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NORTH CAROLINA

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IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

FORSYTH COUNTY

FORSYTH CO., C.S.C.

16 CVS 2801

EDWARD R. FASANO and DEBRA L. )  
FASANO, on behalf of a class of those )  
similarly situated, )

BLM

Plaintiffs, )

v. )

TOWN OF KERNERSVILLE and )  
WINSTON-SALEM – FORSYTH )  
COUNTY CITY/COUNTY UTILITIES )  
COMMISSION, )

Defendants. )

**ORDER ON PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
SETTLEMENT, APPOINTMENT OF  
CLASS ADMINISTRATOR, AND CLASS  
NOTICE PLAN**

**THIS MATTER** is before the Court on Plaintiffs' Motion for Preliminary Approval of Class Settlement, Appointment of Class Administrator, and Class Notice Plan (the "Motion") and was heard on 13 April 2018 at the Kernersville Courthouse, with Class Counsel Alan W. Duncan, Stephen M. Russell, Jr., H. Brent Helms, and Franklin Scott Templeton present on behalf of Plaintiffs and Jodi D. Hildebran and John G. Wolfe, III present on behalf of Defendants. The Court, pursuant to N.C. R. Civ. P. 23(c), having reviewed the Motion and the materials presented and considering the oral arguments of counsel, grants the Motion based on the following findings and conclusions:

1. On 1 August 2017, the Court entered an Order granting Plaintiffs' motion for judgment on the pleadings and denying Defendants' motion to dismiss and motion for judgment on the pleadings (the "Liability Order"). The Court held that Defendants were liable for Plaintiffs' claims of breach of contract and unconstitutional takings without just compensation in violation of the United States and North Carolina Constitutions.

2. The Court subsequently certified the Class, which is defined as “Plaintiffs and all other citizens and residents of Kernersville and persons in its outlying (extraterritorial) area, including any businesses, firms, trusts, corporations or any other entity, who received, and paid for, Kernersville sanitary sewer system services at any time between 1 July 2012 and [1 August 2016].”<sup>1</sup> The Class is an opt-out class.

3. Plaintiffs Edward and Debra Fasano have previously been appointed by the Court as Class Representatives.

4. H. Brent Helms and Franklin Scott Templeton of Robinson & Lawing, LLP, and Alan W. Duncan and Stephen M. Russell, Jr. of Mullins Duncan Harrell & Russell PLLC, have previously been appointed by the Court as Class Counsel.

5. Defendants have stipulated that the amount of actual principal damages due to the Class under the Liability Order is \$9,851,562.42, that being the amount of sewer fees that were overcharged to Class Members. Plaintiffs have asserted that, in addition to principal compensatory damages, Defendants are liable for other damages, including pre- and post-judgment interest, attorneys’ fees, and the costs of class notice and class administration.

6. The parties have advised the Court that they have agreed to a Proposed Settlement<sup>2</sup> of this matter. Under the Proposed Settlement, Defendants agree to pay \$12,300,000.00 into a common fund, in exchange for a release of claims and dismissal of this litigation. From that common fund, 85% will be refunded to Class Members, and 15% will be reserved for the payment of attorneys’ fees and costs, including costs of class notice and

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<sup>1</sup> The Class Certification Order did not determine the end date of the damages period, and instead provided that it ended on “the effective date of the 2016 Restatement and Modification Agreement, which is to be determined by the Court during the damages phase.” The parties have agreed that this date is 1 August 2016, and the Court adopts this date as the close of the damages period for purposes of defining the Class.

<sup>2</sup> Unless otherwise noted herein, the Court, for purposes of this Order, adopts and incorporates the definitions used in Plaintiff’s Motion for Preliminary Approval of Class Settlement, Appointment of Class Administrator, and Class Notice Plan.

administration, and Class Representative awards, in an amount to ultimately be determined by the Court. Defendants further agreed not to oppose an award of attorneys' fees and costs of up to 15% of the common fund. The governing boards of the Town of Kernersville ("Kernersville") and the Winston-Salem – Forsyth County City/County Utilities Commission ("CCUC") have approved the Proposed Settlement.

