

**REGULAR MEETING OF TOWN COUNCIL**

**AGENDA**

**July 19, 2013**

**RULES FOR PERSONS ADDRESSING COUNCIL**

1. Each speaker will identify himself or herself by giving his or her **name and place of residence**.
2. Each speaker will be limited to speaking one time on any topic. When you are finished speaking, please step away from the podium and be seated.
3. Each speaker will be limited to **three (3) minutes** and each group's representative will be limited to a **maximum of ten (10) total minutes**. Each group is encouraged to designate a single spokesperson for their group.
3. Each speaker will confine himself or herself to the general question before the Council and avoid irrelevant comments.

**REGULAR COUNCIL MEETING**

**(6:00 PM)**

1. Invocation
2. Pledge of Allegiance
3. Public Comments
4. Agenda Adoption
5. **Approve Consent Agenda** *(All matters listed are considered to be routine and non-controversial by Town Council and will be enacted by one motion. There will be no separate discussion unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.)*
  - a. Approve June 20, 2013 Regular Council Minutes (5a)
  - b. Approve Town/County Election Agreement (5b)
6. Consideration of Recycling Container Sale to Town of Topsail Beach, N.C. (6)
7. Review Draft Agreement with St. Luke's Hospital for Police Services (7)
8. Local Soil & Erosion Control Program -- Discussion (8)
9. Wastewater Treatment Plant Construction Update/Change Order Status (9)
10. Fabulous 4<sup>th</sup> Festival Review and Update on Labor Day Plans (10)
11. Foster Creek Development Update (11)
12. Reports
  - a. Council Members Report
  - b. Managers Report (12b)
  - c. Public Works Report (12c)
  - d. Police, ABC, and Fire Department reports (12d)
11. Closed Session to discuss personnel per N.C.G.S. 143-318.11 (6)
12. Adjourn

Town of Columbus  
Minutes of Columbus Town Council  
June 20, 2013

Mayor Pro Tempore Metcalf called the Regular Meeting to order at 6:01 pm.

In attendance were Mayor Pro Tempore Metcalf, Councilmen McCallister and Hall, Councilwoman Kan, Town Manager Jonathan Kanipe, Lieutenant Nicholas Stott, Assistant Finance Director Kathy Gregory, Public Works Director Robert Rosseter and Town Clerk Devon LaFromboise.

**Regular Meeting 6:00 p.m.**

**Public Comments:**

Mayor Pro Tempore Metcalf opened the floor for agenda item three, public comments. There were no general public comments.

**Approve Regular Agenda:**

Mayor Pro Tempore Metcalf asked for any changes to the agenda. There were no changes. Councilwoman Kan moved to approve the agenda, Councilman McCallister seconded, motion carried.

**Approve Consent Agenda:**

Mayor Pro Tempore Metcalf asked for further discussion on the consent agenda. Councilwoman Kan requested to strike out lines 83-85 on page 2 of the May 16, 2013 Regular Town Council Meeting minutes. Councilman McCallister made a motion to approve the consent agenda, with the corrections as noted, Councilwoman Kan seconded, motion carried.

The consent agenda and following items were unanimously approved.

1. Minutes of May 16, 2013 Regular Council Meeting
2. Minutes of May 30, 2013 Budget Workshop Meeting

This concludes the items approved in the consent agenda.

**Public Hearing Regarding FY 13-14 - Annual Budget Proposal:**

Mayor Pro Tempore Metcalf opened the floor for the public hearing for the FY 13-14 Annual Budget Proposal. There were no public comments. Mayor Pro Tempore Metcalf then closed the public hearing.

**Consideration of Fiscal Year 2013-2014 Budget and Fee Schedule:**

Manager Kanipe gave Council a brief overview of the proposed budget. Councilman McCallister praised the staff for the preparation of the budget. Councilman McCallister made a motion to approve the proposed budget and fee schedule, Councilwoman Kan seconded, motion carried.

**Consideration of Fiscal Year 2012-2013 Budget Amendments:**

Manager Kanipe discussed the amendments with Council. The largest changes are related to police expenses paid for with drug seizure money. The largest water / sewer fund amendments

are for the Waste Water Treatment Plant project. Councilwoman Kan made a motion to approve the Fiscal Year 2012-2013 Budget Amendments, Councilman McCallister seconded, motion carried.

**Consideration of Agreement Renewal for Solid Waste Services with All-Bright Sanitation:**

The sanitation contract was presented to Council in the agenda packet. The agreement is almost exactly the same contract that was used in prior years. All-Bright has provided excellent service to the Town. The fees for the next fiscal year will not increase; the fees in the following two years will be tied to the Southeast Consumer Price Index. There is the possibility of an increase but the agreement does cap it at 5% for each year. Mayor Pro Tempore Metcalf asked George Geisler from All-Bright if he wanted to make a statement. Mr. Geisler thanked the Town for choosing All-Bright. Councilman McCallister made a motion to approve the agreement renewal with All-Bright Sanitation, Councilwoman Kan seconded, motion carried.

**Council Report:**

Councilwoman Kan discussed a conversation she had with Ted Owens regarding signs in Stearns Park. There will be new signs placed in the play area only allowing children 8 years of age and younger to use the park facilities. Manager Kanipe clarified that the police could not enforce signage in park area.

**Managers Report:**

Manager Kanipe encouraged Council members to drive out and view the progress at the Waste Water Treatment Plant. The new well has been drilled, and during the drilling an artesian well was discovered. The old well will be capped and certified. The construction of the new building will continue until October 2013. The project is progressing at a good pace in spite of wet weather. Payback of the loan for the WWTP project has been confirmed. The loan payment will be due during the 2014-2015 fiscal year.

Manager Kanipe then discussed the close out for the North Carolina Rural Center grant. The grant was for the water modeling study, capital improvement plan, and asset management plan. The \$22,000.00 split from the Rural Center was received.

The Planning Board approved the amendment to the Foster Creek Master Plan to include the annexed 2.66 +/- acres.

Manager Kanipe received some proposed revisions for the St. Luke's agreement. July will be the earliest opportunity for presentation of the agreement to Council.

The committee organizing the Veterans Day parade has met with Chief Beddingfield and Chief Arledge many times to discuss traffic control and parade routes. Overall, the planning process for the parade is going very well.

Volunteers are still needed for the Fabulous Fourth Festival. The committee is still working on logistics and many small details regarding the festival.

A presentation of the plaque and certificate for the Government Finance Officers Association (G.F.O.A.) will be presented to Assistant Finance Director Kathy Gregory in July.

This is the fourth year in a row that Mrs. Gregory has received the G.F.O.A. award.

**Public Works Report:**

Mr. Rosseter made a correction in his report. The church is a Presbyterian church not a Methodist church. Mayor Pro Tempore Metcalf asked about the storm water drainage issue. Mr. Rosseter explained that there are two pipes in the ground. One is not functional, and explains why the second pipe was placed on top. However, neither pipe is of adequate size for the drainage needs.

**Police Report:**

There was a high speed impact collision on the roundabout last month at about 1:00 a.m. Speed and impaired driving was a factor. There were no fatalities but the passenger was severely injured.

Lt. Stott and Chief Beddingfield were invited to the 20<sup>th</sup> anniversary of the North Carolina Click it or Ticket program. Governor McCrory was a keynote speaker at the conference.

The Columbus Police Department has used the motorcycle to complete three more Bike Safe classes. This is to train others in safety and accident avoidance. The Columbus Police Department works in conjunction with Hendersonville, Asheville, and Gastonia Departments to put together these classes.

Lt. Stott detailed a pursuit that originated in Tryon on June 2, 2013. A stolen vehicle out of Campobello came through Tryon. A Columbus police officer deployed stop sticks and a second officer stopped traffic to keep the driving public safe. The vehicle wrecked on the on ramp to eastbound I-26. The Columbus Police Department made the arrest. Councilwoman Kan was a witness to the pursuit.

**ABC Board Report**

ABC Board Report was noted. Mrs. Gregory confirmed receipt and date of disbursement. Councilwoman Kan asked how much disbursement was budgeted versus how much was received as revenue. Mrs. Gregory confirmed the budget was for \$4,500.00 and the Town received a total of \$8,600.00 including the previously mentioned \$500.00 in June.

**Fire Department Report**

Fire Department Report was noted.

There being no further business, Councilman McCallister made a motion to adjourn, Councilwoman Kan seconded. The meeting was adjourned at 6:36 p.m.

\_\_\_\_\_  
Mayor Pro Tempore

\_\_\_\_\_  
Town Clerk

## AGREEMENT

This agreement by and between the Town of Columbus, hereinafter referred to as the municipality, and the *Polk County Board of Elections*, hereinafter referred to as the Board, and agree as follows:

The municipality requests that the Board conduct the election per the provisions of GS 163-284, 285, 286.

