

**BOARD OF  
COMMISSIONERS  
PUBLIC HEARINGS  
AND REGULAR  
MEETING  
FEBRUARY 5, 2024  
5:00 PM**



**R. Jay Foster Hall of  
Justice - Womack  
Building**

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1. Public Hearing
    - A. Call to Order the Public Hearing - Chairman Yoder. The purpose of the Public Hearing is to receive citizen input on the proposed text amendment by a citizen to add Automobile, truck, farm equipment & farm implement sales and service to the Neighborhood Commercial Zoning District as a permitted use.
    - B. Citizen Comments.
    - C. Commissioner Comments.
    - D. Adjourn Public Hearing.
    - E. Call to Order the Public Hearing - Chairman Yoder. The purpose of the Public Hearing is to receive citizen input on the proposed updated Polk County Watershed Ordinance amendments, as requested by North Carolina Environmental Quality, Water Supply Watershed Program.
    - F. Citizen Comments.
    - G. Commissioner Comments.
    - H. Adjourn Public Hearing.
  2. Call to Order the Regular Meeting - Chairman Yoder.
  3. Invocation - Chairman Yoder.
  4. Pledge of Allegiance - Commissioner Moore.
  5. Approval of Agenda
    - A. Items may be added or removed at this time.  
**Motion to approve the agenda as presented or amended.**
  6. Consent Agenda - Motion to approve the Consent Agenda.
    - A. Approval of January 16, 2024 Regular Meeting Minutes.
    - B. Tax Refund Request in the amount of \$435.55.
    - C. NCDOT Drug and Alcohol Policy for Polk County Transportation Authority.  
**Motion to approve the Consent Agenda.**
  7. Citizen Comments on Agenda Items.

8. Proposed text amendment by a citizen to add Automobile, truck, farm equipment & farm implement sales and service to the Neighborhood Commercial Zoning District as a permitted use - Cathy Ruth, Polk County Planning and Economic Development Director.

**Motion to approve the text amendment.**

9. Proposed updated Polk County Watershed Ordinance amendments, as requested by North Carolina Environmental Quality, Water Supply Watershed Program - Polk County Planning and Economic Development Director.

**Motion to approve the proposed Polk County Watershed Ordinance amendments.**

10. Polk County Schools - Brandon Schweitzer, Ed. D., Director of Operations.

A. Request to transfer \$187,141 from the County's Capital Reserve Account to reimburse Polk County Schools for Capital Expenses.

**Motion to approve the budget amendment in the amount of \$187,141.**

11. Polk County Board of Elections Building Update - Cliff Marr, Elections Director.

12. Citizen Comments on Non-Agenda Items.

13. Volunteer Board Applications

A. Applications for Consideration: Lisa Krolak - Planning Board (White Oak Township); Brian Metcalf - Fire Rescue Advisory Committee; Stephen King, Gwendolyn Ryan, Neal Waldrop - Recreation Advisory Board.

**Motion to approve the applicants as presented.**

14. Chairman and Commissioner Comments.

15. Closed Session

A. Motion to go into closed session for the purpose of personnel.

B. Motion to return to open session.

16. Adjournment

POLK COUNTY BOARD OF COMMISSIONERS

**AGENDA ITEM**

February 5, 2024 Regular Meeting

**Agenda Item#:** A.

POLK COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

February 5, 2024 Regular Meeting

Agenda Item#: A.

ATTACHMENTS:

Description	Type	Upload Date
Draft Minutes	Cover Memo	1/23/2024

POLK COUNTY BOARD OF COMMISSIONERS  
Regular Meeting  
January 16, 2024 - 5:00 PM  
R. Jay Foster Hall of Justice - Womack Building  
Columbus, NC  
MINUTES

PRESENT: Chairman Yoder, Commissioner Beiler, Commissioner Moore, and Commissioner Overholt. Also in attendance were County Manager Pittman, County Attorney Berg, Clerk to the Board Tipton, media, and citizens. Absent: Vice-Chairman Melton.

1. Call to Order - Chairman Yoder.
2. Invocation - Commissioner Overholt.
3. Pledge of Allegiance - Vice-Chairman Melton

Chairman Yoder led the Pledge in the absence of Vice-Chairman Melton.

4. Approval of Agenda

A. Items may be added or removed at this time.

Commissioner Moore moved to approve the agenda as presented, seconded by Commissioner Beiler and the motion carried unanimously.  
Absent: Melton

5. Consent Agenda - Motion to approve the Consent Agenda.

A. Approval of December 4, 2023 Public Hearing and Regular Meeting Minutes.

B. Amended Grant Project Budget Ordinance for American Rescue Plan Act (ARPA) Final Allocation. (Use of funds approved by Board of Commissioners 2.21.2022)

C. Sheriffs Department Monthly Activity Report for November and December 2023.

Commissioner Overholt moved to approve the consent agenda, seconded by Commissioner Beiler and the motion carried unanimously.  
Absent: Melton

6. Citizen Comments on Agenda Items.

There were two citizen comments on agenda items.

7. Annual Appearance Commission Beautification Awards - Joe Cooper, Chairman of the Polk County Appearance Commission.

Joe Cooper, Chairman of the Polk County Appearance Commission presented the following beautification awards:

1. The Kudzu Warriors for their continued efforts to help eradicate kudzu. Founder Greg Miner received the award.

2. Laughter Pond in Mill Spring for the improvements which include the planting of trees and plants and the replacement of the fishing dock. Members of the Polk Central Elementary 5th grade class helped with the plantings, while Polk County Parks and Recreation managed the project. Laura Baird with Polk County Parks and Recreation accepted the award.

