

207 West Second Street
Post Office Box 519
Kenly, North Carolina 27542



Telephone: (919) 284-2116
Fax: (919) 284-5229
Website: www.townofkenly.com

**November 14, 2022 – 7:00 p.m.
Regular Town Council Meeting
Agenda**

1. CALL TO ORDER

- Call to Order – *Mayor Herbert Hales, II*
- Invocation – *Council Member Keith Davis*
- Pledge of Allegiance – *Mayor Herbert Hales, II*

2. PUBLIC COMMENT

This portion of the meeting is an opportunity for citizens to speak on any issue concerning the Town of Kenly. Please note that each citizen is limited to a total of 3 minutes. Please direct all comments/concerns to the entire council rather than individual members. Further, it should be noted that the Town Council reserves the right to not act on items first presented at this meeting.*

**This time may be adjusted based on the number of citizens who wish to speak.*

3. ADJUSTMENT/ADOPTION OF THE AGENDA

- a. Adjustments to the Agenda
- b. Adoption of the Agenda

POTENTIAL ACTION: Adoption of Agenda

4. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Board may request to have an item removed from the consent agenda for further discussion.)

- a. Draft Minutes
 - October 10, 2022 – Regular Session
 - October 10, 2022 – Closed Session*

**Closed Session DRAFT minutes will be provided to council in a sealed envelope and following the meeting they will be returned to the Town Clerk for destruction.*

- b. Adoption of NC Record Retention Schedule
 - Cover
 - Signature Page

POTENTIAL ACTION: Adoption of Consent Agenda as Presented

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. Introduction & Oath – Town Clerk/Administrative Services Manager
Presenter: Tony Sears, Interim Town Manager / Oath Issued By: Mayor Hales
➤ Tymeeka Williams – Town Clerk/Administrative Services Manager

6. PUBLIC HEARINGS

- a. Ordinance – Text Amendment – Code of Ordinance: 156.202 & 156.304
Presenter: Dale Holland, Interim Planning Director
- Cover
 - Red Line Version
 - Ordinance

POTENTIAL ACTION: Adoption or Denial of Ordinance #2022-11-01

7. NEW BUSINESS

- a. Ordinance – Street Closure for 2022 Christmas on Main Event
• Saturday – December 3, 2022
Presenter: Tony Sears, Interim Town Manager

- Cover
- Ordinance

POTENTIAL ACTION: Adoption or Denial of Ordinance #2022-11-02

- b. Ordinance – Back Flow
Presenter: John Pitts, Public Utilities Director

- Ordinance

POTENTIAL ACTION: Adoption or Denial of Ordinance #2022-11-03

- c. Ordinance – Code of Ordinance – Official Page Update
Presenter: Tony Sears, Interim Town Manager

- Cover
- Red Line Version
- Ordinance

POTENTIAL ACTION: Adoption or Denial of Ordinance #2022-11-04

- d. CDBG Grant Informational Update
Presenter: Tony Sears, Interim Town Manager

POTENTIAL ACTION: None – Informational Only

8. OLD BUSINESS

- a. Resolution – Update Signatories on CDBG Grant Paperwork

Presenter: Tony Sears, Interim Town Manager

- Cover
- Resolution
- Signatory Form

POTENTIAL ACTION: Adoption or Denial of Resolution #2022-08

- b. Resolution – Update Signatories on Bank Accounts

Presenter: Tony Sears, Interim Town Manager

- Cover
- Resolution

POTENTIAL ACTION: Adoption or Denial of Resolution #2022-09

9. TOWN MANAGER / STAFF REPORTS

- a. Town Manager

- *Utility Bill Adjustment Document*

POTENTIAL ACTION: Approval of Adjustment(s) as Requested

- b. Town Clerk
c. Town Attorney

10. OTHER BUSINESS

- a. Informal Discussion
b. Council Member Comments

11. CLOSED SESSION

12. ADJOURNMENT

- a. Adjourn the Meeting

POTENTIAL ACTION: Motion to Adjourn

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**October 10, 2022 – 7:00 p.m.
Regular Town Council Meeting
Minutes**

COUNCIL PRESENT:

Herbert Hales II, Mayor
Mark Smith, Mayor Pro Tem
Keith Davis, Council Member
Bobby Peele, Council Member
Lawanda Neal, Council Member

STAFF PRESENT:

Tony Sears, Interim Town Manager
Kimberly Moffett, Interim Town Clerk
Dale Holland, Interim Planning Director
Chip Hewitt, Town Attorney

COUNCIL ABSENT:

Trinity Henderson, Council Member

1. CALL TO ORDER

- Call to Order – *Mayor Herbert Hales, II*
- Invocation – *Council Member Keith Davis*
- Pledge of Allegiance – *Mayor Herbert Hales, II*

Mayor Hales called the meeting to order at 7:00 p.m. Council Member Davis offered the Invocation and Mayor Hales led everyone in the Pledge of Allegiance.

2. PUBLIC COMMENT

This portion of the meeting is an opportunity for citizens to speak on any issue concerning the Town of Kenly. Please note that each citizen is limited to a total of 3 minutes. Please direct all comments/concerns to the entire council rather than individual members. Further, it should be noted that the Town Council reserves the right to not act on items first presented at this meeting.*

**This time may be adjusted based on the number of citizens who wish to speak.*

Mr. Dale Moore was present and provided a brief Johnston County Economic Development report.

3. ADJUSTMENT/ADOPTION OF THE AGENDA

- a. Adjustments to the Agenda

It was requested that the following adjustments be made to the agenda:

Addition of additional utility bill adjustment under Managers Report; addition of Ordinance #2022-10-02 under New Business, addition of July 22, 2022 Special Session, August 8 & August 30 Closed Session minutes under Consent and addition of Closed Session.

- b. Adoption of the Agenda

ACTION: Motion to Adopt Consent Agenda with above Adjustments

Motion: Council Member Smith
Second: Council Member Davis
Vote: Unanimous

4. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Board may request to have an item removed from the consent agenda for further discussion.)

- a. Draft Minutes
- July 22, 2022 – Special Session
 - August 8, 2022* – Closed Session
 - August 30, 2022* – Closed Session
 - September 12, 2022 – Regular Session
 - September 12, 2022* – Closed Session

**Closed Session DRAFT minutes will be provided to council in a sealed envelope and following the meeting they will be returned to the Town Clerk for destruction.*

ACTION: Motion to Adopt Consent Agenda

Motion: Council Member Peele
Second: Council Member Smith
Vote: Unanimous

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

6. PUBLIC HEARINGS

- a. Rezoning – B-2 to R-6
- Bay Valley Road – Parcel #03Q0304Y
- Presenter: Dale Holland, Interim Planning Director

This item was continued from September 12, 2022 council meeting. At that time the public hearing was opened and information shared. Council tabled the item and sent it back to the Planning Board for additional information. The item was re-heard by the Planning Board at its September 20, 2022 meeting.

