



AGENDA
CITY OF LENOIR
CITY COUNCIL MEETING
905 WEST AVENUE
TUESDAY, JANUARY 4, 2022
6:00 P.M.



I. CALL TO ORDER

- A. Moment of Silence & Pledge of Allegiance
- B. Special Recognition: In October 2021, the Western Piedmont Council of Governments was awarded an "Aliceann Wohlbruck Impact Award" by the National Association of Development Organizations (NADO) for the project "Unifour HOME Consortium, 25th Anniversary". Anthony Starr, Executive Director, along with other Staff members will present the City Council with an award certificate due to Lenoir serving as a project partner.
- C. Mr. Stanley McCormick, NC Works Career Center, will present Mayor Gibbons, along with Councilmembers David Stevens and Crissy Thomas, a certificate of appreciation for assisting in the Veterans Stand Down Event on Wednesday, November 10, 2021 at the J.E. Broyhill Civic Center.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, December 7, 2021 as submitted.
- B. Minutes: Approval of the closed session minutes of the City Council meeting of Tuesday, December 7, 2021 as reviewed by the City Attorney, City Council and City Manager.
- C. Amendment; Capital Project Budget Ordinance; EPA Brownfield Assessment Grant: Staff requests that City Council approve the amendment in the amount of \$1,217.12 to the Capital Project Budget Ordinance adopted by City Council on May 7, 2019 for the EPA Brownfield Assessment Grant Capital Project for a total project budget of \$301,217.12 and a corresponding budget amendment of \$1,217.12.
- D. Closeout of Capital Project Budget Ordinance; EPA Brownfield Assessment Project: Approval of a Capital Project Budget Ordinance to close out the EPA Brownfield Assessment Grant City Council adopted on May 7, 2019 in the amount of \$300,000.00. Note: This project was completed as of December 2021 with total expenditures of \$301,217.12.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITYMANAGER

A. Items of Information

1. January Calendar: The calendar for the month of January will be presented to City Council listing various meetings and events.
2. Curbside Christmas tree pickup ends on Friday, January 7.
3. The City/County Services Committee will meet on Monday, January 10 at noon.
4. The Caldwell County Economic Development Commission will meet on Tuesday, January 11 at 8:00 a.m.
5. The Lenoir Business Advisory Board will meet on Thursday, January 13 at 6:00 p.m.
6. City offices will be closed on Monday, January 17 in observance of the Martin Luther King, Jr. holiday.

B. Items for Council Action

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

X. ADJOURNMENT

**LENOIR CITY COUNCIL
TUESDAY, DECEMBER 7, 2021
6:00 P.M.**

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Mayor Pro-Tem Crissy Thomas, Jonathan Beal, Todd Perdue, Ike Perkins, Ralph Prestwood, David Stevens and Ben Willis. City Attorney T. J. Rohr, City Manager Scott Hildebran, City Clerk Shirley Cannon, Planning Director Jenny Wheelock, Police Chief Brent Phelps and Communications Director Joshua Harris were also present.

ZOOM: Fire Chief Ken Hair, Recreation Director Kenny Story, Economic Development Director Kaylynn Horn, Finance Director Donna Bean, Public Works Director Jared Wright and Public Utilities Director Radford Thomas participated via Zoom.

I. CALL TO ORDER

A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance as led by Mayor Gibbons.

80TH ANNIVERSARY OF

PEARL HARBOR: B. Mayor Gibbons announced that December 7 is the 80th anniversary of the Japanese attack on Pearl Harbor.

OATH OF OFFICE;

BEAL: C. The Honorable Greg Cornett, Caldwell County Magistrate, administered the Oath of Office to Jonathan T. Beal, Councilmember.

OATH OF OFFICE; PERKINS, STEVENS

& THOMAS: D. The Honorable District Court Judge Robert M. Brady, Retired, administered the Oath of Office to James I. Perkins, Councilmember, David F. Stevens, Councilmember, and Crystal “Crissy” D. Thomas, Councilmember.

Mayor Gibbons congratulated everyone and remarked the City has a great Council that he looks forward to working with in the new year.

Mayor Gibbons also thanked Magistrate Greg Cornett and Judge Robert Brady for their service in administering the oaths of office.

Copies of the signed oaths of office are hereby incorporated into these minutes by reference. (Refer to pages 358-361.)

ELECTION OF MAYOR

PRO-TEM: E. Mayor Gibbons stated City Council will elect a Councilmember to serve a two-year term as Mayor Pro-Tempore. He clarified this position was not given to the Councilmember with the largest amount of votes in the election, but instead is voted on by City Council. He further explained the Mayor Pro-Tem leads the monthly Committee of the Whole meeting, fills in for the Mayor as needed, and that all of Council should participate in all scheduled events.

Mayor Gibbons then opened the nominations for Mayor Pro-Tem.

Councilmember Willis nominated Councilmember Crissy Thomas and stated Ms. Thomas has done a great job serving as Mayor Pro-Tem over the past two years.

Due to no additional nominations being submitted by City Council, Mayor Gibbons closed the nominations and asked Council for action.

Upon a motion by Councilmember Willis, City Council voted 7 to 0 to elect Crissy Thomas to serve another two-year term as the Mayor Pro-Tem.

On behalf of City Council, Mayor Gibbons congratulated Ms. Thomas and thanked her for her service.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

SB300 ORDINANCE AMENDMENTS;

SECOND READING: A. A public hearing was held for the purpose of the second reading of an Ordinance amending Chapters 1, 2, 5, 9 and Appendix C of the Lenoir Code of Ordinances, to address updates prompted by recent legislative changes to the General Statutes. Staff recommends approval of the ordinance as submitted.

Mayor Gibbons opened the public hearing to receive public comments regarding the proposed ordinance.

A copy of the ordinance is hereby incorporated into these minutes by reference. (Refer to pages 362-374.)

Planning Director Jenny Wheelock clarified the purpose of the amendments is to decriminalize certain kinds of ordinances state-wide and it amends North General Statute 14-4 which pertains to violation of local ordinances. She further pointed out there still may be additional changes for Council to address within the next few months.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Stevens, Council voted 7 to 0 to adopt the Ordinance amending Chapters 1, 2, 5, 9 and Appendix C of the Lenoir Code of Ordinances as recommended by City Staff.

REZONING OF 3 PARCELS;

918 CREEKWAY DRIVE NW:

- B. A public hearing was held to consider approval of three (3) parcels located at 918 Creekway Drive NW from R-6 (High Density Residential) to B-2 (General Business), NCPIN#2840600405, 2840601686 and 2840602953, as submitted by Reverend Joshua Edwards on behalf of Lenoir First Wesleyan Church. This request also includes the Whistle Pig Enterprises lot. Staff recommends approval based upon the Consistency Statement on page six (6) of the Staff Report as follows:

The proposed zoning map amendment is consistent with the adopted Comprehensive Plan because it clarifies and streamlines the zoning design standards for an existing church and adjacent property, consistent with the policy concepts found in the plan. The proposed amendment is reasonable and in the public interest because it facilitates a church use as a “by right” development, making it a conforming use for its location. Rezoning of all the subject properties provides predictable form and design for the overall neighborhood.

Mayor Gibbons opened the public hearing to receive public comments regarding the rezoning request.

In order to maintain transparency, Councilmember Jonathan Beal informed City Council that several citizens contacted him about this rezoning request.

A copy of page 6 of the Staff Report is hereby incorporated into these minutes by reference. (Refer to page 375.)

Planning Director Jenny Wheelock stated the church first presented a sign proposal to the Planning Department, but pointed out the rezoning would offer the church conforming status as a “by right” development. This step means their future upgrades would be reviewed by Staff for code compliance.

In addition, the Whistle Pig subject parcel serves as a connection between the two B-2 zoning districts along this corridor. Rezoning this connection to B-2 would offer continuity in zoning standards, should it ever be developed. Director Wheelock also mentioned the church was developing one parcel on the corner of Main Street and Creekway Drive.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Following a brief discussion and upon a motion by Councilmember Perdue, Council voted 7 to 0 to adopt the Zoning Map Amendment for property located at 918 Creekway Drive as described above and as recommended by City Staff.

NUISANCE ORDINANCE;

918 JOLLY PLACE: C. A public hearing was held to consider adoption of an Ordinance declaring the conditions on certain real property owned by Michael S. Coffey and located at 1319 Jolly Place, Parcel-ID 09148-1-29 and NCPIN#2850083i796 to be a danger to the public health, safety, morals and general welfare of inhabitants of the City and constituting a public nuisance, in accordance with Section 12-12 (16) of the Lenoir Code of Ordinances and directing City Staff to abate the same.

Mayor Gibbons opened the public hearing to receive public comments regarding the nuisance ordinance for 918 Jolly Place.

A copy of the recorded nuisance ordinance is hereby incorporated into these minutes by reference. (Refer to pages 376-378.)

Planning Director Jenny Wheelock informed Council there were multiple violations of the City's Code of Ordinances on the subject property, largely due to individuals residing on the property without a dwelling unit or sanitary facilities present. She reiterated there was only a lean to structure on the property and not any proper housing.

In addition, Director Wheelock reported the owner of the property does not live there and is currently residing in a nursing facility. She stated the owner is unable to clean up the property, but he is allowing these individuals to live there.

Director Wheelock stated approval of the Order of Abatement gives Staff clear direction to abate the property. She emphasized that code enforcement has not worked in having the owner clean up the site.

Police Chief Brent Phelps informed Council the original structure was located at the top of the hill where these individuals were staying, but it later burned and then they moved into the lean to shed on the property. Chief Phelps stated officers have made arrests at this location as well as recovered stolen property. He stated he has spoken with the neighbors and the City needs to use every resource it can to take care of this problem for the neighborhood. A group of neighbors were present at the Council meeting.

Planning Director Wheelock also reported the property is on the City's Minimum Housing List and mentioned it has a bad reputation.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Perkins, Council voted 7 to 0 to adopt the Order of Abatement declaring the conditions on certain real property owned by Michael S. Coffey and located at 1319 Jolly Place Parcel-ID 09148-1-29 and NCPIN#2850083796, to be a danger to the public health, safety, morals and general welfare of inhabitants of the City and constituting a public nuisance, in accordance with Section 12-12(16) of the Lenoir Code of Ordinances and directed City Staff to abate the same.

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, November 2, 2021 as submitted.
- B. Proposed Restroom Building Addition; LEOS: Consideration of a request from Yokefellow of Caldwell County to add a restroom building addition to the Lenoir Emergency Outreach Shelter (LEOS), which is owned by the City of Lenoir. (A copy of the Council Action Form listing background information about the proposal is hereby incorporated into these minutes by reference. (Refer to pages 379.)
- C. Amendments; Municipal Records Retention: Staff recommends approval of the amendments as submitted by the North Carolina Department of Cultural Resources, Division of Archives and Records, amending the 2021 Program Records Schedule for Local Government Agencies as presented. (A copy of

the signature page approving these amendments is hereby incorporated into these minutes by reference. Refer to page 380.)

Mayor Gibbons thanked Sharon Harmon, Executive Director, Lenoir Emergency Outreach Shelter (LEOS), for all the Staff of LEOS does to provide services to families in need in our community.

Upon a motion by Councilmember Prestwood, Council voted 7 to 0 to approve the above listed items on the Consent Agenda as recommended and as presented by City Manager Hildebran.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

ANNUAL HOLIDAY LIGHT SHOW:

1. The annual Holiday Light Show began on the square on Saturday, November 27 and will continue nightly through January 1. The theme for downtown shopping is “Shine On, Shop Small.”