3. Tryon Theater for their outdoor mural atop their building depicting Morris the Horse and a mountain landscape. Theater manager Evan Fitch accepted the award.

4. Polk Central Elementary Schools pollinator garden which will attract and feed insects that are necessary to pollinate our plants. Champions of Wildlife sponsored the garden. Andrea Walter, 5th grade teacher at Polk Central Elementary School, some members of the 5th grade class, and Alexis Hinchliffe of Champions of Wildlife accepted the award.

8. Legislative Congressional District Lines Update - Cliff Marr, Elections Director.

Cliff Marr, Elections Director provided an update on the new Congressional District Lines. He stated all of Polk County was previously in the 11th Congressional District but now is split between the 11th and the 14th with a majority of voters being in the 14th Congressional District. He went on to say the map of district lines presented can be found on the Polk County GIS page and further information regarding voting ballots and districts can be found by calling the Polk County Board of Elections Office, or visiting the NC State Election website. He also announced the move to the new Board of Elections Office, located at 231 Ward St., is complete and an Open House will be held on February 5, 2024 from 2pm - 4:30pm.

9. Request to schedule two Public Hearings. One for a Zoning Ordinance Text Amendment and one for revisions to the Watershed Protection Ordinance - Cathy Ruth, Planning and Economic Development Director. (A copy of the proposed revisions to the Watershed Protection Ordinance is available for review in the County Managers Office)

Cathy Ruth, Planning and Economic Development Director presented a proposed text amendment to the Polk County Zoning Ordinance requested by a citizen to add Automobile, truck, farm equipment & farm implement sales and service to the Neighborhood Commercial Zoning District as a Permitted Use, as well as the Planning Boards Recommendation. The applicant requested the use to be a Permitted Use, but the Planning Board recommended making it a Special Use Permit for this district. She also presented the proposed updated Watershed Protection Ordinance based on the March 2023 revised model ordinance issued by the State, along with the Planning Boards recommendation. She requested two Public Hearings to be held prior to the

next meeting to receive citizen input.

Commissioner Moore moved to schedule a Public Hearing on February 5, 2024 at 5:00 pm to receive citizen input on the proposed Zoning Ordinance Text Amendment, followed directly by a Public Hearing to receive citizen input on the the proposed revisions to the Watershed Protection Ordinance., seconded by Commissioner Overholt and the motion carried unanimously.  
Absent: Melton

10. Memorandum of Agreement (MOA) between Polk County Government and North Carolina State University - Scott Wellborn, NC Cooperative Extension.

Scott Wellborn, NC Cooperative Extension, presented the proposed Memorandum of Agreement between NC State University and Polk County, a copy of which is hereby incorporated by reference into these minutes. He stated that the agreement had not been updated since 2006.

Commissioner Overholt moved to approve the Memorandum of Agreement and grant the County Manager signatory authority, seconded by Commissioner Moore and the motion carried unanimously.  
Absent: Melton

11. Polk County Animal Control Ordinance Amendments - Attorney Berg.

Attorney Berg presented the proposed amendments to the Animal Control Ordinance. She explained the changes are minimal, clarifying text pertaining to the containment of dangerous animals and correcting some grammatical errors. Commissioner Beiler moved to approve the proposed amendments to the Animal Control Ordinance, seconded by Commissioner Overholt and the motion carried unanimously.  
Absent: Melton

12. Citizen Comments on Non-Agenda Items.

There was one comment on non-agenda items.

13. Volunteer Board Application(s)

A. Applications for Consideration: Polk County Planning Board - Kimberly Daniel (At Large), Warren Eadus (Tryon Township), Anwar Timol (Cooper Gap Township)

Commissioner Beiler moved to approve the applicants as presented, seconded by Commissioner Moore and the motion carried unanimously.  
Absent: Melton

14. Chairman and Commissioner Comments.

The Commissioners collectively thanked those in attendance and wished everyone a Happy New Year.  
Absent: Melton

15. Closed Session

- A. Commissioner Overholt moved to go into closed session for the purpose of attorney-client privilege, seconded by Commissioner Beiler and the motion carried unanimously. Absent: Melton.
- B. Commissioner Moore moved to return to open session, seconded by Commissioner Overholt and the motion carried unanimously. Absent: Melton.

16. Adjournment

Commissioner Overholt moved to adjourn, seconded by Commissioner Beiler and the motion carried unanimously.  
Absent: Melton

Attest:

POLK COUNTY BOARD OF  
COMMISSIONERS

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Kristy A Tipton  
Clerk to the Board

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Myron Yoder  
Chairman

POLK COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

February 5, 2024 Regular Meeting

Agenda Item#: B.

ATTACHMENTS:

Description	Type	Upload Date
Tax Refund Request	Cover Memo	1/31/2024

# Memorandum

To: Polk County Board of Commissioners

From: Melissa O'Loughlin, Polk County Tax Administrator

Date: 1/30/2024

Re: Refund Request

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<u>Taxpayer</u>	<u>Parcel</u>	<u>Amount</u>	<u>Reason</u>
The Douglas Turanchick Liv	Vehicle	\$ 143.72	Tag Turned In- Vehicle Sold
Williams Deniece Kaye	Vehicle	\$ 186.76	Tag Turned In- Vehicle Sold
Sienko Richard Joseph	Vehicle	\$ 105.07	Tag Turned In- Vehicle Sold

**TOTAL:** \$ 435.55

POLK COUNTY BOARD OF COMMISSIONERS

**AGENDA ITEM**

February 5, 2024 Regular Meeting

**Agenda Item#:** C.

**ATTACHMENTS:**

Description	Type	Upload Date
NCDOT Drug & Alcohol Policy	Cover Memo	1/31/2024

**Suggested Motion:**

Motion to approve the Consent Agenda.