Mayor Hales re-opened the public hearing at 7:05 p.m.

Mr. Holland provided information and stated this item had been brought back to the Planning Board at direction of Council. The board was provided with additional information from JC Economic Development. It was stated after hearing additional information the board voted 4-1 to continue to recommend approval of rezoning of the property.

Council Member Smith asked if rezoning was consistent with Comprehensive Plan. Mr. Holland stated it was consistent.

There were no further questions from council.

Mr. Moore stated that in his opinion this rezoning was not consistent with the Comprehensive Plan.

Paul Bailey, who is the applicant and builder for this location, was present and stated his plan was for the building of single-family homes at this location. He further stated that the homes would be nicely built and would also be affordable. He further stated he did not feel his plan for building homes at this location would be detrimental to the project presented by Johnston County Economic Development.

Josia Jackson, a resident of Kenly was present and stated she is a member of the Kenly Planning Board. She shared her concerns about the number of public hearings being held in reference to this project.

Mayor Hales stated it was the desire of the council to ensure that the Planning Board had all available information with reference to this item and that was the reason the item was returned to them.

Jack Dema, a resident on Cottonwood Court, stated he was in full support of the rezoning.

Mr. Castle a resident on Rollingwood, stated he was not happy with the prospect of being surrounded by an industrial area in his residential neighborhood.

Mr. Bailey, stated that he had gone door to door in the area and stated everyone he spoke with was in full support of this rezoning and the proposed project.

Mr. Castle stated he would prefer to see 200 plus homes built around him versus having an industrial area next to his residence. He shared that he loved Kenly and had recently relocated here from NY for the quietness and peace of the area and not to live in an industrial area.

Mr. Moore shared a map that outlined proposed areas showing areas that would be dedicated to residential, areas dedication to commercial and areas dedicated to agricultural, etc. He further stated commercial space is needed for a tax base. He stated there would be growing pains for some but at some point, a line will need to be drawn and that will unfortunately create some unhappy folks.

Ms. Jackson stated this information/project was not shared with the people who currently live in this area.

Resident of 360 Pate Road, Freemont stated he was the owner of the lots that are being discussed for rezoning this evening. He stated he wished to sell the property and the builder wished to purchase it for the building of his project. He further stated he was not there to fight anything that would be built across the road just simply did not feel that industrial/commercial needed to be part of a residential area.

Mr. Castle shared his concern about potential for tax increases as well as offers of possible tax incentives to new business. He does not feel the current residents should not be ignored and their quality of life impacted.

Faith Lloyd stated he was in full support of the rezoning and in support of homes, not

industrial building taking place at this location.

Spencer Cagle, a resident of Rollingwood, stated he is stated he is completely surrounded by residential and does not understand why this piece would be considered for commercial development.

With there being nothing further, the public hearing was closed at 7:25 p.m. and turned over to council for their deliberation.

ACTION: Adoption of Ordinance #2022-10-01

Motion: Council Member Davis

Second: Council Member Neal

Vote: 3-1

In Favor: Davis, Neal & Peele

Opposed: Smith

7. NEW BUSINESS

- a. Resolution - 2023 Annual Town Council Regular Meeting Schedule

Presenter: Kimberly A. Moffett, Interim Town Clerk

Ms. Moffett stated that per NCGS each municipality must adopt and publish an annual scheduled of regular town council meetings. This resolution outlines the 2023 council meeting schedule.

ACTION: Adoption of Resolution #2022-05

Motion: Council Member Smith

Second: Council Member Davis

Vote: Unanimous

- b. Resolution - 2023 Annual Town of Kenly Holiday Schedule

Presenter: Kimberly A. Moffett, Interim Town Clerk

Ms. Moffett stated historically it was the desire of the town to follow the annual holiday schedule as provided by the State of North Carolina for its employees. This resolution provided a listing of all 2023 holidays as well as dates of observance.

ACTION: Adoption of Resolution #2022-06

Motion: Council Member Smith

Second: Council Member Davis

Vote: Unanimous

- c. Resolution – Municipal Agreement with NCDOT for I-95 Aesthetics Project

Presenter: Tony Seers, Interim Town Manager

Mr. Sears provided details about the resolution and authorizing the town manager to enter into an agreement with the NCDOT regarding visual enhancements for I-95 in

Kenly. He shared information about the three different levels of commitment. He stated anything beyond a Level 1 commitment would mean the town would have to sign off and agree to maintain the area. He further stated that at this time, there are no known prices for the different levels of commitment, as the project would not begin to be developed until the NCDOT had a commitment of a level from the municipality. He further added that the NCDOT would only be responsible for the mowing the right of way. He stated the NCDOT would have maintenance responsibility for the first three years and then the town would be responsible for the maintenance of the design.

Mr. Sears added that NCDOT is looking for a commitment level from the Town of Kenly. Additional information was shared about possible ways to plan for the cost in the future. Mr. Moore added that he felt this would be great for the town with the only down side being the cost of maintenance in the future. He also added that he hoped that council would agree to proceed and that he felt NCDOT would begin work on the project very soon once they had buy-in from the town. It was also added that signage and increased visibility would be included in the design. Mr. Moore added that lighting was being discussed and worked on as well.

Mayor Hales stated this was not a small investment on the part of NCDOT and further added this is a project that the town has needed for a long time.

Discussion continued and Mr. Sears stated he would like to hear from council the level of improvement they would be comfortable with. He further added that most municipalities go with a Level 2 commitment.

It was consensus of council to proceed with a Level 2 commitment.

ACTION: Adoption of Resolution #2022-07

Motion: Council Member Peele

Second: Council Member Davis

Vote: Unanimous

- d. Resolution – Preliminary Authorization of Sewer Capacity – Cottonfield Phase II
Presenter: Dale Holland, Interim Planning Director

Mr. McAllister was present and shared information with council regarding sewer capacity. He stated there was available capacity at the plant and further stated additional capacity options were being worked on. He further stated with regard to the pump station, capacity was available as well.

There was brief discussion regarding inclusion of a project time frame to be included with preliminary approval.

Mr. Dees, applicant, was present and stated he felt confident the project would not take 5 years and it was the hope of the applicant to get the project completed as quickly as possible.

