

Macon County



**MACON COUNTY BOARD OF COMMISSIONERS
NOVEMBER 9, 2021
6 P.M.
AGENDA**

1. Call to order and welcome by Chairman Tate
2. Announcements
3. Moment of Silence
4. Pledge of Allegiance
5. Public Hearing(s) – **6 p.m.**
 - (A) Amended and Restated Macon County Soil Erosion and Sedimentation Control Ordinance
 - (B) Amended and Restated Voluntary Farmland Preservation Ordinance
 - (C) Amended and Restated Macon County Water Supply Watershed Protection Ordinance

NOTE: Following the close of the public hearing(s), the board may choose to act on any or all of the amended and restated ordinances.

6. Public Comment Period
7. Additions to agenda
8. Adjustments to and approval of the agenda
9. Reports/Presentations
 - (A) Update on Vaya Health Regional Advisory Board – Shelly Foreman, Community Relations Regional Director, Vaya Health
 - (B) Report from 4-H – Tammara Cole Talley, North Carolina Cooperative Extension 4-H and Youth Development Agent

10. Old Business

- (A) Final approval of Temporary Assistance to Needy Families (TANF) Electing County Plan for Macon County Department of Social Services (DSS) – Patrick Betancourt, DSS Director
- (B) Consideration of Change Order #012 on Macon Middle School Renovation project – Jack Morgan, Planning, Permitting and Development Director

11. New Business

- (A) Proposed creation of Macon County Citizens Advisory Committee regarding Franklin High School project – Commissioner Shields
- (B) Consideration of resolution concerning compensation for incoming sheriff and register of deeds – County Attorney Eric Ridenour
- (C) Consideration of approval of revised Form “3-1” for Southwestern Community College (SCC) Fire Rescue Training Center – County Manager Derek Roland

12. Consent Agenda – Attachment #12

All items below are considered routine and will be enacted by one motion. No separate discussion will be held except on request of a member of the Board of Commissioners.

- (A) Minutes of the October 12, 2021 regular meeting
- (B) Budget Amendments #92-93
- (C) Tax releases for the month of October (pending)
- (D) Monthly ad valorem tax collection report (pending) – no action necessary

13. Appointments

- (A) Recreation Commission (tentative)
- (B) Vaya Health Regional Advisory Board (2 seats)

14. Closed session as allowed under NCGS, if needed

15. Adjourn/Recess

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – PUBLIC HEARINGS

MEETING DATE: November 9, 2021

We again have a trio of public hearings on the agenda, and again all three involve amendments to existing ordinances.

County Attorney Eric Ridenour has been working to revise the county's ordinances regarding soil erosion and sedimentation control, voluntary farmland preservation and water supply watershed protection in order to bring them into compliance with North Carolina General Statute 160D.

A copy of each notice of public hearing is included in the agenda packet, and the notices appeared in the October 27, 2021 and November 3, 2021 editions of *The Franklin Press* as required.

Also included in the packet are copies of each amended and restated ordinance.

Immediately following the close of the public hearings, the board may consider taking action on any or all of the revised ordinances, and Mr. Ridenour has provided resolutions of approval for each one, copies of which are also included in the packet.

Once approved, the updated ordinances will be made available on the county's website.

NOTICE OF PUBLIC HEARING

Please take notice that the Macon County Board of Commissioners will conduct a public hearing on Tuesday, November 9, 2021 at 6:00 p.m. in the Commission Boardroom located on the third floor of the Macon County Courthouse, located at 5 West Main Street, Franklin, NC 28734, concerning the proposed “Amended and Restated Macon County Soil Erosion and Sedimentation Control Ordinance,” which amends and restates the presently existing Macon County Soil Erosion and Sedimentation Control Ordinance. Public comment upon the same shall be received at this public hearing. The public is invited to attend this public hearing.

The proposed amendments are for the purpose of bringing the Macon County Soil Erosion and Sedimentation Control Ordinance into compliance with Chapter 160D of the North Carolina General Statutes and G.S. §113A-50 et seq. The proposed amendments can be viewed on the county’s website, www.maconnc.org, under “Public Announcements,” and a hard copy may be obtained in the lobby at the Courthouse Annex Building, 5 West Main Street, Franklin, North Carolina.

This the 22nd day of October, 2021.

Derek Roland, Ex Officio Clerk to the
Macon County Board of Commissioners

**AN ORDINANCE OF THE MACON COUNTY BOARD OF COMMISSIONERS FOR
AN AMENDED AND RESTATED “MACON COUNTY SOIL EROSION AND
SEDIMENTATION CONTROL ORDINANCE”**

WHEREAS, the Macon County Board of Commissioners originally adopted the Macon County Soil Erosion and Sedimentation Control Ordinance on November 1, 2001; and

WHEREAS, the same has been amended and/or restated from time to time in order to make changes to the same; and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance in order to bring the Ordinance into compliance with G.S. 160D and G.S. 113A-50 *et. seq.*, and restate such Ordinance in its entirety as set forth hereinafter; and

WHEREAS, the Board of Commissioners has the authority to make such amendments to the Ordinance pursuant to Chapter 601 of Chapter 160D and Article 4 of Chapter 113A of the North Carolina General Statutes; and

WHEREAS, the required Notice of Public Hearing has been duly given and duly published in accordance with the law and the required Public Hearing in connection with such amendments has been duly held in accordance with law.

NOW, THEREFORE, BE IT ORDAINED by the Macon County Board of Commissioners that:

The Macon County Soil Erosion and Sedimentation Control Ordinance, originally adopted on November 1, 2001 and which has been amended and/or restated from time to time is hereby amended and restated so that the same will hereafter read as follows:

See Exhibit A attached hereto which is incorporated herein by reference as if more fully set forth herein.

This the ___ day of _____, 2021.

Chairman, Macon County Board of Commissioner

ATTEST:

Clerk to the Macon County Board of Commissioners

EXHIBIT A

**MACON COUNTY
SOIL EROSION
AND
SEDIMENTATION
CONTROL ORDINANCE**

Amended: November 10, 2009

Amended: April 12, 2011

Amended and Restated: _____, 2021

TABLE OF CONTENTS

§ 153.01	Title.
§ 153.02	Purposes.
§ 153.03	Definitions.
§ 153.04	Scope and Exclusions.
§ 153.05	General Requirements.
§ 153.06	Mandatory Standards for Land-Disturbing Activity.
§ 153.07	Land -Disturbing Permit.
§ 153.08	Erosion and Sedimentation Control Plans.
§ 153.09	Basic Control Objectives.
§ 153.10	Design and Performance Standards.
§ 153.11	Storm Water Outlet Protection
§153.12	Borrow and Waste Areas.
§ 153.13	Access and Haul Roads.
§ 153.14	Operations in Lakes or Natural Watercourses.
§ 153.15	Responsibility for Maintenance.
§ 153.16	Additional Measures.
§ 153.17	Fees.
§ 153.18	Appeals.
§ 153.19	Inspections and Investigations.
§ 153.20	Penalties.
§ 153.21	Enforcement Alternatives and Injunctive Relief.
§ 153.22	Restoration After Non-Compliance.
§ 153.23	Severability.

§ 153.01 Title.

This chapter may be cited as the *Macon County Soil Erosion and Sedimentation Control Ordinance*.

§ 153.02 Purposes.

This chapter is adopted for the purposes of:

- (A) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses and other public and private property by sedimentation; and
- (B) Establishing procedures through which these purposes can be fulfilled.

§ 153.03 Definitions.

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

Accelerated erosion means any increase over the rate of natural erosion as a result of land-disturbing activity.

Act means the North Carolina Sedimentation Pollution Control Act of 1973, as amended (G.S. §§113A-50 *et seq.*), and all rules and orders adopted pursuant to it.

Adequate erosion control measure, structure or device means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

Affiliate means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Administrator means the person appointed by the Macon County Board of Commissioners to assure compliance with the provisions of this Chapter and associated administration process.

Approved Erosion and Sediment Control Plan means a written course of action including maps, construction schedules, drawings, calculation or assumptions, found by the Administrator or other duly appointed agent to satisfy all requirements of this ordinance which details the timing and proper installment of erosion control measures or devices which have a reasonable probability, if implemented, of restraining accelerated erosion and off site sediment damage associated with a land-disturbing activity.

Approving Authority means the Division or other State or a local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provisions of the Act. The Administrator is the approving authority for purposes of taking action under this ordinance. Wherein this ordinance specifies action will be taken by the local government, the Administrator is the intended office, except where the context clearly indicates otherwise.

Being Conducted means a land-disturbing activity has been initiated and not deemed complete by the Approving Authority.

Borrow means fill material that is required for on-site construction and that is obtained from other locations.

Buffer zone means the strip of land adjacent to a lake or natural watercourse.

Coastal counties means the following counties: Beaufort, Bertie, Brunswick, Camden, Cantered, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrell and Washington.

Commission means the North Carolina Sedimentation Control Commission.

Completion of construction or development means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Department means the North Carolina Department of Environmental Quality.

Director means the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.

Discharge point or Point of Discharge means that point where runoff leaves a tract of land where a land-disturbing activity has occurred or enters a lake or natural watercourse.

District means the Macon Soil and Water Conservation District created pursuant to G.S. ch. 139, as amended.

Energy dissipater means a structure or shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion means the wearing away of land surfaces by the action of wind, water, gravity or any combination thereof.

Ground cover means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

Hazardous Materials means those chemicals or substances which are physical hazards or health hazards, whether the materials are in usable or waste conditions.

High Quality Waters (HQW) means those classified as such in 15A NCAC 02B .0224 which is herein incorporated by reference including subsequent amendments and additions.

High Quality Water (HQW) Zones means areas in the coastal counties that are within 575 feet of high quality waters and, for the remainder of the state, areas that are within one mile and drain to HQWs.

Lake or Natural Watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond.

Land-disturbing activity means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway, and road construction and maintenance that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

Local Government means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns and cities, acting through a joint program pursuant to the provisions of the Act. The Administrator is the action agent for purposes of taking action under this ordinance. Wherein this ordinance specifies action will be taken by the local government, the Administrator is the intended office, except where the context clearly indicates otherwise.

Natural erosion means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Off Site Sediment Damage means the transport of sediment across boundaries of a land-disturbing activity, resulting in deposition of such materials in any lake or natural watercourse or on any land, public or private, not owned by the person responsible for the land-disturbing activity.

Parent means an affiliate that directly, or indirectly through one or more intermediaries controls another person.

Permit means a land-disturbing authorization issued by the Administrator in accordance with this ordinance.

Person means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person Conducting Land-Disturbing Activity means any person who may be held responsible for a violation of the ordinance unless expressly provided otherwise by the Act, or any order adopted pursuant to this ordinance or the Act.

Person Who Violates or Violator, as used in G.S. 113A-64, means any landowner or other person who has financial or operational control over the land-disturbing activity; or who has directly or indirectly allowed the activity, and who has failed to comply with any provision of the Act, the rules of this Chapter or any order or local ordinance adopted pursuant to the Act as it imposes a duty upon that person.

Plan means an erosion and sedimentation control plan.

Receiving watercourse means a lake, natural watercourse or other natural or manmade area into which stormwater runoff flows from a land-disturbing activity.

Road means all roads, either permanent or temporary, used for private travel, construction vehicles, earth-moving or heavy equipment or other machinery and constructed and used in conjunction with land-disturbing activities under this chapter.

Sediment means solid particulate matter, both mineral and organic, that has been, or is being transported by water, air gravity or ice from its site of origin.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or nature watercourse.

Siltation means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Slope means the description of the angle of the land being disturbed with respect to horizontal. For example, a 2-1 slope would have a vertical rise or fall of 1 foot for each 2 feet of horizontal distance.

Stabilize means to establish groundcover sufficient and adequate to prevent erosion. Temporary stabilization measures are those that are sufficient to prevent erosion until the appropriate time for establishing permanent control measures.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater runoff means the runoff of water resulting from precipitation in any form.

Subsidiary means an affiliate that is directly or indirectly through one or more intermediaries, controlled by another person.

Ten-year storm means a rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in ten years, and of a duration that will produce the maximum peak rate of runoff, for the watershed of interest, under average antecedent wetness conditions.

Tract or site means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five year storm means a rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Uncovered means the removal of ground cover from, on, or above the soil surface.

Undertaken means the initiating of any activity, or phase of activity, which results, or will result, in a change in the ground cover or topography of a tract of land.

Velocity means the speed of flow through the cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.

Waste means surplus materials resulting from on-site land disturbing activities and disposed of at other locations.

§ 153.04 Scope and Exclusions.

This ordinance shall apply to all land-disturbing activities undertaken by any person within the jurisdiction of the County of Macon, with the following exclusions:

- (A) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agriculture, undertaken on agricultural land for the production of plants and animals useful to man, as set forth in G.S. § 113A-52.01, including but not limited to:

- (1) Forages and sod crops, grain and feed crops, tobacco, cotton and peanuts.
 - (2) Dairy animals and dairy products.
 - (3) Poultry and poultry products.
 - (4) Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules and goats, including the breeding and grazing of any or all such animals.
 - (5) Bees and apiary products.
 - (6) Fur producing animals.
 - (7) Mulch, ornamental plants, and other horticultural products, including the raising of shrubs, Christmas trees, and other nursery operations. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.
 - (8) Trout production and other aquaculture activities.
- (B) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by Forest Practice Guidelines Related to Water Quality, as adopted by the Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract;
- (C) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes;
- (D) Land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a);
- (E) For the duration of an emergency, activities essential to protect human life;
- (F) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act; and
- (G) Activities undertaken pursuant to the Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations §12.2.

§ 153.05 General Requirements.

- (A) Land Disturbing Permit and Erosion Control Plan Required. No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a permit from

the Administrator, or their designee, except that no permit shall be required for any land-disturbing activity specifically excluded in this ordinance. In addition, no person shall undertake any land-disturbing activity which disturbs more than one-half acre or disturbs an area that has a slope of greater than 1 to 1, without having an erosion control plan approved by the Administrator, except those land-disturbing activities specifically excluded by this ordinance. It is the responsibility of the person conducting such activities to submit to the Administrator any application, plan or form required and/or to apply to the Administrator for any permit required.

(B) Protection of Property. Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity. In addition, they will be held responsible for knowing and following the requirements of this ordinance. The approval of a land-disturbing permit, the approval of an erosion control plan, or the absence of a requirement to submit an erosion control plan shall not relieve the property owner or the operator of the requirement stated in subsection (B) above.

(C) More Restrictive Rules Shall Apply. Whenever conflicts exist between federal, state or local laws, ordinances or rules, the more restrictive provision shall apply.

§ 153.06 Mandatory Standards for Land-Disturbing Activity.

No land-disturbing activity subject to the control of this ordinance shall be undertaken except in accordance with the following mandatory standards:

(A) Buffer zone. Except where more stringent buffer requirements are specified in the Macon County Code of Ordinances, the following requirements shall apply:

(1) Standard Buffer. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity.

(i) Projects On, Over or Under Water. This subsection shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over or under a lake or natural watercourse.

(ii) Buffer Measurements. Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

- (2) Trout Buffer. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided however, that the Administrator may approve plans which include land-disturbing activity along trout waters when the duration of such disturbance would be temporary and the extent of such disturbance would be minimal.
- (i) Projects On, Over or Under Water. This subsection shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over or under a lake or natural watercourse.
 - (ii) Trout Buffer Measurement. The 25-foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank to the nearest edge of the disturbed area.
 - (iii) Limit On Land Disturbance. Where a temporary and minimal disturbance is permitted as an exception to the trout buffer, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10 percent of the total length of the buffer zone within the tract to be disturbed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Administrator.
 - (iv) Limit on Temperature Fluctuations. No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15 NCAC 2B.0211, "Fresh Surface Water Classification and Standards."

(B) Graded Slopes and Fills: Roads.