7. At the hearing on the Motion for Preliminary Approval, Defendants advised the Court that Defendants did not oppose the requested relief and the entry of this Order. .

8. The Court finds, preliminarily, that the Proposed Settlement appears fair, reasonable, and adequate for the Class. The Court notes in particular in this regard that the proposed structure of refunding to Class Members 85% of the common fund will result in each Class Member receiving a full refund of the overcharged payment along with some interest.

9. The Court will review and determine the appropriate amount of attorneys' fees and costs to be awarded at the hearing on final approval of the Proposed Settlement, when considering the motion for attorneys' fees and costs to be filed by Plaintiffs in advance of that hearing. At this time, the Court preliminary finds that an award of up to 15% of the common fund – to be used for the payment of attorneys' fees and costs, including costs of administration, and Class Representative awards – to be fair and reasonable in light of the custom and practice of fee awards in this State and in class action litigation and the work performed and the exceptional result obtained by Class Counsel on behalf of the Class.

10. It appears to the Court that the Proposed Settlement is the result of an arm's length negotiation between the parties following vigorous litigation over the merits of the Plaintiffs' claims. The Court further finds that the Proposed Settlement will treat each Class Member equally and will ensure that each Class Member is paid according to their respective

overcharges and that no Class Member will receive preferential treatment from the Proposed Settlement.

11. If the Court grants final approval, then the parties have agreed that the following release will become effective upon the funding of the common fund:

In consideration of the payment of \$12.3 million pursuant to the terms of the Proposed Settlement (subject to approval by the Court), the Class, and each Member thereof, on behalf of himself, herself, or itself, and his/her/its heirs, executors, administrators, personal representatives, collectors, parents, subsidiaries, affiliates, successors, and assigns, do hereby fully release, remise, and forever discharge the Town of Kernersville and the Winston-Salem – Forsyth County City/County Utilities Commission, including their current and former attorneys, agents, employees, officials, officers, servants, representatives, predecessors, successors, parents (including the City of Winston-Salem and the County of Forsyth, as the participating units of the joint agency of the Winston-Salem – Forsyth County City/County Utilities Commission), subsidiaries, affiliates, insurers, and assigns, from any and all claims, liabilities, demands, damages, actions, or causes of action for breach of contract or unconstitutional takings without just compensation, or other claims which could have been raised, arising from, connected with, or in any way, related to the charging of a sewer rate multiplier to users of the Kernersville sanitary sewer system in excess of 1.2x during the period of time from 1 July 2012 to 1 August 2016.

12. The proposed release is sufficiently narrow and tailored to the claims at issue such that the proposed release will not unfairly prejudice the Class.

13. The Proposed Settlement falls within the range of possible approval, and there is probable cause to notify the Class of the Proposed Settlement.

14. The Court finds that given the size of the Class and the requirement to provide notice of the Proposed Settlement, and looking towards the requirements for efficiently administering the anticipated refund process, the Class will be best served by the appointment of an administrator to manage the notice and refund process. Based on the materials submitted to the Court and the recommendation of Class Counsel on behalf of the Class Representatives, it appears in the Court's judgement and discretion that Garden City Group, LLC ("GCG" or "Class

Administrator”) has the necessary experience and capability to serve as Class Administrator. Therefore, the Court will appoint GCG as Class Administrator.

15. In order to efficiently and effectively administer the class notice and refund processes, the Court finds that GCG and Class Counsel will need personal identifying information of Class Members that may be possessed by Defendants, including, but not limited to, taxpayer identification numbers, such as social security numbers and employer identification numbers, to the extent that Defendants possess such information. The Court shall restrict Class Counsel and the Class Administrator’s use and possession of such personal identifying information to ensure that the personal identifying information will remain confidential and will not be unnecessarily disclosed.

16. Defendants have agreed to make an initial payment of \$75,000.00, to be transferred to Class Counsel and used by Class Counsel to retain the Class Administrator’s services and cover costs that may arise in carrying out the Notice Plan, and to provide funding for any other expenses that may arise prior to the final approval hearing. The Court finds that this initial payment is appropriate and necessary, and that it shall be credited against the 15% of the common fund that is reserved for payment of attorneys’ fees and costs.

