

Macon County



**MACON COUNTY BOARD OF COMMISSIONERS
JULY 9, 2024
6 P.M.
AGENDA**

1. Call to order and welcome by Chairman Shields
2. Announcements
3. Moment of Silence
4. Pledge of Allegiance
5. Public Hearing(s) - 6:00 p.m.

(A) Proposed Amendment to the Macon County Soil Erosion and Sedimentation Control Ordinance

1. Presentation of Proposed Changes (5 minutes)
2. Open Public Hearing
3. Public Comments (3 minutes per speaker)
4. Close Public Hearing
5. Discussion of Possible Action of Amending the Macon County Soil Erosion and Sedimentation Control Ordinance

NOTE: The board may choose to act on this matter immediately following the close of the public hearing

(B) Proposed Amendment to the Macon County Watershed Protection Ordinance

1. Presentation of Proposed Changes (5 minutes)
2. Open Public Hearing
3. Public Comments (3 minutes per speaker)
4. Close Public Hearing
5. Discussion of Possible Action of Amending the Macon County Watershed Protection Ordinance

NOTE: The board may choose to act on this matter immediately following the close of the public hearing

(C) Proposed Amendment to the Macon County Flood Damage Prevention Ordinance

1. Presentation of Proposed Changes (5 minutes)
2. Open Public Hearing
3. Public Comments (3 minutes per speaker)
4. Close Public Hearing
5. Discussion of Possible Action of Amending the Macon County Flood Damage Prevention Ordinance

NOTE: The board may choose to act on this matter immediately following the close of the public hearing.

6. Public Comment Period
7. Additions to agenda
8. Adjustments to and approval of the agenda
9. Reports/Presentations
 - (A) Broadband Committee Update – Jeff Lee, Macon County Broadband Consultant
 - (B) Highlands playground – Brian Stiehler, Town of Highlands Commissioner and Mayor pro temp
10. Old Business
 - (A) Update on the BDA (Bi-Directional Amplifier) System for Macon Middle School – Project Manager Jack Morgan
 - (B) Discussion regarding the Franklin High School project financing and schedule of public hearing for August 13, 2024 – County Manager Derek Roland
 - (C) Consideration and approval of inter-local agreements with Macon County Board of Education
 1. Macon Middle School Track Project
 2. Franklin High School Project
 3. Highlands School Project
 4. Nantahala septic project
 - (D) Consideration and approval to transfer funds from the Economic Development Commission (EDC) Fund to the general fund to support a partnership between Macon County EDC and the Macon County School Career and Technical Education (CTE) program by providing paid internships for students to assist public and private sector businesses – Economic Development Director Tommy Jenkins
11. New Business
 - (A) Approval of fireworks permit for Parties by Design for a wedding event to be held on July 26, 2024, at Old Edwards Inn in Highlands – Deputy Clerk Tammy Keezer

- (B) Approval of resolution regarding Kroger Opioid Settlement funds – Mr. Roland
- (C) Approval of the 2024 Title VI Program Plan for Macon County Transit – Transit Director Darlene Asher

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 June 11, 2024 regular meeting
- (B) Budget Amendments #2-22
- (C) Macon County Solid Waste Records Disposal
- (D) Monthly ad valorem tax collection report – no action necessary

13. Appointments

- (A) Planning, Permitting, and Development Ordinance Administrator
- (B) Macon County Library Board (1 seat)

14. Closed session as allowed under NCGS 143-318.11

15. Adjourn/Recess

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – PUBLIC HEARINGS

MEETING DATE: JULY 9, 2024

We have three public hearings on the agenda, as follows:

The first involves the amendment to the Soil Erosion and Sedimentation Ordinance. The board discussed the recommended changes to this ordinance at the May 14, 2024, regular meeting. A redline copy of the ordinance, notice of public hearing, and ordinance amendment will be included in the packet. The notice of public hearing was published in the June 26, 2024 edition of *The Franklin Press*.

Following the close of the public hearing, the board can act to approve a “Resolution of Macon County Board of Commissioners “Amendment by the Macon County Board of Commissioners to the ‘Macon County Flood Prevention Ordinance’.” A copy of that resolution will be included in the packet.

County Attorney Eric Ridenour and County Planner Caleb Gibson can provide additional detail as needed.

The second public hearing involves the amendment to the Watershed Protection Ordinance. The board discussed the recommended changes to this ordinance at the May 14, 2024, regular meeting. A redline copy of the ordinance, notice of public hearing, and ordinance amendment will be included in the packet. The notice of public hearing was published in the June 26, 2024 edition of *The Franklin Press*.

Following the close of the public hearing, the board can act to approve a “Resolution of Macon County Board of Commissioners “Amendment by the Macon County Board of Commissioners to the ‘Macon County Watershed

Protection Ordinance’.” A copy of that resolution will be included in the packet.

County Attorney Eric Ridenour and County Planner Caleb Gibson can provide additional detail as needed.

The third and final public hearing involves the amendment to the Flood Damage Prevention Ordinance. The board discussed the recommended changes to this ordinance at the May 14, 2024, regular meeting and the June 11, 2024, regular meeting. A redline copy of the ordinance, notice of public hearing, and ordinance amendment will be included in the packet. The notice of public hearing was published in the June 26, 2024 edition of *The Franklin Press*.

Following the close of the public hearing, the board can act to approve a “Resolution of Macon County Board of Commissioners “Amendment by the Macon County Board of Commissioners to the ‘Macon County Flood Prevention Ordinance’.” A copy of that resolution will be included in the packet.

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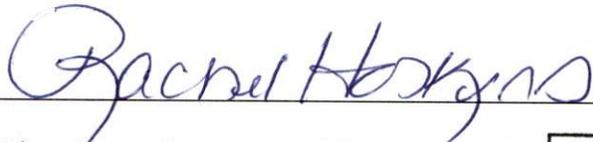
Invoice / Affidavit
The Franklin Press
Post Office Box 350
Franklin, NC 28744

STATE OF NORTH CAROLINA
COUNTY OF MACON

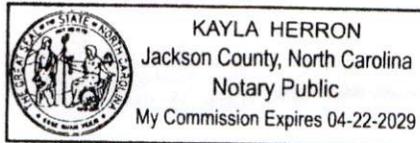
AFFIDAVIT OF PUBLICATION Personally appeared before the undersigned, Rachel Hoskins, who having been duly sworn on oath that she is the Regional Publisher of The Franklin Press, and the following legal advertisement was published in The Franklin Press newspaper, and entered as second class mail in the Town of Franklin in said county and state; and that she is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in The Franklin Press newspaper on the following dates:

SOIL EROSION AND SEDIMENT
NOTICE OF PUBLIC HEARING
06/26/2024

And that the said newspaper in which such notice, paper, document or legal advertisement was published, was at the time of each and every such publication, a newspaper meeting all the requirements and qualifications of Section I-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of the Section I-597 of the General Statutes of North Carolina.



Signature of person making affidavit



Sworn to and subscribed before me this 26th day of June, 2024



Notary Public

Filed with: MACON CO BD OF COMMISSIONERS
Address: 5 WEST MAIN ST FRANKLIN NC 28734
Total Amount Due: \$53.80

NOTICE OF PUBLIC HEARING

Please take notice that the Macon County Board of County Commissioners will conduct a public hearing on Tuesday, July 9, 2024 at 6:00 p.m. in the Commissioners Board Room located on the third floor of the Macon County Courthouse, 5 West Main Street, Franklin, NC 28734, concerning a proposed Amendment to the 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 to the Ordinance concern whether the Macon County Board of Commissioners should revise the land disturbing activity that requires an Erosion and Sedimentation Control Plan from ½ acre to 1 acre. The sections of the Ordinance under consideration are Sections: §153.05A (at the bottom of page 8),

§153.06E on page 10,
§153.07B on page 11, and
§153.08A on page 14.

The proposed amendments can be viewed on the County website, maconnc.org, under Public Announcements, and a hard copy may be obtained in the lobby at the County Annex Building, 5 West Main Street, Franklin, North Carolina.

This the 25th day of June, 2024.

Macon County Board of County Commissioners.

06/26/2024 #821534

**AMENDMENT BY THE MACON COUNTY BOARD OF COMMISSIONERS TO THE
“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 was amended and restated in compliance with NCGS Chapter §160D on March 8, 2022; and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance in order to revise the land disturbing activity that requires a permit from ½ acre to 1 acre; 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 amended and restated on March 8, 2022 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, and specifically, the revision of land disturbing activity that requires a permit from ½ acre to 1 acre in Sections: §153.05A at the bottom of page 8, §153.06E on page 10, §153.07B on page 11, and §153.08A on page 14.

This the ___ day of July, 2024.

Chairman, Macon County Board of Commissioners

ATTEST:

Clerk to the Macon County Board of Commissioners

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

Amended: November 10, 2009

Amended: April 12, 2011

Amended and Restated: _____, 2021

§ 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, Carteret, 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.

Working Days – REMOVED

§ 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~~ 1 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 measure have been utilized to protect against off-site damage.

(B) Less than ~~One-Half~~ 1 Acre Disturbed. In cases where less than ~~one-half-half~~ 1 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 ~~disapprovedisapprove~~ 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, and 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 upgrate 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.

(5) Ground cover – Removed

§ 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 land owner 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 reapply 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 of 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.

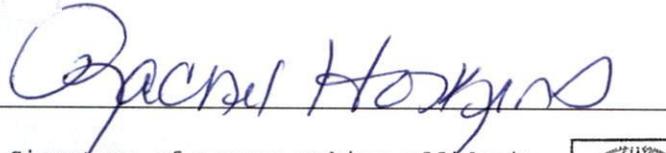
Invoice / Affidavit
The Franklin Press
Post Office Box 350
Franklin, NC 28744

STATE OF NORTH CAROLINA
COUNTY OF MACON

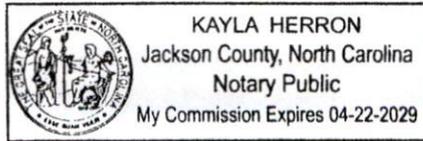
AFFIDAVIT OF PUBLICATION Personally appeared before the undersigned, Rachel Hoskins, who having been duly sworn on oath that she is the Regional Publisher of The Franklin Press, and the following legal advertisement was published in The Franklin Press newspaper, and entered as second class mail in the Town of Franklin in said county and state; and that she is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in The Franklin Press newspaper on the following dates:

WATERSHED ORDINANCE
NOTICE OF PUBLIC HEARING
06/26/2024

And that the said newspaper in which such notice, paper, document or legal advertisement was published, was at the time of each and every such publication, a newspaper meeting all the requirements and qualifications of Section I-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of the Section I-597 of the General Statutes of North Carolina.



Signature of person making affidavit



Sworn to and subscribed before me this 26th day of June, 2024



Notary Public

Filed with: MACON CO BD OF COMMISSIONERS
Address: 5 WEST MAIN ST FRANKLIN NC 28734
Total Amount Due: \$45.98

NOTICE OF PUBLIC HEARING
Please take notice that the Macon County Board of County Commissioners will conduct a public hearing on Tuesday, July 9, 2024 at 6:00 p.m. in the Commissioners Board Room located on the third floor of the Macon County Courthouse, 5 West Main Street, Franklin, NC 28734, concerning a proposed Amendment to the 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 amendment to the Ordinance is whether the Macon County Board of Commissioners should remove the prohibition against the use of Recreational Vehicle Parks from the Special non-residential Intensity Allocation in §156.32(C) on page 16 of said Ordinance.
The proposed amendment can be viewed on the County website, maconnc.org, under Public Announcements, and a hard copy may be obtained in the lobby at the County Annex Building, 5 West Main Street, Franklin, North Carolina.
This the 25th day of June, 2024.
Macon County Board of County Commissioners.
06/26/2024 #821525

**AMENDMENT BY THE MACON COUNTY BOARD OF COMMISSIONERS
“MACON COUNTY WATERSHED PROTECTION ORDINANCE”**

WHEREAS, the Macon County Board of Commissioners adopted the “Restated and Amended Macon County Watershed Protection Ordinance in compliance NCGS Chapter §160D on November 9, 2021 and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance in order to remove the prohibition of Recreational Vehicle Parks as a non-permissible use in a Special Non-residential Intensity Allocation.

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 Watershed Protection Ordinance is hereby amended and restated to remove the prohibition against the use of Recreational Vehicle Parks from the Special non-residential Intensity Allocation in the last paragraph of §156.32(C) on page 16 of said Ordinance.

This the ___ day of July, 2024.

Chairman, Macon County Board of Commissioners

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. based on at least one of the following criteria:

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				
Industrial Waste	No	No ^c				
Other wastes	No	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.

** SNIAs 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 SNIAs 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 drainage ways.

(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.

(Adopted on 9-9-02)

(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 OCCUPANY 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.

(Ord. passed 7-1-2002).

(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 issue 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 request 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;
 - (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 NOTICE 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.

(Ord. passed 7-1-2002)

§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 —^h ____ day of November 2021.

Invoice / Affidavit
The Franklin Press
Post Office Box 350
Franklin, NC 28744

STATE OF NORTH CAROLINA
COUNTY OF MACON

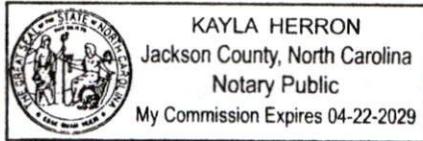
AFFIDAVIT OF PUBLICATION Personally appeared before the undersigned, Rachel Hoskins, who having been duly sworn on oath that she is the Regional Publisher of The Franklin Press, and the following legal advertisement was published in The Franklin Press newspaper, and entered as second class mail in the Town of Franklin in said county and state; and that she is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in The Franklin Press newspaper on the following dates:

FLOOD DAMAGE PREVENTION
NOTICE OF PUBLIC HEARING
06/26/2024

And that the said newspaper in which such notice, paper, document or legal advertisement was published, was at the time of each and every such publication, a newspaper meeting all the requirements and qualifications of Section I-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of the Section I-597 of the General Statutes of North Carolina.

Rachel Hoskins

Signature of person making affidavit



Sworn to and subscribed before me this 26th day of June, 2024

Kayla Herron

Notary Public

Filed with: MACON CO BD OF COMMISSIONERS
Address: 5 WEST MAIN ST FRANKLIN NC 28734
Total Amount Due: \$81.81

NOTICE OF PUBLIC HEARING

Please take notice that the Macon County Board of County Commissioners will conduct a public hearing on Tuesday, July 9, 2024 at 6:00 p.m. in the Commissioners Board Room located on the third floor of the Macon County Courthouse, 5 West Main Street, Franklin, NC 28734, concerning a proposed Amendment to the Macon County Flood Damage Prevention 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 to the Ordinance concern whether the Macon County Board of Commissioners should allow for limited fill and development within the flood fringe or flood plain not in the floodway, provided that such fill is not more than 25% of the total of the flood fringe area contained in each parcel, and if fill in excess of the 25% is sought, that such application be accompanied by a Certification of No Adverse Impact from a North Carolina licensed Civil Engineer. The sections of the Ordinance under consideration for revision are:

- Definition of Flood Fringe in Article 2, on p. 5;
- Definition of No Adverse Impact in Article 2, on p. 10;
- Certification of No Adverse Impact in Article 4, Section B(2)(b), on p. 17;
- Fill permit for no more than 25% of the total fringe area contained in a parcel, and if fill in excess of the 25% is sought, that such application be accompanied by a Certification of No Adverse Impact from a North Carolina license Civil Engineer. Article 5, Section A(17) on p. 26;
- No Adverse Use Impact necessary findings of fact, burden of proof and information required in the Engineers Certification. Article 5, Section C (New) p. 34 and 35.

The proposed amendments can be viewed on the County website, maconncc.org, under Public Announcements, and a hard copy may be obtained in the lobby at the County Annex Building, 5 West Main Street, Franklin, North Carolina.

This the 25th day of June, 2024.

Macon County Board of County Commissioners

06/26/2024 #821524

**AMENDMENT BY THE MACON COUNTY BOARD OF COMMISSIONERS TO THE
“MACON COUNTY FLOOD PREVENTION ORDINANCE”**

WHEREAS, the Macon County Board of Commissioners adopted the Restated and Amended Flood Damage Prevention Ordinance on December 14, 2021; and

WHEREAS, the Board of Commissioners wishes to make certain amendments to the Ordinance in order to allow limited fill and development within the flood fringe or flood plain not in the floodway, provided that such fill is not more than 25% of the total of the flood fringe area contained in each parcel, and if fill in excess of the 25% is sought, that such application be accompanied by a Certification of No Adverse Impact from a North Carolina licensed Civil Engineer; 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 Flood Prevention Ordinance 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. The revisions include:

- Definition of “Flood Fringe” in Article 2, on p. 5;
- Definition of “No Adverse Impact” in Article 2, on p. 10;
- Certification of “No Adverse Impact” in Article 4, Section B(2)(b), on p. 17;
- Fill permit for no more than 25% of the total fringe area contained in a parcel, and if fill in excess of the 25% is sought, that such application be accompanied by a Certification of No Adverse Impact from a North Carolina license Civil Engineer. Article 5, Section A(17) on p. 26;
- No Adverse Use Impact necessary findings of fact, burden of proof and information required in the Engineer’s Certification. Article 5, Section C (New) p. 34 and 35.

This the ____ day of July, 2024.

Chairman, Macon County Board of Commissioners

ATTEST:

Clerk to the Macon County Board of Commissioners

**RESTATED AND AMENDED FLOOD DAMAGE PREVENTION ORDINANCE OF
MACON COUNTY**

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

- SECTION A. STATUTORY AUTHORIZATION
- SECTION B. FINDINGS OF FACT
- SECTION C. STATEMENT OF PURPOSE
- SECTION D. OBJECTIVES

ARTICLE 2. DEFINITIONS

ARTICLE 3. GENERAL PROVISIONS.

- SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES
- SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS
- SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT
- SECTION D. COMPLIANCE
- SECTION E. ABROGATION AND GREATER RESTRICTIONS
- SECTION F. INTERPRETATION.
- SECTION G. WARNING AND DISCLAIMER OF LIABILITY
- SECTION H. PENALTIES FOR VIOLATION

ARTICLE 4. ADMINISTRATION

- SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR
- SECTION B. APPLICATION, PERMIT & CERTIFICATION REQUIREMENTS
- SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR
- SECTION D. CORRECTIVE PROCEDURES
- SECTION E. VARIANCE PROCEDURES

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

- SECTION A. GENERAL STANDARDS
- SECTION B. SPECIFIC STANDARDS
- SECTION C. ~~RESERVED~~ **NO ADVERSE IMPACT DETERMINATION**
- SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS
- SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS
- SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS

ARTICLE 6. LEGAL STATUS PROVISIONS

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

SECTION B. SEVERABILITY

SECTION C. EFFECTIVE DATE

SECTION D. ADOPTION CERTIFICATION

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; and Article 7, 9 and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of Macon County, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT

- (1) The flood prone areas within the jurisdiction of Macon County are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request to the –Macon County Planning Board for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood” See “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before August 7, 2000, the initial effective date of the floodplain management regulations adopted by Macon County.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before August 7, 2000, the initial effective date of the floodplain management regulations adopted by the County .

“Existing Recreational Vehicle Park or Subdivision” means a recreational vehicle park or subdivision for which the construction of facilities for servicing the RV parking sites (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before August 7, 2000, the initial effective date of the floodplain management regulations adopted by the County..

“Fill” means any material placed in or on top of the ground to replace, augment, or to build up the in situ, earth, rock, or other natural material which results in an increase of the final grade elevation above the original grade elevation existing prior to any development activity. Material placed in or on top of the ground which is incidental to a development activity will not be considered as fill. Incidental materials are defined as those located on the same parcel within the SFHA and are necessary for driveways, parking areas, drainage culverts, and walls designed under NFIP guidelines, and other similar improvements necessary for access to and occupation of developments within the SFHA.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Fringe” the area of the Special Flood Hazard (floodplain) outside the floodway/non-encroachment area that is subject to inundation during the occurrence of the Base Flood.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated (see also DFIRM).

“Flood Insurance Study (FIS)” means an examination, evaluation and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventative measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance, and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. The term describes Federal, State or local regulations, in any combination thereof, which provides standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved, as shown on the Flood Insurance Rate

Map in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as shown on the Flood Insurance Rate Map.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

“Freeboard” means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long term storage, manufacture, sales or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“High Impact Land Use” means the use of property considered by the Ordinance Regulating High-Impact Land Uses in Macon County as High-Impact uses including the following:

- (1) Airfields/Airstrips
- (2) Asphalt plants
- (3) Bulk Inflammables, Chemicals and Explosives Manufacturers or Storage Facilities
- (4) Chipmills (wood grinding operations)
- (5) Commercial Incinerators
- (6) Concrete Suppliers
- (7) Helicopter Sightseeing Operations
- (8) Mining and Extraction Operations and Quarries
- (9) Motor Sports Activities
- (10) Sawmills
- (11) Slaughtering and Processing Plants
- (12) Solid Waste Management Facilities

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Level Government (CLG) Program”.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective national flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revisions (LOMR): A revisions based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square fee or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (“LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building’s lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

“Materials” means the elements, constituents, or substances of which something is composed or can be made.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“Mean Sea Level” means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

“New Construction” means structures for which the “start of construction” commenced on or after August 7, 2000, the initial effective date of the initial floodplain management regulations adopted by the County and includes any subsequent improvements to such structures.