The municipality authorizes the Board to conduct one-stop (early) voting which begins on *October 17, 2013 and ends on November 2, 2013*. The one-stop (early) voting will be held in the elections office at 40 Courthouse Street, 2<sup>nd</sup> Floor, Columbus, North Carolina.

The Board shall inform the municipality as to the type of voting system to be used, the location of the poll(s), and one-stop voting locations.

The municipality agrees to pay the Board the actual costs of running the election. Said payment for the election shall be made within 30 days after the Board bills the final and actual costs to the municipality.

The municipality and the Board pledge to one another full cooperation and open communication in regards to conducting the municipal elections. The municipality agrees to provide the Board updated maps or documents as to its most recent political boundaries and will promptly advise the Board of any changes to such boundaries. Any problems or disputes as to this agreement or the running of the election that the parties cannot resolve, shall be referred to the N.C. State Board of Elections for resolution.

This, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signature (Municipality)

By: \_\_\_\_\_  
Signature (County Board of Elections)

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title



MEMORANDUM FOR TOWN COUNCIL MEETING  
JULY 18, 2013

To: Mayor & Town Council  
From: Jonathan Kanipe, Town Manager  
Re: Consideration of Recycling Container Sale to  
Town of Topsail Beach, N.C.  
Date: July 11, 2013

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Background

During our May meeting, the Council expressed interest in selling the Town's remaining two recycling containers to the Town of Topsail Beach, N.C. after verifying with other local government officials in Polk County that they did not need the containers. Staff has canvassed the county during the last two months to verify that this is still their position, and it remains unchanged -- there are no other local government entities in Polk County that can utilize these containers.

The Town of Topsail Beach, N.C. has offered us \$1,000.00 per container and will pay for the cost of relocating them to the coast. Staff has confirmed with the N.C. Department of Environment and Natural Resources that this is an acceptable use of the containers, since that agency provided grant funds to purchase the containers in 2008. Staff recommends that the Council approve this sale to Topsail Beach as it will allow the containers to be used for their purpose and remove them from the Town's property.



MEMORANDUM FOR TOWN COUNCIL MEETING  
JULY 18, 2013

To: Mayor & Town Council  
From: Jonathan Kanipe, Town Manager  
Re: Revised Draft Agreement with St. Luke's Hospital for  
Provision of Police Services  
Date: July 11, 2013

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Background

The Town has worked with St. Luke's Hospital over the past several months to craft an agreement that is advantageous to the Town and Hospital for the provision of police services. Staff provided a revised draft from St. Luke's attorneys last month, and has offered another draft revision for your review and discussion at the Council meeting.

Please review the document as provided and let me know what concerns or thoughts you may have. There are some substantive issues which we are still working to clear up between the Town and Hospital, but there is general consensus to finalize this agreement as soon as practical.

Realistically, there is at least a two-month window between signing off on this agreement and having the first police officer working at the hospital. Staff will have to recruit and interview applicants, along with hospital personnel, and then have the person trained appropriately on both Town and Hospital standards.

## **AGREEMENT FOR PROVISION OF POLICE SERVICES**

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THIS AGREEMENT ("Agreement") is made and entered into effective the 1<sup>st</sup> day of July, 2013, by and between **St. Luke's Hospital, Inc.**, a North Carolina nonprofit corporation, hereafter referred to as "Hospital," and the **Town of Columbus**, a municipal corporation and political subdivision of the State of North Carolina, hereafter referred to as "Town."

WHEREAS, Hospital operates its St. Luke's Hospital facility at 101 Hospital Drive, Columbus, North Carolina, within Town's corporate limits; and

WHEREAS, Hospital does not currently employ armed security officers at its Hospital facility, but desires to begin doing so on a nightly basis; and

WHEREAS, Hospital has requested that Town provide an on-duty police officer to render this security service; and

WHEREAS, Town is agreeable to providing this service provided that the service is rendered at no cost to the Town's taxpayers; and

WHEREAS, the parties desire to enter into an agreement setting forth the terms of the Town's provision of police services to Hospital;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements of the parties, the parties hereto agree as follows:

1. Term and Termination. This Agreement shall be for an initial term-period of two (2) years commencing on the 1st day of July, 2013, 2013 and terminating on the 30<sup>th</sup> day of June, 2015. Thereafter, This Agreement shall automatically renew for successive one-year terms at the end of each term unless sooner terminated as provided herein. Either party may terminate this Agreement at any time and for any reason without cause upon six (6 months' ty (60) days' prior written notice. In the event of a breach of this Agreement, either party may terminate this Agreement immediately, provided the terminating party has given at least fourteen (14) days' prior written notice of the breach and a reasonable opportunity to cure the breach, if the breach is curable.

2. Security Services. Town shall furnish one uniformed, armed Town of Columbus police officer and one Town police car to Hospital, nightly from 7:00 p.m. to 7:00 a.m. to provide security services for the protection of Hospital employees, visitors, patients and property. Unless otherwise agreed by the parties, individual police officers shall work 12-hour shifts at Hospital and shall conduct such patrols, inspections, security responses, security escorts, patient monitoring and other police activities as reasonably requested by Hospital or as reasonably required to fulfill the purposes of this Agreement.

~~3. Qualifications. Each police officer providing services to Hospital hereunder shall be trained and qualified to provide police services in North Carolina, shall demonstrate that they have received orientation and training on confidentiality of medical records and patient~~

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~~information, bloodborne pathogens, Hospital rules and regulations, patient restraints, and Joint Commission standards. Each police officer shall also demonstrate that he/she has had all required immunizations.~~

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34. Fee for Service.

a. Hospital shall pay Town an annual services fee (“Services Fee”) for security services provided hereunder. The Services Fee shall be prorated and paid monthly on the first day of each month. The Services Fee for the first year of this Agreement shall be \$100,894.87 payable in monthly installments of \$8,407.91 beginning July 1, 2013. The Services Fee is intended to cover Town’s costs for its officers’ salaries, benefits, uniforms and equipment, including firearms; costs of the police car to be present with the officer at Hospital’s facility; Town administrative and overhead costs pertaining to these officers; Town Police Department staff supervision of these officers; training for the officers; and costs of insurance on the officers and their police car. Town shall be solely responsible for payment of police officer’s wages, benefits, overtime pay and all other compensation to which the police officers are entitled, and for payment of all taxes and withholdings in connection therewith.

b. The Services Fee for the second year of this Agreement, if applicable, shall be \$92,894.87 payable in monthly installments of \$7,741.24, with the first installment due on July 1, 2014. This amount is \$8,000.00 less than year one due to the upfront costs of uniforms and duty equipment.

c. In the third year of this Agreement and in any subsequent years, the Services Fee shall be increased by an amount equal to the benefits cost increase for the Town employees furnished to the Hospital post under this Agreement. For example, if health insurance costs increase four percent (4%) for Town employees, a four percent (4%) increase in health insurance cost shall be passed along to Hospital as part of the Services Fee. Town shall provide Hospital with these projected increases when they become known to Town.

54. Place of Service. ~~Except as otherwise provided herein, P~~police officers shall be physically located at all times during their shift on Hospital premises and shall not leave the premises at any time during their shift unless authorized by the Hospital CEO or his designee(s). Notwithstanding the foregoing, in the event of a dire emergency involving threat of death or serious bodily injury occurring off Hospital premises but within the Town’s jurisdiction which requires immediate response from Hospital’s dedicated police officer, the Town’s senior police official may dispatch the Hospital’s dedicated police officer to the scene of the dire emergency, provided (a) there is no comparable emergency at the time on Hospital premises, (b) Town has no other reasonable option to dispatch other qualified police officers to respond to the dire emergency, and (c) Town notifies Hospital as soon as possible and preferably prior to dispatch. The notification shall include the reason for the dispatch, the anticipated duration of the police officer’s absence, and whether back-up security personnel will be provided.

65. Supervision of Service. Police officers shall be supervised by Town’s Police Department, and Town’s Police Department shall be solely responsible for the acts and omissions of such police officers while performing their police functions. Hospital’s CEO or his

designee(s) shall serve as the ~~primary contact responsible~~ person for Hospital. On a day-to-day basis, the Nursing Supervisor on duty for Hospital shall be the responsible person and primary point of contact. -The Police Chief or his designee(s) shall serve as the primary contact for Town. ~~The police-Town police~~ officers providing services under this Agreement shall comply with Hospital's reasonable requests regarding time and location of patrols, reporting obligations, timing of breaks and other administrative matters reasonably necessary to ensure Hospital has appropriate security consistent with Hospital policies and applicable legal and regulatory requirements. Hospital personnel will undertake best efforts to keep police officers informed of conditions, situations and concerns of which they are aware that require police assistance so the police officers can better serve and protect Hospital employees, visitors and patients.