## DRUG AND ALCOHOL TESTING POLICY

**[Polk County Transportation]**

Adopted as of [MONTH DD, YEAR]

### **A. PURPOSE**

- 1) The **[Polk County Transportation]** provides public transit and paratransit services for the residents of **[Polk County NC]**. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, **[Polk County Transportation]** declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. Covered employees shall abide by the terms of this policy statement as a condition of employment. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.
- 3) Any provisions set forth in this policy that are included under the sole authority of **[Polk County Transportation]** and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of **[Polk County Transportation]** will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

### **B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue

service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, persons controlling the dispatch or movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

### **C. DEFINITIONS**

*Accident:* An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Adulterated specimen:* A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

*Aliquot:* A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

*Alternate specimen:* An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

*Canceled Test:* A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

*Collection Site:* A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.

*Confirmatory Validity Test:* A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

*Covered Employee Under FTA Authority:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

*Cutoff:* The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

*Designated Employer Representative (DER):* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

*DOT, The Department, DOT Agency:* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

*Dilute specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage:* Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

*Employee:* Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services.

*Evidential Breath Testing Device (EBT):* A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC’s Web page for “Approved Evidential Breath Measurement Devices” because it conforms with the model specifications available from NHTSA.

*Initial Drug Test:* The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid

*Invalid Result:* The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

*Limit of Detection (LOD):* The lowest concentration at which the analyte (e.g., drug or drug metabolite) can be identified.

*Limit of Quantification (LOQ):* For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

*Medical Review Officer (MRO):* A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

*Negative result:* The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

*Non-negative specimen:* A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.

*Oral Fluid Specimen:* A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

*Oxidizing Adulterant:* A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

*Performing (a safety-sensitive function):* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

*Positive result:* The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

**Primary specimen:** In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary ("A") specimen by the collector to distinguish it from the split ("B") specimen, as defined in 49 CFR Part 40, as amended.

**Prohibited drug:** Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

**Reconfirmed:** The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

**Rejected for Testing:** The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

**Revenue Service Vehicles:** All transit vehicles that are used for passenger transportation service.

**Safety-sensitive functions:** Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling dispatch or movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

**Specimen:** Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.

**Specimen Bottle:** The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary ("A") or split ("B") specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle."

**Split Specimen:** In drug testing, the specimen that is sent to a first laboratory and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated or substituted.

*Split specimen collection:* A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

*Substituted specimen:* An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

*Test Refusal:* The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of specimen without a valid medical explanation.
- (6) Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

*Undiluted (neat) oral fluid:* An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

*Urine specimen:* Urine collected from an employee at the collection site for the purpose of a drug test.

*Vehicle:* A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

*Verified negative test:* A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

*Verified positive test:* A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

*Validity testing:* The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

#### **D. EDUCATION AND TRAINING**

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable

suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

## **E. PROHIBITED SUBSTANCES**

1) Prohibited substances addressed by this policy include the following.

- a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a [Polk County Transportation] supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

- c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

## **F. PROHIBITED CONDUCT**

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
  - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
    - i. The employee's alcohol concentration measures less than 0.02; or
    - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) [Polk County Transportation], under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all [Polk County Transportation] employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

#### **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the [Polk County Transportation] management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in this policy.

#### **H. TESTING REQUIREMENTS**

- 1) Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under [Polk County Transportation] authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with [Polk County Transportation]. Any safety-

sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

## **I. DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to [Polk County Transportation]. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
  - 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. [Polk County Transportation] will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however [Polk County Transportation] will seek reimbursement for the split sample test from the employee.
  - 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) Observed collections
- a. Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:
    - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to [Polk County Transportation] that there was not an adequate medical explanation for the result;
    - ii. The MRO reports to [Polk County Transportation] that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
    - iii. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute

and that a second collection must take place under direct observation (see §40.197(b)(1)).

- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v. The temperature on the original urine specimen was out of range (See §40.65(b)(5));
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).
- vii. All follow-up-tests; or
- viii. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

## **J. ALCOHOL TESTING PROCEDURES**

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by

49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) [Polk County Transportation] affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

#### **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered transit positions shall undergo drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant

must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

- d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.
- e. If a pre-employment test is canceled, [Polk County Transportation] will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide [Polk County Transportation] with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. [Polk County Transportation] is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide [Polk County Transportation] proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

#### **L. REASONABLE SUSPICION TESTING**

- 1) All [Polk County Transportation] FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under [Polk County Transportation]' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) [Polk County Transportation] shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the [Polk County Transportation]
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy. [Polk County Transportation] shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the [Polk County Transportation]. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered

employee from testing under Federal authority as specified in this policy or the associated consequences.

#### **M. POST-ACCIDENT TESTING**

- 1) **FATAL ACCIDENTS** – A covered employee will be required to undergo drug and alcohol testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) **NON-FATAL ACCIDENTS** – A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
  - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
  - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that [Polk County Transportation] is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), [Polk County Transportation] may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

#### **N. RANDOM TESTING**

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under company authority will be selected from a pool of non-DOT-covered individuals.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.

- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under [Polk County Transportation] authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under [Polk County Transportation] authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **O. RETURN-TO-DUTY TESTING**

[Polk County Transportation] will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

#### **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing

following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

#### **Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
  - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c. Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site

- before the testing process commenced for a pre-employment test has not refused to test.
- d. In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
  - e. Fail to provide a sufficient quantity of specimen without a valid medical explanation.
  - f. Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
  - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
  - h. Fail to cooperate with any part of the testing process.
  - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.
  - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
  - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
  - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
  - m. Fail to remain readily available following an accident.
  - n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement;
  - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from [Polk County Transportation] employment.
    - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has

agreed to periodic unannounced follow-up testing as described in this policy; however, all follow-up testing performed as part of a return-to-work agreement required under this policy is under the sole authority of [Polk County Transportation] and will be performed using non-DOT testing forms.

- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
  - d. A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in this policy.
  - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in this policy.
  - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with [Polk County Transportation].
  - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

## **R. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

## **S. PROPER APPLICATION OF THE POLICY**

[Polk County Transportation] is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

## **T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the [Polk County Transportation] Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over [Polk County Transportation] or the employee.

- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the [Polk County Board of Commissioners on [MONTH DD, YEAR].

[Signature]  
Kristy A Tipton  
Clerk to the Board

\_\_\_\_\_  
Myron Yoder  
Chairman

### **Attachment A**

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
Drivers Full & Part Time	Driving	FTA
Processing Assistant	Safety Sensitive	FTA
Operations Lead	Dispatch	FTA
Manager	Safety Sensitive	FTA

## **Attachment B Contacts**

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

### **[Polk County Transportation] Drug and Alcohol Program Manager**

Name: Bill Crisp

Title: Transportation Manager

Address: P O Box 308 Columbus NC 28722

Telephone Number: 828 894-8203

### **Medical Review Officer**

Name: Charlton Owenby

Title: MD

Address: 681 Cabarrus Ave. West Concord, NC 28027

Telephone Number: 800 451-3743

### **Substance Abuse Professional #1**

Name: Wilburn Gregory Corn

Title: (LCAS) Licensed Clinical Addiction Specialist

Address: 161 Walker Street Columbus, NC 28722

Telephone Number: 828 894-2222

### **Substance Abuse Professional #2**

Name: Donna Michele Sellers

Title: (LCAS) Licensed Clinical Addiction Specialist

Address: 161 Walker Street Columbus, NC 28722

Telephone Number: 828 894-8203

POLK COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

February 5, 2024 Regular Meeting

**Agenda Item#:** 8.

**ATTACHMENTS:**

Description	Type	Upload Date
Zoning Ordinance Rec. from Planning Board	Cover Memo	1/31/2024

**Suggested Motion:**

Motion to approve the text amendment.



To: Polk County Board of Commissioners

From: Planning Board and Staff

Date: December 14, 2023

Re: Polk County Zoning Ordinance Text Amendment

### Project History & Analysis

Zoning Ordinance text amendment was requested on November 9, 2023 by a citizen to add *Automobile, truck, farm equipment & farm implement sales and service* in the Neighborhood Commercial Zoning District as a Permitted use. *Automobile, truck, farm equipment & farm implement sales and service* is currently Not Permitted.

### Proposed Amendments

Amendments are as follows, additions to existing text are indicated by the use of red.

	EV	E	GPF	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Accessory dwelling unit <sup>xxxii</sup>													P		
Agricultural building (10 acres or more) <sup>xxxii</sup>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Agricultural building (less than 10 acres) <sup>xxxii</sup>	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Animal Processing Facilities <sup>xxxiii</sup>												P	S	S	
Arcades, Video Games <sup>xxxiii</sup>	P	P					S		S	S	P	P	S	S	
Automobile, truck, & farm Implement sales & service <sup>xxi</sup>		P					S			P	P	P	P	P	S
Bed & Breakfast	P	P					P		P	P	P		P	P	P

***Automobile, truck, farm equipment & farm implement sales and service (Major and Minor).*** An establishment primarily engaged in the sales, repair, or maintenance of motor vehicles, motorized farm equipment, and farm implements. Major repairs and maintenance includes paint, body, fender repair and painting, and major engine overhaul. Minor repairs and maintenance include brake, muffler, upholstery work, tire repair and change, lubrication, tune-ups, and transmission work. Both major and minor repairs and maintenance are to be performed within a completely enclosed building.

### **Plan Consistency**

The Planning Board has found that this request is consistent with the Polk County 20/20 Vision Comprehensive Plan, adopted March 15, 2010, amended September 18, 2017:

- a. The proposed change is located in an Intended Growth Sector.
- b. I.40 Encourage commercial development to locate in clusters/nodes, special use districts, intended growth and controlled growth land use categories.
- c. P.65 Polk County supports development of new businesses, which will create new products, new processes, and new business models.
- d. P.65 Polk County considers local entrepreneurship to be crucial to a stable local economy.

### **Recommendation**

The Planning Board does recommend that the Board of Commissioners enact the Polk County Zoning Ordinance text amendment as a Special Use rather than a Permitted Use as requested by the applicant.