It was agreed that a fair time frame would be 30 months. Mr. Sears reminded everyone approval of the capacity was strictly for this project.

ACTION: Adoption of Resolution #2022-08 with addition of time frame above

Motion: Council Member Smith
Second: Council Member Peele
Vote: Unanimous

- e. Ordinance – 2022 Christmas Parade Street Closure
Presenter: Kimberly A. Moffett, Interim Town Clerk

Ms. Moffett stated this Ordinance was required by NCDOT for notification of road closures for the 2022 Christmas Parade.

ACTION: Adoption of Ordinance #2022-10-02

Motion: Council Member Neal
Second: Council Member Davis
Vote: Unanimous

8. OLD BUSINESS

9. TOWN MANAGER / STAFF REPORTS

- a. Town Manager

Mr. Sears reported on two sewer utility adjustments as follows:

- 206 W. Sixth Street – Recommended Adjustment of \$215.39
- 616 W. 7th Street – Recommended Adjustment of \$282.48

ACTION: Approval of Adjustments as Requested

Motion: Council Member Davis
Second: Council Member Peele
Vote: Unanimous

Mr. Sears also advised the town had recently received notification from the LGC. He stated the LGC was made contact due to their concern about the staff turnover. Further notification had nothing to do with any financial concerns.

Mr. Sears provided an update about water issue. He stated someone ran into a hydrant the other night and that required the town to turn off the water. During the repair of this issue, other issues were noted with reference to tank concerns and pressure issues. A temporary repair has been made. He further stated that additional valves will need to be installed. Mr. Sears and council members offered their sincere thanks and appreciation to Mr. John Pitts and his entire crew for their hard work and dedication.

Mr. Sears shared additional information regarding the 2021 audit. He stated that the delay is wide spread as auditors are having staffing issues and this is happening to numerous smaller municipalities. He stated that there was concern about the CDBG grant and deadlines. Mr. Sear stated that the contractor for the project stated he would

be able to complete the project by the deadline required in the grant. Mayor Hales asked if we were looking at other audit firms. Mr. Sears said the same problem is being experienced by numerous firms. He further stated the LGC is aware of the problem and unfortunately does not a solution at this time.

Mr. Sears shared information that Kenly Missionary Baptist Church would be holding a Trunk or Treat event on October 29, 2022 from 5:30 p.m. until 7:30 p.m. He stated everyone was welcome to attend.

Mr. Sears reported that Mr. Elbardaweel who had submitted a rezoning application has withdrawn the application. He further stated that staff and he are working on another option via text amendment. Mr. Holland provided additional information.

Mr. Sears stated that the Chamber of Commerce would like to move the location of the Christmas Tree from the current railroad location to the lot across the street from Town Hall. There was consensus from the council that would be fine.

Mr. Sears stated that interviews for the Town Clerk position had been completed. He stated there were outstanding applicants and he hoped to extend an offer to an applicant by tomorrow. He further stated that the advertisement for the Police Chief would be published shortly.

Mr. Moore reminded council about a scheduled NCDOT meeting regarding the bridge. He stated the meeting would be held on October 24 and encouraged attendance.

- b. Town Clerk
- c. Town Attorney

10. OTHER BUSINESS

- a. Informal Discussion
- b. Council Member Comments

11. CLOSED SESSION

- a. Closed Session pursuant to NCGS 143-318.11(a)(3)

Council went into Closed Session at 8:18 p.m.

ACTION: Motion to Go into Closed Session

Motion: Council Member Peele

Second: Council Member Davis

Vote: Unanimous

12. ADJOURNMENT

- a. Adjourn the Meeting

Council returned from Closed Session at 8:40 p.m.

Mr. Sears requested that his current contract be amended to state he is full time. It currently states he is a part-time employee. This amendment allows his hours to count in the retirement system.

ACTION: Motion to Amend Interim Town Manager Contract to Full Time Status

Motion: Council Member Smith

Second: Council Member Peele

Vote: Unanimous

With there being nothing further, the meeting was adjourned at 8:42 p.m.

ACTION: Motion to Adjourn

Motion: Council Member Davis

Second: Council Member Neal

Vote: Unanimous

Duly adopted this the 14th day of November, 2022 while in regular session.

Herbert L. Hales II
Mayor



STAFF REPORT – AGENDA ITEM 4b

TO: Mayor and Town Council

SUBMITTED BY: Kimberly A. Moffett, Interim Town Clerk

SUBJECT: Record Retention Schedule

DATE: November 7, 2022

SUMMARY STATEMENT

NC Record Retention Schedule **REVIEW**

North Carolina General Statutes Chapter 132 relates to public records. The State Archives of North Carolina is a division of the North Carolina Department of Natural and Cultural Resources. The State Archives is responsible for maintaining and updating the Records Retention and Disposition Schedules used by government entities within the State of North Carolina. Effective October 2021, the State Archives updated the Records Schedules used by local governments. In its update, the State Archives split the document into two: General Records Schedule: Local Government Agencies and Program Records Schedule: Local Government Agencies. Town Council is requested to approve both the General Records Schedule & Program Records Schedule: Local Government Agencies.

RECOMMENDATION:

Adoption of Schedule

ATTACHMENT(S)

Signature Page

Town of Kenly
Johnston County, NC

Oath of Office

Town Clerk

I, Tymeeka Williams, do solemnly and sincerely swear that I will support the Constitution 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, to the best of my knowledge and ability; so help me God.

Tymeeka Williams

Oath issued this the 14th day of November, 2022.

Herbert Hales, II
Mayor
Town of Kenly

SECTION 156.202

Add to current table:

Vehicle Service * with conditions as permitted in 156.304

SECTION 156.304

(M) Vehicle service.

(1) A Class C buffer (see § 156.402) shall be established along any side of the property adjacent to a residential use.

(2) If the facility has more than 1 service bay, the additional service bay doors shall not be oriented toward the right-of-way or a residential use, or the service bays shall be screened from view from the right-of-way or adjacent property using landscaping.

(3) All repair or service operations, excluding washing, shall be conducted entirely within a fully-enclosed building. The term fully-enclosed building shall not be construed to limit open bay doors during hours of operation.

(4) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.

(5) The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see § 156.405).

(6) There shall be no dismantling of vehicles for salvage.

(7) The storage of impounded vehicles shall not be permitted.

(8) a. All service, except for incidental cleaning such as waxing or washing of vehicles shall be performed in an enclosed building.

b. No inoperable vehicles shall be located on the property for longer than fourteen (14) calendar days.

c. No mechanical vehicle repair shall be permitted.