76. Officers Provided to Hospital. Town shall designate at least two (2) regular full-time police officers to provide Hospital support. Generally, only one of these dedicated officers will be on duty at any one time and will have alternating shifts on a schedule recommended by Town's Chief of Police and approved by Hospital. Within reason, Town may assign other regular or reserve officers of Town's Police Department to the Hospital post in case of sickness, vacation or emergency, provided such officers meet the training and qualifications requirements established herein. ~~qualifications and have first received orientation training.~~

87. Conduct of Police Officers. Before any Town Police officer renders service at the Hospital post, (a) the police officer shall have received orientation and training provided by Hospital regarding Hospital policies and procedures, crisis intervention, patient confidentiality and HIPAA, infection control and other matters of concern; (b) Hospital shall provide the police officer with a tour and orientation of the hospital facilities; and (c) Town's Chief of Police shall provide the officer with a set of written general instructions about services to be rendered which instructions shall have been pre-approved by both the Hospital and the Chief of Police. Said instructions shall be updated from time to time as necessary to remain current, but must always be approved by the Chief of Police and Hospital.

98. Obligations of Town. At all times during the term of this Agreement, Town shall ensure that all police officers are fully trained, licensed and permitted to serve as police officers and to carry firearms and other weapons and equipment. ~~Town~~Hospital shall also ensure that each police officer providing services under this Agreement complies with all professional, legal and ethical obligations of a police officer serving in the State of North Carolina and, further, that each police officer is familiar with and complies strictly with the rules, policies and procedures of Hospital, as amended from time to time, as well as any applicable Joint Commission or other legal or regulatory standards. In the event of any security incident involving a police officer's restraint of a patient in order to protect third parties or the patient him/herself, the police officer shall promptly file a police report on such incident and the necessity for the use of such restraints, and shall cooperate fully with Hospital in any investigation of such incident.

109. Work Station. Hospital shall provide the officer with a work station and a with a place to sit down as needed and space-secure area to store the police officer's personal belongings. ~~to place the officer's gear.~~

11. Breaks. Police Officers shall coordinate break times and schedules with Hospital's designated representative (typically, the Nursing Supervisor) and shall remain readily

accessible by phone during such breaks. If Police officers desire to leave campus for their breaks, they will inform the Nursing Supervisor and ensure that she knows where they can be reached.

12. Hospital Complaints. If Hospital has any concerns or complaints about an officer furnished by Town, Hospital shall inform Town's Chief of Police and Hospital and the Chief of Police shall agree upon a time to review whether the issue has been resolved. The Chief of Police shall address such issues with the officer promptly and according to Police Department policy. If Hospital's concerns or complaints are not remedied through this process, Hospital shall furnish a written statement to Town's Chief of Police and its Town Manager stating the concern or complaint, its current status, and the date that Hospital first reported it to the Chief of Police. Town shall make reasonable efforts to be responsive to Hospital's concerns and complaints and shall consider removal of an individual officer from the Hospital post if warranted. If Hospital's concerns or complaints are not remedied to the reasonable satisfaction of Hospital, Hospital shall have the right to terminate this Agreement for cause as set forth in Section 1.

13. Indemnification by Town. Town agrees to protect, defend, indemnify and hold Hospital and its directors, officers, employees, agents and representatives harmless from and against any and all losses, liabilities, claims, suits, demands, damages, injuries, costs and expenses (including, without limitation, court costs and reasonable attorneys' fees) arising from or in connection with the acts or omissions or conduct of any officer that occurs in performing the police services for or on the premises of Hospital, or any breach by Town of the terms of this Agreement. This indemnity shall survive the termination or expiration of this Agreement, regardless of the date, manner or cause of termination. Town shall ensure that each police officer providing services hereunder is a named insured on Town's professional liability, general liability and workers' compensation liability policies of insurance. Town shall provide to Hospital upon request certificates of insurance and other documents evidencing compliance with this paragraph.

14. Indemnification by Hospital. Hospital agrees to protect, defend, indemnify and hold Town and its officials, employees, agents and representatives harmless from and against any and all losses, liabilities, claims, suits, demands, damages, injuries, costs and expenses (including, without limitation, court costs and reasonable attorneys' fees) arising from or in connection with any breach by Hospital of the terms of this Agreement. This indemnity shall survive the termination or expiration of this Agreement, regardless of the date, manner or cause of termination.

15. Confidentiality. Town agrees to retain in confidence, and shall cause and require its officials, employees, agents and representatives (including the police officers) (collectively its "Representatives") to retain in confidence all Confidential Information to which it gains access in providing the police services and further agrees that it will not disclose to any third party, or permit the disclosure to any third party, any Confidential Information. As used herein, "Confidential Information" shall mean any "protected health information" regarding patients of Hospital (as such term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the associated regulations) and all information, not necessarily in written form, that has been created, discovered or developed by or has otherwise become known to a

party, and that has a commercial value in the business of such party, excluding, however, (a) any information that is or hereafter becomes generally known or in the public domain other than as a result of a breach of this Agreement, (b) information that was already known by the other party (as evidenced by its written records) prior to disclosure by the other party, or (c) information that is learned by either party from a third party who is not under an obligation not to disclose such information. If Town receives a subpoena or other request to produce Hospital's Confidential Information, Town agrees to consult with Hospital before responding to such request to give Hospital the opportunity to raise relevant objections to the proposed production.

16. HIPAA. Town and the police officers providing security services at Hospital shall be obligated to abide by the regulations of HIPAA to the extent they have access to the protected health information of Hospital's patients. While on-site at Hospital, the police officers shall be considered the Hospital's "workforce" as defined under 45 C.F.R. § 160.103. As workforce, the police officers shall be subject to the policies and procedures implemented by Hospital regarding HIPAA, and any violation thereof shall be grounds for removal of a police officer from his or her Hospital post and a potential breach of this Agreement. Even while the police officers are considered workforce for the purposes of HIPAA compliance, the relationship of the parties shall remain that of independent contractors, and the police officers shall not be considered employees of Hospital.

17. Records Access. Until the expiration of four (4) years after the furnishing of any services by Town hereunder, Town shall make available, upon written request, to the Secretary of the Department of Health and Human Services or, upon request, to the Comptroller General, or their duly authorized representatives, this Agreement and the books, documents and records of Town that are necessary to certify the nature and extent of the costs of this Agreement. If Town carries out any of the duties of this Agreement through a subcontract (with a value or cost of \$10,000.00 or more over a twelve (12) month period) with a related organization, such subcontract shall contain a provision substantially identical to this Section, requiring such subcontractor to make similar agreements, books, documents and records available to the same parties as Town for the same time period for the purpose of verifying the nature and extent of such costs.

18. Independent Contractors. The sole relationship created hereby is that of independent contractors. This Agreement is not intended, nor shall it be construed, to create any partnership, employment, agency or joint venture relationship between the parties or their employees or independent contractors.

19. Intended Beneficiaries. This Agreement is intended for the benefit of the parties and not any other person or entity.

20. Notices. Unless otherwise stated in this Agreement, all notices referred to in this Agreement shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To Hospital:  
Chief Executive Officer  
St. Luke's Hospital, Inc.

To Town:  
Town Manager  
Town of Columbus

101 Hospital Drive  
Columbus, North Carolina 28722  
Fax number: (828) 894-2155

Post Office Box 146  
Columbus, North Carolina 28722  
Fax number: (828) 894-2797

A change of address, fax number, or person to receive notice may be made by a party by notice given to the other party. A notice shall be deemed given at the time of actual delivery if it is personally delivered or sent by fax unless the sender's fax indicates that fax was not received. If the notice is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which it is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

21. Applicable Law and Venue. This Agreement is entered into in the State of North Carolina and shall be construed according to its laws, statutes and ordinances. The parties covenant and agree that to the extent by law permitted the proper venue of any civil action brought concerning this agreement or any portion hereof shall be in Polk County, North Carolina.

22. Separability. If any provision of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

23. Interpretation. The captions used in this Agreement are for convenience only and do not in any way limit or amplify the terms or provisions hereof. Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural may be substituted for the singular number in any place or places herein in which the context may require such substitution or substitutions.

24. Successors and Assigns. The covenants and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither party shall assign any rights or obligations under this agreement without the written consent of the other party.

25. Entire Agreement. Except as expressly provided for herein, the within agreement, including all those agreements incorporated herein by reference, constitutes the entire agreement by and between the parties hereto, both parties acknowledging the absence of any other representations not herein contained, and shall not be modified or otherwise amended except by written agreement subsequently entered into.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by themselves for their duly authorized officers of the day and year first above written.

ST. LUKE'S HOSPITAL, INC.