- (1) Angle. The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical restraints.
- (2) Finished Grade. Generally, unless the following conditions can be met, an approved plan for erosion control and stabilization of the soil is required.
 - (a) All cut slopes will have a minimum finished grade of 1.5:1.

(b) All fill slopes will have a minimum finished grade of 2:1.

(3) Road Grades.

(a) Maximum sustained grades for roads should not exceed:

- (i) 6 percent for natural soil and grass;
- (ii) 10 percent for gravel or crushed stone;
- (iii) 16 percent for paving (asphalt or concrete);

(b) Notwithstanding the conditions above, these grades may be increased up to 15 percent for gravel or crushed stone and 20 percent for pavement for reaches of 200 feet or less where no alternative exists.

(c) Culverts are required in natural drains on all roads. Culverts should be placed every 130 to 200 feet on all in-sloped roads.

(C) Fill Material. Materials being used as fill shall be consistent with those described in 15A NCAC 13B .0562 unless the site is permitted by the Department's Division of Waste Management to operate as a landfill. Not all materials described in Section .0562 may be suitable to meet geotechnical considerations of the fill activity and should be evaluated accordingly.

(D) Ground Cover. Whenever land-disturbing activity is undertaken on a tract, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a permanent ground cover sufficient to restrain erosion must be accomplished within 90 calendar days following completion of construction or development.

(E) Prior Plan Approval. No person shall initiate any land-disturbing activity that will disturb more than one-half acre on a tract, unless thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the Administrator, and the required permit is obtained.

(F) Prevention of Material Deposited on Public Roadways. Soil material shall be prevented from being deposited on public roadways by the use of mud mats, gravel taps, washing methods, and the like.

(G) Commencement of Activity. Prior to initiating land-disturbing activity the person conducting such an activity must notify the Administrator of the date that such activity

will begin. The land-disturbing activity shall be conducted in accordance with the approved permit and approved erosion and sedimentation control plan, if required.

§ 153.07 Land -Disturbing Permit.

(A) Permit Required. No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a permit therefore from the Administrator, or their designee, except that no permit shall be required for any land-disturbing activity:

(1) For the purpose of fighting fires; or

(2) For the stockpiling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage.

(B) Less than One-Half Acre Disturbed. In cases where less than one-half acre will be disturbed, applicants for building permits for any construction will be required to complete a form that explains how erosion control will be managed during construction and to obtain a land-disturbing permit, except that no permit is required for any addition or alteration to a single-family residence when the only land-disturbing activity is for pier or foundation wall footings. The form will provide an opportunity to choose among simple approaches to keep mud and sediment from leaving the property. The information provided on the form will serve as an erosion control plan for the new construction. Applicants will need to know the downhill slope of the lot to complete the form. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated. Should the applicant fail to fill out the notification form and obtain a land-disturbing permit in advance of clearing land, fail to install the procedures as called for on the form or provide false information on the form, the applicant shall be deemed in violation of this ordinance.

(C) Application Submittal Requirements. A land-disturbing permit may be obtained upon submitting the fee, statement of financial responsibility and ownership in accordance with section 153.08(B), approved sedimentation and erosion control plan, if required, security deposit, if required, and certification that tree protection fencing has been installed, if required.

Pursuant to G.S. 160D-403(a), applications for a permit may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for a permit as is authorized by the easement.

The applicant shall submit a land-disturbing permit application to the Administrator or their designee, at least 30 days prior to the commencement of the proposed activity. The Administrator or their designee shall review permit applications for land-

disturbing activities and, within 30 calendar days of receipt thereof, shall notify the person submitting the application that it has been approved, approved with modifications, or disapproved. Notification of the decision shall be in accordance with G.S. 160D-403(b). Failure to approve, approve with modifications, or disapprove a complete land-disturbing permit application within 30 calendar days of receipt shall be deemed approval.

The Administrator will review each revised permit application submitted to them and within 15 days of receipt thereof will notify the person submitting the permit application that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications or disapprove a revised permit application within 15 days of receipt shall be deemed approval.

No permit shall be issued until such time as the Administrator is assured that the proposed land-disturbing activity will be carried out in accordance with this ordinance and the approved sedimentation and erosion control plan, if required. A land-disturbing permit application may be disapproved for the same reasons that an erosion control plan may be disapproved, as set forth in section 153.08(I) and (J) and section 153.09 of this ordinance.

- (D) Planned Reservoir. This section shall not require ground cover on cleared land forming the future basin of a planned reservoir.
- (E) Pre-Construction Conference. When deemed necessary by the Administrator, or their designee, a pre-construction conference may be required.
- (F) Display of Permit. A land-disturbing permit issued under this ordinance shall be prominently displayed until all land disturbance is complete. A copy of the approved permit shall be kept on file at the job site.
- (G) Required Revisions. After approving a permit, if the Administrator, either upon review of such permit or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Administrator shall require an erosion and sedimentation control plan in accordance with section 153.08 of this ordinance. Pending the preparation of the plan, work shall cease or shall continue under conditions outlined by the Administrator.
- (H) Amendment to a Permit. Applications for any amendments to the permit may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Administrator, or their designee, the land-disturbing activity shall not proceed except in accordance with the permit as originally approved.

(I) Failure to Apply for a Permit. Any person engaged in land-disturbing activity who fails to apply for a land-disturbing permit shall be deemed in violation of this ordinance.

(J) Surety. The Administrator, or their designee, shall require security to assure performance of the conditions of the permit whenever a land-disturbing activity is in excess of five acres or whenever the Administrator determines the activity may result in significant off-site damage. The applicant shall be required to file with the Administrator an improvement security in the form of a performance bond in an amount no less than \$500 or more than \$5,000 per acre of disturbed area as set forth in the approved erosion and sedimentation control plan. The amount shall be deemed sufficient by the Administrator, or their designee, to cover all costs of protection or other improvements required for conformity with standards specified in this ordinance. The security shall be released when the Administrator or their designee has certified that all of the requirements of this ordinance have been met. Forfeiture of the improvement security shall not release the person conducting land-disturbing activity of their obligation to install and maintain necessary erosion control measures, to stabilize the site, or any other obligation of this ordinance, the Act, or any rule or order promulgated in furtherance thereof.

(K) Permit Expires. A land-disturbing permit shall expire at the end of:

(1) One year from the date of issuance if no land-disturbing activity has been undertaken in that period. No land-disturbing activity may take place until the person responsible has applied for, and received, a new land-disturbing permit. The fee for the new permit shall be 100 percent of the current applicable fee.

(2) A two-year period, unless it is extended by the Administrator upon written request of the permit holder. The request for extension shall include reasons for incompleteness of the work. After review of the original plan and an on-site inspection of the completed work, the permit may be extended effective for a period not to exceed six months from the date of expiration of the original permit. The fee for the extended permit shall be 25 percent of the current applicable fee. If work cannot be completed and the site permanently stabilized prior to expiration of the permit or permit extension, then a new land-disturbing permit must be applied for and obtained as described in this section.

§ 153.08 Erosion and Sedimentation Control Plans.

(A) Plan Submission. An erosion and sedimentation control plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity will disturb more than one-half acre on a tract. Provided, however, for those cases where the area has a slope of greater than 1 to 1, a plan shall be required for land disturbance associated with any project, regardless of the size of the project or the area being disturbed.

Three copies of the plan shall be filed at least 30 calendar days prior to the commencement of the proposed activity with the Administrator, and a copy will be simultaneously submitted by the applicant to the Macon Soil and Water Conservation District office. A copy of the erosion control plan for any land-disturbing activity that involves the utilization of ditches for the purpose of dewatering or lowering the water table must be forwarded to the director of the Division of Water Quality. One copy of the approved plan shall be kept on file at the job site. After approving the plan, if the Administrator, or their designee, upon inspection of the job site, determines that a significant risk of off-site sedimentation exists, the Administrator, or their designee, will require a revised plan.

Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the Administrator, or their designee.

The approval of an erosion control plan is conditioned on the applicant's compliance with federal, state and local water quality laws, regulations and rules.

(B) Financial Responsibility and Ownership. Erosion and sedimentation control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or noncompliance with the plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. Except as provided in subsections (C) or (K) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

(C) Construction of Utility Lines. If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

(D) Environmental Policy Act Document. Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. § 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Administrator shall

promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to subsection (G) of this section shall not begin until a complete environmental document is available to review.

(E) Content. The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. Plan content may vary to meet the needs of the specific site requirements. Detailed guidelines for plan preparation may be obtained from the Administrator, or their designee, on request.

(F) Soil and Water Conservation District Comments. The Macon Soil and Water Conservation District shall review the plan and submit any comments and recommendations to the Administrator within 20 calendar days after the District received the erosion control plan, or within any shorter period of time as may be agreed upon by the District and the Administrator. Failure of the District to submit its comments and recommendations within 20 calendar days or within any agreed upon shorter period of time shall not delay final action on the plan.

(G) Timeline for Decisions on Plans. The Administrator will review each complete plan submitted to it and within 30 calendar days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Notification of the decision of the Administrator shall be in accordance with G.S. 160D-403(b). The 30-day review period will not begin until all required items are submitted. The Administrator shall have five (5) business days to check the plan for completeness. Incomplete plans will be returned for completion. Failure to approve, approve with modifications, or disapprove a complete erosion and sedimentation plan within 30 calendar days of receipt shall be deemed approval.

The Administrator will review each revised plan submitted to them and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications or disapprove a revised plan within 15 days of receipt shall be deemed approval.

(H) Approval. The Administrator shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Administrator shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. Plans shall expire in accordance with Section 153.07(K) of this ordinance.

(I) Disapproval for Content. The Administrator may disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

(J) Other Disapprovals. The Administrator shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Administrator may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (K) of this section upon finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

- (1) Is conducting or has conducted land-disturbing activity without an approved plan or has received notice of violation of a plan previously approved by the Commission or Administrator pursuant to the Act and has not complied with the notice within the time specified in the notice.
- (2) Has failed to pay a civil penalty assessed pursuant to the Act or this ordinance by the time the payment is due.
- (3) Has been convicted of a misdemeanor pursuant to G.S. §113A-64(b) or any criminal provision of this ordinance.
- (4) Has failed to substantially comply with the State rules, this ordinance and regulations adopted pursuant to the Act.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved the Administrator pursuant to this subsection, the Administrator shall so notify the Director of the Division of Energy, Mineral and Land Resources within 10 days of the disapproval. The Administrator shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of section 153.18, the applicant may appeal the Administrator's disapproval of the plan directly to the Commission.

For purposes of this subsection,, an applicant's record or the transferee's record may be considered for only the two years prior to the application date.

(K) Transfer of Plans. The Administrator may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

(1) The Administrator may transfer of a plan if all of the following conditions are met:

- (i) The successor-owner of the property submits to the Administrator a written request for the transfer of the plan and an authorized statement of financial ownership.
- (ii) The Administrator finds all the following:
 - a. The plan holder is one of the following:

1. A natural person who is deceased.
 2. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 3. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 4. A person who has sold the property on which the permitted activity is occurring or will occur.
- b. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 - c. The successor-owner is the sold claimant of the right to engage in the permitted activity.
 - d. There will be no substantial change in the permitted activity.
- (2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
 - (3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
 - (4) Notwithstanding changes to law made after the original issuance of the plan, the Administrator may not impose new or different terms and condition in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Administrator from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(L) Notice of Activity Initiation. No person may initiate a land-disturbing activity before approval of the plan and notifying the Administrator, or their designee, of the date that the land-disturbing activity will begin.

(M) Pre-construction Conference. When deemed necessary by the Administrator, or their designee, a pre-construction conference may be required and notified on the approved plan.

(N) Display of Plan Approval. A plan approval issued under this ordinance shall be prominently displayed until all construction is complete, all temporary measures have been removed, all permanent sedimentation and erosion control measures are installed and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

(O) Required Revisions. After approving a plan, if the Administrator, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Administrator shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the Administrator. If following commencement of a land-disturbing activity pursuant to an approved plan, the Administrator

determines that the plan is inadequate to meet the requirements of this ordinance, the Administrator may require any revision of the plan that is necessary to comply with this ordinance.

- (P) Amendment to a Plan. Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Administrator, or their designee, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.
- (Q) Failure to File a Plan. Any person engaged in land-disturbing activity who fails to file a plan in accordance with this ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan, shall be deemed in violation of this ordinance.
- (R) Self-Inspections. The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). In addition, weekly and rain-event self-inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit No. NCG 010000. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

Where inspections are required by this ordinance or G.S. 113A-54.1(e), the following apply:

- (1) The inspection shall be performed during or after each of the following phases of the plan:
- (i) Initial installation of erosion and sediment control measures;
 - (ii) Clearing and grubbing of existing ground cover;
 - (iii) Completion of any grading that requires ground cover;
 - (iv) Completion of all land-disturbing activity, construction, or development, including permanent ground cover establishment and removal of all temporary measures; and

- (v) Transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized as set forth in sub-item (iii) above.
- (2) Documentation of self-inspections performed under Item (1) above shall include:
- (i) Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved plan.
 - (ii) Verification by measurement of settling basins, temporary construction entrances, energy dissipators, and traps.
 - (iii) The name, address, organization affiliation, telephone number and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.
 - (iv) A record of any significant deviation from any erosion or sedimentation control measure from that on the approved plan. For the purpose of this rule, a “significant deviation” means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

§ 153.09 Basic Control Objectives.

An erosion and sedimentation control plan or land-disturbing permit may be disapproved pursuant to Section 153.08(I) and (J) if the plan fails to address the following control objectives:

- (A) Identify critical areas. On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

- (B) Limit time of exposure. All land-disturbing activity is to be planned and conducted to limit exposure to the shortest time specified in G.S. 113A-57, the rules of this ordinance, or as directed by the Approving Authority.
- (C) Limit exposed areas. All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (D) Control surface water. Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (E) Control sedimentation. All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (F) Manage stormwater runoff. Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

§ 153.10 Design and Performance Standards.

- (A) Except as provided in subsection (B)(2) below, erosion and sedimentation control measures, structures and devices shall be so planned, designed and constructed to provide protection from the calculated maximum peak of runoff from the 10-year storm. Runoff rates shall be calculated using the procedures in the latest edition of the USDA, Natural Resources Conservation Service's "National Engineering and Field Handbook", or other calculation procedures acceptable to the Administrator, or their designee.
- (B) In high quality water (HQW) zones, the following design standards shall apply:
 - (1) Limit on Uncovered Area. Uncovered areas in HQW zones shall be limited at any time to a maximum total area of 20 acres, within the boundaries of the tract. Only the portion of the land-disturbing activity within an HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director upon providing engineering justification with a construction sequence that considers phasing, limiting exposure, weekly submitted self-inspection reports, and a more conservative design than the Twenty-five Year Storm.
 - (2) Maximum Peak Rate of Runoff Protection. Erosion and sedimentation control measures, structures and devices within HQW zones shall be planned, designed and

constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the latest edition of the United States Department of Agriculture Natural Resources Conservation Service's "National Engineering Field Handbook" or according to procedures adopted by any other agency of North Carolina or the United States or any generally recognized organization or association.

- (3) Sediment Basin Design. Sediment basins within HQW zones shall be designed and constructed according to the following criteria:
- (i) Use a surface withdrawal mechanism, except when the basin drainage area is less than 1.0 acre;
 - (ii) Have a minimum of 1800 cubic feet of storage area per acre of disturbed area;
 - (iii) Have a minimum surface area of 325 square feet per cfs of the Twenty-five Year Storm (Q25) peak flow;
 - (iv) Have a minimum dewatering time of 48 hours;
 - (v) Incorporate 3 baffles, unless the basin is less than 20 feet in length, in which case 2 baffles shall be sufficient.

Upon a written request of the applicant, the Administrator may allow alternative design and control measures in lieu of meeting the conditions required in subparagraphs (3)(ii) through (3)(v) of this subsection if the applicant demonstrates that meeting all of those conditions will result in design or operational hardships and that the alternative measures will provide an equal or more effective level of erosion and sediment control on the site. Alternative measures may include quicker application of ground cover, use of sediment flocculants, and use of enhanced ground cover practices.

