



# Nashville Town Council Regular Meeting

Tuesday, July 7, 2020

7:00 PM

Nashville Town Council Chambers  
114 W. Church Street, Nashville, NC 27856

1. Call to Order
2. Pledge of Allegiance
3. Prayer
4. Public Comments Period
5. Presentation
  - a) Nash County Recreation & Senior Services Glover Park Capital Project Improvements
6. Old Business
  - a) Request to Amend the Code of Ordinances of the Town of Nashville by creating a new article, article XI entitled "Backflow and Cross Connection Control" in Chapter 38 "Utilities"
  - b) Consideration of Lease Agreement on a Commercial Building at 108 S. Boddie Street for Office & Programming Space for the PRCR Department
  - c) Continued Discussion of the Construction of an Over-the Surface Route for Stormwater Flow for flooding on Par Drive, Aubrei Court & Village Lane
7. Town Manager's Report
8. Council Comments
9. Mayor's Comments
10. Adjourn

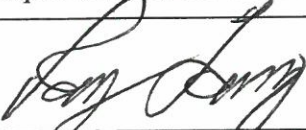




# TOWN OF NASHVILLE

499 S. BARNES STREET  
NASHVILLE, NC 27856  
WWW.TOWNOFNASHVILLE.COM  
(252) 459-4511

## Town Council AGENDA REPORT

<b>MEETING DATE:</b>	July 7, 2020
<b>PREPARED BY:</b>	Randy Lansing, Town Manager
<b>ISSUE CONSIDERED:</b>	Glover Park Improvement Projects
<b>SUMMARY OF ISSUE:</b>	<p>Per the Inter-Local Agreement between the Town of Nashville and Nash County for Nash County to provide field athletic sports programs at Glover Park, the Town is to budget \$20,000 a year for capital improvements at Glover Park, and to hold the money until the Council approves the capital improvements requested by Nash County Recreation &amp; Senior Services for Glover Park. Attached for the Nashville Town Council's consideration are Nash County Recreation &amp; Senior Services' requested capital improvements for Glover Park for FY-21, which began July 1, 2020.</p>
<b>MANAGER'S RECOMMENDATION:</b>	Approve Nash County Recreation & Senior Services' Requested Capital Improvements up to \$20,000
<b>ATTACHMENT(S):</b>	The Glover Park/Field Athletic Sports Programs Inter-Local Agreement between the Town of Nashville and Nash County Nash County Recreation & Senior Services Requested Glover Park Capital Improvements for FY-21
<b>REVIEWED BY TOWN MANAGER:</b>	





NORTH CAROLINA

INTER-LOCAL AGREEMENT

NASH COUNTY

THIS INTER-LOCAL AGREEMENT (the "Agreement") dated this the 21 day of February, 2020 (the "Effective Date"), by and between **TOWN OF NASHVILLE**, a North Carolina municipal corporation (the "Town"), and **NASH COUNTY**, a body politic and corporate of the State of North Carolina ("Nash County") (collectively, the "Parties").

WITNESSETH

**WHEREAS**, pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes, the Town and Nash County are authorized to enter into joint inter-local agreements to execute undertakings; and

**WHEREAS**, the Town owns that certain real estate, including the improvements thereon, known as Glover Park and being more particularly described in that deed, dated June 8, 2001 and recorded in Book 1790, Page 2, Nash County Registry ("Glover Park"); and

**WHEREAS**, the Town's parks and recreation department currently provides operational, maintenance, management, and supervisory services of field athletic sports programs at Glover Park; and

**WHEREAS**, Nash County's parks and recreation department provides services, which are substantially similar to the services provided by the Town's parks and recreation department; and

**WHEREAS**, in order to avoid overlapping services and to provide more cost effective services to the citizens of the Town and Nash County, the Town and Nash County desire to enter into this joint inter-local agreement for the operation of field athletic sports programs, maintenance management and supervision of Glover Park.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**1. Operation and Maintenance.**

(a) Nash County shall assume all duties and responsibilities related to operation, maintenance, management, and supervision of Glover Park, including, but not limited to, supplying personnel and/or staff, maintaining and repairing the facilities, managing and/or supervising athletic activities, events, and programs at Glover Park.

(b) Nash County shall have access to and use of the storage buildings, office space, restrooms, and the concession stand area located at Glover Park.

(c) Nash County shall establish rules, policies and procedures for Glover Park in conjunction with the Town, and the Town hereby agrees to abide by same.

(d) Except as otherwise provided herein, all decisions related to the operation of field athletic sports programs, routine maintenance, and management of Glover Park shall be in the sole discretion of Nash County.

(e) To avoid the duplication of program offerings, Nash County shall not offer any programs other than youth and adult recreational team athletic programs within the city limits of the Town of Nashville, and the Town shall not offer any youth or adult recreational team athletic programs within the city limits of the Town of Nashville.

(f) Nash County shall install signage at Glover Park directing users to call the Nash County parks and recreation department for field rentals and inquiries about athletic programming.

## 2. **Financing.**

(a) The Town shall allot in their budget the sum of Twenty Thousand and No/100 Dollars (\$20,000.00) annually for capital improvements to be made at Glover Park, with the Town Council deciding what capital improvements the money will be spent on. The Town will hold the money until it is approved for expenditure and unspent monies will not accrue from year to year. Capital improvements include, but are not limited, to restroom remodeling, roof replacement, fencing & backstop replacement, HVAC replacement, playground equipment replacement, and field lighting replacement.

(b) Nash County shall provide financial assistance for needy participants at Glover Park, as may be determined by Nash County in its sole discretion.

(c) All revenues generated from fees charged for athletic programs, rentals, recreational activities, and events administered by Nash County, or any approved third party organization, shall be paid to Nash County to be applied to the costs and expenses of the management and operation of Glover Park. By way of example and not limitation, said fees shall include shelter and field rentals, and fees chargeable for tournaments, programmed activities, events, and concessions.

(d) Events sponsored by the Town shall be exempt from any rental fees for any portion of the facilities located at Glover Park. Events sponsored by the Town shall have first priority after Nash County, but only with prior approval of Nash County.

(e) The Town shall be responsible for all water and sewer bills for Glover Park until such time as a water meter may be installed by the Town at the Town's expense. Nash County shall be responsible for all electric bills for Glover Park.



3. **Equipment.**

(a) The Town shall transfer ownership of the following equipment to Nash County: (i) Football equipment, including, but not limited to, helmets, balls, pads, uniforms, and tackling dummies; (ii) Cheerleading equipment, including, but not limited to, uniforms, pom poms, and bags; (iii) Soccer equipment, including, but not limited to, soccer goals, balls, pennies and uniforms; (iv) Baseball equipment, including, but not limited to, batting tees, balls, bases, batting helmets, catchers' pads and other catching equipment; (v) Field preparation equipment, including, but not limited to, drags, rakes, field painting machines, pull behind sprayer; (vi) The John Deere Gator; and (vii) Two (2) Toro lawn mowers.

(b) Any and all equipment purchased by Nash County for the management and operation of Glover Park shall be the sole property of Nash County.

4. **Employment.**

(a) The Park Maintenance Worker currently employed by the Town shall be offered employment by Nash County in similar or comparable roles.

5. **Insurance.**

(a) During the term of this Agreement, Nash County shall, at its expense, obtain and keep in full force and effect, personal injury and property damage insurance naming the Town as an additional insured, insuring against claims of bodily injury or death and personal injury to \$2,000,000 per occurrence, and property damage arising out of Nash County's operation, management and maintenance of Glover Park to \$2,000,000.

(b) During the term of this Agreement, the Town shall, at its expense, obtain and keep in full force and effect, personal injury and property damage insurance naming Nash County as an additional insured, insuring against claims of bodily injury or death, personal injury or property damage arising out of the Town's use of Glover Park.

6. **Term.** This Agreement shall be effective as of the date it is approved and signed by both parties and shall continue in effect for a term of one (1) year at which time, Town and Nash County agree to meet and determine the future of this Agreement. However, the Town shall first have a ninety (90) day ~~grace~~ period after the Agreement becomes effective to move out of Glover Park.

7. **Binding Effect.** All the terms and conditions hereof shall be binding on the Parties hereto and shall bind and inure to the benefit of their successors and/or assigns.

8. **Waivers.** The failure of the Town or Nash County to complain of any omission on the part of another party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by any of the Parties at any time, express or implied, of any breach of any provisions of this Agreement shall be deemed a consent to any subsequent breach of the same or any other provisions.

9. **Construction.** This Agreement shall be governed and enforced in accordance with the laws of the State of North Carolina. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, all of which other provisions shall remain in full force and effect. If any provision of this Agreement is capable of two interpretations, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

10. **Amendment.** This Agreement contains the entire agreement of the Parties. It may be changed or amended only by an agreement in writing signed by all Parties.

11. **Captions.** The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections.

IN WITNESS WHEREOF, the Parties have hereunto affixed their hands and seals as of the day and year written herein below.

NASH COUNTY

By: *Robbie B. Davis*  
Robbie B. Davis, Chairman, Board of Commissioners

Date: 1-21-2020

ATTEST:

*Janice Evans*  
Janice Evans, Clerk to the Board

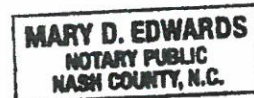
NORTH CAROLINA

NASH COUNTY

I, Mary D. Edwards, a Notary Public in and for the above referenced county and state, do hereby certify that Janice Evans personally appeared before me this day and acknowledged that he/she is the Clerk of the Board of Commissioners of Nash County and that by authority duly given and as the act of the County, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal, and attested by himself/herself as its Clerk. Witness my hand and official seal, this the 22<sup>nd</sup> day of January, 2020.

Mary D. Edwards  
Notary Public

My commission expires: 12/2/2023



TOWN OF NASHVILLE

By: Brenda Brown  
Brenda Brown, Mayor, Town of Nashville

Date: 1-22-2020

ATTEST:

Lou Bunch  
Lou Bunch, Town Clerk

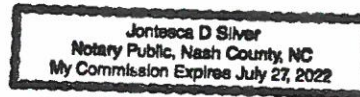
NORTH CAROLINA

NASH COUNTY

I, Jontesca D. Silver, a Notary Public in and for the above referenced county and state, do hereby certify that Lou Bunch personally appeared before me this day and acknowledged that he/she is the Clerk of the Town of Nashville and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by himself/herself as its Town Clerk. Witness my hand and official seal, this the 22 day of January, 2020.

