewer adjustment is recommended for approval. The adjustment is recommended as a result of a water leak at the service address or a pool fill up.

Account Number	Name	Service Address	Adjustment Period	Amount of Adjustment
30006410-006	Lewis Dellinger	1050 S Brady Ave	Apr- Pool	70.54
53000680-002	Chris Cramer	1011 E 24 th St	May- Pool	107.86
9000760-001	Bobbie Barnette	125 W G St	May- Pool	67.63

Backup documentation to support each adjustment is on file in the Finance Department.
Should you have questions or require further clarification, please notify.

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

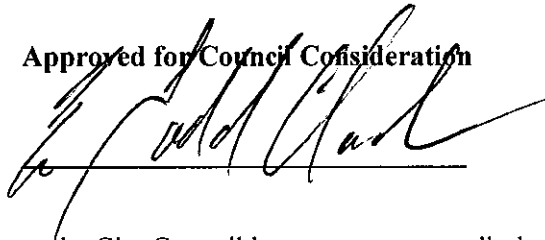
DATE: May 7, 2020

TO: E. Todd Clark, City Manager

FROM: Kevin Yoder, Fire Chief

ACTION REQUESTED: Approval of the pyrotechnics display permit for the American Legion Fairgrounds.

Approved for Council Consideration

A handwritten signature in black ink, appearing to read 'E. Todd Clark', is written over a horizontal line.

1. NC General Statute §14-410 states the City Council has to approve any discharge of pyrotechnics at any public exhibit or concert in their jurisdiction.
2. The American Legion Fairgrounds has requested a permit to discharge pyrotechnics on July 4, 2020 at approximately 10:00 pm-11:00 pm.
3. The American Legion has applied to the City of Newton Fire Department for a permit to discharge pyrotechnics upon approval of the authority having jurisdiction and subsequent inspection by the City of Newton Fire Department prior to the pyrotechnics display.
4. It is a requirement of the NC General Statute that the responsible party displaying pyrotechnics be certified by the Office of the State Fire Marshal.
5. Attached please find a copy of the pyrotechnics display permit issued to the American Legion Fairgrounds by the City of Newton Fire Department, Certificate of Liability Insurance, Catawba County Board of Commissioners Resolution No. 2010-13, NC General Statute §14-410, and a copy of the NC Outdoor Pyrotechnics Display Operators License for Jason Michael Vaughan, Casey Adam Sigmon and Tara Vaughan.

Action Suggested:

Approval of the permit for pyrotechnics display at the American Legion Fairgrounds for July 4, 2020. We have attached a copy for your convenience.

CITY OF NEWTON FIRE DEPARTMENT OPERATIONAL PERMIT



LOCATION: American Legion Fair Grounds

PERMITTED USE: Display Fireworks

This permit shall constitute permission to perform the activity or function listed above and confirm that the applicant has met the requirements consistent with the International Fire code and the requirements of the authority having jurisdiction. Such permission shall not be construed as authority to violate, cancel or set aside any of the provisions of this code or other applicable regulations or laws of the jurisdiction. This permit shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

Fire Marshal: Scott Mecimore

Date: 07/04/2020

Expiration Date: 07/05/2020

**CITY OF NEWTON FIRE DEPARTMENT
PERMIT TO POSSESS AND DISPLAY FIREWORKS**

Application having been made in accordance with the laws of the State of North Carolina (GS 14-413), as modified in session law 1983, chapter 116, and the City of Newton Fire Prevention Code, (Sec. 12-47) this permit is issued to:

DATE: July 4th 2020

NAME Hale Artificier, Inc. LICENSE# 1-NC-057-51-1J-00088

Proper bond of \$500,000 Has been acquired: X Yes No

Giving them the right to exhibit displayed fireworks on the above dates at 22:00 hours, at
Hickory American Legion Fairgrounds

in connection with 4th of July celebration.

CITY CLERK (Approval of City Col.) Date

5-7-20
Date

Scott H. 5-7-2020
FIRE OFFICIAL Date

THE FIRE OFFICIAL SHALL SEIZE, TAKE, REMOVE, OR CAUSE TO BE REMOVED AT THE EXPENSE OF THE OWNER ALL STOCKS OF FIREWORKS IN THE EVENT OF CARELESSNESS TO PRESERVE LIFE AND PROPERTY.



CITY OF NEWTON FIRE DEPARTMENT
Fire Prevention Bureau
Phone: (828) 695-4284 Fax: (828) 465-7453



OPERATIONAL USE PERMITS

Occupant Hickory American Legion Fairgrounds
Address 1127 Hwy 70 W, Newton, NC 28658

Date 5/7/2020
Phone No. 828-464-5433

In accordance with the NC Fire Code an operational permit is required to conduct certain operations. The following Operational Use Permits are included in the General Inspection Use Permit and if approved, will be listed as a provision. Approval to conduct these operations shall not be construed as permission to violate or set aside any of the provisions of the applicable technical codes or standards that regulate those operations. Deviation from the applicable operation(s) would require another permit to be obtained.