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“No Adverse Impact Floodplain Management” means providing appropriate regulatory oversight that the action of one property owner does not adversely affect the flood risks for other properties or communities as measured by increased flood stages, increased flood velocity, increased flows, or the increased potential for erosion and sedimentation.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map (i.e August 7, 2000).

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map (i.e. August 7, 2000).

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means 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;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

“Recreation Vehicle Park or Subdivision” means 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 a temporary living quarters or for storage of a recreational vehicle.

“Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all the Special Flood Hazard Areas.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas”, this elevation shall be the BFE plus two (2) feet of freeboard.

“Remedy a Violation” means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries) stream, brook, etc.

“Salvage Yard” shall mean any non-residential property used for the storage, collection and/or recycling of any type of equipment, including but not limited to vehicles, appliances, and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start date means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Storage” means non-transitory, semi-permanent or long-term, containment, holding, leaving, or placement of objects, usually with the intention of retrieving them at a later time.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of State or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” means a grant of relief from the requirements of this ordinance..

“Vehicle and Mobile Equipment Storage Facilities” means any commercial land use, excluding agriculture and silviculture, that includes the temporary or long term parking or storage of three (3) or more un-anchored vehicles, boats, trailers, campers, model homes, or any other item capable of becoming buoyant under Base Flood conditions.

“Violation” means the failure of a structure or other development to be fully compliant with the ordinance . A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Special Flood Hazard Areas within Macon County excluding the extra-territorial jurisdictions (ETJs) and areas within the corporate limits of the Town of Franklin and the Town of Highlands.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), and associated DFIRM panels, including any digital

data developed as part of the FIS for Macon County dated May 4, 2009, which are adopted by reference and declared to be a part of this ordinance, and all revisions thereto.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Macon County or by any office or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NCGS 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$5,000.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Macon County

from taking such other lawful action including civil and equitable enforcement, as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION

SECTION A. DESIGNATION OF FLOODPLAIN ADMINSTRATOR

The Director of Planning, Permitting and Development, or his or her designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. No Land Disturbance Permit, Improvement Permit for the installation of a subsurface wastewater disposal system or Building Permit shall be issued for the improvement or development of any lot or parcel of land subject to the application of this ordinance unless proposed development or improvement has been permitted with a current Floodplain Development Permit. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of the proposed development; and
 - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.

- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to ~~mean-sea-level~~NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to ~~mean-sea-level~~NAVD 1988 to which any non-residential structure in Zone AE or A will be floodproofed; and
 - (iii) Elevation in relation to ~~mean-sea-level~~NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
 - (c) If floodproofing, a Floodproofing Certificate (FEMA Form ~~086-0-34~~FF-206-DY22-153) with supporting data, an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures, and an inspection and maintenance plan that includes, but is not limited to, installation, exercise and maintenance of floodproofing measures.
 - (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include, but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e. solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zone A or AE.
 - (e) Usage details of any enclosed areas below the lowest floor.
 - (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical and water systems to be located and constructed to minimize flood damage.
 - (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
 - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (8) of this ordinance are met.
 - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
 - (j) Emergency Evacuation Plan for RV Park.
- (1) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) A description of the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Subsection B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into ~~the Special Flood Hazard area,~~ the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- (g) The flood openings requirements.
- (h) Limitations of below BFE enclosure uses (*i.e. parking, building access and limited storage only*).
- (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.
- (j) Approved Emergency Evacuation Plan for RV Park.

(2) **Certification Requirements.**

(a) Elevation Certificates

- i. An Elevation Certificate (FEMA Form ~~086-0-33FF-206-FY-22-152~~) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to ~~mean sea level~~ NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such a review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- ii. An Elevation Certificate (FEMA Form ~~086-0-33FF-206-FY-22-152~~) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean seal level. Any work done within the seven (7) day calendar period and prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such a review shall be corrected by the permit holder immediately and

prior to further work being permitted to proceed. Failure to submit the certification or failure to make the required corrections shall be cause to issue a stop-work order for the project.

- iii. A final Finished Construction Elevation Certificate (FEMA Form ~~086-0-33FF-206-FY-22-152~~) is required after construction is completed and prior to the Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such a review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. IN addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(b) Certification of no adverse impact

- (i) If an applicant seeks approval for fill material in the flood fringe in excess of the 25% amount permitted under Article 5 Section A (17)(a), the applicant must also submit a Certification of No Adverse Impact (in accordance with the provisions of Article 5, Section C) signed by a civil engineer licensed in the State of North Carolina before such additional fill material shall be considered for approval by the Floodplain Administrator.

(b)(c) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA ~~Form 86-0-34FF-206-FY-22-153~~) with supporting data, an operational plan and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to ~~mean sea level~~ NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such a review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required

corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form ~~086-0-34FF-206-FY-22-153~~) with supporting data, an operation plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to ~~mean sea level NAVD 1988~~ NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such a review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

~~(e)~~(d) If a manufactured home is placed within Zone A or AE, and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).

~~(d)~~(e) If a watercourse is to be altered or relocated, a description of the extent of the watercourse alteration or relocation; a professional engineer's certified report on the effect of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

~~(e)~~(f) Certification Exemptions. The following structures, if located in Zone A or AE, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- i. Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
- ii. Temporary Structures meeting requirements of Article 5, Section B(8); and
- iii. Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B(9).

(4) Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs or substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost of repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to ~~mean sea level~~ NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to ~~mean sea level~~ NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).

- (8) Obtain actual elevation (in relation to ~~mean sea level~~ NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3), and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation provided in this ordinance, Article 4, Section D(4)..
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with Article 3, Section B, obtain, review and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2), in order to administer the provisions of this ordinance.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (13) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (14) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the County at any reasonable hour for the purposes of inspection or other enforcement action, in accordance with G.S. 160D-403(e).
- (15) Issue stop-work orders as required and in accordance with G.S. 160D-404(b). Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The Stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (16) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reasons of the revocation. Permits shall be revoked for any substantial departure

from the approved application, plans and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked. Revocation of a floodplain development permit shall be in accordance with G.S. 160D-403(f).

- (17) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the County. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action, and in accordance with G.S. 160D-403(e).
- (18) Follow through with the corrective procedures of Article 4, Section D.
- (19) Review, provide input, and make recommendations regarding requests for variance requests.
- (20) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM, and other official floods maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (21) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES

- (1) Violations to be corrected: when the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the ~~the~~ permit holder and to the landowner of the property involved, if the landowner is not the permit holder, of the violation in accordance with G.S. 160D-404. The permit holder or landowner shall immediately remedy each of the violations of law cited in notification.
- (2) Actions in Event of Failure to Take Corrective Actions: If the permit holder or landowner fails to take prompt corrective action, the Floodplain Administrator shall give the permit holder and landowner, if the landowner is not the permit holder, written notice, by personal delivery, electronic delivery, or first-class mail, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the permit holder and/or landowner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) That following the hearing, the Floodplain Administrator may issue a written order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the permit holder and

landowner, if the landowner is not the permit holder, requiring the owner to remedy the violations within a specified time period, not less than sixty (60) calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the Macon County Planning Board by giving notice of appeal in writing to the Floodplain Administrator and the clerk within thirty(30) days following issuance of the final order in accordance with G.S. 160D-405. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Planning Board shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to N.C.G.S. 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES

- (1) The Macon County Planning Board , hereinafter referred to as the “appeal board” shall hear and decide requests for variances to the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the Planning Board may appeal such decision to the superior court, as provided in G.S. 160D-406(k).
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c) and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development, provided it meets the requirements in this Section.
- (4) In passing upon variances, the Planning board shall consider all technical evaluations, all relevant factors, all standards that specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;

- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility in the community;
 - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with the existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and waters systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. The decision shall be in accordance with G.S. 160D-406(j). Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations or ordinances.

- (b) Variances shall not be allowed within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall only be issued prior to development permit approval.
- (e) Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in unusual hardship to the owner of the property that was not caused, in whole or in major part, by the property owner; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met:

- (a) The use serves a critical need in the community.
- (b) No feasible location exists for the use outside the Special Flood Hazard Area.
- (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (d) The use complies with all other applicable federal, state and local laws.
- (e) The County has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance as least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all Special Flood Hazard Areas, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
 - (a) Replacements part of substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance (i.e. prior to August 7, 2000) and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in

Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plan or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).

- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those government agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevations shall apply.
- (16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

~~(17) The placement of fill material of any nature and for any purpose shall be prohibited except in accordance with and pursuant to a plan approved by the Natural Resources Conservation Service or the Soil Conservation Service of the United States Department of Agriculture for the purposes of conservation, stream bank restoration, or watershed protection; or in furtherance of, and to implement the installation of, measures designed by a licensed engineer and permitted with a Macon County Land Disturbance Permit to comply with the Macon County Soil Erosion and Sedimentation Control Ordinance or the Sedimentation Pollution Control Act of 1973 of the State of North Carolina. Fill in the flood fringe is permitted in the following ways:~~

- ~~a. at no more than 25 percent of the total of the flood fringe area contained in each such parcel.~~
- ~~b. In excess of 25 percent of the total of the flood fringe area contained in each such parcel when done in accordance to Article 5 Section C~~

~~(17)~~

- (18) No new high impact land uses as defined in the *Ordinance Regulating High Impact Land Uses in Macon County* shall be permitted in the SFHA. “Substantial Improvement” of existing high impact land uses shall be prohibited in the SFHA.
- (19) Vehicle and Mobile Equipment Storage Facilities located in the SFHA shall be subject to the same requirements for RV’s and RV Parks set forth in Article 5, Section B(6) and (7), unless the subject items are elevated to or above the Regulatory Flood Protection Elevation or securely anchored in place at all times while on the site. For the purposes of this section, wherever the term RV is used it shall also include and may be substituted with vehicles and mobile equipment as applicable.
- (20) All fuel oil storage tanks, including propane gas tanks, must be either elevated above BFE or securely anchored to prevent flotation in accordance with the National Fire Protection Code 58, Section 3-2.2.7 and Article 5, Section B (10).

SECTION B. SPECIFIC STANDARDS

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection elevation, as defined in Article 2 of this ordinance. Structures located in A or AE Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and inspection and maintenance plan.
- (3) Manufactured Homes.
 - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for

Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Macon County Floodplain Administrator and the Macon County Emergency Management Department.
 - (e) The owner of an existing manufactured home park or subdivision for which any part of the property is located in the Special Flood Hazard Area shall prepare an Emergency Evacuation Plan and file it with the Macon County Floodplain Administrator no later than twelve (12) months after the effective date of this ordinance, (i.e. August 7, 2000). After receiving approval of the Emergency Evacuation Plan, the owner or manager/operator of the facility will have seven (7) years to bring the existing manufactured home park or subdivision into compliance with all the requirements of the ordinance. Failure to file an Emergency Evacuation Plan for approval shall be a Violation and subject to the penalties defined in Article 3, Section H.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The inner portion of such enclosed areas shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall not be temperature-controlled or conditioned;
 - (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - (d) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

- ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- iv. The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
- v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(e) Fill/Grading. Fill ~~is prohibited~~ in the SFHA shall be done in accordance with Article 5, Section A(17).

(5) Additions/Improvements

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - ii. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
- (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall

Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on wheels or a jacking system, and is attached to the site only by quick disconnect type utilities, and has no permanently attached additions) and be capable of exiting the Special Flood Hazard Area during a flood event.

(7) Recreational Vehicle Parks or Subdivisions

(a) Prior to the issuance of a floodplain development permit for a Recreational Vehicle Park:

- i. RV Park Developers, Owners, and Operators shall prepare and maintain current a comprehensive Emergency Evacuation Plan defining how, when and where all vehicles are to be removed to a safe location during an approaching storm, flood, or hazard events. The Emergency Evacuation Plan shall be submitted to the Macon County Emergency Management Department, the Floodplain Administrator and approved prior to the issuance of a floodplain development permit.
- ii. All RV Park Emergency Evacuation Plans must be updated annually and submitted to the Macon County Emergency Management Department and the Floodplain Administrator for approval.
- iii. The Emergency Evacuation Plan for each RV Park having property in the Special Flood Hazard Area shall be implemented and supported by a written set of park regulations. The park regulations shall be submitted for review and approval along with the Emergency Evacuation Plan prior to the issuance of a floodplain development permit.

- iv. Approval of the Emergency Evacuation Plan and the park regulations do not relieve the RV Park Owner or Land Owner of any responsibility or liability for providing the maximum practical extent of protection against downstream loss of life or property when RV's are resident on the site. Neither does approval of the Emergency Evacuation Plan and the park regulations create or transfer any liability to the County of Macon, any of its employees or agents.
- (b) The park regulations shall include at a minimum the following requirements:
- i. A set of keys to the RV and a current contact telephone number must be in the possession of the RV Park Owner or Operator at all times the RV is parked on a site in the Special Flood Hazard area.
 - ii. The owner of the RV must sign a Release of Liability available from the RV Park Owner giving the RV Park Owner or Operator the right to evacuate the owner's RV(s) to a safe location or to anchor/tether the RV(s) in case of a Flood Warning and the owner is away from the site. The release form shall notify the RV owner that under flooding conditions, the RV may be damaged or destroyed.
- (c) Known Hazards Disclosure. The RV Park Owner is responsible for posting a sign at the utility connection station on each RV parking site advising the RV owner that the site is located within a FEMA-designated Special Flood Hazard Area and is subject to damage or loss to property and life during a flood event. Further, the sign on each site shall advise the RV owner of the potential water depth at the site during a Base Flood event (Base Flood Elevation minus the local grade elevation where the RV is parked). If the RV Park Owner elects to state a single water depth to standardize the signs, the maximum water depth on the entire RV Park shall be listed.
- (d) Inspections.
- i. Macon County has the right to access all RV Parks and all RV parking sites at any time for the purpose of a compliance inspection in accordance with G.S. 160D-403(e). A compliance inspection will determine if the requirements of the Emergency Evacuation Plan and the park regulations are current and being enforced by the RV Park Owner or Operator.
 - ii. Non-conforming items or a finding of non-compliance shall result in a written Notice of Violation (NOV), in accordance with Article 4, Section D of the ordinance.
 - iii. Failure to correct an NOV in the prescribed time limit shall result in a fine not to exceed \$5,000 per day for every calendar day that the RV Park is found to be out of compliance with the approved plans and regulations.
 - iv. Nothing herein shall prevent the County from seeking other enforcement remedies as provided in Article 3, Section H.

- (e) Existing RV Parks and Subdivisions for which any part of the property is located in a Special Hazard Flood Area.

The Owner of an existing RV Park or Subdivision shall prepare an Emergency Evacuation Plan and file it with the Floodplain Administrator and Macon County Emergency Management Coordinator for review and approval no later than twelve months after the effective date of this ordinance (i.e. August 7, 2000). The Known Hazards Disclosure requirements of Article 5, Section B(7)(c) shall be met no later than twelve months after the effective date of this ordinance (i.e. August 7, 2000). After receiving approval of the Emergency Evacuation Plan, the owner (or manager/operator) of the facility shall have seven (7) years to bring the existing RV Park or Subdivision into compliance with all the requirements of the ordinance (i.e. August 7, 2000). Failure to file an Emergency Evacuation Plan for approval shall be a Violation and subject to the penalties defined in Article 3, Section H.

- (8) Temporary Non-Residential Structures and Stockpiling or Storage of Bulk Materials. Prior to the issuance of a floodplain development permit for a temporary structure or for stockpiling or storing bulk materials, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) or materials in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- (b) The name, address, and phone number of the individual responsible for the removal of a temporary structure or materials;
- (c) The time frame prior to the event at which a structure or materials will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure or materials; and
- (e) Designation, accompanied by documentation, or a location outside the Special Flood Hazard Area, to which the temporary structure or material will be moved.

- (9) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);
- (b) Accessory structures shall not be temperature controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;

- (d) Accessory structures shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of the hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

- (10) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B(2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(11) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (c) Roads and watercourse crossing in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (d) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

SECTION C. RESERVEDNO ADVERSE IMPACT DETERMINATION

(1) No fill in excess of the amount permitted under Article 5 Section A(17)(a) shall be permitted, nor shall any floodplain development permit be issued until the floodplain administrator makes a determination that the project would not increase danger to life or property and would have no impact based upon the affirmative findings that:

- a. That granting of the floodplain development permit will not create a danger that fill maybe swept onto other properties upstream from, downstream from, or adjacent to the project area, or increase erosion and sedimentation; and**
- b. The granting of the floodplain permit will result in no rise in the base flood elevation; and**
- c. The granting of the floodplain development permit will not result in increased flood peaks, increased flood stages, or increased flood velocities during the base flood discharge; and**
- d. The granting of the floodplain development permit will not increase the susceptibility of any property to flooding during the base flood; and**
- e. The granting of the floodplain development permit will not increase the susceptibility of existing or proposed structures to flooding during the base flood; and**
- f. The granting of the floodplain development permit will not detrimentally impact the functionality or level of service of any street, bridge or culvert, or public utility during the base flood; and**
- g. The granting of the floodplain development permit will not reduce the effective base flood storage volume of the floodplain; and**

h. The granting of the floodplain development permit will not otherwise increase the probability of flooding or property damage and thereby create a danger to life and property, or otherwise create conditions that are injurious to public health, safety, and welfare.

(2) The burden of proof shall lie with the applicant, who shall be required to present evidence to substantiate any affirmative finding. The administrator shall maintain records containing specific evidence to substantiate any affirmative findings.

(3) In order to evaluate development proposals in the context of the required findings, the following, minimum information is required for presentation to the administrator:

a. A narrative, written in non-technical language, which explains how no adverse impact is being accomplished with respect to the proposed project

b. No rise certification documentation by a professional engineer is required to show the proposed encroachment into the special flood hazard area will cause no rise in the water surface elevation of the 100-year base flood.

c. No adverse impact certification documentation by a professional engineer is required to show that the proposed encroachment into the special flood hazard area will create no adverse impact upon any property owner.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements, or new development shall be permitted within a distance of fifty (50) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.

- (b) When floodway or non-encroachment area data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
- (c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
- (d) When Base Flood Elevation (BFE) data is not available from a Federal, State or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Flood Plain Administrator prior to issuance of floodplain development permit; or

(b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six (6) months of completion of the proposed encroachment.

(2) If Article 5, Section F(1) above is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) No manufactured homes nor RVs shall be permitted in floodways or non-encroachment areas.

ARTICLE 6. LEGAL STATUS PROVISIONS

SECTION A. EFFECT ON RIGHTS AND LIABILITES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted August 7, 2000, as amended, and it is not the intention to repeal, but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Macon County enacted on August 7, 2000, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Macon County is August 7, 2000.

SECTION B. SEVERABILITY

If any section, clause, sentence, or phase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION C. EFFECTIVE DATE

This ordinance shall become effective upon adoption.

SECTION D. ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the amended and restated flood damage prevention ordinance as adopted by the Macon County Board of Commissioners of Macon County, North Carolina, on the ____ of _____, 202~~14~~.

WITNESS my hand and the official seal of Macon County,, NC, this, the _____ day of _____, 202~~14~~.

County Manager
Clerk to the Board of Commissioners

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – REPORTS/PRESENTATIONS

MEETING DATE: JULY 9, 2024

- 9A. Jeff Lee, Macon County Broadband Consultant will provide an update from the broadband committee. A copy of the PowerPoint presentation is included in the packet.

- 9B. Brian Stiehler, Town of Highlands Commissioner and Mayor pro temp will present the proposed plan for the Highlands playground and is requesting a County contribution in the amount of \$350,000 (20 percent of the total project cost). A copy of the PowerPoint presentation is included in the packet.