ANNUAL LUMINARY DISPLAY; BLUE RIDGE MEMORIAL PARK:

2. The annual Luminary Display is scheduled for Friday, December 10 from 6:00 p.m. to 10:00 p.m. at Blue Ridge Memorial Park subject to state regulations. A rain date is scheduled for Friday, December 17. Public Works Director Jared Wright reported if our area does not receive any rain, the event will be postponed until after January 1, 2022.

ELF ON SHELF DOWNTOWN EVENT:

3. Participating downtown merchants are hosting an “Elf on the Shelf” game from November 24 through December 24. Everyone that collects a total of 25 digital stamps from participating merchants will be eligible to be entered into a drawing for prizes.

HOLIDAY CLOSINGS:

4. City offices will be closed on Thursday, December 23, Friday, December 24 and Monday, December 27 in observance of the Christmas holidays. City offices will also be closed on Friday, December 31 in observance of New Year’s day.

CURBSIDE CHRISTMAS TREE PICKUP:

5. The annual curbside Christmas Tree pickup begins on Monday, January 3 and ends on Friday, January 7.

B. ITEMS FOR COUNCIL ACTION

BID AWARD; CROSSROADS SEWER LINE REPLACEMENT PROJECT:

1. Bids were received on Tuesday, November 23 for the Crossroads Sewer Line Replacement Project. The low bid submitted by Carolina Grading and Utilities, Inc. in the amount of

\$1,908,830.00 is lower than the estimated budget for this project. Staff recommends City Council approval of the resolution to tentatively award the project to Carolina Grading and Utilities, Inc. in the amount of \$1,908,830.00 subject to approval by the Division of Water Infrastructure to award the project and execute the construction contract. Due to the unknowns associated with other utilities in the construction area, Staff also recommends that the City establish a 10% construction contingency in the amount of \$190,800.00 as recommended.

A copy of the resolution and bid tab is hereby incorporated into these minutes by reference. (Refer to pages 382-385.)

Upon a motion by Councilmember Perkins, Council voted 7 to 0 to approve the resolution to tentatively award the project to Carolina Grading and Utilities, Inc. in the amount of \$1,908,830.00 contingent upon approval by the Division of Water Infrastructure to award the project and execute the construction contract. City Council further approved Staff's recommendation to establish a 10% construction contingency in the amount of \$190,800.00 due to the unknowns associated with other utilities.

BID AWARD; LHS RENOVATIONS;

PHASE 2: 2. Staff recommends City Council award the low bid of \$105,219.00 to Precision Contracting Company, for the Lenoir High School (LHS) Auditorium Construction Renovation Project, Phase 2, as submitted.

A copy of the bid tab is hereby incorporated into these minutes by reference. (Refer to page 386.)

The project shall consist of the following items:

- a) Painting of the walls & ceiling in the entry lobby and main lobby area.
- b) Roofing repairs over entry lobby.
- c) Painting of the existing walls in the stage area.
- d) replacement of broken glass window panes in the stage area.

Parks and Recreation Director Kenny Story stated this is a great project and remarked Foothills Performing Arts have been hosting events in the auditorium. Director Story shared that they have also been helping out the City by cleaning up the facility.

Director Story said he would like to do additional renovations in the future at Mack Cook Stadium and the gym should the City receive additional Community Development Block Grant (CDBG) funds. He further shared the Lenoir Rotary Club has also been raising funds to help contribute to the cost of installing lights at the stadium.

Upon a motion by Councilmember Stevens, Council voted 7 to 0 to award the low bid of \$105,219.00 to Precision Contracting Company, for the Lenoir High School (LHS) Auditorium Construction Renovation Project, Phase 2, as recommended by City Staff.

ORDER OF ABATEMENT;

706 RIDGECREST DRIVE:

- 3. Staff recommends City Council adopt an Order of Abatement for property located at 706 Ridgecrest Drive, Parcel-ID 0958-4-18A, NCPIN#2850615325 and addressed as the following: 716-A Circle Drive, 716-B Circle, 704 Ridgecrest Drive and 706 Ridgecrest Drive as submitted.

A copy of the recorded Order of Abatement is hereby incorporated into these minutes by reference. (Refer to pages 387-388.)

A group of residents that reside on Ridgecrest/Circle Drive were also in attendance at the meeting for the purpose of the public hearing.

Planning Director Jenny Wheelock explained the owner has received both nuisance violations and has housing violations. As noted in Staff's report, delayed maintenance and tenant-related damage to these duplex units has resulted in the property declining to a deteriorated state. The owner has failed to address the minimum housing violations in a timely manner, as described in the background information. Staff seeks authorization from Council to move forward with the process to vacate and secure the property, until such time as the property sells and a new owner makes repairs, or the current owners make the repairs, or a period of one year has passed at which time Staff may seek to do additional abatement in accordance with Sec. 10-34 of Lenoir's Minimum Housing Ordinance.

Following approval of the Order of Abatement, Staff can post a notice on Wednesday, December 8, 2021 advising the property owner of the action taken by City Council. It was noted the tenants will have to vacate the property and will not be allowed access to it.

Director Wheelock pointed out this property was inherited by heirs and the City has tried twice to help them. She remarked Staff has worked on this issue for a long time, but they have to follow the guidelines for the schedule. Director Wheelock explained code enforcement has not worked in this particular situation.

Councilmember Perdue asked about the fees for violations.

Director Wheelock stated the cost of the first violation is \$50.00 and increases for each violation. She reiterated that code enforcement has not worked in this situation.

Following a brief discussion, City Council was in consensus to set the precedent and follow the City's code of ordinances. City Council further asked Director Wheelock to follow up on the order of abatement as soon as possible.

Upon a motion by Councilmember Perdue, Council voted 7 to 0 to adopt the Order of Abatement for property located at 706 Ridgecrest Drive, Parcel-ID 0958-4-18A, NCPIN#2850615325 and addressed as the following: 716-A Circle Drive, 716-B Circle, 704 Ridgecrest Drive and 706 Ridgecrest Drive as recommended by City Staff.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

ANNOUNCEMENT; BOARD:

VACANCY, PLANNING BOARD:

- A. Mayor Gibbons announced there is a current vacancy on the Lenoir Planning Board due to the resignation of Board Member Kaye Reynolds. Mayor Gibbons commended Ms. Reynolds for her service and all that she has accomplished for the City of Lenoir during her tenure.

IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

CLOSED

SESSION: A. Pursuant to N.C.G.S. §143-318.11(a), (3), (4), and upon a motion by Councilmember Willis, which carried unanimously, City Council entered into closed session to discuss economic development and attorney/client privilege.

OPEN

SESSION: B. Upon a motion by Councilmember Perdue, City Council voted unanimously to re-enter into open session. City Council then took the following action:

CANCELLED DECEMBER 21

MEETING: 1. Upon a motion by Councilmember Perdue, City Council voted 7 to 0 to cancel the meeting of Tuesday, December 21 due to the holiday week.

**MEMORANDUM OF UNDERSTANDING (MOA),
OPIOID LITIGATION:**

2. Upon a motion by Councilmember Willis, City Council voted 7 to 0 to approve a resolution to adopt a Memorandum of Agreement (MOA) between the State of North Carolina and Local Governments on proceeds relating to the settlement of opioid litigation. City Attorney Timothy Rohr will work with Caldwell County's Attorney David Lackey regarding this agreement as the County will administer payments to the local municipalities.

(A copy of the Memorandum of Agreement is hereby incorporated into these minutes by reference. Refer to pages 389-390.)

**AUTHORIZING RESOLUTION; GRAND
MANOR FURNITURE:**

3. Upon a motion by Councilmember Willis, City Council voted 7 to 0 to adopt an Authorizing Resolution for the City of Lenoir to serve as the formal applicant for a Building Reuse Grant for an expansion as planned by Grand Manor Furniture.

A copy of the Authorizing Resolution is hereby incorporated into these minutes by reference. (Refer to page 391.)

**APPRECIATION FOR DONATIONS;
TURKEY TUESDAY:**

4. Councilmember Perkins along with Mayor Pro-Tem Crissy Thomas thanked Google for their donation of turkeys for the City's annual "Turkey Tuesday". They also expressed appreciation to all those who worked during the event making this year's "Turkey Tuesday" a huge success.

X. ADJOURNMENT

A. There being no further business, the meeting was adjourned at 7:59 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

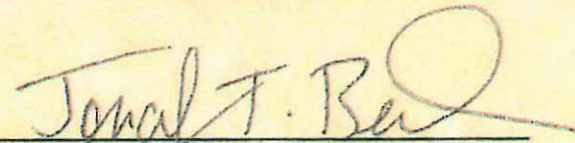
CITY OF LENOIR, NORTH CAROLINA

OATH OF COUNCIL MEMBER

❧ JONATHAN T. BEAL ❧

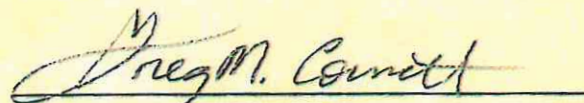
I, JONATHAN T. BEAL, solemnly swear that I will support the Constitution and laws of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; and, that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, JONATHAN T. BEAL, further swear that I will execute the duties of the office of COUNCIL MEMBER for the City of Lenoir, North Carolina, to the best of my ability and judgment, so help me, God.



JONATHAN T. BEAL

Sworn to and subscribed before me this 7th day of December, 2021.



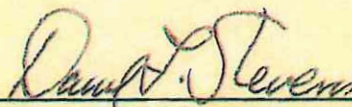
Honorable Greg Cornett
Caldwell County Magistrate

CITY OF LENOIR, NORTH CAROLINA
OATH OF COUNCIL MEMBER

❧❧ *DAVID F. STEVENS* ❧❧

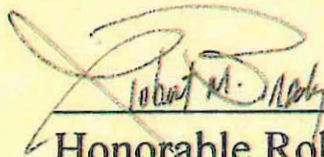
I, *DAVID F. STEVENS*, solemnly swear that I will support the Constitution and laws of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; and, that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, *DAVID F. STEVENS*, further swear that I will execute the duties of the office of COUNCIL MEMBER for the City of Lenoir, North Carolina, to the best of my ability and judgment, so help me, God.



DAVID F. STEVENS

Sworn to and subscribed before me this 7TH day of December, 2021.



Honorable Robert M. Brady
Chief District Court Judge, Retired

CITY OF LENOIR, NORTH CAROLINA

OATH OF COUNCIL MEMBER

❧ *CRYSTAL D. THOMAS* ❧

I, *CRYSTAL D. THOMAS*, solemnly swear that I will support the Constitution and laws of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; and, that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, *CRYSTAL D. THOMAS*, further swear that I will execute the duties of the office of COUNCIL MEMBER for the City of Lenoir, North Carolina, to the best of my ability and judgment, so help me, God.


CRYSTAL D. THOMAS

Sworn to and subscribed before me this 7TH day of December, 2021.




Honorable Robert M. Brady
Chief District Court Judge, Retired

CITY OF LENOIR, NORTH CAROLINA
OATH OF COUNCIL MEMBER

❧❧ JAMES I. PERKINS ❧❧

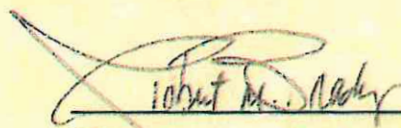
I, JAMES I. PERKINS, solemnly swear that I will support the Constitution and laws of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; and, that I will endeavor to support, maintain, and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, JAMES I. PERKINS, further swear that I will execute the duties of the office of COUNCIL MEMBER for the City of Lenoir, North Carolina, to the best of my ability and judgment, so help me, God.