Jontesca D. Silver  
Notary Public

My commission expires: July 27, 2022









**Nash County**  
*Recreation & Senior Services*

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## **Glover Park Capital Projects/Improvements**

## Glover Park Capital Improvements

### Project Title

Dugout Roofing

### Project Description

Install Metal Dugout Coverings for Ball Fields 1,2,3, & 4

### Project Justification

Currently there are temporary shade structures over each dugout. These temporary shade structures fail to cover the entire dugout. By providing metal dugout roofing, it will provide a safe area for players to observe the game. It also keeps the players dry during a rain delay. Metal dugout covering will also help reduce temperatures from direct sunlight.

### Project Timeline

We would like to have the dugout coverings installed by the beginning of the fall. We are hoping to attract several tournaments at the complex within the next year.

### Project Cost

\$8800 for 8 Ball Field Dugouts



## Glover Park Capital Improvements

### Project Title

Removal & Reinstallation of Fencing at Soccer Fields

### Project Description

Takedown and reinstall approximately 462 linear feet of 4'x11, ½ gauge chain line fence and adding approximately 40 linear feet of 4'x11 ½ gauge chain link fence. Reusing all the existing materials.

### Project Justification

More area is needed for fields and spectators. During the Spring 2020 season we had to line the 10-15-year-old soccer field on the football field. Our staff foresee this being a problem during the fall each year due to the Hornets having to use the football field for games and practices. Expanding the field area would also be beneficial for the Veteran's Day Football Classic Tournament. This would allow us to use the soccer area for a football field, which would allow for more participation.

### Project Timeline

We would like to remove and reinstall the fencing by October 31, 2020.

### Project Cost

\$2611

## Glover Park Capital Improvements

### Project Title

Repaint Floors in Scores tower/Office Building

### Project Description

Repaint floors at concession, bathrooms, office area, and second floor. Contractor will grind to remove existing paint and prep floor for new epoxy finish prime floors with pre-primer bonding agent.

Contractor will paint floors with two coats of 100% solid epoxy coating.

### Project Justification

Due to the wear and tear from cleats and other items, the floors in this building need to be repainted. By coating the concrete floors in epoxy, they will last longer and resist considerable wear. Once the concrete has an epoxy coating it makes the floors easier to maintain.

### Project Timeline

Would like to have floors repainted by July1, 2021

### Project Cost

\$4745

## Glover Park Capital Improvements

### Project Title

Baseball Field 1 Group Relamp

### Project Description

Supply (24) 1500w Musco Z Lamp metal halide lamps

Provide Musco Technician and lift to perform a group re-lamp for Field 1

- Replace lamps in (24) Musco SportsCluster-2™ lighting system luminaires
- Clean glass lenses and reflectors
- Trouble shoot remaining fixture outages as needed
- Re-align fixtures based on the original Musco Sports Lighting Design
- Fine tune fixtures if needed to help improve light uniformity
- Dispose of old lamps

### Project Justification

Lights have not been relamped or replaced since 2002. There are several light fixtures out and need to be replaced. It will be more cost effective and safe to replace all lights at the same time.

### Project Timeline

Would like to have lights relamped by July 1, 2021

### Project Cost

\$5500

## **Glover Park Capital Improvements**

### **Project Title**

Baseball Field 2 Group Relamp

### **Project Description**

Supply (42) 1500w Musco Z Lamp metal halide lamps

Provide Musco Technician and lift to perform a group re-lamp for Field 1

- Replace lamps in (42) Musco SportsCluster-2™ lighting system luminaires
- Clean glass lenses and reflectors
- Trouble shoot remaining fixture outages as needed
- Re-align fixtures based on the original Musco Sports Lighting Design
- Fine tune fixtures if needed to help improve light uniformity
- Dispose of old lamps

### **Project Justification**

Lights have not been relamped or replaced since 2002. There are several light fixtures out and need to be replaced. It will be more cost effective and safe to replace all lights at the same time

### **Project Timeline**

Would like to have lights relamped by July 1, 2021

### **Project Cost**

\$5880

## Glover Park Capital Improvements

### Project Title

Football Field Group Relamp

### Project Description

Supply (28) 1500w Musco Z Lamp metal halide lamps

Provide Musco Technician and lift to perform a group re-lamp for Field 1

- Replace lamps in (28) Musco SportsCluster-2™ lighting system luminaires
- Clean glass lenses and reflectors
- Trouble shoot remaining fixture outages as needed
- Re-align fixtures based on the original Musco Sports Lighting Design
- Fine tune fixtures if needed to help improve light uniformity
- Dispose of old lamps

### Project Justification

Lights have not been relamped or replaced since 2002. There are several light fixtures out and need to be replaced. It will be more cost effective and safe to replace all lights at the same time

### Project Timeline

Would like to have lights relamped by July 1, 2021

### Project Cost

\$5880

## Glover Park Capital Improvements

### Project Title

Musco Control Link

### Project Description

Musco's Control linke is a reliable, cost effective system that controls and manages recreational facilities. There are two ways to manage control link: you can directly manage schedules using the web-based system and/or musco app, or you can talk to full time Control-Link Support Staff.

### Project Justification

With Musco Control Link, it will allow staff flexible control. Staff will be able to schedule lights via internet, email, or phone. It will save energy and staff cost due operating lights only when needed and curtailing the public concerns about lights when fields are not in use. Having Musco Control link will increase security at the facility. Instead of using keys, staff will use passwords to turn on the lights.

### Project Timeline

Would like to have control link by February 1, 2020

### Project Cost

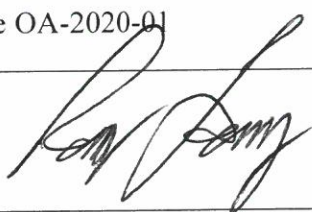
\$10,500



Town  
Council  
**AGENDA  
REPORT**

# TOWN OF NASHVILLE

499 S. BARNES STREET  
NASHVILLE, NC 27856  
WWW.TOWNOFNASHVILLE.COM  
(252) 459-4511

<b>MEETING DATE:</b>	July 7, 2020
<b>PREPARED BY:</b>	Randy Lansing, Town Manager
<b>ISSUE CONSIDERED:</b>	Backflow and Cross Connection Ordinance
<b>SUMMARY OF ISSUE:</b>	<p>The Federal Safe Drinking Water Act (PL 93-523) and the North Carolina State Administrative Code (ISA NCAC 18C) require municipal water supplies to have active backflow and cross connection programs enacted via a backflow and cross connection ordinance to prevent public water supplies from becoming contaminated by plumbing, water vessels, and other sources of water that typical water users have.</p> <p>Attached is the backflow and cross connection ordinance, a held a public hearing was held on July 1<sup>st</sup>. The ordinance meets the above statutory requirements, is based on the North Carolina Rural Water Association's model cross connection ordinance, and is very similar to several neighboring towns/cities cross connection ordinances.</p>
<b>MANAGER'S RECOMMENDATION:</b>	Adopt the proposed Backflow and Cross Connection Control Ordinance and Codify it into Chapter 38 of the Nashville Town Code
<b>ATTACHMENT(S):</b>	Ordinance OA-2020-01
<b>REVIEWED BY TOWN MANAGER:</b>	





**ORDINANCE OA-2021-01**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NASHVILLE BY CREATING A NEW ARTICLE XI ENTITLED "BACKFLOW AND CROSS CONNECTION CONTROL" IN CHAPTER 38 "UTILITIES"**

BE IT ORDAINED by the Town Council of the Town Nashville, North Carolina

SECTION 1. NEW ARTICLE: The Code of Ordinances of the Town of Nashville, Nash County, North Carolina is hereby amended by creating a new Article XI entitled "Backflow and Cross Connection Control" in Chapter 38 "Utilities", which read as follows:

**ARTICLE IV. BACKFLOW AND CROSS CONNECTION CONTROL**

**Sec. 38-532. Introduction.**

- (a) The purpose of this Backflow and Cross Connection Control Ordinance (this "Ordinance") is to define the authority of the Town of Nashville (the "Town") as the water purveyor in the elimination of cross connections within its public potable water supply.
- (b) This Ordinance shall apply to all users connected to the Town public potable water supply regardless of whether the user is located within the boundaries of the Town or outside of the Town boundaries in the Extra Territorial Jurisdiction (ETJ).
- (c) This Ordinance will comply with the Federal Safe Drinking Water Act (PL 93-523), the North Carolina State Administrative Code (15A NCAC 18C), and the North Carolina State Building Code (Volume II) as they pertain to cross connections with the public water supply.

**Sec. 38-533. Objectives of Ordinance.** The specific objectives of this Ordinance are as follows:

- (a) To protect the public potable water supply of the Town against actual or potential contamination by isolating within the consumer's water system contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross connections into the public water system.
- (b) To eliminate or control existing cross connections, actual or potential, between the consumer's potable water system and non-potable or industrial piping system.
- (c) To provide a continuing inspection program of cross connection control which will systematically and effectively control actual or potential cross connections which may be installed in the future.

**Sec. 38-534. Definitions.** The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Air-gap separation* means a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An approved air-gap separation shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the receiving vessel, but in no case less than one inch (2.54 cm).

*Approved* means, as used in reference to a water supply, a water supply that has been approved by North Carolina Department of Environmental Quality (“DEQ”); or, as used in reference to air-gap separation, a pressure vacuum breaker, a double check valve assembly, a double check detector assembly, a reduced pressure principle backflow prevention assembly, a reduced pressure principle detector assembly, or other backflow prevention assemblies or methods that meet the approval of the Town.

*Backflow* means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the consumer or public potable water system from any source or sources.

*Backflow prevention assembly--Approved.* The term "approved backflow prevention assembly" means an assembly used for containment and/or isolation purposes that has been investigated and approved by the Town and has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWWA), or the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California. The approval of backflow prevention assemblies by the Town is based on a favorable report by the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California, recommending such an approval. To be approved, an assembly must be readily accessible for in-line testing and maintenance.

*Backflow prevention assembly--Unapproved.* The term "unapproved backflow prevention assembly" means an assembly that has been investigated by the Town and has been determined to be unacceptable for installation within the Town water system. Consideration for disapproval and removal from the "approved list" shall be based up on, but not limited to, the following criteria: (i) Due to poor performance standards (i.e. , significant failure rate); (ii) lack of or unavailability of repair parts; and/or, (iii) poor service or response from assembly's factory representative.