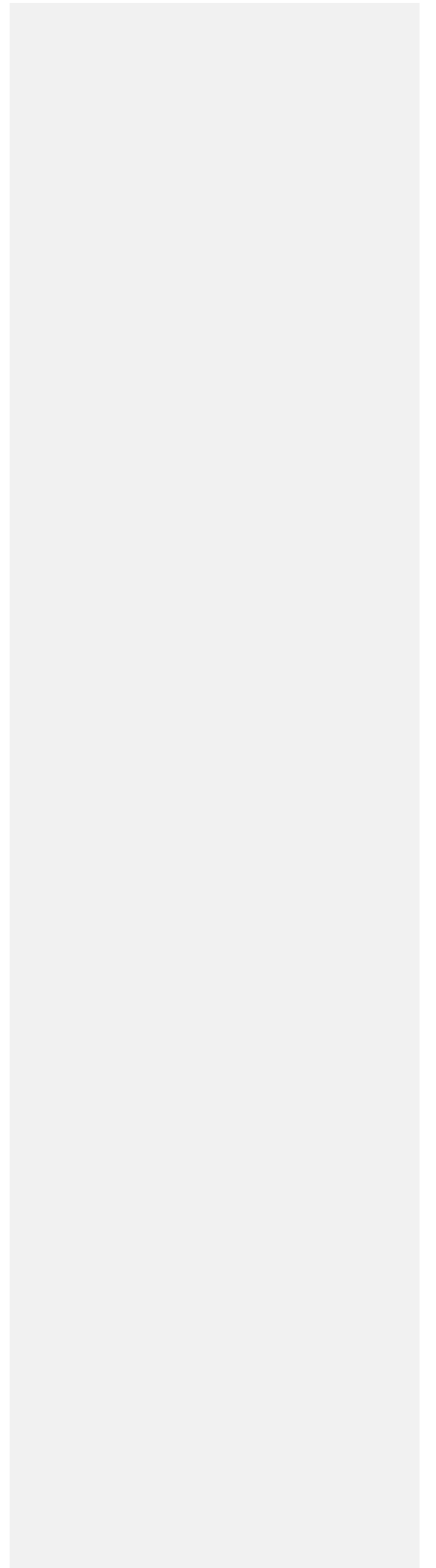
By: \_\_\_\_\_  
Kenneth A. Shull, CEO

ATTEST:

\_\_\_\_\_  
Devon LaFromboise, Town Clerk

TOWN OF COLUMBUS

By: \_\_\_\_\_  
Eric McIntyre, Mayor





MEMORANDUM FOR TOWN COUNCIL MEETING  
JULY 18, 2013

To: Mayor & Town Council  
From: Jonathan Kanipe, Town Manager  
Re: Local Soil & Erosion Control Program -- Discussion  
Date: July 11, 2013

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Background

The Town Council approved a Local Sedimentation and Erosion Control Policy for Columbus in June 2008 (complete ordinance attached). This effectively took the local land disturbance control from the State and placed it in the hands of Columbus officials for land-disturbing projects within Columbus. For the past several years, this approval process was conducted by former Town Planner Larry Traber and Public Works Director Robert Rosseter informally conducted inspections before that time.

Discussion

The reason for bringing this issue before you is that it is my recommendation as Town Manager that the Council considers some alterations to the Town's soil and erosion program. The total projects are few and far between (we have two active projects and three total in the past two years) and the fees received for the projects do not cover the costs associated with training and/or hiring staff to competently manage this program. Three options are available for consideration:

- 1) The Town can hire or contract additional staff and/or send staff to obtain the requisite training to properly conduct the program.
- 2) The Town can enter into an interlocal agreement with another local government to conduct our soil and erosion program. If this option is selected, both local governments would have to agree to terms and the final agreement must be approved by the State Soil & Erosion Control Board. This would take approximately 4-6 months. In the course of due diligence, Mr. Rosseter and I are meeting with staff from Henderson County's engineering department on Friday, July 12<sup>th</sup> to discuss this possibility.

- 3) The Town can rescind our local program, effectively replacing our current ordinance with language referencing that the state division has authority over soil and erosion control permits.

There is great concern from both Mr. Rosseter and me that the Town is inadequately prepared at this time to administer the soil and erosion program. Mr. Rosseter has not been trained in formal soil and erosion control measures and I have no training on reviewing soil and erosion control plans for approval. To date, we do not have any outstanding liability that would arise from any approved plans -- Mr. Traber had signed off on the last plans approved, and the last State inspection revealed the Town was in fine shape with the program overall. One site in particular needed increased inspections, but overall, the program was fine. In many respects, the Town is fortunate there are not many projects requiring the Town to issue and inspect these permits.

It is my understanding that when this ordinance was passed the former Town Manager and then full-time Town Planner were assigned to handle these tasks. The composition of the Town staff has changed dramatically since then. The former manager was also a trained and licensed building inspector who had experience in reviewing plans and inspecting sites, and the former Town Planner also received training in this as well. Certainly, having full-time staff to dedicate to these plans also allowed more flexibility in both training and inspecting sites. There was also anticipation that grants could be utilized to fund the program. In speaking with a local Asheville division official, she indicated that grants were available early on to fund the beginning stages of the program, but dried up by the time Columbus's program began. Thus, for Columbus, the fees from applications are the only direct revenue associated with the program and everything else is subsidized by the General Fund.

My discussion with Henderson County came about because they have certified soil and erosion control specialists, an engineering department, and the staff to handle our relatively small work load. They currently handle the soil and erosion control permitting process for all the municipalities in Henderson County, with the exception of Mills River. After reviewing our fee schedule and their fee schedule, the Town would be able to successfully utilize their soil and erosion specialists without increases. In short, we would be able to provide an adequate and considerably more experienced engineering department for soil and erosion control without passing on any increased cost to those applying for permits.

I also spoke with Matt Poling who is the Assistant State Sediment Specialist with DENR's Division of Energy, Mineral, and Land Resources. This is the state agency that supervises the local soil and erosion control programs. Mr. Poling indicated that the Division would prefer the Town rescind the local control option if unable to perform the required permit review and inspections. This could be accomplished by a letter from the Town Manager indicating that the Town wished to rescind the program, and represents the third option as outlined above.



## Recommendation

Staff respectfully requests that Council explore the three options outlined above. The prospect of entering into an interlocal agreement with Henderson County would provide soil and erosion control services to the Town from a competent and skilled engineering department. This would also maintain our current local control for the program and fee schedule for these permits without increasing any fees.

The third option, rescinding the permit and allowing the local Asheville division to handle all soil and erosion control permits, would remove the local control from the Town and result in site inspections and applicant review by the Asheville office. The Town's current ordinance is the model ordinance as approved by the State, so there would not be a significant practical difference between our ordinance and the state's controls -- the major difference would be in timeliness of site plan review and inspections. Conversely, this would ensure that all sites are properly inspected and plans are reviewed by certified engineers and remove all soil and erosion control liability from the Town.

My recommendation is that the Council considers the latter two options, and specifically, that the State's recommendation of rescinding the local control program be strongly considered. In the event Council does not want to rescind the local program, I strongly recommend pursuing an interlocal agreement with another local government that can adequately manage this program.

## **CHAPTER 152: SOIL EROSION AND SEDIMENTATION**

Section

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### ***Cross-references:***

*Flood damage prevention, see Chapter 157*

*Mountain and hillside development, see Chapter 156*

# GENERAL PROVISIONS

## § 152.01 TITLE.

This chapter may be cited as the "Town of Columbus Soil Erosion and Sedimentation Control Ordinance."  
(Ord. 2007-11, passed 10-16-2008)

## § 152.02 PURPOSE.

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.

(Ord. 2007-11, passed 10-16-2008)

## § 152.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCELERATED EROSION.** Any increase over the rate of natural erosion as a result of land-disturbing activity.

**ACT.** The State Sedimentation Pollution Control Act of 1973, being G.S. §§ 113A-50 *et seq.*, and all rules and orders adopted pursuant to it.

**ADEQUATE EROSION CONTROL MEASURE, STRUCTURE OR DEVICE.** One which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

**AFFILIATE.** A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

**BEING CONDUCTED.** A land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

**BORROW.** Fill material which is required for on-site construction and is obtained from other locations.

**BUFFER ZONE.** The strip of land adjacent to a lake or natural watercourse.

**COMMISSION.** The State Sedimentation Control Commission.

**COMPLETION OF CONSTRUCTION OR DEVELOPMENT.** 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.** The State Department of Environment and Natural Resources.

**DIRECTOR.** The Director of the Division of Land Resources of the Department of Environment and Natural Resources.

**DISCHARGE POINT.** The point at which storm water runoff leaves a tract of land.

***DISTRICT.*** The Polk Soil and Water Conservation District created pursuant to G.S. Ch. 139.

***ENERGY DISSIPATOR.*** A structure or a 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.*** The wearing away of land surfaces by the action of wind, water, gravity or any combination thereof.

***GROUND COVER.*** Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

***HIGH QUALITY WATERS.*** Those classified as such in 15A NCAC 2B.0101(e) (5) - General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. § 150B-14(c).