JAMES I. PERKINS

Sworn to and subscribed before me this 7TH day of December, 2021.




Honorable Robert M. Brady
Chief District Court Judge, Retired

AN ORDINANCE OF THE CITY COUNCIL OF LENOIR, NORTH CAROLINA, AMENDING CHAPTERS 1, 2, 5, 9, 13 AND APPENDIX C OF THE LENOIR CITY CODE RELATED TO ADVISORY BOARDS, PRIVILEGE LICENSES, AND CIVIL AND CRIMINAL PENALTIES, PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Whereas, the state legislature recently adopted SB300, the Criminal Justice Reform bill, which goes into effect on December 1, 2021 and decriminalizes certain local ordinances related to development regulations, the regulation and licensing of businesses and trades, stream clearing programs, outdoor advertising, setbacks, curb cuts, and trees; and

Whereas, SB 300 also removed the presumption in 160A-175(b) that any violation of a local ordinance is a misdemeanor under G.S. 14-4, requiring instead that cities must specify by ordinance if a violation is punishable as a misdemeanor or infraction under G.S. 14-4; and

Whereas, Chapters 1, 9, and Appendix C of the Lenoir Code of Ordinances contain regulations that have been decriminalized under SB300, prompting the necessity to amend the ordinances to remove language related to criminal penalties; and

Whereas, Chapter 5 of the Lenoir Code of Ordinances, "Business Regulation, Licensing, and Taxation," contains regulations pertaining to levying and collecting Privilege License Taxes (Article II) and the licensing of massage parlors (Article IV) that are inconsistent with state statutes, as they have been amended; and

Whereas, Chapter 5 contains provisions regulating Secondhand Precious Metals Dealers (Article V) and Pawnbrokers (Article VII), but doesn't contain accurate references to the statutory authority granted by Chapter 66, Article 45 for the regulation of such businesses, when such a reference would clarify that these regulations are not decriminalized by SB300; and

Whereas, Chapter 13 of the Lenoir Code of Ordinances, "Offenses and Miscellaneous Provisions" contains prohibitions related to the discharge of firearms within the City Limits (Sec. 13-6), Firebombs (Sec. 13-7) and Consumption of Alcoholic Beverages on City Property (Sec. 13-9), but does not specifically declare violations to constitute misdemeanors under G.S. 14-4 as is now required by the amendments to 160A-175(b) contained in SB 300; and

Whereas, the Lenoir Police Department has historically enforced the aforementioned local prohibitions through charging violators under G.S. 14-4, and although such charges are rare, the City Council finds it to be necessary to retain the ability to charge violators when warranted to ensure the public

health, safety, and general welfare and to protect the resident's rights to quiet enjoyment of their homes;
and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. Chapter 1 of the Code of Ordinances, City of Lenoir, North Carolina, "General Provisions" is hereby is hereby amended to read as follows:

Sec. 1-15. - Civil and criminal penalties.

(g) Failure to abate a violation in the specified time period for abatement given pursuant to subsection (a) shall constitute a misdemeanor infraction pursuant to G.S. 14-4, except that no criminal penalties may be imposed under this subsection for violations of Chapter 9 "Flood Damage Prevention," Chapter 18, Article V "Driveways," Chapter 19, "Subdivisions," Appendix A: "Zoning," Appendix C: "Phase II Stormwater Ordinance," or any other ordinance specified in NCGS 160A-175(b1). This section is adopted pursuant to G.S. 160A-175(b).

SECTION 2. Chapter 2, Article V of the Code of Ordinances, City of Lenoir, North Carolina, "Boards, Commissions and Departments" is hereby is hereby amended to read as follows:

ARTICLE V. - BOARDS, COMMISSIONS AND DEPARTMENTS

DIVISION 1. - GENERALLY

Sec. 2-186. - Rules of procedure; minutes required.

(a) Rules of procedure that are consistent with the provisions of G.S. 160D, article 3 may be adopted by the governing board for any or all boards created pursuant to the same. In the absence of action by the governing board, each board created under G.S. 160D, article 3 is authorized to adopt its

own rules of procedure that are consistent with the provisions of this article and G.S. 160D. A copy of any adopted rules of procedure shall be maintained by the city clerk, and posted to the city's website.

(b) Each board shall keep minutes of its proceedings.

Sec. 2-187. – Appointment Terms; Vacancies.

Unless otherwise specified by ordinance, all board terms start on July 1 of the first year of the term and end on June 30 of the last year of the term. Vacancies shall be filled for the remainder of the term. Initial board appointments should be for staggered terms, such that only a portion of the board is up for re-appointment/expiration in any given year.

Secs. 2-187~~188~~—2-195. - Reserved.

DIVISION 5. - RECREATION AND PARKS ADVISORY BOARD

Sec. 2-251. - Board established; composition.

There is established a recreation and parks advisory board for the city. It shall consist of not less than nine members, appointed by the ~~mayer and~~ city council. A maximum of two members may reside outside the city limits. One member shall be under the age of 19, except that if no qualified youth applicants are available to serve, Council may appoint an adult member to fill a youth member's seat, when necessary to achieve at least 9 members on the Board, and may appoint a youth member as an additional seat on the board at any time in accordance with Sec. 2-252, such that the intent of this Section is achieved. The director of parks and recreation and any members of the city council may serve on this board in an ex officio manner.

Sec. 2-252. - Terms of members; vacancies.

Members of the board shall be appointed for ~~staggered terms up to four~~ four-years terms; however the City Council may appoint certain members for less than four years to create staggered terms such that the board members' terms do not all expire at the same time. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Additional members may be

~~added at any time throughout the year, for the remaining period of the term. Terms of office of initial appointees shall be staggered as designated by the advisory board upon original appointment.~~

Sec. 2-253. — ~~Officers~~ Proceedings of the Board.

The board shall adopt rules of procedure in accordance with the provisions of this article and of NCGS Chapter 160D, Article III. The board shall elect a chairman and vice chairman. The director, or his designee, shall serve as secretary to the board. The term of the chairman and vice chairman shall be determined by the rules of procedure adopted by the board.

Sec. 2-254. - Meetings generally.

The board shall hold at least one monthly meeting, unless there is no business to come before the board, and all meetings shall be open to the public. Other meetings may be called by the board as necessary. The time and location of regular meetings shall be established by the board in the rules of procedure.

Sec. 2-255. - Attendance at meetings.

Faithful and prompt attendance at board meetings shall be considered a prerequisite for the maintenance of membership on the board, and the City Council may relieve board members with poor attendance of their duties. ~~; therefore, any board member absent for a period of three consecutive meetings, either on a regular or irregular scheduled basis, but not including special or called meetings, shall automatically be relieved of his duties as a board member. Such absence shall be reported to the city council for further action or replacement by the chairman of the board. The council, for justifiable absence such as jury duty, sickness, etc., may waive such dismissal.~~

DIVISION 6. - BOARD OF ADJUSTMENT

Sec. 2-271. - Establishment of a board of adjustment.

A board of adjustment is hereby established. Said board shall consist of six regular members and two alternate members. Five regular members shall be citizens of the City of Lenoir, appointed by the mayor, and approved by the city council. One regular member shall be a citizen of the City of Lenoir's extra-territorial planning jurisdiction (ETJ), nominated by the mayor and city council, and approved by the Caldwell County Board of Commissioners. Two alternate members shall be members of the City of Lenoir or its ETJ, and approved by the appropriate body of government. Regular and alternate members shall be appointed for three-year terms; however, the governing board may appoint certain members for less than

three years so that the terms of all members shall not expire at the same time. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

Preference for appointments to the Board of Adjustment shall be given to current and recent past members of the Planning Board, particularly those members who have demonstrated high levels of attendance, participation, and competency with quasi-judicial cases in their advisory role on the Planning Board. When a Planning Board member is appointed the Board of Adjustment, they are hereby deemed to be serving in an ex officio capacity. Ex officio members shall have all the same rights and privileges as regular board members, including contributing to the calculation of a quorum, voting, and participating.

SECTION 3. Chapter 5, Article II of the Code of Ordinances, City of Lenoir, North Carolina, "License Taxes" is hereby repealed and sections 5-26 through 5-40 are reserved for future codification.

SECTION 4. Chapter 5, Article IV of the Code of Ordinances, City of Lenoir, North Carolina, "Massage Parlors" is hereby repealed and sections 5-106 through 5-123 are reserved for future codification.

SECTION 5. Chapter 3, Article V of the Code of Ordinances, City of Lenoir, North Carolina, "Secondhand Precious Metals" is hereby amended to read as follows:

Sec. 3-143. - Records of transactions.

- (a) ~~Every secondhand precious metal business dealer shall~~ maintain consecutively numbered records of each precious metals transaction, pursuant to the requirements of the Dealer's Permit and G.S. 66-410, keep a tightly bound book, not looseleaf, with pages numbered in sequence, in which there shall be legibly written at the time of any transaction with a nonlicensee involving the purchasing of, trading for or acquiring of ownership of any secondhand article made, in whole or in part, of gold or silver or platinum, the following information:
- (b) ~~An account and description of each item, article, or thing purchased, traded for or taken in, including, if applicable, the manufacturer's name, the model, the model number, the serial number, and any engraved number, initials or marking;~~
- (c) ~~The date of the transaction;~~
- (d) ~~The name and residence of the person involved in the transaction with the secondhand precious metal business, along with the person's date of birth and general physical description, including hair color and approximate height and weight; and~~
- (e) ~~A notation whether the item, article, or thing is stored on the licensed premises or elsewhere.~~
- (f) ~~The book required by this section shall be a permanent record to be kept at all times on the premises of the secondhand precious metal business. Such book shall be made available, during regular business hours, to any law enforcement officer. The full and accurate filing with the police department of the records required under the provisions of this article by a licensee which~~

~~is also a licensed pawnbroker shall constitute compliance with the filing provision of G.S. 91A-7 for any transaction subject to the provisions thereof.~~

~~(g) Such book need not be kept longer than three years by the licensee.~~

Sec. 3-145. - Purchasing from juvenile.

No secondhand precious metal ~~business dealer~~ or employee or agent thereof shall purchase from any juvenile under 13 years of age any ~~secondhand~~ article made, in whole or in part, of precious metal, gold or silver or platinum without the written consent of the juvenile's parent or guardian or presentation of proof of ownership.

Sec. 3-146. - Penalties. Violation of any provision of this article by any person shall constitute a Class 2 misdemeanor as provided in G.S. 66-413 and, upon conviction, a violator shall be punished by a fine or imprisonment in the discretion of the court. Each violation shall constitute a separate and distinct offense.

State Law reference— Similar provisions, G.S. 14-4 66-405 through 66-414.

Secs. 3-147—3-160. - Reserved.

DIVISION 2. — LICENSEDEALER'S PERMIT

Sec. 3-161. - Required.

No person shall operate a secondhand precious metal business unless such person shall have first applied for and received a privilege license dealer permit from the ~~city revenue collector~~ Chief of Police, or his or her designee, pursuant to G.S. 66-407. A separate license permit shall be required for each location, place or premises used for the conduct of a secondhand precious metal business, and each license permit shall designate the location, place or premises to which it applies. In addition, such business shall not be carried on or conducted in any other place than that designated in or by such license permit. For the purposes of this Division, any references to a license for a precious metal business is deemed to mean the same as the Dealer's Permit required by this section.