Fire Inspector Shall Initial All Applicable Operations:

- ☐ **Amusement Buildings/Tent(s):** An operational permit *is required* to operate a special amusement building. **Covered Mall Buildings:** An operational permit *is required* for the following:
- ☐ 1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.
 - ☐ 2. The display of liquid or gas fired equipment in the mall.
 - ☐ 3. The use of open flame or flame producing equipment in the mall.
- ☒ **Explosives:** An operational permit *is required* for the manufacture, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33.
Exception: Fireworks allowed by NC General Statute 14-414.
- Flammable and Combustible Liquids:** An operational permit *is required* as follows:
- ☐ 1. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
 - ☐ 2. To manufacture, process, blend or refine flammable or combustible liquids.
 - ☐ 3. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.
 - ☐ 4. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.
- ☐ **Fumigation and Thermal Insecticidal Fogging:** An operational permit *is required* to operate a business of fumigation or thermal insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.
- ☐ **Liquid or Gas-Fueled Vehicles or Equipment in Assembly Buildings:** An operational permit *is required* to display, operate or demonstrate liquid or gas-fueled vehicles or equipment in assembly buildings.
- ☐ **Spraying or Dipping:** An operational permit *is required* to conduct a spraying or dipping operation utilizing flammable or combustible liquids or the application of combustible powders regulated by Chapter 15.
- ☐ **Other:** _____
- ☒ **Remarks/Conditions:** July 4, 2020 fireworks display

Occupant Signature _____ Fire Inspector S. Mecimore
Name of Occupant _____ Title Fire Marshal
(Please Print) (Please Print)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/16/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Mountcastle Insurance P.O. Box 1937 Lexington NC 27293-1937		CONTACT NAME: Betty Callicutt PHONE (A/C, No, Ext): (336) 249-4951 FAX (A/C, No): E-MAIL ADDRESS: bcallicutt@mountcastleinsurance.com	
INSURED Hale Artificier, Inc 545 New Bowers Rd. Lexington NC 27292		INSURER(S) AFFORDING COVERAGE INSURER A: National Fire & Marine INSURER B: RWI - Penn. Natl Mutual Cas Ins Co. INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: CL204905073

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS					
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	72LPS037018	04/28/2020	04/28/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Electronic Data Liability \$ 100,000					
	B					AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	AU9 0607811	09/23/2019	09/23/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist BI \$ 30,000	
						UMBRELLA LIAB EXCESS LIAB DED RETENTION \$				OCCUR CLAIMS-MADE	EACH OCCURRENCE \$ AGGREGATE \$
						WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below				Y/N <input type="checkbox"/>	N/A

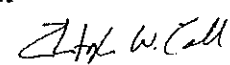
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Date: July 4, 2020
Rain Date: July 5, 2020

American Legion and Town of Newton, NC are included as additional insureds with regards to general liability as required by a written contract.

CERTIFICATE HOLDER

CANCELLATION

Hickory American Legion Fair PO 1844 Hickory NC 28603	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/16/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Mountcastle Insurance 307 W Center St Lexington, NC 27293 (336) 249-4951		CONTACT NAME: PHONE (A/C, No, Ext): (877) 234-4420 FAX (A/C, No): (877) 234-4421 E-MAIL: ADDRESS: PRODUCER CUSTOMER ID #	
INSURED Hale Artificier, Inc. 545 New Bowers Rd Lexington, NC 27292-7058 CTL 1273 1596825		INSURER(S) AFFORDING COVERAGE INSURER A: Continental Indemnity Co. INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 28258	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	Y/N Y	N/A	46-879245-01-07	12/01/2019	12/01/2020	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach Acord 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER**CANCELLATION**Hickory American Legion Fair
P O Box 1844
Hickory, NC 28603

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

1000002116

RESOLUTION NO. 2010- 13

**AUTHORITY FOR THE CITY OF NEWTON TO ISSUE
PERMITS FOR PYROTECHNICS TO BE EXHIBITED**

WHEREAS, NCGS 14-413, Permits For Use at Public Exhibitions, authorizes counties to issue permits for pyrotechnics use in connection with concerts or other public exhibitions; and

WHEREAS, NCGS 14-413(a1) provides a board of county commissioners may authorize the governing body of any city in the county to issue pyrotechnics permits; and

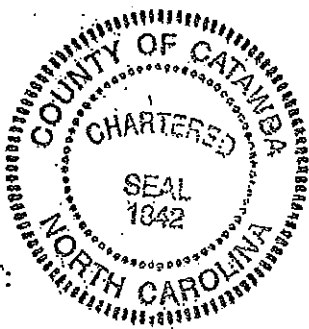
WHEREAS, should a county board of commissioners grant such authority to the city it shall remain in effect until withdrawn by the board of county commissioners adopting a subsequent resolution withdrawing the authority; and

WHEREAS, the City of Newton has requested the Catawba County Board of Commissioners grant the city the authority to issue pyrotechnics permits in accordance with the provisions of Article 54 of Chapter 14 within the City's corporate limits; and

WHEREAS, the City of Newton has the expertise to ensure the safety of its citizens and insure an applicant's compliance with Article 54 of Chapter 14.