Macon County Board of Commissioners

Broadband Update

Jeff Lee, July 9, 2024

Agenda



- Ongoing Grant/Subsidy Projects
- Nantahala
- CAB Grant Award

Macon Broadband Grant Update



- Frontier GREAT Grant (\$3.8M grant, \$4.3M project)
 - Engineering complete, permitting in progress
 - Wire center (headend) construction in progress (2 facilities)
 - Fiber subcontractors selected, project manager assigned
 - Construction meeting next month
 - Fiber construction to start in Fall 2024

Macon Broadband Grant Update



- BalsamWest GREAT Grant (\$1M grant, \$1.2M project)
 - Engineering complete, permitting in progress
 - Material orders/deliveries in progress
 - Fiber contractor selection in progress
 - Fiber construction to start late summer/early fall 2024
- Charter RDOF Subsidy (\$9M subsidy)
 - No updates from Charter on when they will enter Macon County



Macon County Request for Proposals

Fiber Optic Deployment and Network Operator Nantahala Township

Requested County Facilities to be Connected

Map Legend

▲ Nantahala County Facilities

— Proposed Phase 1 Fiber v2



Nantahala Project Update

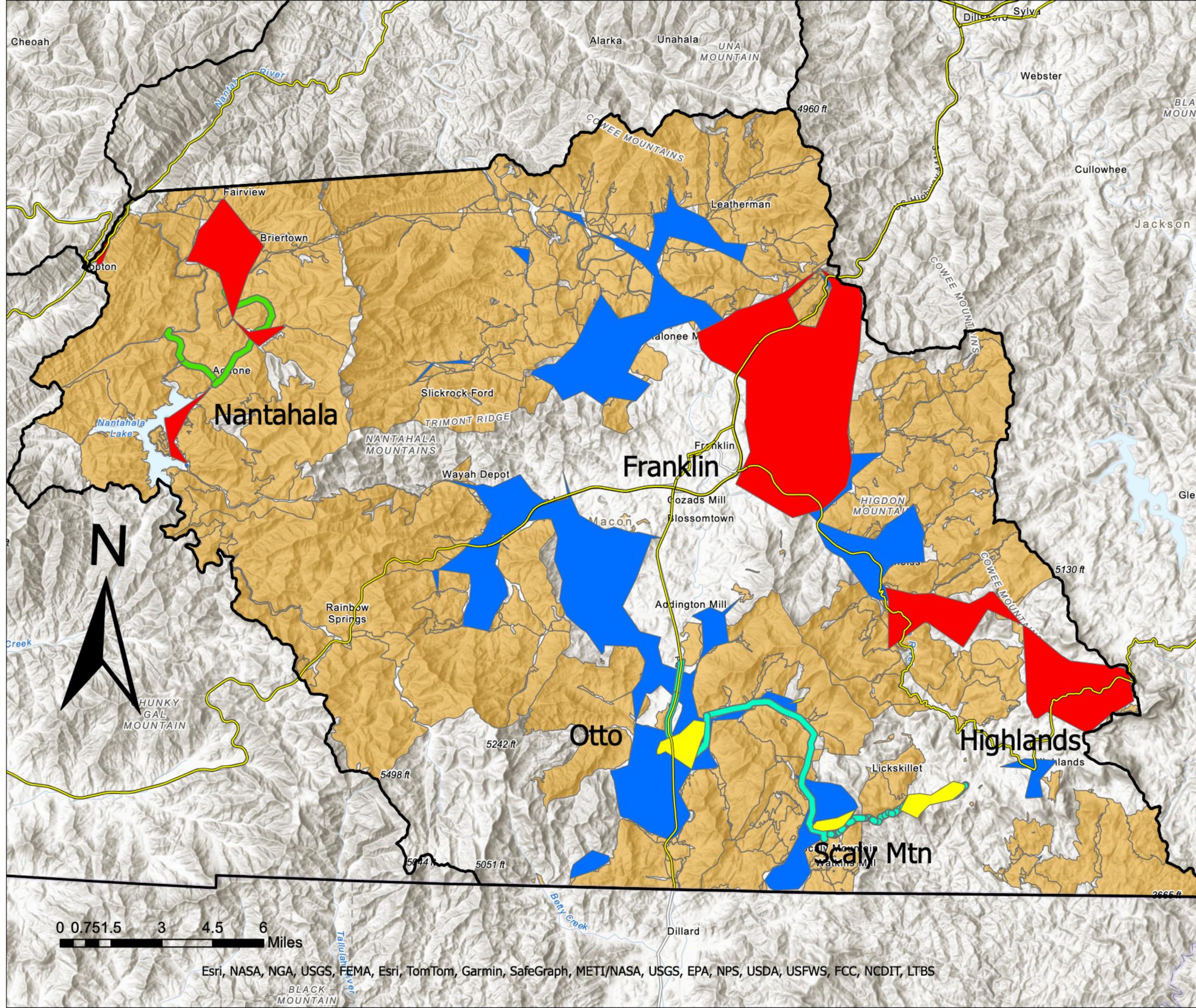


- BalsamWest Fiber
 - Fiber construction complete
 - Fiber headend complete at Nantahala School
 - Facility connections completed/activated on June 24, 2024
- Final Network Trim out and Activation
 - Network contractor working to complete network configuration at each site
 - Public WiFi available now at some sites
 - Expecting network management handoff to MCIT this week

CAB Grant Award



- Statement of Work posted 4/18/24, response window closed 6/3/24
- Bids received from 3 providers, evaluation team included NCDIT and County
- Project awarded to BalsamWest as announced on 7/1/24
- Total project cost \$5,485,204, will serve 1163 locations at \$4,716 per pass
- State grant \$4,113,903, County match \$548,520, Vendor match \$822,781
- Two year project build with completion by October 31, 2026



Macon County Broadband Grant Impact

July 9, 2024

Legend

- South Macon Fiber (MC)
- Nantahala Fiber (MC)
- Frontier GREAT Grant
- BalsamWest GREAT Grant
- BalsamWest CAB Grant
- FCC RDOF904 Charter Award
- US Highways
- Macon County Outline



CAB Grant Impact to Macon County



- Broadband Committee identified 7 priority areas for the CAB program
- The BalsamWest award will mostly complete 4 of the 7 areas which include
 - Sanderstown
 - Ellijay
 - Nantahala (phase 2)
 - US64 gorge area north of Highlands
- Macon is eligible for additional CAB and Stop Gap grants
 - \$518K left from original \$1.067M match commitment for future grants

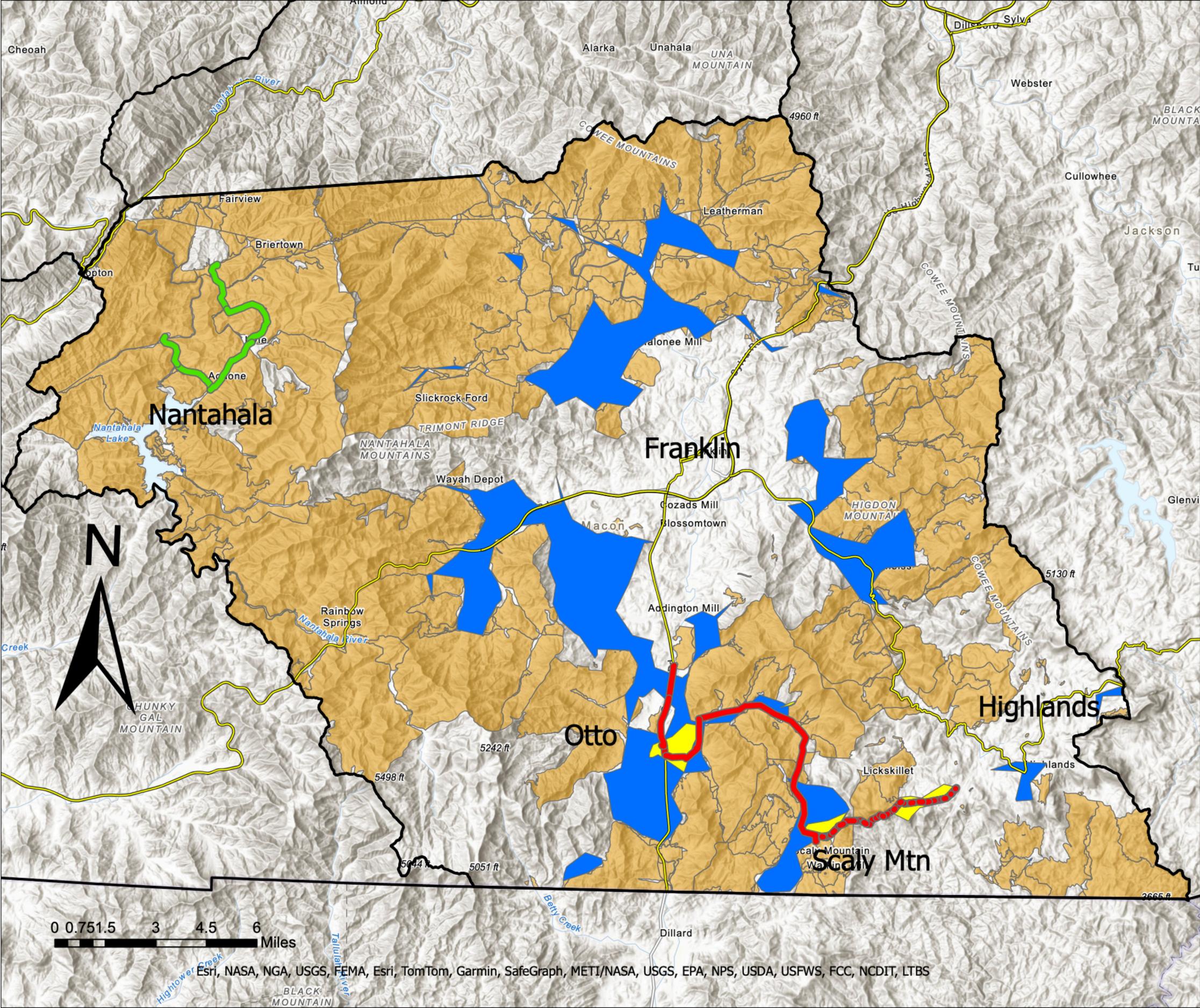
Thank You

Macon County Broadband Grant Impact

May 6, 2024

Legend

- South Macon Fiber (MC)
- Nantahala Fiber (MC)
- Frontier GREAT Grant
- BalsamWest GREAT Grant
- FCC RDOF904 Charter Award
- US Highways
- Macon County Outline



Esri, NASA, NGA, USGS, FEMA, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS, FCC, NCDIT, LTBS



Highlands Community Playground

Project

INCLUSIVE PLAY

July 2024

How did the project come to be?

1. It started with a \$50,000 cash donation.

2. A committee was formed of citizens.

3. Carolina Parks and Play.

4. Highlands does not have a safe, fun playground



HIGHLANDS CIVIC CENTER

Recreation Path Swimming Pool

600 Highlands State Park

126 ft



Highlands Rec Center Playground



1178642-01-03-01 • 03.11.2024



Highlands Rec Center Playground



1178642-01-03-02 • 03.11.2024



Highlands Rec Center Playground

1178642-01-03-04 • 03.11.2024





Highlands Rec Center Playground

CAROLINA
PARKS & PLAY

1178642-01-03-05 • 03.11.2024

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Highlands Rec Center Playground



1178642-01-03-10 • 03.11.2024

What does the Project cost?

How will it be funded?



1. FARRIF Grant applied for
\$500,000.

2. Town of Highlands Pledged
\$250,000 (*fund
balance appropriation*)

3. Private Funding/Donations
\$500,000

4. County Funding (*asking for
\$350,000*)

We are asking for 20% of the



Fundraiser!

GOAL
\$600,000

\$600,000

\$500,000

\$400,000

\$300,000

\$200,000

\$100,000



Benefits!

Brings Families Together

Healthy and Safe Activities

Kids off Screens

Social skills, Creativity and

Mental/Physical Development

Community Engagement

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – OLD BUSINESS

MEETING DATE: JULY 9, 2024

- 10(A). Project Coordinator Jack Morgan will provide an update on the BDA (Bi-Directional Amplifier) system at Macon Middle School, and discuss plans for installation in additional schools.
- 10(B). County Manager Derek Roland will update the board on project cost and financing of the Franklin High School project. A public hearing will need to be scheduled for August 13, 2024, regular meeting. A copy of the Notice of Public Hearing is included in the packet.
- 10(C). The board discussed four (4) inter-local agreements with the Macon County Board of Education regarding the Macon Middle School track project, the Franklin High School project, the Highlands School project, and the Nantahala septic project at the June 11, 2024, regular meeting and tabled the approval until Attorney Ridenour could make the requested revisions. Attorney Ridenour is awaiting final approval from Attorney John Henning after which the revised agreements will be forwarded to you. Approval and a vote will be required for each of these agreements.
- 10(D). At the May 14, 2024, regular meeting, Economic Development Director Tommy Jenkins and Macon County School Career and Technical Education (ETC) Director Colleen Strickland discussed the Pulse Work-Based Learning Partnership and requested funding for the partnership be considered in the FY 24-25 budget. Included in your packet is a budget amendment requesting to transfer \$50,000 from the EDC fund to the general fund to support a partnership between Macon County EDC and the Macon County School Career and Technical Education (CTE) program by providing paid

internships for students to assist public and private sector businesses.

s☆h draft of July 1

**Macon County, North Carolina -- Notice of Public Hearing
Financing for a new Franklin High School**

The Board of Commissioners (the “Board”) of Macon County, North Carolina (the “County”), will hold a public hearing on August 13, 2024, at 6:00 p.m. (or as soon thereafter as the matter may be heard). The purpose of the hearing is to take public comment concerning a proposed financing contract, under which the County would borrow money to pay for a new Franklin High School. The County currently expects to borrow approximately \$76,300,000 for the project, but the final amount may be higher or lower based on the results of the construction bid process and changes in financial market conditions.

The hearing will be held in the Board’s usual meeting room, in the Commission Boardroom, on the third floor of the Macon County Courthouse, at 5 West Main Street Franklin, NC 28734.

The proposed financing would be secured by a lien on the new High School (and its associated land), as well as the County’s promise to repay the financing, but there would be no recourse against the County or its property (other than the proposed High School and the associated land) if there were a default on the financing. As part of this financing plan, the Macon County Board of Education will transfer the new High School property to the County.

All interested persons will be heard. The County’s plans are subject to change based on the comments received at the public hearing and the Board’s subsequent discussion and consideration. The County’s entering into the financing is subject to the County’s obtaining approval from the North Carolina Local Government Commission.

Persons wishing to make written comments in advance of the hearing or wishing more information concerning the subject of the hearing may contact Lori M. Carpenter, Macon County Finance Officer, 5 West Main Street Franklin, NC 28734 (email lhall@maconnc.org)

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – NEW BUSINESS

MEETING DATE: JULY 9, 2024

- 11(A). Included in your packet is an Application for Permit to Exhibit, Use and/or Discharge Pyrotechnics for Concert or Public Exhibition, insurance, licenses, and plan from William Brown of Parties by Design requesting a permit to display of cold spark machines at a wedding reception to be held at Old Edwards Inn located at 455 Main Street in Highlands, NC on Friday, July 26, 2024. Macon County Fire Inspector Bobby Henry has reviewed and approved the application.
- 11(B). Included in your packet is a resolution authorizing execution of Kroger Opioid Settlement and approving the second supplemental agreement for additional Funds. Mr. Roland can provide more information at the meeting.
- 11(C). Transit Director Darlene Asher is requesting approval of the 2024 Title VI Program Plan for Macon County Transit a copy of which is included in your packet. Ms. Asher has indicated that the board has to approve this update every two years with the last one approved in 2022. Ms. Asher will be at the meeting to answer any questions.

STATE OF NORTH CAROLINA
COUNTY OF MACON

**APPLICATION FOR PERMIT TO EXHIBIT, USE AND/OR DISCHARGE
PYROTECHNICS FOR CONCERT OR PUBLIC EXHIBITION**

1. Display Operator/Applicant's full name and address: William D Brown
4438 Whitby Lanene Charlotte, NC 28211
2. Has the Display Operator/Applicant been issued a display operator license under N.C. Gen. Stat. § 58-82A-3 and does the same remain in effect? Yes. Attach copy.
3. Place of proposed public exhibition: 445 Main St Highlands NC 28741
4. Will the exhibition be indoor? yes. If so, additional rules apply.
5. Will the proposed exhibition be in connection with concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and/or public celebrations? no. If so, which:
Wedding
6. Will the proposed exhibition be used for any other purpose? No. If so, what? _____
7. Does the Display Operator/Applicant have insurance in the amount of at least five hundred thousand dollars (\$500,000) or the minimum amount required by the North Carolina Building Code pursuant to N.C. Gen. Stat. § 143-138(e), whichever is greater? yes
Attach full copy of the same.
8. The names of all Individual(s) who are to exhibit, use, handle or discharge pyrotechnics in connection with the concert or public exhibit: Bill Brown
9. Have all persons identified in #8 above completed training and licensing required under Article 82A of Chapter 58 of the North Carolina General Statutes? yes
10. Will the display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the North Carolina General Statutes, be present at the concert or public exhibition? yes
11. Will the display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the North Carolina General Statutes, personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics? yes
12. Does Display Operator/Applicant have all necessary permissions from the property owner of the lands where the display will take place? yes

I certify under penalty of perjury that the responses to the above are truthful all respects.

This the 26 day of June, 2024.

William Brown
Display Operator/Applicant



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06-13-2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER PROFESSIONAL PROGRAM INSURANCE BROKERAGE DIVISION OF SPG INSURANCE SOLUTIONS, LLC 1304 SOUTHPOINT BLVD., #101 PETALUMA CA, 94954	CONTACT NAME: PHONE (A/C, No, Ext): 415-475-4300 FAX (A/C, No): 415-475-4304 E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE NAIC # INSURER A : Certain Underwriters at Lloyd's, London AA-1128623 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	
INSURED William Brown DBA: Parties by Design 4438 Whitby Lane Charlotte, NC 28211		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X		PY/23-0202	10/09/2023	10/09/2024	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000						
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

The insurance company with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by a State insurance guaranty or solvency fund.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Trash Fence Inc.; Old Edwards Inn and Spa; Lisa Pleasant Events are Additional Insured as respects the Special Effects display(s) on 7/27/2024 & 8/4/2024 located at 445 Main St Highlands NC 28741. This policy provides a two-year extended reporting period from the date of the display. 30-day notice of cancellation applies. 10-day notice for non-payment.

CERTIFICATE HOLDER Trash Fence Inc. 3517 Driftwood Dr Charlotte NC 28205	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	---

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF Correspondence To	ATF - Chief, FELC 244 Needy Road Martinsburg, WV 25405-9431	License/Permit Number 1-NC-119-50-6G-00899
Chief, Federal Explosives Licensing Center (FELC)	<i>Mama Howard</i>	Expiration Date July 1, 2026

Name
BROWN, WILLIAM DEWITT

Premises Address (Changes? Notify the FELC at least 10 days before the move.)
**4438 WHITBY LANE
CHARLOTTE, NC 28211-**

Type of License or Permit

50-MANUFACTURER OF EXPLOSIVES

Purchasing Certification Statement
The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives License (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)
BROWN, WILLIAM DEWITT
4438 WHITBY LANE
CHARLOTTE, NC 28211-

Licensee/Permittee Responsible Person Signature	Position/Title
Printed Name	Date

Previous Edition is Obsolete BROWN, WILLIAM DEWITT 4438 WHITBY LANE 28211-1 NC-119-50-6G-00899 July 1, 2026 50-MANUFACTURER OF EXPLOSIVES ATF Form 5400.14/5400.15 Part 1 Revised September 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC) 244 Needy Road Martinsburg, WV 25405-9431
Toll-free Telephone Number: (877) 283-3352
Fax Number: (304) 616-4401
E-mail: FELC@atf.gov
ATF Homepage: www.atf.gov

Change of Address (27 CFR 555.54(a)(1)). Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. **(The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)**

Right of Succession (27 CFR 555.59). (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

Cut Here ><

Federal Explosives License/Permit (FEL) Information Card

License/Permit Name: **BROWN, WILLIAM DEWITT**

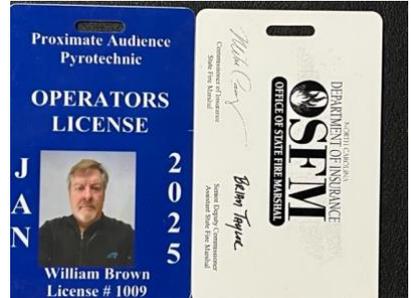
Business Name:

License/Permit Number: **1-NC-119-50-6G-00899**

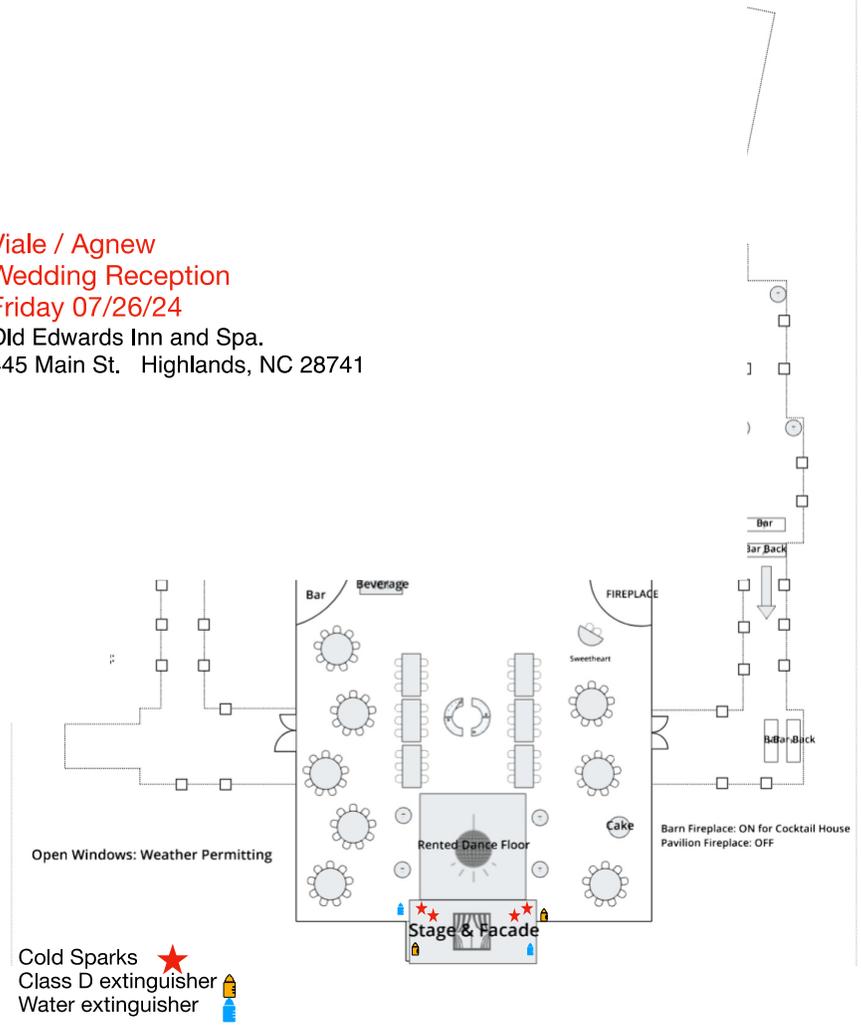
License/Permit Type: **50-MANUFACTURER OF EXPLOSIVES**

Expiration: **July 1, 2026**

Please Note: Not Valid for the Sale or Other Disposition of Explosives.