17. The Court finds that the Notice Plan proposed by Plaintiffs is a fair and reasonable manner of providing notice of the status of this matter to Class Members. It will provide the best practicable notice under the circumstances and comports with the requirements of due process.

18. Under the Notice Plan, Class Members will have an opportunity to receive information about the Proposed Settlement and will be entitled, by following the prescribed

procedures, to express their views on the Proposed Settlement or opt out of the Proposed Settlement.

19. Under the Notice Plan, the Class should have at least 60 days' notice of the Proposed Settlement, which is typical in class action litigation. The 60-day period will provide sufficient time for the Class Administrator to provide Notice to the Class and for Class Members to understand the terms of the Proposed Settlement, obtain additional information, and take any additional steps that Class Members may find to be appropriate. The Court notes further that the Notice Plan does not require Class Members to take any action in order to remain in the Class and receive the full benefits of the Proposed Settlement (in the event the Court ultimately approves the Proposed Settlement).

20. The Court has also reviewed and approves the form and format of the Notice and Publication Notice, attached hereto as Exhibits A and B, respectively. Class Counsel and the Class Administrator are authorized to make non-substantive revisions to the Notice and the Publication Notice as may be necessary to accomplish the needs of class administration.

21. The final determination of the fairness and reasonableness of the Proposed Settlement will be considered at the hearing on final approval of the Proposed Settlement, which is set for 27 July 2018 at 9:30 a.m. at 134 E. Mountain Street, Kernersville, North Carolina 27284.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** as follows:

1. The Proposed Settlement is preliminarily approved.
2. Garden City Group, LLC is appointed to serve as Class Administrator. Plaintiffs are authorized to provide Garden City Group, LLC with any and all data provided by

Defendants, including, but not limited to the billing data, address data, and account information for the Class.

3. Defendants are ordered to provide to the Class Counsel and the Class Administrator any personal identifying information of Class Members, including taxpayer identification numbers, such as social security numbers and employer identification numbers, to the extent Defendants possess such information, upon request of Class Counsel. The Class Administrator and Class Counsel shall keep any and all personal identifying information confidential in accordance with all applicable federal and state laws, rules, and regulations, and shall only use such information for the purposes of this litigation, such as identifying and locating Class Members and addressing any tax reporting requirements. Upon the Court's entry of a final order concluding the refund administration process, the Class Administrator shall destroy all copies of personal identifying information in its possession provided by Defendants. The Class Administrator will further certify to the Court its compliance with these requirements at a later date to be determined by the Court. Class Counsel shall be permitted to retain a file copy of all information obtained in connection with this matter, subject to an ongoing obligation to maintain the confidentiality of such information, in accordance with all applicable federal and state laws, rules, and regulations, and as otherwise set forth herein.

4. Defendants are authorized to transfer to the trust account of their counsel John G. Wolfe, III sufficient funds to pay any amounts due under this Order and any amounts due upon the Court's final approval of the Proposed Settlement.

5. Within five business days of the entry of this Order, Defendants shall pay or cause to be paid the sum of \$75,000.00 to the trust account of Mullins Duncan Harrell & Russell, PLLC. Class Counsel shall, at this time, use such funds to retain the Class Administrator, for

implementation of the Notice Plan, and for other necessary expenses associated with class administration, pending the Court's final approval of the Proposed Settlement.

6. The Notice Plan is approved. Exhibits A and B to this Order are approved as the Notice and Publication Notice, respectively. Class Counsel and the Class Administrator are authorized to make non-substantive and formatting revisions to the Notice and the Publication Notice as may be necessary to accomplish the needs of the Notice Plan and class administration. Class Counsel and the Class Administrator shall begin implementation of the Notice Plan in a timely manner.

7. Defendants and their counsel are directed to continue working cooperatively with Class Counsel and the Class Administrator for the benefit of the Class in the orderly administration of the notice process and in connection with appropriate preparations to begin the refund process.