- (4) Grade. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization, unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other forms of ditch liners proven as being effective in restraining accelerated erosion. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

§ 153.11 Storm Water Outlet Protection.

- (A) Intent. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

(B) Performance Standard. Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

- (1) The velocity established by the Maximum Permissible Velocities Table set out within this subsection below; or
- (2) The velocity of the 10-year storm runoff in the receiving watercourse prior to the development.

If subsections condition (1) or (2) of this paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the “prior to development” velocity by 10%.

The following is a table for maximum permissible velocity for stormwater discharges:

<i>Maximum Permissible Velocities</i>		
<i>Materials</i>	<i>F.P.S.</i>	<i>M.P.S.</i>
Alluvial silts (colloidal)	5.0	1.5
Alluvial silts (noncolloidal)	3.5	1.1
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Fine Gravel	5.0	1.5
Fine Sand (noncolloidal)	2.5	0.8
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Ordinary firm loam	3.5	1.1
Sandy loam (noncolloidal)	2.5	0.8

Shales and hard pans	6.0	1.8
Silt loam (noncolloidal)	3.0	0.9
Stiff clay (very colloidal)	5.0	1.5
Source – Adapted from recommendations by Special Committee on Irrigation research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.		

(C) Acceptable Management Measures. Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The County recognizes that the management of stormwater runoff to minimize control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
- (2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
- (3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures;
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
- (5) Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

This rule shall not apply where it can be demonstrated to the Administrator that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

§153.12 Borrow and Waste Areas.

If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered by the Approving Authority as separate land-disturbing activities.

§ 153.13 Access and Haul Roads.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

§ 153.14 Operations in Lakes or Natural Watercourses.

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disruption of the stream channel. Where relocation of a stream is an essential part of the proposed activity, the relocation shall be planned and executed so as to minimize the changes in the stream flow characteristics, except when justification for significant alternation to flow characteristics is provided. Persons undertaking such land-disturbing activity shall consult with the Army Corps of Engineers and the Department to determine if a permit is required before undertaking any such land-disturbing activity.

§ 153.15 Responsibility for Maintenance.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this ordinance, the Act or any order adopted pursuant to this ordinance or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

§ 153.16 Additional Measures.

Whenever the Administrator, or their designee, determines that accelerated erosion and sedimentation continues despite the installation of protective practices, they shall direct the person conducting the land-disturbing activity to take additional protective action necessary to achieve compliance with the conditions specified in the Act or its rules.

§ 153.17 Fees.

The fees charged for the administration and enforcement of this ordinance shall be as prescribed by the County Board of Commissioners.

§ 153.18 Appeals.

(A) Except as provided in subsection (B) of this section, the denial of a permit or soil erosion control plan, the approval of a permit or soil erosion plan with modifications, or the issuance of violation notices and/or revocation of permit or plan by the Administrator may be appealed to the Macon County Planning Board and governed by the following provisions:

(1) The person shall submit a written demand to the clerk to the board for a hearing within 30 days after receipt of written notice of the disapproval, modifications, notice of violation, or revocation of a permit in accordance with G.S. Chapter 160D-405 and 406. The written demand must specify, with particularity, the factual and/or legal basis for the appeal. No grounds, other than those so specified, may be argued. Pending appeal, the time limits set out in the notice or order shall be suspended in accordance with Chapter 160D-405(f).

(2) Hearings held pursuant to this section shall be conducted by the Macon County Planning Board within 15 days after the date of the appeal or request for a hearing, or at the next regularly scheduled meeting, whichever is later. Hearings shall be held in accordance with G.S. 160D-406.

(3) If the Macon County Planning Board upholds the disapproval or modification of a proposed erosion and sedimentation control plan following a public hearing, the person submitting the plan is entitled to appeal the decision to the North Carolina Sedimentation Control Commission as provided in G.S. § 113A-61(c) If the Macon County Planning Board upholds any other decision of the Administrator, the applicant may appeal to Superior Court in accordance with G.S. 160D-406(k).

(B) Notwithstanding the above, in the event that an erosion control plan or a transfer of a plan is disapproved by the Administrator, the applicant may appeal the Administrator's disapproval of the plan directly to the North Carolina Sedimentation Control Commission as provided in G.S. § 113A-61(b2).

§ 153.19 Inspections and Investigations.

(A) Inspections. Agents, officials and other qualified persons authorized by the Administrator will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance or rules or orders adopted or issued pursuant to this ordinance, and

to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of the plan approval of each erosion control plan. Pursuant to GS 160D-403(e), the agent, official and other qualified persons authorized by the Administrator, must enter the premises during reasonable hours and upon presenting credentials; provided however that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(B) Willful Resistance, Delay or Obstruction. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Macon County while that person is lawfully inspecting or attempting to inspect a land-disturbing activity under this section.

(C) Notice of Violation. If the Administrator or their designee determines that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, the Administrator shall immediately serve a notice of violation upon that person. The notice may be served by any means authorized under G.S. §1A-1, Rule 4. The notice of violation shall specify a date by which the person must comply with the Act, this ordinance, or rules, or orders adopted pursuant to this ordinance and inform the person of the actions that need to be taken to comply with the Act, this ordinance, or rules or orders adopted pursuant to this ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this ordinance. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Administrator shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program on behalf of the Approving Authority, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. If the Administrator is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.

(D) Investigations. The Administrator, or their designee, shall have the power to conduct such investigations as it may reasonably deem necessary to carry out their duties as prescribed in this ordinance, and who presents appropriate credentials, for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. Pursuant to GS 160D-403(e), the agent, official and other qualified persons authorized by the Administrator, must enter the premises during reasonable hours; provided however that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(E) Statements and Reports. The Administrator, or their designee, shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

§ 153.20 Penalties.

(A) Revocation of Permits.

- (1) The Administrator shall have the authority to revoke land-disturbing permits issued pursuant to this ordinance. Should the Administrator determine that the land-disturbing permit should be revoked then they shall serve the permittee, or other responsible person, with a notice of revocation. Notification of the revocation shall be in accordance with G.S. 160D-403(b). Upon receipt of the notice of revocation, the responsible person shall immediately cause or order the cessation of all land-disturbing activities except those activities which are specifically directed towards bringing the site into a state of compliance.
- (2) After the Administrator, or their designee, has inspected the site and approved the remedial work, the responsible party may re-apply for a land-disturbing permit. The fee for reapplication shall be 100 percent of the current application fee.

(B) Civil Penalties.

- (1) Civil Penalty for a Violation. Any person who violates any of the provisions of this ordinance, or rules or orders adopted or issued pursuant to this ordinance or who initiates or continues a land-disturbing activity for which an erosion control plan and/or land-disturbing permit is required except in accordance with the terms, conditions and provisions of an approved plan and/or land-disturbing permit shall be subject to a civil penalty. The maximum civil penalty for a violation is \$5,000. A civil penalty may be assessed from the date the violation. Each day of continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is \$25,000.00.
- (2) Civil Penalty Assessment Factors. The Administrator shall impose the civil penalty authorized by this section. The Administrator shall determine the amount of the civil penalty based upon the following factors;

- (i) consider the degree and extent of harm caused by the violation,
- (ii) the cost of rectifying the damage,
- iii) the amount of money the violator saved by noncompliance,
- iv) whether the violation was committed willfully, and
- v) the prior record of the violator in complying or failing to comply with this ordinance, rule or order adopted pursuant to the Act or this ordinance.

(3) Notice of Civil Penalty Assessment. The Administrator shall provide notice to the person who is assessed the civil penalty of the following: the amount of the civil penalty; the reason for assessing the penalty; the option available to that person to request a remission of the civil penalty under G.S. 113A-64.2; the date of the deadline for that person to make the remission request regarding this particular penalty; and, when that person has not been assessed any civil penalty under this section for any previous violation, the date of the deadline for that person to abate continuing environmental damage resulting from the violation in order to subject to the maximum cumulative total civil penalty under (1) of this subsection. The notice of assessment shall be served by any means authorized under G.S. §1A-1, Rule 4, and shall direct the violator to either pay the civil penalty assessment, contest the assessment within 30 days by filing a petition for hearing with the Planning Board or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based.

(4) Appeal of Final Decision. Appeal of the final decision of the Macon County Planning Board shall be to the Superior Court. Such appeals must be made within 30 days of the final decision of the Macon County Planning Board.

(5) Remission of Civil Penalties. A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed with the Planning Board within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. The following factors shall be considered in determining whether a civil penalty remission request will be approved:

- (i) Whether one or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.
- (ii) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.
- (iii) Whether the violation was inadvertent or a result of an accident.

- (iv) Whether the petitioner has been assessed civil penalties for any previous violations.
- (v) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
- (vi) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

(6) Collection. If payment is not received within 60 days after it is due, the matter will be referred to the County Attorney for initiation of a civil action to recover the amount of the civil penalty. The civil action may be brought in the Superior Court. Such civil actions must be filed within three (3) years of the date the assessment was due. A civil penalty that is not contested and a remission that is not requested is due when the violator is served with a notice of the civil penalty assessment. A civil penalty that is contested or a remission that is requested is due at the conclusion of the administrative and judicial review of the assessment.

(7) Credit of Civil Penalties. Pursuant to G.S. 113A-64(a)(5), the clear proceeds of civil penalties collected by the County pursuant to this ordinance shall be remitted to the Civil Penalty and Forfeiture Funds in accordance with provisions of G.S. 115C-457.2. Penalties collected by the County may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina office of State Budget and Management on an annual basis, based upon the computation of actual collections costs by the County for the prior fiscal year.

(C) Criminal Penalties.

Any person who knowingly or willfully violates any provision of the Act, this ordinance, or rule or order adopted or issued by the Commission or the County, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan and/or land-disturbing permit is required except in accordance with the terms, conditions and provisions of an approved plan and/or land-disturbing permit, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000.00, as provided in G.S. 113A-64.

§ 153.21 Enforcement Alternatives and Injunctive Relief.

(A) Forfeiture of Surety. Violation of any provision of this ordinance shall result in forfeiture of any applicable security or portion thereof required under subsection 153.07(J).

(B) Injunctive Relief. Whenever the County has reasonable cause to believe that any person is violating or threatening to violate this ordinance, rule, regulation or order adopted or

issued by the County or any term, condition or provision of an approved erosion control plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the County, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or threatened.

(C) Abatement of Violation. Upon determination by a court that an alleged violation is occurring, or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

§ 153.22 Restoration After Non-Compliance.

The County may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3) and section 153.06(D) of this chapter, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance

§ 153.23 Severability.

If any section or sections of this ordinance are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

As amended and restated by the Board of Commissioners ____ , 2021.

NOTICE OF PUBLIC HEARING

Please take notice that the Macon County Board of Commissioners will conduct a public hearing on Tuesday, November 9, 2021 at 6:00 p.m. in the Commission Boardroom located on the third floor of the Macon County Courthouse, located at 5 West Main Street, Franklin, NC 28734, concerning the proposed “Amended and Restated Voluntary Farmland Preservation Ordinance,” which amends and restates the presently existing Voluntary Farmland Preservation Ordinance. Public comment upon the same shall be received at this public hearing. The public is invited to attend this public hearing.

The proposed amendments are for the purpose of bringing the Macon County Voluntary Farmland Preservation Ordinance into compliance with Chapter 160D of the North Carolina General Statutes and Session Law 2021-78. The proposed amendments can be viewed on the county’s website, www.maconnc.org, under “Public Announcements,” and a hard copy may be obtained in the lobby at the Courthouse Annex Building, 5 West Main Street, Franklin, North Carolina.

This the 22nd day of October, 2021.

Derek Roland, Ex Officio Clerk to the
Macon County Board of Commissioners

**AN ORDINANCE OF THE MACON COUNTY BOARD OF COMMISSIONERS FOR
AN *AMENDED AND RESTATED* "VOLUNTARY FARMLAND PRESERVATION
ORDINANCE"**

WHEREAS, the Macon County Board of Commissioners originally adopted the Voluntary Farmland Preservation Ordinance of the County of Macon, North Carolina on February 4, 1997, and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance in order to bring the Ordinance into compliance with G.S. 160D and Article 61 of Chapter 106 of the General Statutes, and restate such Ordinance in its entirety as set forth hereinafter; and

WHEREAS, the Board of Commissioners has the authority to make such amendments to the Ordinance pursuant to G.S. 160D-601 and Article 61 of Chapter 106 of the General Statutes; and

WHEREAS, the required Notice of Public Hearing has been duly given and duly published in accordance with the law and the required Public Hearing in connection with such amendments has been duly held in accordance with law.

NOW, THEREFORE, BE IT ORDAINED by the Macon County Board of Commissioners that:

The Voluntary Farmland Preservation Ordinance, originally adopted on February 4, 1997, is hereby amended and restated so that the same will hereafter read as follows:

See Exhibit A attached hereto which is incorporated herein by reference as if more fully set forth herein.

This the ___ day of _____, 2021.

Chairman, Macon County Board of Commissioner

ATTEST:

Clerk to the Macon County Board of Commissioners

CHAPTER 155: VOLUNTARY FARMLAND PRESERVATION

SECTION

155.01	Title
155.02	Purpose
155.03	Enactment
155.04	Definitions
155.05	Agricultural Advisory Board
155.06	Application for Certification of Qualifying Farmland and Voluntary Agricultural Districts
155.07	Revocation of Preservation Agreement
155.08	Public Hearings
155.09	Waiver of Water and Sewer Assessment
155.10	Land Use Incentives to Voluntary Agricultural District Formation
155.11	North Carolina Agency Information

§155.01 TITLE

This ordinance shall be known and may be cited as the *Amended and Restated Voluntary Farmland Preservation Chapter of Macon County, North Carolina*.

§155.02 PURPOSE

The purpose of this ordinance is to encourage the voluntary preservation and protection of farmland from non-farm development, recognizing the importance of agriculture to the economic and cultural life of this County.

§155.03 ENACTMENT

Pursuant to authority conferred by G.S. §§106-735 through-743 and G.S. §160D-903, and for the purpose of promoting the health, safety, morals, and general welfare of the County, the Board of Commissioners of Macon County, North Carolina, does enact this ordinance, which shall be known as the *Amended and Restated Voluntary Farmland Preservation Chapter of Macon County, North Carolina*.

§155.04 DEFINITIONS

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Board. Macon County Agricultural Advisory Board.

Chairman. Chairman of the Agricultural Advisory Board.

District. Voluntary Agricultural District

§155.05 AGRICULTURAL ADVISORY BOARD

A. Creation. The Macon County Agricultural Advisory Board, consisting of five members to be appointed by the Board of County Commissioners, is hereby established.

B. Membership.

1. Requirements

(a) Each Board member shall be a resident of Macon County.

(b) Three of the five members shall be actively engaged in agriculture.

(c) The three members actively engaged in agriculture shall be selected for appointment by the Board of County Commissioners from the names of individuals submitted to the Board of County Commissioners by the Soil and Water Conservation District, the North Carolina Cooperative Extension Service and the Farm Services Agency Committee.

The members of the Board shall be chosen to provide the broadest possible representation of the geographical regions of the County and to represent, to the extent possible, all segments of agricultural production existing in the County.

2. Tenure.

Each member's term of office shall be for three years, except that the initial board is to consist of one appointee for a term of one year; two appointees for terms of two years; and two appointees for terms of three years. Reappointments shall be permitted.

3. Vacancies.

Any vacancy on the Agricultural Advisory Board is to be filled by the Board of County Commissioners for the remainder of the unexpired term.

4. Removal for Cause.

Any member of the Agricultural Advisory Board may be removed for cause by the Board of County Commissioners upon written charges and after a public hearing.