Viale / Agnew
Wedding Reception
Friday 07/26/24
Old Edwards Inn and Spa.
445 Main St. Highlands, NC 28741



Viale / Agnew
Wedding Reception
Friday 07/26/24
Old Edwards Inn and Spa.
445 Main St. Highlands, NC 28741

Exit. Cold spark units. 15' separation distance from guests
Per NFPA 1026 code

★ Cold Spark Machines



**RESOLUTION BY THE COUNTY OF MACON
AUTHORIZING EXECUTION OF KROGER OPIOID SETTLEMENT AND
APPROVING THE SECOND SUPPLEMENTAL AGREEMENT FOR ADDITIONAL
FUNDS**

WHEREAS, the opioid overdose epidemic has taken the lives of more than 37,000 North Carolinians since 2000; and

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

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

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

WHEREAS, by Resolution passed June 8, 2021, Macon County approved the Memorandum of Agreement between the State of North Carolina and Local Governments on proceeds related to the Opioid Litigation, and by Resolution passed February 21, 2023, Macon County approved the Supplemental Agreement for Additional Funds between the State of North Carolina and Local Governments; and

WHEREAS, a settlement has been reached in litigation against the Kroger Co. (“Kroger”) as well as its subsidiaries, affiliates, officers, and directors named in the Kroger Settlement; and

WHEREAS, representatives of local North Carolina governments, the North Carolina Association of County Commissioners, and the North Carolina Department of Justice have negotiated and prepared a Second Supplemental Agreement for Additional Funds (SAAF-2) to provide for the equitable distribution of the proceeds of these settlements; and

WHEREAS, by joining the settlements and approving the SAAF-2, the state and local governments maximize North Carolina’s share of opioid settlement funds to ensure the needed resources reach communities, as quickly, effectively, and directly as possible; and

WHEREAS, it is advantageous to all North Carolinians for local governments, including Macon County and its residents, to sign onto the settlements and SAAF-2 and demonstrate solidarity in response to the opioid overdose crisis, and to maximize the share of opioid settlement funds received both in the state and Macon County to help abate the harm; and

WHEREAS, the SAAF-2 directs substantial resources over multiple years to local governments on the front lines of the opioid overdose epidemic while ensuring that these resources are used in an effective way to address the crisis;

NOW, THEREFORE BE IT RESOLVED, that the Macon County Board of Commissioners hereby authorizes the County Manager to execute all documents necessary to enter into opioid settlement agreements with Kroger, to execute the SAAF-2, and to provide such documents to Rubris, the Implementation Administrator.

Adopted this the _____ day of July, 2024.

Mr. Gary Shields, Chairman
Macon County Board of Commissioners

ATTEST:

Derek C. Roland, Clerk to the Board

SEAL

Macon County Transit



Date Adopted
July 9th, 2024

Title VI Program Plan



TITLE VI PLAN REVIEW AND ADOPTION

On behalf of the Macon County Board of Commissioners for Macon County Transit (MCT), I hereby acknowledge receipt of the Title VI Nondiscrimination Plan. We, the Macon County Board of Commissioners, have **reviewed and hereby adopt** this Plan. We are committed to ensuring that all decisions are made in accordance with the nondiscrimination guidelines of this Plan, to the end the no person is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any Macon County Transit transportation services and activities on the basis of race, color, national origin, sex, age, creed (religion), or disability, as protected by Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions of the Federal Transit Administration.

Signature of Authorizing Official

DATE

Table of Contents

Title VI Nondiscrimination Agreement	6
1.0 Introduction	7
2.0 Description of Programs and Services	7
2.1 Program(s) and Services Administered.....	7
2.2 Funding Sources / Tables.....	7
2.3 Decision-Making Process	8
2.4 Title VI Coordinator.....	9
2.5 Change of Title VI Coordinator and/or Head of Decision-making Body	10
2.6 Organizational Chart.....	10
2.7 Subrecipients	10
3.0 Title VI Nondiscrimination Policy Statement	10
4.0 Notice of Nondiscrimination	11
5.0 Procedures to Ensure Nondiscriminatory Administration of Programs and Services	12
6.0 Contract Administration	13
6.1 Contract Language	13
6.2 Nondiscrimination Notice to Prospective Bidders.....	15
7.0 External Discrimination Complaint Procedures	15
Discrimination Complaint Form.....	18
Discrimination Complaints Log	20
Investigative Guidance.....	21
SAMPLE Investigative Report Template	22
8.0 Service Area Population Characteristics	23
8.1 Race and Ethnicity.....	24
8.2 Age & Sex	25
8.3 Disability.....	26
8.4 Poverty.....	26
8.5 Household Income	26
8.6 Limited English Proficiency Populations	26
8.7 Population Locations	26
9.0 Title VI Equity Analyses (and Environmental Justice Assessments)	26
10.0 Public Involvement	26
10.1 Introduction	27
10.2 Public Notification.....	27

10.3 Dissemination of Information	27
10.4 Meetings and Outreach	27
10.5 Limited English Proficiency	28
10.6 Demographic Requests	30
10.7 Key Community Contacts.....	31
10.8 Summary of Outreach Efforts Since the Last Title VI Program Submission.....	31
11.0 Staff Training	31
12.0 Nonelected Boards and Committees – By Race and Gender	32
13.0 Record-Keeping and Reports	32
Appendices	33
Appendix A – Applicable Nondiscrimination Authorities	
Appendix B – Organizational Chart	
Appendix C– NCDOT’s Transit Review Checklist	
Appendix D – Annual Education and Acknowledgement Form	
Appendix E – Demographic Request form	

TITLE VI NONDISCRIMINATION AGREEMENT
BETWEEN
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
AND
MACON COUNTY TRANSIT

In accordance with DOT Order 1050.2A, Macon County Transit (MCT) assures the North Carolina Department of Transportation (NCDOT) that no person shall, on the ground of **race, color, national origin, sex, creed, age, or disability**, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 and related nondiscrimination authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity undertaken by Macon County Transit.

Further, Macon County Transit hereby agrees to:

1. Designate a Title VI Coordinator that has a responsible position within the organization and easy access to the Transit Director of the organization.
2. Issue a policy statement, signed by the Transit Director of the organization, which expresses a commitment to the nondiscrimination provisions of Title VI and related applicable statutes. The signed policy statement shall be posted and circulated throughout the organization and to the general public and published where appropriate in languages other than English. The policy statement will be re-signed when there is a change of Transit Director.
3. Insert the clauses of the contract language from Section 6.1 in every contract awarded by Macon County Transit. Ensure that every contract awarded by the organization's contractors or consultants also includes the contract language.
4. Process all and, when required, investigate complaints of discrimination consistent with the procedures contained within this Plan. Log all complaints for the administrative record.
5. Collect statistical data (race, color, national origin, sex, age, disability) on participants in, and beneficiaries of, programs and activities carried out by the organization.
6. Participate in training offered on Title VI and other nondiscrimination requirements. Conduct or request training for employees or the organization's subrecipients.
7. Take affirmative action, if reviewed or investigated by NCDOT, to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless reasonable provisions are granted by NCDOT.
8. Document all Title VI nondiscrimination-related activities as evidence of compliance. Submit information and reports to NCDOT on a schedule outlined by NCDOT.

THIS AGREEMENT is given in consideration of, and for the purpose of obtaining, any and all federal funds, grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding.

Authorized Signature

Date

Derek C. Roland
Macon County Manager

1.0 INTRODUCTION

Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000d provides that: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The broader application of nondiscrimination law is found in other statutes, executive orders, and regulations, which provide additional protections based on age, sex, creed (religion), and disability, including the 1987 Civil Rights Restoration Act, which extended nondiscrimination coverage to all programs and activities of federal-aid recipients, subrecipients, and contractors, including those that are not federally-funded (see Appendix A – Applicable Nondiscrimination Authorities).

Macon County Transit is a recipient of Federal Transit Administration (FTA) funds from the North Carolina Department of Transportation (NCDOT). Macon County Transit establishes this Title VI Nondiscrimination Plan for the purpose of complying with Title VI of the Civil Rights Act of 1964, as required by FTA Circular 4702.1B, and related requirements outlined within the FTA Certifications & Assurances, “Nondiscrimination Assurance.” This document details the nondiscrimination program, policies, and practices administered by Macon County Transit, and will be updated periodically to incorporate changes and additional responsibilities as they are made. This Plan will be submitted to NCDOT or FTA, upon request.

2.0 DESCRIPTION OF PROGRAMS AND SERVICES

2.1 PROGRAM(S) AND SERVICES ADMINISTERED

Macon County Transit provides the following public transportation options to its customers within Macon County:

1. Deviated Fixed Route – operates Monday – Friday from 8:00 am until 4:30 pm (last run). Route includes 8 designated stops, will make stops in between designated stops and will deviate up to ¼ mile from route upon request. Buses will be at each stop every 30 minutes Fares are \$1 per boarding, \$18 for 20 tickets, or \$30 for an unlimited monthly pass. Deviated Fixed Route vehicles are ADA accessible.
2. Demand Response – Operates Monday – Friday from 6:00 am until 5:00 pm. Available to all citizens of Macon County. All trips should be scheduled as far in advance as possible by calling 828-349-2222, but at least by 12:00PM the day before. ADA accessible vehicles are available. Fares are \$3.00 per boarding for local general public trips; there are discount rates available for the elderly and/or disabled passengers. Out of county fares depends on the location of the trip.

Type of Service	Days of Week	Times	Fare (if applicable)
Demand response	Monday-Friday	6:00 am – 5:30 pm	\$3.00 per boarding
Deviated Fixed Route	Monday – Friday	8:00 am – 4:30 pm	\$1.00 per boarding

3. Holidays- Macon County Government follows the Office of State Human Resources holiday schedule. Below is the schedule for 2024.

Holiday	Observance Date	Day of Week
New Year's Day	January 1, 2024	Monday
Martin Luther King Jr.'s Birthday	January 15, 2024	Monday
Good Friday	March 29, 2024	Friday
Memorial Day	May 27, 2024	Monday
Independence Day	July 4, 2024	Thursday
Labor Day	September 2, 2024	Monday
Veteran's Day	November 11, 2024	Monday
Thanksgiving	November 28 & 29, 2024	Thursday & Friday
Christmas	December 24, 25 & 26, 2024	Tuesday, Wednesday & Thursday

Macon County Transit has the following staff:

Transit Director (1), Transit Assistant Director (1), Transit Coordinator (1), Transit Administrative Support Assistant (2), Full-Time Driver/Operators (9) and Temporary Part-time Transit Driver/Operators (10)

2.2 FUNDING SOURCES / TABLES

For the purpose of federally assisted programs, "federal assistance" shall include:

1. grants and loans of Federal funds;
2. the grant or donation of Federal property and interest in property;
3. the detail of Federal personnel;
4. the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
5. Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

Each FTA Formula Grant received by our system during the past year, and whether the funds were received through NCDOT or directly from FTA, is checked below.

Grant Title	NCDOT	FTA	Details (i.e., purpose, frequency, and duration of receipt)
5310 (Transportation for Elderly Persons and Persons with Disabilities)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	to improve mobility for seniors and individuals with disabilities throughout the country, by removing barriers to transportation services and expanding the transportation mobility options available, annually upon approval
5311 (Formula Grants for Other than Urbanized Areas)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	to enhance the access of people in nonurbanized areas to health care, shopping, education, employment recreation; <u>annually upon approval</u>
5311 (b)(3) (Rural Transit Assistance)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the needs of transit operators in nonurbanized areas, annually upon approval
5339 (Bus and Bus Facilities Formula)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of addition for passenger waiting area, training room, office and storage space
Combined Capital	<input checked="" type="checkbox"/>	<input type="checkbox"/>	allows Community Transportation (CT) systems the opportunity to apply for funding for capital projects on a single application and provides IMD the flexibility to fund the approved projects with the type of funds which best suit the projects and manage the funds in the most efficient and effective manner. The Combined Capital application utilizes funds from the 5311, 5307, and 5339 federal programs.

2.3 DECISION-MAKING PROCESS

The transportation advisory board shall perform the following duties or be responsible for the following functions:

1. The Macon County Transportation Advisory Board (TAB) is the advisory committee for Macon County Transit and makes recommendations to the Macon County Board of Commissioners on service changes and adopting program documents.

2. The TAB is a locally formed advisory group based on NCDOT/PTD guidelines and requirements.
3. The TAB must include representatives from the elderly, minority, Limited English Proficiency (LEP), disabled and/or low income populations in the service area.
4. The TAB meets, at a minimum, one time per quarter (Third Wednesday of the Third Month of the Quarter – March, June, September, December)
5. A vote by the majority of board members present at any meeting shall constitute a quorum for the transaction of business during regular or special called meetings of the board
6. Serve as a liaison between the residents of Macon County and the county government concerning transportation issues.
7. Discuss and make recommendations on unmet needs in the services area.
8. Review and make recommendations on service design, scheduling and billing rates and fares and help to resolve complaints when requested by the Transit Director.
9. Monitor compliance with federal regulations and the status of any deficiencies noted in any official federal, state or local review or report.
10. Recommend policy and make recommendations to the Transit Director and the Macon County Board of Commissioners on the transportation needs of Macon County citizens, particularly with respect to a coordinated and cost-effective approach to the delivery of transportation services to area human service agencies and the general public.
11. Work to stimulate and promote needed transportation services and programs for Macon County residents.
12. Assist public, private non-profit, private, and voluntary agencies in providing transportation services to their clients.
13. Assist in the development and update of the Community Transportation Services Plan (CTSP) and the local Human Services and Public Transportation Coordinated Plan.
14. Perform other functions as may be requested by the Macon County Board of Commissioners.

The Macon County Board of Commissioners shall perform the following duties or be responsible for the following functions:

1. The Macon County Board of Commissioners (BOC) is the governing board for Macon County Transit and makes the final decisions on adopting policies and program documents.
2. The BOC is comprised of five elected members.
3. The BOC meets one time per month (second Tuesday of the Month)
4. Certain departmental plans/policies/documents are required to be adopted by the Board of Commissioners.
5. Plan/policies/documents are typically sent to the County Attorney for review and comment,
6. The Transit Director makes any necessary changes based on County Attorney’s opinion and requests to be placed on the agenda for the next BOC meeting.
7. The Transit Director (or designee) brings the plan/policy/document before the Board of Commissioners at a regular meeting.
9. The BOC considers the request from the Transit Director and votes to either approve or deny the request.
10. A Resolution granting permission for MCT to apply and receive the annual CTP funds must be passed by the BOC.

Board or Committee Name	Appointed	Elected	# of Members
Transit Advisory Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	18 plus Commissioner Liaison (Non-Voting)
Macon County Board Of Commissioners	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5

2.4 TITLE VI COORDINATOR

The individual below has been designated as the Title VI Coordinator for Macon County Transit, and is empowered with enough authority and responsibility to implement the Title VI Nondiscrimination Program:

Darlene Asher
 Transit Director
 36 Pannell Lane
 Franklin, NC 28734
 (828) 349-2222
 dasher@maconnc.org

Key responsibilities of the Coordinator include:

- Maintaining knowledge of Title VI and related requirements.
- Attending civil rights training when offered by NCDOT or any other regulatory agency.

- Administering the Title VI Nondiscrimination Program and coordinating implementation of this Plan.
- Training internal staff and officials on their Title VI nondiscrimination obligations.
- Disseminating Title VI information internally and to the general public, including in languages other than English.
- Presenting Title VI-related information to decision-making bodies for input and approval.
- Ensuring Title VI-related posters are prominently and publicly displayed.
- Developing a process to collect data related to race, national origin, sex, age, and disability to ensure minority, low-income, and other underserved groups are included and not discriminated against.
- Ensuring that non-elected boards and committees reflect the service area and minorities are represented.
- Implementing procedures for prompt processing (receiving, logging, investigating and/or forwarding) of discrimination complaints.
- Coordinating with, and providing information to, NCDOT and other regulatory agencies during compliance reviews or complaint investigations.
- Promptly resolving areas of deficiency to ensure compliance with Title VI nondiscrimination requirements.

2.5 CHANGE OF TITLE VI COORDINATOR

If Title VI Coordinator or Transit Director changes, this document and all other documents that name the Coordinator, will immediately be updated, and an updated policy statement be signed by the new Transit Director

2.6 ORGANIZATIONAL CHART

Macon County Transit currently employs 24 staff, which consist of the following job categories:

- | | |
|-------------------------------------|---------------------------------|
| • Director (1) Title VI Coordinator | • Administrative Assistants (2) |
| • Asst. Director (1) | |
| • Operations Coordinator (1) | • Drivers (19) |

An organizational chart showing the Title VI Coordinator's place within the organization is in **Appendix B**.

2.7 SUBRECIPIENTS

Macon County Transit does not have pass through funds to any other organizations and, therefore, does not have any subrecipients.

3.0 TITLE VI NONDISCRIMINATION POLICY STATEMENT

It is the policy of Macon County Transit as a federal-aid recipient, to ensure that no person shall, on the ground of **race, color, national origin, sex, creed (religion), age or disability**, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of our programs and activities, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and all other related nondiscrimination laws and requirements.

Signature

Derek C, Roland, Macon County Manager

Date

Title VI and Related Authorities

Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d) provides that, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity receiving federal financial assistance.” The 1987 Civil Rights Restoration Act (P.L. 100-259) clarified and restored the original intent of Title VI by expanding the definition of “programs and activities” to include all programs and activities of federal-aid recipients, subrecipients, and contractors, whether such programs and activities are federally assisted or not.

Related nondiscrimination authorities include, but are not limited to: U.S. DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act”; 49 U.S.C. 5332, “Nondiscrimination (Public Transportation)”; FTA Circular 4702.1B - Title VI Requirements and Guidelines for Federal Transit Administration Recipients; DOT Order 5610.2a, “Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”; FTA C 4703.1 - Environmental Justice Policy Guidance For Federal Transit Administration Recipients; Policy Guidance Concerning (DOT) Recipient’s Responsibilities to Limited English Proficient (LEP) Persons, 74 FR 74087; The Americans with Disabilities Act of 1990, as amended, P.L. 101-336; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 790; Age Discrimination Act of 1975, as amended 42 U.S.C. 6101; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601; Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d

Implementation

- This statement will be signed by the Transit Director of Macon County Transit and re-signed whenever a new person assumes that position.
- The signed statement will be posted on office bulletin boards, near the receptionist’s desk, in meeting rooms, at transit stops, inside vehicles, and disseminated within brochures and other written materials.
- The *core* of the statement (signature excluded) will circulate *internally* within annual acknowledgement forms.
- The statement will be posted or provided in languages other than English, when appropriate.

4.0 NOTICE OF NONDISCRIMINATION

- Macon County Transit operates its programs and services without regard to **race, color, national origin, sex, creed (religion), age, and disability** in accordance with Title VI of the Civil Rights Act and related statutes. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice may file a complaint with Macon County Transit.
- For more information on Macon County Transit’s civil rights program, and the procedures to file a complaint, contact 828-349-2222, (TTY 800-735-2962); email dasher@maconncc.org ; or visit our administrative office at 36 Pannell Lane, Franklin, NC 28734. For more information, visit www.macontransit.com.
- If information is needed in another language, contact 828-349-2222 and ask for an interpreter.
- A complainant may file a complaint directly with the North Carolina Department of Transportation by filing with the Office of Civil Rights, External Civil Rights Section, 1511 Mail Service Center, Raleigh, NC 27699-1511, Attention: Title VI Nondiscrimination Program; phone: 919-508-1808 or 800-522-0453, or TDD/TTY: 800-735-2962.
- A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590.

Implementation

- The notice will be posted in its entirety on our website and in any documents and reports we distribute.
- The notice will be posted in our offices and inside our vehicles.
- Ads in newspapers and other publications shall include the following: “Macon County Transit operates without regard to **race, color, national origin, sex, creed (religion), age or disability**. For more information on Macon County Transit’s Title VI program or how to file a discrimination complaint, please contact 828-349-2222; email dasher@maconncc.org .
- The statement will be posted or provided in languages other than English, when appropriate.

PROCEDURES TO ENSURE NONDISCRIMINATORY ADMINISTRATION OF PROGRAMS AND SERVICES

We are committed to nondiscriminatory administration of our programs and services, organization wide. Macon County Transit will remind employees of Title VI nondiscrimination obligations through staff training and use of the **Annual Education and Acknowledgment Form** below. The Title VI Coordinator will periodically assess program operations to ensure this policy is being followed.