Sec. 3-162. - License-Permit fee.

Pursuant to G.S. 66-407, the annual fee for a Dealer's Permit is one hundred eighty dollars (\$180) to provide for the administrative costs of the Lenoir Police Department, including the purchase of required forms and the cost of conducting the criminal history record check of the applicant.

~~(a) The fee for the license required by this article shall be as follows:~~

~~(1) First year \$ 100.00~~

~~(2) Each successive year 50.00~~

- (b) ~~This fee will include the issuance of the city-owned permanent record book and/or additional books when needed, which shall be turned into the police department when the precious metals business ceases.~~

Sec. 5-164. - Investigation of applicant.

Any person applying to the ~~revenue collector~~Lenoir Police Department for ~~a license to conduct the business of a secondhand precious metal dealer~~dealer's permit shall also report to the police department and must furnish his or full name and any other names used during the preceding 5 years, current address and all addresses used during the preceding 5 years, physical description, age, state driver's license number (if applicable), and social security number to record of any felony convictions and record of other convictions during the preceding five years and any other information required by G.S.66-407 or by the Chief of Police in order to assist in an investigation of his or her criminal record and character. In addition, the applicant will be photographed and fingerprinted in order to facilitate the investigation.

Sec. 5-165. - Denial or revocation.

- (a) ~~No license permit~~ shall be issued to any applicant if any of the persons required to be investigated under section 5-164 has been convicted of any felony or of a crime involving fraud, theft, or receiving or possession of stolen property in the five years immediately preceding the date of the license application.
- (b) The conviction of any person required to be investigated under section 5-164 for any felony or for any crime involving fraud, theft, or receiving or possessing stolen property or for any violation of this article shall constitute grounds for immediate revocation by the city council of the privilege licensed dealer's permit issued to such ~~secondhand precious metal businessperson~~.

Sec. 5-166. - Use of unlicensed premises.

No secondhand precious metal business shall make use of any property or premises, not included within the premises designated in or by the ~~license~~Dealer's Permit required by this article, for the display of any secondhand article, made in whole or in part, of ~~gold or silver or platinum~~precious metals, or for the conduct of a secondhand precious metal business. This article does not prohibit the storage or safekeeping of any such secondhand article off of the licensed premises.

SECTION 5. Chapter 3, Article VII of the Code of Ordinances, City of Lenoir, North Carolina, "Pawnbrokers" is hereby amended to read as follows:

ARTICLE VII. – PAWNBROKERS [6]

Footnotes:

.... (6)

State Law reference—~~Limited city authority to adopt regulations concerning pawnbrokers, G.S. 91A-12~~
Similar provisions in G.S. 66-385 through 66-399.

Sec. 5-236. - Prohibitions.

A pawnbroker shall not:

- (1) Accept a pledge from a person under the age of 18 years;
- (2) Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
- (3) Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this article;
- (4) Fail to exercise reasonable care to protect pledged goods from loss or damage;
- (5) Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. If such pledged goods are lost or damaged while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with merchandise of like kind and equivalent value. If the pledgor and pawnbroker cannot agree as to replacement, the pawnbroker shall reimburse the pledgor in the amount of the value agreed upon pursuant to ~~G.S. 91A-7(b)~~66-391(b);
- (6) Take any article in pawn, pledge or as security from any person, which article is known to such pawnbroker to be stolen, unless there is a written agreement with local or state police;
- (7) Sell, exchange, barter or remove from the pawnshop any goods pledged, pawned or purchased before the earlier of seven days after the date the pawn ticket record is electronically reported in accordance with G.S. 66-391(d) or 30 days after the transaction, earlier than 48 hours after the transaction, except in case of redemption by the pledgor or for items purchased for resale from wholesalers;
- (8) Operate more than one pawnshop under one license, and each shop must be at a permanent place of business; or
- (9) Take as pledged goods any manufactured home, recreational vehicle or motor vehicle, other than a motorcycle.

Sec. 5-337. - Penalties.

- (a) Pursuant to ~~G.S. 91A-11~~ G.S. 66-396, every person, their guests or employees, who shall knowingly violate any of the provisions of this article shall, on conviction thereof, be deemed guilty of a misdemeanor and shall be fined a sum not to exceed \$500.00 for each offense, and at the discretion of the court, may be imprisoned for a period of time not to exceed six months. If the violation is by an owner or major stockholder or managing partner of the pawnshop, and the violation is knowingly committed by the owner, major stockholder or managing partner of the pawnshop, the license of the pawnshop may be suspended at the discretion of the court.
- (b) Subsection (a) of this section shall not apply to violations of section 5-236(6), which shall be prosecuted under the state criminal statutes.
- (c) In addition to the penalties set forth in subsections (a) and (b) of this section, violation of any of the provisions of this article shall also result in revocation of the license.
- (d) Any contract of pawn, the making or collecting of which violates any provisions of this article, except as a result of accidental or bona fide error of computation, shall be void, and the licensee

shall have no right to collect, receive or retain any interest or fee whatsoever with respect to such pawn.

DIVISION 2. - LICENSE

Sec. 5-251. - Required.

It is unlawful for any person to establish or conduct a business of pawnbroker unless such a person has procured a license to conduct business in compliance with the requirements of this article. ~~The license required by this article is in addition to the privilege license required in this chapter.~~ The application fee for the license required shall be as established by the ~~city's fees and charges manual~~ City Council.

Sec. 5-253. - Application.

Every person desiring to engage in the business of pawnbroker within the corporate limits of the city shall make application to the ~~collections division of the finance department~~ Lenoir Police Department for a license to conduct such business. Such application shall include the following:

Sec. 5-257. - Appeal procedure.

- (a) If, after reviewing an application for a pawnbroker's license, the ~~revenue collector~~ Police Chief determines that the applicant is not eligible, the ~~revenue collector~~ Police Chief shall give the applicant written notice that his or her application has been denied. The notice of denial shall specify the reason for the denial and shall give the applicant ten days in which he or she may respond to the notice. The notice shall be delivered in one of two ways:
 - (1) By personally delivering the letter to the applicant; or
 - (2) By mailing the letter by registered or certified mail, return receipt requested, to the address specified in the license application.
- (b) The applicant may, within ten days after the day on which notice is served, make a written request for a conference. The request shall specify the applicant's objections to the denial. If the applicant fails to request a conference within the time period specified, the denial shall become final.
- (c) If the applicant requests a conference, the conference shall be held within ten days of the date the request is received. If, after hearing the applicant's objections, the ~~revenue collector~~ Police Chief still finds the applicant to be ineligible for a pawnbroker's license, the denial shall become final.

- (d) At such time as there is a change in the condition on which the denial was based (e.g., if ten or more years have passed since the applicant's conviction of a felony), the applicant may submit a new application.

This appeal procedure shall also apply in case of revocation of a permit.

SECTION 6. Chapter 9 of the Code of Ordinances, City of Lenoir, North Carolina, "Flood Damage Prevention" is hereby amended to read as follows:

Sec. 9-38. - Penalties for violation.

~~Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be subject to civil penalties in accordance with Section 1-15 of the Lenoir Code of Ordinances. shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Lenoir from taking such other lawful action as is necessary to prevent or remedy any violation.~~

Sec. 9-47. - Duties and responsibilities of the floodplain administrator.

The floodplain administrator shall perform, but not be limited to, the following duties:

(16) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the floodplain administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing or in charge of the work. The stop work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. ~~Violation of a stop work order constitutes a misdemeanor.~~

Sec. 9-48. - Corrective procedures.

(5) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be subject to civil penalties in accordance with Section 1-15 of

the Lenoir Code of Ordinances. ~~guilty of a misdemeanor and shall be punished at the discretion of the court.~~ A violation of this subsection is a civil violation and does not constitute a misdemeanor or infraction.

SECTION 7. Chapter 13 of the Code of Ordinances, City of Lenoir, North Carolina, "Offenses and Miscellaneous Provisions" is hereby amended to read as follows:

Sec. 13-6. - Firearms.

(a) Subject to subsections (b) and (c), no person may fire, discharge or shoot within the city any rifle, shotgun, handgun or other firearm, or similar contrivance, nor may any person brandish or display in a threatening manner any of the foregoing.

(b) Subsection (a) shall not apply to:

- (1) Law enforcement officers acting in the discharge of official duties;
- (2) Persons acting pursuant to the lawful direction of a law enforcement officer;
- (3) Persons using force in defense of themselves or others as set out in N.C. Gen. Stat. §§ 14-51.2 and 14-51.3; or
- (4) Persons engaged in otherwise lawful activity in legally established shooting galleries or ranges.

(c) (1) The use of firearms or other weapons within the city shall be lawful with a special firearms/weapons permit that has been issued by the chief of police or his/her designee for the purpose of disposing of certain destructive animals, fowls, snakes, or vermin, that are generally considered to be a menace to public health and that have become a nuisance upon a person's premises.

(2) A request for said special firearms/weapons permit must be submitted on a form provided by the city and signed by the applicant and shall contain a clear and concise description of the animal(s) to be disposed of; the place such animals are located; description of property damaged; and type of weapon and ammunition requested to be used. The request must also be accompanied, if applicable, by a Wildlife Depredation Permit issued by the North Carolina Wildlife Resources Commission.

(3) Such use of firearms or weapons must be done in accordance with the terms of the special firearms permit which shall specify on its face the date and time of issuance and expiration; the purpose(s), date(s), time(s), and place(s) for which such firing is authorized; and the type of weapon and ammunition authorized to be used.

(4) Applicants for a special firearms/weapons permit must disclose any history of criminal activity, drug/alcohol use, or domestic violence, and must submit to a background investigation to be conducted by the police department. Applicants must also possess a valid hunting license and/or hunter safety certificate issued by the North Carolina Wildlife Resources Commission.

(5) Nothing herein shall be construed to prohibit the chief of police or his/her designee from denying, revoking, or restricting such permit for the safety or well-being of the neighborhood or community.

(D) Any person found to be in violation of the requirements of this section shall be guilty of a misdemeanor, punishable as provided in G.S. 14-4.

State Law reference— Assaults with firearms, G.S. 14-34 et seq.; use of force in defense of person, G.S. 14-51.3; offenses against public peace, G.S. 14-269 et seq.; shooting at trains, G.S. 14-280; letting young child fire weapon, G.S. 14-316; authority to regulate firearms, G.S. 160A-189; wildlife taken for depredations, 15A NCAC 10B .0106.

Sec. 13-7. - Firebombs.

- (a) No person shall manufacture, possess, transport or use any molotov cocktail or other firebomb.
- (b) No person or group of persons shall possess all the items or materials needed to manufacture molotov cocktails or other firebombs, with intent to manufacture such, other than on his or their premises.
- (c) The provisions of this section shall be cumulative to any other ordinance or general statute of the state on this subject.
- (d) Any person found to be in violation of the requirements of this section shall be guilty of a misdemeanor, punishable as provided in G.S. 14-4.
- ~~(e)~~(e)

Sec. 13-9. - Consumption of alcoholic beverages on city property.

No consumption of alcohol on city property. No person shall consume alcoholic beverages, fortified or unfortified wine, or malt beverages, as defined in state statutes, or to offer the same for consumption by another person, on the premises of any property owned or occupied by the city except pursuant to a valid North Carolina alcoholic beverage control permit and upon approval of the city. Any person found to be in violation of the requirements of this section shall be guilty of a misdemeanor, punishable as provided in G.S. 14-4.