***HIGH QUALITY WATER (HQW) ZONES.*** Areas within one mile and draining to HQW's.

***LAKE OR NATURAL WATERCOURSE.*** Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary and any reservoir, lake or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

***LAND-DISTURBING ACTIVITY.*** Any use of the land by any person in residential, industrial, education, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

***LOCAL GOVERNMENT.*** 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.

***MAJOR PLAN.*** A sedimentation and erosion control plan pertaining to a development project whose proposed total disturbed area is greater than or equal to one acre.

***MINOR PLAN.*** A sedimentation and erosion control plan pertaining to a development project whose proposed total disturbed area is greater than 2,500 square feet, but smaller than one acre.

***NATURAL EROSION.*** The wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by humans.

***PARENT.*** An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

***PERSON.*** Any 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.*** Any person who may be held responsible for violation unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

***PERSON RESPONSIBLE FOR THE VIOLATION.***

(1) The developer or other person who has or holds himself or herself out as having financial or operation control over the land-disturbing activity; or

(2) The landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefitted from it or failed to comply with a duty imposed by any provision of this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

***PHASE OF GRADING.*** One of two types of grading: rough or fine.

**PLAN.** An erosion and sedimentation control plan

**SEDIMENT.** 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.** 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 natural watercourse.

**SILTATION.** 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.

**STORM DRAINAGE FACILITIES.** The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.

**STORM WATER RUNOFF.** The surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

**SUBSIDIARY.** An affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

**TEN-YEAR STORM.** The storm water runoff resulting from precipitation 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 runoff for the watershed of interest under average antecedent wetness conditions.

**TRACT.** All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

**TWENTY-FIVE YEAR STORM.** The storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

**UNCOVERED.** The removal of ground cover from, on or above the soil surface.

**UNDERTAKEN.** 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.** The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing **VELOCITY** of flow.

**WASTE.** Surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

**WORKING DAYS.** Days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

(Ord. 2007-11, passed 10-16-2008)

#### **§ 152.04 SCOPE AND EXCLUSIONS.**

(A) *Geographical scope of regulated land-disturbing activity.* This chapter shall apply to land-disturbing activity within the territorial jurisdiction of the town, and to the extraterritorial jurisdiction of the town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

(B) *Exclusions from regulated land-disturbing activity.* Notwithstanding the general applicability of

this chapter to all land-disturbing activity, this chapter shall not apply to the following types of land-disturbing activity:

(1) An activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to humans, including, but not limited to:

- (a) Forage and sod crops, grain and feed crops, tobacco, cotton and peanuts;
- (b) Dairy animals and dairy products;
- (c) Poultry and poultry products;
- (d) Livestock, including beef cattle, sheep swine, horses, ponies, mules and goats;
- (e) Bees and apiary products; and
- (f) Fur producing animals.

(2) An activity undertaken on forest land for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department. If land-disturbing activity undertaken on forest land 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 chapter shall apply to the activity and any related land-disturbing activity on the tract;

(3) An activity for which a permit is required, under the Mining Act of 1971, G.S. Ch. 74, Art. 7;

(4) A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. § 113A-56(a); and

(5) An activity, which is essential to protect human life during an emergency.

(C) *Plan approval requirement for land-disturbing activity.* No person shall undertake any land-disturbing activity which will disturb more than 2,500 square feet of land without first obtaining a Plan approval therefor from the town.

(D) *Protection of property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by the activity.

(E) *More restrictive rules shall apply.* Whenever conflicts exists between this chapter and federal, state or other local laws, ordinances or rules, the more restrictive provision shall apply.

(F) *Plan approval exceptions.* Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed 2,500 square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(Ord. 2007-11, passed 10-16-2008)

## **§ 152.05 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY.**

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

(A) *Buffer zone.*

(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% of the buffer zone

nearest the land-disturbing activity.

(a) *Projects on, over or under water.* This division (A) 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.

(b) *Buffer measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25% 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% of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Commission may approve plans which include land-disturbing activity along trout waters when the duration of the disturbance would be temporary and the extent of said disturbance would be minimal.

(a) *Projects on, over or under water.* This division 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.

(b) *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.

(c) *Limit on land disturbance.* Where a temporary and minimal disturbance has been 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% 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 Director.

(d) *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 in the trout waters, as set forth in 15 NCAC 2B.0211 "Fresh surface Water Classification and Standards."

(B) *Graded slopes and fills.* 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 constraints.

(C) *Fill material.* Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the state.

(D) *Ground cover.* Whenever land-disturbing activity that will disturb more than 2,500 square feet is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction upon and development of the tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in § 152.08(B)(5) below, provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or 90 calendar days following completion of construction or development, whichever period is shorter.

(E) *Conduct.* The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

(Ord. 2007-11, passed 10-16-2008)

## § 152.06 EROSION AND SEDIMENTATION CONTROL PLANS

(A) *Plan submission.* A plan shall be prepared for all land-disturbing activities subject to this chapter. At least 30 days prior to the commencement of the proposed activity, the applicant shall file three copies of the Plan with the town and one copy of the Plan with the Polk Soil and Water Conservation District. The town shall forward to the Director of the Division of Water Quality a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(B) *Financial responsibility and ownership.*

(1) 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 or her attorney in fact.

(2) The statement shall include the mailing and street addresses of the principal place of business of:

- (a) The person financially responsible;
- (b) The owner of the land; and
- (c) Any registered agents.

(3) If the person financially responsible is not a resident of the state, a state agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this chapter or rules or orders adopted or issued pursuant to this chapter.

(4) 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) *Environmental policy act document.* Any plan submitted for a land-disturbing activity for which an environmental document is required by the State Environment Policy Act (G.S. §§ 113A-1 *et seq.*) shall be deemed incomplete until a complete environmental document is available for review. The town shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this chapter shall not begin until a complete environmental document is available for review.

(D) *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 chapter. Plan content may vary to meet the needs of specific site requirements.

(1) A major plan involving the disturbance of one acre or more of land shall contain the following:

- (a) A location map (showing and identifying nearby roads);
- (b) Either a certified copy of a survey or a copy of the tax maps showing the actual property which is subject to the application;

(c) A site plan showing the following:

1. Boundary and topographical surveys of the property including existing and proposed site conditions (buildings, streets, driveways, parking lots, utilities, grassed and landscaped areas, number of acres disturbed, water courses and other features affecting storm water runoff and management and the like);

2. Offsite conditions (ownership use, drainage areas, lakes and streams);

3. Lot lines and numbers, road names, easements, flood zones, utilities and setbacks;

4. Storm water systems (catch basins, inlets, culverts, swales, ditches and channels);



- stockpiles;
5. Borrow and waste areas, access and haul roads, construction staging areas, topsoil
  6. Disturbed area (clearly delineated);
  7. Stream crossings;
  8. Temporary and permanent sedimentation and erosion control measures (locations and dimensions of gravel entrances, diversion ditches, silt fences, sediment basins, velocity dissipaters, ditch lining, retaining walls and the like);
  9. Detailed drawings (sections, elevations and perspectives of measures sufficient for construction);
  10. Construction sequence (permits, installation of measures, inspections and approvals, maintenance of measures, ground cover and removal of measures after stabilization);
  11. Statements concerning approval to discharge storm water or perform off-site construction work;
  12. Scale, legend, orientation (North arrow), seal and signature;
  13. Temporary and permanent seeding plans (seed bed preparation, fertilizer and lime rates, seeding schedule and rates, mulch and tack materials and rates);
  14. Underground utilities; and
  15. Dust control.

(d) Calculations sufficient to support design for all temporary and permanent erosion and sedimentation control measures including, but not limited to the following:

1. Temporary devices;
2. Ditches, swales and channels;
3. Velocity dissipaters; and
4. Storm culverts and inlets.

(e) Other documents as may be requested by the Erosion Control Officer to ensure compliance with this chapter.

(2) An erosion and sedimentation control plan for a land-disturbing activity of less than one acre shall contain the following:

- (a) A location map (showing and identifying roads);
- (b) A sketch plan drawn to scale showing the following:

1. Boundaries and topography of the property including existing and proposed site conditions (buildings, streets, driveways, parking lots, utilities, setbacks, water courses and other features affecting storm water runoff and management and the like);
2. Offsite conditions (ownership use, drainage areas, lakes and streams);
3. Area to be disturbed (building footprint, access roads, graded surfaces, cut and fill slopes and the like);
4. Storm water systems (catch basins, inlets, culverts, swales, ditches, and channels);
5. Stream crossings;

6. Temporary and permanent sedimentation and erosion control measures (locations and dimensions of gravel entrances, diversion ditches, silt fences, sediment basins, velocity dissipaters, ditch lining, retaining walls and the like);

7. Construction sequence (permits, installation of measures, inspections and approvals, maintenance of measures, ground cover and removal of measures after stabilization); and

8. Temporary and permanent seeding plans (seed bed preparation, fertilizer and lime rates, seeding schedule and rates, mulch and tack materials and rates).