Votes:

Aye - 4

Nay - 1

Warren Eadus

Planning Board Chair

POLK COUNTY BOARD OF COMMISSIONERS

**AGENDA ITEM**

February 5, 2024 Regular Meeting

**Agenda Item#:** 9.

**ATTACHMENTS:**

Description	Type	Upload Date
Recommendation from Planning Board	Cover Memo	1/31/2024
Proposed Amended Ordinance	Cover Memo	1/31/2024

**Suggested Motion:**

Motion to approve the proposed Polk County Watershed Ordinance amendments.



To: Polk County Board of Commissioners

From: Planning Board and Staff

Date: November 9, 2023

Re: Polk County Watershed Ordinance

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### **Project History & Analysis**

The Planning Board, with support from staff and county attorney, have updated the Polk County Watershed Ordinance according to the North Carolina Department of Environmental Quality.

### **Proposed Amendments**

See attached document.

### **Plan Consistency**

The Planning Board has found that this request is consistent with the Polk County 20/20 Vision Comprehensive Plan, adopted March 15, 2010, amended September 18, 2017:

- a. I.47 As necessary, revise/update the Polk County Ordinances.

### **Recommendation**

The Planning Board does recommend that the Board of Commissioners enact the Polk County Watershed Ordinance.

Votes:

Aye - 6

Nay - 0

  
\_\_\_\_\_  
Planning Board Chair

## TABLE OF CONTENTS

### SUMMARY OF CHANGES FROM 1995 TO 2023 ORDINANCE

#### ARTICLE 100: DEFINITIONS

#### ARTICLE 200: AUTHORITY AND GENERAL REGULATIONS

#### ARTICLE 300: SUBDIVISION REGULATIONS

#### ARTICLE 400: DEVELOPMENT REGULATIONS

#### ARTICLE 500: PUBLIC HEALTH REGULATIONS

#### ARTICLE 600: ADMINISTRATION, ENFORCEMENT AND APPEALS

### ~~SUMMARY OF CHANGES FROM 1995 TO 2023 ORDINANCE~~

#### ~~Organizational Changes~~

~~Definitions section moved from the end to the beginning of the document~~

~~Footnotes moved to the end of the document~~

#### ~~Content Changes~~

~~Some definitions changed to improve clarity and SCM added as definition~~

~~Articles 200 and 300 some minor changes to improve clarity~~

~~Article 400~~

~~—— Allowed Not Allowed Use table — improvement over existing regulations and ordinance~~

~~—— Density and Built Upon area table taken almost directly from regs, some changes make this section easier to read/understand than previous presentation of this information~~

~~—— Density Averaging section added to incorporate 2012 NCGS change~~

~~Articles 500 and 600 some minor changes to improve clarity~~

## ARTICLE 100: DEFINITIONS

### Section 101. General Definitions.

**Agricultural Use.** The use of waters for stock watering, irrigation, and other farm purposes.

**Balance of Watershed (BW).** The area adjoining and upstream of the critical area in a WS-II and WS-III water supply watershed. The "balance of watershed" is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where a water supply intake is located.

**Best Management Practices (BMP).** A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

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

**Building.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals, or property. The connection of two (2) buildings by means of an open porch, breezeway, passageway, carport, or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Built-upon area.** Built-upon area means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle (except as exempted by State law).

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

**Common Plan of Development.** Site with multiple lots where there is a single development plan for all of the lots, usually represented by a master plan or a set of declarations of restrict covenants.

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

**Customary Home Occupations.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

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

**Dwelling Unit.** A building, or portion thereof, providing complete and permanent living facilities for one or more persons.

**Existing Development.** Those projects that are built or that have established a vested right under North Carolina zoning law as of the effective date of this ordinance.

**Existing Lot.** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the

description of which has been so recorded prior to the adoption of this ordinance.

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

**Family Subdivision.** Family subdivision means a division of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

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

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

**Lot.** A parcel of land that can be transferred separate from other parcels of land.

**Major Variance.** A variance that is not a Minor Variance as defined in this ordinance.

**Minor Variance.** A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high-density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low-density option. For variances to a vegetated setback requirement, the percent variation shall be calculated using the footprint of built-upon area proposed to encroach with the vegetated setback divided by the total area of vegetated setback within the project.

**Nonconforming Existing Lot.** A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

**Non-residential Development.** All development other than residential development, agriculture and silviculture.

**Perennial Waterbody:** A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude the growth of non-hydrophilic rooted plants.

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

**Protected Area.** The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

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

**Residential Development.** Buildings constructed for human habitation such as attached and detached

single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

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

**Single Family Residential.** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

**Stormwater Control Measure (SCM).** means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

**Street (Road).** A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**Structure.** Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

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

**Subdivision.** All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; except those exempt from subdivision regulation by GS 160D-802(a)(1) through (a)(5).

**Surface Waters:** All waters of the State as defined in NCGS 143-212 except underground waters.

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

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

**Vested Right.** The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan. Refer to the North Carolina General Statutes Section 160D-108 for more information.

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

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake) or alternatively, the geographic region within which water drains to a particular river, stream or

body of water.

**Watershed Administrator.** An official or designated person of ~~[county][town]~~ Polk County responsible for administration and enforcement of this ordinance.

#### **Section 102. Word Interpretation.**

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

The word "lot" shall include the words, "plot," "parcel," or "tract."

The words "shall" and "will" are always mandatory.