NOW, THEREFORE, the Catawba County Board of Commissioners does hereby authorize the City of Newton to issue pyrotechnics permits in accordance with Article 54, Chapter 14 of the North Carolina General Statutes.

This the 17th day of May, 2010.



ATTEST:

Katherine W. Barnes
Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
Barbara E. Morris, Clerk

14-410. (Effective February 1, 2010) Manufacture, sale and use of pyrotechnics prohibited; exceptions; permit required; sale to persons under the age of 16 prohibited.

(a) Except as otherwise provided in this section, it shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use, handle, exhibit, or discharge any pyrotechnics of any description whatsoever within the State of North Carolina.

(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:

(1) The exhibition, use, or discharge is at a concert or public exhibition.

(2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training required under G.S. 58-82A-2 and are under the direct supervision and control of a display operator who holds a display operator permit issued by the State Fire Marshal under G.S. 58-82A-3. The display operator must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics.

(3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

(a2) Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.

(a3) The requirements of this section apply to G.S. 14-413(b) and G.S. 14-413(c).

(b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to persons under the age of 16.

(c) The following definitions apply in this Article:

(1) Concert or public exhibition. – A fair, carnival, show of any description, or public celebration.

(2) Display operator. – An individual issued a display operator permit under G.S. 58-82A-3.

(3) State Fire Marshal. – Defined in G.S. 58-80-1. (1947, c. 210, s. 1; 1993 (Reg. Sess., 1994), c. 660, s. 3; 1995, c. 475, s. 1; 2003-298, s. 2; 2007-38, s. 1; 2009-507, s. 1.)

14-411. Sale deemed made at site of delivery.

In case of sale or purchase of pyrotechnics, where the delivery thereof was made by a common or other carrier, the sale shall be deemed to be made in the county wherein the delivery was made by such carrier to the consignee. (1947, c. 210, s. 2.)

14-412. Possession prima facie evidence of violation.

Possession of pyrotechnics by any person, for any purpose other than those permitted under this article, shall be prima facie evidence that such pyrotechnics are kept for the purpose of being manufactured, sold, bartered, exchanged, given away, received, furnished, otherwise disposed of, or used in violation of the provisions of this article. (1947, c. 210, s. 3.)

14-413. Permits for use at public exhibitions.

- (a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any county, or the governing board of a city authorized pursuant to subsection (a1) of this section, may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.
- (a1) For the purpose of enforcing the provisions of this Article, a board of county commissioners may authorize the governing body of any city in the county to issue permits pursuant to the provisions of this Article for pyrotechnics to be exhibited, used, or discharged within the corporate limits of the city for use in connection with the conduct of concerts or public exhibitions. The board of county commissioners shall adopt a resolution granting the authority to the city, and it shall remain in effect until withdrawn by the board of county commissioners adopting a subsequent resolution withdrawing the authority. If a city lies in more than one county, the board of county commissioners of each county in which the city lies must adopt an authorizing resolution. If any county in which the city lies withdraws the authority of the city to issue permits for the use of pyrotechnics, the authority of the city to issue permits for the use of pyrotechnics will end, and all counties within which the city lies must resume their authority to issue the permits.
- (b) For any indoor use of pyrotechnics at a concert or public exhibition, the board of commissioners or the governing body of an authorized city may not issue any permit unless the local fire marshal or the State Fire Marshal (or in the case of The University of North Carolina or the University of North Carolina at Chapel Hill it may not authorize such concert or public exhibition unless the State Fire Marshal) has certified that:
 - (1) Adequate fire suppression will be used at the site.
 - (2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.

- (3) Adequate egress from the building is available based on the size of the expected crowd.
- (c) The requirements of subsection (b) of this section also apply to any city authorized to grant pyrotechnic permits by local act and to the officer delegated the power to grant such permits by local act.
- (d) **(Effective February 1, 2010)** A board of county commissioners or the governing board of a city shall not issue a permit under this section unless the display operator provides proof of insurance in the amount of at least five hundred thousand dollars (\$500,000) or the minimum amount required under the North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. A board of county commissioners or the governing board of a city may require proof of insurance that exceeds these minimum requirements. (1947, c. 210, s. 4; 1993 (Reg. Sess., 1994), c. 660, s. 3.1; 1995, c. 509, s. 11; 2003-298, s. 1; 2007-38, s. 2; 2009-507, s. 2.)

14-414. Pyrotechnics defined; exceptions.

For the proper construction of the provisions of this Article, "pyrotechnics," as is herein used, shall be deemed to be and include any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes: provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation, and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This Article shall not apply to the sale, use, or possession of the following:

- (1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.
- (2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.
- (3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
- (4) Trick noisemakers which produce a small report designed to surprise the user and which include:
 - a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.
 - b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.

- c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.
- (5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.
- (6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used. (1947, c. 210, s. 5; 1955, c. 674, s. 1; 1993, c. 437.)

14-415. Violation made misdemeanor.

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a Class 2 misdemeanor, except that it is a Class 1 misdemeanor if the exhibition is indoors. (1947, c. 210, s. 6; 1969, c. 1224, s. 3; 1993, c. 539, s. 288; 1994, Ex. Sess., c. 24, s. 14(c); 2003-298, s. 3.)