State Law reference— G.S. 18B-300(c), city may by ordinance regulate alcohol consumption on city property; unauthorized possession/use, G.S. 18B-301(f); G.S. 18B-102(a), possession or consumption of alcoholic beverages unlawful except as authorized by ABC law.

SECTION 8. Appendix C of the Code of Ordinances, City of Lenoir, North Carolina, "Phase II Stormwater Ordinance" is hereby amended to read as follows:

502 - REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this ordinance, ~~whether civil or criminal~~, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order. A violation of this ordinance is a civil violation and does not constitute a misdemeanor or infraction.

(A) Remedies.

(B) Civil Penalties. Violation of this ordinance shall follow the procedure for notice of violation and civil penalty schedule outlined in Section 1-15 of the Lenoir City Code. If the violation of the ordinance causes the City of Lenoir to incur a penalty for violation of its Phase II Stormwater permit, civil penalties may be assessed up to the full amount of penalty to which City of Lenoir is subject.

~~(C) Criminal Penalties. Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.~~

SECTION 8. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 9. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

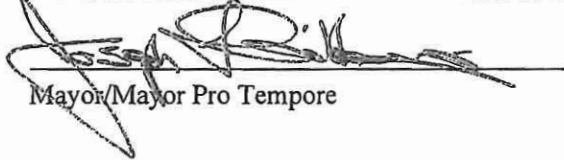
SECTION 10. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 2nd day of November, 2021.

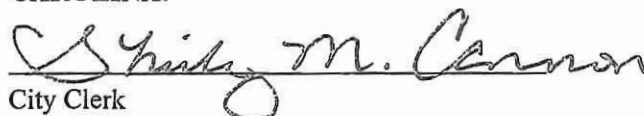
DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 26th day of November and this 3rd day of December, 2021.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 7th day of December, 2021.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:


Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:


City Clerk

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Comparison of Allowable Uses

Sec. 600 of the Lenoir Zoning Ordinance establishes a chart of permitted and special uses for each zoning district. The R-6 zoning district allows for high density single-family residences, doublewide manufactured homes, and other compatible land uses. The B-2 zoning district allows for many residential, commercial, and institutional uses. Staff does not anticipate the land use changing, but hypothetically, this site's arterial frontage would support the range of uses permitted under B-2.

Comparison of Zoning Districts

	R-6	B-2
Development Standards	Min Lot Size— 6,000 ft ²	Min Lot Size - 0
	Setbacks	Setbacks
	Front: 35'	Front: 10'
	Side Yard: 10'	Side Yard: 0'
	Abutting side Street: 25'	Abutting side Street: 0'
	Minimum Rear Yard: 25'	Minimum Rear Yard: 20' abutting residential, 0' otherwise
Summary of Permitted Uses	Accessory Cottage or Apartment Attached Dwellings Bungalow Court Dwelling, Single/Two-Family/Group Doublewide manufactured home Garden Apartments **For conditional uses see Section 600, Table A in Lenoir Zoning Ordinance**	Accessory Cottage or Apartment Adult Business/Adult Gaming Establishment Attached Dwellings Billiards Community Facilities such as Churches Day Care Centers Dwelling, Single/Two-Family/Multi-family/Group Eating and Drinking (with or w/o drive through) Manufacturing & Processing (Artisan & Light) Office/Clinics Public Service Facility Personal Storage Retail (Light & Intensive) Services (Automotive, Major Vehicle, Business & Personal) Indoor Shooting Range Veterinarian Warehousing

STAFF RECOMMENDATION AND CONSISTENCY STATEMENT

Staff recommends that the Planning Board recommend approval of the request, based on the following consistency statement, and call for a Public Hearing for City Council to consider the request on December 7, 2021:

The proposed zoning map amendment is consistent with the adopted Comprehensive Plan because it clarifies and streamlines the zoning design standards for an existing church and adjacent property, consistent with the policy concepts found in the plan. The proposed amendment is reasonable and in the public interest because facilitates a church use as a "by right" development, making it a conforming use for its location. Rezoning all of the subject properties provides predictable form and design for the overall neighborhood.

PLANNING BOARD RECOMMENDATION

The Planning Board recommend approval of the request, based on the adopted consistency statement, and call for a Public Hearing for City Council to consider the request on December 7, 2021.

BK 2042 PG 455 - 457 (3)

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12/08/2021 02:53:27 PM

Fee \$26.00



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Caldwell County North Carolina
Wayne L. Rash, Register of Deeds

AN ORDINANCE DECLARING THE CONDITIONS ON CERTAIN REAL PROPERTY OWNED BY MICHAEL S. COFFEY AND LOCATED AT 1319 JOLLY PLACE IN LENOIR, NC TO BE A DANGER TO THE PUBLIC HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF INHABITANTS OF THE CITY AND CONSTITUTING A PUBLIC NUISANCE, IN ACCORDANCE WITH SECTION 12-12(16) OF THE LENOIR CODE OF ORDINANCES, AND DIRECTING CITY STAFF TO ABATE THE SAME.

WHEREAS, the property located at 1319 Jolly Place has been the subject of numerous complaints, criminal activity, and nuisance code violations for many years, and

WHEREAS, a concentration of trash and debris is littering the property, creating hazardous conditions and breeding ground for pests, in violation of the City's public nuisance laws (see Sec. 12-12(a)(7); Sec. 12-12(a)(8); Sec. 12-12(a)(12) of the Lenoir City Code), and

WHEREAS, there exists vehicles meeting the definition of "junked or abandoned" on the property, including an RV, that are not tagged or operable, and

WHEREAS, the property is being used as a place of residence, but there is no dwelling on the property that complies with, or that could be improved to comply with, the City's minimum housing standards – a dilapidated shed and junked motor vehicles provide the only shelter on the property, and sanitary facilities are not present, and

WHEREAS, the conditions violate multiple ordinances, with different provisions for notice, enforcement, and abatement, and staff has followed the most restrictive provisions under each individual citation, and now seeks this declaration of the property as a whole to in and of itself constitute a public nuisance, in order to abate the violations in a comprehensive and effective way, and

WHEREAS, the City notified the owner of the violations on October 6, 2021, citing violations of Chapter 10 (housing) and Chapter 12 (nuisances and junked vehicles). A hearing was held via telephone on October 8, 2021 where the violations were discussed with the owner, and a final order to abate was sent on October 21, 2021 ordering all violations be abated within 30 days, and

WHEREAS, the owner of this dwelling, **Michael S Coffey**, has failed to comply with the order within the time specified, and staff now seeks to abate the violations, and add the costs incurred as a lien on the subject property the same as a tax lien, as provided for in the Lenoir Code of Ordinances; and

WHEREAS, the owner was notified of staff's intent to send this ordinance to the City Council for a public hearing, in accordance with Section 12-12(16), via certified mail on November 29, 2021.

NOW THEREFORE BE IT ORDAINED BY the City Council of the City of Lenoir that:

Section 1. The conditions existing at **1319 Jolly Place, Lenoir, NC, 28645**, further identified by Caldwell County Parcel-ID number Parcel-ID 09148 1 29 and NCPIN number 2850083796 as of December 7, 2021 are hereby found and declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the City and a public nuisance, in accordance with section 12-12(16) of the Lenoir Code of Ordinances.

Section 2. The Minimum Housing Inspector is hereby authorized and directed to place a placard on the dilapidated accessory structure with the following words:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall be likewise unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.

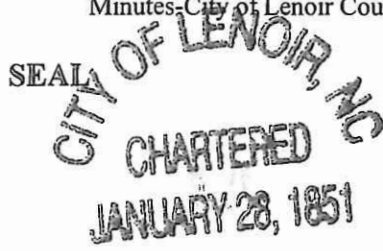
Section 3. Code enforcement staff is hereby authorized and directed to remove, demolish, tow, or otherwise abate the nuisance conditions declared herein, and more specifically as follows:

1. Vacate and demolish the accessory structure.
2. Vacate and remove all Temporary housing – including any tarps, tents, vehicles, and anything else being used for temporary shelter.
3. Remove all household waste, trash, debris, building material, etc. from the property.
4. Cause to be towed any vehicle that fails to display a current license plate, is partially dismantled or wrecked, or is incapable of self-propulsion or of being moved in the manner for which it was originally intended.

Section 4. The City's cost to abate the violations shall be a tax lien on the real property.

Section 5. A copy of this ordinance shall be recorded in the Register of Deeds of Caldwell County, North Carolina, and indexed in the name of the property owner or owners in the grantor index.

Adopted this the 7th day of December 2021.



SEAL



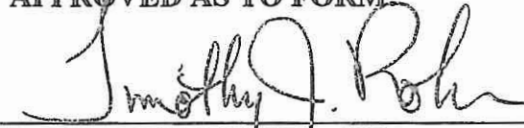
JOSEPH L. GIBBONS, MAYOR

ATTEST:



SHIRLEY M. CANNON, CITY CLERK

APPROVED AS TO FORM:



TIMOTHY J. ROHR, CITY ATTORNEY

**CITY OF LENOIR
COUNCIL ACTION FORM**

- I. **Agenda Item:** Consideration of a Request from Yokefellow of Caldwell County to add a restroom building addition to the Lenoir Emergency Outreach Shelter (LEOS), which is owned by the City of Lenoir.
- II. **Background Information:** Founded in 2010, the Lenoir Emergency Outreach Shelter (LEOS) began on the gym floors of Old Lenoir High School as a winter-time shelter. In January 2015, Yokefellow of Caldwell County via a partnership and lease of property (attached) from the City of Lenoir, opened the doors to a permanent shelter located at 1129 West Avenue.

Currently, LEOS serves as a full time emergency year-round shelter, providing temporary housing for men, women and children of Caldwell County. The shelter provides sleeping quarters, shower facilities, a laundry room, kitchen and dining along with common living spaces. LEOS also provides goal plans for all residents, helping them to transition from homelessness back to an independent life. The shelter is volunteer-run, with the support of Yokefellow, a crisis ministry assisting people in immediate need of food, clothing, financial assistance and/or emergency shelter.

Over the past few weeks, Yokefellow has experienced a significant need for additional emergency shelter beds in the community. As a result, Yokefellow/LEOS identified an area at the shelter to address those concerns. Based on an inspection by the Fire Marshal, the current laundry room area met all building requirements (smoke, fire, CO2 monitoring, emergency access and egress, sprinkler system coverage and camera coverage) to add more emergency sleeping area, subject to construction of a partition wall to separate mechanical equipment. Working with Caldwell County Habitat for Humanity building staff, an interior partition wall was constructed in the laundry room area to secure the equipment and provide needed emergency sleeping space.

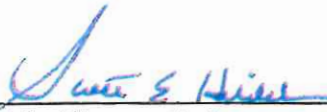
In order to accommodate the additional emergency shelter "walk-ins" and address sanitation/hygiene issues, additional shower/restroom facilities are needed. As such, Yokefellow/LEOS proposes to close up the rear roll-up garage door, and construct a building addition for ADA compliant showers/restrooms. Yokefellow has agreed to cover the cost of the addition.

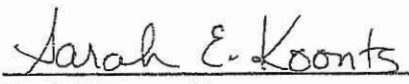
Since the City of Lenoir owns the building, City Attorney Rohr has advised City Council will need to authorize the proposed shower/restroom addition to the Lenoir Emergency Outreach Shelter.