Annual Education and Acknowledgement Form

Title VI Nondiscrimination Policy

(Title VI and related nondiscrimination authorities)

No person shall, on the grounds of race, color, national origin, sex, age, creed, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a Federal-aid recipient.

All employees and representatives of Macon County Transit are expected to consider, respect, and observe this policy in their daily work and duties. If any person approaches you with a civil rights-related question or complaint, please direct him or her to Transit Director at 36 Pannell Lane, Franklin, NC 28734 PH. 828-349-2222 or dasher@maconnc.org.

In all dealings with the public, use courtesy titles (e.g., Mr., Mrs., Miss, Dr.) to address or refer to them without regard to their race, color, national origin, sex, age or disability.

Acknowledgement of Receipt of Title VI Program

I hereby acknowledge receipt of Macon County Transit's Title VI Program and other nondiscrimination guidelines. I have read the Title VI Program and I am committed to ensuring that no person is excluded from participation in or denied the benefits of Macon County Transit's programs, policies, services and activities on the basis of race, color, national origin, sex, age, creed (religion), or disability, as provided by Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes.

Signature

Date

Implementation

- Periodically, but not more than once a year, employees and representatives will receive, review and certify commitment to the Title VI Program.
- New employees shall be informed of Title VI provisions and expectations to perform their duties, accordingly, asked to review the Title VI Program, and required to sign the acknowledgement form.
- Periodic review of operational practices and guidelines by the Title VI Coordinator to verify compliance with the Title VI Program. Maintain documents of each review on file.
- Signed acknowledgement forms and records of internal assessments will remain on file for at least three years.

5.0 CONTRACT ADMINISTRATION

Macon County Transit ensures all contractors will fulfill their contracts in a nondiscriminatory manner. While contractors are not required to prepare a Title VI Program, they must comply with the nondiscrimination requirements of the organization to which they are contracted. Macon County Transit and its contractors will not discriminate in the selection and retention of contractors (at any level) or discriminate in employment practices in connection with any of our projects.

5.1 CONTRACT LANGUAGE

I. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Transit Administration (FTA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, creed (religion), low-income, limited English proficiency, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

(3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FTA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FTA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-

discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:

- (a) withholding payments to the contractor under the contract until the contractor complies; and/or
- (b) cancelling, terminating, or suspending a contract, in whole or in part.

(6) Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FTA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

II. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq);
- Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination based on race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity).

*The Contractor has read and is familiar with the terms above:

Contractor's Initials

Date

Implementation

- The nondiscrimination language above (**with** initials line) will be appended to any *existing* contracts, purchase orders, and agreements that do not include it, and initialed by the responsible official of the other organization.
- The nondiscrimination language above (**without** initials line) will be incorporated as standard language before the signature page of our standard contracts, purchase orders, and agreements.
- The Title VI Coordinator will review *existing* contracts to ensure the language has been added.

6.2 NONDISCRIMINATION NOTICE TO PROSPECTIVE BIDDERS

The Macon County Transit, in accordance with Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities, and Title 49 Code of Federal Regulations, Parts 21 and 26, hereby notifies all bidders that it will affirmatively insure that in any contact entered into pursuant to this advertisement, minority and women business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, creed, limited English proficiency, low-income, or disability in consideration for an award.

Implementation

- The nondiscrimination language above will be included in all solicitations for bids for work or material and proposals for negotiated agreements to assure interested firms that we provide equal opportunity and do not discriminate.
- Outreach efforts will be made to minority and women-owned firms that work in requested fields and documented.
- Unless specifically required under Disadvantaged Business Enterprise (DBE) or Affirmative Action programs, all contractors will be selected without regard to their race, color, national origin, or sex.

7.0 EXTERNAL DISCRIMINATION COMPLAINT PROCEDURES

These discrimination complaint procedures outline the process used by Macon County Transit (MCT) to process complaints of alleged discrimination filed under Title VI of the Civil Rights Act of 1964 and related nondiscrimination laws that are applicable to MCT programs, services, and activities. Complaints will be investigated by the appropriate authority. Upon completion of an investigation, the complainant will be informed of all avenues of appeal. Every effort will be made to obtain early resolution of complaints at the lowest level possible by informal means.

FILING OF COMPLAINTS

1. **Applicability** – These procedures apply to the beneficiaries of our programs, activities, and services, such as the members of the public and any consultants/contractors we hire.
2. **Eligibility** – Any person or class of persons who believes that he/she has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities based upon race, color, sex, age, national origin, creed (religion) or disability, may file a written complaint. The law prohibits intimidation or retaliation of any sort. The complaint may be filed by the affected individual or a representative and must be in writing.
3. **Time Limits and Filing Options** – A complaint must be filed no later than 180 calendar days after the following:
 - The date of the alleged act of discrimination; or
 - The date when the person(s) became aware of the alleged discrimination; or
 - Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

Complaints may be submitted to the following entities:

- **Macon County Transit**, ATTN: Darlene Asher, Transit Director, 36 Pannell Ln, Franklin, NC 28734 828-349-2222 or dasher@maconnc.org
- **North Carolina Department of Transportation**, Office of Civil Rights, External Civil Rights Section, 1511 Mail Service Center, Raleigh, NC 27699-1511; 984-236-1200

- **US Department of Transportation**, Departmental Office of Civil Rights, External Civil Rights Programs Division, 1200 New Jersey Avenue, SE, Washington, DC 20590; 202-366-4070
Federal Transit Administration, Office of Civil Rights, ATTN: Title VI Program Coordinator, East Bldg. 5th Floor – TCR, 1200 New Jersey Avenue, SE, Washington, DC 20590
- **US Department of Justice**, Special Litigation Section, Civil Rights Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530, 202-514-6255 or toll free 877-218-5228

4. **Format for Complaints** – Complaints shall be in **writing** and **signed** by the complainant(s) or a representative and include the complainant's name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received by telephone or in person will be reduced to writing, may be recorded and will be provided to the complainant for confirmation or revision before processing. Complaints will be accepted in other languages, including Braille.
5. **Discrimination Complaint Form** – The Discrimination Complaint Form is consistent with the FTA Certifications & Assurances, "Nondiscrimination Assurance."
6. **Complaint Basis** – Allegations must be based on issues involving race, color, national origin, sex, age, creed (religion) or disability. The term "basis" refers to the complainant's membership in a protected group category.

Protected Categories	Definition	Examples	Applicable Statutes and Regulations
			FTA
Race	An individual belonging to one of the accepted racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black/African American, Hispanic/Latino, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, White	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; 49 U.S.C. 5332(b); FTA Circular 4702.1B
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.	
National Origin	Place of birth. Citizenship is not a factor. Discrimination based on language or a person's accent is also covered.	Mexican, Cuban, Japanese, Vietnamese, Chinese	
Sex	Gender	Women and Men	49 U.S.C. 5332(b); Title IX of the Education Amendments of 1972
Age	Persons of any age	21 year old person	Age Discrimination Act of 1975
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990
Creed	Religion.	Muslim, Christian, Hindu, Atheist	49 U.S.C. 5332(b)

Complaint Processing

1. When a complaint is received, an Acknowledgment Letter and a Complainant Consent/Release Form will be mailed to the complainant within ten (10) business days by registered mail.
2. We will consult with the NCDOT Title VI Program to determine the acceptability and jurisdiction of all complaints received. (Note: If NCDOT will investigate, the Title VI Program will be responsible for the remainder of this process. We will record the transfer of responsibility in our complaints log).
3. Additional information will be requested if the complaint is incomplete. The complainant will be provided 15 business days to submit any requested information and the signed Consent Release form. Failure to do so may be considered good cause for a determination of no investigative merit.
4. Upon receipt of the requested information and determination of jurisdiction, we will notify the complainant and respondent of whether the complaint has enough merit to warrant investigation.
5. If the complaint is investigated, the notification shall state the grounds of our jurisdiction, while informing the parties that their full cooperation will be required in gathering additional information and assisting the investigator.

6. If the complaint does not warrant investigation, the notification to the complainant shall specifically state the reason for the decision.

Complaint Log

1. When a complaint is received, the complaint will be entered into the Discrimination Complaints Log with other pertinent information and assigned a **Case Number**. (Note: All complaints must be logged).
2. The complaints log will be submitted to the NCDOT's Civil Rights office during Title VI compliance reviews. (Note: NCDOT may also be request the complaints log during pre-grant approval processes).
3. The **Log Year(s)** since the last submittal will be entered (e.g., 2015-2018, 2017-2018, FFY 2018, or 2018) and the complaints log will be signed before submitting the log to NCDOT.
4. When reporting **no complaints**, check the **No Complaints or Lawsuits** box and sign the log.

DISCRIMINATION COMPLAINT FORM

Any person who believes that he/she has been subjected to discrimination based upon race, color, creed, sex, age, national origin, or disability may file a written complaint with Macon County Transit, within 180 days after the discrimination occurred.

Last Name:		First Name:		<input type="checkbox"/> Male
				<input type="checkbox"/> Female
Mailing Address:			City	State
				Zip
Home Telephone:		Work Telephone:		E-mail Address

Identify the Category of Discrimination:

RACE COLOR NATIONAL ORIGIN SEX
 CREED (RELIGION) DISABILITY LIMITED ENGLISH PROFICIENCY AGE

*NOTE: Title VI bases are race, color, national origin. All other bases are found in the "Nondiscrimination Assurance" of the FTA Certifications & Assurances.

Identify the Race of the Complainant

Black White Hispanic Asian American
 American Indian Alaskan Native Pacific Islander Other _____

Date and place of alleged discriminatory action(s). Please include earliest date of discrimination and most recent date of discrimination.

Names of individuals responsible for the discriminatory action(s):

How were you discriminated against? Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status (basis) was a factor in the discrimination. Include how other persons were treated differently from you. **(Attach additional page(s), if necessary).**

The law prohibits intimidation or **retaliation** against anyone because he/she has either taken action, or participated in action, to secure rights protected by these laws. If you feel that you have been retaliated against, separate from the discrimination alleged above, please explain the circumstances below. Explain what action you took which you believe was the cause for the alleged retaliation.

Names of persons (witnesses, fellow employees, supervisors, or others) whom we may contact for additional information to support or clarify your complaint: (Attached additional page(s), if necessary).

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

DISCRIMINATION COMPLAINT FORM

Have you filed, or intend to file, a complaint regarding the matter raised with any of the following? If yes, please provide the filing dates. Check all that apply.

- NC Department of Transportation _____
- Federal Transit Administration _____
- US Department of Transportation _____
- US Department of Justice _____
- Federal or State Court _____
- Other _____

Have you discussed the complaint with any Macon County Transit representative? If yes, provide the name, position, and date of discussion.

Please provide any additional information that you believe would assist with an investigation.

Briefly explain what remedy, or action, are you seeking for the alleged discrimination.

****WE CANNOT ACCEPT AN UNSIGNED COMPLAINT. PLEASE SIGN AND DATE THE COMPLAINT FORM BELOW.**

COMPLAINANT'S SIGNATURE

DATE

MAIL COMPLAINT FORM TO:

Macon County Transit
 36 Pannell Lane
 Franklin, NC 28734
 Attn: Darlene Asher
 (828) 349-2222

FOR OFFICE USE ONLY

Date Complaint Received: _____

Processed by: _____

Case #: _____

Referred to: NCDOT FTA Date Referred: _____

INVESTIGATIVE GUIDANCE

- A. Scope of Investigation** – An investigation should be confined to the issues and facts relevant to the allegations in the complaint, unless evidence shows the need to extend the issues.
- B. Developing an Investigative Plan** – It is recommended that the investigator prepares an Investigative Plan (IP) to define the issues and lay out the blueprint to complete the investigation. The IP should follow the outline below:
1. Complainant(s) Name and Address (Attorney name and address if applicable)
 2. Respondent(s) Name and Address (Attorney for the Respondent(s) name and address)
 3. Applicable Law(s)
 4. Basis/(es)
 5. Allegation(s)/Issue(s)
 6. Background
 7. Name of Persons to be interviewed
 - a. Questions for the complainant(s)
 - b. Questions for the respondent(s)
 - c. Questions for witness(es)
 8. Evidence to be obtained during the investigation
 - a. Issue – e.g., Complainant alleges his predominantly African American community was excluded from a meeting concerning a future project which could affect the community.
 - i. Documents needed: e.g., mailing list which shows all physical addresses, P.O. Box numbers, property owner names, and dates when the meeting notification was mailed; other methods used by the RPO to advertise the meeting.
- C. Request for Information** – The investigator should gather data and information pertinent to the issues raised in the complaint.
- D. Interviews** – Interviews should be conducted with the complainant, respondent, and appropriate witnesses during the investigative process. Interviews are conducted to gain a better understanding of the situation outlined in the complaint of discrimination. The main objective during the interview is to obtain information that will either support or refute the allegations.
- E. Developing an Investigative Report** – The investigator should prepare an investigative report setting forth all relevant facts obtained during the investigation. The report should include a finding for each issue. A sample investigative report is provided below.

Investigative Report

I. COMPLAINANT(S) NAME (or attorney for the complainant(s) – name and address if applicable)

Name, Address, Phone: 999-999-9999

II. RESPONDENT(S) (or attorney for the respondent(s) – name and address if applicable)

Name, Address, Phone: 999-999-9999

III. APPLICABLE LAW/REGULATION

[For example, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); 49 CFR §21.11; 49 CFR §26.53]

IV. COMPLAINT BASIS/(ES)

[For example, Race, Color, National Origin, Creed (Religion), Sex, Age, Disability]

V. ISSUES/ALLEGATIONS

[Describe in logical sequence, each allegation including the prohibited basis for the alleged discriminatory conduct, (e.g., race, color, creed, sex, national origin, age, or disability) and the specific statutory or regulatory provision the allegation would violate, if proven to be true.]

Issue #1 – Complainant alleges that transit system failed to inform minority communities of rate increases.

Issue #2 – Complainant alleges that transit system has not sufficiently publicized or held public meetings to share information regarding fare increases and route changes that impacts low-income and minority citizens.

VI. BACKGROUND

[Provide detailed information regarding the complaint, including a historical overview of the case, including any activities or actions taken prior to accepting the complaint for investigation.]

VII. INVESTIGATIVE PROCEDURE

[Describe in detail, methods used to conduct the investigation, such as document requests, interviews and site visits. Include witnesses' names and addresses, documents received and/or reviewed, emails sent and received.]

VIII. ISSUES / FINDINGS OF FACT

[Provide a detailed description of the investigator's analysis of each allegation, based on clear and factual findings. Include specific evidence used to support your findings.]

IX. CONCLUSION

[State whether discrimination did or did not occur. Conclusions must be evidence-based and defensible. Test conclusions by considering all possible rebuttal arguments from the respondent and complainant. Both respondent and the complainant should be given an opportunity to confirm or rebut the assertions of the other party and your findings, but all the evidence you've presented should speak for itself.]

X. RECOMMENDED ACTIONS

[Outline what should be done to remedy the findings or, if necessary, provide justice for the complainant.]

APPENDIX

[Include in the Appendix any supplemental materials that support your findings and conclusion.]

8.0 SERVICE AREA POPULATION CHARACTERISTICS

To ensure that Title VI reporting requirements are met, we will collect and maintain population data on potential and actual beneficiaries of our programs and services. This section contains relevant population data for our overall service area. This data provides context for the Title VI Nondiscrimination Program and will be used to ensure nondiscrimination in public outreach and delivery of our programs and services.

8.1 RACE AND ETHNICITY

The following table was completed using data from Census Table DP05, ACS Demographics and Housing Estimates.

Race and Ethnicity	Number	Percent
Total Population	37,088	100
White	33,707	90.9
Black or African American	383	1.0
American Indian or Alaska Native	118	.03
Asian	331	.9
Native Hawaiian and Other Pacific Islander	0	0
Some other Race	1325	3.6
Two or More Races	1224	3.3
HISPANIC OR LATINO (of any race)		
Mexican	2231	7.9
Puerto Rican	216	.6
Cuban	87	.2
Other Hispanic or Latino	384	1

8.2 AGE & SEX

The following table was completed using data from Census Table S0101, Age Groups and Sex.

Age	Number			Percent		
	Both sexes	Male	Female	Both sexes	Male	Female
Total Population	37,088			100%	100%	100%
Under 5 years	1,621	971	650	100%	5.3%	3.4%
Under 18 years	6,600	3,533	3,067	100%	19.4%	16.2%
18 to 64 years	18,189	9,164	9,025	100%	50.1%	49.9%
65 years and over	10,678	4,815	5,863	100%	26.5%	31.0%
Median Age	50.6	48.1	52.9			

8.3 DISABILITY

The following table was completed using data from Census Table S1810, Disability Characteristics:

Subject	Total		With a Disability		Percent with a Disability	
	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-
Total civilian noninstitutionalized population	36,909	+/-19	6,248	+/-596	16.9	+/-1.6
Population under 5 years	1620	+/-5	100	+/-89	3.4	+/-3.0
Population 5 to 17 years	1970	+/-113	349	+/-158	7.0	+/-3.2
Population 18 to 64 years	19,727	+/-180	2528	+/-395	20.7	+/-4.9
Population 65 years and over	10,595	+/-154	3371	+/-490	67.9	+/-9.5
SEX						
Male	18,125	+/-270	2902	+/-369	16	+/-2.0
Female	18,784	+/-267	3346	+/-445	17.8	+/-2.4
RACE AND HISPANIC OR LATINO ORIGIN						
White	33573	+/-336	5837	+/-555	17.4	+/-1.6
Black or African American	353	+/-184	111	+/-105	31.4	+/-26.1
American Indian and Alaska Native	118	+/-53	77	+/-51	65.3	+/-28.9
Asian	319	+/-130	18	+/-23	5.6	+/-7.0
Native American and Other Pacific Islander	0	+/-29	0	+/-29		
Some other Race	1324	+/-356	82	+/-89	6.2	+/-6.6
Two or more races	1222	+/-313	123	+/-68	10.1	+/-6.5
Hispanic or Latino	3907	+/-5	100	+/-89	3.4	+/-3.0

8.4 POVERTY

The following table was completed using data from Census Table S1701, Poverty Status in the Past 12 Months:

Subject	Total		Below poverty level		Percent below poverty level	
	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-	Estimate	Margin of Error +/-
Population for whom poverty status is determined						
AGE						
Under 18	6391	+/-220	1327	+/-380	20.8	+/-5.8
18 to 64	19716	+/-160	3056	+/-630	15.5	+/-3.2
65 years and over	10592	+/-149	1278	+/-342	12.11	+/-3.2
SEX						
Male	17965	+/-291	2289	+/-534	12.7	+/-2.9
Female	18734	+/-261	3372	+/-652	18	+/-3.5
RACE AND HISPANIC OR LATINO ORIGIN						
White	33400	+/-367	4587	+/-974	13.7	+/-2.9
Black or African American	352	+/-184	95	+/-92	27	+/-23.0
American Indian and Alaska Native	118	+/-53	38	+/-45	32.2	+/-36.6
Asian	315	+/-130	0	+/-29	0.0	+/-12.6
Native American and Other Pacific Islander	0	+/-29	0	+/-29		
Some other Race	1292	+/-358	371	+/-267	28.7	+/-16.7
Two or more races	1222	+/-313	570	+/-298	46.6	+/-20.2
Hispanic or Latino	2907	+/-5	937	+/-30	32.2	+/-10.3
RACE AND HISPANIC OR LATINO ORIGIN						
All individuals below:						
50 percent of poverty level	2002	+/-682				
125 percent of poverty level	7766	+/-1117				
150 percent of poverty level	10055	+/-1194				
185 percent of poverty level	12802	+/-1329				
200 percent of poverty level	13885	+/-1343				

8.5 HOUSEHOLD INCOME

The following table was completed using data from Census Table S1901, Income in the Past 12 Months (In 2022 Inflation-Adjusted Dollars):

Subject	Households	
	Estimate	Margin of Error +/-
Total	17386	+/-566
Less than \$10,000	6.0	+/-1.9
\$10,000 to \$14,999	7.1	+/-2.1
\$15,000 to \$24,999	12.0	+/-1.8
\$25,000 to \$34,999	10.4	+/-2.0
\$35,000 to \$49,999	13.8	+/-2.1
\$50,000 to \$74,999	18.0	+/-2.5
\$75,000 to \$99,999	12.3	+/-1.8
\$100,000 to \$149,999	11.5	+/-1.9
\$150,000 to \$199,999	4.6	+/-1.2
\$200,000 or more	4.4	+/-1.2
Median income (dollars)	51042	+/-4138
Mean income (dollars)	70954	+/-4901

8.6 LIMITED ENGLISH PROFICIENCY POPULATIONS

SEE TABLE IN FACTOR #1 OF SECTION 10.5 OF THIS DOCUMENT

8.7 POPULATION LOCATIONS

Federal-aid recipients are required to identify the characteristics and locations of populations they serve, particularly by race/ethnicity, poverty and limited English proficiency. We will document this narratively or through maps that overlay boundaries and demographic features on specific communities, and provide this information to NCDOT, upon request.