C. Funding.

1. The per diem compensation of the members of the Board while on official business outside the county shall be fixed by the Board of County Commissioners.
2. Funds shall be appropriated to the Board to perform its duties.

D. Procedure.

1. Chairman.

The Board shall elect a Chairman and Vice-Chairman each year at its first meeting of the fiscal year. The Chairman shall preside over all regular or special meetings of the Board. In the absence or disability of the Chairman, the Vice-Chairman shall preside and shall have and exercise all the powers of the Chairman so absent or disabled. Additional officers may be elected as needed.

2. Jurisdiction.

The jurisdiction and procedures of the Board are set out herein, except that as the Board may adopt supplementary rules of procedure not inconsistent with this ordinance, or with other provisions of law.

3. Board Year.

The fiscal year of the Board shall be the county fiscal year.

4. Meetings.

Meetings of the Board, following such notice as required by this ordinance, shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. A called meeting shall be held at least every two months.

5. Majority Vote.

The concurring vote of a majority of the members of the Board shall be necessary to to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under this ordinance.

6. Records.

The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if the absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

7. Administrative.

The Macon County Agricultural Advisory Board may contract with the Natural Resources Conservation Services District Office to serve the Board for record keeping correspondence application procedures under this ordinance, and whatever other services the Board needs to complete its duties.

8. Conflict of Interest.

Pursuant to G.S. 160D-109(b), members of the Board shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of the Board shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person whom the member has a close familial, business, or other associational relationship, as defined by G.S. 160D-109(f).

E. Duties.

In accordance with G.S. 106-739, the Agricultural Advisory Board shall:

1. Review and make recommendations or decisions concerning the establishment and modification of agricultural districts.
 - 1a. Execute agreements with landowners necessary for enrollment of land in a voluntary agricultural district.
2. Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under Article 61 of Chapter 106 of the North Carolina General Statutes.
3. Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involved condemnation of all or part of any qualifying farm.
4. Advise the Board of County Commissioners on projects, programs or issues affecting the agricultural economy or way of life within the County.
5. Perform other related tasks or duties assigned by the Board of County Commissioners.

§155.06 APPLICATION FOR CERTIFICATION OF QUALIFYING FARMLAND AND VOLUNTARY AGRICULTURAL DISTRICTS

A. Requirements.

1. In accordance with G.S. § 106-737, to secure certification as qualifying farmland, it must be real property that:
 - a. Is used for bona fide farm purposes, as that term is defined in G.S. 106-743.4(a) and G.S. 160D-903.
 - b. Is managed, in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodible land; and

- c. Is the subject of a conservation agreement, as defined in G.S. 121-35, between the County and the owner of such land that prohibits non-farm use or development of such land for a period of at least 10 years, except for the creation of not more than three lots that meet applicable County zoning and subdivision regulations. The form of the conservation agreement shall be approved by the agricultural advisory board created under G.S. 106-739.
 - 2. To Form or be included in a voluntary agricultural district, a landowner may apply to the Board. for such inclusion at the same time he or she applies for qualifying farmland certification, or at any time subsequent to receiving qualifying farmland certification.
 - a. Pursuant to G.S. 106-738(b), the purpose of the voluntary agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbor.
 - b. Requirements to participate:
 - (i) Meet the requirements for qualifying farmland as set forth in Section 155.06A. above.
 - (ii). An agricultural district shall consist of at least 30 contiguous acres or more of qualifying farmland; or
 - (iii). Two or more qualifying farms consisting of a total of at least 50 acres and lying within one mile of each other.
 - c. Landowners may apply to participate in existing districts and are encouraged to do so.
- B. Application Procedure.**
- 1. To secure certification as a qualifying farm, and if so desired by the applicant, as an agricultural district, a landowner for such certification will apply to the Agricultural Advisory Board. Application forms may be obtained from the chairperson.
 - 2. Upon receipt of an application, the chairman will forward copies immediately to:
 - a. County Tax Assessor's office.
 - b. Macon County Natural Resources Conservation Service District Offices and the Farm Services Agency. The said offices shall evaluate, complete and return their

comments to the chairperson within 30 days of receipt. The evaluation by the Soil and Water Conservation District and the MCRS may be made jointly.

3. Within 30 days of receipt of the evaluations, the Board shall meet and render a decision regarding the application. The Chairperson shall notify the applicant in accordance with 160D-403 if the real property for which certification is sought satisfies the criteria established in Section 155.06A above, and if the land has been certified as qualifying farmland, and also as a voluntary agricultural district, if application was so sought.
4. If the application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the Macon County Board of Commissioners. Such appeal shall be presented in writing. Appeals from the Macon County Board of Commissioner's decision shall be in accordance with G.S. 160D-405(k).

C. District Maps.

Voluntary agricultural districts shall be marked on county maps which shall be available for public inspection in the following county offices:

1. Register of Deeds;
2. Building Inspection Department;
3. Natural Resources Conservation Service;
4. Cooperative Extension Center;
5. Land Records Division of the Tax Assessor's Office;
6. Any other office deemed necessary by the Board.

D. Action to Inform.

The County may take such action as it deems appropriate through the Agricultural Advisory Board or other body or individual to encourage the formation of voluntary agricultural districts and to further their purposes and objectives, including at a minimum a public information program to reasonably inform landowners of the Farmland Preservation Program.

§155.07 REVOCATION OF A CONSERVATION AGREEMENT.

By written notice to the Board, a landowner may revoke the conservation agreement formulated pursuant to §155.06, or the Board may revoke the conservation agreement based on noncompliance by the landowner. Revocation by the Board shall be in accordance with G.S. 160D-403(f). Such revocation shall result in loss of qualifying farm status. The landowner has 30 days to appeal the

revocation decision to the Macon County Board of Commissioners. Such appeal shall be presented in writing. Appeals from the Macon County Board of Commissioner's decision shall be in accordance with G.S. 160D-405(k).

§155.08 PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND.

A. Purpose.

Pursuant to G.S. §106-740, the county in enacting a Farmland Preservation ordinance may provide that no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district until such agency or unit has requested the local Agricultural Advisory Board to hold a public hearing on the proposed condemnation.

B. Procedure.

1. Upon receiving a request, the Agricultural Advisory Board shall publish notice describing the proposed action in the appropriate newspaper of the area in accordance with state law and will in the same notice notify the public of the time, date and place of a public hearing on the proposed condemnation.
2. The Board shall meet to review:
 - a. If the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - b. Alternatives to the proposed action that are less impactive and disruptive to the agricultural activities and farmland base of the voluntary agricultural district within which the proposed action is to take place.
3. The Board shall consult with the county Agricultural Extension Agent, U.S.D.A Natural Resource Conservation Service District conservationist, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Board's review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed condemnation.
4. The Board shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the agency.
5. Pursuant to G.S. § 106-740(3), the agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations.

§155.09 WAIVER OF WATER AND SEWER ASSESSMENT

A. Purpose.

The purpose of this section is to help mitigate the financial impacts on farmers of some local and state capital investments unused by said farmers.

B. Procedure.

Pursuant to G.S. 106-742, the following procedures shall apply:

1. Water and sewer assessments shall be held in abeyance, without interest or penalty, for farms inside a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
2. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
3. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest and/or penalty.
4. Assessment procedures followed under Article 9 of Chapter 153A of the General Statutes shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.
5. Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under G.S. §153A-201.

§155.10 LAND USE INCENTIVES TO VOLUNTARY AGRICULTURAL DISTRICT FORMATION

A. Purpose.

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

B. Procedure.

1. The Agricultural Advisory Board, in cooperation with the County, shall provide notification to property owners, residents and other interested persons in and adjacent to any designated agricultural district. The purpose of said notification is to inform all current and potential residents and property owners in and adjacent to an agricultural district that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery operations, livestock operations, sawing, and similar activities.

2. Provisions of this ordinance do not provide any exemptions to best management practices or to guidelines and the standards for control of point source and non-point source pollution that may otherwise apply to lands and activities on those lands in an agricultural district.

C. Types of Notification.

1. Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads.
2. Maps identifying approved districts shall be provided to the Register for Deeds, Building Inspections Department, the Natural Resources Conservation Services Office, the Cooperative Extension Office, and the Land Records Office.
3. The following notice shall be available for public inspection in the Register of Deeds office:

“NOTICE TO REAL ESTATE PURCHASERS IN MACON COUNTY OF THE EXISTENCE OF VOLUNTARY AGRICULTURAL DISTRICTS FOR FARMLAND PRESERVATION”

Macon County has established voluntary agricultural districts for farmland preservation to protect and preserve agricultural lands and activities. These districts have been developed and mapped by the County to inform all purchasers of real property that certain agricultural activities, including, but not limited to, pesticide spraying, manure spreading, machinery operations, livestock operations, sawing and similar activities may take place in these districts any time day or night. Maps and information on the location and establishment of these districts can be obtained from the Macon County Planning Office.

D. Limitations.

Voluntary agricultural districts will not be permitted in designated County growth areas, if such areas are delineated on an official county planning map as of the date this ordinance is adopted.

§155.11 NORTH CAROLINA AGENCY NOTIFICATION

- A. The Board shall consult as much as possible with the North Carolina Department of Agriculture, the North Carolina Division of Natural Resources and any other entity the Board deems necessary to the proper conduct of its business.
- B. In accordance with G.S. 106-743, a record of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture’s office after adoption. At least once a year the County shall submit a written report to the Commissioner of Agriculture, including the status, progress, number of enrolled farms and acres, and activities of the County’s Farmland Preservation Program.

Originally Adopted: February 4, 1997
Amended and Restated: _____, 2021

NOTICE OF PUBLIC HEARING

Please take notice that the Macon County Board of Commissioners will conduct a public hearing on Tuesday, November 9, 2021 at 6:00 p.m. in the Commission Boardroom located on the third floor of the Macon County Courthouse, located at 5 West Main Street, Franklin, NC 28734, concerning the proposed “Amended and Restated Macon County Water Supply Watershed Protection Ordinance,” which amends and restates the presently existing Macon County Watershed Protection Ordinance. Public comment upon the same shall be received at this public hearing. The public is invited to attend this public hearing.

The proposed amendments are for the purpose of bringing the Macon County Watershed Protection Ordinance into compliance with Chapter 160D of the North Carolina General Statutes. The proposed amendments can be viewed on the county’s website, www.maconnc.org, under “Public Announcements,” and a hard copy may be obtained in the lobby at the Courthouse Annex Building, 5 West Main Street, Franklin, North Carolina.

This the 22nd day of October, 2021.

Derek Roland, Ex Officio Clerk to the
Macon County Board of Commissioners

**AN ORDINANCE OF THE MACON COUNTY BOARD OF COMMISSIONERS FOR
AN AMENDED AND RESTATED "MACON COUNTY WATER SUPPLY WATERSHED
PROTECTION ORDINANCE"**

WHEREAS, the Macon County Board of Commissioners originally adopted the Macon County Water Supply Watershed Protection Ordinance on November 15, 1993; and

WHEREAS, the same has been amended and/or restated from time to time in order to make changes to the same; and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance in order to bring the Ordinance into compliance with N.C.G.S. 160D and Chapter 143, Article 21 of the North Carolina General Statutes and restate such Ordinance in its entirety as set forth hereinafter; and

WHEREAS, the Board of Commissioners has the authority to make such amendments to the Ordinance pursuant to N.C.G.S. 160D-926 and Chapter 143, Article 21 of the North Carolina General Statutes; and

WHEREAS, the required Notice of Public Hearing has been duly given and duly published in accordance with the law and the required Public Hearing in connection with such amendments has been duly held in accordance with law.

NOW, THEREFORE, BE IT ORDAINED by the Macon County Board of Commissioners that:

The Macon County Water Supply Watershed Protection Ordinance, originally adopted on November 15, 1993 and which has been amended and/or restated from time to time is hereby amended and restated so that the same will hereafter read as follows:

See Exhibit A attached hereto which is incorporated herein by reference as if more fully set forth herein.

This the 9th day of November, 2021.

Chairman, Macon County Board of Commissioner

ATTEST:

Clerk to the Macon County Board of Commissioners

CHAPTER 156: RESTATED AND AMENDED WATER SUPPLY WATERSHED PROTECTION

SECTION

General Provisions

- 156.01 Authority and Enactment
- 156.02 Jurisdiction
- 156.03 Exceptions to Applicability
- 156.04 Definitions

Subdivision Regulations

- 156.15 General Provisions
- 156.16 Subdivision Application and Review Procedures
- 156.17 Subdivision Standards and Required Improvements
- 156.18 Construction Procedures
- 156.19 Penalties for Transferring Lots in Unapproved Subdivisions

Development Regulations

- 156.30 Establishment of Watershed Areas
- 156.31 Watershed Areas- Allowed and Not Allowed Uses (Table of Uses)
- 156.32 Watershed Areas – Density and Built-Upon Limits
- 156.33 Cluster Development
- 156.34 Buffer Areas Required
- 156.35 Rules Governing Interpretation of Watershed Area Boundaries
- 156.36 Application of Regulations
- 156.37 Existing Development
- 156.38 Watershed Protection Permit
- 156.39 Building Permit Required
- 156.40 Watershed Protection Occupancy Permit
- 156.41 Drainage of Impoundment Permits Within Watershed Area of the Town of Highlands

Public Health Regulations

- 156.50 No Threat to Public Health Permitted
- 156.51 Abatement

Administration, Enforcement, and Appeals

- 156.65 Watershed Administrator
- 156.66 Appeal from Administrator
- 156.67 Variances
- 156.68 Appeals from Planning Board
- 156.69 Changes and Amendments to the Ordinance
- 156.70 Public Notice and Hearing Required

156.71 Criminal Penalties
156.72 Remedies

GENERAL PROVISIONS

§156.01 AUTHORITY AND ENACTMENT

The Legislature of the State of North Carolina has, in G.S. §153A-121 *et seq.*, General Ordinance Authority; and in Chapter 143, Article 21, Water and Air Resources, , delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. G.S. §160D-926 refers specifically to watershed management. G.S. §143-214.5 also includes water supply watershed protection requirements. The Board of Commissioners does hereby ordain and enact into law the following sections as the *Water Supply Watershed Protection Ordinance of Macon County*.

§156.02 JURISDICTION

The provisions of this ordinance shall apply: (1) within the areas designated as public water supply watershed by the NC Environmental Management Commission and shall be defined and established on the maps entitled “Watershed Protection Maps of Macon County, North Carolina” (“Watershed Maps”), which have heretofore been adopted as part of this Ordinance; and (2) those areas designated as excellent quality waters (areas which are of exceptional value in Macon County for recreational or ecological significance) which shall be defined and established on the maps entitled “Watershed Protection Maps Showing Excellent Quality Waters of Macon County, North Carolina” (the “Excellent Quality Waters Maps”) which are adopted simultaneously herewith, copies of which are on file in the office of the Macon County Planner and in the office of the Macon County Manager.

The EQW Watershed Area is further described as: All that area located within 1,000 feet of the top of either bank of the Little Tennessee River and that area located within 500 feet to the top of either bank of any perennial stream which constitutes a tributary of the river and is located north of a point in the center of the dam which creates Lake Emory and extending northerly along said river to the Macon County/Swain County line.

The Watershed Maps and all explanatory matter contained thereon, are hereby made a part of this Ordinance and are incorporated herein by reference as if herein fully set forth.

A copy of this Ordinance shall be permanently kept on file in the office of the Macon County Manager.

§156.03 EXCEPTIONS TO APPLICABILITY

(A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these

regulations specifically replace; nor shall any provision of this ordinance amend, modify or restrict any provisions of the Code of Ordinances of Macon County; however, the adoption of this ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the County at the time of the adoption of this ordinance that may be construed to impair or reduce the effectiveness of this ordinance or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(C) Existing development, as defined in this ordinance, is regulated under the provisions as stated in §156.37.