- III. **Staff Recommendation:** Consider a Request from Yokefellow of Caldwell County to add a restroom building addition to the Lenoir Emergency Outreach Shelter (LEOS), which is owned by the City of Lenoir.
- IV. **Reviewed by:**
City Attorney: *TJ Rohr*
City Manager: *Scott Hildebran*

It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule supersedes previous versions of this schedule and any localized amendments; it is to remain in effect from the date of approval until it is reviewed and updated.

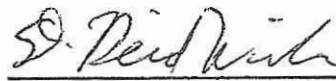
APPROVAL RECOMMENDED


Municipal/County Clerk or Manager
Title: City Manager


Sarah E. Koonts, Director
Division of Archives and Records

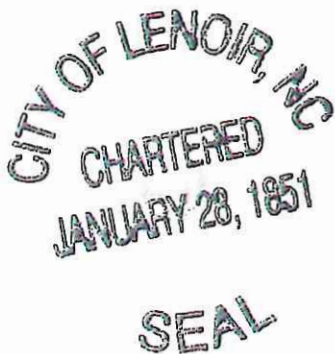
APPROVED


Head of Governing Body
Title: MAYOR


D. Reid Wilson, Secretary
Department of Natural and Cultural
Resources

Municipality/County: City of Lenoir

Effective: October 1, 2021



RESOLUTION OF TENTATIVE AWARD

WHEREAS, the **City of Lenoir**, North Carolina has received bids, pursuant to duly advertisement notice therefore, for construction of the **Crossroads Sewer Replacement Project**, and

WHEREAS, the City's Consulting Engineer, McGill Associates, has reviewed the bids; and

WHEREAS, of three (3) bids, Carolina Grading & Utilities, Inc. of Jefferson, North Carolina was the lowest bidder for the Crossroads Sewer Replacement Project, in the total bid amount of \$1,908,830, and

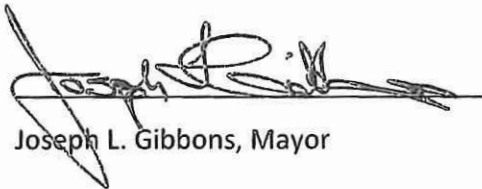
NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF LENOIR:

That **TENTATIVE AWARD** is made to Carolina Grading & Utilities, Inc. for the Contract Price of \$1,908,830.

That such **TENTATIVE AWARD** be contingent upon the approval of the North Carolina Department of Environmental Quality, Division of Water Infrastructure.

That Scott Hildebran, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and approve all contract documents and change orders for this project on behalf of the **City of Lenoir**.

Adopted this the **7th day of December, 2021** at Lenoir, North Carolina.



Joseph L. Gibbons, Mayor

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting **City Clerk of the City of Lenoir** does hereby certify: That the above/attached resolution is a true and correct copy of the resolution, as regularly adopted at a legally convened meeting of the City of Lenoir duly held on the 7th day of December, 2021; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of December, 2021.



Shirley M. Cannon, City Clerk

CERTIFIED BID TABULATION
CROSSROADS SEWER REPLACEMENT PROJECT
CITY OF LENOIR, NORTH CAROLINA

				Carolina Grading & Utilities, Inc.		Buckeye Bridge, LLC		Hickory Sand Company, Inc.	
(No)	Description	Unit	Quantity	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price
1	Mobilization (maximum 3%)	LS	1	\$55,000.00	\$55,000.00	\$83,095.00	\$83,095.00	\$100,000.00	\$100,000.00
2	20" Class 350 DI Gravity Sewers 0-6 Ft. Cover	LF	1,580	\$148.00	\$233,810.00	\$295.00	\$466,100.00	\$450.00	\$711,000.00
3	20" Class 350 DI Gravity Sewers 6-8 Ft. Cover	LF	940	\$153.00	\$143,820.00	\$310.00	\$291,400.00	\$460.00	\$432,400.00
4	20" Class 350 DI Gravity Sewers 8-10 Ft. Cover	LF	680	\$190.00	\$129,200.00	\$320.00	\$217,600.00	\$475.00	\$323,000.00
5	20" Class 350 DI Gravity Sewers 10-12 Ft. Cover	LF	340	\$215.00	\$73,100.00	\$328.00	\$111,520.00	\$495.00	\$169,300.00
6	20" Class 350 DI Gravity Sewers 12-14 Ft. Cover	LF	70	\$400.00	\$28,000.00	\$337.00	\$23,590.00	\$525.00	\$36,750.00
7	12" Class 350 DI Gravity Sewers, All Depths	LF	90	\$350.00	\$31,500.00	\$235.00	\$21,150.00	\$330.00	\$29,700.00
8	8" Class 350 DI Gravity Sewers 0-6 Ft. Cover	LF	320	\$55.00	\$17,600.00	\$200.00	\$64,000.00	\$300.00	\$96,000.00
9	8" Class 350 DI Gravity Sewers 6-8 Ft. Cover	LF	250	\$75.00	\$18,750.00	\$214.00	\$53,500.00	\$310.00	\$77,500.00
10	8" Class 350 DI Gravity Sewers 8-12 Ft. Cover	LF	60	\$125.00	\$7,500.00	\$233.00	\$13,980.00	\$320.00	\$19,200.00
11	20" Drainage Ditch Crossings - Restoration	EA	2	\$3,500.00	\$7,000.00	\$18,656.00	\$37,312.00	\$7,500.00	\$15,000.00
12	20" Class 350 DI Gravity Sewer Aerial Crossing (Sta. 21+90 to 22+50)	LS	1	\$46,500.00	\$46,500.00	\$29,653.00	\$29,653.00	\$108,500.00	\$108,500.00
13	Temporary By-Pass Line (Sheet C-103)	LS	1	\$7,500.00	\$7,500.00	\$21,529.00	\$21,529.00	\$25,000.00	\$25,000.00
14	36" Steel Encasement Pipe by Bore and Jack, including 20" Diameter DIP Carrier Pipe.	LF	120	\$1,200.00	\$144,000.00	\$2,381.00	\$285,720.00	\$1,475.00	\$177,000.00
15	5' Diameter Doghouse Manhole with Watertight Lid	EA	1	\$16,500.00	\$16,500.00	\$18,064.00	\$18,064.00	\$31,850.00	\$31,850.00
16	6' Diameter Doghouse Manhole 0-8 Ft. Depth with Watertight Lid	EA	2	\$7,450.00	\$14,900.00	\$8,747.00	\$17,494.00	\$16,500.00	\$33,000.00
17	6' Diameter Doghouse Manhole 8-10 Ft. Depth with Watertight Lid	EA	3	\$12,500.00	\$37,500.00	\$10,298.00	\$30,894.00	\$19,850.00	\$59,550.00
18	6' Diameter Doghouse Manhole 10-14 Ft. Depth with Watertight Lid	EA	3	\$13,500.00	\$40,500.00	\$12,076.00	\$36,228.00	\$23,000.00	\$69,000.00
19	5' Diameter Doghouse Manhole 8-10 Ft. Depth with Watertight Lid	EA	2	\$8,750.00	\$17,500.00	\$7,784.00	\$15,568.00	\$19,000.00	\$38,000.00
190	5' Diameter Doghouse Manhole 10-12 Ft. Depth with Watertight Lid	EA	1	\$12,350.00	\$12,350.00	\$9,172.00	\$9,172.00	\$26,800.00	\$26,800.00
20	5' Diameter Standard Manhole 0-8 Ft. Depth with Watertight Lid	EA	4	\$7,250.00	\$29,000.00	\$6,150.00	\$24,600.00	\$12,250.00	\$49,000.00
21	5' Diameter Standard Manhole 8-10 Ft. Depth with Watertight Lid	EA	5	\$7,850.00	\$39,250.00	\$6,917.00	\$34,585.00	\$14,950.00	\$74,750.00
22	5' Diameter Standard Manhole 10-12 Ft. Depth with Watertight Lid	EA	4	\$8,750.00	\$35,000.00	\$7,735.00	\$30,940.00	\$17,000.00	\$68,000.00
23	5' Diameter Standard Manhole 12-15 Ft. Depth with Watertight Lid	EA	1	\$9,850.00	\$9,850.00	\$9,151.00	\$9,151.00	\$18,900.00	\$18,900.00
23	4' Diameter Standard Manhole 0-8 Ft. Depth with Watertight Lid	EA	4	\$4,250.00	\$17,000.00	\$3,890.00	\$15,560.00	\$6,850.00	\$27,800.00
25	4' Diameter Standard Manhole 8-12 Ft. Depth with Watertight Lid	EA	1	\$7,350.00	\$7,350.00	\$4,959.00	\$4,959.00	\$8,500.00	\$8,500.00
26	Manhole Vent Assembly	EA	4	\$13,500.00	\$54,000.00	\$17,004.00	\$68,016.00	\$4,500.00	\$18,000.00
27	Connect to Existing Manhole with Inside Drop Connection 16-18 Ft. Depth	EA	1	\$2,100.00	\$2,100.00	\$11,045.00	\$11,045.00	\$9,800.00	\$9,800.00
28	Connect to Existing Manhole 10-12 Ft. Depth	EA	1	\$5,000.00	\$5,000.00	\$2,252.00	\$2,252.00	\$7,200.00	\$7,200.00
29	8" Sewer Service Connection	EA	1	\$5,000.00	\$5,000.00	\$2,810.00	\$2,810.00	\$6,850.00	\$6,850.00
30	6" Sewer Service Connection	EA	2	\$3,000.00	\$6,000.00	\$2,962.00	\$5,924.00	\$6,200.00	\$12,400.00
31	4" Sewer Service Connection	EA	2	\$3,250.00	\$6,500.00	\$3,194.00	\$6,388.00	\$6,000.00	\$12,000.00
32	4" Sewer Service Connection with 4" Sewer Service Pipe in 8" Steel Casing Pipe installed by Boring and Jacking (Sheet C-104)	LS	1	\$42,500.00	\$42,500.00	\$111,310.00	\$111,310.00	\$39,500.00	\$39,500.00
33	Manhole Line Abandonments	EA	44	\$250.00	\$11,000.00	\$330.00	\$16,720.00	\$1,495.00	\$65,780.00
34	Manhole Demolition and Abandonment (Off-Road)	EA	11	\$1,500.00	\$16,500.00	\$1,615.00	\$17,765.00	\$1,750.00	\$19,250.00
35	Manhole Demolition and Abandonment (Non-DOT Pavement or Roads)	EA	8	\$2,250.00	\$18,000.00	\$2,012.00	\$16,096.00	\$2,150.00	\$17,200.00
36	Manhole Demolition and Abandonment (DOT Roads)	EA	4	\$3,500.00	\$14,000.00	\$2,419.00	\$9,676.00	\$4,745.00	\$18,980.00
37	3" Abandon Sewer Line with Flowable Fill	LF	1,340	\$18.00	\$24,120.00	\$12.00	\$16,080.00	\$28.00	\$37,520.00
38	12" Abandon Sewer Line with Flowable Fill	LF	990	\$30.00	\$29,700.00	\$19.00	\$18,810.00	\$35.00	\$34,650.00
39	Asphalt Road Repair (Per Detail ST-3)	LF	200	\$125.00	\$25,000.00	\$241.00	\$48,200.00	\$165.00	\$33,000.00
40	Asphalt Pavement Repair (Per Detail ST-4)	LF	1,240	\$105.00	\$130,200.00	\$131.00	\$162,440.00	\$155.00	\$192,200.00
41	Concrete Drive Repair (Per Detail ST-7)	LF	80	\$85.00	\$6,800.00	\$114.00	\$9,120.00	\$250.00	\$20,000.00
42	Asphalt Cart Path Repair	LF	150	\$95.00	\$14,250.00	\$37.40	\$5,610.00	\$76.00	\$11,400.00
43	Pavement Milling and Overlay beyond Asphalt Repair Limits (Sheets C-105 and C-106)	LS	1	\$40,500.00	\$40,500.00	\$43,990.00	\$43,990.00	\$108,750.00	\$108,750.00
44	Pavement Milling and Overlay beyond Asphalt Repair Limits (Sheet C-107)	LS	1	\$40,800.00	\$40,800.00	\$20,501.00	\$20,501.00	\$65,000.00	\$65,000.00
45	Pavement Milling and Overlay beyond Asphalt Repair Limits (Sheet C-109)	LS	1	\$31,000.00	\$31,000.00	\$16,019.00	\$16,019.00	\$39,500.00	\$39,500.00
46	Curb and Gutter Repair	EA	11	\$4,650.00	\$51,150.00	\$1,377.00	\$15,147.00	\$3,750.00	\$41,250.00
47	Erosion Control Measures (per Plans and Details) max. \$25,000	LS	1	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
48	Washed Stone Undercut for Wet Conditions as Directed by the Engineer	LF	3,000	\$15.00	\$45,000.00	\$10.60	\$31,800.00	\$15.00	\$45,000.00
49	Select Backfill (Min. unit price of \$25/CY)	CY	1,600	\$25.00	\$40,000.00	\$39.80	\$63,680.00	\$15.00	\$24,000.00
Totals					\$1,508,330.00		\$2,711,763.00		\$3,728,730.00