9.0 TITLE VI EQUITY ANALYSES (AND ENVIRONMENTAL JUSTICE ASSESSMENTS)

Title VI Equity Analyses. In accordance with FTA Circular 4702.1B, a Title VI equity analysis will be conducted whenever we construct a facility, such as a vehicle storage facility, maintenance facility, or operation center. The equity analysis will be conducted during the planning stage, with regard to the location of the facility, to determine if the project could result in a disparate impact to minority communities based on race, color or national origin. Accordingly, we will look at various alternatives before selecting a site for the facility. Project-specific demographic data on potentially affected communities and their involvement in decision-making activities will be documented. Title VI Equity Analyses will remain on file indefinitely, and copies will be provided to NCDOT, upon request, during compliance reviews or complaint investigations.

Environmental Justice Analyses. As required by FTA C 4703.1, environmental justice (EJ) analyses will be conducted to determine if our programs, policies, or activities will result in disproportionately high and adverse human health and environmental effects on minority populations and low-income populations. EJ applies to our projects, such as when we construct or modify a facility, and our policies, such as when there will be a change in service, amenities or fares. Thus, we will look at various alternatives and seek input from potentially affected communities before making a final decision. Demographic data will be collected to document their involvement in the decision-making process. EJ analyses will remain on file indefinitely, and copies will be provided to NCDOT, upon request, during compliance reviews or complaint investigations.

10.0 PUBLIC INVOLVEMENT

Effective public involvement is a key element in addressing Title VI in decision-making. Recipients engaged in planning and other decision-making activities must have a documented public participation process that provides adequate notice of public participation activities, and early and continuous opportunities for public review and comment at key decision points. Underlying these efforts is our commitment to determining the most effective outreach methods for a given project or population.

10.1 INTRODUCTION

Effective public involvement is a key element in addressing Title VI in decision-making. This **Public Participation Plan** describes how Macon County Transit will disseminate vital agency information and engage the public. We will seek out and consider the input and needs of interested parties and groups traditionally underserved by transportation systems who may face challenges accessing our services, such as minority and limited English proficient (LEP) persons. Underlying these efforts is our commitment to determining the most effective outreach methods for a given project or population.

General public involvement practices will include:

- Expanding traditional outreach methods. Think outside the box: Go to hair salons, barbershops, street fairs, etc.
- Providing for early, frequent and continuous engagement by the public.
- Use of social media and other resources as a way to gain public involvement.
- Coordinating with community- and faith-based organizations such as the Hispanic Liaison, educational institutions, and other entities to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities.
- Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.
- Considering radio, television, or newspaper ads on stations and in publications that serve LEP populations. Outreach to LEP persons could also include audio programming available on podcasts.

10.2 PUBLIC NOTIFICATION

Passengers and other interested persons will be informed of their rights under Title VI and related authorities with regard to our program. The primary means of achieving this will be posting and disseminating the policy statement and notice as stipulated in Sections 3.0 and 4.0, respectively. Additional measures may include verbally announcing our obligations and the public's rights at meetings, placing flyers at places frequented by targeted populations, and an equal opportunity tag-on at the end of radio announcements. The method of notification will be determined through an initial screening of the area.

10.3 DISSEMINATION OF INFORMATION

Information on Title VI and other programs will be crafted and disseminated to employees, contractors and subrecipients, stakeholders, and the general public. Public dissemination efforts may vary depending on factors present, but will generally include: posting public statements setting forth our nondiscrimination policy in eye-catching designs and locations; placing brochures in public places, such as government offices, transit facilities, and libraries; having nondiscrimination language within contracts; including nondiscrimination notices in meeting announcements and handouts; and displaying our Notice of Nondiscrimination at all our public meetings.

At a minimum, nondiscrimination information will be disseminated on our website and on posters in conspicuous areas at our office(s). Project-related information and our most current Title VI-related information will be maintained online.

10.4 MEETINGS AND OUTREACH

There is no one-size-fits-all approach to public involvement. A variety of comprehensive and targeted public participation methods will be used to facilitate meaningful public involvement. Methods for engaging stakeholders and target audiences, including traditionally underserved and excluded populations (i.e., minorities, youth, low-income, the disabled, etc.) will include the following:

Public Relations and Outreach

Public relations and outreach (PRO) strategies aim to conduct well-planned, inclusive and meaningful public participation events that foster good relations and mutual trust through shared decision-making with the communities we serve.

- We will seek out and facilitate the involvement of those potentially affected.
- Public events will aim to be collaborative, fun, and educational for all, rather than confrontational and prescriptive.
- Media plans will typically involve multiple channels of communication like mailings, radio, TV, and newspaper ads.
- Abstract objectives will be avoided in meeting announcements. Specific “attention-grabbing” reasons to attend will be used, such as “Help us figure out how to relieve congestion on [corridor name]” or “How much should it cost to ride the bus? Let us know on [date].”
- Efforts will be made to show how the input of participants can, or did, influence final decisions.
- We will do our best to form decision-making committees that look like and relate to the populations we serve.
- We will seek out and identify community contacts and partner with local community- and faith-based organizations that can represent, and help us disseminate information to, target constituencies.
- Demographic data will be requested during public meetings, surveys, and from community contacts and committee members.

Public Meetings

“Public meeting” refers to any meeting open to the public, such as hearings, charrettes, open house and board meetings.

- Public meetings will be conducted at times, locations, and facilities that are convenient and accessible.
- Meeting materials will be available in a variety of predetermined formats to serve diverse audiences.
- An assortment of advertising means may be employed to inform the community of public meetings.
- Assistance to persons with disabilities or limited English proficiency will be provided, as required.

Small Group Meetings

A small group meeting is a targeted measure where a meeting is held with a specific group, usually at their request or consent. These are often closed meetings, as they will typically occur on private property at the owner’s request.

- If it is determined that a targeted group has not been afforded adequate opportunities to participate, the group will be contacted to inquire about possible participation methods, including a group meeting with them individually.
- Unless unusual circumstances or safety concerns exist, hold the meeting at a location of the target group’s choosing.
- Share facilitation duties or relinquish them to members of the target group.
- Small group discussion formats may be integrated into larger group public meetings and workshops. When this occurs, the smaller groups will be as diverse as the participants in the room.

Community Surveying

- Opinion surveys will occasionally be used to obtain input from targeted groups or the general public on their transportation needs, the quality or costs of our services, and feedback on our public outreach efforts.
- Surveys may be conducted via telephone, door-to-door canvassing, at community fairs, by placing drop boxes in ideal locations, or with assistance from other local agencies like social services.
- Surveys will be translated into languages other than English, when appropriate.

10.5 LIMITED ENGLISH PROFICIENCY

Limited English Proficient (LEP) persons are individuals for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. These individuals reported to the U.S. Census Bureau that they speak English less than very well.

To comply with USDOT’s LEP Policy Guidance and Executive Order 13166, this section of our Title VI Plan outlines the steps we will take to ensure meaningful access by LEP persons to all benefits, services and information provided under our programs and activities. A four-factor analysis was conducted to determine the LEP language groups present in our planning area and the specific language services that are needed.

Four Factor Analysis

This Four Factor Analysis is an individualized assessment that balances the following four factors:

- (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee;
- (2) The frequency with which LEP individuals come in contact with the program;
- (3) The nature and importance of the program, activity, or service provided by the recipient to people's lives; and
- (4) The resources available to the recipient and costs.

Factor #1: *The number or proportion of LEP persons eligible to be served or likely to be encountered by the program, activity, or service of the recipient.*

LANGUAGE SPOKEN AT HOME	Estimate	Margin of Error	Percent of Population	Margin of Error
Total (population 5 years and over):	35467	+/- 2	100%	(X)
Speak only English	32956	+/- 274	92.9%	+/-0.8 %
Spanish or Spanish Creole:	2166	+/- 199	6.1%	+/- 0.6%
Speak English "very well"	1144	+/- 151	52.8%	+/- 8.3%
Speak English less than "very well"	1022	+/-239	47.2%	+/- 8.3%

Based on Census estimates, factoring in margins of error, there are no individual LEP language groups within Macon County that meet the safe harbor threshold of 5% or 1,000, whichever is less, for required translation (written) of vital documents. However, in accordance with the USDOT LEP Guidance, when circumstances warrant, MCT will provide written notice in the primary language of the specific LEP language group of the right to receive competent oral interpretation of written materials, free of cost. MCT will also translate pertinent material if it determines that is the best way to communicate with an LEP person or community.

Factor #2: *The frequency with which LEP individuals come in contact with the program.*

MCT offers deviated fixed routes, paratransit service, and a demand response service 8:00 am until 5:00 pm, Monday through Friday, except holidays. Therefore, individuals primarily come into contact with MCT when they place a call for transportation assistance. Based on the infrequency of LEP calls received, we estimate that LEP persons come into contact with MCT approximately one (1) time per year. When LEP persons call for transportation services MCT will make every effort to provide language assistance in order to respond to their request. By using a translator phone service MCT should be able to adequately provide this language assistance. The deviated fixed service includes 8 fixed bus stops along the route. MCT will conduct an assessment of this route to determine if LEP persons use it, and if they do, how often.

Factor #3: *The nature and importance of the program, activity, or service provided by the recipient to people's lives.*

MCT's services are available to all individuals of Macon County, including LEP persons. Transportation services are important to Macon County in order to allow elderly individuals to age in place, rather than being placed in a nursing or care facility. Other customers of the service find value in using the service to get to employment sites, shopping centers, human service agencies, or any other general transportation they may need. Transportation disadvantaged populations rely heavily on the service to get to life sustaining services such as dialysis or quality of life destinations such as the library or shopping centers.

In order to determine the importance of MCT's services to the community, questions will be added to the surveys required by NCDOT. Information from these surveys will be used to determine how the community perceives MCT and its importance to the economy and life in a rural area. One-on-one surveys have been conducted by the Mobility Coordinator to determine if the deviated fixed service provided by MCT is fulfilling the transportation needs of riders on that service,

and to determine rider's knowledge of other MCT services, e.g., demand response and subscription. MCT will make sure that not only its customers are aware of the survey and encouraged to complete it, but also community-based, faith-based organizations and businesses. Paper copies will also be available for dissemination to such organizations

Factor #4: The resources available to the recipient and costs.

Resources used for LEP outreach are marketing and promotional funds received through 5311 Grant funds, which are used to provide posters and brochures describing available services. Efforts will be made to translate vital documents in order to have them available whenever a request is made for such materials. MCT will make every effort to inform LEP persons in Macon County about our transportation services. By utilizing contacts with the Macon County Health Department, the Macon County Department of Social Services, the Senior Center, and other community-based organizations, MCT will be able to provide cost-effective outreach and dissemination of information to potential LEP patrons.

LANGUAGE ASSISTANCE PLAN

As a result of the above four factor analysis, a Language Assistance Plan (LAP) was not required. However, reasonable attempts will be made to accommodate any persons encountered who require written translation or oral interpretation services, including: Providing translation and interpretive services when appropriate (upon request or predetermined); determining how best to take public involvement to LEP groups directly, including small group meetings; where possible, utilizing or hiring staff who speak a language other than English; using language identification flashcards to determine appropriate services; and establishing a process to obtain feedback on our language assistance measures.

DEMOGRAPHIC REQUEST

The following form was used to collect required data on Key Community Contacts and nonelected committee members.

Macon County Transit is required by Title VI of the Civil Rights Act of 1964 and related authorities to record demographic information on members of its boards and committees. Please provide the following information:

<p>Race/Ethnicity:</p> <p><input type="checkbox"/> White</p> <p><input type="checkbox"/> Black/African American</p> <p><input type="checkbox"/> Asian</p> <p><input type="checkbox"/> American Indian/Alaskan Native</p> <p><input type="checkbox"/> Native Hawaiian/Pacific Islander</p> <p><input type="checkbox"/> Hispanic/Latino</p> <p><input type="checkbox"/> Other (please specify): _____</p>	<p>National Origin: (if born outside the U.S.)</p> <p><input type="checkbox"/> Mexican</p> <p><input type="checkbox"/> Central American: _____</p> <p><input type="checkbox"/> South American: _____</p> <p><input type="checkbox"/> Puerto Rican</p> <p><input type="checkbox"/> Chinese</p> <p><input type="checkbox"/> Vietnamese</p> <p><input type="checkbox"/> Korean</p> <p><input type="checkbox"/> Other (please specify): _____</p>
<p>Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female</p>	<p>Age:</p> <p><input type="checkbox"/> Less than 18 <input type="checkbox"/> 45-64</p> <p><input type="checkbox"/> 18-29 <input type="checkbox"/> 65 and older</p> <p><input type="checkbox"/> 30-44</p>
<p>Disability: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>I choose not to provide any of the information requested above: <input type="checkbox"/></p>	

Completed forms will remain on file as part of the public record. For more information regarding Title VI or this request, please contact the Macon County Transit at 828-349-2222 or by email at dasher@maconnc.org .

Please sign below acknowledging that you have completed this form.

Thank you for your participation!

Name (print): _____

Signature: _____

Implementation

- Forms will be completed prior to NCDOT Title VI reviews and remain on file for three years.
- All new and existing members of appointed decision-making boards or committees will be **required** to complete this form for reporting purposes.
- If a member, for whatever reason, selects “*I choose not to provide any of the information requested above,*” this will be accepted as a **completed** form.
- If a member chooses not to provide any of the information on the form, the Title VI Coordinator will be permitted to indicate that member’s race and gender, based on the Coordinator’s best guess.
- Once a new member submits this form, the Demographic Request Table for the associated committee will be updated.

10.6 KEY COMMUNITY CONTACTS

Contact Name	Community Name	Interest or Affiliation	Also a Committee Member? (Y/N)
Warren Cabe	Macon County	Emergency Management	Yes
Brent Holbrooks	Macon County	Sheriff’s Office	No

Contact information for key community contacts is not public information and is maintained outside of this document. Any staff member who wishes to contact any individual listed above must request that information from the Title VI Coordinator.

10.7 SUMMARY OF OUTREACH EFFORTS MADE SINCE THE LAST TITLE VI PROGRAM SUBMISSION

The following format is used to document URTS outreach efforts in reports to NCDOT. All meetings and disseminations of information capture information for the table below:

Meeting Date	Meeting Time	Meeting Purpose	Target Audience	Information Disseminated
Quarterly	10:00 AM	TAB	All Populations	Administrative & Operating Information
Annually in Fall	N/A	Macon County Fair	General Public	Brochures and Promotional Items
Annually	9:00 AM -4:00PM	Senior Expo	Elderly Residents	Brochures and Promotional Items

11.0 STAFF TRAINING

All employees will receive basic Title VI training at least once every three years. New hires will receive this training within 15 days of their start date. Basic training will cover all sections of this Plan and our overall Title VI obligations. Staff may receive specialized training on how Title VI applies to their specific work areas. Those who routinely encounter the public, such as office personnel, call center staff, and vehicle drivers, will receive annual refresher training. Trainings will be provided or organized by the Title VI Coordinator and will often coincide with updates to our nondiscrimination policies and procedures. Records of staff trainings, such as agendas, sign-in sheets, copies of calendars, and certificates, will remain on file for at least three years (and in personnel files).

12.0 NONELECTED BOARDS AND COMMITTEES – BY RACE AND GENDER

The table below depicts race and gender compositions for each of our nonelected (appointed) decision-making bodies. Member names and full demographics for each committee are available, upon request.

Body	Male %	Female %	Caucasian %	African American %	Asian American %	Native American %	Other %	Hispanic %
Service Area Population	49.0%	51.0%	90.9%	1.0%	0.9%	0.3%	4.9%	7.9%
Transit Advisory Board	40	60	100	0.00	0.00	0.00	0.00	0.0

Strategies for Representative Committees

Diversification goals will be provided to our nonelected boards and committees to help ensure that their membership mirrors our service area demographics, as adequately as possible. We will provide periodic updates on our outreach efforts at meetings. When there is an opening on a board or committee, we will ensure the following:

- Current members will be made aware of diversity goals and polled for nominees.
- Officials from local minority groups will be made aware of the diversity goals and polled for nominees.
- Key Contacts from LEP groups will be contacted and polled for nominees.
- A recruitment notice for a Board Member opening will be posted on our website.
- An advertisement of recruitment notice for a Board Member will be placed with the local newspaper and other publications popular with minorities and other protected groups.

13.0 RECORD-KEEPING AND REPORTS

As a subrecipient of FTA funds through NCDOT, we are required to submit a Title VI Program update to NCDOT every three years, on a schedule determined by NCDOT. Records will be kept to document compliance with the requirements of the Title VI Program. Unless otherwise specified, Title VI-related records shall be retained indefinitely. These records will be made available for inspection by authorized officials of the NCDOT and/or FTA. Reports on Title VI-related activities and progress to address findings identified during Title VI compliance reviews may also be provided, upon request. It will occasionally be necessary to update this Title VI Plan or any of its components (e.g., complaints, Public Involvement, and LEP). Updates will be submitted to NCDOT for review and approval and adopted by our Board when required.

In addition to items documented throughout this Plan, records and reports due at the time of compliance reviews or investigations may include:

Compliance Reviews

- Title VI Program Plan
- List of civil rights trainings provided or received
- Summaries from any *internal* reviews conducted
- Ads and notices for specific meetings
- Findings from reviews by any other *external* agencies
- Title VI equity analyses and EJ assessments
- Discrimination Complaints Log

Complaint Investigations

- Investigative Reports
- Discrimination complaint, as filed
- List of interviewees (names and affiliations)
- Supporting Documentation (e.g., requested items, photos taken, dates and methods of contact, etc.)

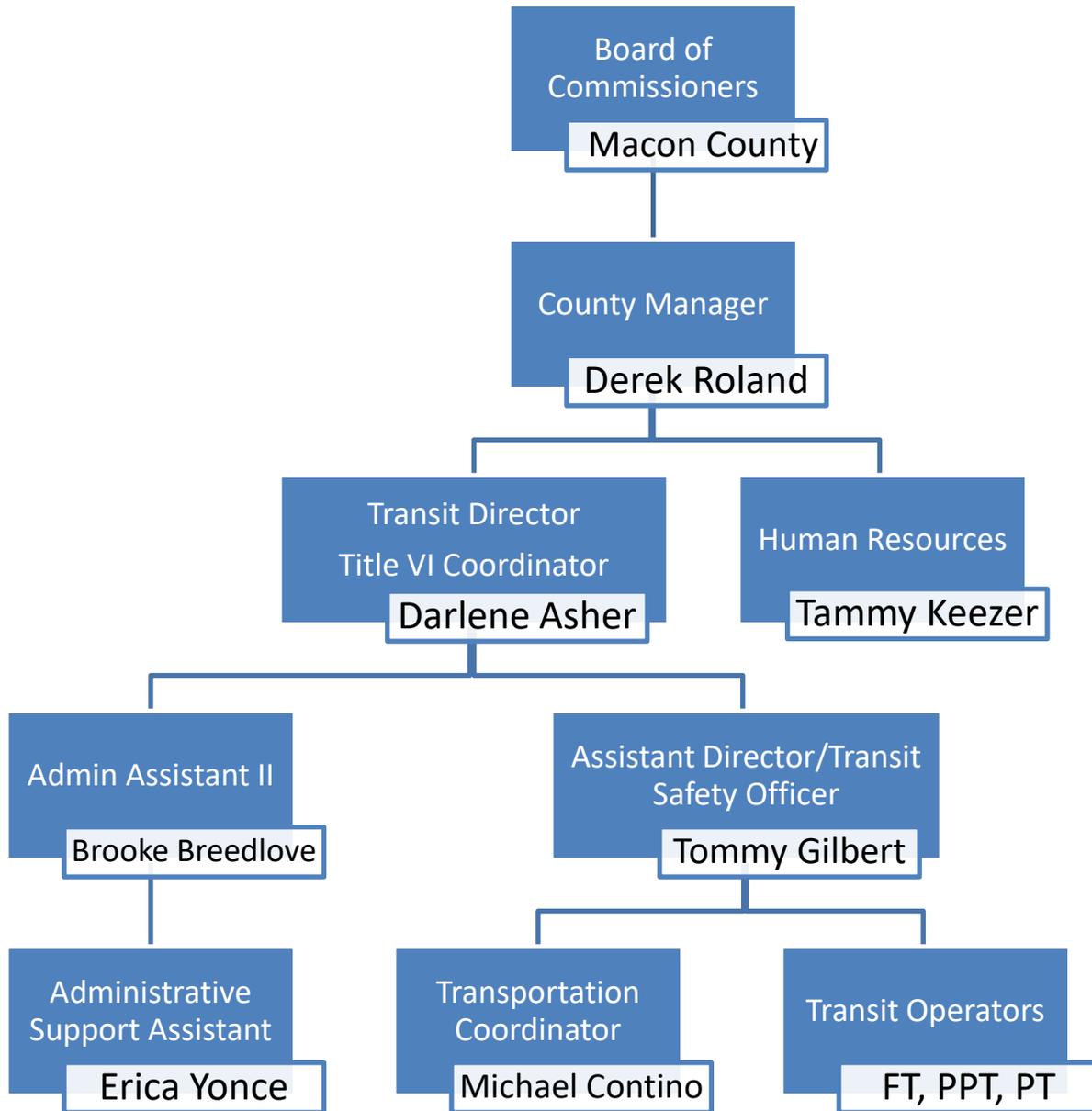
Appendix A

Applicable Nondiscrimination Authorities

During the implementation of this Title VI Program, the organization, for itself, its assignees and successors in interest, is reminded that it has agreed to comply with the following non-discrimination statutes and authorities, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).
- Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.*, Pub. L. 88-352), (prohibits employment discrimination on the basis of race, color, creed (religion), sex, or national origin);
- 49 CFR Part 26, regulation to ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Airport and Airway Improvement Act of 1982, (49 USC § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed (religion), color, national origin, or sex);
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination based on race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity).