*Backflow prevention assembly--Type* means an assembly used to prevent backflow into a consumer or public potable water system. The type of assembly used should be based on the degree of hazard either existing or potential. The types are:

- 1) Double check valve assembly (DCVA).
- 2) Double check detector assembly (fire system) (DCDA).
- 3) Pressure vacuum breaker (PVB).
- 4) Reduced pressure principle assembly (RP).
- 5) Reduced pressure principle detector assembly (fire system). (RPDA).



*Backflow prevention assembly tester--Certified.* The term "certified backflow prevention assembly tester" means a person who has proven his/her competency to the satisfaction of the Town. Each person who is certified to make competent tests, or to repair, overhaul, and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules, and regulations, shall be a licensed plumber or have at least two years' experience under and be employed by a North Carolina licensed plumber or plumbing contractor, or have equivalent qualifications acceptable to the Town, and must hold a certificate of completion from an approved training program in the testing and repair of backflow prevention assemblies.

*Backflow prevention device--Approved.* The term "approved backflow prevention device" means a device used for isolation purposes that has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE) and the American Water Works Association (AWWA)

*Back-pressure backflow* means any elevation in the consumer water system, by pump, elevation of piping, or steam and/or air pressure, above the supply pressure at the point of delivery which would cause, or tend to cause, a reversal of the normal direction of flow.

*Back-siphonage backflow* means a reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

*Check valve--Approved.* The term "approved check valve" means a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi and the outlet pressure is zero. The check valve shall permit no leakage in a direction reverse to the normal flow. The closure element (e.g. clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly, i.e., pressure vacuum breaker, double check valve assembly, double check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly.

*Consumer* means any person, firm, or corporation using or receiving water from the Town water system.

*Consumer's potable water system* means that portion of the privately owned potable water system lying between the point of delivery and point of use and/or isolation protection. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or use potable water.

*Consumer's water system* means any water system commencing at the point of delivery and continuing throughout the consumer's plumbing system, located on the consumer's premises, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

*Containment* means preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.

*Contamination* means an impairment of the quality of the water which creates a potential or



actual hazard to the public health through the introduction of hazardous or toxic substances or through the spread of disease by sewage, industrial fluids, or waste.

*Cross connection* means any unprotected actual or potential connection or structural arrangement between a public or a consumer's water system and any other source or system through which it is possible to introduce any contamination or pollution, other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices, and other temporary or permanent device through which or because of which "backflow" can or may occur are considered to be cross connections.

*Double check detector assembly* means a specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass water meter and a meter-sized approved double check valve assembly. The meter shall register (in U.S. gallons/cubic feet) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a non-health hazard (i.e., pollutant).

*Double check valve assembly* means an assembly composed of two independently acting, approved check valves, including tightly closing shutoff valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a non-health hazard (i.e. pollutant).

*Hazard--Degree of.* The term "degree of hazard" is derived from the evaluation of conditions within a system which can be classified as either a "pollutional" (non-health) or a "contamination" (health) hazard.

*Hazard--Health.* The term "health hazard" means an actual or potential threat of contamination of a physical, hazardous or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health.

*Hazard--Non-health.* The term "non-health hazard" means an actual or potential threat to the quality of the public or the consumer's potable water system. A non-health hazard is one that, if introduced into the public water supply system, could be a nuisance to water customers, but would not adversely affect human health.

*Hazard Pollutional.* The term "pollutional hazard" means an actual or potential threat to the quality or the potability of the public or the consumer's potable water system but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

*Health agency* means the North Carolina Department of Environmental Quality ("DEQ").

*Industrial fluids* means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health or non-health hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to: process waters; chemicals in fluid form;



acids and alkalis; oils, gases; etc.

*Industrial piping system--Consumer's.* The term "consumer's industrial piping system" means any system used by the consumer for transmission of or to confine or store any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances which are or may be polluted or contaminated

*Irrigation.* See irrigation system.

*Irrigation contractor* means any person who, for compensation or other consideration, constructs, installs, expands, services, or repairs irrigation systems. An irrigation contractor, who is not a licensed plumber, may only perform work downstream of a backflow preventer.

*Irrigation system* means all piping, fittings, sprinklers, drip tubing, valves, control wiring of 30 volts or less, and associated components installed for the delivery and application of water for the purpose of irrigation.

*Isolation* means the act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: the Town may make recommendations, upon facility inspection, as to the usages of isolation devices/assemblies, but does not assume, nor does it have any responsibility whatsoever for such installations.

*Point of delivery* means generally at the property line of the customer, adjacent to the public street where the Town water distribution mains are located, or at a point on the customer's property where the meter is located. The customer shall be responsible for all water piping and control devices located on the customer's side of the point of delivery.

*Pollution* means an impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably alter the aesthetic qualities of such waters for domestic use.

*Potable water* means water from any source which has been investigated by DEQ and which has been approved for human consumption.

*Public potable water system* means any publicly or privately owned water system operated as a public utility, under a current DEQ permit, to supply water for public consumption or use. This system will include all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store potable water for public consumption or use.

*Reduced pressure principle backflow prevention assembly* means an assembly containing within its structure a minimum of two independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks is less than the supply pressure. In case of leakage of either check valve, the pressure differential



relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shutoff valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e., contaminant).

*Reduced pressure principle detector assembly* means a specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter-sized approved reduced pressure principle backflow prevention assembly. The meter shall register, in U.S. gallons/cubic feet, accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against a health hazard (i.e. contaminant).

*Service connections* means the terminal end of a service connection from the public potable water system, i.e., where the Town loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system.

*Vacuum breaker--Atmospheric type.* The term "atmospheric vacuum breaker," also known as the "non-pressure type vacuum breaker," means a device containing a float-check, a check seat, and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls and forms a check valve against back-siphonage and at the same time opens the air inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream may be an integral part of the device. An atmospheric vacuum breaker is designed to protect against a non-health hazard, isolation protection only, under a backsiphonage condition only.

*Vacuum breaker--Pressure type.* The term "pressure vacuum breaker" means an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (i.e., contaminant) under a backsiphonage condition only.

*Water purveyor* means the owner or operator of a public potable water system, providing an approved water supply to the public.

*Water supply Approved.* The term "approved water supply" means any public potable water supply which has been investigated and approved by DEQ. The system must be operating under a valid health permit. In determining what constitutes an approved water supply, DEQ shall reserve the final judgment as to its safety and potability.

*Water supply Auxiliary.* The term "auxiliary water supply" means any water supply on or available to a premises other than the Town's approved public potable water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, etc., "used water", or industrial fluids. These waters may be polluted, contaminated, or objectionable and constitute an unacceptable water source over which the Town does not have sanitary control.

*Water supply Unapproved.* The term "unapproved water supply" means a water supply which has not been approved for human consumption by DEQ.



*Water--Used.* The term "used water" means any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

**Sec. 38-535. Responsibilities.**

- (a) *Health agency.* The North Carolina Department of Environmental Quality ("DEQ") has the responsibility for establishing and enforcing laws, rules, regulations, and policies to be followed in carrying out an effective cross connection control program. DEQ also has the primary responsibility of ensuring that the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross connections. DEQ has the further responsibility of ensuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system and, further, that the water purveyor requires the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.
- (b) *Water purveyor.* Except as otherwise provided in this Ordinance, it is the Town's responsibility to ensure a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water system. In addition, the water purveyor shall exercise reasonable vigilance to ensure that the consumer has taken the proper steps to protect the public potable water system. To ensure that the proper precautions are taken, the Town is required to determine the degree of hazard or potential hazard to the public potable water system; to determine the degree of protection required; and to ensure proper containment protection through an on-going inspection program. When it is determined that a backflow prevention assembly is required for the protection of the public system, the Town shall require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at each service connection, to test immediately upon installation and thereafter at a frequency as determined by the Town, to properly repair and maintain such assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.
- (c) *Consumer.* The consumer has the primary responsibility of preventing pollutants and contaminants from entering the consumer's potable water system or the public potable water system. The consumer's responsibility starts at the point of delivery from the public potable water system and includes all of the consumer's water system. The consumer, at his/her own expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the Town. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three years. The records shall be on forms approved by the Town and shall include the list of materials or replacement parts used. Following any repair, overhaul, re-piping or relocation of an assembly, the consumer shall have it tested to ensure that it is in good operating condition and will prevent backflow. Tests, maintenance, and repairs of

backflow prevention assemblies shall be made by a certified backflow prevention assembly tester, and paid for by the consumer. It is the consumer's responsibility to utilize a certified backflow prevention assembly testers as defined in Section 38-534 Definitions.

- (d) *Certified backflow prevention assembly testers.* When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities:
- (1) The tester will be responsible for making competent inspections and for repairing or overhauling backflow prevention assemblies and making reports of such repair to the consumer and responsible authorities on forms approved by the Town.
  - (2) The tester shall include the list of materials or replacement parts used.
  - (3) The tester shall be equipped with and be competent to use all the necessary tools, gauges, and other equipment necessary to properly test, repair, and maintain backflow prevention assemblies.
  - (4) It will be the tester's responsibility to ensure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly.
  - (5) It will be the tester's further responsibility not to change the design, material or operational characteristics of an assembly during repair or maintenance without prior approval of the Town.
  - (6) A certified tester shall perform the work and be responsible for the competency and accuracy of all tests and reports.
  - (7) A certified tester shall provide a copy of all test and repair reports to the consumer and to the Town Public Works Department within ten business days of any completed test or repair work.
  - (8) A certified tester shall maintain such records for a minimum period of three years.
  - (9) All certified back flow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Town.
  - (10) All test equipment shall be registered with the Town Public Works department.
  - (11) All test equipment shall be checked for accuracy annually, at a minimum, calibrated, if necessary, and certified to the Town as to such calibration, employing an accuracy/calibration method acceptable to the Town.



- (12) All certified backflow prevention assembly testers must become re-certified every two years through an approved backflow prevention certification program.

**Sec. 38-536. Right of Entry.**

- (a) Authorized representatives from the Town shall have the right to enter, upon presentation of proper credentials and identification, any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this Ordinance. Those duties may include sampling and testing of water, or inspections and observations of all piping systems connected to the public water supply.
- (b) Where a customer has security measures in force which would require proper identification and clearance before entry into customer's premises, the customer shall make necessary arrangements with the security guards so that upon presentation of suitable identification, Town personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Refusal to allow entry for these purposes may result in discontinuance of water service.
- (c) On request, the consumer shall furnish to the Town any pertinent information regarding the water supply system on such property where cross connections and backflow are deemed possible.