This is to certify that the bids tabulated herein were accompanied by a 5% bid bond or certified check and publicly opened and read aloud at 2:00 pm local time on the 23rd day of November, 2022, in the Former City Council Chambers (Third Floor of City Hall) at 801 West Avenue, NW, Lenoir, North Carolina 28645.

JOEL WHITFORD, PE

* Note: Bid Item No. 47 maximum price is \$25,000. The corrected amount does not affect the outcome of the bid.


1240 19th Street Lane NW
Hickory, North Carolina 28601
Firm License No. C-0459



Good Faith Efforts Form

Attempts to provide subcontracting opportunities for MBE/WBE firms.

Per 01 NCAC 30I .0101, 50 points must be claimed below by the bidder.
(This is identical to State of NC Affidavit A)

- ☒ 1 – (10 pts) Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- ☒ 2 – (10 pts) Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- ☒ 3 – (15 pts) Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- ☒ 4 – (10 pts) Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- ☒ 5 – (10 pts) Attended prebid meetings scheduled by the public owner.
- ☒ 6 – (20 pts) Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- ☒ 7 – (15 pts) Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- ☐ 8 – (25 pts) Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- ☐ 9 – (20 pts) Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- ☒ 10 – (20 pts) Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

Results of Good Faith Efforts Undertaken (you must check one box below)

- ☐ No subcontractors are being used for this contracted work. Fill out Table A listing only the Prime Contractor. (This statement takes the place of State of NC Affidavit B)
- ☒ Subcontractors are being used. Fill out Table A and B for each trade. Each Table B lists 3.
- ☐ Subcontractors are being used. If any Table B has fewer than 3 solicitations you must also advertise in an M/WBE trade paper and indicate what source of M/WBE firms you used (must list at least one). Some possible papers and sources of M/WBE firms are listed in the Instructions of this Supplement.

Name of the Trade Paper: SBA Subcontract, NC DOA Hub

Submit proof of advertisement with package

M/WBE Sources: Source: NC DOT Source: SWAM

Submit printouts from M/WBE source(s)

Certification Statement and Affidavit of Contractor.

The below affidavit constitutes compliance with 01NCAC 301.0308(7)(a) and (b) and takes the place of State of North Carolina Affidavits C and D.

I have read the information in this compliance supplement and all information provided to the State in this package is accurate and true to the extent of my knowledge including the calculated percentages and the good faith efforts presented herein.

Carlin Smith + Utilities, Inc.
Prime Contractor Company Name (Print)

Randy Carpenter 11-23-21
Prime Contractor Representative (Sign & Date)



State of NC, County of Alle

Subscribed and sworn to before me this 23rd day of Nov, 20 21

Notary Public Melvin C. Shaw

My Commission Expires 3-31-23

Certification of Project Owner/Funding Applicant

City of Lenoir
Funding Applicant (City, Town etc)

Applicant Authorized Representative (Sign & Date)

CS370393-07
Division of Water Infrastructure Project Number

Public Bid Opening
2021 LHS Auditorium Renovation Project #2
City of Lenoir
December 15, 2021 - 2:00 p.m. Local Time

Kenny Story
Recreation Director

[illegible]

BK 2042 PG 709 - 710 (2)

This document presented and filed:
12/09/2021 12:04:34 PM

Fee \$26.00



Caldwell County North Carolina
Wayne L. Rash, Register of Deeds

City of Lenoir

AN ORDINANCE DIRECTING THE LENOIR HOUSING INSPECTOR TO CAUSE THE PROPERTY HEREIN DESCRIBED TO BE VACATED AND CLOSED AND FURTHER DIRECTING THAT A PLACARD BE POSTED ON THE MAIN ENTRANCE OF EACH UNIT INDICATING THEREON THAT IT IS UNFIT FOR HUMAN HABITATION AND THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, the property at 706 Ridgecrest Drive is developed with two duplexes, for a total of four residential units on the subject property (addressed as 716-A Circle Drive, 715-B Circle Drive, 704 Ridgecrest Drive, and 706 Ridgecrest Drive), which have been the subject of numerous and ongoing neighborhood complaints for the past two years, *and*

WHEREAS, On September 30, 2021, the Lenoir Police Department served a search warrant at the above referenced property, where during the search officers observed substandard housing conditions including tenants living without water and/or power, possible use of a crawl space as a living area, manipulated meter boxes, and deteriorating conditions on the property, *and*

WHEREAS, the Minimum Housing officer held a hearing via teleconference with the owner on October 14, 2021, during which the violations were discussed, *and*

WHEREAS, Following the hearing, the Minimum Housing officer determined the units to be "Deteriorated" and ordered on October 21, 2021 that the violations be abated, or that the units be vacated and secured within 30 days, *and*

WHEREAS, the owner has failed to comply with the Housing Officer's Order to Abate the violations within the time prescribed, and has not taken the necessary actions to vacate and secure the property; *and*

WHEREAS, Sec. 10-33 of Lenoir's Minimum Housing Ordinance, "Failure to Comply with Order," states that "if the owner fails to comply with an order to repair, alter, or improve, or to vacate and closing the dwelling, the [Housing Inspector] may cause the dwelling to be repaired, altered, or improved, or to be vacated and closed, and the public officer may cause to be posted on...any dwelling so closed a placard with the following words: 'This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.'" And further states, "the duties...set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the [Housing Inspector] to proceed

NOW THEREFORE BE IT ORDAINED BY the City Council of the City of Lenoir that:

Section 1. The Minimum Housing Inspector is hereby authorized and directed to place a placard at the main entrance of each dwelling with the following words:

"This building is unfit for human habitation: the use or occupation of this building for human habitation is prohibited and unlawful."

The placards shall be placed on each of the four duplexes units located on Parcel-ID 09 58.4 18A (NCPIN 2850615325) and addressed as the following:

- 716-A Circle Drive
- 715-B Circle Drive
- 704 Ridgecrest Drive
- 706 Ridgecrest Drive

Section 2. The Minimum Housing Inspector is hereby authorized and directed to proceed to vacate and secure the described above dwelling(s) in accordance with this Order, and in accordance with the City of Lenoir Minimum Housing Code.

Section 3. Any costs incurred to vacate and close the units shall be a tax lien on the real property.

Section 4. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall be likewise unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.

Section 5. The owner shall have a period of one year to make the repairs, as originally ordered by the Housing Inspection. Units may be re-opened only after an inspection by the Housing Inspector.

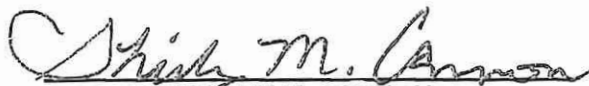
Section 5. A copy of this ordinance shall be recorded in the Register of Deeds of Caldwell County, North Carolina, and indexed in the name of the property owner or owners in the grantor index.

Section 6. This ordinance shall become effective upon adoption.

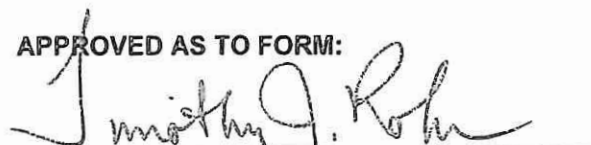
Adopted this the 7th day of December 2021.




JOSEPH L. GIBBONS
MAYOR

SEAL
ATTEST:

SHIRLEY M. CANNON
CITY CLERK

APPROVED AS TO FORM:


TIMOTHY J. ROHR
CITY ATTORNEY



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

A RESOLUTION BY THE CITY OF LENOIR APPROVING THE MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE STATE OF NORTH CAROLINA AND LOCAL GOVERNMENTS ON PROCEEDS RELATING TO THE SETTLEMENT OF OPIOID LITIGATION

WHEREAS, as of 2019, the opioid epidemic had taken the lives of more than 16,500 North Carolinians, torn families apart, and ravaged communities from the mountains to the coast; and

WHEREAS, the COVID-19 pandemic has compounded the opioid crisis, increasing levels of drug misuse, addiction, and overdose death; and

WHEREAS, the Centers for Disease Control and Prevention estimates the total "economic burden" of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement; and

WHEREAS, certain counties and municipalities in North Carolina joined with thousands of local governments across the country to file lawsuits against opioid manufacturers and pharmaceutical distribution companies and hold those companies accountable for their misconduct; and

WHEREAS, representatives of local North Carolina governments, the North Carolina Association of County Commissioners, and the North Carolina Department of Justice have negotiated and prepared a Memorandum of Agreement (MOA) to provide for the equitable distribution of any proceeds from a settlement of national opioid litigation to the State of North Carolina and to individual local governments; and

WHEREAS, Local governments and the State of North Carolina anticipate a settlement in the national opioid litigation to be forthcoming; and

WHEREAS, by signing onto the MOA, the state and local governments maximize North Carolina's share of opioid settlement funds to ensure the needed resources reach communities, once a negotiation is finalized, as quickly, effectively, and directly as possible; and



WHEREAS, it is advantageous to all North Carolinians for local governments, including Caldwell County and the City of Lenoir and their residents, to sign onto the MOA and demonstrate solidarity in response to the opioid epidemic, and to maximize the share of opioid settlement funds received in the state and Caldwell County to help abate the harm; and

WHEREAS, the MOA directs substantial resources over multiple years to local governments on the front lines of the opioid epidemic while ensuring that these resources are used in an effective way to address the crisis.

NOW, THEREFORE BE IT RESOLVED, the City of Lenoir hereby approves the Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation, and any subsequent settlement funds that may come into North Carolina as a result of the opioid crisis.

Furthermore, the Lenoir City Council authorizes the City Manager or City Attorney to take such measures as necessary to comply with the terms of the MOA and receive any settlement funds, including executing any documents related to the allocation of opioid settlement funds and settlement of lawsuits related to this matter. Be it further resolved copies of this resolution and the signed MOA be sent to opioiddocs@ncdoj.gov and the North Carolina Association of County Commissioners at communications@ncacc.org.