Article 54.

Sale, etc., of Pyrotechnics.

§ 14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; license required; sale to persons under the age of 16 prohibited.

(a) Except as otherwise provided in this section, it shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use, handle, exhibit, or discharge any pyrotechnics of any description whatsoever within the State of North Carolina.

(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:

- (1) The exhibition, use, or discharge is at a concert or public exhibition.
- (2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training and licensing required under Article 82A of Chapter 58 of the General Statutes. The display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the General Statutes, must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics. Notwithstanding this subdivision, the display operator for the University of North Carolina School of the Arts may appoint an on-site representative to supervise any performances that include a proximate audience display subsequent to the opening performance, provided that the representative (i) is a minimum of 21 years of age and (ii) is properly trained in the safe discharge of proximate audience displays.
- (3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from (i) The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill, (ii) the University of North Carolina School of the Arts and pyrotechnics are exhibited on lands or in buildings owned by the State and used by the University of North Carolina School of the Arts, or (iii) The University of North Carolina or North Carolina State University under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Wake County owned by The University of North Carolina or North Carolina State University.

(a2) Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.

(a3) The requirements of this section apply to G.S. 14-413(b) and G.S. 14-413(c).

(a4) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State as a special effect by a production company, as defined in G.S.

105-164.3(30), for a motion picture production, if the motion picture set is closed to the public or is separated from the public by a minimum distance of 500 feet.

(a5) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State for pyrotechnic or proximate audience display instruction consisting of classroom and practical skills training approved by the Office of State Fire Marshal.

(b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to persons under the age of 16.

(c) The following definitions apply in this Article:

- (1) Concert or public exhibition. -- A fair, carnival, show of any description, or public celebration.
- (2) Display operator. -- An individual issued a display operator license under G.S. 58-82A-3.
- (3) State Fire Marshal. -- Defined in G.S. 58-80-1. (1947, c. 210, s. 1; 1993 (Reg. Sess., 1994), c. 660, s. 3; 1995, c. 475, s. 1; 2003-298, s. 2; 2007-38, s. 1; 2009-507, s. 1; 2010-22, s. 8; 2013-275, s. 1; 2015-124, s. 1.)

§ 14-411. Sale deemed made at site of delivery.

In case of sale or purchase of pyrotechnics, where the delivery thereof was made by a common or other carrier, the sale shall be deemed to be made in the county wherein the delivery was made by such carrier to the consignee. (1947, c. 210, s. 2.)

§ 14-412. Possession prima facie evidence of violation.

Possession of pyrotechnics by any person, for any purpose other than those permitted under this article, shall be prima facie evidence that such pyrotechnics are kept for the purpose of being manufactured, sold, bartered, exchanged, given away, received, furnished, otherwise disposed of, or used in violation of the provisions of this article. (1947, c. 210, s. 3.)

§ 14-413. Permits for use at public exhibitions.

(a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any county, or the governing board of a city authorized pursuant to subsection (a1) of this section, may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition under any of the following circumstances:

- (1) The exhibition is authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or in buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.
- (2) The exhibition is authorized by the University of North Carolina School of the Arts and conducted on lands or in buildings owned by the State and used by the University of North Carolina School of the Arts.
- (3) The exhibition is authorized by The University of North Carolina or North Carolina State University and conducted on lands or in buildings in Wake

County owned by The University of North Carolina or North Carolina State University.

(a1) For the purpose of enforcing the provisions of this Article, a board of county commissioners may authorize the governing body of any city in the county to issue permits pursuant to the provisions of this Article for pyrotechnics to be exhibited, used, or discharged within the corporate limits of the city for use in connection with the conduct of concerts or public exhibitions. The board of county commissioners shall adopt a resolution granting the authority to the city, and it shall remain in effect until withdrawn by the board of county commissioners adopting a subsequent resolution withdrawing the authority. If a city lies in more than one county, the board of county commissioners of each county in which the city lies must adopt an authorizing resolution. If any county in which the city lies withdraws the authority of the city to issue permits for the use of pyrotechnics, the authority of the city to issue permits for the use of pyrotechnics will end, and all counties within which the city lies must resume their authority to issue the permits.

(b) For any indoor use of pyrotechnics at a concert or public exhibition, the board of commissioners or the governing body of an authorized city may not issue any permit unless the local fire marshal or the State Fire Marshal (or in the case of The University of North Carolina, the University of North Carolina at Chapel Hill, or North Carolina State University it may not authorize such concert or public exhibition unless the State Fire Marshal) has certified that:

- (1) Adequate fire suppression will be used at the site.
- (2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.
- (3) Adequate egress from the building is available based on the size of the expected crowd.

(c) The requirements of subsection (b) of this section also apply to any city authorized to grant pyrotechnic permits by local act and to the officer delegated the power to grant such permits by local act.

(d) A board of county commissioners or the governing board of a city shall not issue a permit under this section unless the display operator provides proof of insurance in the amount of at least five hundred thousand dollars (\$500,000) or the minimum amount required under the North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. A board of county commissioners or the governing board of a city may require proof of insurance that exceeds these minimum requirements. (1947, c. 210, s. 4; 1993 (Reg. Sess., 1994), c. 660, s. 3.1; 1995, c. 509, s. 11; 2003-298, s. 1; 2007-38, s. 2; 2009-507, s. 2; 2013-275, s. 2; 2015-124, s. 2.)