**Sec. 38-537. Elimination of Cross Connections - Degree of Hazard.**

- (a) When cross connections are found to exist, the owner, his/her agent, occupant, or tenant will be notified in writing to disconnect the cross connection within the time limit established by the Town. Degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. The maximum time limits are as follows:
  - (1) Cross connections with private wells or other auxiliary water supplies--immediate disconnection.
  - (2) All facilities which pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle backflow prevention assembly within 60 days.
  - (3) All industrial and commercial facilities not identified as a health hazard shall be considered non-health hazard facilities. All non-health hazard facilities must install, as a minimum containment assembly, a double check valve assembly within 90 days
  - (4) If, in the judgment of the Town, an imminent health hazard exists, water service to the building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated.

- (5) Based upon recommendation from the Town, the consumer is responsible for installing sufficient internal isolation backflow prevention assemblies and/or methods (i.e., air gap, pressure vacuum breakers, reduced pressure principle backflow prevention assembly, double check valve assembly).
  - (6) Water mains served by the Town but not maintained by the Town will be considered cross connections, with degree of hazard to be determined by the Town. Degree of protection shall be based upon the degree of hazard, as determined by the Town.
  - (7) In the event that a Town cross connection control inspector does not have sufficient access to every portion of a private water system (e.g., classified research and development facilities; federal government property) to allow a complete evaluation of the degree of hazard associated with such private water systems, an approved reduced pressure principle assembly shall be required as a minimum of protection.
- (b) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.

**Sec. 38-538. Installation of Assemblies.**

- (a) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by the Town and/or the manufacturer's installation instructions and/or in the latest edition of the state building code, whichever is most restrictive.
- (b) All new construction plans and specifications, when required by the state building code and DEQ, shall be made available to the Town for review and approval, and to determine the degree of hazard.
- (c) Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.
- (d) All double check valve assemblies must be installed in accordance with detailed specifications provided by the Town. Double check valve assemblies may be installed in a vertical position provided they have been specifically approved by the manufacturer and with prior approval from the Town, provided the flow of water is in an upward direction.
- (e) Reduced pressure principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances. Pit and/or below grade installations are prohibited.
- (f) The installation of a backflow prevention assembly which is not approved must be



replaced with an approved backflow prevention assembly.

- (g) The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Town Public Works Department within fifteen (15) days after a reduced pressure principle backflow preventer (RP), double check valve assembly (DCVA), pressure vacuum breaker (PVB), double check detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed:
  - (1) Service address where assembly is located;
  - (2) Owner and address, if different from service address;
  - (3) Description of assembly's location;
  - (4) Date of installation;
  - (5) Installer, include name, plumbing company represented, plumber's license number, and project permit number;
  - (6) Type of assembly, size of assembly;
  - (7) Manufacturer, model number, serial number;
  - (8) Test results/report.
- (h) When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The Town will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.
- (i) The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:
  - (1) Health hazard... sixty (60) days,
  - (2) Non- health hazard... ninety (90) days.
- (j) Following installation, all reduced pressure principle backflow preventers (RP), double check valve assemblies (DCVA), pressure vacuum breakers (PVB), double check detector assemblies (DCDA), or reduced pressure principle detector assemblies (RPDA) are required to be tested by a certified backflow prevention assembly tester within ten (10) days.

**Sec. 38-539. Testing and Repair of Assemblies.**

- (a) Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester at the customer's expense and in accordance with the requirements of Section 38-538. A list of certified backflow prevention assembly testers can be provided by the Town. Such tests are to be conducted upon installation and annually thereafter. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the Town within ten (10) business days after the completion of any testing and/or repair work.
- (b) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or by

the Town, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:

- (1) Health hazard facilities... fourteen (14) days,
  - (2) Non-health hazard facilities... twenty-one (21) days.
- (c) All backflow prevention assemblies with test cocks are required to be tested annually or at a frequency established by Town regulations. Testing requires a water shutdown usually lasting five (5) to twenty (20) minutes. For facilities that require an uninterrupted supply of water and when it is not possible to provide water service from two separate meters, provisions shall be made for a “parallel installation” of backflow prevention assemblies.
- (d) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Town. All test equipment shall be checked for accuracy annually, at a minimum, calibrated, if necessary, and certified to the Town as to such accuracy/calibration, employing a calibration method acceptable to the Town - see subsection Section 38-535(e).
- (e) It shall be unlawful for any customer or certified tester to submit any record to the Town which is false or incomplete in any material respect. It shall be unlawful for any customer or certified tester to fail to submit to the Town any record which is required by this Ordinance. Such violations may result in any of the enforcement actions outlined in Section 38-543.

**Sec. 38-540. Facilities Requiring Protection.**

- (a) Approved backflow prevention assemblies shall be installed on the service line to any premises that the Town has identified as having a potential for backflow.
- (b) The following types of facilities or services have been identified by the Town as having a potential for backflow of non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the Town. As a minimum requirement, all commercial services will be required to install a double check valve assembly, unless otherwise listed below.

Double Check Valve Assembly = DCVA  
Reduced Pressure Principle Assembly = RP  
Double Check Detector Assembly = DCDA  
Reduced Pressure Detector Assembly = RPDA

Air Gap = AG  
Pressure Vacuum Breaker = PVB

- (1) Aircraft and missile plants: RP



- (2) Automotive services stations, dealerships, etc.
  - a. No health hazard: DCVA
  - b. Health hazard: RP
- (3) Automotive plants: RP
- (4) Auxiliary water systems:
  - a. Approved public/private water supply: DCVA
  - b. Unapproved public/private water supply: AG
  - c. Used water and industrial fluids: RP
- (5) Bakeries:
  - a. No health hazard: DCVA
  - b. Health hazard: RP
- (6) Beauty shops /barber shops:
  - a. No health hazard: DCVA
  - b. Health hazard: RP
- (7) Beverage bottling plants: RP
- (8) Breweries: RP
- (9) Buildings--Hotels, apartment houses, public and private buildings, or other structures having unprotected cross connection:
  - a. No health hazard (under five stories): DCVA
  - b. Health hazard (under five stories): RP
  - c. All (Over five stories): RP
- (10) Canneries, packing houses, and rendering plants: RP
- (11) Chemical plants--Manufacturing, processing, compounding or treatment: RP
- (12) Chemically contaminated water systems: RP
- (13) Commercial car-wash facilities: RP
- (14) Commercial greenhouses: RP
- (15) Commercial sales establishments (department stores, malls, etc.)
  - a. No health hazard: DCVA
  - b. Health hazard: RP
- (16) Concrete/asphalt plants: RP
- (17) Dairies and cold storage plants: R
- (18) Dye works: RP

- (19) Film laboratories: RP
- (20) Fire systems:
  - a. Systems three-fourths ( $\frac{3}{4}$ ) inch to two (2) inch:
    - 1. No health hazard: DCVA
    - 2. Health hazard: (booster pumps, foam, antifreeze solution, etc.): RP
  - b. Systems two and one half ( $2\frac{1}{2}$ ) inches to ten (10) inches or larger:
    - 1. No health hazard: DCDA
    - 2. Health hazard (booster pumps, foam, antifreeze solution, etc.): RPDA
- (21) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP
- (22) Industrial facilities:
  - a. No health hazard: DCVA
  - b. Health hazard: RP
- (23) Laundries:
  - a. No health hazard: DCVA
  - b. Health hazard: (i.e., dry cleaners): RP
- (24) Lawn irrigation systems (split taps): PVB, RP
- (25) Lawn Irrigation systems (non-split taps): RP
- (26) Metal manufacturing, cleaning, processing, and fabricating plants: RP
- (27) Mobile home parks:
  - a. No health hazard: DCVA
  - b. Health hazard: RP
- (28) Oil and gas production, storage or transmission properties: RP
- (29) Paper and paper products plants: RP
- (30) Pest control (exterminating and fumigating): RP
- (31) Plating plants: RP
- (32) Power plants: RP
- (33) Radioactive materials or substances plants or facilities handling: RP
- (34) Restaurants:
  - a. No health hazard: DCVA

- b. Health hazard: RP
  - (35) Restricted, classified, or other closed facilities: RP
  - (36) Rubber plants (natural or synthetic): RP
  - (37) Sand and gravel plants: RP
  - (38) Schools and colleges: RP
  - (39) Sewage and storm drain facilities: RP
  - (40) Swimming pools: RP
  - (41) Waterfront facilities and industries: RP
- (c) All assemblies and installations shall be subject to inspection and approval by the Town.

**Sec. 38-541. Connections with Unapproved Sources of Supply.**

- (a) No person, firm, or corporation shall connect or cause to be connected any supply of water not approved by DEQ to the water system supplied by the Town. Any such connections allowed by the Town must be in conformance with the backflow prevention requirements of this Ordinance.
- (b) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the Town immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

**Sec. 38-542. Fire Protection Systems.**

- (a) All connections for fire protection systems connected with the public water system, two (2) inches and smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.
- (b) All connections for fire protection systems connected with the public water system greater than two (2) inches shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.
- (c) All existing backflow prevention assemblies two and one half (2½) inches and larger installed on fire protection systems that were initially approved by the Town shall be allowed to remain on the premises, as long as they are being properly maintained, tested, and repaired as required by this Ordinance. However, the existing assembly must be replaced once it can no longer be repaired. In the event



of proven water theft through an unmetered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by Section 38-538 and Section 38-540(20)b.