Adopted this the 7th day of December, 2021.

SEAL




Joseph L. Gibbons, Mayor
Lenoir City Council

ATTEST:


Shirley M. Cannon
City Clerk



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

**Grand Manor Furniture Expansion
Authorizing Resolution**

Whereas, Deborah Murray, Executive Director of the Caldwell County Economic Development Commission, has been working with a company to expand their manufacturing operation in Lenoir and;

Whereas, the Building Reuse Grant requires a local government to serve as the formal applicant for these incentive grant dollars on behalf of the company, and

Whereas, this project will result in the creation of additional jobs and private investment at the Lenoir facility and;

Whereas, The City of Lenoir wishes to assist in this expansion by serving as the local government applicant for a Rural Building Reuse Grant for the project.

Now Therefore Be It Resolved, By The City of Lenoir: that the City Council of Lenoir supports the Grand Manor Furniture Expansion; and

BE IT FURTHER RESOLVED that The City of Lenoir shall serve as the project applicant for the Building Reuse Grant; and

BE IT FURTHER RESOLVED that the City of Lenoir will meet the local government 5% match requirement through the Caldwell County Local Jobs Incentive for the project; and

BE IT FURTHER RESOLVED that Scott E. Hildebran, City Manager, and successors so titled, is hereby authorized to execute and file applications on behalf of the City of Lenoir with the North Carolina Department of Commerce for grant assistance in the development of the project described above; and

BE IT FURTHER RESOLVED that the City of Lenoir has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and the grants pertaining thereto.

Adopted this the 7th day of December, 2021 in Lenoir North Carolina.

SEAL:

ATTEST:


Shirley M. Cannon, City Clerk


Joseph L. Gibbons, Mayor



**CITY OF LENOIR
COUNCIL ACTION FORM**

- I. Agenda Item:** Consideration of an amendment to the Capital Project Budget Ordinance for the EPA Brownfield Assessment Grant Capital Project that was approved May 7, 2019 as well as a budget amendment for the project.
- II. Background Information:** Based on the amount of work necessary to complete the project, it was necessary to increase the budget for the EPA Brownfield Assessment Grant Capital Project by \$1,217.12 for a total project budget of \$301,217.12.
- III. Staff Recommendation:** Staff requests that City Council approve the amendment to the Capital Project Budget Ordinance for the EPA Brownfield Assessment Grant Capital Project and the accompanying budget amendment.
- IV. Reviewed By:**

City Attorney:

Finance Director: *Donna Bean*

Public Works:

Public Utilities Director:

Planning Director:

Recreation Director:

Capital Project Ordinance for the City of Lenoir

EPA Brownfield Assessment Grant Capital Project – AMENDED 01/04/2022

BE IT ORDAINED by the City Council Members of the City of Lenoir, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1: The project to authorize activities for EPA Brownfield Capital Project to include the expenditure of local funds for the clean up of various brownfields utilizing the EPA Brownfields Assessment Grant Capital Project. US Environmental Protection Agency Brownfields Assessment Grant (300,000) and local funding (1217.12) will fund the project

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amended amounts are appropriated for the project:

	Current	Change	Recommended
Total Expenditures	\$300,000.00	\$1,217.12	\$301,217.12

Section 4: The following revenues are anticipated to be available to complete this project:

US Environmental Protection Agency Brownfields Assessment Grant	\$300,000.00
Local Funding	<u>\$1,217.12</u>
Total Funding	\$301,217.12

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the Project Ordinance.

Section 6: The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 7: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 8: Copies of this capital project ordinance shall be furnished to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this _____ day of January, 2022

Mayor

Clerk

**2021-2022 Fiscal Year
Budget Amendment Ordinance 2021-2022-2**

Request for amendments to be made to the annual budget ordinance for the fiscal year ending June 30, 2022 as follows:

Section I. To amend the Capital Project Fund - the appropriations are to be changed as follows:

Item 1: Allocate funds for the final phase of the EPA Brownfield Assessment Grant Capital Project.

Acct. No.		Increase - Budgeted Amount
67-92-3713-906	Transfer from General Fund EPA Brownfield Assessment Grant	1,217.12
	Net increase in appropriation to the Capital Project Fund for this item	1,217.12
		Decrease Balance
10-20-4511-986	Transfer to Fairview Bridge (Streets)	1,217.12
	Net decrease in appropriation to the General Fund for these items	1,217.12
	Total Change in Fund Balance	0.00

CITY OF LENOIR
COUNCIL ACTION FORM

- I. Agenda Item:** Approval of a Capital Project Budget Ordinance to close out the EPA Brownfield Assessment Grant City Council adopted on May 7, 2019 in the amount of \$300,000.00. This project was completed as of December 2021 with total expenditures of \$301,217.12.

Background:

The City of Lenoir periodically establishes capital project ordinances for endeavors that involve construction/infrastructure activities or grant funding for a particular purpose covering more than one year. In most cases, the duration of a project will extend from one fiscal year into another. Consequently, the adoption of a capital project ordinance allows the governmental entity to appropriate funds for the life of the project without the governing board having to reallocate funding on a fiscal year basis.

The City adopted the Capital Project Budget Ordinance for the EPA Brownfield Assessment Grant on the 7th day of May 2019 with a total project budget of \$300,000. Funding for the project was from the US Environmental Protection Agency Brownfields Assessment Grant and the Western Piedmont Council of Government managed the project. This project was completed as of December of 2021 with total expenditures of \$301,217.12. The overage of 1,217.12 will be covered from the General Fund. The overage was due to the amount of work necessary to complete the project.

Staff would like to close out the capital project noted above. A Capital Project Budget Ordinance to Close Capital Project has been prepared and is attached for your review and approval.

II. Staff Recommendation:

Approve as requested

III. Reviewed by:

City Attorney:

Finance Director: 

Public Works/Public Utilities Director:

Planning Director:

Recreation Director:



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
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ORDINANCE #2022-1

**CAPITAL PROJECT BUDGET ORDINANCE TO CLOSE CAPITAL PROJECT
FOR THE CITY OF LENOIR**

WHEREAS, the City Council of the City of Lenoir has adopted a Budget Ordinance for fiscal year beginning May 7th, 2019, and ending December, 2021, in accordance with the General Statutes of the State of North Carolina, and

WHEREAS, the City Council desires to recognize the completion of the following Capital Project and

WHEREAS, The City adopted the Capital Project Budget Ordinance for the EPA Brownfield Grant on the 7th day of May, 2019 with a total project budget of \$300,000. Funding for the project was from the US Environmental Protection Agency Brownfields Assessment Grant and the Western Piedmont Council of Government managed the project. This project was completed as of December of 2021 with total expenditures of \$301,217.12. The overage of 1,217.12 will be covered from the General Fund. The overage was due to the amount of work necessary to complete the project.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, THAT:

The Capital Project Budget Ordinance for the EPA Brownfield Assessment Grant to be closed.

Adopted this 4th day of January, 2022.

SEAL

Joseph L. Gibbons, Mayor

ATTEST:

Shirley M. Cannon, City Clerk



City of Lenoir Cooperative Agreement with EPA

(CA# BF00D72218)

Final Report

December 2021

Final Project Spending	<u>Travel</u> \$2,434 Total (\$811 Petroleum / \$1,623 Hazardous) <i>Travel expenses for two team members to attend the 2018 Brownfield Conference.</i> <u>Contractual</u> \$276,530 Total (\$90,961 Petroleum / \$185,570 Hazardous) <i>The City of Lenoir contracted with Mid-Atlantic Associates to provide environmental services on this project. A further breakdown of these contractual expenses can be seen in the Site Summaries section below.</i> <u>Other</u> \$22,252 (\$7,217.34 Petroleum / \$15,034.66 Hazardous) <i>The City of Lenoir contracted with the Western Piedmont Council of Governments to provide grant administration services for this project.</i> <i>For more detail, please see attached invoice listing.</i>
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Summary of Outputs	<u>Outreach</u> - Before project kick-off, the City of Lenoir created and published a Brownfields Program public information page on its website to share information regarding the Brownfields Grant and ongoing assessment activities, as well as prioritization methodology and contact information for owners of potential Brownfield properties. https://www.cityoflenoir.com/321/Brownfields-Program - Two public information meetings were held for the project, one of which was broadcast on the local TV network. <u>Phase I Environmental Site Assessments</u> - Former Blue Bell Property - Former Bost Lumber Property - Former C & NW Rail Depot Property - Former City Service Cleaners <u>Phase II Environmental Site Assessments</u> - Former Blue Bell Property - Former Bost Lumber Property - Former C & NW Rail Depot Property - Former City Service Cleaners <u>Other Environmental Assessment Activities</u> - Former Jo Jas Superette (UST work to assist minority business owner) - Former Gibbons Electric (UST work) - Former Western Auto (Soil sampling) - Former Broyhill Furniture (Soil sampling)
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Site Summaries

Former Blue Bell:

- Phase I ESA (\$4,636)
- Phase II ESA (\$42,669)

Former Bost Lumber

- Phase I ESA (\$5,268)
- Phase II ESA (\$21,172)

Former Broyhill Furniture*

- Supplemental Assessment (\$84,311)

Former C & NW Rail Depot

- Phase I ESA (\$3,779)
- Phase II ESA (\$18,649)

Former City Service Cleaners

- Phase I ESA (\$2,838)
- Phase II ESA (\$3,458)

Former Gibbons Electric

- Supplemental Assessment / UST work (\$12,389)

Former Jo Ja's Superette

- Supplemental Assessment / UST work (\$26,806)

Former Western Auto

- Supplemental Assessment / Soil sampling (\$15,348)

*In conjunction with EPA assessment funding, the City of Lenoir leveraged Appalachian Regional Commission (ARC) grant funds to complete substantial cleanup of the property. The \$600,000 clean-up project removed approximately 7100 cubic yards of asbestos-comingled materials from on-site and off-site sources, associated with the property's previous use by Broyhill Furniture and, subsequently, Applied Abatement Concepts (an on-site recycling venture). With the City's QEP providing clean-up oversight, the debris removal was completed in all areas where Phase II testing is recommended by NC DEQ Brownfields Department. Additionally, the ACM debris was hand-separated so that the approximate 4000 cubic yards of rubble remaining on-site can be used as clean fill.



January 2022



Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1 New Year's Day!
2	3 Curbside Christmas Tree Pickup Begins	4 6:00 p.m. City Council	5 9:00 a.m. Staff Mtg.	6	7 Curbside Christmas Tree Pickup Ends	8
9	10 Noon-City/County Services Committee	11 8:00 a.m. EDC	12	13 6:00 p.m. Lenoir Business Adv. Brd.	14	15
16	17 City Offices Closed! Martin Luther King, Jr. Holiday	18 6:00 p.m. City Council	19 9:00 a.m. Staff Mtg.	20	21	22
23	24 5:30 p.m. Planning Board	25 8:30 a.m. Committee of the Whole	26 Noon - Foothills Regional Airport Authority	27	28	29
30	31	City Council has scheduled a Strategic Planning Retreat on Friday, February 11 at Blue Ridge Energy's Community Room from 8:30 a.m. - 3:00 p.m.				

City of Lenoir
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www.cityoflenoir.com
757-2200 / 757-2162 fax

Joseph L. Gibbons, Mayor
Scott E. Hildebran, City Manager
Shirley M. Cannon, City Clerk