§ 14-414. Pyrotechnics defined; exceptions.

For the proper construction of the provisions of this Article, "pyrotechnics," as is herein used, shall be deemed to be and include any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes: provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation, and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This Article shall not apply to the sale, use, or possession of the following:

- (1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.

- (2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.
- (3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
- (4) Trick noisemakers which produce a small report designed to surprise the user and which include:
 - a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.
 - b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.
 - c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.
- (5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.
- (6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used. (1947, c. 210, s. 5; 1955, c. 674, s. 1; 1993, c. 437.)

§ 14-415. Violation made misdemeanor.

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a Class 2 misdemeanor, except that it is a Class 1 misdemeanor if the exhibition is indoors. (1947, c. 210, s. 6; 1969, c. 1224, s. 3; 1993, c. 539, s. 288; 1994, Ex. Sess., c. 24, s. 14(c); 2003-298, s. 3.)

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF Correspondence To ATF - Chief, FELC 244 Needy Road Martinsburg, WV 25405-9431	License/Permit Number 1-NC-057-51-1J-00088
Chief, Federal Explosives Licensing Center (FELC)	Expiration Date September 1, 2021
Name HALE ARTIFICIER INC	

Premises Address (Changes? Notify the FELC at least 10 days before the move)
**345 DAISY COURT
LEXINGTON, NC 27292**

Type of License or Permit
51-IMPORTER OF EXPLOSIVES

Purchasing Certification Statement
The licensee or permittee named above shall use a copy of this license or permit to assist a transfer of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)
**HALE ARTIFICIER INC
545 NEW BOWERS RD
LEXINGTON, NC 27292**

Licensee/Permittee Responsible Person Signature
Jeff Hare
Position/Title
President
Date
9-12-14
Printed Name

Holder's Full Name: Tara Locklin Vaughan
Business Name: Hale Artificier, Inc.
Government ID By: North Carolina
Government ID Type: Driver License
ID Number: *****4291



License Number: 3400
License Type: 1.3G Pyrotechnic
License Level: Operator
License Status: Valid
Expiration Date: 03/05/2022



License Number: 3141
License Type: 1.3G Pyrotechnic
License Level: Assistant
License Status: Not Renewed
Expiration Date: 06/15/2017

Hickory American Legion

July 4, 2020 Fireworks at the Fairgrounds

\$10,000.00

Opening Barrage:

20 - 3" Assorted Color Chain Shells w/Tail

10 - 3" Chain Salute Shells w/Tail

Main Program:

144 - 3" Assorted Aerial Shells w/Tail

96 - 4" Assorted Aerial Shells w/Tail

50 - 5" Assorted Aerials Shells w/Tail

32 - 6" Assorted Aerial Shells w/Tail

Grand Finale:

160 - 3" Assorted Color Chain Shells w/Tail

60 - Red/White/ Blue/Salute Chain Shells w/Tail

50 - 3" Salute Chain Shells w/Tail

30 - 4" Assorted Color Chains Shells w/Tail

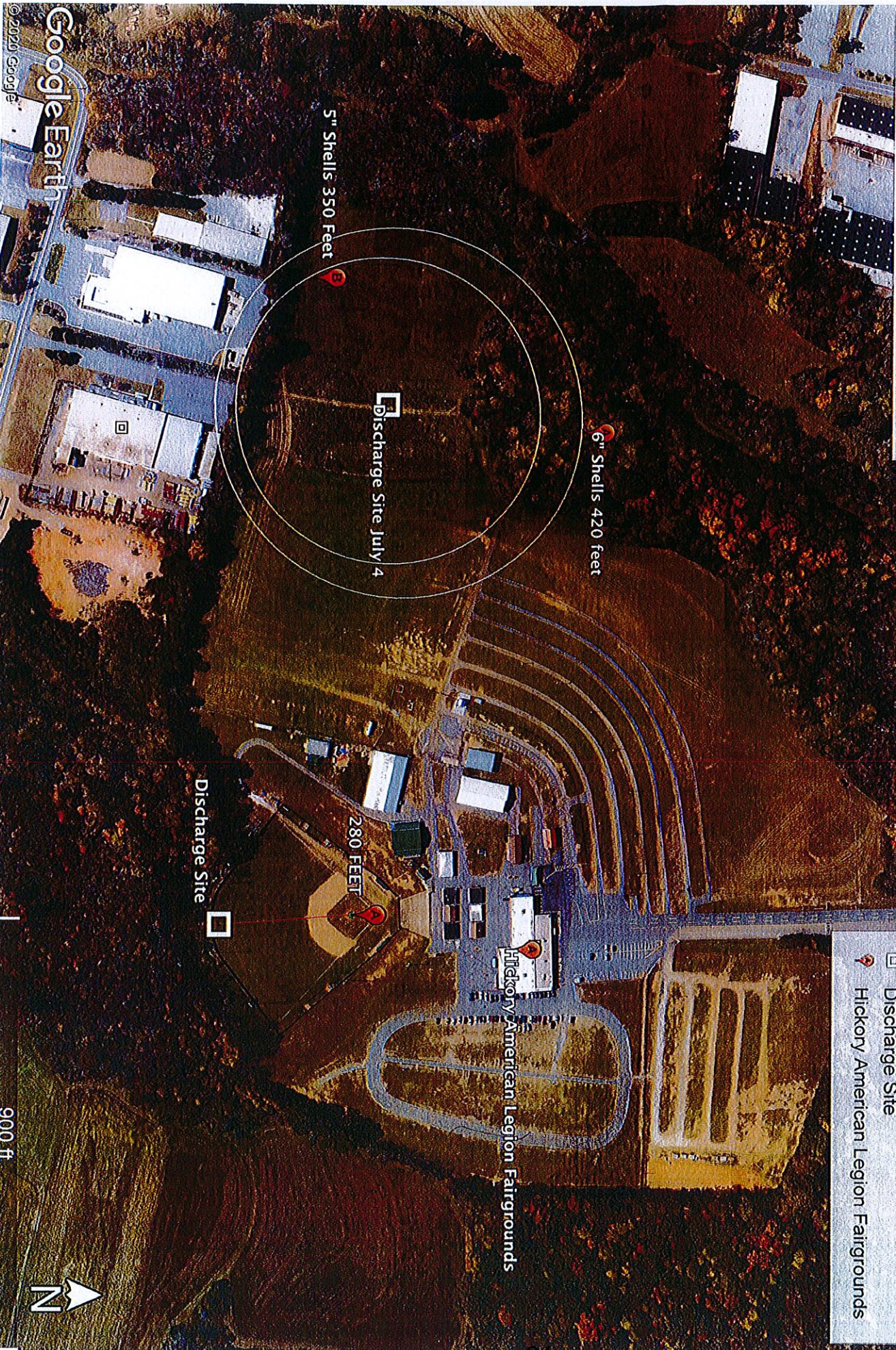
10 - 5" Assorted Color Chain Shells w/Tail

662 Total Aerial Shells

Program Designed to run Approximately 20 - 25 minutes

Hickory American Legion Fair

July 4 site map



- Legend
- 5" Shells 350 Feet
 - Discharge Site
 - Hickory American Legion Fairgrounds

CITY OF NEWTON
REQUEST FOR COUNCIL ACTION

DATE: May 15, 2020

TO: Newton City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: An Ordinance Approving a Waiver Agreement with North Carolina Municipal Power Agency 1

Approved for Council Consideration



Background:

The City of Newton and North Carolina Municipal Power Agency 1 entered into a Project Power Sales Agreement (PPSA) and a Supplemental Power Sales Agreement (SPSA) in May 1978. These agreements were amended in 1984. These agreements essentially created a legal framework through which the Power Agency would be responsible for selling electricity to the City of Newton and for the City to purchase electricity from the Power Agency.

As part of this agreement, the Power Agency is required to transmit information to the City concerning annual budget information and monthly billing in a paper form. In consideration of technological advancements, however, we have determined that it is more efficient and preferable for the Power Agency to now transmit this information through electronic means.

This Request for Council Action seeks the approval of City Council to authorize the Mayor to enter into a “Waiver Agreement” allowing for the electronic transmission of annual budget information and monthly billing to the City.

In order for business to be conducted electronically, an ordinance must be adopted by City Council “determining that it is in the best interest of the City to approve a waiver agreement with North Carolina Municipal Power Agency 1 and authorizing the execution and delivery of the waiver agreement” to ElectriCities of North Carolina. A copy of the Ordinance and Waiver Agreement has been attached to this Request for Council Action for your review.

Requested Action:

The staff recommends City Council adopt the attached Ordinance and Authorize the Mayor and City Clerk to execute the attached waiver.

AN ORDINANCE OF THE CITY/TOWN COUNCIL OF THE
CITY OF _____, NORTH CAROLINA,
DETERMINING THAT IT IS IN THE BEST INTEREST OF
THE CITY/TOWN OF _____ TO APPROVE A
WAIVER AGREEMENT WITH NORTH CAROLINA
MUNICIPAL POWER AGENCY NUMBER 1 AND
AUTHORIZING THE EXECUTION AND DELIVERY OF THE
WAIVER AGREEMENT

WHEREAS, the City/Town of _____, North Carolina (the
“Municipality”) and North Carolina Municipal Power Agency Number 1 (“Power Agency”)
entered into a Project Power Sales Agreement dated as of the first day of May, 1978, (as
amended in 1984 and as may be further amended or supplemented, the “Project Power Sales
Agreement”), pursuant to which Power Agency sells, and the Municipality purchases and pays
for, the Municipality’s Participant’s Share (as defined in the Project Power Sales Agreement) of
Project Output (as defined in the Project Power Sales Agreement); and