**Sec. 38-543. Enforcement.**

- (a) Any consumer found not to be in compliance with the provisions of this Ordinance shall be notified in writing with regard to the corrective action to be taken. The time for compliance shall be in accordance with Section 38-538(i).
- (b) The consumer in noncompliance after the time prescribed in the initial notification, as outlined in Section 38-538(d), shall be considered in violation of this Ordinance, and may be subject to water service termination and/or issued a civil citation by the Town. The citation shall specify the nature of the violation and the provisions of this Ordinance violated, and further notify the offender that the civil penalty for such violation is as set forth in subsection (c) below and is to be paid to the Town within thirty (30) days. If the penalty prescribed in this subsection is not paid within the time allowed, the Town may initiate a civil action in the nature of a debt and recover the sums set forth in subsection (c) below plus the cost of the action.
- (c) Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to a civil penalty of up to \$500.00 per violation. Each day in which a violation of any provision of this Ordinance shall occur or continue shall constitute a separate and distinct offense. The following will be used as an initial evaluation of violations: A person in violation of this article is subject to a civil penalty which may be recovered by the Town in a civil action in the nature of debt if the violator does not pay the penalty within thirty (30) days after the assessment has become final by exhaustion of the appeal process established by this section, or by failure to appeal the assessment. The civil penalty will be determined to be a non-willful violation or a willful violation with penalties being assessed per day for each day of a violation, with a cumulative penalty of \$10,000.00.
- (d) If, in the judgment of the Town, any consumer found to be in noncompliance with the provisions of this Ordinance neglects his/her responsibility to correct any violation, such neglect may result in discontinuance of water service until compliance is achieved.
- (e) Failure of a consumer or certified tester to submit any record required by this Ordinance, or the submission of falsified reports/records may result in a civil penalty of up to \$500.00 per violation. If a certified backflow prevention assembly tester submits falsified records to the Town, the Town shall take the necessary actions to revoke certification to test backflow prevention assemblies within the Towns potable water system for a time period not to exceed one year. The tester will then be required to complete an approved certification course to acquire a new certification. Falsification made to records/reports after becoming recertified shall result in the permanent revocation of backflow testing certification, in addition to a civil penalty as provided for in this subsection.



- (f) Enforcement of this program shall be administered by the Public Works Director of the Town or his/her authorized representative.
- (g) Requests for extension of time shall be made in writing to the Public Works Director of the Town or his/her authorized representative. All other appeals shall be made in accordance with the following procedures:
  - (1) Adjudicatory Hearings - A customer assessed a civil penalty under this section shall have the right to an adjudicatory hearing before the Town Manager or his/her designee upon making written demand, identifying the specific issues to be contended, to the Town within thirty (30) days following notice of the final decision to assess a civil penalty. Unless such demand is made within the time specified in this subsection, the decision on the civil penalty assessment shall be final and binding.
  - (2) Appeal Hearings - Any decision of the Town Manager or his or her designee made as a result of an adjudicatory hearing held under subsection (g)(1) above may be appealed by any party to the Town Council upon filing a written demand within thirty (30) days from the date of the adjudicatory hearing decision. Hearings held under this section shall be conducted in accordance with hearing procedures established by the Town Council. Failure to make written demand within the time specified in this subsection shall bar further appeal. The Town Council shall make a decision on the appeal within ninety (90) days of the date the appeal was filed and shall transmit a written copy of their decision by registered or certified mail to all parties.
  - (3) Official Record - When a final decision is issued under subsection (g)(2) above the Town shall prepare an official record of the case that includes:
    - a. All notices, motions, and other like pleadings;
    - b. A copy of all documentary evidence introduced;
    - c. A certified copy of the transcript of the hearing or a narrative summary of the minutes;
    - d. A copy of the final decision of the Town
  - (4) Judicial Review - Any customer against whom a final decision of the Town Council is entered pursuant to the above hearing procedure, shall have the right to request a review by the Superior Court of Nash County by proceeding in the nature of certiorari by filing a written petition for such judicial review within thirty (30) days after receipt of notice by certified mail of the order or decision, with the Clerk of the Superior Court of Nash County, along with service of a copy to the Town Manager. Within thirty (30) days after receipt of the copy of the petition for judicial review, the Town shall transmit to the reviewing court the original or a certified copy of the official record, as outlined in subsection (g)(3) above.

**Sec. 38-544. Severability.** If any section, subsection, sentence, or clause of this Ordinance is adjudged to be unconstitutional or otherwise invalid, such adjudication shall not affect the validity of the remaining portion of this Ordinance, it is hereby declared that this Ordinance

would have been passed, and each section, sentence, or clause thereof, irrespective of the fact that any one or more sections, subsections, sentences, or clauses might be adjudged to be unconstitutional, for any other reason invalid.

**Sec. 38-545. No Town Liability.** The provisions of this article shall not create any liability for the Town, its employees, successors, designees or assigns.

**Sec. 38-546. Fees.** Fees for the activities authorized under this article, including fees for, permits, Town inspections, Town re-inspections, and other fees noted on the Cross Connection Control Fee schedule will be established by the Town.

SECTION 2. EFFECTIVE DATE: This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED and APPROVED this 7<sup>th</sup> day of July 2020.

Attest:

\_\_\_\_\_  
Brenda Brown, Mayor

\_\_\_\_\_  
Jontesca T. Silver, Town Clerk





# TOWN OF NASHVILLE

499 S. BARNES STREET  
 NASHVILLE, NC 27856  
 WWW.TOWNOFNASHVILLE.COM  
 (252) 459-4511

## Town Council AGENDA REPORT

<b>MEETING DATE:</b>	July 7, 2020
<b>PREPARED BY:</b>	Randy Lansing, Town Manager
<b>ISSUE CONSIDERED:</b>	Lease Agreement on a Commercial Building at 108 S. Boddie Street for Office & Programming Space for the PRCR Department
<b>SUMMARY OF ISSUE:</b>	<p>Attached for the Council's consideration is a multi-year lease agreement between the Town of Nashville (Tenant) and Adam Williams (Landlord) for renting a 3,420 square foot, 1 story, commercial building at 108 S. Boddie Street to house the Nashville Park, Recreation &amp; Cultural Resources Department. The lease begins August 1, 2020, or when the building's up fitting is complete to the Town's satisfaction (which ever date is later) and ends June 30, 2022. At the end of the lease, the building can be renewed for another year. The rent is \$1,200 a month plus utilities, payable in advance on the first calendar day of each month. Upon signing the lease, the Town will pay Mr. Williams \$9,000 to complete the following building up-fits or improvements, which will be finished no later than August 15, 2020:</p> <ol style="list-style-type: none"> <li>1. a 10' x 10' Men's ADA restroom,</li> <li>2. a 10' x 10' Women's ADA restroom,</li> <li>3. a refrigerated drinking fountain,</li> <li>4. a 12' x 15' storage room,</li> <li>5. re-paint building façade and awning,</li> <li>6. a large 36' x 58' open space room,</li> <li>7. a 12'x 15' office, with shatter resistant 24" x 32" window to programming room,</li> <li>8. a 10'x 12' work room with shatter resistant 24" x 32" window to programming room,</li> <li>9. outward opening front and back doors with panic bar door latches,</li> <li>10. illuminated exit lights above front and back doors, and</li> <li>11. clean and remove any and all debris from the exterior portion of the premises.</li> </ol>
<b>MANAGER'S RECOMMENDATION:</b>	Execute the Multi-Year Lease with Mr. Williams for 108 S. Boddie Street for Office and Programming Space for the PRCR Department
<b>ATTACHMENT(S):</b>	Multi-Year Lease Agreement with Mr. Williams for 108 S. Boddie Street for Office and Programming Space for the PRCR Department
<b>REVIEWED BY TOWN MANAGER:</b>	



# NORTH CAROLINA COMMERCIAL LEASE AGREEMENT

(Single Tenant Facility)

THIS COMMERCIAL LEASE AGREEMENT, including any and addenda attached hereto ("Lease"), is by and between Richard Adam Williams, ("Landlord"), whose address is 5148 Taylor Store Road, Nashville, NC 27856, and the Town of Nashville, ("Tenant"), whose address is 499 S. Barnes Street, Nashville, NC 27856.

1. PREMISES. Landlord leases unto Tenant, and Tenant hereby leases and takes upon the terms and conditions which hereinafter appear, the following described property, including any improvements located thereon (hereinafter called the "Premises"), to wit: 108 S. Boddie Street, Nashville, NC 27856. All of the property in Deed Reference: Book 2803, Page No. 758, Nash County; consisting of approximately 0.1 acres.

2. TERM. The terms of this Lease shall commence on this day of August 1, 2020 ("Lease Commencement Date"). Delivery of the Premises and the rent commencement date for this Lease shall be upon the date of completion of the up-fit improvements to the Premises by Landlord as listed in Paragraph 24 and accepted by the Tenant ("Rent Commencement Date"), unless otherwise agreed upon by both parties, in writing, and shall end at 11:59 PM on June 30, 2022, unless sooner terminated as herein provided. Tenant shall have the option of renewing this Lease, upon written notice given to Landlord at least 60 days prior to the end of the then expiring term of this lease, for one additional term(s) of one year.

3. RENTAL. Beginning on the Rent Commencement Date, Tenant agrees to pay Landlord (or its Agent as directed by Landlord), without notice or demand, an annual rental of \$ 14,400, payable in equal monthly installments of \$ 1,200, in advance on the first day of each calendar month during the term hereof. Upon execution of this Lease, Tenant shall pay to Landlord the first monthly installment of rent due hereunder. Rental for any period during the term hereof which is less than one month shall be the pro-rated portion of the monthly installment of rental due, based upon a 30 day month. Tenant shall pay rental to Landlord at 5148 Taylor Store Road, Nashville, NC 27856. Should the Rent Commencement Date fail to occur, or should this lease be terminated by either party prior to the Rent Commencement Date, the \$9,000 paid by Tenant pursuant to paragraph 24, and any monthly payments delivered in advance, shall be immediately returned to Tenant without notice, demand, deduction or set off.

4. UTILITY BILLS/SERVICE CONTRACTS. Landlord and Tenant agree that utility bills ("Service Obligations") for the Premises shall be paid by the party indicated below as to each Service Obligation. In each instance, the party undertaking responsibility for payment of a Service Obligation covenants that they will pay the applicable bills prior to delinquency. Within thirty (30) days of the Rent Commencement Date, Tenant shall provide Landlord with a copy of any requested Tenant Service Obligation information. Notwithstanding anything herein to the contrary, Landlord shall be responsible for all metering, hook-up fees and any other charges associated with the initial establishment, installation and ongoing maintenance of Service Obligations to the Premises.

<u>Service Obligation</u>	<u>Landlord</u>	<u>Tenant</u>	<u>Not Applicable</u>
Sewer/Septic		X	
Water		X	
Electricity		X	
Gas			X
Telephone		X	
HVAC (maintenance/service contract)	X		
Elevator (including phone line)			X
Security System			X
Fiber Optic		X	
Janitor/Cleaning		X	
Landscaping/Maintenance		X	
Sprinkler System (including phone line)			X
Pest Control		X	



Landlord shall not be liable for injury to Tenant's business or loss of income therefrom or for damage that may be sustained by the person, merchandise or personal property of Tenant, its employees, agents, invitees or contractors or any other person in or about the Premises, caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of any utility installations, air conditioning system or other components of the Premises, except to the extent that such damage or loss is caused by Landlord's negligence or willful misconduct. Landlord represents and warrants that the heating, ventilation and air conditioning system(s), roof, electric, plumbing and utility installations existing as of the Rent Commencement Date shall be in good working order and repair.