(D) Expansions to existing development must meet the requirements of this ordinance, except single family residential development unless expansion is part of common plan of development. In an expansion, the built-upon area of the existing development is not required to be included in the density calculations. Where there is a net increase of built upon area, only the area of net increase is subject to this ordinance. Where existing development is being replaced with new built upon area, and there is net increase of built upon area, only areas of net increase shall be subject to this ordinance.

(E) If a Non-Conforming Lot of Record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. [The County requires the combination of contiguous nonconforming lots of record owned by same party to establish a lot or lots that meet the requirements as set forth in Sections 156.15- 156.19 of this ordinance.]

§156.04 DEFINITIONS

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words in the present tense include future tense. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

AGRICULTURAL USE. The use of waters for stock watering, irrigation, and other farm purposes.

BALANCE OF WATERSHED (BW). The area adjoining and upstream of the critical area in a WS-II and WS_III water supply watershed. The “balance of watershed” is comprised of the entire land area contributing to surface drainage to the stream, river, or reservoir where a water supply intake is located.

BEST MANAGEMENT PRACTICES (BMPS). A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

BUFFER. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

BUILDING. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosing of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

BUILT-UPON AREA. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious (does not allow water to infiltrate from surface to subsurface) cover including buildings, pavement, gravel areas (such as roads, parking lots, paths), recreation facilities (such as tennis courts), and the like. (Note: Wooden slatted decks are considered pervious).

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes non-residential development as well as single family residential subdivisions and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed use development are considered as cluster development.

COMMON PLAN OF DEVELOPMENT. Site where multiple separate and distinct development activities may be taking place at different times or different schedules but governed by a single development plan regardless of ownership of parcels.

CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either ½ mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or ½ mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). The County may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

CUSTOMARY HOME OCCUPATIONS. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that

no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over 25% of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, and the like.

DAM. A structure and appurtenant works erected by human effort and direction to impound or divert water.

DEVELOPMENT. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DISCHARGING LANDFILL. A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

DRAINING. Any act in furtherance of the release of water from an impoundment at a rate greater than the rate by which the impoundment is normally replenished by its usual groundwater and subsurface sources.

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for one family.

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina law as of the effective date of this ordinance, (i.e. November 15, 1993) to which the project is subject.

EXISTING LOT (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance (i.e. prior to November 15, 1993), or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance (i.e. prior to November 15, 1993).

FAMILY. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

HAZARDOUS MATERIAL. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

IMPOUNDMENT. The body of water impounded by a dam.

INDUSTRIAL DEVELOPMENT. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

INTERMITTENT STREAM. A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same. Includes the words “plot”, “parcel”, or “tract”.

MAJOR VARIANCE. A variance that is not a Minor Variance as defined in this ordinance.

MINOR VARIANCE. A variance from the ordinance that results in a relaxation, by a factor of up to 10%, of any management requirement under the low density option. For variances to a buffer requirement, the percent variation shall be calculated using the foot print of built-upon area proposed to encroach with the buffer divided by the total area of vegetated setback within the project.

NONCONFORMING LOT OF RECORD. A lot described by a plat or deed that was recorded prior to the effective date of this ordinance (i.e. prior to November 15, 1993) that does not meet the minimum size or other development requirements of this ordinance.

NON-RESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

PERENNIAL STREAM. A well-defined channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

PERENNIAL WATERBODY. A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude the growth of rooted plants. The water body must be part of a natural drainage way (e.g. connected by surface flow to a stream).

PERSON. Includes a firm, association, corporation, trust, and company as well as individual.

PLAT. A map or plan of a parcel of land which is to be, or has been subdivided.

QUALIFIED INDIVIDUAL. A person certified to perform stream determinations by completing and passing the Surface Water Identification Training and Certification (SWITC) course offered by the N.C. Div. of Water Resources at N.C. State University.

RECREATIONAL VEHICLE. A vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

RECREATIONAL VEHICLE PARK OR SUBDIVISION. A tract or parcel (or contiguous parcels) of land divided into two or more lots or RV parking sites for rent or sale for occupancy by recreational vehicles used as temporary living quarters or for storage of a recreational vehicle.

RESIDENTIAL DEVELOPMENT. Buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, and the like, and their associated outbuildings such as garages, storage buildings, gazebos and the like, and customary home occupations.

RESIDUALS. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under the authority of the Environmental Management Commission.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water from its site of origin.

SHALL. Is always mandatory and not merely directory.

SINGLE-FAMILY RESIDENTIAL. Any development where:

- (1) No building contains more than one dwelling unit;
- (2) Every dwelling unit is on a separate lot; and

- (3) Where no lot contains more than one dwelling unit.

STREET (ROAD). A right of way for vehicular traffic which affords the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land. Includes the word "building".

SUBDIVIDER. Any person, firm, corporation or official who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance.
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets.
- (4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance.
- (5) The division of a tract into plots or lots used as a cemetery.
- (6) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

SURFACE WATERS. All water of the State as defined in N.C.G.S. §143-212 except underground waters.

TEN-YEAR STORM. The surface run-off resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of run-off for the watershed of interest under average antecedent wetness conditions.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

VARIANCE. A permission to develop or use property granted by the Planning Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

VESTED RIGHT. The right to undertake and complete the development and use of property under the terms and condition of an approved site-specific development plan or an approved phased development plan, in accordance with N.C.G.S §160D-108.

WATER DEPENDENT STRUCTURE. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

WATERSHED. The entire land area contributing surface drainage to a specific point (such as the water supply intake) or alternatively, the geographic region within which water drains to a particular river, stream or body of water.

WATERSHED ADMINISTRATOR. An official or designated person of Macon County responsible for administration and enforcement of this ordinance with the exception of Section 156.41 which shall mean the official or designated person of the Town of Highlands responsible for administration and enforcement of Section 156.41.

WILL. Is always mandatory and not merely directory.

SUBDIVISION REGULATIONS:

§156.15 GENERAL PROVISIONS

(A) No subdivision plat of land within the Water Supply Watershed shall be filed or recorded by the Macon County Register of Deeds until it has been approved in accordance with the provisions of this ordinance. Likewise, the Macon County Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this ordinance.

(B) The approval of a plat does not constitute or effect the acceptance by the County or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility show on the plat and shall not be construed to do so.

(C) All subdivisions shall conform with the mapping requirements contained in G.S. §47-30.

(D) All subdivisions of land within the jurisdiction of the County after the effective date of this ordinance (i.e. November 15, 1993) shall require a plat to be prepared, approved, and recorded pursuant to this ordinance.

§156.16 SUBDIVISION APPLICATION AND REVIEW PROCEDURES

(A) All proposed subdivisions shall be reviewed prior to recording with the Macon County Register of Deeds by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within the designated Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this ordinance and may be recorded provided the Watershed Administrator initials the vicinity map. Subdivisions within the designated watershed area shall comply with the provisions of this ordinance and all other state and local requirements that may apply.

(B) Subdivision applications shall be filed with the Watershed Administrator on forms provided by the Administrator. The application shall include a completed application form, 2 copies of the plat, a description of the proposed method of providing storm water drainage, and supporting documentation deemed necessary by the Watershed Administrator or the Planning Board.

(C) The Watershed Administrator shall review the completed application and shall either approve, approve conditionally, or disapprove the application. The Watershed Administrator shall take final action within 45 days of submission of the application. The Watershed Administrator may provide public agencies an opportunity to review and make. However, failure of the agencies to submit their comments and recommendations shall not delay the Watershed Administrator's action within the prescribed time limit. The public agencies may include, but are not limited to the following:

(1) The NCDOT district highway engineer with regard to proposed streets and highways.

(2) The director of the Macon County Health Department with regard to proposed private water systems or sewer systems normally approved by the Health Department.

(3) The state Division of Water Resources with regard to proposed sewer systems normally approved by the Division.

- (4) The state Division of Energy, Mineral and Land Resources with regard to engineered storm water controls or storm water management in general.
 - (5) County entities responsible for proposed sewer and/or water systems.
 - (6) Any other agency or official designated by the Watershed Administrator or Planning Board.
- (D) If the Watershed Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Watershed Administrator.

Certificate of Approval For Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Administrator for recording in the Register of Deeds Office.

Date: _____

Watershed Administrator: _____

Notice: This property is located within a Water Supply Watershed --development restrictions may apply.

- (E) If the Watershed Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and in accordance with N.C.G.S. §160D-403. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.
- (F) As a condition for approval, all subdivision plats shall comply with the requirements for recording of the Macon County Register of Deeds.
- (G) The Subdivider shall provide the Watershed Administrator with the evidence the plat has been recorded with the Macon County Register of Deeds within 5 working days.

§156.17 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS.

(A) *Adequate Building Space.* All lots shall provide adequate building space in accordance with the development standards contained in §156.30 through 156.41. Lots which are smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Sections §156.30 through 156.41 shall be identified on the plat as "NOT FOR RESIDENTIAL PURPOSES".

(B) *Total Project Area.* For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(C) *Storm Water Drainage Facilities.* The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts storm water runoff away from surface waters, incorporates Storm Water Control Measures to minimize water quality impacts, and meets any local requirements.

(D) *Erosion and Sedimentation control.* The application shall, where required, be accompanied by the sedimentation and erosion control plan approval by the County's Soil and Erosion Control Administrator..

§156.18 CONSTRUCTION PROCEDURES

(A) No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved by the Watershed Administrator.

(B) No building or other permits shall be issued for erection of a structure on any lot not on record at the time of adoption of this ordinance (i.e. November 15, 1993) until all requirements of this ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Watershed Administrator to provide for adequate inspection.

§156.19 PENALITIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of Macon County, thereafter subdivides his or her land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction for this penalty. The County may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

DEVELOPMENT REGULATIONS

§156.30. ESTABLISHMENT OF WATERSHED AREAS

The purpose of this Section is to list and describe the watershed areas herein adopted.

For purposes of this ordinance, Macon County is hereby divided into the following area(s) as appropriate:

Watershed Classification

WS-I
 WS-II-CA
 WS-II-BW
 WS-III-CA
 WS-III-BW
 WS- EQW

Watershed Type

Watershed One
 Watershed Two Critical Area
 Watershed Two Balance Area
 Watershed Three Critical Area
 Watershed Three Balance Area
 Watershed Excellent Quality Waters

**§156.31. WATERSHED AREAS – ALLOWED AND NOT ALLOWED USES
 (TABLE OF USES)**

Activity/Use	Watershed Supply Watershed Classification					
	WS-I	WS-II-CA	WS-II-BW	WS-III-CA	WS-III-BW	WS-EQW
New Landfills	No	No	Yes	No	Yes	No
Discharging Landfills	No	No	No	No	No	No
New permitted residual land application	No	No	Yes	No	Yes	No
New permitted petroleum contaminated soils sites	No	No	Yes	No	Yes	No
NPDES General or Individual Stormwater Discharges	Yes ^a	Yes	Yes	Yes	Yes	No
NPDES General Permit Wastewater Discharges pursuant to 15A NCAC 02H.0127	Yes ^a	Yes	Yes	Yes	Yes	No
NPDES Individual Permit trout farm discharges	Yes ^a	Yes	Yes	Yes	Yes	No
New NPDES Individual Permit domestic treated wastewater discharge	No	No	No	No	Yes	No
New NPDES Individual Permit industrial treated wastewater discharge	No	No	No	No ^b	No ^b	No
Non-Process Industrial Waste	No	No	No	Yes	Yes	No
New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H.0904	No	No	No	No	No	No
Sewage	No	No ^c	No ^c	No ^c	No ^c	No ^c
Industrial Waste	No	No ^c	No ^c	No ^c	No ^c	No ^c

Other wastes	No	No ^c	No ^c	No ^c	No ^c	No ^c
Groundwater remediation project discharges ^d	Yes	Yes	Yes	Yes	Yes	No
Agriculture ^e	Yes	Yes	Yes	Yes	Yes	Yes
Silviculture ^f	Yes	Yes	Yes	Yes	Yes	Yes
Residential Development ^g	No	Yes	Yes	Yes	Yes	Yes
Non-residential Development	No	Yes	Yes	Yes	Yes	Yes
Nonpoint Source Pollution ^h	Yes	Yes	Yes	Yes	Yes	No
Animal Operations ⁱ	Yes	Yes	Yes	Yes	Yes	No

Notes:

^a Permitted pursuant to 15A NCAC 02B.0104

^b Except non-process industrial discharges are allowed

^c Only allowed if specified in 15A NCAC 02B.0104

^d Where no other practical alternative exists

^e In WS-I watersheds and Critical Areas of WS-II and WS-III watersheds, agricultural activities conducted after 1/1/1993 shall maintain a minimum 10 foot vegetated setback or equivalent control as determined by SWCC along all perennial waters indicated on most recent version of USGS 1:24000 scale (7.5 minute) topographic maps or as determined by local government studies.

^f Subject to Forest Practice Guidelines Related to Water Quality (02 NCAC 60C .0100 to .0209) Effective 4/1/2018

^g See density requirements in 15A NCAC 02B.0624

^h NPS pollution shall not have adverse impact, as defined in 15A NCAC 02H.1002, on use as water supply or any other designated use.

ⁱ Animal operations deemed permitted, as defined in 15A NCAC 02T.0103 and permitted under 15A NCAC 02T.1300.

§156.32. WATERSHED AREAS – DENSITY AND BUILT-UPON LIMITS

(A) *Project Density.* The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development:

Water Supply Classification	Location in the Watershed	Maximum Allowable Project Density or Minimum Lot Size	
		Density Development	
		Single-Family Detached Residential	Non-residential and all other residential*
WS-I	Not Applicable: Watershed shall remain undeveloped except for the following uses when they cannot be		

	avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment and distribution of the WS-I water. Built-upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.		
WS-II	CA	1 dwelling unit (du) per 2 acres	6% built-upon area
	BW	1 du per 1 acre	12% built-upon area**
WS-III	CA	1 du per 1 acre	12% built-upon area
	BW	2 du per 1 acre	24% built-upon area**
WS-EQW		2 du per 1 acre	18% built upon area**

* For the purposes of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

** SNIA's allowed upon approval by Planning Board – see Section C below

(B) *Additional Requirements.* In addition to complying with the project density requirements of Paragraph (A) above, projects shall comply with the following:

(1) Vegetated Conveyances. Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, the County shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this sub-paragraph:

(a) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and

(b) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.

(2) Curb Outlet Systems. In lieu of vegetated conveyances, projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

- (a) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;
- (b) The longitudinal slope of the swale or vegetated area shall not exceed 5% except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;
- (c) The swale's cross section shall be trapezoidal with a minimum bottom width of 2 feet;
- (d) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
- (e) The minimum length of the swale or vegetated area shall be 100 feet; and
- (f) Projects may use treatment swales designed in accordance with 15A NCAC 02H.1061 in lieu of the requirements specified in (a) through (e) above.

(C) Special Nonresidential Intensity Allocations (SNIA).

In WS-II -Balance of Watershed, WS-III -Balance of Watershed and EQW watersheds, non residential uses may occupy 10% of the balance of the watershed, which is outside the critical area, with a 70% built-upon area when approved as a special nonresidential intensity allocation (SNIA). The Planning Board is authorized to approve SNIA's consistent with the provisions of this ordinance, and such approved projects shall be awarded on a first come, first serve basis. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Non-discharging landfills and residuals applications sites are allowed. Recreational vehicle parks shall not be eligible for a SNIA.

Projects shall comply with the requirements set forth in Paragraph (B) above.

Projects that require point source discharges of a kind and nature which require permitting under Federal, State or local laws, ordinances, rules or regulations (now in existence or hereafter enacted) are prohibited in WS-II-BA, WS-III-BA and EQW watersheds.

§156.33 CLUSTER DEVELOPMENT

Clustering development is allowed in all Watershed areas (except WS-I) under the following conditions:

- (A) Minimum lot sizes are not applicable to single family cluster development projects nor recreational vehicle parks; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in §156.31. Density or built-upon area for the

project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.

(B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

(C) Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainageways.