**Appendix B
Organizational Chart**



Appendix C
NCDOT's Compliance Review Checklist for Transit

I. Program Administration (General Requirements)	
<i>Requirement: FTA C 4702.1B – Title VI Requirements and Guidelines for FTA Recipients, Chapter III – General Requirements and Guidelines.</i>	
Note: Every NCDOT subrecipient receiving any of the FTA Formula Grants listed above must complete this section.	
	Completed
1. A copy of the recipient's <i>signed</i> NCDOT's Title VI Nondiscrimination Agreement	<input type="checkbox"/>
2. Title VI Policy Statement (<i>signed</i>)	<input type="checkbox"/>
3. Title VI Notice to the Public, including a list of locations where the notice is posted	<input type="checkbox"/>
4. Type the name and title of your Title VI Coordinator and attach a list of their Title VI duties Name/Title: D	<input type="checkbox"/>
5. Title VI Complaint Procedures (i.e., instructions to the public regarding how to file a Title VI discrimination complaint)	<input type="checkbox"/>
6. Title VI Complaint Form	<input type="checkbox"/>
7. List of transit-related Title VI investigations, complaints, and lawsuits (i.e., discrimination complaints log)	<input type="checkbox"/>
8. Public Participation Plan, including information about outreach methods to engage traditionally underserved constituencies (e.g., minorities, limited English proficient populations (LEP), low-income, disabled), as well as a summary of outreach efforts made since the last Title VI Program submission	<input type="checkbox"/>
9. Language Assistance Plan for providing language assistance to persons with limited English proficiency (LEP), based on the DOT LEP Guidance, which requires conducting four-factor analyses	<input type="checkbox"/>
10. A table depicting the membership of non-elected committees and councils, the membership of which is selected by the recipient, broken down by race, and a description of the process the agency uses to encourage the participation of minorities on such committees	<input type="checkbox"/>
11. A copy of board meeting minutes, resolution, or other appropriate documentation showing the board of directors or appropriate governing entity or official(s) responsible for policy decisions reviewed and approved the Title VI Program	<input type="checkbox"/>
12. A description of the procedures the agency uses to ensure nondiscriminatory administration of programs and services	<input type="checkbox"/>
13. If you pass through FTA funds to other organizations , include a description of how you monitor your subrecipients for compliance with Title VI, and a schedule for your subrecipients' Title VI Program submissions. ➤ No Subrecipients <input type="checkbox"/>	<input type="checkbox"/>
14. A Title VI equity analysis if you have constructed or conducted planning for a facility , such as a vehicle storage facility, maintenance facility, operation center, etc. ➤ No Facilities Planned or Constructed <input type="checkbox"/>	<input type="checkbox"/>
15. Copies of environmental justice assessments conducted for any construction projects during the past three years and, if needed based on the results, a description of the program or other measures used or planned to mitigate any identified adverse impact on the minority or low-income communities	<input type="checkbox"/>

Appendix D
Annual Education and Acknowledgement Form

Title VI Nondiscrimination Policy

(Title VI and related nondiscrimination authorities)

No person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a Federal-aid recipient.

All employees and representatives of Macon County Transit are expected to consider, respect, and observe this policy in their daily work and duties. If any person approaches you with a civil rights-related question or complaint, please direct him or her to Darlene Transit Director at 36 Pannell Lane, Franklin, NC 28734; 828-349-2222

In all dealings with the public, use courtesy titles (e.g., Mr., Mrs., Miss, Dr.) to address or refer to them without regard to their race, color, national origin, sex, age or disability.

Acknowledgement of Receipt of Title VI Program

I hereby acknowledge receipt of Macon County Transit's Title VI Program and other nondiscrimination guidelines. I have read the Title VI Program and I am committed to ensuring that no person is excluded from participation in or denied the benefits of Macon County Transit's programs, policies, services and activities on the basis of race, color, national origin, sex, age, or disability, as provided by Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes.

Signature

Date

Implementation

- Periodically, but not more than once a year, employees and representatives will receive, review and certify commitment to the Title VI Program.
- New employees shall be informed of Title VI provisions and expectations to perform their duties accordingly, asked to review the Title VI Program, and required to sign the acknowledgement form.
- Periodic review of operational practices and guidelines by the Title VI Coordinator to verify compliance with the Title VI Program.
- Signed acknowledgement forms and records of internal assessments will remain on file for at least three years.

Appendix E

Demographic Request

Macon County Transit is required by Title VI of the Civil Rights Act of 1964 and related authorities to record demographic information on members of its boards and committees. Please provide the following information:

<p>Race/Ethnicity:</p> <p><input type="checkbox"/> White</p> <p><input type="checkbox"/> Black/African American</p> <p><input type="checkbox"/> Asian</p> <p><input type="checkbox"/> American Indian/Alaskan Native</p> <p><input type="checkbox"/> Native Hawaiian/Pacific Islander</p> <p><input type="checkbox"/> Hispanic/Latino</p> <p><input type="checkbox"/> Other (please specify): _____</p>	<p>National Origin: (if born outside the U.S.)</p> <p><input type="checkbox"/> Mexican</p> <p><input type="checkbox"/> Central American: _____</p> <p><input type="checkbox"/> South American: _____</p> <p><input type="checkbox"/> Puerto Rican</p> <p><input type="checkbox"/> Chinese</p> <p><input type="checkbox"/> Vietnamese</p> <p><input type="checkbox"/> Korean</p> <p><input type="checkbox"/> Other (please specify): _____</p>
<p>Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female</p>	<p>Age:</p> <p><input type="checkbox"/> Less than 18 <input type="checkbox"/> 45-64</p> <p><input type="checkbox"/> 18-29 <input type="checkbox"/> 65 and older</p> <p><input type="checkbox"/> 30-44</p>
<p>Disability: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>I choose not to provide any of the information requested above: <input type="checkbox"/></p>	

Completed forms will remain on file as part of the public record. For more information regarding Title VI or this request, please contact the Macon County Transit at 828-349-2222 or by email at dasher@maconnc.org.

Please sign below acknowledging that you have completed this form.

Thank you for your participation!

Name (print): _____

Signature: _____

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – CONSENT AGENDA

MEETING DATE: JULY 9, 2024

- Item 12A. Draft minutes from the June 11, 2024, regular meeting are attached for the board's review and approval. (Tammy Keezer)
- Item 12B. Budget Amendments #2-22 are attached for your review and approval. (Lori Carpenter)
- Item 12C. Public Records Disposal for Macon County Solid Waste. A copy of the disposal log is attached for your review and approval. The records disposed of consisted of copies of customer statements for 2014 through 2019, landfill reports for 2002 through 2003, purchase orders for 2004 through 2009, and Bill of Ladings for 2015 through 2018. These records have a three-year retention requirement according to the October 1, 2021, North Carolina Department of Natural and Cultural Resources, Division of Archives and Records, Records Retention and Disposition Schedule, General Records Schedule: Local Government Agencies, Standard 2, Item 2.01 which was adopted by this board on April 11, 2023. (Tammy Keezer)
- Item 12D. A copy of the ad valorem tax collection report as of June 30, 2024 is included in your packet. Report only. No action is necessary. (Delana Raby)



**MACON COUNTY BOARD OF COMMISSIONERS
JUNE 11, 2024
REGULAR MEETING MINUTES**

Chairman Shields called the meeting to order at 6:00 p.m. All Board Members, County Manager Derek Roland, Deputy Clerk Tammy Keezer, Finance Director Lori Carpenter, and County Attorney Eric Ridenour were present, as were a number of county employees, media, and citizens.

ANNOUNCEMENTS:

- (A) Mr. Roland announced that the annual National Association of Counties (NACo) conference is scheduled for July 15, 2024. He said if anyone is planning to attend the board will need to appoint a voting delegate tonight.

MOMENT OF SILENCE: Chairman Shields requested all in attendance rise and a moment of silence was observed.

PLEDGE OF ALLEGIANCE: Led by Commissioner Shearl, the pledge to the flag was recited.

PUBLIC HEARING(S):

(A) **RECOMMENDED FISCAL YEAR 2024-25 BUDGET-** Chairman Shields opened the public hearing at 6:04 p.m. and requested comments from the citizens who has signed up to speak. **Hazel Norris** said that County Employees, emergency personnel, fire departments, and the school system are the biggest things we have in the county and they are not paid enough. She stated that in a year or two the county will not have any volunteer fireman and the board needs to decide if they are going to start paying them to serve. Ms. Norris said she does not want taxes to go up, but that the board needs to start looking ahead and see what we can offer to county employees and the schools. **Jeff Weller** said he was representing the Town of Highlands and shared that the Town has already started receiving donations and public funding for a new playground which will be part of the current recreation park at an estimated cost of 1.6 million dollars. He said they are trying to bring more families into the park and the Town of Highlands Board of Commissioners has agreed to allocate \$250,000 toward the park and an application for a PARTF grant has also been submitted. Mr. Weller said the Town of Highlands is requesting \$350,000 (20 percent of the total project cost) from Macon County with the remainder coming from private funding. He said they have already raised \$100,000 of the \$700,000 of private funding needed.

At 6:15 p.m. with no one else signed up to speak, Chairman Shields closed the public hearing.

Mr. Roland indicated that if there were any items the board would like to discuss this was the time and the following items were discussed:

- 1. COMMUNITY FUNDING POOL** - Commissioner Higdon said he believes we should not be able to take taxpayers money to fund non-profits. He requested consensus as to whether this item remains in the budget or is removed. Commissioner Shearl said the Town of Franklin and the Town of Highlands have removed their funding and he feels it is appropriate for this board to remove that funding for next year. Commissioner Young said if we follow the guidelines it is a good process, but the board does not follow the process and funds non-profits throughout the year. He proposed that unless it is an emergency we do not fund them throughout the year. Commissioner Shields said before we push this away we should look at what these organizations do for the families of Macon County. Commissioner Antoine said if we can stay disciplined he does not see a problem with continuing the funding. A consensus of 3-2 was reached regarding the Community Funding Pool for Fiscal Year 2025 with Commissioner Shields, Commissioner Antoine, and Commissioner Young opposed to removing the funding and Commissioner Higdon and Commissioner Shearl supporting the removal of the funding.
- 2. COWEE SCHOOL** - Commissioner Higdon said Cowee School was set up for the board to fund for three years, however we are still giving them money and they have requested 20,000 dollars this year. He said the board has no idea what the Cowee School finances are and recommended finding a method of disposal. Commissioner Young said there are a lot of costs associated with the school and he is prepared to offer them the building even if it is for one-dollar. Upon a 5-0 consensus, the board decided that the funding will remain in the Fiscal Year 2025 budget and options for selling or transferring the property will be discussed at a later time.
- 3. SENIOR SERVICE CENTER ASSESSMENT** - Commissioner Higdon said he is opposed to spending 200,000 dollars assessing one agency. Commissioner Shearl agreed. Commissioner Shields said the current facility is a safety hazard. Commissioner Higdon said we have lots of other county agencies that are not ADA compliant as well and there are other needs that need to be addressed. He said when we did the Capital Improvement Plan (CIP) and the needs assessment there were other locations that ranked higher than Senior Services so he cannot support this request. Commissioner Antoine said he spent some time at the Senior Center and the needs they have are very relevant mentioning parking, getting in and out of the parking lot, bathrooms, sewer issues, etc. He said there are a lot of things that are in this year's budget that we will not be able to fund this year and recommends not to put the money into an assessment, but use that money to help facilitate some things for the seniors until we can get a new building for them. Upon a 3-2 consensus with Commissioner Shields, Commissioner Antoine, and Commissioner Young in favor and Commissioner Higdon and Commissioner Shearl opposed, the board decided to move forward and make some ADA improvements that will benefit the facility with an increase of \$200,000 in General Fund Contingency and a decrease of \$200,000 in the Senior Services budget resulting in no change to the final budget. Board members requested more information be gathered about the immediate ADA needs at the Senior Center.
- 4. ENVIRONMENTAL HEALTH** - Commissioner Young said he wanted to discuss the two Environmental Health positions that were put in the budget. He said if Environmental Health is caught up as reported by Health Director Kathy McGaha at the last meeting then maybe those positions are not needed. Commissioner Young requested Plan

Reviewer/Code Enforcement Officer III Joe Allen come forward to talk about the status of inspections and the workload in Code Enforcement. Mr. Allen provided board members with an inspection report for April 2023 and April 2024 and explained the contents of the reports and the changes over the one-year period. Commissioner Young indicated that two of the employees will soon be eligible to retire and suggested we take the funds budgeted for Environmental Health to fund one Code Enforcement Officer instead so that inspections can be kept on track and staff could be trained and working in anticipation of upcoming retirements. He said he feels this is needed and is helping us look ahead. Commissioner Higdon asked if there were any inspections on the list that were not required by the insurance commission. Mr. Allen said all inspections are either required by the Department of Insurance or by County Ordinance. Commissioner Shearl requested that the funds for the Environmental Health positions be eliminated from the budget. He said the health department had also requested a vehicle for each of those positions and asked if those are needed only if new positions are added. Mr. Roland and Ms. Carpenter confirmed that the vehicles were needed for the new positions. Commissioner Shearl then asked for funding to be removed from the budget for the vehicles. Upon a 3-2 consensus with Commissioner Shields, Commissioner Antoine, and Commissioner Young in favor, and Commissioner Higdon and Commissioner Shearl opposed, the board decided to fund one Environmental Health position and hold hiring until at least January 2025 and also wait to purchase the Ford Escape for Environmental Health until the position is filled, and if the position and vehicle are not needed the funding will revert to fund balance. The consensus also included moving the second position and vehicle to Code Enforcement. Ms. Carpenter recommended keeping the budget as is and to approve a budget amendment at the July 9, 2024, regular meeting to move funding for a new Code Enforcement Officer and vehicle to Code Enforcement. Upon a consensus of 4-1 with Commissioner Shields, Commissioner Young, Commissioner Antoine, and Commissioner Higdon in favor, and Commissioner Shearl opposed, the board agreed for Ms. Carpenter to leave the budget ordinance as prepared and to approve a budget amendment at the July 9, 2024, regular meeting to move the funding to the Code Enforcement budget as requested.

5. COACHING STIPENDS - Commissioner Young asked about coaching stipends for Macon County Schools. He reported information that he had obtained from other school jurisdictions and said Macon County coaches have not had an increase since 2014. Commissioner Young proposed taking \$31,720 out of the General Fund balance to give an increase to the coaches. Ms. Carpenter suggested waiting until the July meeting and do the budget amendment then. Mr. Roland said this was requested by Macon County Schools but not included in the recommended budget. With a consensus of 5-0 the board decided to decrease the General Fund Contingency by \$31,720 and increase the school funding by the same to be utilized for an increase in coaching stipends. Ms. Carpenter will prepare a budget amendment for approval at the July 9, 2024 regular meeting.

6. HIGHLANDS PLAYGROUND - Commissioner Young asked Jeff Weller about the timeframe for the playground project that he had spoken about earlier in the meeting. Mr. Weller said the plan is for completion in the summer of 2025.

7. CONTRACT MOWING – Commissioner Shearl asked about expanding contract mowing to the greenway and the process. Mr. Roland

explained that the service would be put out for bid following the normal process.

- 8. SCHOOL TEACHERS** – Commissioner Shearl asked about why Macon County was funding thirty school teacher positions when those are state positions. He said he does not understand why the funds coming from the state are not sufficient to run the school system and the taxpayers are being asked to fund positions while we are surviving off of sales tax with eleven million dollars going to the schools.
- 9. SHERIFF VEHICLES** – Commissioner Shearl asked Sheriff Holbrooks about the new trucks that were requested in the budget. Sheriff Holbrooks indicated these would be to replace current vehicles.
- 10. BOARD OF ELECTIONS** – Commissioner Shearl spoke about the Board of Elections asking for \$50,000 to handle the recent special election and said if the Board of Elections was ADA compliant the election could have been held at their offices. He said he thinks that moving the Board of Elections to a new location will save the taxpayers a lot of money in the future. Commissioner Higdon requested to put this as a top priority and consideration for funding.
- 11. RECREATION PARK POOL** – Commissioner Antoine inquired about adding the pool project to Phase I of the renovation plan for the recreation park. Mr. Roland indicated that Phase I of the project is in fund balance for the board to authorize and if the board wanted to add the pool to that phase then we would need to reject the bids that are currently out for Phase I as well as reject the bids that are currently coming in for Phase II, then prepare and release a new bid document which would include the pool. Commissioner Antoine stated if we added the pool we could move the 4th of July festivities back to the park which would be a revenue source. Mr. Roland said this would be outside the operating budget and require further board action.
- 12. FIRE TAX** – Commissioner Shields recommended raising the fire tax for the Town of Franklin to seven cents. Commissioner Young asked Franklin Fire Captain Ben Ormond to speak and answer questions regarding the municipality population and density data, millage rate, assessed value, call volume, personnel, etc. Commissioner Young said he thought the tax should be lower than some of the rural areas. Members of the Town of Franklin Board of Alderman spoke about the need for the increase and Town Manager Amie Owens said they are only requesting to go back to the seven cents they were at two years ago. Upon a 3-2 consensus with Commissioner Shields, Commissioner Young and Commissioner Antoine in favor, and Commissioner Higdon and Commissioner Shearl opposed, the board agreed to increase the fire tax to seven cents as requested.
- 13. FRANKLIN HIGH SCHOOL** – Commissioner Shields said he is for the school and wants to make sure we keep going forward.

Ms. Carpenter summarized there was only one immediate change to the budget ordinance that had been prepared which would be to decrease the Senior Services budget to \$1,018,878 and the non-departmental line item where contingency is housed would increase to \$1,899,356 but that the recommended general fund budget remains at \$63,704,651. She noted the elimination of one Environmental Health position and a vehicle, adding a Code Enforcement Officer position and a vehicle, adding the athletic supplements which will be brought back to the July meeting and the board can amend the budget to take those

items into consideration at that time. Ms. Carpenter requested that for the record the change to increase the Franklin Fire District to the seven cent tax the total Fire District Special Revenue Fund budget is \$5,595,278 and requested a motion to approve the budget as requested by the County Manager with the changes just stated into the record. Commissioner Young made a motion, seconded by Commissioner Antoine, to approve the budget, budget ordinance, and changes as read in to the record by Ms. Carpenter. The vote was 3-2 with Commissioner Shields, Commissioner Young, and Commissioner Antoine voting in favor, and Commissioner Higdon and Commissioner Shearl opposed.

At 8:19 p.m. Commissioner Shields called a ten minute recess and reconvened the meeting at 8:31 p.m.

PUBLIC COMMENT PERIOD:

Attorney Ridenour announced that most people had signed up to speak about the flood plain ordinance and that we would be scheduling a public hearing next month if speakers wanted to wait to speak at that time.

Kenneth McCaskill introduced himself as the President of the Macon County Farm Bureau Board of Directors and spoke in opposition of changes to the flood plain ordinance. **Betsy Baste** had signed up to speak but was not present when her name was called. **Chuck Grant** spoke about the flood plain ordinance saying that under the exclusion zone one cannot use property that they own. He requested the boards keep that in mind and take personal property rights into consideration because if you cannot use property who owns it because the property owner pays the taxes on it. **Jeff Weller** had signed up to speak about the Highlands playground, but spoke during the public hearing on the budget earlier in the meeting. **Sarah Johnson** spoke in opposition to changes to the flood plain ordinance, soil erosion ordinance, and the watershed ordinance and increases to public safety, Emergency Management, etc. when a disaster occurs. **Bill McLarney** spoke in opposition to any change in the existing flood plain ordinance. He said he was not happy about the transparency of this process as there was supposed to be a committee charged with consulting with experts and that has not occurred. **Danna Fewell** spoke in opposition of changes to the flood plain ordinance. **Windee Willoughby** spoke in opposition to changes to the flood plain ordinance. **Lynn Willoughby** spoke in opposition to changes to the flood plain ordinance requesting the board listen to the experts and not make a decision lightly and quickly. **Olena Romanchuk** spoke in opposition to changes to the flood plain ordinance and said she wants the ordinance to be proactive and to know that her own property and her life are protected. **David Fewell** spoke about the importance of the flood plain for water to move as it should and said that data shows that we are experiencing bigger weather events and allowing fill in the flood plain is dangerous. **Jennifer Hawk** spoke about the flood plain ordinance and said she does not see any mention of marine life, soil experts, or conservationist being consulted as she is concerned about the effects on aquatic life. **Kathy Stillwell** requested to leave flood plain ordinance the way it is and preserve what we have. **Pam Walker** has signed up to speak but was not present when her name was called. **Angela Faye Martin** requested the board cease and desist with changes to the flood plain ordinance and spoke about endangered species that reside in the Little Tennessee River and are on the edge of extension. **Susan Irvin** spoke about the flood plain ordinance and said she wants to reinforce the use of knowledgeable people coming in for consultation before making the recommendations not after. **Heather Johnson** spoke about preserving the current flood plain ordinance. She also spoke about the library board and the behavior display by Diane Caitlin and that she had not seen Commissioner Antoine attend a single meeting.