(c) Either a certified copy of a survey or a copy of the tax maps showing the actual property which is the subject of the application; and

(d) Other documents as may be requested by the Erosion Control Officer to ensure compliance with this chapter.

(E) *Soil and water conservation district comments.* The district shall review the plan and submit any comments and recommendations to the town, within 20 days after the district received the plan, or within any shorter period of time as may be agreed upon by the district and the town. Failure of the district to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the plan.

(F) *Time line for decisions on plans.* The town, will review each complete plan submitted to it and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval. The town will review each revised plan submitted to it and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within 15 days of receipt shall be deemed approval.

(G) *Approval.* The town 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 town shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. The town may establish an expiration date, not to exceed three years, for plans approved under this chapter.

(H) *Disapproval for content.* The town shall 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.

(I) *Other disapprovals.*

(1) The town may disapprove a plan or draft plans if implementation of the plan would result in a violation of the rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

(2) A local government may disapprove a plan upon finding that an applicant, or a parent, subsidiary or other affiliate of the applicant:

(a) 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 a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;

(b) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;

(c) Has been convicted of a misdemeanor pursuant to G. S. § 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or

(d) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.

(3) For purposes of this division, an applicant's record may be considered for only the two years prior to the application date.

(4) In the event that a plan is disapproved pursuant to this division, the town shall notify the Director of the disapproval within ten days. The town shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved.

(J) *Notice of activity initiation.* No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.

(K) *Preconstruction conference.* When deemed necessary by the approving authority a preconstruction conference may be required.

(L) *Display of plan approval.* A plan approval issued under this section shall be prominently displayed until all construction is complete, 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.

(M) *Required revisions.* After approving a plan, if the town, either upon review of the plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the town shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved plan, the town determines that the plan is inadequate to meet the requirements of this chapter, the town may require any revision of the plan that is necessary to comply with this chapter.

(N) *Amendment to a plan.* Applications for amendment of a 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 town, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

(O) *Failure to file a plan.* Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this chapter, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this chapter.

(P) *Inspection.* 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). 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 division shall be in addition to inspections required by G.S. § 113A-61.1

(Q) *Ordinance administration.* Except where duties under this chapter are expressly reserved to the Town Council, all duties of the town under this chapter shall be performed by the Town Manager or his or her designee(s).

(Ord. 2007-11, passed 10-16-2008)

## **§ 152.07 BASIC CONTROL OBJECTIVES.**

An erosion and sedimentation control plan may be disapproved 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 activities are to be planned and conducted to limit exposure to the shortest feasible time;

(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; and

(F) *Manage storm water runoff.* When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a Plan is to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(Ord. 2007-11, passed 10-16-2008)

## **§ 152.08 DESIGN AND PERFORMANCE STANDARDS.**

(A) Except as provided in division (B)(2) below, erosion and sedimentation control measures, structures and devices shall be planned, designed and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices", or other acceptable calculation procedures.

(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 twenty acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a 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.

(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 United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(3) *Settling efficiency.* Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 millimeter) size soil particle transported into the basin by the runoff of that two year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(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 acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(5) *Ground cover.* Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

(Ord. 2007-11, passed 10-16-2008)

**§ 152.09 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.*

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

- (a) The velocity established by the Maximum Permissible Velocities Table set out below; or
- (b) The velocity of the ten-year storm runoff in the receiving watercourse prior to development.

(2) If condition (B)(1)(a) or (b) above 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%.

(3) The following is a table for maximum permissible velocity for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

<i>Maximum Permissible Velocities Table</i>		
<i>Material</i>	<i>F.P.S.</i>	<i>M.P.S.</i>
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.7
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8

Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8
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.*

(1) Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences.

(2) The town recognizes that the management of storm water runoff to minimize or 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.

(3) Some alternatives, while not exhaustive, are to:

(a) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

(b) Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;

(c) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;

(d) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and

(e) 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.

(D) *Exceptions.* This rule shall not apply where it can be demonstrated to the town that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

(Ord. 2007-11, passed 10-16-2008)

**§ 152.10 BORROW AND WASTE AREAS.**

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.11 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

## **SPECIFIC PROVISIONS**

### **§ 152.20 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 the activity.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.21 OPERATIONS IN LAKES OR NATURAL WATERCOURSES.**

Land disturbing activity in connection with construction in, on, over or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.22 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 chapter, the Act, or any order adopted pursuant to this chapter or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.23 ADDITIONAL MEASURES.**

Whenever the town determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.24 EXISTING UNCOVERED AREAS.**

(A) All uncovered areas existing on the effective date of this chapter which resulted from land-disturbing activity, exceed 2,500 square feet, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures,

structures or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(B) The town shall serve upon the landowner or other person in possession or control of the land a written notice to comply with the Act, this chapter, a rule or order adopted or issued pursuant to the Act by the Commission or by the town. The notice to comply shall be sent by registered or certified mail, return receipt requested, or other means provided in G.S. § 1A-1, Rule 4. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology and quantity of work required, and shall set reasonable and attainable time limits of compliance.

(C) The town reserves the right to require preparation and approval of a plan in any instance where extensive control measures are required.

(D) This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.25 FEES.**

(A) The town may establish a fee schedule for the review and approval of plans.

(B) In establishing the fee schedule, the Town Planner or his or her designee shall consider the administrative and personnel costs incurred for reviewing the plans and for related compliance activities.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.26 PLAN APPEALS.**

(A) Except as provided in division (B) below, the appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions.

(1) The disapproval or modification of any proposed plan by the town shall entitle the person submitting the plan to a public hearing if the person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.

(2) A hearing held pursuant to this section shall be conducted by the Town Council within 30 days after the date of the appeal or request for a hearing.

(3) The Town Council will render its final decision on any plan within 30 days of the public hearing.

(4) If the Town Council, upholds the disapproval or modification of a proposed plan following the hearing, the person submitting the plan shall then be entitled to appeal the town's decision to the Commission as provided in G.S. § 113A-61(c) and 15A NCAC 4B .0118(d)

(B) In the event that a plan is disapproved pursuant to § 152.06(I) above, the applicant may appeal the town's disapproval of the plan directly to the Commission.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.27 INSPECTIONS AND INVESTIGATIONS.**

(A) *Inspection.* Agents, officials or other qualified persons authorized by the town, will periodically inspect land-disturbing activities to ensure compliance with the Act, this chapter or rules or orders adopted or



issued pursuant to this chapter, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

(B) *Willful resistance, delay or obstruction.* No person shall willfully resist, delay or obstruct an authorized representative, employee or agent of the town, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

(C) *Notice of violation.* If the town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this chapter, or rules, or orders adopted or issued pursuant to this chapter, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4. The notice shall specify a date, by which the person must comply with the Act, or this chapter, or rules, or orders adopted pursuant to this chapter, and inform the person of the actions that need to be taken to comply with the Act, this chapter, or rules or orders adopted pursuant to this chapter. 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 chapter.

(D) *Investigation.* The town shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and 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.

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

(F) *Additional protective action.* If through inspections the town determines that significant erosion and sedimentation is occurring as a result of land disturbing activity, despite application and maintenance of all protective practices required by the approved soil erosion and sedimentation control plan, the person conducting the land disturbing activity will be required to take additional protective action.

(G) *Cease work order.*

(1) The town may issue a cease work order if it finds that a land-disturbing activity is being conducted in violation of this chapter or the Act, that the violation is knowing and willful, and that either:

(a) Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that the degradation is imminent;

(b) Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent; or

(c) The land-disturbing activity is being conducted without an approved plan.

(2) Upon issuance of a cease work order, the town may require that all provisions of this chapter be met before lifting the order.

(Ord. 2007-11, passed 10-16-2008)

## **§ 152.28 INJUNCTIVE RELIEF.**

(A) *Violation of local program.* Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the town or any term, condition or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the town 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 is threatened.

(B) *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 the proceedings from any civil or criminal penalty prescribed for violations of this chapter.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.29 RESTORATION AFTER NON-COMPLIANCE.**

The town 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), 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 chapter.

(Ord. 2007-11, passed 10-16-2008)

### **§ 152.99 PENALTY.**

(A) *Civil penalties.*

(1) *Civil penalty for a violation.* Any person who violates any of the provisions of this chapter, or rule or order adopted or issued pursuant to this chapter, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty amount that the town may assess per violation is \$5,000. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

(2) *Civil penalty assessment factors.* The Town Council shall determine the amount of the civil penalty based upon the following factors:

- (a) The degree and extent of harm caused by the violation;
- (b) The cost of rectifying the damage;
- (c) The amount of money the violator saved by noncompliance;
- (d) Whether the violation was committed willfully; and
- (e) The prior record of the violator in complying or failing to comply with this chapter.