### **ARTICLE 200: AUTHORITY AND GENERAL REGULATIONS**

#### **Section 201. Authority and Enactment.**

The Legislature of the State of North Carolina has, in Chapter 153A, Article 6, Section 121, General Ordinance Making Power; and in Chapter 143, Article 21, Water and Air Resources, authorized local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. In addition, GS 160D-926 and G.S. 143-214.5 specifically authorize local governments to enact and enforce water supply watershed management regulations. The Governing Board of Polk County hereby ordains and enacts into law the following articles as the Water Supply Watershed Protection Ordinance of Polk County.<sup>1</sup>

#### **Section 202. Jurisdiction.**

The provisions of this Ordinance shall apply within the areas designated as a Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on a water supply watershed protection map of Polk County, North Carolina which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the County of Polk.<sup>2</sup>

#### **Section 203. Exceptions to Applicability.**

(A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any other provisions of the Code of Ordinances of Polk County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the Polk County at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.

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

(C) Existing Development, as defined in this ordinance, is not subject to the requirements of this ordinance.

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

(E) If a Non-Conforming Existing Lot is not contiguous to any other lot owned by the same party, then that lot shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes

(F) Any lot or parcel created as part of a Family Subdivision after the effective date of these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation

(G) Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.<sup>3</sup>

(H) An applicant may exceed the density limits in Article 400 if all of the following circumstances apply:

- (1) The property was developed prior to the effective date of the local water supply watershed program.
- (2) The property has not been combined with additional lots after January 1, 2021.
- (3) The property has not been a participant in a density averaging transaction under G.S. 143-214.5(d2).
- (4) The current use of the property is nonresidential.
- (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, state, and federal laws and regulations.
- (6) The remaining vegetated buffers on the property are preserved in accordance with the requirements of this Ordinance.

#### **Section 204. Repeal of Existing Watershed Ordinance**

This ordinance in part carries forward by re-enactment, some of the **Watershed Ordinance of the Polk County, North Carolina** (adopted by the Board of Commissioners on [date] as amended), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Watershed Ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this ordinance, but shall be prosecuted to

their finality the same as if this ordinance had not been adopted; and any and all violations of the existing Watershed Protection Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

#### **Section 205. Criminal Penalties.**

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

#### **Section 206. Remedies.**

(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, Polk County Board of Commissioners Governing Board may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6A. Each day that the violation continues shall constitute a separate offense.

(B) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

#### **Section 207. Severability.**

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

#### **Section 208. Effective Date.**

This Ordinance shall take effect and be in force on (month, day and year).

## ARTICLE 300: SUBDIVISION REGULATIONS.

### Section 301. General Provisions.

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

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

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

(D) All subdivisions of land within the jurisdiction of Polk County after the effective date of this ordinance shall require a plat to be prepared, approved, and recorded pursuant to this ordinance. <sup>4</sup>

### Section 302. Subdivision Application and Review Procedures.

(A) All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within the designated Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this ordinance and may be recorded provided the Watershed Administrator initials the vicinity map. Subdivisions within a WS-IV watershed are subject to the provisions of this ordinance only when an erosion and sedimentation plan is required under the provisions of State law or approved local program, unless another stormwater program applies. Local government should always be aware that other post construction requirements may apply even when water supply watershed protection requirements do not. Subdivisions within the designated watershed area shall comply with the provisions of this Article and all other state and local requirements that may apply.

(B) Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, two (2) copies of the plat, a description of the proposed method of providing stormwater drainage, and supporting documentation deemed necessary by the Watershed Administrator ~~or the Watershed Review Board~~.

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

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

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

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

(4) The state Division of Energy, Mineral and Land Resources with regard to engineered stormwater controls or stormwater management in general.

(5) The county for subdivisions located in Extraterritorial Jurisdiction (ETJ) of a municipality.

(6) Local government entities responsible for proposed sewer and/or water systems.

(7) Any other agency or official designated by the Watershed Administrator ~~or Watershed Review Board.~~

(D) If the Watershed Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Watershed Administrator:

**Certificate of Approval for Recording**

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Watershed Administrator

**NOTICE: This property is located within a Water Supply Watershed – development restrictions may apply.**

(E) If the Watershed Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and may be entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.

(F) As a condition for approval, all subdivision plats shall comply with the requirements for recording of the County Register of Deeds.

(G) The plat shall be recorded within thirty (30) days of approval. The Subdivider shall provide the Watershed Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days of recordation.

**Section 303. Subdivision Standards and Required Improvements.**

(A) All lots shall provide adequate building space in accordance with the development standards contained in Article 400. Lots smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Article 400.

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

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

(D) Erosion and Sedimentation Control: The application shall, where required, be accompanied by the Sedimentation and Erosion Control Plan approval by N.C. Division of Energy, Mineral, and Land Resources.