8. The following deadlines and procedures shall apply with respect to Class Members' rights under the Proposed Settlement and Notice Plan:

a. The Notice Plan will run until 29 June 2018, at which point the Class Administrator will continue to manage the website ([www.kernersvillesewersettlement.com](http://www.kernersvillesewersettlement.com)) and telephone line (1-888-292-1832) described in the Notice Plan, but the Class Administrator will not be required to provide any further mailings to Class Members regarding notice of the proposed settlement.

b. In order to opt out of the Class, a Class Member must send the Class Administrator a letter stating that it is a "Request to Opt Out," which shall include: (1) the Class Member's name, address, telephone number, and email address; (2) the name of the case (*Fasano v. Town of Kernersville*); (3) an explicit statement that the Class Member desires to be



excluded from the settlement; and (4) the Class Member's signature, acknowledged by a notary public. All Requests to Opt Out must be postmarked by 6 July 2018 and mailed to Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266. Any Class Members who timely submit a conforming Request to Opt Out will no longer be members of the Class, will not receive the benefits of the Proposed Settlement, and will not be allowed to comment on the Proposed Settlement either in writing or orally at the 27 July 2018 hearing on final approval of the Proposed Settlement. Any Request to Opt Out postmarked after 6 July 2018 will not be considered, and any such Class Members will remain members of the Class. The Class Administrator will create and provide to counsel for the parties sufficient documentation identifying each Class Member that has elected to opt out and the amount of their potential refunds by 13 July 2018.

c. In order to comment on the Proposed Settlement in writing, a Class Member must send the Class Administrator a letter stating that it is a "Comment on Settlement," which shall include: (1) the Class Member's name, address, telephone number, and email address; (2) the name of the case (*Fasano v. Town of Kernersville*); (3) the reasons the Class Member supports or objects to the settlement, accompanied by any legal support for the comment; (4) a statement of whether the Class Member intends to appear at the 27 July 2018 hearing on final approval of the Proposed Settlement; and (5) the Class Member's signature, acknowledged by a notary public. All Comments on Settlement must be postmarked by 6 July 2018 and mailed to Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266. The Court does not intend to consider any Comments on Settlement that postmarked after 6 July 2018 or that otherwise do not conform to the above-stated requirements.

d. In the event a Class Member wishes to have an attorney submit comments on the Class Member's behalf, the attorney must send the Class Administrator a letter stating that it is a "Comment on Settlement," which shall include: (1) the identity and number of Class Members represented by counsel; (2) the address, telephone number, email address, and bar number for counsel; (3) the name of the case (*Fasano v. Town of Kernersville*); (4) the reasons for objecting to or supporting the settlement, accompanied by any legal support for the comment; (5) a statement of whether counsel or the Class Member(s) intend to appear at the 27 July 2018 hearing on final approval of the Proposed Settlement; and (6) counsel's signature. All Comments on Settlement must be postmarked by 6 July 2018 and mailed to Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266. The Court does not intend to consider any Comments on Settlement that postmarked after 6 July 2018 or that otherwise do not conform to the above-stated requirements.

e. If any Class Member wishes to address the Court at the 27 July 2018 hearing on final approval of the Proposed Settlement, but does not want to submit a written comment, the Class Member must send the Class Administrator a letter stating that it is a "Notice of Intent to Appear," which shall contain: (1) the Class Member's name, address, telephone number, and email address; (2) the name of the case (*Fasano v. Town of Kernersville*); (3) the Class Member's signature. All Notices of Intent to Appear must be postmarked by 6 July 2018 and mailed to Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266.

f. Only those Class Members who timely submit written comments indicating a desire to appear at the hearing, or who timely submit a Notice of Intent to Appear,

will be allowed to address the Court at the hearing on final approval of the Proposed Settlement, absent permission from the Court to the contrary.

g. The Class Administrator will provide counsel for all parties with copies of all Requests to Opt Out, Comments on Settlement, and Notices of Intent to Appear, by 13 July 2018.

9. Plaintiffs shall file by 12 July 2018 the motion for final approval of the Proposed Settlement and the motion for an award of attorneys' fees and costs (including the costs of administration).