(3) *Notice of civil penalty assessment.* The governing body of the town shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. § IA-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within 30 days after receipt of the notice of assessment, by filing a petition for contested case in the Office of Administrative Hearing in accordance with G.S. Ch. 150B, Art. 3.

(4) *Appeal of decision of Administrative Law Judge.* The decision of the Administrative Law Judge may be appealed in writing within ten business days after receipt of written notice of the decision. The appeals are to be heard by the governing body.

(5) *Appeal of final decision.* Appeal from the final decision of the Town Council shall be to the Superior Court of the county where the violation occurred. The appeals must be made within 30 days of the final decision of the Town Council.

(6) *Collection.* If payment is not received within 30 days after it is due, the town may institute a civil

action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located. Those civil actions must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(7) *Credit of civil penalties.* Civil penalties collected pursuant to this chapter shall be credited to the Civil Penalty and Forfeiture Fund in accordance with G.S. § 115C-457.2.

(B) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this chapter, or rule or order adopted or issued pursuant to this chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may included a line not to exceed \$5,000 as provided in G.S. § 113A-64.

(Ord. 2007-11, passed 10-16-2008)

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MEMORANDUM FOR TOWN COUNCIL MEETING  
JULY 18, 2013

To: Mayor & Town Council  
From: Jonathan Kanipe, Town Manager  
Re: Wastewater Treatment Plant Construction Update/Change Order Status  
Date: July 11, 2013

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WWTP Construction Update

Progress at the treatment plant continues despite the torrential rainfall received in the past few weeks. The Engineer's construction observer keeps a specific log of rain days (i.e. days where work is not able to be done due to rain) and we will likely be "giving" the contractor several days on the back end of the contract in allowance of these days.

Change Orders

There are several change orders presented for your review that were required by the Contractor and agreed to by the Engineer. These change orders provide for termite treatment in the soil and under the buildings that will be constructed. The second change order is in regards to the outfall line from the chlorine contact chamber -- this was an old terra cotta pipe and needed to be replaced in order to properly remove the effluent from chlorine contact chamber. The third change order is for the extra 100 feet of drilling required in order to get adequate water pressure at the new well.

All of these changes are necessary and result in approximately \$4,035.00 of cost to the construction contract. It is within my capacity to approve these changes and I did so at the time, but did want to provide you an update on these change orders and why they were required.

DOCUMENT 00 94 63  
CHANGE ORDER NUMBER One (1)

Date: July 10, 2013  
Agreement Date: March 14, 2013

**PROJECT:** Columbus Wastewater Treatment Plant Upgrade  
**OWNER:** Town of Columbus, NC  
**CONTRACTOR:** Buchanan & Sons, Inc.  
**WKD Project Number:** 20110093.00.CL

Changes and/or additions are hereby made to the Contract Documents as follows:

<b>PAYMENT SCHEDULE THIS CHANGE ORDER</b>	<b>COST CHANGE</b>
Additions	\$ 4,035.00
Deductions	\$ 0.00
<b>Net Change This Change Order</b>	<b>\$ 4,035.00</b>

**Change to Contract Time:** Two (2) Days

**Justification for Change Order:**

1.	termite treatment for the lab / office building and well house = \$735.00
2.	40 LF of 8" SDR 35 pipe installation @ \$37/LF for outfall replacement = \$1,480.00
3.	100 VF of additional well depth at \$18.20/VF = \$1,820.00

Original Contract Price		\$ 2,445,940.00
Contract Additions by Previous Change Orders	Add	\$ 0.00
Contract Deductions by Previous Change Orders	Deduct	\$ 0.00
Contract Change by this Change Order	Add	\$ 4,035.00
<b>New Contract Price, including this Change Order</b>		<b>\$ 2,449,975</b>

Original Contract Completion Date	<u>April 15, 2014</u>
Net Change By Calendar Days	<u>Two (2) Days</u>
<b>New Contract Completion Date</b>	<b><u>April 17, 2014</u></b>

**Accepted By Owner:** Town of Columbus, NC

\_\_\_\_\_  
Date

**Accepted By Contractor:** Buchanan & Sons, Inc.

\_\_\_\_\_  
Date

**Accepted By Engineer:** W. K. Dickson & Co., Inc.

\_\_\_\_\_  
Date



MEMORANDUM FOR TOWN COUNCIL MEETING  
JULY 18, 2013

To: Mayor & Town Council  
From: Jonathan Kanipe, Town Manager  
Re: Fourth of July Festival Review and Discussion of Labor Day Plans  
Date: July 11, 2013

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Background

As you all know, the Fabulous 4<sup>th</sup> Festival was quite a rainy event this year. Volunteers, staff, emergency personnel, and all vendors, musicians, and entertainment did their very best to pull off the festival. The Town did make the decision to postpone the fireworks as a result of the severe conditions.

Discussion

There was consensus among the Council last week to hold the fireworks on Labor Day and offer the vendors who were present at this year's Fabulous 4<sup>th</sup> free spaces at this new event. I would like some feedback and discussion how Council prefers the Town handle this Labor Day event. Councilwoman Kan has some very good ideas on utilizing this event as a "thank you" to volunteers from all over the community, and I think this should be worked into the framework of the festival as it would allow recognition from other groups who also utilize volunteers throughout the County.

Please think about what you would like to see out of this event, specifically related to timing and date. We did receive phone calls from a few parents inquiring about the fireworks and mentioning that the Tuesday after Labor Day is a school day -- so it might be worth considering the event on Saturday afternoon/evening instead of Labor Day specifically. Again, this is just a thought and I am very interested in hearing Council's perspective. Please let me know if you have any questions beforehand.



MEMORANDUM FOR TOWN COUNCIL MEETING  
JULY 18, 2013

To: Mayor & Town Council  
From: Jonathan Kanipe, Town Manager  
Re: Foster Creek Development Update  
Date: July 11, 2013

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Background

The Town has worked through several new issues with Foster Creek in the past few months. Most notably, the Town approved an annexation of 2.66+/- acres and the Planning Board approved the addition of this property to the Master Plan.

Recently, the Town was contacted by Jeff Reader of Reader and Partners, based in Raleigh and Orlando, FL. Mr. Reader and his company have taken over the development side of the property from Forest City Land Group. Town citizens, Council, and Planning Board members had become very familiar over the years with Mr. Scott Kilby from Forest City, so I thought it imperative to bring this change to Council and the Town's attention.

Robert Rosseter and I met with Mr. Reader and the company's Senior Vice President, Dean Barberree, on Wednesday, July 10<sup>th</sup>. We provided them extensive information on the plans and agreements already in place and discussed their plans for the development which are no different than those previously planned by Forest City. Certainly, they may take a different approach to managing or marketing the property, but I do not feel that this will be anything significantly different from how Forest City Land Group would have handled the property. Reader and Partners has managed and developed several sites within the Carolinas and across the Southeast. They were largely responsible for much of the development of Celebration, FL (Disneyworld's "themed" town), the Blakeney mixed-use development in Charlotte, and currently working on two other projects in Wake and Durham Counties.

The owner of the property at Foster Creek (American Land Fund) remains completely the same and the Master Plan, Special Use Permit, and Development Agreement between the Town and Owner all remain in place. The only difference at this stage is that Reader and Partners is the

development company charged with the implementation of those plans and not Forest City Land Group. Staff will work diligently with Reader and Partners over the next few months to get them completely up to speed on the area and prior agreements. I have asked Mr. Reader and Mr. Barberree to come back for a Council meeting in the near future, and they are very excited to do this.

Please let me know if you have any questions regarding this change in developer or anything else regarding Foster Creek.



2013 Town Manager's Report  
*Prepared for Columbus Town Council*  
*Thursday, July 18, 2013*

- 1) **Handmade in America:** We received a draft of the “Cookbook” that will be provided to the Town by the resource team last month. The Town’s Handmade committee has made edit recommendations and sent those back to their staff. We hope to receive the final Handmade report sometime in the next month and will be able to provide copies of that to the entire Council and community.
  
- 2) **NC-211 Program Implementation:** The 2-1-1 program began unofficially on July 1<sup>st</sup> in Polk County. The program will have its official unveiling on August 8<sup>th</sup> at 9:00 a.m. at the Polk Campus of Isothermal Community College. The 2-1-1 program’s implementation should provide a comprehensive and effective source of information to Polk County citizens looking for assistance in all areas.
  
- 3) **Drainage Issues:** During the past few weeks, the torrential rainfall has resulted in many citizen calls regarding drainage issues. The Town Public Works staff has done a tremendous job in responding to these concerns as quickly as possible. In many cases, however, the issue is a result of drainage running from private property to private property. Where this has been the case, Town staff has tried to indicate this to citizens and suggest they speak to their neighbor. Certainly, there have been areas of our stormwater system that have faltered during these large rain events, but that is not uncommon when that much water comes at once. The public works staff has worked diligently to correct these issues when they have been found and worked on stabilizing and mitigating them for any future rain events.
  