(D) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(E) Cluster developments shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

§156.34 BUFFER AREAS REQUIRED

In all watershed areas affected by this ordinance, the following buffer requirements shall be in effect:

(A) A minimum 30-foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies, except around the shore of Lake Sequoya, where the required buffer shall be fifty (50) feet; provided however, that access drives from existing roads located within the Lake Sequoyah buffer shall be permitted. Desirable artificial streambank or shoreline stabilization is permitted.

(B) Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.

(C) No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area, and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

§156.35 RULES GOVERNING INTERPRETATION OF WATERSHED AREA BOUNDARIES

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Maps, the following rules shall apply.

- (A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- (B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within watershed area.
- (C) Where the watershed area boundaries lie at a scaled distance more than 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scaled appearing on the watershed map.
- (D) Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- (E) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Maps as to location of such boundaries. This decision may be appealed to the Planning Board.

§156.36 APPLICATION OF REGULATIONS.

- (A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- (B) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required to make another building.
- (C) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in §156.37.
- (D) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

§156.37 EXISTING DEVELOPMENT

Any existing development, as defined by this ordinance, may be continued and maintained subject to the provisions provided herein.

- (A) *Expansions of Existing Development.*

Existing development as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

(B) *Reconstruction of Buildings or Built-Upon Areas.* Single-family residential development may be repaired and/or reconstructed without restriction. Any other existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, provided:

(1) Repair or reconstructed is initiated within 12 months and completed within an additional two years of such damage.

(2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided and the additional built-upon area meets the expansion requirements above.

(C) *Uses of Land.* This category consists of uses existing at the time of adoption of this ordinance (i.e. prior to November 15, 1993) where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such use of land as a non-permitted use shall be changed only to an allowed use.

(3) When such a non-permitted use ceases for a period of at least 12 consecutive months, it shall not be reestablished.

(D) *Vacant Lots.* This category consists of vacant lots for which plats or deeds have been recorded in the office of the Registrar of Deeds of Macon County. A lot may be used or any of the uses allowed in the water area in which it is located.

§156.38 WATERSHED PROTECTION PERMIT

(A) Except where a single-family residence is constructed on a lot deeded prior to the effective date of this ordinance (i.e. prior to November 15, 1993), no building or built-upon area shall be erected, moved, enlarged, or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.

(B) Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form to be provided by the Watershed Administrator and supporting documentation deemed necessary by the Watershed Administrator.

(C) For those watershed protection permit applications which require use of the built-upon option instead of the lot-size option (i.e. non-residential and all other residential that is not single family residential – see Uses Table), the application shall include the following information:

- (1) A site sketch, drawn to scale of at least one inch to 40 feet, of the parcel of property showing its actual dimensions and size, and showing the dimensions and size of all buildings, pavement, gravel roads, recreation facilities, or any other portion of a development that is impervious or partially impervious;
- (2) The use to which the completed project shall be devoted; and
- (3) Any other information reasonably necessary to evaluate the compliance of the applicant's proposal with the provisions of this ordinance.

(D) Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

(E) A Watershed Protection Permit shall expire if a building permit or Watershed Occupancy Permit for such use is not obtained by the applicant within 12 months from the date of issuance.

§156.39 BUILDING PERMIT REQUIRED

Except for a single-family residence constructed on a lot deeded prior to the effective date of this chapter, no permit required under North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

§156.40 WATERSHED PROTECTION OCCUPANCY PERMIT

(A) The Watershed Administrator shall issue a Watershed Protection Occupancy permit certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

(B) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within 10 business days after the erection or structural alterations of the building. The applicant should notify the Watershed Administrator and request the issued Watershed Protection Occupancy permit when building is complete.

(C) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

(D) If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing state the reasons for denial. and in accordance with N.C.G.S. §160D-403.

(E) No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

§156.41 DRAINAGE OF IMPOUNDMENT PERMITS WITHIN WATERSHED AREA OF THE TOWN OF HIGHLANDS

(A) *Purpose and Scope.* The draining of impoundments without taking adequate precautions to prevent the release of accumulated sediment into the stream below the impoundment shall be considered a threat to the public health, safety and welfare. This section is adopted for the purposes of regulating the draining of impoundments.

(B) *Jurisdiction.* The provisions of this section shall apply within that portion of the watershed area of the Town of Highlands which is located within the County of Macon and not within the boundaries of the Town of Highlands, as the same is determined on the Watershed Maps.

(C) *Permit Required.*

(1) Before the owner of any impoundment drains an impoundment, he or she shall first notify the Town of Highlands Watershed Administrator in writing not less than 30 days prior to doing so, specifying the name of the impoundment, if any, the location of the impoundment, the surface area of the impoundment, and the size of the contributing drainage area. The owner or his or her agent shall not proceed with the draining without issuance of an Impoundment Draining Permit from the Town of Highlands Watershed Administrator.

(2) Submittal of the following information shall be required:

(a) *Impoundments either less than or equal to ½ acre in surface area or naturally receiving the surface water runoff of less than or equal to 75 acres.* For impoundments either less than or equal to ½ acre in surface area at full pool, or receiving the surface water runoff from less than or equal to 75 acres of contributing drainage area, or both (such as meeting both of the two foregoing criteria), the

applicant shall submit a plan indicating the method to be used in draining the lake and the measures to be taken to prevent the release of sediment from the impoundment. Such plans shall also include the following:

- (i) A time schedule for completion of the draining. The time limit for draining the impoundment shall not exceed 60 days without written permission from the Town of Highlands Watershed Administrator, unless the draining is of a permanent nature, and in such case all areas subject to erosion and sedimentation shall be permanently stabilized.
- (ii) Plans showing the specific measures to be taken to limit turbidity immediately downstream from the impoundment to 50 NTUs at all times during and after draining.

(b) *Impoundments either more than ½ acre in surface area or naturally receiving the surface water runoff of more than 75 acres.* For impoundments either more than ½ acre in surface area at full pool, or receiving the surface water runoff from more than 75 acres of contributing drainage area, or both (such as meeting both of the two foregoing criteria), the applicant shall submit a plan prepared by an N.C. Professional Engineer, indicating the method to be used in draining the lake and the measures to be taken to prevent the release of sediment from the impoundment. Such plans shall also include the following:

- (i) A time schedule for completion of the draining. The time limit for draining the impoundment shall not exceed 60 days without written permission from the Town of Highlands Watershed Administrator, unless the draining is of a permanent nature, and in such case all areas subject to erosion and sedimentation shall be permanently stabilized.
- (ii) Detailed plans and specifications sealed by an N.C. Professional Engineer showing temporary erosion control measures, diversion measures, or other channel protection measures designed to protect against erosion and the loss of sedimentation at all times up to and including a ten-year storm, and to limit turbidity immediately downstream from the impoundment to 50 NTUs at all times during and after draining.

(c) The Town of Highlands Watershed Administrator may submit any plans received under the foregoing divisions (A) and (B) to the town engineer, to a consulting engineer having expertise in this field, or to the North Carolina

Department of Environment and Natural Resources (DENR) for review and comment at the expense of the Town of Highlands. The Town of Highlands Watershed Administrator shall issued the Impoundment Draining Permit only upon a determination that the plan is adequate to prevent the release of sediment from the impoundment and to limit turbidity immediately downstream from the impoundment to 50 NTUs at all times during and after draining.

(d) Such permit shall not relieve the applicant of the obligation to obtain whatever state or federal permits are required under the law.

(e) The applicant shall comply in all respects with the time schedules and approved plans.

(f) The Town of Highlands Watershed Administrator may also request the Town Engineer, qualified officials from the North Carolina Department of Environment and Natural Resources, or other qualified consultants or employees of the Town of Highlands, to conduct turbidity monitoring downstream from the impoundment to ensure compliance with the plan submitted and approved. "Turbidity monitoring" as used herein, shall mean all testing, sampling, or other procedures or activities related to the determination of turbidity levels both upstream and downstream from impoundments. The Town of Highlands Watershed Administrator may assess the costs of all turbidity monitoring to the applicant. The applicant shall allow access to all portions of the applicant's land necessary to accomplish any of the purposes of this section.

PUBLIC HEALTH REGULATIONS

§156.50 NO THREAT TO PUBLIC HEALTH PERMITTED.

No activity, situation, structure or land use shall be allowed within the watershed, which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from in adequate on-site sewage systems which utilize ground absorptions; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff, or any other situation found to pose a threat to water quality.

§156.51 ABATEMENT

(A) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) Where the Watershed Administrator finds a threat to water quality and the public health, safety, and welfare, the Macon County Board of Commissioners shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

ADMINISTRATION, ENFORCEMENT AND APPEALS

§156.65 WATERSHED ADMINISTRATOR

Macon County shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

(A) The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

(B) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection ordinance and shall provide copies of all amendments upon adoption to the Stormwater Branch of the Division of Energy, Mineral, and Land Resources.

(C) The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of 10% of the non-critical area of WSII-BW and WS-III-BW watersheds may be developed with nonresidential development at a maximum of 70% built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use, and stormwater management plan (if applicable).

(D) The Watershed Administrator is granted the authority to administer and enforce the provisions of this ordinance, exercising in the fulfillment of his or her responsibility the full police power of Macon County, except that no civil or criminal action can be taken without the expressed permission of the County Manager. The Watershed Administrator, or his or her duly authorized representative, may periodically inspect projects to ensure compliance with this ordinance Pursuant to GS 160D-403(e), the Watershed Administrator, or his or her duly authorized representative, must enter the premises during reasonable hours and upon presenting credentials; provided however that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(E) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection ordinance and shall submit this record for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

§156.66 APPEAL FROM ADMINISTRATOR

(A) Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Planning Board.

(B) An appeal from a decision of the Watershed Administrator must be submitted to the Clerk for the Planning Board within 30 calendar days from receipt of the written order, interpretation, decision or determination. Notice given pursuant to N.C.G.S. 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(C) All appeals must be made in writing stating the reasons for the appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board and to the appellant (and to the owner of the property that is the subject of the appeal if the appellant is not the owner) all documents and exhibits constituting the record upon which the decision appealed from was taken.

(D) Pursuant to N.C.G.S. 160D-405(f), an appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Planning Board and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the Watershed Administrator certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a requires for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.

(E) The Planning Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent, or attorney. Hearings shall be held in accordance with N.C.G.S. 160D-406.

§156.67 VARIANCES

(A) *Variances.* The Planning Board shall have the power to authorize, in specific cases, minor variances from the terms of this ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the County shall notify and

allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

- (1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
 - (a) A site plan, drawn to a scale of at least one inch to 40 feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of the person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
 - (b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Planning Board in considering the application.
 - (c) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Planning Board. Such comments shall become a part of the record of proceedings of the Planning Board.
- (2) Before the Planning Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
 - (a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
 1. If he or she complies with the provisions of the ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his or her property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of his or her property.
 2. The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship.

3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of the neighboring property.
 4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property after the effective date of the ordinance (i.e. November 15, 1993), and then comes to the Board for relief.
 5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
- (b) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.
- (c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- (3) In granting the variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure, or use as it may deem advisable in the furtherance of the purpose of this ordinance. If a variance for the construction, alteration, or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
 - (4) The Planning Board shall refuse to hear an appeal or application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
 - (5) A variance used in accordance with this section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within 6 months from the date of the decision. Once a variance has been issued for a particular parcel, it shall remain in effect for the six-month period, regardless of a transfer in ownership.
 - (6) If the application calls for the granting of a major variance, and if the Planning Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- (a) The variance application;
- (b) The hearing notices;
- (c) The evidence presented;
- (d) Motions, offers of proof, objections to evidence, and rulings on them;
- (e) Proposed findings and exceptions; and
- (f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make practical use of the property unless the proposed variance is granted, and (2) the variance if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Planning Board. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Planning Board. The Board shall prepare a final decision denying the variance as proposed.

§156.68 APPEALS FROM PLANNING BOARD

Appeals from the Planning Board must be filed with the Superior Court of Macon County in accordance with N.C.G.S. 160D-406(k) and subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to N.C. G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

§156.69 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE

(A) The Macon County Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Planning Board for review and recommendations. If no recommendation has been received from the Planning Board within 45 days after submission of the proposal to the Chairman of the Planning Board, the Macon County Board of Commissioners may proceed as though a favorable report had been received.

(C) Under no circumstances shall the Macon County Board of Commissioners adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Energy, Mineral and Land Resources.

§156.70 PUBLIC NOTIC AND HEARING REQUIRED

Before adopting or amending this ordinance, the Macon County Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public meeting shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than 10 nor more than 25 days before the date fixed for the hearing.

§156.71 CRIMINAL PENALTIES.

Any person violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with N.C.G.S. §14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

§156.72 REMEDIES

(A) If any subdivision, development and/or land use is found to be in violation of this ordinance, the Macon County Board of Commissioners may, in addition to all other remedies available either in law or in equity, impose a civil penalty in the amount of \$100.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. §143.215.6(a). The penalties and remedies herein provided shall be in addition to and not in substitution of other penalties now or hereafter provided by law. Each day that the violation continues shall constitute a separate offense.

(B) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he or she shall notify in writing the person responsible for such violation, indicating the

nature of the violation, and ordering the necessary actions to correct it, in accordance with N.C.G.S. §160D-403. The Administrator shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. An aggrieved party or parties may appeal a ruling of the Watershed Administrator to the Planning Board.

§156.73 SEVERABILITY

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Effective upon adoption this ____ day of November 2021.

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – REPORTS/PRESENTATIONS

MEETING DATE: NOVEMBER 9, 2021

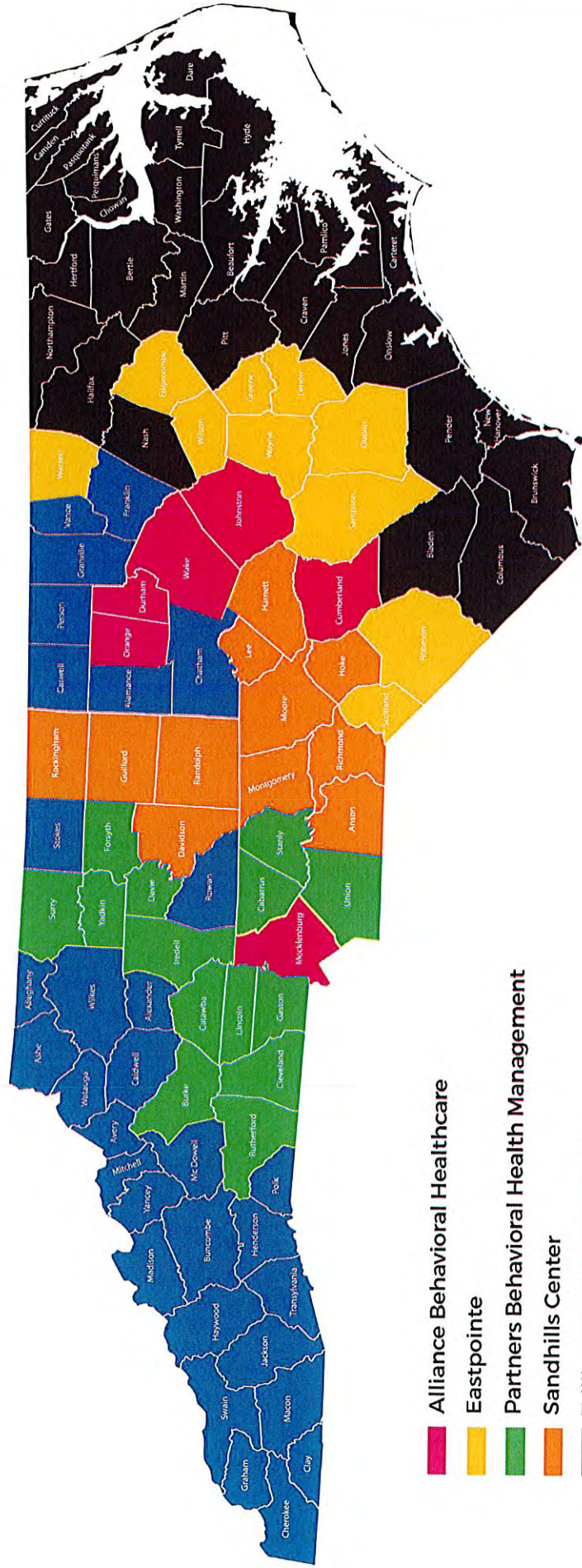
9A. Shelly Foreman, the Community Relations Regional Director for Vaya Health, will present an overview of the new Vaya Health Regional Advisory Board structure and the appointment process for members of that board. A copy of her PowerPoint presentation will be included in the packet for your review. It is my understanding from Ms. Foreman's email that the commission would make two appointments, one being a county commissioner and the other being either another commissioner, the county manager, the DSS or Public Health director, or the sheriff. Those appointments have been scheduled under Agenda Item 13B later in the meeting.