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**TOWN OF KENLY
AMENDMENT TO THE CODE OF ORDINANCES
CHAPTERS 156.202 & 156.304**

BE IT HEREBY ADOPTED THAT THE TOWN COUNCIL FOR THE TOWN OF KENLY, NORTH CAROLINA amends the Kenly Code of Ordinances, Chapter 156.202 and Chapter 156.304 as follows:

156.202

Amended by **adding** the following;

Vehicle service (with conditions) as a permitted use in B-2 Zoning.

156.304 (M) (8)

Amended by **adding** the following;

(M) *Vehicle service.*

- (8) a. All service, except for incidental cleaning such as waxing or washing of vehicles shall be performed in an enclosed building.
- b. No inoperable vehicles shall be located on the property for longer than fourteen (14) calendar days.
- c. No mechanical vehicle repair shall be permitted.

Duly adopted this the 14th of September, 2022 while in regular session.

Herbert Hales, II, Mayor
Town of Kenly

ATTEST:

Tymeeka Williams
Town Clerk
Town of Kenly



STAFF REPORT – AGENDA ITEM 7a

TO: Mayor and Town Council

SUBMITTED BY: Kimberly A. Moffett, Interim Town Clerk

SUBJECT: Ordinance – NCDOT Street Closure – '22 Christmas on Main

DATE: November 2, 2022

SUMMARY STATEMENT

Attached you will find an Ordinance that outlines the proposed street closure(s) for the 2022 Kenly Christmas on Main Event. Meetings.

REVIEW

Per the Special Events Guidelines for the NCDOT any special event held on streets/highways under the jurisdiction of the NCDOT that involve a road closure requires that the town issued an ordinance taking full responsibility for all liability related to the event.

2022 Christmas on Main will be held on Saturday – December 3, 2022.

RECOMMENDATION:

Adoption of Ordinance #2022-11-02

ATTACHMENT(S)

Ordinance #2022-11-02

207 West Second Street
Post Office Box 519
Kenly, North Carolina 27542



Telephone: (919) 284-2116
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Ordinance #2022-11-02

WHEREAS, the Kenly Town Council acknowledges the tradition of an annual Christmas on Main Event for the pleasure of its citizens; and

WHEREAS, the Special Events Guidelines for the NC DOT for special events held on highways under the jurisdiction of the NCDOT that involve a road closure were amended and made effective July 31, 2015; and

WHEREAS, this ordinance is evidence that the Town of Kenly accepts full responsibility for all liability related to the special event; and

NOW THEREFORE BE IT ORDAINED by the Kenly Town Council pursuant to the authority granted by NCGS § 20-169 that they do hereby declare a temporary road closure during the following day and times as set below on the following portion of a North Carolina State road:

DATE: Friday- December 2, 2022

ROAD CLOSURES:

- Gardner Avenue @ Corbett Street

TIMES: 5:30 p.m. (Closure Begins)

DATE: Saturday - December 3, 2022

ROAD CLOSURES:

- SR 222 (2nd Street) at SR 301
- Corbett Street
- Railroad Avenue

TIMES: 7:30 a.m. - 5:30 p.m.

FURTHER, this ordinance will remain in effect for only the date and time as stated above.

Duly adopted this this 14th day of November, 2022.

Herbert L. Hales, II
Mayor

ATTEST:

Tymeeka Williams
Town Clerk

**TOWN OF KENLY
CROSS CONNECTION CONTROL ORDINANCE**

BE IT HEREBY ADOPTED THAT THE TOWN COUNCIL FOR THE TOWN OF KENLY, NORTH CAROLINA adopts the following updates:

- (a) The purpose of this cross connection control article is to define the authority of the Town of Kenly as the water purveyor in the elimination of all cross connections within its public potable water supply.
- (b) This article shall apply to all users connected to the Town of Kenly public potable water supply regardless of whether the user is located within the town limits or outside of the town limits.
- (c) This article will comply with the Federal Safe Drinking Water Act (PL 93-523), the North Carolina State Administrative Code (15A NCAC 18C), and the North Carolina State Building Code (Volume II) as they pertain to cross connections with the public water supply.

Sec. 15-392. Objectives of article

The specific objectives of this cross connection control article for the Town of Kenly are as follows:

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

Ordinance Amendment

Pursuant to an affirmative vote of ___ yeas to ___nays the Town Council of the Town of Kenly at its regular meeting on the 14th day of November 2022 and an affirmative vote of ___ yeas to ___nays by the Town Council at its regular meeting on the ___ day of _____, 20___ if required, the following ordinances are hereby AMENDED:

(Proposed Amendments in Italics, Showing additions)

Sec. 15-393. Responsibilities

(a) *Health agency*

The state department of environment and natural resources has the responsibility for promulgating and enforcing laws, rules, regulations, and policies to be followed in carrying out an effective cross connection control program. The state department of environment and natural resources also has the primary responsibility of insuring that the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross connections. The state department of environment and natural resources has the further responsibility of insuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system and, further, that he requires the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.

(b) *Water purveyor*

Except as otherwise provided in this article, the water purveyor's the Town of Kenly responsibility to ensure a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water system. In addition, the water purveyor shall exercise reasonable vigilance to insure that the consumer has taken the proper steps to protect the public potable water system. To insure that the proper precautions are taken, the Town of Kenly is required to determine the degree of hazard or potential hazard to the public potable water system; to determine the degree of protection required; and to ensure proper containment protection through an on-going inspection program. When it is determined that a backflow prevention assembly is required for the protection of the public system, the Town of Kenly shall require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at each service connection, to test immediately upon installation and thereafter at a frequency as determined by the Town of Kenly, to properly repair and maintain such assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.

(c) *Plumbing inspection*

The plumbing inspection departments have the responsibility to not only review building plans and inspect plumbing as it is installed; but, they have the explicit responsibility of preventing cross connections from being designed and built into the plumbing system within its jurisdiction. Where the review of building plans suggests or detects the potential for cross connections being made an integral part of the plumbing system, the plumbing inspector has the responsibility, under the state building code, for requiring that such cross connections be either eliminated or provided with backflow prevention equipment approved by the state building code. The plumbing inspector's responsibility begins at the point of delivery, downstream of the first installed backflow prevention assembly, and continues throughout the entire length of the consumer's water system. The plan inspector should inquire about the intended use of water at any point where it is suspected that a cross connection might be made or where one is actually called for by the plans. When such is discovered it shall be mandatory that a suitable, approved backflow prevention assembly approved by the state building code be required by the plans and be properly installed. The primary protection assembly for containment purposes only shall have approval from the Town of Kenly, the state building code, and the state department of environment and natural resources.