- 4) **Potential Energy Audit Grant:** Recently, the Town was approached by Jessica Trotman (new planner for the Isothermal Council of Governments) concerning the possibility of working together on an energy audit program for the Town. Ms. Trotman has a background in energy sustainability programs and coordinated these efforts for UNC-Greensboro previously. She hopes to find grant funds to pay for a pilot program (based in Columbus) that would analyze and develop best practice guidelines for the Town’s energy consumption. The idea behind this effort is that simple, easy measures can be taken to ensure that energy is not being wasted, particularly on weekends or overnight when no one is in the buildings. The Town has relatively few public facilities and spaces, so we offer a small, but realistic, potential to cut down our costs and demonstrate how this can be done on a larger scale. I will keep you apprised of this grant process through IPDC as it moves forward.

**TOWN OF COLUMBUS**

**ABC BOARD**

Monday June 10, 2013

The ABC Board met at the Columbus Hardware store. Present were Pat Feagan chair, Marshall Watkins board member, Devin Williams secretary and store manager George Miller.

Chair Pat Feagan called the meeting to order (5:05 pm). Chair makes a motion to approve minutes, Marshall seconds. Chair makes a motion to approve the agenda, Marshall seconds. Secretary Devin Williams reads the Ethics and Conflict of Interest statement.

In accordance with GS 18B-201, it is the duty of every board member to avoid both conflicts of interest and appearances of conflicts. Does any member have any known conflict of interest or appearance of conflict with respect to any matters coming before the board today?

No says all.

**OLD BUSINESS**

No Old Business

**NEW BUSINESS**

- 1) Chair made motion to invest in a lighted OPEN sign. May or may not display the hours.
- 2) ABC Board was able to make a profit distribution of \$500.00 to the Town based on how the reopening of the Tryon store is affecting business.
- 3) Chair completed the required online ethics course, Marshall will be completing this course also.

NCAC 02R.1706(b) states "If a local board has a price discrepancy between the price on the shelf or bottle is lower, the local board shall sell the item at the shelf or bottle price and correct the shelf or bottle price to match the Commissions published uniform price."

**THIS IS OFFICIAL BOARD POLICY**

With no further business Marshall motions to adjourn at 5:52 pm, Devin seconds.

The next meeting will be held Monday July 8, 2013 at Columbus Hardware Store.

TOWN OF COLUMBUS  
PUBLIC WORKS REPORT  
JUNE 2013

RE: WATER MODEL PLAN/ P.E.R. -WK DICKSON

COLUMBUS POTABLE WATER SUPPLY

I WOULD LIKE TO KEEP THE TOWN'S CLEARWELL/ WATER STORAGE TANK ON THE MINDS OF THE COUNCIL.

THE WATER MODEL PLAN HAS MANY COMPONENTS, UPGRADES AND NEEDS. I WOULD STRESS THE IMPORTANCE OF A SECOND CLEARWELL/ WATER STORAGE TANK, AND SEE IT AS FIRST ON ANY CAPITAL IMPROVEMENT PLAN THE TOWN PURSUES.

THE ONE TANK IS THE TOWN'S DRINKING WATER AS WELL AS FIRE PROTECTION.

AND LETS NOT FORGET ST. LUKES HOSPITAL, AND HOW IMPORTANT IT IS TO MAINTAIN A SUPPLY OF WATER TO THEM.

THE AGE OF THE TANK, COMPOSED OF Poured CONCRETE, DATES FROM THE LATE SIXTIES TO EARLY SEVENTIES. THERE ARE NO RECORDS.

THE TANK ROOF IS CONCRETE AND SUPPORTED BY COLUMNS INSIDE THE TANK.

THERE IS ONE TANK FOR WATER STORAGE. THERE IS NO OTHER STORAGE. I WANT TO POINT OUT THAT WITHOUT THIS TANK OR STORAGE, OUR SYSTEM OF WATER SUPPLY/ SERVICE WILL *NOT OPERATE*. THIS INCLUDES THE FOUR WELLS THAT SUPPLY WATER. THE WELLS WOULD HAVE NO WHERE TO PUMP WATER TO. THE PUMPS CANNOT SUPPLY WATER TO PEOPLE WITHOUT THE TANK.

IT MAY BE THOUGHT THAT ONCE THE FOSTER'S CREEK DEVELOPMENT IS IN PLACE, THAT THOSE TANKS WILL BE AVAILABLE.

I WOULD SUGGEST NOT GAMBLING ON AN 'IF'.

THEREFORE, THE TOWN MIGHT CONSIDER THE NEED OF A SECOND TANK NEXT TO THE EXISTING TANK.

I DO PLAN TO HAVE THE TANK INSPECTED. THIS MEANS USING A REMOTELY OPERATED CAMERA TO CHECK THE TANK FROM THE INSIDE AND THE SUPPORTS HOLDING UP THE ROOF AS WELL AS A VISUAL INSPECTION ON THE OUTSIDE DONE BY ANDY TILLMAN WITH 'UTILITES SERVICES, INC.'

THE TANK CANNOT BE DRAINED FOR INSPECTION THEREFORE, A CAMERA IS NECESSARY.

# Columbus Police Department

## Monthly Activity Report

June 2013

### Calls Answered

Wrecks	12
Alarm Calls	11
Talk with an Officer	68
Domestic	1
Suspicious Vehicles	64
Suspicious Person	12
Assist Fire/EMS	20
Larceny	1
Stranded Motorists	13
Disturbance	5
Involuntary Commitments	1
Breaking & Entering	0
Suicide Threat	1
Hit and Run	1
Armed Robbery	0
Total Calls Answered:	420

### Premise Checks

Residence Checks	362
Business Checks	4,612
Church Checks	68
<b>Total Checks</b>	<b>5,042</b>

### Charges

Speeding Citations	102
No Operators License	10
Driving While License Revoked	5
Drug Charges	13
Uninsured Motorists	7
Careless & Reckless Driving	20
Open Container	9
<b>Total Charges</b>	<b>272</b>
(Traffic & Criminal)	

### Arrests

Felony Arrests	4
Misdemeanor Arrests	31
DWI	17
Fugitives Arrested	8
<b>Total Arrests</b>	<b>35</b>

### Training Topics

Clandestine Meth Lab Certification Course  
At-Scene Traffic Crash Investigation  
Recognizing Insurance Fraud  
Drug Enforcement for Patrol Officers  
Courtroom Testimony for Law Enforcement  
Confidential Source Management

**Total Training Hours Received: 260**

### Requested to Assist Sheriff's Office / City Police Departments & Other Agencies

<b>Calls</b>	<b>21</b>
<b>Hours</b>	<b>35</b>

# **COLUMBUS POLICE DEPARTMENT**

## **Department Head Report**

July 18th 2013 Council Meeting

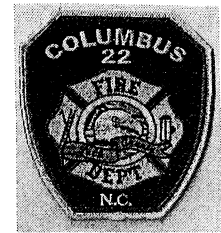
*Chris Beddingfield, Police Chief*

- Statistical Data
- GHSP Bike Safe Update
  - Continuing to host monthly motorcycle safety classes
  - Team teaching with Asheville Police and Hendersonville Police
  - One per month in each location
  - Results in 700 NCGHSP points per month
  - \$700 in traffic equipment per month
- June was busiest month of case numbers since we began keeping stats
  - Includes wrecks, arrests, incidents, anything documented into our data base
- Survived bad weather 4<sup>th</sup> of July
  - Police Explorers did OUTSTANDING job manning town tent
- Police Explorers
  - Group is now up to 13 individuals 14-20 years old
  - Have been meeting with staff from Columbus PD on various law enforcement topics and trainings
  - Continuing to grow, extremely positive
- Completing a detailed traffic enforcement study
  - Not complete at time of this report
  - Possibly will be complete by actual council meeting

# Town of Columbus Fire Department

## Incident Summary Report

June 2013



Type of Incident	Number	Firefighter Hours Utilized
Emergency Medical Calls	52	54:52:00
D & C Fire Alarm Activation "AA"	5	1:54:00
Structure Fire "AA"	3	53:05:00
Motor Vehicle Accidents	12	86:36:00
Public Service	14	63:03:00
Fuel Leak	2	2:02:00
D&C Medical	2	0:22:00
Aircraft Standby	2	3:32:00
Lockout	13	5:26:00
Smoke Investigation	3	5:19:00
Assist Law Enforcement	1	0:27:00
False Call	1	0:21:00
D&C Vehicle Fire	2	1:21:00
Arcing Electrical Equipment	1	3:12:00
Fire Alarm "AA"	1	0:54:00
D&C Structure Fire "AA"	1	0:45:00
Total	115	283:11:00
Training Hours for June		98:00:00
Total Firefighter Hour Calls and Training		381:11:00