WHEREAS, the Municipality and Power Agency entered into a Supplemental Power
Sales Agreement also dated as of the first day of May, 1978 (as amended in 1984 and as may be
further amended or supplemented, the “Supplemental Power Sales Agreement” and, together
with the Project Power Sales Agreement, the “Agreements”), pursuant to which Power Agency
sells, and the Municipality purchases and pays for, All Requirements Bulk Power Supply (as
defined in the Supplemental Power Sales Agreement), which consists of Project Output (as
defined in the Supplemental Power Sales Agreement) and Supplemental Bulk Power Supply (as
defined in the Supplemental Power Sales Agreement); and

WHEREAS, Section 5(a) of each of the Agreements provides that Power Agency shall
mail to the Participant prior to each Contract Year certain budget information and, when
appropriate, certain amended budget information (collectively, “Annual Budget Information”);
and

WHEREAS, Section 5(b) of each of the Agreements provides that Power Agency shall mail to the Participant during each month of each Contract Year a Monthly Bill (the “Monthly Bill”); and

WHEREAS, as a result of changes to Power Agency’s and the Participant’s accounting systems due to improvements to and enhancements in computer technology and their respective accounting and computer systems, and (ii) the advent of and improvements to electronic means of communication since the date of the Agreements, in each case making it easier, faster and more efficient for Power Agency and the Participant to communicate and exchange information, including Annual Budget Information and Monthly Bills, Power Agency and the Participant have determined that it is more efficient and preferable for Power Agency to transmit Annual Budget Information and Monthly Bills to the Participant by electronic means as opposed to United States mail, as is required by the Agreements; and

WHEREAS, on April 24, 2020, the Board of Directors of Power Agency adopted a resolution approving waiving the provisions of Section 5(a) and 5(b) of each of the Agreements requiring the mailing of Annual Budget Information and Monthly Bills, respectively, to the Participant and permitting Power Agency to provide Annual Budget Information and Monthly Bills to the Participant by electronic means (collectively, the “Waiver”), and directed that a waiver agreement (the “Waiver Agreement”) be submitted to each of the Participants for approval and execution; and

WHEREAS, Power Agency has caused to be furnished to this governing body a copy of the Waiver Agreement.

NOW, THEREFORE, BE IT ORDAINED by the City/Town Council of the City/Town of _____, North Carolina:

1. After due consideration to the contents of each of the preambles set forth above and of the Waiver Agreement, it is hereby found and determined that it is in the best interest of the Municipality to approve and authorize the execution and delivery of the Waiver Agreement.

2. The Municipality hereby approves the form, terms and provisions of the Waiver Agreement in the form presented to the meeting at which this Ordinance is adopted, with such changes therein as shall be approved by the officials of the Municipality executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes. The Mayor and the Clerk of the Municipality are hereby authorized and directed to execute, acknowledge and deliver the Waiver Agreement in the name of and on behalf of the Municipality and thereupon to cause the aforesaid Waiver Agreement to be delivered to Power Agency.

3. The officers and officials of the Municipality are hereby authorized and directed to execute such further documents and to take any and all further action as, upon the advice of the Attorney of the Municipality, shall be deemed necessary or desirable in order to effectuate the execution and delivery of the Waiver Agreement.

4. The Clerk of the Municipality is hereby directed to file with the minutes of the meeting at which this Ordinance is adopted the copy of the Waiver Agreement.

5. This Ordinance shall become effective from and after its adoption.

ADOPTED this ____ day of _____, 2020.

Mayor

ATTEST:

Clerk

(Impress SEAL here)

WAIVER AGREEMENT

This WAIVER AGREEMENT is dated as of _____, 2020, by and between North Carolina Municipal Power Agency Number 1, a joint agency of the State of North Carolina (“Power Agency”), and the municipality of the State of North Carolina that has executed this Waiver Agreement (the “Participant”).

WHEREAS, Power Agency and the Participant, by agreement dated as of the first day of May, 1978, entered into a Project Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “PPSA”) pursuant to which Power Agency, among other things, agreed to sell, and the Participant, among other things, agreed to purchase and pay for, its Participant’s Share of Project Output; and

WHEREAS, Power Agency and the Participant, by agreement also dated as of the first day of May, 1978, entered into a Supplemental Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “SPSA” and, together with the PPSA, the “Agreements”) pursuant to which Power Agency, among other things, agreed to provide or cause to be provided and to sell, and the Participant, among other things, agreed to purchase, the Participant’s All Requirements Bulk Power Supply requirements, consisting of Project Output and Supplemental Bulk Power Supply, and

WHEREAS, Section 5(a) of each of the Agreements provides that Power Agency shall mail to the Participant prior to each Contract Year certain budget information and, when appropriate, certain amended budget information (collectively, “Annual Budget Information”); and

WHEREAS, Section 5(b) of each of the Agreements provides that Power Agency shall mail to the Participant during each month of each Contract Year a Monthly Bill (the “Monthly Bill”) and

WHEREAS, since the date of the Agreements, (i) Power Agency’s and the Participant’s accounting systems have significantly changed due to improvements to and enhancements in computer technology and their respective accounting and computer systems, and (ii) the advent of and improvements to electronic means of communication have been developed, in each case making it easier, faster and more efficient for Power Agency and the Participant to communicate and exchange information, including Annual Budget Information and Monthly Bills; and