(d) *Consumer*

The consumer has the primary responsibility of preventing pollutants and contaminants from entering his potable water system or the public potable water system. The consumer's responsibility starts at the point of delivery from the public potable water system and includes all of his water system. The consumer, at his own expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the Town of Kenly. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three years. The records shall be on forms approved by the Town of Kenly and shall include the list of materials or replacement parts used. Following any repair, overhaul, repiping or relocation of an assembly, the consumer shall have it tested to insure that it is in good operating condition and will prevent backflow. Tests, maintenance and repairs of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester.

(e) *Certified backflow prevention assembly testers*

When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities: The tester will be responsible for making competent inspections and for repairing or overhauling backflow prevention assemblies and making reports of such repair to the consumer and responsible authorities on forms approved by the Town of Kenly. The tester shall include the list of materials or replacement parts used. The tester shall be equipped with and be competent to use all the necessary tools, gauges, manometers and other equipment necessary to properly test, repair, and maintain backflow prevention assemblies. It will be the tester's responsibility to insure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material or operational characteristics of an assembly during repair or maintenance without prior approval of the Town of Kenly. A certified tester shall perform the work and be responsible for the competency and accuracy of all tests and reports. A certified tester shall provide a copy of all test and repair reports to the consumer and to the Town of Kenly cross connection control department within ten business days of any completed test or repair work. A certified tester shall maintain such records for a minimum period of three years. All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Town of Kenly. All test equipment shall be registered with the Town of Kenly cross connection control department. All test equipment shall be checked for accuracy annually, at a minimum, calibrated, if necessary, and certified to the Town of Kenly as to such calibration, employing an accuracy/calibration method acceptable to the Town of Kenly. All certified backflow prevention assembly testers must become re-certified every two years through an approved backflow prevention certification program.

Sec.15-394. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Approved means, as used in reference to a water supply, a water supply that has been approved by the state department of environment and natural resources; or, as used in reference to air-gap separation, a pressure vacuum breaker, a double check valve assembly, a double check detector assembly, a reduced pressure principle backflow prevention assembly, a reduced pressure principle detector assembly, or other backflow prevention assemblies or methods means an approval by the Town of Kenly.

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

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

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

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

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

Backflow prevention assembly tester--Certified. The term "certified backflow prevention assembly tester" means a person who has proven his competency to the satisfaction of the Town of Kenly. Each person who is certified to make competent tests, or to repair, overhaul, and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules, and regulations, shall be a licensed plumber or have at least two years' experience under and be employed by a state licensed plumber or plumbing contractor, or have equivalent qualifications acceptable to the Town of Kenly, and must hold a certificate of completion from an approved training program in the testing and repair of backflow prevention assemblies. Backflow assembly testers who hold a certificate of completion from an approved training program shall be required to successfully complete a practical examination administered by the Town of Kenly prior to conducting test and repair work on backflow prevention assemblies in the Town of Kenly water system. Backflow assembly testers who hold a certificate of completion from a nonapproved training program shall be required to successfully complete a written and practical examination administered by the Town of Kenly prior to conducting test and repair work on backflow prevention assemblies in the Town of Kenly water system.

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

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

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

Check valve--Approved. The term "approved check valve" means a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi and the outlet pressure is zero. The check valve shall

permit no leakage in a direction reverse to the normal flow. The closure element (e.g. clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly, i.e., pressure vacuum breaker, double check valve assembly, double check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly.

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

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

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

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

Contamination means an impairment of the quality of the water which creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or through the spread of disease by sewage, industrial fluids, or waste.

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

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

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

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

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

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

Hazard--Pollutional. The term "pollutional hazard" means an actual or potential threat to the quality or the potability of the public or the consumer's potable water system but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under

this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

Health agency means the state department of environment and natural resources.

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

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

Isolation means the act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: The Town of Kenly may make recommendations, upon facility inspection, as to the usages of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.

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

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

Potable water means water from any source which has been investigated by the state department of environment and natural resources and which has been approved for human consumption.

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

Reduced pressure principle backflow prevention assembly means an assembly containing within its structure a minimum of two independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks is less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shutoff valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e., contaminant).

Reduced pressure principle detector assembly means a specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter-sized approved reduced pressure principle backflow prevention assembly. The meter shall register, in U.S. gallons or cubic

feet, accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against a health hazard (i.e., contaminant).

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

Vacuum breaker--Atmospheric type. The term "atmospheric vacuum breaker," also known as the "nonpressure type vacuum breaker," means a device containing a float-check, a check seat, and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls and forms a check valve against back-siphonage and at the same time opens the air inlet port to allow air to enter and satisfy the vacuum. Shutoff valves downstream of AVBs are not allowed. AVB's must always be installed at a minimum of 6" above the highest outlet. An atmospheric vacuum breaker is designed to protect against health hazards, isolation protection only, under a back-siphonage condition only.

Vacuum breaker--Pressure type. The term "pressure vacuum breaker" means an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves attached at each end of the assembly. PVB's must always be installed at a minimum of 12" above the highest outlet. This assembly is designed to protect against a health hazard (i.e., contaminant) under a back-siphonage condition only.

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

Water supply--Approved. The term "approved water supply" means any public potable water supply which has been investigated and approved by the permit. In determining what constitutes an approved water supply, the state department of environment and natural resources has reserved the final judgment as to its safety and potability.

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

Water supply--Unapproved. The term "unapproved water supply" means a water supply which has not been approved for human consumption by the state department of environment and natural resources.

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

Sec. 15-395. Right of entry

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

Sec. 15-396. Elimination of cross connections; degree of hazard

- (a) When cross connections are found to exist, the owner, his agent, occupant, or tenant will be notified in writing to disconnect the cross connection within the time limit established by the Town of Kenly. Degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. The maximum time limits are as follows:
 - (1) Cross connections with private wells or other auxiliary water supplies--immediate disconnection.
 - (2) All facilities which pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle backflow prevention assembly within 60 days.
 - (3) All industrial and commercial facilities not identified as a health hazard shall be considered nonhealth hazard facilities. All nonhealth hazard facilities must install, as a minimum containment assembly, a double check valve assembly within 90 days
 - (4) If, in the judgment of the Town of Kenly, an imminent health hazard exists, water service to the building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated.
 - (5) Based upon recommendation from the Town of Kenly, the consumer is responsible for installing sufficient internal isolation backflow prevention assemblies and/or methods (i.e., air gap, pressure vacuum breakers, reduced pressure principle backflow prevention assembly, double check valve assembly).
 - (6) Water mains served by the Town of Kenly but not maintained by the Town of Kenly should be considered cross connections, with degree of hazard to be determined by the Town of Kenly. Degree of protection shall be based upon the degree of hazard, as determined by the Town of Kenly.
 - (7) In the event that a Town of Kenly cross connection control inspector does not have sufficient access to every portion of a private water system (e.g., classified research and development facilities; federal government property) to allow a complete evaluation of the degree of hazard associated with such private water systems, an approved reduced pressure principle assembly shall be required as a minimum of protection.
- (b) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.