5. **PERMITTED USES.** The permitted uses of the Premises shall be office, recreational programming, and associated uses including, but not limited to, parking and inside/outside storage, ("Permitted Use"). The Premises shall be used and wholly occupied by Tenant solely for the purposes of conducting the Permitted Use, and the Premises shall not be used for any other purposes unless Tenant obtains Landlord's prior written approval of any change in use. Landlord makes no representation or warranty regarding the suitability of the Premises for or the legality (under zoning or other applicable ordinances) of the Permitted Use for the Premises, provided however, that Landlord does represent that it has no contractual obligations with other parties which will materially interfere with or prohibit the Permitted Use of Tenant at the Premises. At Tenant's sole expense, Tenant shall procure, maintain and make available for Landlord's inspection from time to time any governmental license(s) or permit(s) required for the proper and lawful conduct of Tenant's business in the Premises. Tenant shall not cause or permit any waste to occur in the Premises and shall not intentionally overload the floor, or any mechanical, electrical, plumbing or utility systems serving the Premises. Tenant shall keep the Premises, and every part thereof, in a reasonably clean and wholesome condition, free from any objectionable noises, loud music, objectionable odors or nuisances.

6. **TAXES & INSURANCE.** Landlord shall pay all taxes (including but not limited to, ad valorem taxes, special assessments and any other governmental charges) on the Premises and shall procure and pay for such commercial general liability, broad form fire and extended and special perils insurance with respect to the Premises as Landlord in its reasonable discretion may deem appropriate. Tenant shall be solely responsible for insuring Tenant's personal and business property and for paying any taxes or governmental assessments levied thereon.

7. **INSURANCE; WAIVER; INDEMNITY**

(a) During the term of this Lease, Tenant shall maintain commercial general liability insurance coverage (occurrence coverage) with a broad form contractual liability coverage and with not less than \$1,000,000 combined single limit, per occurrence. Such policy shall insure Tenant's performance of the indemnity provisions of this Lease, but the amount of such insurance shall not limit Tenant's liability nor relieve Tenant of any obligation hereunder. All policies of insurance provided for herein shall name as "additional insureds" Landlord, Landlord's Agent, all mortgagees of Landlord and such other individuals or entities as Landlord may from time to time designate upon written notice to Tenant. Tenant shall provide to Landlord, at least thirty (30) days prior to expiration, certificates of insurance to evidence any renewal or additional insurance procured by Tenant. Tenant shall provide evidence of all insurance required under this Lease to Landlord prior to the Rent Commencement Date.

(b) Landlord (for itself and its insurer) waives any rights, including rights of subrogation, and Tenant (for itself and its insurer) waives any rights, including rights of subrogation, each may have against the other for compensation of any loss or damage occasioned to Landlord or Tenant arising from any risk generally covered by the "all risks" insurance required to be carried by Landlord and Tenant. The foregoing waivers of subrogation shall be operative only so long as available in the State of North Carolina. The foregoing waivers shall be effective whether or not the parties maintain the insurance required to be carried pursuant to this Lease.

(c) Except as otherwise provided in paragraph 7(b), Tenant indemnifies Landlord for damages proximately caused by the negligence or wrongful conduct of Tenant and Tenant's employees, agents, invitees or contractors. Except as otherwise provided in paragraph 7(b), Landlord indemnifies Tenant for damages proximately caused by the negligence or wrongful conduct of Landlord and Landlord's employees, agents, invitees or contractors. The indemnity provisions in this paragraph 7 cover personal injury and property damage and shall bind the employees, agents, invitees or contractors of Landlord and Tenant (as the case may be). The indemnity obligations in this paragraph 7 shall survive the expiration or earlier termination of this Lease.



8. REPAIRS BY LANDLORD.

(a) Landlord agrees to keep in good repair the roof, foundation, structural supports and exterior walls of the buildings located on the Premises and Landlord agrees to be responsible for capital repairs and replacements on the Premises; provided that Landlord shall not be responsible for repairs or capital repairs or replacements rendered necessary by the negligence or intentional wrongful acts of Tenant, its employees, agents, invitees or contractors.

(b) Landlord agrees to repair any damage or defect of the Premises, or interruption or discontinuance of the Service Obligations thereon, including, but not limited to, the heating, ventilation or air conditioning.

(c) Tenant shall promptly report in writing to Landlord any defective condition known to it, which Landlord is required to repair or replace. If Landlord fails to repair any said damage, defect, interruption or discontinuance, the Tenant shall have ~~no~~ the right to terminate this Lease or withhold rental because of the same.

9. MAINTENANCE BY TENANT. Tenant, throughout the initial term of this Lease, and any extension or renewal thereof shall maintain the Premises in good order and Tenant agrees to return the Premises to Landlord at the expiration or prior termination of this Lease, in as good condition and repair as on the Rent Commencement Date, excluding any repairs Landlord failed to complete, normal wear and tear, or damage by storm, fire, lightning, earthquake or other casualty. Tenant, Tenant's employees, agents, invitees or contractors shall take no action which may void any manufacturers or installers warranty with relation to the Premises.

10. ALTERATIONS. Tenant shall not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this paragraph 10 upon Landlord's written request. All approved alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord, free of any liens or encumbrances. Landlord may require Tenant to remove any alterations, additions or improvements (whether or not made with Landlord's consent) at the termination of the Lease and to restore the Premises to its prior condition, all at Tenant's expense. All alterations, additions and improvements which Landlord has not required Tenant to remove shall become Landlord's property and shall be surrendered to Landlord upon the termination of this Lease, except that Tenant may remove any of Tenant's machinery, equipment or trade fixtures which can be removed without material damage to the Premises. Tenant shall repair, at Tenant's expense, any damage to the Premises caused by the removal of any such machinery, equipment or trade fixtures.

11. DESTRUCTION OF OR DAMAGE TO PREMISES.

(a) If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, Landlord or Tenant shall have the right to terminate this Lease on written notice to other party within thirty (30) days after such destruction and this Lease shall terminate as of the date of such destruction and rent shall be accounted for as between Landlord and Tenant as of that date.

(b) If the Premises are damaged by any such casualties or other act of God which prevents Tenant from using the Premises for the Permitted Use Landlord or Tenant shall have the right to terminate this Lease by written notice to the other party within thirty (30) days after such destruction or act of God, and this Lease shall terminate as of the date of such event and rent shall be accounted for as between Landlord and Tenant as of that date.

(c) In the event of reconstruction of the Premises, Tenant shall have the right to continue the operation of its business at the Premises during any such period to the extent reasonably practicable from the standpoint of Tenant in Tenant's sole discretion,, and the obligation of Tenant to pay annual rental and any other sums due under this Lease shall remain in full force and effect during the period of reconstruction, should Tenant exercise that option. The annual rental and other sums due under this Lease shall be abated proportionately with the degree to which Tenant's use of the Premises is impaired, commencing from the date of destruction and continuing during the period of such reconstruction. Tenant shall not be entitled to any compensation or damages from Landlord for loss of use of the whole or any part of the Premises, Tenant's personal property, or any inconvenience or annoyance occasioned by such damage, reconstruction or replacement.

(d) In the event of the termination of this Lease under any of the provisions of this paragraph 11, both Landlord and Tenant shall be released from any liability or obligation under this Lease arising after the date of termination, except as otherwise provided for in this Lease.



12. GOVERNMENT ORDERS. Tenant agrees to comply with: (a) any law, statute, ordinance, regulation, rule, requirement, order, court decision or procedural requirement of any governmental or quasi-governmental authority having jurisdiction over the Premises or over the use of the Premises for its Intended Use, (b) the rules and regulations of any applicable governmental insurance authority or any similar body, relative to the Premises and Tenant's activities therein; (c) provisions of or rules enacted pursuant to any private use restrictions, as the same may be amended from time to time and (d) the Americans with Disabilities Act (42 U.S.C.S. §12101, et seq.) and the regulations and accessibility guidelines enacted pursuant thereto, as the same may be amended from time to time. Landlord and Tenant agree, however, that if in order to comply with such requirements the cost to Tenant shall exceed a sum equal to one (1) year's rent, or if the Tenant shall not be able to use the Premises for its Intended Use, then Tenant may terminate this Lease by giving written notice of termination to Landlord in accordance with the terms of this Lease, which termination shall become effective thirty (30) days after receipt of such notice and which notice shall eliminate the necessity of compliance with such requirements, unless, before said thirty (30) days, Landlord agrees in writing to be responsible for such compliance, at its own expense, and commences compliance activity, in which case Tenant's notice given hereunder shall not terminate this Lease.

13. CONDEMNATION.

(a) If the entire Premises shall be appropriated or taken under the power of eminent domain by any governmental or quasi-governmental authority or under threat of and in lieu of condemnation (hereinafter, "taken" or "taking"), this Lease shall terminate as of the date of such taking, and Landlord and Tenant shall have no further liability or obligation arising under this Lease after such date, except as otherwise provided for in this Lease.

(b) If more than twenty-five percent (25%) of the floor area of any building of the Premises is taken, or if by reason of any taking, regardless of the amount so taken, the remainder of the Premises is not one undivided space or is rendered unusable for the Permitted Use, either Landlord or Tenant shall have the right to terminate this Lease as of the date Tenant is required to vacate the portion of the Premises taken, upon giving notice of such election within thirty (30) days after receipt by Tenant from Landlord of written notice that said Premises have been or will be so taken. In the event of such termination, both Landlord and Tenant shall be released from any liability or obligation under this Lease arising after the date of termination, except as otherwise provided for in this Lease.

(c) Landlord and Tenant, immediately after learning of any taking, shall give notice thereof to each other.

(d) If this Lease is not terminated on account of a taking as provided herein above, then Tenant shall continue to occupy that portion of the Premises not taken and the parties shall proceed as follows: (i) at Landlord's cost and expense and as soon as reasonably possible, Landlord shall restore (or shall cause to be restored) the Premises remaining to a complete unit of like quality and character as existed prior to such appropriation or taking, and (ii) the annual rent provided for in paragraph 3 and other sums due under the Lease shall be reduced on an equitable basis, taking into account the relative values of the portion taken as compared to the portion remaining. Tenant waives any statutory rights of termination that may arise because of any partial taking of the Premises.