10. No later than 20 July 2018, the Class Administrator will submit for the Court's consideration an affidavit discussing the process and completion of the Notice Plan.

11. All other proceedings or deadlines in this action, except for those set forth in this Order, are stayed and suspended pending the hearing on final approval of the Proposed Settlement.

12. The hearing on the final approval of the Proposed Settlement will take place on 27 July 2018 at 9:30 a.m. at the courtroom located in the Kernersville Town Hall, 134 E. Mountain Street, Kernersville, North Carolina 27284.

SO ORDERED, this the 13 day of April, 2018.



Hon. Judge Edwin G. Wilson, Jr.  
Superior Court Judge Presiding

**Exhibit A**  
to Order on Preliminary Approval of Class Settlement  
Form of Notice

NORTH CAROLINA SUPERIOR COURT, FORSYTH COUNTY

**Notice regarding pending class action settlement affecting users of  
the Town of Kernersville, North Carolina's sanitary sewer system**

*Fasano v. Town of Kernersville and the Winston-Salem – Forsyth County City/County Utilities Commission*  
(Forsyth County, No. 16 CVS 2801)

*The Superior Court authorized this notice. It is not a solicitation from a lawyer.*

- A \$12.3 million settlement has been reached in a class action lawsuit about whether the Town of Kernersville (“Kernersville”) and the Winston-Salem – Forsyth County City/County Utilities Commission (“CCUC”) overcharged users of Kernersville’s sewer system from July 1, 2012 to August 1, 2016. The settlement resolves litigation over whether the overcharges violated federal and state law. Kernersville and the CCUC are called “Defendants” in this Notice.
- Se ha llegado a un acuerdo en una demanda colectiva sobre los sobrecargos por tarifas de alcantarillado desde el 1 de julio de 2012 hasta el 1 de agosto de 2016 en Kernersville. Se realizarán reembolsos a los clientes elegibles del sistema de alcantarillado. Para obtener una copia en español de este Aviso, visite [www.KernersvilleSewerSettlement.com](http://www.KernersvilleSewerSettlement.com) o llame al 1 (888) 292-1832 para obtener información adicional.
- You may be eligible to receive refunds of overcharges, with interest, as part of the settlement.
- The settlement is subject to approval by the North Carolina Superior Court, Forsyth County. Refunds will be provided to eligible participants only if the Court approves the settlement. You may participate in the Court’s proceedings regarding approval of the settlement, as explained below.
- If you are an eligible Class Member and the Court approves the settlement, then you will receive a refund without the need to take any additional action.
- Your rights with respect to the settlement, and the actions you can take, are explained in this Notice. Please read this notice carefully. You may also check the settlement website at [www.KernersvilleSewerSettlement.com](http://www.KernersvilleSewerSettlement.com) for updates and further details, or call 1 (888) 292-1832.

**BASIC INFORMATION**

**1. What is this lawsuit about?**

Kernersville’s sewer system is managed by the CCUC. Sewer rates charged to Kernersville sewer users are based on a multiple of the rate charged by the CCUC to users of Winston-Salem’s sewer system. As of 2011, the rate multiplier was 2.487x, meaning that for the same volume of sewer service, Kernersville users paid 2.487 times the rate paid by Winston-Salem users. Under a 2011 agreement, Kernersville and the CCUC agreed to reduce the rate multiplier charged to Kernersville users to 1.2x as of June 30, 2012, unless they had reached a new agreement on sewer rates. Defendants did not reach a new agreement by June 30, 2012, but continued to charge the 2.487x rate multiplier, instead of reducing the rate multiplier to 1.2x. The rate multiplier remained at 2.487x until September 2015, when Defendants reduced the rate multiplier to 1.6x. Kernersville and the CCUC finally reached a new written agreement on sewer rates as of August 1, 2016, setting the rate multiplier at 1.6x. Kernersville and CCUC have since further reduced the sewer rate multiplier to 1.5x.