Sec. 15-397. Installation of assemblies.

- (a) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by The Town of Kenly and/or the manufacturer's installation instructions and/or in the latest edition of the state building code, whichever is most restrictive. All assemblies installed above ground outside must be protected from freezing with an above ground enclosure that meets the ASSE 1060 standard. If the assembly is installed outside and intended for commercial domestic water use, a heat source must be ready available at the assembly.
- (b) All new construction plans and specifications, when required by the state building code and the state department of environment and natural resources, shall be made available to the Town of Kenly for review and approval, and to determine the degree of hazard.
- (c) Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.
- (d) All double check valve assemblies must be installed in accordance with detailed specifications provided by the Town of Kenly. Double check valve assemblies may be installed in a vertical position provided they have been specifically approved by the manufacture and with prior approval from the Town of Kenly Cross Connection Control Department provided the flow of water is in an upward direction. All double check valve assemblies 2 ½" and larger must be installed above ground covered by an above ground enclosure that meets the ASSE 1060 standard if they are installed outside. Inside installations must meet North Carolina Plumbing Code.
- (e) Reduced pressure principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances. The further most bottom portion of the body must be at a minimum of 12" above grade, no more than 4'. Pit and/or below grade installations are prohibited.
- (f) The installation of a backflow prevention assembly which is not approved must be replaced with an approved backflow prevention assembly.
- (g) The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Town of Kenly Cross Connection Control Department within 15 days after a reduced pressure principle backflow preventer (RP), double check valve assembly (DCVA), pressure vacuum breaker (PVB), double check detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed:
 - (1) Service address where assembly is located.
 - (2) Owner and address, if different from service address.
 - (3) Description of assembly's location.
 - (4) Date of installation.
 - (5) Installer, include name, plumbing company represented, plumber's license number, and project permit number.
 - (6) Type of assembly, size of assembly.
 - (7) Manufacturer, model number, serial number.
 - (8) Test results/report.
- (h) When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The Town of Kenly will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.
- (i) The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:

Health hazard . . . 60 days
Nonhealth hazard . . . 90 days

- (j) Following installation, all reduced pressure principle backflow preventers (RP), double check valve assemblies (DCVA), pressure vacuum breakers (PVB), double check detector assemblies (DCDA), or reduced pressure principle detector assemblies (RPDA) are required to be tested by a certified backflow prevention assembly tester within ten days.

Sec. 15-398. Testing and repair of assemblies

- (a) Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester or may be contracted out to the Town of Kenly cross connection control department at the customer's expense. Such tests are to be conducted upon installation and annually thereafter or at a frequency established by the Town of Kenly regulations. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the Town of Kenly cross connection control department within ten business days after the completion of any testing and/or repair work.
- (b) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or by the Town of Kenly, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:
- (1) Health hazard facilities . . . 14 days
 - (2) Non-health hazard facilities . . . 21 days
- (c) All backflow prevention assemblies with test cocks are required to be tested annually or at frequency established by the Town of Kenly regulations. Testing requires a water shutdown usually lasting five to 20 minutes. For facilities that require an uninterrupted supply of water, and when it is not possible to provide water service from two separate meters, provisions shall be made for a parallel installation of backflow prevention assemblies.
- (d) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Town of Kenly. All test equipment shall be registered with the Town of Kenly cross connection control department. All test equipment shall be checked for accuracy annually, at a minimum, calibrated, if necessary, and certified to the Town of Kenly as to such accuracy/calibration, employing a calibration method acceptable to the Town of Kenly. Ref. Sec. 15-393 (e)
- (e) It shall be unlawful for any customer or certified tester to submit any record to the Town of Kenly which is false or incomplete in any material respect. It shall be unlawful for any customer or certified tester to fail to submit to the Town of Kenly any record which is required by this article. Such violations may result in any of the enforcement actions outlined in section. 15-402. Enforcement

Sec. 15-399. Facilities requiring protection

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

DCVA = Double check valve assembly
RP = Reduced pressure principle assembly

DCDA = Double check detector assembly
RPDA = Reduced pressure detector assembly
AG = Air gap
PVB = Pressure vacuum breaker

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

- (19) Film laboratories: RP
- (20) Fire systems:
 - a. Systems three-fourths inch to two inches:
 - 1. No health hazard: DCVA
 - 2. Health hazard: (booster pumps, foam, antifreeze solution, etc.): RP
 - b. Systems 2 1/2 inches to ten inches or larger:
 - 1. No health hazard: DCDA
 - 2. Health hazard (booster pumps, foam, antifreeze solution, etc.): RPDA
- (21) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP
- (22) Industrial facilities:
 - a. No health hazard: DCVA
 - b. Health hazard: RP
- (23) Laundries:
 - a. No health hazard: DCVA
 - b. Health hazard: (i.e., dry cleaners): RP
- (24) Lawn irrigation systems (split taps): RP
- (25) Metal manufacturing, cleaning, processing, and fabricating plants: RP
- (26) Mobile home parks:
 - a. No health hazard: DCVA
 - b. Health hazard: RP
- (27) Oil and gas production, storage or transmission properties: RP
- (28) Paper and paper products plants: RP
- (29) Pest control (exterminating and fumigating): RP
- (30) Plating plants: RP
- (31) Power plants: RP
- (32) Radioactive materials or substances plants or facilities handling: RP
- (33) Restaurants:
 - a. No health hazard: DCVA
 - b. Health hazard: RP
- (34) Restricted, classified, or other closed facilities: RP
- (35) Rubber plants (natural or synthetic): RP
- (36) Sand and gravel plants: RP
- (37) Schools and colleges: RP

- (38) Sewage and storm drain facilities: RP
- (39) Swimming pools: RP
- (40) Waterfront facilities and industries: RP

(c) All assemblies and installations shall be subject to inspection and approval by the Town of Kenly.