(E) Roads constructed in critical areas and watershed vegetated conveyance areas: Where possible, roads should be located outside of critical areas and watershed vegetated conveyance areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

#### **Section 304. Construction Procedures.**

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

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

#### **Section 305. Penalties for Transferring Lots in Unapproved Subdivisions.**

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

### **ARTICLE 400: DEVELOPMENT REGULATIONS**

#### **Section 401. Establishment of Watershed Areas.**

The purpose of this Article is to list and describe the watershed areas herein adopted. <sup>5</sup>

For purposes of this ordinance Polk County is hereby divided into the following area[s], as appropriate:

WS-I

WS-II-CA (Critical Area)  
WS-II-BW (Balance of Watershed)  
Big Fall Creek (CA-86 ac, BW-870 ac),  
Colt Creek (CA-126 ac, BW-1265 ac),  
Fork Creek (CA-181 ac, BW-1169 ac)

WS-III-CA (Critical Area)

WS-III-BW (Balance of Watershed)

Horse Creek (CA-101 ac, BW-241 ac)

WS-IV-CA (Critical Area)

WS-IV-PA (Protected Area)

Broad River (PA-approx. 300 ac)

Big Broad River (PA-3,196 ac)

Green River (Lake Adger) – (CA-3154 ac, BW-17,421 ac)

## Section 402. Watershed Areas- Allowed and Not Allowed Uses

Activity/Use	Water Supply Watershed Classification <sup>1</sup>							
	WS-I	WS-II CA	WS-II BW	WS-III CA	WS-III BW	WS-IV CA	WS-IV PA	WS-V
New landfills	No	No	Yes	No	Yes	No	Yes	Yes
New permitted residual land application	No	No	Yes	No	Yes	No	Yes	Yes
New permitted petroleum contaminated soils sites	No	No	Yes	No	Yes	No	Yes	Yes
NPDES General or Individual Stormwater discharges	Yes <sup>a</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
NPDES General Permit Wastewater Discharges pursuant to 15A NCAC 02H .0127	Yes <sup>a</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
NPDES Individual Permit trout farm discharges	Yes <sup>a</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
New NPDES Individual Permit domestic treated wastewater discharge	No	No	No	No	Yes	Yes	Yes	Yes
New NPDES Individual Permit industrial treated wastewater discharge	No	No	No	No <sup>b</sup>	No <sup>b</sup>	Yes	Yes	Yes
Non-process industrial waste	No	No	No	Yes	Yes	Yes	Yes	Yes
New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0904	No	No	No	No	No	Yes	Yes	Yes
Sewage	No	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	Yes <sup>d</sup>
Industrial Waste	No	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	Yes <sup>d</sup>
Other wastes	No	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	No <sup>c</sup>	Yes <sup>d</sup>
Groundwater remediation project discharges <sup>e</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Agriculture <sup>f</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Silviculture <sup>g</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Residential Development <sup>h</sup>	No <sup>i</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-residential Development <sup>hi</sup>	No <sup>i</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Nonpoint Source Pollution <sup>k</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Animal Operations <sup>l</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

### Notes:

<sup>a</sup> Permitted pursuant to 15A NCAC 02B .0104

<sup>b</sup> Except non-process industrial discharges are allowed

<sup>c</sup> Only allowed if specified in 15A NCAC 02B .0104

<sup>d</sup> Not allowed if activity(ies) has/have adverse impact on human health

<sup>e</sup> Where no other practical alternative exists

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

<sup>g</sup> Subject to Forest Practice Guidelines Related to Water Quality (02 NCAC 60C .0100 to .0209) Effective 4/1/2018

<sup>h</sup> See density requirements in 15A NCAC 02B .0624

<sup>i</sup> See different allowed and not allowed in this table

<sup>j</sup> Watershed shall remain undeveloped except for following uses when they cannot be avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment, and distribution of WS-I waters. Built upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.

<sup>k</sup> Nonpoint Source pollution shall not have adverse impact, as defined in 15A NCAC 02H .1002, on use as water supply or any other designated use

<sup>l</sup> Deemed permitted, as defined in 15A NCAC 02T .0103 and permitted under 15A NCAC 2H .0217

**Section 403. Watershed Areas – Density and Built-Upon Limits.**

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

Water Supply Classification	Location in the Watershed	Maximum Allowable Project Density or Minimum Lot Size		
		Low Density Development		High Density Development
		Single-family detached residential	Non-residential and all other residential	All types
WS-I	Not Applicable: Watershed shall remain undeveloped except for the following uses when they cannot be avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment, and distribution of the WS-I water. Built-upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.			
WS-II	Critical Area	1 dwelling unit (du) per 2 acres or 1 du per 80,000 square foot lot excluding roadway right-of-way or 6% built-upon area	6% built-upon area	6 to 24% built-upon area
	Balance of Watershed	1 du per 1 acre or 1 du per 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area
WS-III	Critical Area	1 du per 1 acre or 1 du per 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area
	Balance of Watershed	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
WS-IV	Critical Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding	24% built-upon area	24 to 50% built-upon area

		roadway right-of-way or 24% built-upon area		
	Protected Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of-way or 24% built-upon; or 3 dus per acre or 36% built-upon areawithout curb and gutter street system	24% built-upon area; or 36% built-upon area without curb and gutter street system	24 to 70% built-upon area
WS-V	Not Applicable			

(B) CALCULATION OF PROJECT DENSITY. The following requirements shall apply to the calculation of project density:

- (1) Project density shall be calculated as the total built-upon area divided by the total project area;
- (2) A project with "Existing Development," as defined in this ordinance, may use the calculation method in Sub-Item (1) of this Item or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area.
- (3) Expansions to Existing Development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule 15A NCAC 02B .0622 (1)(d).
- (4) Where there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
- (5) Where Existing Development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits
- (6) Total project area shall exclude the following:
  - (a) areas below the Normal High Water Line (NHWL); and
  - (b) areas defined as "coastal wetlands" pursuant to 15A NCAC 07H .0205, herein incorporated by reference, including subsequent amendments and editions, and available at no cost at <http://reports.oah.state.nc.us/ncac.asp>, as measured landward from the NHWL; and
- (7) Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low density areas based on one or more of the following criteria:
  - (a) natural drainage area boundaries;
  - (b) variations in land use throughout the project; or
  - (c) construction phasing.