WHEREAS, as a result of the foregoing, Power Agency and the Participant have determined that it is more efficient and preferable for Power Agency to transmit Annual Budget Information and Monthly Bills to the Participant by electronic means as opposed to United States mail, as is required by the Agreements; and

WHEREAS, on April 24, 2020, the Board of Directors of Power Agency adopted a resolution approving waiving the provisions of Section 5(a) and 5(b) of each of the Agreements requiring the mailing of Annual Budget Information and Monthly Bills, respectively, to the Participant and permitting Power Agency to provide Annual Budget Information and Monthly Bills to the Participant by electronic means (collectively, the “Waiver “), and directed that a waiver agreement be submitted to each of the Participants for approval and execution; and

WHEREAS, the Participant has determined that the Waiver is in the best interest of the Participant and has authorized and directed that this Waiver Agreement be executed for and on behalf of the Participant.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are acknowledged hereby, the parties hereto mutually agree as follows:

Section 1. Unless the context clearly indicates to the contrary, all capitalized terms used in this Waiver Agreement shall have the meanings given them in the Agreements.

Section 2. For and during the remainder of the term of each of the Agreements, and any extensions thereto, the Participant hereby waives and forever relieves Power Agency of the obligation to mail Annual Budget Information and Monthly Bills to the Participant, as required by Section 5(a) and 5(b) of each of the Agreements, respectively, so long as Power Agency provides Annual Budget Information and Monthly Bills to the Participant by electronic means to such address as the Participant shall specify in writing to Power Agency (as such address may be changed similarly from time to time).

Section 3. This Waiver Agreement shall become effective upon the execution and delivery of similar waiver agreements by Power Agency and each Participant, and shall otherwise become effective upon execution and delivery hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Waiver Agreement all by the authority of their respective governing bodies duly given.

Executed the ____ day of _____, 2020.

City (Town) of _____

By: _____
Mayor

ATTEST:

City (Town) Clerk

(SEAL)

Executed this ____ day of _____, 2020.

NORTH CAROLINA MUNICIPAL POWER
AGENCY NUMBER 1

By: _____

ATTEST:

(Ass't) Secretary-Treasurer

(SEAL)

**NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1
BOARD OF DIRECTORS
RESOLUTION NO. BDR-6-20**

**A RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTION OF A WAIVER AGREEMENT BETWEEN
NORTH CAROLINA MUNICIPAL POWER AGENCY
NUMBER 1 AND EACH OF ITS PARTICIPANTS**

WHEREAS, North Carolina Municipal Power Agency Number 1 (“Power Agency”) and each of its Participants, by agreement dated as of the first day of May, 1978, entered into a Project Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “PPSA”) pursuant to which Power Agency, among other things, agreed to sell, and the Participant, among other things, agreed to purchase and pay for, its Participant’s Share of Project Output; and

WHEREAS, Power Agency and each of its Participants, by agreement also dated as of the first day of May, 1978, entered into a Supplemental Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “SPSA” and, together with the PPSA, the “Agreements”) pursuant to which Power Agency, among other things, agreed to provide or cause to be provided and to sell, and the Participant, among other things, agreed to purchase, the Participant’s All Requirements Bulk Power Supply requirements, consisting of Project Output and Supplemental Bulk Power Supply; and

WHEREAS, Section 5(a) of each of the Agreements provides that Power Agency shall mail to the Participant prior to each Contract Year certain budget information and, when appropriate, certain amended budget information (collectively, “Annual Budget Information”); and

WHEREAS, Section 5(b) of each of the Agreements provides that Power Agency shall mail to the Participant during each month of each Contract Year a Monthly Bill (the “Monthly Bill”); and

WHEREAS, since the date of the Agreements, (i) Power Agency’s and the Participants’ accounting systems have significantly changed due to improvements to and enhancements in computer technology and their respective accounting and computer systems, and (ii) the advent of and improvements to electronic means of communication have been developed, in each case making it easier, faster and more efficient for Power Agency and the Participant to communicate and exchange information, including Annual Budget Information and Monthly Bills; and

WHEREAS, as a result of the foregoing, Power Agency and the Participant have determined that it is more efficient and preferable for Power Agency to transmit Annual Budget Information and Monthly Bills to the Participant by electronic means as opposed to United States mail, as is required by the Agreements, and have agreed to execute a waiver agreement giving effect thereto.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF NORTH CAROLIA MUNICIPAL POWER AGENCY NUMBER 1:**

Section 1: Waiver Agreement. The Board of Directors of Power Agency hereby determines that it is in the best interest of Power Agency to execute an agreement waiving the provisions of Section 5(a) and 5(b) of each of the Agreements requiring the mailing of Annual Budget Information and Monthly Bills, respectively, to the Participant and permitting Power Agency to provide Annual Budget Information and Monthly Bills to the Participant by electronic means (collectively, the “Waiver”), approves and authorizes the execution of a waiver agreement (the “Waiver Agreement”) giving effect to the Waiver and directs that a copy of the Waiver Agreement be delivered to each of the Participants for the Participant’s approval and execution.

Section 2. Effective Date. This resolution shall take effect immediately upon adoption.

Adopted this 24th day of April, 2020.