Sec. 15-400. Connections with unapproved sources of supply

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

Sec. 15-401. Fire protection systems

- (a) All connections for fire protection systems connected with the public water system, two inches and smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.
- (b) All connections for fire protection systems connected with the public water system greater than two inches shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.
- (c) All existing backflow prevention assemblies 2 1/2 inches and larger installed on fire protection systems that were initially approved by the Town of Kenly shall be allowed to remain on the premises, as long as they are being properly maintained, tested and repaired as required by this article. If, however, the existing assembly must be replaced once it can no longer be repaired, or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by Sec. 15-399. Facilities requiring protection

Sec. 15-402. Enforcement.

- (a) The owner, manager, supervisor, or person in charge of any installation found not to be in compliance with the provisions of this article shall be notified in writing with regard to the corrective action to be taken. The time for compliance shall be in accordance with sections Sec. 15-402 (g) (1-4)
- (b) The owner, manager, supervisor, or person in charge of any installation which remains in noncompliance after the time prescribed in the initial notification, as outlined in section Sec. 15-402 (g) (1-4), shall be considered in violation of this article, and may be issued a civil citation by the Town of Kenly. The citation shall specify the nature of the violation and the provision of this article violated, and further notify the offender that the civil penalty for such violation is as set forth in subsection (c) of this section and is to be paid to the Town of Kenly within 30 days. If the penalty prescribed in this subsection is not paid within the time allowed, the Town of Kenly may initiate a civil action in the nature of a debt and recover the sums set forth in subsection (c) of this section plus the cost of the action.

- (c) Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to a civil penalty of up to \$1,000.00 per violation. Each day in which a violation of any provision of this article shall occur or continue shall constitute a separate and distinct offense.
- (d) If, in the judgment of the Town of Kenly, any owner, manager, supervisor, or person in charge of any installation found to be in noncompliance with the provisions of this article neglects his responsibility to correct any violation, such neglect may result in discontinuance of water service until compliance is achieved.
- (e) Failure of a customer or certified tester to submit any record required by this article, or the submission of falsified reports/records may result in a civil penalty of up to \$1,000.00 per violation. If a certified backflow prevention assembly tester submits falsified records to the Town of Kenly, the Town of Kenly shall take the necessary actions to revoke certification to test backflow prevention assemblies within the potable water system for a time period not to exceed one year. The tester will then be required to complete an approved certification course to acquire a new certification. Falsification made to records/reports after becoming recertified shall result in the permanent revocation of backflow testing certification, in addition to a civil penalty as provided for in this subsection.
- (f) Enforcement of this program shall be administered by the Public Works Director of the Town of Kenly or his authorized representative.
- (g) Requests for extension of time shall be made in writing to the Public Works Director of the Town of Kenly or his authorized representative. All other appeals shall be made in accordance with the following procedures:
 - (1) Adjudicatory hearings. A customer assessed a civil penalty under this section shall have the right to an adjudicatory hearing before a hearing officer designated by the Public Works Director of the Town of Kenly upon making written demand, identifying the specific issues to be contended, to the Public Works Director of the Town of Kenly within 30 days following notice of final decision to assess a civil penalty. Unless such demand is made within the time specified in this subsection, the decision on the civil penalty assessment shall be final and binding.
 - (2) Appeal hearings. Any decision of the Town of Kenly hearing officer made as a result of an adjudicatory hearing held under subsection (g)(1) of this section may be appealed by any party to the Town of Kenly Town Council upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this section shall be conducted in accordance with the Town of Kenly hearing procedures. Failure to make written demand within the time specified in this subsection shall bar further appeal. The Town of Kenly shall make a decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
 - (3) Official record. When a final decision is issued under Sec. 15-402 (g)(2) of this section, the Town of Kenly shall prepare an official record of the case that includes:
 - a. All notices, motions, and other like pleadings;
 - b. A copy of all documentary evidence introduced;
 - c. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;
 - d. A copy of the final decision of the Town of Kenly.
 - (4) Judicial review. Any customer against whom a final decision of the Town of Kenly is entered, pursuant to the hearing procedure under subsection Sec. 15-402 (g)(2) of this section, may appeal the order or decision by filing a written petition for judicial review within 30 days after receipt of notice by certified mail of the order or decision to the general court of justice of the county or of the county where the order or decision is effective, along with a copy to the Town of Kenly. Within 30 days after receipt of the copy of the petition of

judicial review, the Town of Kenly shall transmit to the reviewing court the original or a certified copy of the official record, as outlined in subsection (g)(3) of this section.

Sec. 15-403. Severability

If any section, subsection, sentence, or clause of this article is adjudged to be unconstitutional or otherwise invalid, such adjudication shall not affect the validity of the remaining portion of this article. It is hereby declared that this article would have been passed, and each section, sentence, or clause thereof, irrespective of the fact that any one or more sections, subsections, sentences, or clauses might be adjudged to be unconstitutional, for any other reason invalid.

Duly adopted this the 14th day of November, 2022 while in regular session.

Herbert L. Hales
Mayor

Attest:

Tymeeka Williams
Town Clerk

Approved as to form:

Town Attorney



STAFF REPORT – AGENDA ITEM 7c

TO: Mayor and Town Council

SUBMITTED BY: Kimberly A. Moffett, Interim Town Clerk

SUBJECT: Ordinance – Officials Page Update

DATE: November 2, 2022

SUMMARY STATEMENT

Attached you will find an Ordinance that updates the correct listing for the Officials Page in the Town of Kenly Code of Ordinances.

REVIEW

RECOMMENDATION:

Adoption of Ordinance #2022-11-04

ATTACHMENT(S)

Ordinance #2022-11-04

TOWN OFFICIALS

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TOWN COUNCIL:

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MAYOR - ~~Bonnie Williamson~~ Herbert L. Hales Jr.