ADDITIONS, ADJUSTMENTS TO AND APPROVAL OF THE AGENDA: Upon a motion by Commissioner Young, seconded by Commissioner Shearl, the board voted unanimously to approve the agenda, as adjusted, as follows:

- To add Item 11A under Old Business, Closed Session to discuss property acquisition, per Attorney Ridenour.
- To move Item 12B under New Business, Discussion regarding proposed changes to the Flood Plain Ordinance, to 10A, under Reports and Presentations, per Commissioner Shields.

REPORTS AND PRESENTATIONS:

(A) DISCUSSION REGARDING PROPOSED CHANGES TO THE FLOOD PLAIN ORDINANCE AND SCHEDULE PUBLIC HEARING FOR THE JULY 9, 2024, REGULAR MEETING – Plan Reviewer/Code Enforcement Officer III Joe Allen presented the recommendations from the sub-committee reporting that the changes are middle of the road changes and are not turning developers or property owners loose to do what they want. Attorney Ridenour said those proposed changes are on the website for review and were included in the agenda packet. After some discussion, Commissioner Young made a motion, seconded by Commissioner Shearl, to schedule a public hearing on July 9, 2024 at 6:00 p.m. in the Commissioners Board Room located at 5 West Main Street, Franklin, NC. The vote was unanimous.

OLD BUSINESS:

(A) UPDATE ON HIGHLANDS SCHOOL PROJECT AND APPROVAL OF BUDGET AMENDMENT – Mr. Roland reminded board members that at the meeting on May 29, 2024, we said that Emily Kite with LS3P and representatives from Vannoy Construction would be here to provide updates. He said the action needed in order for work to occur this summer the board needed to authorize the County Manager to enter into a construction contract with Vannoy Construction containing GMP Amendment 1 in the amount of \$243,800 and approval of the accompanying budget amendment. Mr. Roland said this cost includes an environmental assessment in addition to mechanical and electrical costs associated with the boiler installation. Commissioner Shearl made a motion, seconded by Commissioner Young, to authorize the County Manager to enter into a construction contract with Vannoy Construction containing GMP Amendment 1 in the amount of \$243,800 and approval of the accompanying budget amendment. The vote was 4 -1 with Commissioner Shields, Commissioner Young, Commissioner Antoine, and Commissioner Shearl voting in favor and Commissioner Higdon opposed.

(B) CONSIDERATION OF BID AWARD FOR THE FUTURE CARSON CONVENIENCE CENTER 64E TURN LANE – Solid Waste Director Chris Stahl reviewed the bid process and requested approval to award the bid to Parrish Contracting in the amount of \$249,000 and to authorize the County Manager to enter into contract. Commissioner Young made a motion, seconded by Commissioner Antoine to approve the request as presented. The vote was unanimous.

(C) CONSIDERATION AND APPROVAL OF INTER-LOCAL AGREEMENTS WITH MACON COUNTY BOARD OF EDUCATION

1. Macon Middle School track project
2. Franklin High School project
3. Highlands School project
4. Nantahala septic project

Mr. Roland said these agreements were presented by Macon County School Board legal counsel and is standard procedure. Attorney Ridenour confirmed that these are permissible. After some discussion, Attorney Ridenour recommended to table these agreements for further review. Commissioner Higdon made a motion, seconded by Commissioner Shearl, to table the agreements until Attorney Ridenour can review and make corrections. The vote was unanimous.

NEW BUSINESS:

(A) COMMUNITY FUNDING POOL RECOMMENDATIONS – Community Funding Pool Chair Diane Cotton explained the process for the review of requests and the recommendations provided in the handout [Attachment 1]. Commissioner Shields made a motion, seconded by Commissioner Young to approve the funding requests as presented. The vote was unanimous.

(B) DISCUSSION REGARDING PROPOSED CHANGES TO THE FLOOD PLAIN ORDINANCE AND SCHEDULE PUBLIC HEARING FOR THE JULY 9, 2024 REGULAR MEETING – Moved to Reports and Presentations.

CONSENT AGENDA: Upon a motion by Commissioner Higdon, seconded by Commissioner Young, the board voted unanimously to approve the consent agenda as presented which includes: (A) Minutes of the May 14, 2024, regular meeting, the May 21, 2024, continued meeting, the May 28, 2024, continued meeting, and the June 4 2024, continued meeting, (B) Budget Amendments #322-327, (C) Juvenile Crime Prevention Council County Plan and Certification FY 2024-2025, (D) Ordinance Amending the Fiscal Year 2023-24 Budget, (E) Grant Project Ordinance Amendment Housing Administration, (F) Grant Project Ordinance Amendment Duke Energy Weatherization Direct Reimbursement, (G) Grant Project Ordinance Amendment Duke Energy 2017 HHF, (H) Grant Project Ordinance Dogwood Health Grant #2089, (I) Grant Project Ordinance 2024 Urgent Repair URP24, (J) Grant Project Ordinance WAP FY 2025, (K) Capital Project Ordinance Amendment Macon Middle School Renovation, (L) Capital Project Ordinance Amendment Macon Middle School Locker Room, (M) Capital Project Ordinance Amendment Franklin High School, (N) Capital Project Ordinance Amendment Highlands School, (O) Capital Project Ordinance Amendment Nantahala Library-Community Building, (P) Tax releases for the month of May in the amount of \$583.13, and (Q) Monthly ad valorem tax collection report for which no action is necessary.

APPOINTMENTS:

(A) Highlands Tourism Development Commission (2 seats)

Commissioner Higdon made a motion, seconded by Commissioner Shearl to approve the appointments of Charlotte Muir and Thomas Keenan who will be replacing Jack Austin and John Woods.

CLOSED SESSION: At 9:40 p.m., upon a motion by Commissioner Shearl, seconded by Commissioner Young, the board voted unanimously to go into closed session as allowed under NCGS 143-318.11(a)(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option exchange, or lease. At 9:55 p.m., upon a motion by Commissioner Higdon, seconded by Commissioner Shearl, the board voted unanimously to come out of closed session and return to open session.

ADJOURN: With no other business, at 10:40 p.m., upon a motion from Commissioner Higdon, seconded by Commissioner Young, the board voted unanimously to adjourn.

Derek Roland
Ex Officio Clerk to the Board

Gary Shields
Board Chair

MACON COUNTY BUDGET AMENDMENT
 AMENDMENT # 13

FROM: Lindsay Leopard

DEPARTMENT: Multiple Departments

EXPLANATION: Appropriate funds for orders placed and not received by 6/30/2024.

ACCOUNT	DESCRIPTION	INCREASE	DECREASE
113840-417900	FUND BALANCE APPROPRIATED	584,083.00	
113570-435109	NCDOT-CTP-CAPITAL	107,358.00	
113584-439603	ARPA HOME DELIVERED MEALS	1,300.00	
114210-569502	CAPITAL EQUIPMENT	120,890.00	
114310-569502	CAPITAL EQUIPMENT	15,000.00	
114310-569601	EQUIPMENT - VEHICLES	13,852.00	
114313-556020	AMMO / FIREARMS SUPPLIES	2,715.00	
114319-569502	CAPITAL EQUIPMENT	3,360.00	
114321-556603	PROPERTY / BUILDING IMPROVEMENTS	21,684.00	
114370-556009	UNIFORMS	38,237.00	
114370-556501	VEHICLE SUPPLIES	6,747.00	
114370-559700	NON-CAPITAL EQUIPMENT	28,406.00	
114370-569502	CAPITAL EQUIPMENT	136,396.00	
114370-569601	EQUIPMENT - VEHICLES	164,469.00	
114370-592010	FURNITURE / EQUIPMENT	1,277.00	
114373-555109	INSTALLATION OF SIGNS	5,091.00	
114375-555106	CONTRACTED SERVICES	3,897.00	
114377-556009	UNIFORMS	6,805.00	
114935-569601	EQUIPMENT - VEHICLES	122,615.00	
115836-568204	ARPA HOME DELIVERED MEALS	1,300.00	
603472-447203	FUND BALANCE APPROPRIATED	19,575.00	
604715-556011	OPERATING SUPPLIES	3,200.00	
604720-556605	EQUIPMENT MAINTENANCE	16,375.00	

REQUESTED BY DEPARTMENT HEAD _____

RECOMMENDED BY FINANCE OFFICER *Don Cayata*

APPROVED BY COUNTY MANAGER _____

ACTION BY BOARD OF COMMISSIONERS *7/9/2024 meeting*

APPROVED AND ENTERED ON MINUTES DATED _____

CLERK _____



Destructions Log

County/Municipality	Macon	
Division	SOLID WASTE	Branch
Location(s) of Records	FRANKLIN, N.C. 28734	

Records Series	Required Retention	Date Range	Volume (file drawers or MB)	Media (Paper, Electronic)		Date of Destruction	Method of Destruction	Authorization for Destruction
				P	E			
Copies Customer statements	3 years	1 year of 2014		X		6/19/24	Recycling	June Passada - Shaun
"	"	1 year of 2015		X		6/19/24	"	Cribbs
"	"	1 year of 2016		X		6/19/24	"	recycling of
"	"	1 year of 2017		X		6/19/24	"	all documents
"	"	1 year of 2018		X		6-19-24	"	"
Copies of landfill reports	3 years	2002		X		6-19-24	"	"
Copies of landfill reports	3 years	2003		X		6-19-24	"	"
Copies Customer statements	3 years	2019		X		6-19-24	"	"
Purchase orders	3 years	2004-2009		X		6-19-24	"	"
Bill of lading	3 years	2015-2018		X		6-19-24	"	"

COLLECTIONS MONTHLY TOTALS REPORT
 Macon County - Year To Date June 2024 Tax Year 2023

Macon County
Advalorem Tax Collections Report
Year To Date June 2024 Tax Year 2023

TAX YEAR 2023 Month To Date June 2024 Tax Year 2023

Month to Date	Beginning Balance	Levy Added	Less Releases	Less Administrative Refunds	Less Write Offs	Equals Adjusted Levy	Less Payments	Outstanding Balance
General Tax	510,248.23	1,318.92	-120.80	0.00	-0.06	511,446.29	-29,339.33	482,106.96
Fire Districts	95,398.58	263.86	-10.07	0.00	0.00	95,652.37	-5,923.60	89,728.77
Landfill User Fee	107,280.71	0.00	-6.80	0.00	0.00	107,273.91	-6,027.16	101,246.75
TOTAL:	712,927.52	1,582.78	-137.67	0.00	-0.06	714,372.57	-41,290.09	673,082.48

TAX YEAR 2023 Year To Date June 2024 Tax Year 2023

Year to Date	Beginning Balance	Levy Added	Less Releases	Less Administrative Refunds	Less Write Offs	Equals Adjusted Levy	Less Payments	Outstanding Balance	This Year	Last Year
									Collection Percentage Tax Year 2023 As of 6/30/2024	Collection Percentage Tax Year 2022 As of 6/30/2023
General Tax	0.00	33,638,614.68	-56,194.93	0.00	-1473.60	33,580,946.15	-33,098,839.19	482,106.96	98.56%	98.73
Fire Districts	0.00	4,874,669.21	-9,558.14	0.00	-261.48	4,864,849.59	-4,775,120.82	89,728.77	98.16%	98.39
Landfill User Fee	0.00	2,977,236.00	-5,339.37	0.00	-24.14	2,971,872.49	-2,870,625.74	101,246.75	96.59%	97.04
TOTAL:	0.00	41,490,519.89	-71,092.44	0.00	-1759.22	41,417,668.23	-40,744,585.75	673,082.48	98.37%	98.57

Macon County Tax Office
5 West Main Street
Franklin, NC 28734



Phone: (828) 349-2149
draby@maconnnc.org

TO: MACON COUNTY COMMISSIONERS

FROM: Macon County Tax Collector's Office
Delena Raby, Tax Collections Supervisor

DATE: July 02, 2024

RE: Releases for June 2024

There were no property tax releases that require your approval for the month of June 2024. Please feel free to contact me if you should have any questions.

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – APPOINTMENTS

MEETING DATE: JULY 9, 2024

- 13A. **Macon County Ordinance Administrator** - Mr. Roland is requesting the appointment of County Planner Caleb Gibson as the Ordinance Administrator, previously held by Joe Allen. This appointment is necessary to stay in compliance with state and local laws.

- 13B. **Macon County Library Board (1 seat)** – Please see the attached email from Librarian Abby Hardison, along with the application and resume from Philip Curcuru, and a copy of the Macon County Public Library Bylaws.

Tammy Keezer

From: Abby Hardison <ahardison@fontanalib.org>
Sent: Tuesday, July 2, 2024 4:16 PM
To: agenda@maconnc.org
Cc: Philip Curcuru; Marsha Moxley; Tracy Fitzmaurice
Subject: Appointment Application for Macon County Library Board-Hudson Library representative
Attachments: Curcuru-Library-Resume-12.19.23.pdf; Curcuru - Application For Appointment To Macon County.pdf; MCPL Bylaws revised 10.7.14.pdf

Greetings,

The appointment for Macon County Library board member Wood Lovell ends July 13, 2024. Mr. Lovell has served as a representative for the Hudson Library Board as per the Section 3.3 of the Bylaws of the Macon County Public Library Board of Trustees.

Attached is an Appointment application for Mr. Curcuru, who is currently serving on the Hudson Library Board and meets the requirements for Trustee. Mr. Curcuru's application was previously submitted for the consideration of the commissioners at their January meeting. His application is being resubmitted for this upcoming opening at his direction and the direction of the Hudson Library Board Chair, Marsha Moxley.

Please let me know if there are any questions.

Thank you,

--

Abby Hardison
(ahardison@fontanalib.org)
County Librarian
Macon County Public Library

149 Siler Farm Rd.

Franklin, NC 28734

Voice: (828) 524-3600

Fax: (828) 524-9550

"Opinions expressed in this message may not represent the policy of my agency. All e-mail sent to or from the Fontana Regional Library e-mail systems is subject to monitoring and disclosure to third parties, including law enforcement personnel."

BYLAWS

OF THE MACON COUNTY PUBLIC LIBRARY BOARD OF TRUSTEES

Article 1: Name and Principal Office

- Section 1.1** The name of this organization is the Macon County Public Library. Macon County Public Library is a member of the Fontana Regional Library, Inc. and is governed by Fontana Regional Library's Board of Trustees.
- Section 1.2.** The principal office is located at 149 Siler Farm Road, Franklin, North Carolina.
- Section 1.3** Hudson Library in Highlands, NC and Nantahala Community Library in Tipton, NC are branches of the Macon County Public Library and members of Fontana Regional Library.

Article 2: Description and Purpose

- Section 2.1** The purpose of the Macon County Public Library is to provide the public of Macon County with excellent service and convenient access to resources for their educational, informational, and recreational needs.
- Section 2.2** The Macon County Public Library Board of Trustees is an advisory board whose purpose is to oversee the libraries of Macon County.
- Section 2.3** Recommendations on construction and improvement of the physical facilities shall be made to the Macon County Board of Commissioners.
- Section 2.4** Recommendations on library services and operations shall be made to the Fontana Regional Library Board of Trustees.

Article 3: Board of Trustees

- Section 3.1** Members of the Macon County Public Library Board of Trustees are appointed by the Macon County Board of Commissioners.
- Section 3.2** The number of Trustees constituting the Macon County Public Library Board of Trustees shall be no less than seven and no more than nine.
- Section 3.3** At least two Trustees appointed to the Macon County Public Library Board of Trustees will be Trustees of the Hudson Library Board of Trustees to ensure continuity and communication.
- Section 3.4** To be eligible to serve as a Trustee, a person must be a permanent resident of Macon County.
- Section 3.5** Trustees shall serve no more than two consecutive full terms and no single term will be longer than three years.
- Section 3.6** Trustees shall be appointed in staggered terms to promote consistency as well as to accommodate change.
- Section 3.7** The membership of any Trustee may be terminated for good and sufficient cause by majority vote of the Trustees currently in office. Failure to attend three consecutive regular Board meetings without being excused may be considered "good and sufficient cause."
- Section 3.8** Vacancies due to Trustee resignations shall be filled with appointments by the Macon County Board of Commissioners.
- Section 3.9** Trustees shall serve without compensation, but may be reimbursed for reasonable expenses incurred in the performance of their duties as trustees.

Article 4: Officers and Regional Board Members

- Section 4.1** The Macon County Public Library Board of Trustees shall appoint three of their members to serve on the Fontana Regional Library Board of Trustees. Consideration should be given to including representatives from all branches of the Macon County Public Library on the Fontana Regional Library Board.
- Section 4.2** A Trustee appointed by the Macon County Public Library Board of Trustees to the Fontana Regional Library Board shall continue to serve as a member of the Fontana Regional Library Board until his term on the Fontana Regional Library Board expires or his membership on that Board is terminated. During that period of time, the Trustee shall serve as an ex-officio member of the Macon Library Board.
- Section 4.3** Officers of the Macon County Public Library Board of Trustees shall be chosen annually at the regular June meeting. They shall be Chairman and Vice-Chairman/Secretary.
- Section 4.4** The Chairman shall preside at all meetings, and generally perform the duties of a presiding officer. In the absence of the Chairman, the Vice-Chairman shall preside.
- Section 4.5** The Secretary shall be responsible for keeping a true and accurate account of all proceedings at meetings; shall issue notices of regular meetings and special meetings; shall have custody of minutes and other records of the Board; and shall notify the appointing body of vacancies on the Board. These duties may be delegated to the County Librarian as a regular matter.

Article 5: Meetings

- Section 5.1** The Macon County Public Library Board of Trustees shall hold regular bimonthly meetings on the first Tuesdays of February, April, June, August, October, and December.
- Section 5.2** Meeting locations will take place in accordance with the annual schedule of meetings.
- Section 5.3** Special meetings may be called by the Chairman or upon the request of two members of the Board, with notification thereof to be given to the members and the public at least 48 hours before the meeting.
- Section 5.4** A simple majority of the total number of the Macon County Public Board of Trustees shall constitute a quorum. The action of the majority of the Trustees present at a meeting shall constitute an action of the entire Board of Trustees.
- Section 5.5** The order of business at regular meetings shall be as follows:
Call to order
Approval of minutes
Librarian's report
Report from Fontana Regional Library Board members
Report from Hudson Library Board members
Unfinished business
New business
Adjournment

Article 6: Amendments

- Section 6.1** These Bylaws may be amended at any regular meeting of the board with a quorum present; by unanimous vote of the members present, provided the amendment was stated at the previous meeting.

Application for Appointment to Macon County Authorities, Boards, Commissions and Committees

The Macon County Board of Commissioners believes all citizens should have the opportunity to Participate in governmental decisions. The Board wants to appoint qualified, knowledgeable and dedicated people to serve on authorities, boards and committees. If you have an interest in being considered for an appointment to any advertised vacancy, please thoroughly complete the form below before the advertised deadline and choose from the following options.

Mail to: County Manager's Office
5 West Main Street or FAX to: 828-349-2400
Franklin, North Carolina 28734

Any Questions, please call the County Manager's Office at (828) 349-2025

Name of Authority, Board or Committee applying for:

Name

Address City NC Zip

Telephone: Home Work

Occupation

Business Address

Email Address

Briefly explain any anticipated conflict of interest you may have if appointed:

Educational Background

Business and Civic Experiences/Skills:

Areas of Expertise and Interest/Skills:

List any Authorities, Boards, Commissions or Committees presently serving on:

SIGNATURE: Philip Curcuru

DATE:

pcurcuru@gmail.com
828 200 4118
P.O. Box 1201
Highlands, NC 28741

Philip Curcuru

Education

2002 – 2006

Bachelor of Fine Arts

Rhode Island School of Design
Awarded talent-based scholarship

Community/ Volunteer

Hudson Library

Summit Charter School

Vision Cashiers

The Bascom Center for Arts

Art League of Highlands-Cashiers

Experience

2022 – present / *Compass Real Estate / Austin, Texas (Remote)*

Director of Product Development & Marketing

In 2022, Philip brought his experience to Compass Development Marketing Group (CDMG), assuming a pivotal role in guiding community product development and marketing initiatives. His ability to maintain a cohesive vision when providing valuable feedback to architects, or conceptualizing marketing campaigns has solidified his position as a trusted professional in the field. With a track record of successfully marketing over \$200 million in sales, Philip's contributions have been instrumental in achieving exceptional results.

2013 – 2022 / *Brandon Miller Group / Austin, Texas*

Director of Product Development & Marketing

In 2013, Philip joined the reputable Brandon Miller Group, where he discovered his passion for real-estate marketing. His dedication and expertise led him to explore market research and product development, culminating in the acquisition of his Texas real-estate license in 2014.

2010 – 2013 / *IBM (via Manpower) / Austin, Texas*

Graphic Designer & Executive Assistant

- Designed original branding, presentation decks, print templates, and e-blasts for internal IBM communications
- Co-managed documentary videos with international IBM employees
- Updated websites and provided technical direction to team members
- Received multiple certificates for providing “Outstanding Customer Service” to IBM executives and team managers

2007 – 2009 / *Geoff Howell Studio / New York, New York*

Finishing Artist

- Fabricated custom retail props and event/holiday décor for Saks Fifth Ave, Henri Bendel, Steuben, Estée Lauder, Hugo Boss, etc.
- Carefully installed projects within high-profile venues such as the Whitney Museum, Rainbow Room, Waldorf Astoria, etc.
- Quickly and successfully solved issues concerning design and construction