(e) Landlord shall be entitled to the entire condemnation award for any taking of the Premises or any part thereof. Tenant's right to receive any amounts separately awarded to Tenant directly from the condemning authority for the taking of its merchandise, personal property, relocation expenses and/or interests in other than the real property taken shall not be affected in any manner by the provisions of this paragraph 13, provided Tenant's award does not reduce or affect Landlord's award and provided further, Tenant shall have no claim for the loss of its leasehold estate.

14. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease or any interest hereunder or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than the Tenant, without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Consent to any assignment or sublease shall not impair this provision and all later assignments or subleases shall be made likewise only on the prior written consent of Landlord. No sublease or assignment by Tenant shall relieve Tenant of any liability hereunder.

15. EVENTS OF DEFAULT. If either party fails to comply with the provisions of this Lease, or any renewal or extension thereof, it shall constitute a breach of this Lease and be subject to the remedies prescribed in



Paragraph 16 below.

16. REMEDIES UPON DEFAULT. Upon the occurrence of Event of Default, either party may pursue the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law:

(a) Termination of this Lease by giving written notice to the defaulting party and upon such termination shall be entitled to recover from the defaulting party damages as may be permitted under applicable law.

(b) If Tenant defaults, and Landlord may terminates this Lease by giving written notice to Tenant and, upon such termination, Landlord shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining annual term of this Lease, less any amounts recovered by re-letting the Premises, and only after having made reasonable efforts to re-let the Premises.

(c) If Landlord defaults, and the Tenant terminates this Lease by giving written notice to Landlord, upon such termination, Tenant shall be entitled to recover from the Landlord the \$9,000 Tenant paid for up-fit improvements to the Premise and any other rents paid in advance of their due date.

17. EXTERIOR SIGNS. Tenant shall place no signs upon the outside walls, doors or roof of the Premises, except with the express written consent of the Landlord in Landlord's sole discretion. Any consent given by Landlord shall expressly not be a representation of or warranty of any legal entitlement to signage at the Premises. Any and all signs placed on the Premises by Tenant shall be maintained in compliance with governmental rules and regulations governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

18. LANDLORD'S ENTRY OF PREMISES. Landlord may advertise the Premises "For Rent" or "For Sale" thirty (30) days before the termination of this Lease. Landlord may enter the Premises upon prior notice at reasonable hours to exhibit same to prospective purchasers or tenants, to make repairs required of Landlord under the terms hereof, for reasonable business purposes and otherwise as may be agreed by Landlord and Tenant. Landlord may enter the Premises at any time without prior notice, in the event of an emergency or to make emergency repairs to the Premises. Upon request of Landlord, Tenant shall provide Landlord with a functioning key to the Premises and shall replace such key if the locks to the Premises are changed.

19. QUIET ENJOYMENT. So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Premises, subject to the terms hereof.

20. ENVIRONMENTAL LAW.

(a) Tenant covenants that with respect to any Hazardous Materials (as defined below) it will comply with any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, any other legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing (collectively, all such matters being "Hazardous Materials Requirements"). Tenant shall not store or place any Hazardous Materials at the Premises.

(b) For purposes of this Lease, "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (i) is defined as a hazardous substance, hazardous material or waste, or toxic substance pursuant to any Hazardous Materials Requirements, (ii) is regulated, controlled or governed by any Hazardous Materials Requirements, (iii) is petroleum or a petroleum product, or (iv) is asbestos, formaldehyde, a radioactive material, drug, bacteria, virus, or other injurious or potentially injurious material (by itself or in combination with other materials).

21. ABANDONMENT. Tenant shall not abandon the Premises at any time during the Lease term. If Tenant shall abandon the Premises or be dispossessed by process of law, any personal property belonging to Tenant and left on the Premises, at the option of Landlord, shall be deemed abandoned, and available to Landlord to use or sell to offset any rent due or any expenses incurred by removing same and restoring the Premises.



22. NOTICES. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown as Tenant's address at the beginning of this Lease. Notices to Landlord shall be delivered or sent to the address shown as Landlord's address at the beginning of this Lease. All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

23. GENERAL TERMS.

(a) "Landlord" as used in this Lease shall include the undersigned, its heirs, representatives, assigns and successors in title to the Premises. "Agent" as used in this Lease shall mean the party designated as same in Paragraph 3, its heirs, representatives, assigns and successors. "Tenant" shall include the undersigned and its heirs, representatives, assigns and successors, and if this Lease shall be validly assigned or sublet, shall include also Tenant's assignees or sublessees as to the Premises covered by such assignment or sublease. "Landlord", "Tenant", and "Agent" include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

(b) No failure of Landlord or Tenant to exercise any power given Landlord or Tenant hereunder or to insist upon strict compliance by ~~Tenant~~ either party of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of ~~Landlord's~~ either parties' right to demand exact compliance with the terms hereof. All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

(c) Time is of the essence in this Lease.

(d) This Lease may be executed in one or more counterparts, which taken together, shall constitute one and the same original document. Copies of original signature pages of this Lease may be exchanged via facsimile or e-mail, and any such copies shall constitute originals. This Lease constitutes the sole and entire agreement among the parties hereto and no modification of this Lease shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Lease shall not affect the validity of any other provisions hereof and this Lease shall be construed and enforced as if such invalid provisions were not included.

(e) Each signatory to this Lease represents and warrants that he or she has full authority to sign this Lease and such instruments as may be necessary to effectuate any transaction contemplated by this Lease on behalf of the party for whom he or she signs and that his or her signature binds such party. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Lease are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Lease.

(f) Upon request by either Landlord or Tenant, the parties hereto shall execute a short form lease (memorandum of lease) in recordable form, setting forth such provisions hereof (other than the amount of annual rental and other sums due) as either party may wish to incorporate. The cost of recording such memorandum of lease shall be borne by the party requesting execution of same.

(g) If legal proceedings are instituted to enforce any provision of this Lease, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney's fees and court costs incurred in connection with the proceeding.

24. SPECIAL STIPULATIONS.

(a) Notwithstanding the provisions stated above in this Lease, if Tenant's ability to utilize the Premises for the purposes set forth in Paragraph 5, Permitted Uses, is substantially compromised/inhibited, Tenant shall have the right to terminate this Lease by giving written notice to Landlord, which terminate shall become effective thirty (30) days after such notice is received by Landlord.

(b) The Landlord shall up-fit the building with the following improvements and specifications and upon full execution of this Lease the Tenant shall pay \$9,000 to the Landlord for said up-fitting improvements. Said up-fit improvements shall be complete no later than August 15, 2020, time is of the essence:

- a 10' x 10' Men's ADA restroom,
- a 10' x 10' Women's ADA restroom,
- a refrigerated drinking fountain,
- a 12' x 15' office, with shatter resistant 24" x 32" window to programming room,

- a 10' x 12' work room with shatter resistant 24" x 32" window to programming room,
- a 12' x 15' storage room,
- a large 36' x 58' open space programming room,
- outward opening front and back doors with panic bar door latches,
- illuminated exit lights above front and back doors,
- re-paint building façade and awning, and
- clean and remove any and all debris from the exterior portion of the Premises.

c) If the above referenced up-fits and improvements are not completed to the satisfaction and acceptance of Tenant, Tenant shall have the right to Terminate the Lease and Landlord shall immediately return the \$9,000 to Tenant, with the \$1,200 paid in advance for rents, without recourse.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Lease to be duly executed.

LANDLORD:

TENANT:

\_\_\_\_\_  
Richard Adam Williams

\_\_\_\_\_  
Town of Nashville, NC

Date: \_\_\_\_\_

By: Brenda Brown, Mayor

Date: \_\_\_\_\_





# TOWN OF NASHVILLE

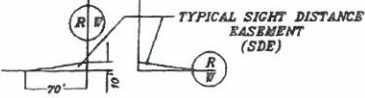
499 S. BARNES STREET  
NASHVILLE, NC 27856  
WWW.TOWNOFNASHVILLE.COM  
(252) 459-4511

## Town Council AGENDA REPORT

<b>MEETING DATE:</b>	July 7, 2020
<b>PREPARED BY:</b>	Randy Lansing, Town Manager
<b>ISSUE CONSIDERED:</b>	Par Drive, Aubrei Court, & Village Lane Street Flooding
<b>SUMMARY OF ISSUE:</b>	Continue discussion on constructing an over-the-surface route for excess storm water to flow through the Windy Oak Drive and Laurel Springs Drive drainage easement during heavy rain events to minimize street flooding on Par Drive, Aubrei Court, and Village Lane.
<b>MANAGER'S RECOMMENDATION:</b>	Pursue constructing an Over-the-Surface route in the 40-foot drainage easement in the Windy Drive and Laurel Spring Drive Neighborhoods.
<b>ATTACHMENT(S):</b>	South Creek Drive Critical Drainage Areas Report - 2004 South Creek Subdivision Plat Showing Drainage Easement
<b>REVIEWED BY TOWN MANAGER:</b>	







- NOTES:
- All Right-of-ways are "Public" unless noted otherwise.
  - Area computed by coordinate method.
  - All distances are chord.
  - #200 Indicates Address.
  - Zone: R-10.
  - Minimum Setback Requirements:  
Front: 30 Feet  
Side: 12 Feet  
Rear: 30 Feet  
Side Street: 15 Feet
  - Total No. of Lots = 17.
  - Subdivision area = 6.21 acres. (Includes road R/W)  
R/W area = 1.08 acres.
  - Surveyor DID NOT visibly see any cemeteries in any open areas unless otherwise noted.
  - Surveyor does NOT guarantee that underground structures such as utilities, tanks, and pipes are located hereon. Call N.C. One Call Center before digging (1-800-632-4949).

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NORTH CAROLINA, NASH COUNTY

I, Nils W. Joyner, Jr., certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 1912 page 1021, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book as page shown; that the ratio of precision as calculated is 1: 10,000; that this plat was prepared in accordance with G. S. 47-30 as amended. Witness my original signature, license number and seal this 18 day of February, A. D., 2004.