The issue in this case is whether Kernersville and the CCUC overcharged sewer system customers from July 1, 2012 until August 1, 2016, during which time the rate multiplier should have been 1.2x. On August 1, 2017, the Court entered an Order determining that the failure to reduce the rate multiplier to 1.2x during the relevant time period and the subsequent overcharges constituted a breach of contract and an unconstitutional taking without just compensation in violation of the United States and North Carolina Constitutions.

The Court has certified the Class as Plaintiffs and all other citizens and residents of Kernersville and persons in its outlying (extraterritorial) area, including any businesses, firms, trusts, corporations or any other entity, who received, and paid for, Kernersville sanitary sewer system services at any time between 1 July 2012 and 1 August 2016.

After the Court held that Defendants are liable to the Class, the parties agreed to the settlement set forth in this Notice.

Judge Edwin G. Wilson, Jr., of the North Carolina Superior Court, is in charge of this case. Edward and Debra Fasano, the Kernersville residents that brought this case, have been appointed by the Court as Class Representatives. The Court has appointed H. Brent Helms and Franklin Scott Templeton of Robinson & Lawing, LLP in Winston-Salem, and Alan W. Duncan and Stephen M. Russell, Jr. of Mullins Duncan Harrell & Russell PLLC in Greensboro, as Class Counsel. Garden City Group, LLC has been appointed by the Court as Class Administrator.

**2. Why is there a notice?**

Class Members have a right to know about the proposed settlement of a class action lawsuit and about their options before the Court decides whether to approve the settlement.

**3. What are the terms of the settlement?**

Defendants have agreed to pay \$12.3 million into a common fund under the Court's control. Class Members will be refunded 85% of the common fund. In turn, the Class will release its claims against Defendants arising from sewer fee overcharges stemming from the rate multiplier during the relevant time period. The settlement also provides that 15% of the common fund will be used to pay the costs of administering the refund process and for the Court to award attorneys' fees and costs to Class Counsel, in an amount to be determined by the Court. The Court may also approve a representative award to the Class Representatives, not to exceed \$11,000.00 for each Class Representative, for their service in bringing and maintaining this lawsuit. The Court will determine whether to approve any award and the amount of such award to the Class Representatives at the final approval hearing. (See Question 13).

The Court's approval of the settlement will have no impact on the sewer rate that you are currently charged, or on the amount of property taxes or other fees owed by Kernersville residents.

**4. What will I get from the settlement?**

Each eligible Class Member is expected to receive 100% of the overcharged sewer fees from July 1, 2012 to August 1, 2016, plus approximately 0.6% interest. The amount of individual refunds will be based on each Class Members' sewer usage and the period of time that they received sewer services in Kernersville. For many Class Members, this refund may be several hundred dollars. The Class Administrator cannot advise of the specific amounts due to each Class Member, so please do not call and ask the Class Administrator for such information.

**5. What am I giving up to stay in the Class?**

If you do not exclude yourself from the Class by opting out, and the Court approves the settlement, you will not be able to sue the Town of Kernersville or the CCUC regarding the overcharged sewer fees during the relevant time period, and you will be bound by the decisions of the Court in this case.

**6. How will I receive my refund?**

Refund checks will be mailed to the names and addresses of Class Members according to data maintained by the CCUC. You do not need to submit any information to receive your refund check. However, if your address has changed, or if a Class Member has passed away or closed (in the case of a business entity), please contact the Class Administrator, Garden City Group, LLC, at Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266. Please promptly deposit the refund check upon receipt.

**7. When will I receive my refund?**

Refunds will be mailed to eligible Class Members as soon as possible after the Court grants final approval of the settlement. In the event there are any appeals from the Court's final approval, those appeals may need to be resolved before any refunds can be distributed.

**YOUR OPTIONS**

**8. How do I get out of the settlement?**

If you do not want to receive a refund from this litigation, but want to keep the right to separately sue the Defendants over the legal issues in this case, then you must take steps to get out of this settlement. This is called asking to be excluded from – or “opting out” – of the Class. To opt out of the settlement, you must complete and mail to the Settlement Administrator a letter stating that it is a “Request to Opt Out,” that includes the following: (a) your name, address, telephone number, and email address (if available); (b) the name of the case (*Fasano v. Town of Kernersville, et al.*); (c) an explicit statement of your desire to opt out of this settlement; and (d) your signature, acknowledged by a notary public. You must mail the Request to Opt Out, postmarked no later than July 6, 2018, to the Class Administrator, Garden City Group, LLC at Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266.