MAYOR PRO-TEM - ~~Keith Davis~~ Mark Smith

COUNCIL MEMBER - Trinity Henderson

COUNCIL MEMBER - ~~Janna Rogerson~~ Keith Davis

COUNCIL MEMBER - Lawanda Neal

COUNCIL MEMBER - Bobby Peele

TOWN OFFICIALS:

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TOWN ATTORNEY - Alan B. Hewett

POLICE CHIEF -

TOWN MANAGER - Tony Sears (Interim)

UTILITIES DIRECTOR - John Pitts

FIRE CHIEF - Paul Whitehurst

-

TOWN CLERK - ~~Sharon Evans~~ Tymeeka Williams

PLANNING DIRECTOR - ~~Michael King~~ Dale Holland (Interim)

~~PARKS AND RECREATION DIRECTOR -~~

-

~~TOWN ATTORNEY - Alan B. Hewett~~

~~POLICE CHIEF - Josh Gibson~~

~~INTERIM TOWN MANAGER - Sharon Evans~~

~~UTILITIES DIRECTOR - John Pitts~~

~~FIRE CHIEF - Paul Whitehurst~~

**TOWN OF KENLY
AMENDMENT TO THE CODE OF ORDINANCES
OFFICIALS LISTING PAGE**

BE IT HEREBY ADOPTED THAT THE TOWN COUNCIL FOR THE TOWN OF KENLY, NORTH CAROLINA amends the Kenly Code of Ordinances, Town Officials Listing Page to read as follows:

TOWN OFFICIALS

TOWN COUNCIL:

MAYOR - Herbert L. Hales Jr.
MAYOR PRO-TEM -Mark Smith
COUNCIL MEMBER - Trinity Henderson
COUNCIL MEMBER - Keith Davis
COUNCIL MEMBER - Lawanda Neal
COUNCIL MEMBER - Bobby Peele

TOWN OFFICIALS:

TOWN ATTORNEY - Alan B. Hewett
POLICE CHIEF – Vacant
TOWN MANAGER - Tony Sears (Interim)
UTILITIES DIRECTOR - John Pitts
FIRE CHIEF - Paul Whitehurst
TOWN CLERK – Tymeeka Williams
PLANNING DIRECTOR - Dale Holland (Interim)

Duly adopted this the 14th of September, 2022 while in regular session.

Herbert Hales, II, Mayor
Town of Kenly

ATTEST:

Tymeeka Williams, Town Clerk
Town of Kenly



STAFF REPORT – AGENDA ITEM 8a

TO: Mayor and Town Council

SUBMITTED BY: Kimberly A. Moffett, Interim Town Clerk

SUBJECT: Resolution – CDBG Paperwork

DATE: November 2, 2022

SUMMARY STATEMENT

Attached you will find a Resolution that updates the current authorized signatories for all CDBG Grant paperwork.

REVIEW

RECOMMENDATION:

Adoption of Resolution #2022-08

ATTACHMENT(S)

Resolution #2022-08

TOWN OF KENLY
FY19 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) # 19-I-3019
SEWER REHABILITATION/REPLACEMENT PROJECT

SIGNATORY FORM AND CERTIFICATION RESOLUTION

An AMENDED Resolution authorizing persons to act as signatories for Community Development Block Grant (CDBG) funds requisitions for the Sewer Rehabilitation Project for the Town of Kenly, North Carolina.

WHEREAS, the Town is participating in the Community Development Block Grant Program under the Housing and Community Development Act of 1974, as amended, administered by the North Carolina Department of Environmental Quality; and

WHEREAS, signatories for CDBG funds are required for this Program;

THEREFORE, BE IT RESOLVED that the Town Council of Kenly, North Carolina, in furtherance of the Grant Agreements, **hereby amends any previous authorization** and authorizes the following individuals, and successors so titled, to act as signatories on all Requisition for CDBG Funds forms during the course of administration of said Grant:

Herbert L. Hales, II, Mayor
Tony Sears, Interim Town Manager
Mark Smith, Mayor Pro-Tem

FURTHERMORE, Mayor Herbert Hales, II, a person who knows each of the above named persons so authorized, is hereby appointed, authorized and directed to act as "Certifying Official" on the "Signatory Form and Certification", and to execute same under certification option number two (2) appearing thereon certifying the authenticity of the authorized signatures.

Duly adopted this the 14th day of November, 2022.

Herbert L. Hales, II, Mayor

ATTEST:

Tymeeka Williams, Town Clerk
Town of Kenly



STAFF REPORT – AGENDA ITEM 8b

TO: Mayor and Town Council

SUBMITTED BY: Kimberly A. Moffett, Interim Town Clerk

SUBJECT: Resolution – Bank Signatories

DATE: November 2, 2022

SUMMARY STATEMENT

Attached you will find a Resolution that updates the current bank signatories.

REVIEW

RECOMMENDATION:

Adoption of Resolution #2022-09

ATTACHMENT(S)

Resolution #2022-09

207 West Second Street
Post Office Box 519
Kenly, NC 27542



Telephone: (919) 284-2116
Fax: (919) 284-5229
Website: www.townofkenly.com

Resolution #2022-09

RESOLUTION AUTHORIZING REPRESENTATIVE(S) OF THE MUNICIPALITY BE DESIGNATED AS DEPUTY FINANCE OFFICERS

Whereas, NCGS 159-25 defines both the Finance Officer and Mayor as being authorized to sign checks on behalf of the town should no other designation be made; and

Whereas, on August 8, 2022 while in regular session Kenly Town Council adopted Resolution #2022-01; and

Whereas, on September 12, 2022 while in regular session Kenly Town Council adopted Resolution #2022-04 modifying a portion Resolution #2022-01; and

Whereas, it is the desire of the Kenly Town Council to modify Resolution #2022-01 and remove the previous authorized signatory as follows; and

REMOVE:

<u>Name</u>	<u>Title</u>
Kimberly Moffett	Interim Town Clerk

Whereas, it is the desire of the Kenly Town Council to replace the above signatory and authorize the following to sign and/or countersign checks on behalf of the Town of Kenly;

ADD:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Tymeeka Williams	Town Clerk	_____

This Resolution will be effective immediately and will remain until such time it is modified.

Duly adopted this the 14th day of November 2022, while in regular session.

Herbert Hales II, Mayor
Town of Kenly

ATTEST:

Tymeeka Williams
Town Clerk
Town of Kenly

TOWN OF KENLY

TOWN COUNCIL MEETING

November 14, 2022

Proposed Utility Billing Adjustments:

Minnie McIver
623 Lincoln Drive

Average Sewer Bill:	\$ 30.61
High Sewer Bill:	\$1048.53
Recommended Adjustment:	\$1017.92

Issue: Water Line Leak which has been repaired by Duke Energy.

Tonya Shephard
625 Lincoln Drive

Average Sewer Bill:	\$ 35.56
High Sewer Bill:	\$ 320.84
Recommended Adjustment:	\$ 285.28

Issue: Line Burst in ground which has been repaired by Matt Plumbing.

Approved by Kenly Town Council at November 14, 2022 meeting:

Herbert Hales, II
Mayor

Staff Reports – Town Manager
Proposed Utility Billing Adjustments