9B. Tammara Cole Talley, the North Carolina Cooperative Extension 4-H and Youth Development Agent for Macon County, has requested time on the agenda for her 4-H'ers to give a short report about their activities during 2021.

County Commissioner Advisory Board
October 27, 2021



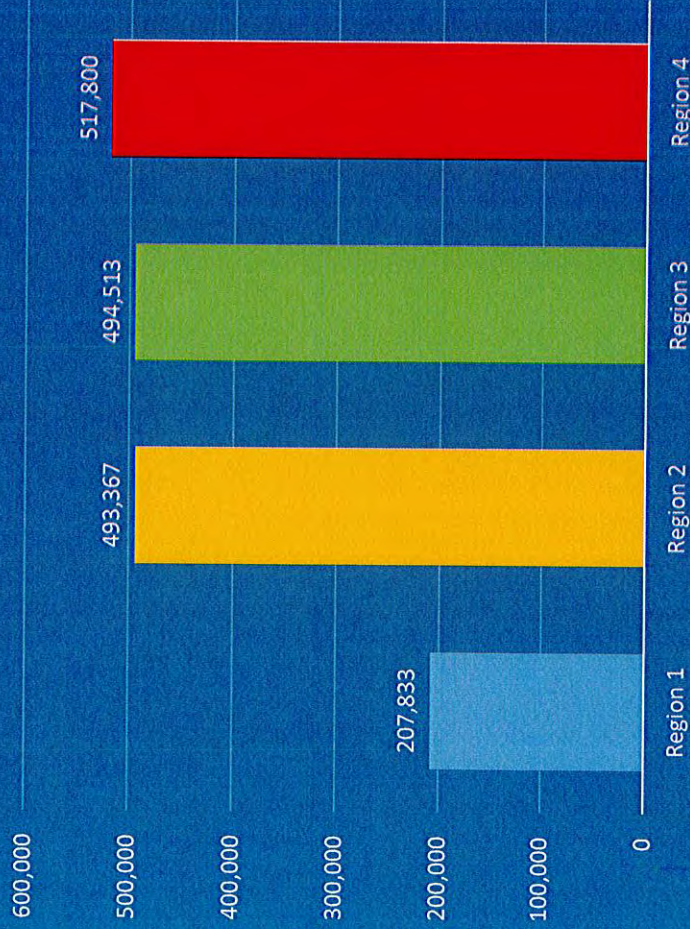
LME/MCO County Alignments



- Alliance Behavioral Healthcare
- Eastpointe
- Partners Behavioral Health Management
- Sandhills Center
- Trillium Health Resources
- Vaya Health

Regional Boards

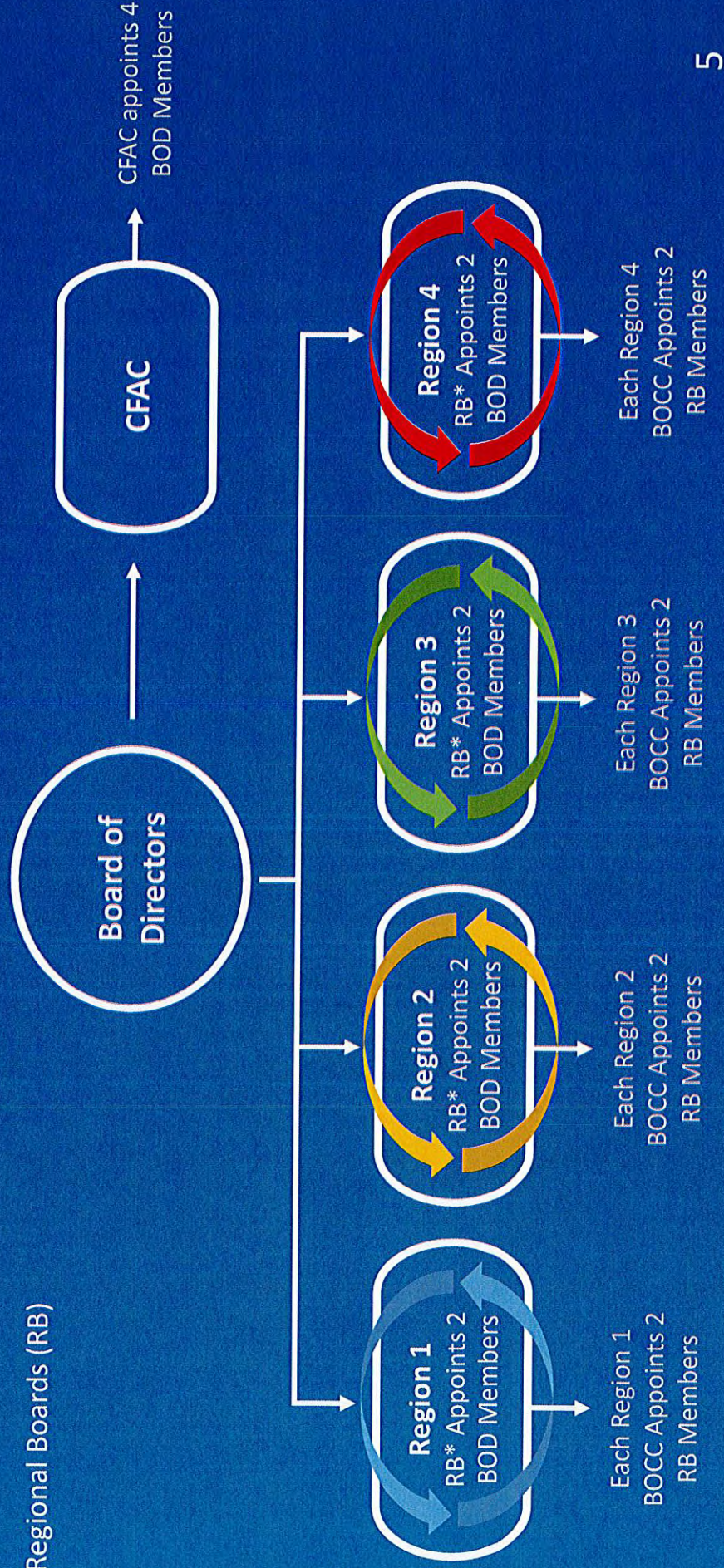
General Population



Region 1	Region 2
<ol style="list-style-type: none"> 1. Cherokee 2. Clay 3. Graham 4. Haywood 5. Jackson 6. Macon 7. Swain 	<ol style="list-style-type: none"> 1. Buncombe 2. Henderson 3. Madison 4. Mitchell 5. Polk 6. Transylvania 7. Yancey
Region 3	Region 4
<ol style="list-style-type: none"> 1. Alexander 2. Alleghany 3. Ashe 4. Avery 5. Caldwell 6. McDowell 7. Watauga 8. Wilkes 9. Rowan 	<ol style="list-style-type: none"> 1. Stokes 2. Alamance 3. Caswell 4. Chatham 5. Person 6. Franklin 7. Granville 8. Vance

Alternative Board Structure

*Regional Boards (RB)

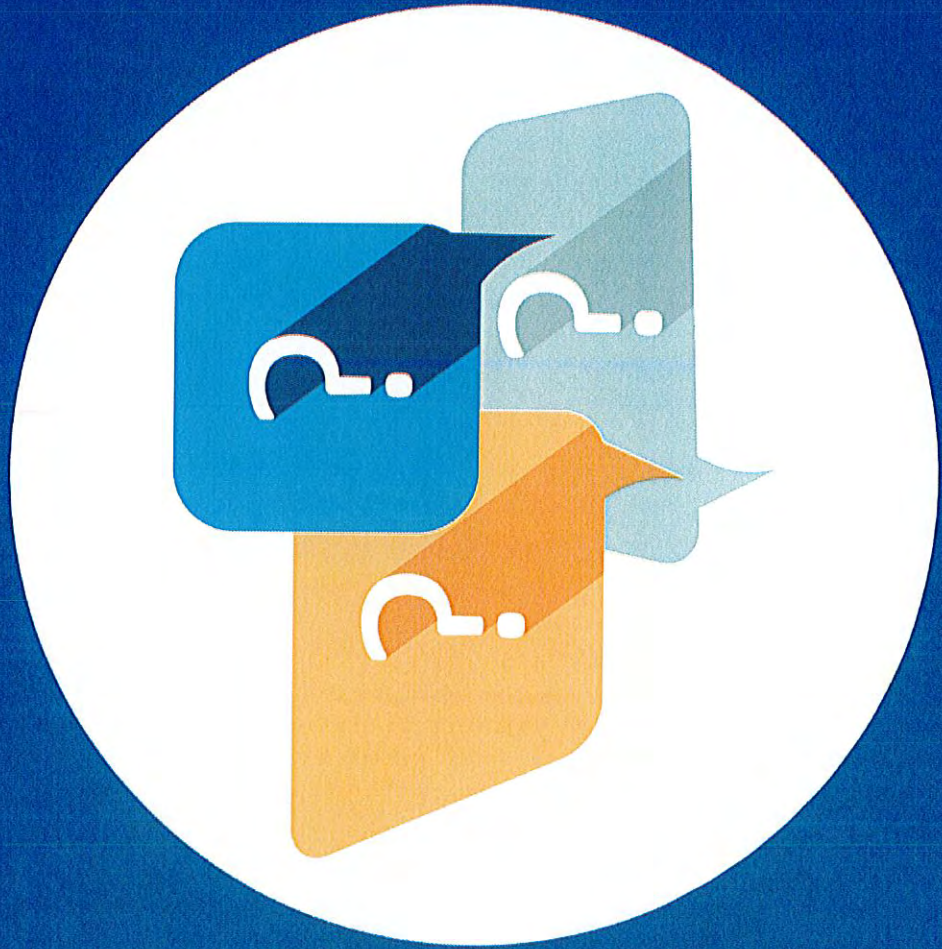


Proposed Composition for Consolidated Board of Directors

- 2 directors appointed by each Regional Board
- 4 directors appointed by Consumer & Family Advisory Committee
 - *Goal is that CFAC regions will align and there will be 1 director from each CFAC region*
- 1 director appointed by the DHHS Secretary
- Up to 8 At-Large directors appointed by current Vaya Board in consultation with Cardinal Board, CCABs, counties
 - *Would be appointed AFTER the Regional Boards make their appointment*
- The Provider Advisory Council President serves as non-voting director
- Up to 3 non-voting advisory directors

Timing and Plan

	September 2021 <ul style="list-style-type: none"> ✓ Present draft to Futures Committee and Vaya Board 		October 2021 <ul style="list-style-type: none"> ✓ Send draft to DHHS for socialization ✓ JSC endorsement of proposed alternative Board structure ✓ Oct. 13 – 22-County CCAB Resolution passed authorizing Vaya to request alternative board structure ○ Oct. 19 – Formal request submitted to DHHS Secretary ○ Oct 27 – 31-county CCAB meeting 		November 2021 <ul style="list-style-type: none"> ○ BOCCs appoint Regional Board members 		December 2021 <ul style="list-style-type: none"> ○ Regional Boards meet and appoint members to Vaya Board ○ Regional CFACs meet and appoint members to Vaya Board ○ Vaya Board meets and appoints At-Large members 		January 2022 <ul style="list-style-type: none"> ○ Consolidation date 01/01/2022 ○ First consolidated (Vaya 2.0) Board meeting ○ Cardinal Board meets as needed/continues through wind down
--	--	--	---	--	--	--	---	--	---



MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – OLD BUSINESS

MEETING DATE: November 9, 2021

10(A). Department of Social Services (DSS) Director Patrick Betancourt will present the final version of the Temporary Assistance to Needy Families (TANF) Electing County Plan for the board's consideration and approval. The plan covers federal fiscal years 2023-2026. A copy of the plan, which is 76 pages in length, will be distributed to the board in a separate email from the agenda packet. Sheila Conley, the Income Maintenance Supervisor for DSS, will be at the meeting with Mr. Betancourt. In October, the board voted unanimously to remain as an "electing" county for this purpose.

10(B). Planning, Permitting and Development Director Jack Morgan will present Change Order #012 on the Macon Middle School renovation project for the board's consideration, and a copy of the change order is included in the packet. The total for the change order, which covers a variety of items, is \$14,636.



PCO #012

New Atlantic Contracting Inc
 2635 Reynolda Rd
 Winston Salem, North Carolina 27106
 Phone: (336) 759-7440
 Fax: (336) 759-7445

Project: 2102 - Macon Middle School Renovations
 1345 Wells Grove Road
 Franklin, North Carolina 28734

Prime Contract Potential Change Order #012: Various Change Events

TO:	Macon County 5 West Main Street Franklin, North Carolina 28734	FROM:	New Atlantic Contracting Inc 2635 Reynolda Rd Winston Salem, North Carolina 27106
PCO NUMBER/REVISION:	012 / 1	CONTRACT:	1 - Macon Middle School Renovations Prime Contract
REQUEST RECEIVED FROM:		CREATED BY:	Frank Harris (New Atlantic Contracting Inc)
STATUS:	Pending - In Review	CREATED DATE:	11/3/2021
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:		ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:		PAID IN FULL:	No
EXECUTED:	No	SIGNED CHANGE ORDER RECEIVED DATE:	
		TOTAL AMOUNT:	\$14,636.00

POTENTIAL CHANGE ORDER TITLE: Various Change Events

CHANGE REASON: Client Request

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*

11/3/21

Mr. Chris Coleman
 1815 S. Tyron St. Suite A
 Charlotte, NC 28203

**RE: Macon County Middle School
 Macon County Schools
 Franklin, NC 28734
 Potential Change Order Number 012
 Various Change Events** **NAC JOB# 2102**

Dear Chris,

Attached is our proposal for various change events as follows:

- CE #53 - Change layout of vaulted mezzanine ceiling in Phase 1
- CE #62 - #34: Northeast Wing Existing Load Bearing Issues
- CE #9R1 - RFI#6: Demo vs Renovation Conflicts
- CE #34R1 - Replace Exterior Doors at Music Room - S302C
- CE #44R1 - Additional waterproofing and caulking outside Music Room
- CE #47R1 - RFI #25 Credit for Masonry and Shoring
- CE #52R1 - Additional 12 keys of building master and 12 of great grand master

The total cost estimate of this work per the enclosed summary sheet and attached back-up is \$ 14,636.00

In addition, the time impact and delay cost associated with this change can not be fully determined at this time; therefore, after determination, we will submit our request for an adjustment in the contract time and the associated delay costs.

This proposal is based on the following qualifications:

We have proceeded with and/or completed this work as directed, and therefore, request your prompt acceptance of this proposal.

It may be necessary to revise this proposal if it is not accepted within 5 days, or if the progress of the work changes the conditions upon which this proposal is based.

Thank you for your prompt consideration of this proposal.