**9. If I opt out, will I still get a refund from the settlement?**

No. If you opt out, you will not receive a refund from this settlement.

**10. How can I tell the Court my opinion of the settlement?**

If you are a Class Member, you can submit written comments to the Court in support of, or in opposition to, the settlement. A written comment in opposition to a settlement is called an “objection.” To do so, you must send a letter stating that it is a “Comment on Settlement,” that includes the following: (a) your name, address, telephone number, and email address (if available); (b) the name of the case (*Fasano v. Town of Kernersville, et al.*); (c) the reasons you support or object to the settlement, accompanied by any legal support for your comments; (d) a statement of whether you intend to appear at the Final Approval Hearing (see Question 15); and (e) your signature, acknowledged by a notary public. You must mail the Comment on Settlement, postmarked no later than July 6, 2018, to the Class Administrator, Garden City Group, LLC at Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266. If your Comment on Settlement is not postmarked by July 6, 2018, then the Court will not consider your comments. Class Members are not required to submit comments on the settlement.

If you request to opt out of the settlement (see Question 8), you will not be allowed to submit a comment regarding the settlement, because you will no longer be part of the Class.

**11. What is the difference between opting out and objecting?**

Objecting is simply telling the Court that you do not like the terms of the settlement, and the reasons why, but you will ultimately receive the benefit of any settlement approved by the Court. You can object to the settlement only if you do not opt out of the settlement. Opting out of the settlement means telling the Court that you do not want to be part of the settlement and that you do not want to receive a refund from the settlement.

**12. What happens if I do nothing at all?**

If the Court approves the settlement and you are an eligible Class Member, you will receive your refund as noted in Questions 4 and 7 above, and you will not be able to pursue a separate lawsuit about these issues.

### **THE COURT'S FINAL APPROVAL HEARING**

**13. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval Hearing on July 27, 2018 at 9:30 AM, at the courtroom located in the Kernersville Town Hall, 134 E. Mountain St., Kernersville, NC 27284. The Honorable Edwin G. Wilson, Jr., Superior Court Judge, will preside at the hearing.

At the Final Approval Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider how much to award Class Counsel and to award to the Class Representatives out of the 15% set aside. If there are objections to the settlement, the Court will consider them at the hearing. The hearing may be moved to a different date, time, or location without additional notice, so check [www.KernersvilleSewerSettlement.com](http://www.KernersvilleSewerSettlement.com) for updates.

**14. Do I have to come to the hearing?**

No. Class Counsel will answer any questions that the Court may have. If you send a comment supporting or objecting to the settlement, you may, but do not have to come to Court to talk about it. (See Question 10.) As long as you mailed your written comment on time to the proper address, the Court will consider it. You may also attend the hearing in person at your own expense, and may retain your own attorney to attend on your behalf.

**15. May I speak at the hearing?**

Yes. If you submit a comment in support of or objecting to the settlement, please indicate in your written comment that you wish to speak at the Final Approval Hearing. Even if you do not submit a written comment, you may indicate your desire to speak at the hearing by sending a letter stating that it is your "Notice of Intent to Appear." In your letter, you must include the following: (a) your name, address, telephone number, and email address (if available); (b) the name of the case (*Fasano v. Town of Kernersville, et al.*); and (c) your signature. You must mail your Notice of Intent to Appear, postmarked no later than July 6, 2018, to Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266. If you do not submit a Notice of Intent to Appear by July 6, 2018, the Court may not allow you to speak at the hearing.

**16. Do I need an attorney to represent me at the final approval hearing?**

No. Class Counsel has already been appointed to represent the Class and their interests in this matter. If you wish to object to the settlement, then you may want to retain separate counsel at your own expense, but you do not need to do so in order to object in writing or to speak at the final approval hearing.