Seal or Stamp  
Surveyor: *Nils W. Joyner, Jr.*  
License Number: L - 2806

Nils W. Joyner, Jr., Professional Land Surveyor  
No. L - 2806 Certify:  
THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;  
SIGNED: *Nils W. Joyner, Jr.*  
SURVEYOR  
DATE: 2/18/04

Filed for registration 2-23 2004  
at 2:59 o'clock PM and duly registered  
in Book 31 Page 312 Nash County  
By *Barbara Billiard* Register of Deeds  
By *Barbara Billiard* /Deputy

Register of Deeds Certification

State of North Carolina  
County of Nash

I, *Gayle McGeehan* Review Officer of Nash County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.  
2/23/04  
Date  
*Gayle McGeehan*  
Review Officer



NOT TO SCALE  
VICINITY MAP

JOYNER - KEENEY & ASSOCIATES  
PLANNING & LAND SURVEYING

209 NORTH PEARL STREET  
ROCKY MOUNT, NORTH CAROLINA 27804  
(252) 977 - 3124

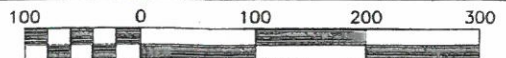
FINAL PLAT - SECTION 2 - PHASE 4  
PROPERTY OF

**SOUTH CREEK SUBDIVISION**

WINDY OAK DRIVE, NASHVILLE, N.C.

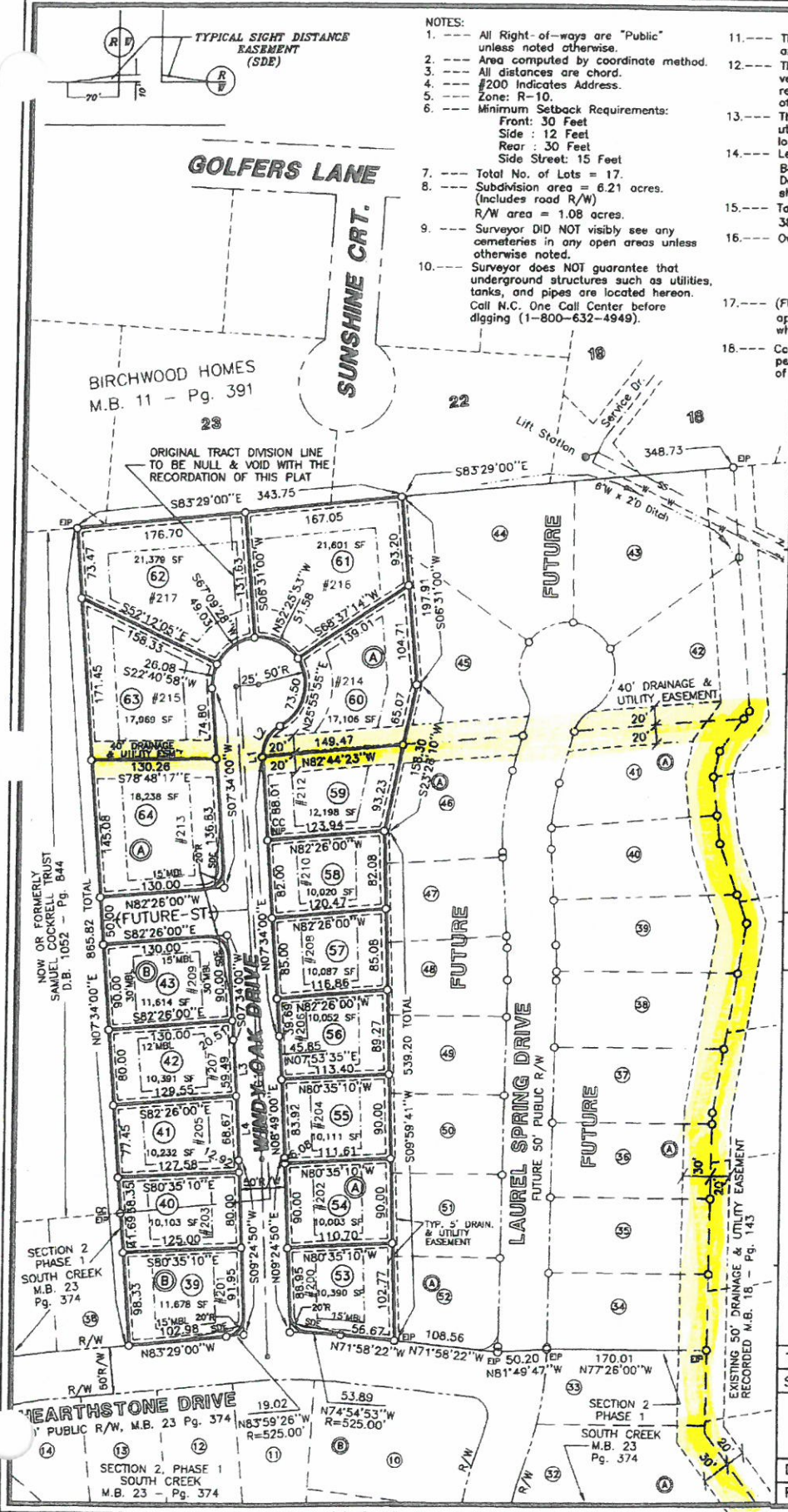
TWSP.: NASHVILLE COUNTY: NASH, N.C.

SCALE: 1" = 100 FEET DATE: FEBRUARY 18, 2004



DRAWN BY: GDJ JOB NO.: 020448

FILE NO.: SCT2\_PH4.DWG SHEET NO.: 1 OF 1







## South Creek Summary - 2004:

The South Creek area is located off of Highway 58 on the southeast side of Nashville, NC. The critical area of concern is that portion of ditch that drains the newly constructed section of Laurel Springs Drive and South Creek drive to the outlet ditch. The existing drainage consist of Right of Way ditches on a newly constructed section of Laurel Springs Drive, roll curb and a curb inlet on South Creek, and a series of ditches that ultimately drain the site. The culverts are reinforced concrete pipes.

The dry field inspection of South Creek Drive was made on Wednesday, June 30, 2004. The most recent rains were several days prior. The dry field inspection was made to try and assess potential flooding problems and to get an idea of the drainage capabilities of the system. The Right of Way ditches down Laurel Springs Drive are



newly constructed with little vegetation and no lining present at the time of inspection. However, the ditches appeared to be stable. There were several small puddles of water

present in the ditches, which would suggest improper slope and saturated ground. The ditch that drains from the end of Laurel Springs to the outlet ditch has a series of check



dams and a small sediment basin at the end. The sediment basin appears to have been abandoned but left in place until construction with Laurel Springs is completed.



However, it appeared to be functioning and was not filled with sediment.





The ditch that drains from the End of South Creek Drive to the main outlet ditch is stable with a low slope and heavy wetland vegetation. The main outlet ditch appears to drain from Golfers Lane to South Creek, and then proceeds to cross South Creek Drive and exit at the South side of South Creek. Due to the length and vegetation, the slope of the outlet



ditch could not be determined. The portions that were accessible appeared to be in good stable condition. However, the ditch did hold a substantial amount of water throughout



the reach. This would suggest that the slope is too low. The curb inlet and grate is located at the end of South Creek Drive and is in good condition, free of debris and functioning



properly. One critical concern with this site is the sediment build up in the culverts. The



culverts around the end of the Laurel Drive are filled with sediment. In some cases the sediment has already filled half of the pipes. This should be a temporary condition until the newly constructed section has stabilized, but measures need to be taken to prevent this. Placing arc filters around the inlets to trap sediment before it enters the pipes could

easily solve this. Potential problems could be the sediment build up blocking pipe capacity and the main outlet ditch not functioning properly. It appears that the main outlet ditch would be the largest concern. The outlet ditch continuously holds



water about 1-1.5 feet deep on the lower end. This outlet ditch eventually turns into a small stream that exits the site. There is currently water standing in this stream as well.





There does not appear to be any sedimentation in the stream, but the grade of the stream is holding water in the ditches. There are two 48-inch reinforced concrete pipes that cross under South Creek Drive at the lower end. These are partially blocked and need to



be cleaned out. On the downstream side of these pipes, the ditch is only open to one pipe and an 18-inch tree is growing in the middle of the ditch. This will need to be removed. There are some potential future concerns for this site. This system is currently undergoing tremendous outgrowth. Currently the end of Laurel Springs Drive is





undeveloped but will soon be developed and Hearthstone Drive is currently under development. The clearing and grubbing of these sections and the paving of Laurel Springs Drive will decrease the time it will take runoff to enter the outlet ditch. The increase of impervious surface area to this outlet will just complicate existing problems.

The wet field inspection was performed on Wednesday, July 28, 2004. Rains were currently falling at time of inspection and rainfall amounts were estimated at a tenth of an inch in an hour. This storm should have been substantial enough to show any drainage problems. The roadway ditches down Laurel Springs Drive were currently holding water, but appeared to be flowing out slowly. After construction of the road is complete these ditches and culverts will need to be stabilized and sediment removed. The catch basins at the end of South Creek Drive were functioning properly and free of debris. There was some concern with lot flooding at the cul-de-sac because of the yard



drop inlet. This does not appear to be a Town of Nashville drainage problem. The main area of concern is the main outlet ditch. This ditch currently holds water during the dry conditions and was at or near the top of bank during the wet inspection. This would be

the main cause for the flooding issues in the Golfers Lane area as well. It appeared that



the main concern with the outlet ditch is the downstream drainage. It appears that the creek that drains the property cannot handle the increased runoff generated by these



areas. The downstream creek will need to be studied in further detail to determine the cause of flooding.

Due to the tremendous outgrowth and the fact that this system directly affects the Golfers Lane community, this is definitely a critical site that needs to be addressed in the

near future. The major concern is the main outlet ditch. A more detailed study on the downstream drainage will be needed to determine the cause of backwater in the system. The creek just may not be able to handle these types of storms without overflowing its banks and causing backwater. If this is the case other measures will need to be taken in order to reduce the amount of storm water entering the system over short periods of time. One option could be the installation of a storm water retention pond to retain water and release it in quantities that the system can handle. Once this problem is solved the culverts will need to be cleaned to allow the water levels to drop on the upstream side. The small hardwood in the middle of the channel along with the mid channel bar will also need to be removed. Other concerns would be the sediment build up in the culverts and ditches at the new section of Laurel Springs Drive. These culverts need to be cleaned out along with the placement of inlet and outlet protection. The weir structure for the abandoned sediment basin will need to be removed and stabilized. There was very little evidence for structure flooding potential during normal rainfall events. However, future growth may cause problems to worsen without unless preventative measures are taken.