Very truly yours,

New Atlantic Contracting

ATTACHMENTS:

[CACO#01.pdf](#) , [_Estimate_1032_from_GB_Masonry_of_NC_Inc.pdf](#) , [_addl cut grandmaster and ggmk.pdf](#) , [_CACO#09.pdf](#) , [_Change Order #1 - Attachment for Extra Exterior Waterproofing Work - Macon Middle School dated 09-20-21.pdf](#) , [_Macon County Middle School CO #1 - Extra Work on Cold Fluid-Applied Waterproofing dated 09-20-21 for New Atlantic.pdf](#) , [_Replace Door at S302C.pdf](#) , [_Macon Middle CE#009.docx](#) , [_RE_Macon Middle School RFI#25.msg](#) , [_FW Macon Door S302C.msg](#) , [_Change Order Request No. 1 06.30.21 LOMAX TILE.pdf](#) , [_RFI 06 - 6-7-21 Site visit notes_CC comments \(2\).pdf](#)

#	Budget Code	Description	Amount
1	09-250.S Drywall		\$2,037.00
2			\$0.00
3	04-200.S Masonry.Commitment	RFI #34 Repair Existing CMU in NE Wing	\$2,770.00
4	95-000.MM MISCELLANEOUS.Materials	Shoring	\$400.00
5	95-000.MM MISCELLANEOUS.Materials	Dumpster	\$150.00
6	95-000.MM MISCELLANEOUS.Materials	CMU, Block Fill, Mortar, Sand, Paint	\$750.00
7	02-400.S Demolition.Commitment	RFI#6: Demo vs Renovation Conflicts	\$0.00
8	09-250.S Drywall	RFI#6: Demo vs Renovation Conflicts	\$6,821.50
9	26-001.S Electrical	RFI#6: Demo vs Renovation Conflicts	\$1,250.00
10	09-900.S Painting	RFI#6: Demo vs Renovation Conflicts	\$0.00
11	09-300.S Ceramic Tile	RFI#6: Demo vs Renovation Conflicts	\$2,006.00
12	08-100.M Doors	Replace Exterior Doors at Music Room - S302C	\$907.38
13			\$0.00
14	04-010.S Masonry Cleaning.Commitment	Additional waterproofing and caulking outside Music Room	\$864.29
15	95-000.MM MISCELLANEOUS.Materials	Credit for leaving existing masonry and shoring	\$(4,600.00)
16			\$0.00
17	08-100.M Doors	Add (12) Great Grandmaster and (12) Master Keys	\$459.03
Subtotal:			\$13,815.20
Material (6.75% Applies to Materials.):			\$ (222.75)
Equipment (6.75% Applies to Equipment.):			\$0.00
Labor (39.00% Applies to Labor.):			\$0.00
OH&P Sub (7.50% Applies to Material Purchase Order and Commitment.):			\$1,283.64
OH&P LME (15.00% Applies to Equipment, Materials, and Labor.):			\$(528.41)
Insurance (1.00% Applies to Temporary Labor, Material Purchase Order, Payroll Taxes & Insurance, Owner Cost, Commitment, Equipment, Materials, Labor, Other, and Professional Services.):			\$143.48
P&P Bond (1.00% Applies to Temporary Labor, Material Purchase Order, Payroll Taxes & Insurance, Owner Cost, Commitment, Equipment, Materials, Labor, Other, and Professional Services.):			\$144.91
Rounding (-0.00% Applies to Temporary Labor, Material Purchase Order, Payroll Taxes & Insurance, Owner Cost, Commitment, Equipment, Materials, Labor, Other, and Professional Services.):			\$(0.07)
Grand Total:			\$14,636.00

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – NEW BUSINESS

MEETING DATE: October 12, 2021

11(A). Commissioner Shields will address the board regarding the proposed creation of a “Citizens Advisory Committee.” Per Commissioner Shields, this group would assist the commissioners and the school board “in moving forward with the future of the Franklin High School building project.” A copy of his email request will be included in the packet.

11(B). County Attorney Eric Ridenour has drafted a proposed resolution that would establish the salary of a non-incumbent or incoming sheriff or register of deeds following the outcome of the 2022 general election. A copy of the resolution is attached, and Mr. Ridenour can provide additional details at the meeting.

11(C). County Manager Derek Roland will present a revised Capital Improvement Project Approval document, also called a “3-1” form, regarding the new Fire Rescue Training Center planned for Southwestern Community College (SCC). This item is in regard to the planned live burn building to be located adjacent to the former National Guard Armory, which the county is leasing to SCC for a public safety training facility. A copy of the document is included the packet, and Mr. Roland can provide additional details at the meeting.

Mike Decker

From: Gary Shields <gshields@maconnc.org>
Sent: Monday, November 01, 2021 12:56 PM
To: Mike Decker
Cc: Derek Roland; ronnie beale; chris.baldwin@macon.k12.nc.us; Jim Breedlove
Subject: Re: deadline for agenda items

I would like to add to the Tuesday agenda a topic called Macon County "Citizens Advisory Committee". This group would assist the Macon County Board of Education and the Macon County Commissioners in moving forward with the future of the Franklin High School building project.

Sent from my iPad

On Nov 1, 2021, at 8:24 AM, Mike Decker <mdecker@maconnc.org> wrote:

Good morning...

If you have items for the November 9, 2021 regular meeting of the Macon County Board of Commissioners, please send those to me along with any supporting documentation by 5 p.m. tomorrow (Tuesday, November 2). Thank you!

Mike Decker – IPMA-SCP
HR and Safety Director/Deputy Clerk to the Board
Macon County
5 West Main Street
Franklin, NC 28734
Work (828) 349-2020
Cell (828) 342-1169

<image003.jpg>

STATE OF NORTH CAROLINA
COUNTY OF MACON

**RESOLUTION OF THE MACON COUNTY BOARD OF COMMISSIONERS GIVING
NOTICE TO CANDIDATES FOR THE OFFICE OF SHERIFF AND REGISTER OF
DEEDS OF MACON COUNTY**

WHEREAS, the County Board of Commissioners is authorized pursuant to North Carolina Statutes 153A-92 to set the starting salaries for a non-incumbent Sheriff and non-incumbent Register of Deeds, which affect the individuals elected to these offices when they take office; and

WHEREAS, the Commissioners give Notice that the starting salary for the Sheriff position will be the minimum of Salary Grade 40 of the Macon County Pay Scale. The minimum pay of Salary Grade 40 is \$71,874.

WHEREAS, the Commissioners give Notice that the starting salary for the Register of Deeds position will be the minimum of Salary Grade 32 of the Macon County Pay Scale. The minimum of Salary Grade 32 is \$48,647.

NOW THEREFORE, BE IT RESOLVED, by the Macon County Board of Commissioners that:

1. The starting salary for a non-incumbent Sheriff will be the minimum pay of Salary Grade 40, which is \$71,874.
2. The starting salary for a non-incumbent Register of deeds will be the minimum pay of Salary Grade 32, which is \$48,647.
3. This Resolution shall not affect the salary of an incumbent officer re-elected to the same position.
4. This Resolution will not be altered or amended until after the persons elected Sheriff and Register of Deeds in the 2022 elections take office.
5. The Macon County Board of Commissioners may adjust the starting salary of the candidate elected considering the years of service and performance in a related position of the person elected.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be delivered by Clerk to the Board of Commissioners to the Director of the Macon County Board of Elections.

ADOPTED, at the November 9, 2021, Regular Meeting of the Macon County Board of Commissioners.

James Tate, Chairman, Macon County Board of
County Commissioners

ATTEST:

Derek Roland, Macon County Manager
and Clerk to the Board

(Official Seal

NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

CAPITAL IMPROVEMENT PROJECT APPROVAL

NEW PROJECT

College Southwestern Community College

Project Name Fire Rescue Training Center NCCCS Project No. 2402

Campus 2032 Southwestern CC - Macon Cty. Campus County Macon

I. TYPE OF PROJECT:

New Facility

II. DESCRIPTION OF PROJECT:

*For description of a new facility project, please include scope of work, property description (facility location, lease, purchase), description of new structure (location, size (SF) and floors, materials, use of interior spaces), brief description of facility's systems (mechanical, electrical, plumbing, generators), overview of the facilities instructional programming, and any special construction requirements (permitting, abatement, demolition,

Insert project and amendment description here.

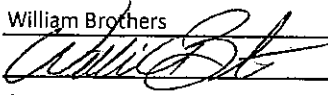
The scope of the project is defined as an approximately 2,240 sf ISO shipping container live burn building to be located at the rear of the existing National Guard Armory which has been recently acquired by Macon County. The property is located on property leased by Southwestern Community College in accordance to NC Community College General Statutes section 115D.

- Project to be constructed/renovated on college owned property
- Project to be constructed/renovated on leased property

Provide the System Office a copy of lease that meets criteria as addressed in **Capital Improvement Manual**.


This form was prepared by:

Name: William Brothers

Signature: 

Contact Number: 828.339.4366

Date: 9/30/2021

CPC Signature: 

III. ESTIMATED COST OF PROJECT:

A. PRE-CONSTRUCTION COSTS

- 1. Site Grading and Improvements (not in III B)
- 2. Demolition (not in III B)

Subtotal "A"

0.00

B. CONSTRUCTION

- 1. Design Fee 145,748.00
- 2. Construction..... 1,750,000.00
- 3. Construction Contingency 184,252.00
- 4. Other Contracts
- 5. Other Fees 20,000.00

Subtotal "B"

2,100,000.00

C. Other Costs

- 1. Initial Equipment.....
- 2. Work Performed by Owner

Subtotal "C"

0.00

TOTAL ESTIMATED COST OF PROJECT (Sum of III A, B, C)

\$2,100,000.00

IV. SOURCES OF FUNDS IDENTIFIED FOR THIS PROJECT:

A. NON-STATE FUNDS

- 1. County Appropriated
- 2. County Bonds

700,000.00

3.	<input type="text"/>	▼
4.	<input type="text"/>	▼
5.	<input type="text"/>	▼

Subtotal "A"

700,000.00

B. STATE FUNDS (Handled locally by college - not reimbursed through System Office)

1.	<input type="text"/>	▼
2.	<input type="text"/>	▼
3.	<input type="text"/>	▼

Subtotal "B"

0.00

C. STATE FUNDS (Reimbursed by the System Office)

1. Budget Code	46620 NEW Connect NC Bond	▼
2. Budget Code	<input type="text"/>	▼
3. Budget Code	<input type="text"/>	▼
4. Budget Code	<input type="text"/>	▼

1,400,000.00

Subtotal "C"

1,400,000.00

Total Sources of Funds Available (IV A, B, C)

2,100,000.00

D. UNIDENTIFIED FUNDS

- 1. Unidentified Funds (Do not include on the NCCCS 2-16)

Subtotal "D"

0.00

Total Sources of Funds Including Unidentified

\$2,100,000.00

V. CERTIFICATION BY THE COLLEGE BOARD OF TRUSTEES

To the State Board of Community Colleges:

We, the Board of Trustees of Southwestern Community College do hereby certify:

1. That the information contained in this application is true and correct to the best of our knowledge and belief, and do hereby request approval from the State Board of Community Colleges for this application and for the utilization of \$1,400,000.00 State funds reflected on Page 3, which are appropriated and have been allocated for the use of our college. These funds, along with the non-state funds shown, will be used exclusively for facilities, equipment for those facilities, land, or other permanent improvements described herein and in accordance with the minutes and resolution of the Board of Trustees dated _____.

As part of this certification, the Board of Trustees certify that any equipment purchased with the Connect NC Bond Funds must have a useful life of 10+ years.

As part of this certification, the Board of Trustees acknowledge that furniture is not an allowable expense as part of a capital project funded by Connect NC Bond Funds, therefor will not be reimbursed.

2. That the described permanent improvements are necessary for meeting the educational needs of the area served and that this proposed project is in accordance with the rules and regulations adopted by the State Board of Community Colleges.

3. That a fee simple title held by the Board of Trustees to the property upon which the said facilities or improvements are to be made, or that a long-term lease, as described in the North Carolina Community College System Capital Improvement Guide, is held by the Board of Trustees.

4. That in formal sessions with a quorum present, the Board of Trustees authorized this application and further authorized the Chairman and the Chief Administrative Officer of this Board to execute all papers required by the rules and regulations of the State Board of Community Colleges.



Chairman - Board of Trustees



Chief Administrative Officer/President

VI. CERTIFICATION AS TO AVAILABILITY OF LOCAL SUPPORT AND FUNDS

Certification 1.

I certify that I have examined this application for the project no: 2402
from Southwestern Community College and if shown, county funds in the
amount of \$700,000.00 are available for the planning and construction of this project.

County Manager/Finance Officer Signature _____
Print Name _____
Date _____

(The following certification must be completed for New Facility Projects Only)

Certification 2.

Based on an analysis of the colleges annual operating and utility costs, (as per the NCCCS 3-1
Section VIII) it is estimated that the college will expend an additional \$69,991.43
per year in support of this new construction. I certify that this document has been reviewed, and that
the information stated herein will be shared with the proper county officials to seek an appropriate
adjustment to the college's budget as the new facility is brought online.

County Manager/Finance Officer Signature _____
Print Name _____
Date _____

=====

VII. CERTIFICATION OF ATTORNEY AS TO FEE SIMPLE TITLE TO THE PROPERTY

(Note: Required only for construction on a new site or when federal funds are involved. Not
required for long term lease.)

I, _____, duly licensed attorney of the State of North
Carolina, do hereby certify that I have examined the public records of _____
County, North Carolina, from January 1, 1925, to this date concerning title to the property upon which
the improvements set out in the foregoing application are proposed to be made, and I find from said
examination that a fee simple title free from all claims or encumbrances, is vested in
_____ by deed recorded in (specify book & page) _____
_____ in the Office of the Register of Deeds except as noted below: (Attach
a copy of deed)

This, the _____ day of _____ 20__

Signature

**VIII. CERTIFICATION OF LOCAL BUDGET SUPPORT
ESTIMATED OPERATING/UTILITY ANNUAL COST
FOR CAPITAL IMPROVEMENT PROJECTS**

Date: 9/12/2020 Project Name: Fire Rescue Training Center

College: Southwestern Community College Project Completion Date: _____

Additional Cost Identification	1st Year of Operation	2nd Year of Operation	3rd Year of Operation	4th Year of Operation	5th Year of Operation	Average Additional Annual Cost
	FY	FY	FY	FY	FY	
Staffing (Housekeeping & Facility Operator)						
additional annual cost	\$36,000	\$36,720	\$37,454	\$38,203	\$38,968	\$37,469
Plant Maintenance						
additional annual cost	\$32,000	\$16,000	\$16,000	\$16,000	\$16,000	\$19,200
Other Operating Cost						
additional annual cost						
Electric	\$2,400	\$2,448	\$2,497	\$2,547	\$2,598	\$2,498
Fuel (Gas, Oil)	\$2,500	\$2,550	\$2,601	\$2,653	\$2,706	\$2,602
Water	\$7,800	\$7,956	\$8,115	\$8,277	\$8,443	\$8,118
Telecommunications	\$100	\$102	\$104	\$106	\$108	\$104
Total Average Annual Cost (will populate into Section VI of the 3-1)						\$69,991
I certify that the county has reviewed this information as a part of the approval process.						



County Manager/Finance Officer

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – CONSENT AGENDA

MEETING DATE: November 9, 2021

Item 12A. Draft minutes from the October 12, 2021 regular meeting will be forwarded in a separate email. (Mike Decker/Tammy Keezer)

Item 12B. Budget Amendments #92-93 are attached for your review and approval. (Lori Carpenter)

Item 12C. Approval of tax releases for the month of October 2021. (Delena Raby) This list will be forwarded in a separate email once it is available.

Item 12D. A copy of the ad valorem tax collection report will be forwarded in a separate email once it is available. No action is necessary. (Delena Raby)

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – APPOINTMENTS

MEETING DATE: November 9, 2021

13A. **Recreation Commission:** Further information on this matter will be provided prior to or at the meeting.

13B. **Vaya Health Regional Advisory Board:** Action on this item will stem from the discussion held during Item 9A from earlier in the meeting.