### **GETTING MORE INFORMATION**

**17. How do I get more information?**

This Notice summarizes the proposed settlement. More details, and other filings from the lawsuit, are available at [www.KernersvilleSewerSettlement.com](http://www.KernersvilleSewerSettlement.com). If you have additional questions, you can visit the settlement website, call the Class Administrator at 1 (888) 292-1832, or write to the Class Administrator: Fasano v. Town of Kernersville, c/o GCG, P.O. Box 10566, Dublin, OH 43017-7266.

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE CONCERNING THIS CASE.**



**Exhibit B**  
to Order on Preliminary Approval of Class Settlement  
Form of Summary Notice

## **SUMMARY NOTICE OF CLASS ACTION SETTLEMENT**

*Fasano v. Town of Kernersville and the Winston-Salem – Forsyth County City/County Utilities Commission*

(North Carolina Superior Court, Forsyth County, No. 16 CVS 2801)

**Please review this summary notice if you were a customer of the Town of Kernersville's sanitary sewer system at any time between July 1, 2012 and August 1, 2016, and take action, if needed, to obtain a copy of the full Notice regarding the settlement.**

- A \$12.3 million settlement has been reached in a class action lawsuit about whether the Town of Kernersville and the Winston-Salem/Forsyth County City-County Utilities Commission overcharged users of Kernersville's sewer system from July 1, 2012 to August 1, 2016. The settlement resolves litigation over whether the overcharges violated federal and state law. The North Carolina Superior Court, Forsyth County, has preliminarily approved the settlement.
- Se ha llegado a un acuerdo en una demanda colectiva sobre los sobrecargos por tarifas de alcantarillado desde el 1 de julio de 2012 hasta el 1 de agosto de 2016 en Kernersville. Se realizarán reembolsos a los clientes elegibles del sistema de alcantarillado. Para obtener una copia en español de este Aviso, visite [www.KernersvilleSewerSettlement.com](http://www.KernersvilleSewerSettlement.com) o llame al 1 (888) 292-1832 para obtener información adicional.
- The settlement is subject to final approval by the Court. Refunds will be provided to eligible participants only if the Court approves the settlement. You may participate in the Court's proceedings regarding approval of the settlement, as explained in the Notice.
- Your rights under the settlement, and the actions you can take, are explained in the full Notice approved by the Court, which is available at [www.KernersvilleSewerSettlement.com](http://www.KernersvilleSewerSettlement.com), or call 1 (888) 292-1832 to request a copy be mailed to you. A copy of the full Notice has been mailed to all Class Members using addresses maintained by the Winston-Salem/Forsyth County City-County Utilities Commission.
- Individuals and businesses that paid for sanitary sewer services in the Town of Kernersville may be eligible to receive refunds of overcharges, with interest, as part of the settlement.
- If you are an eligible Class Member and the Court approves the settlement, then you will receive a refund without the need to take any additional action.
- You have the right to opt out of the settlement, in which case you will not receive any benefits that the Court may approve in this case. Information about how to opt out can be found in the Notice.
- You have the right to submit written comments regarding the settlement. Information on how to submit a comment can be found in the Notice, and those comments will be considered by the Court at the final approval hearing.
- You have the right to speak at the final approval hearing. More information can be found in the Notice.
- The Court will hold a Final Approval Hearing on July 27, 2018 at 9:30 AM, at the courtroom located in the Kernersville Town Hall, 134 E. Mountain St., Kernersville, NC 27284.

**CERTIFICATE OF SERVICE**

The undersigned, as counsel of record for Plaintiffs, hereby certifies that, on this date, he served a copy of the foregoing document upon Defendants by placing same in the United States Mail in Winston-Salem, North Carolina, first class, postage prepaid and addressed as follows:

Mr. John G. Wolfe, III  
JOHN G. WOLFE, III & ASSOCIATES, PLLC  
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Kernersville, NC 27284

Ms. Jodi D. Hildebran  
ALLMAN SPRY DAVIS LEGGETT & CRUMPLER, PA  
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Winston-Salem, NC 27103

This the 13<sup>th</sup> day of April, 2018.



H. Brent Helms (NC State Bar #19068)

OF COUNSEL

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