(C) LOW DENSITY PROJECTS. In addition to complying with the project density requirements of Item (A) of this Rule, low density projects shall comply with the following:

- (1) VEGETATED CONVEYANCES. Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether

this criteria has been met, the local government shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:

- (a) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
  - (b) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.
- (2) CURB OUTLET SYSTEMS. In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:
- (a) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;
  - (b) The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;
  - (c) The swale's cross section shall be trapezoidal with a minimum bottom width of two (2) feet;
  - (d) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
  - (e) The minimum length of the swale or vegetated area shall be 100 feet; and
  - (f) Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (a) through (e) of this Sub-Item.

(D) HIGH DENSITY PROJECTS. In addition to complying with the project density requirements of Item (A) of this Rule, high density projects shall comply with the following:

- (1) Stormwater Control Measures (SCMs) shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in 15A NCAC 02B .0621;
- (2) For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
- (3) Stormwater runoff from off-site areas and Existing Development, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;
- (4) SCMs shall meet the relevant Minimum Design Criteria set forth in 15A NCAC 02H .1050 through .1062; and
- (5) Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

#### Section 404. Density Averaging

(A) An applicant may average development density on up to two (2) noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

- (1) The properties are within the same water supply watershed. However, if one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
- (2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
- (3) Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.
- (4) Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
- (6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deeds. Any such limitations or restrictions on use shall be irrevocable.
- (7) Development permitted under density averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
- (8) A ~~[special use permit shall be obtained from the local Board of Adjustment]~~ or a [certificate shall be obtained from the local Watershed Review Board] to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties.

#### **Section 405. Cluster Development**

Cluster development is allowed in all Watershed Areas [except WS-I] under the following conditions:

- (A) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 403. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
- (B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (C) Areas of concentrated density development shall be located in upland area and as far as practicable from surface waters and drainageways.
- (D) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.
- (E) Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

#### **Section 406. Vegetated Setbacks Required**

(A) A minimum one hundred (100) foot vegetative setback is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot vegetative setback for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

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

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

#### **Section 407. Application of Regulations.**

(A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.

(C) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 406.

(D) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

#### **Section 408. Rules Governing the Interpretation of Watershed Area Boundaries**

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

(A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.

(B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to **the Polk County** as evidence that one or more properties along these boundaries do not lie within the watershed area.

(C) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map. Any ambiguities should be resolved in favor of locating built-upon surface area in the least environmentally sensitive area of the project.

(D) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(E) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

#### **Section 409. Existing Development**

Existing Development, as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as Existing Development must meet the requirements of this ordinance, however, the built-upon area of the Existing Development is not required to be included in the built-upon area calculations. Please see Section 403 (B) Calculation of Project Density. This section deals with all existing development as defined in the EMC rules. All existing development, whether or not it meets the statewide minimum standards, is exempt from the provisions of this ordinance.

(A) **Uses of Land.** This category consists of Existing Development where such use of the land would not be permitted if it were new development. Such uses may be continued except as follows:

(1) Such use of land shall be changed only to an allowed use.

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

(3) When such use ceases for a period of at least one year, it shall not be reestablished.

(B) **Reconstruction of Buildings or Built-upon Areas.** Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

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

#### **Section 410. Watershed Protection Permit**

(A) Except for single family residential development, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.

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

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

(D) A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for

such use is not obtained by the applicant within twelve (12) months from the date of issuance.

#### **Section 411. Building Permit Required**

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

#### **Section 412. Watershed Occupancy Permit**

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

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

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

(D) If the Watershed Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.

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

### **ARTICLE 500: PUBLIC HEALTH REGULATIONS**

#### **Section 501. Public Health, in general.**

No activity, situation, structure, or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety, and welfare.

#### **Section 502. Abatement.**

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

(B) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations. The Watershed Administrator may also coordinate with local inspections department, since local governments can abate most threatening nuisances.

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

## ARTICLE 600: ADMINISTRATION, ENFORCEMENT AND APPEALS

This article outlines a suggested procedure for the administration and enforcement of the ordinance. It provides for the appointment of a Watershed Administrator and a Watershed Review Board. An individual already employed by the County may also assume the duties of the Watershed Administrator, just as an existing board may assume the duties of the Watershed Review Board. A local government may use other procedures; however, such procedures should be of sufficient detail to ensure adequate enforcement of the ordinance.

### Section 601. Watershed Administrator and Duties thereof.

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

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

(B) The Watershed Administrator shall serve as clerk to the Watershed Review Board.

(C) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of Polk County. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.

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

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

(F) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance.

(G) The Watershed Administrator is responsible for ensuring that Stormwater Control Measures are inspected at least once a year and shall keep a record of SCM inspections.

### Section 602. Appeal from the Watershed Administrator

Any order, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) calendar days from the date the order, interpretation, decision, or determination is issued. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate of approval for recording, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

All appeals of Watershed Administrator decisions shall follow the procedures for appeals of administrative decisions in GS 160D-405.

### **Section 603. Changes and Amendments to the Watershed Protection Ordinance.**

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

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

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

### **Section 604. Public Notice and Hearing Required.**

Before adopting or amending this ordinance, the Polk County Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date for the hearing.

### **Section 605. Establishment of Watershed Review Board.**

(A) There shall be and hereby is created the Watershed Review Board consisting of five (5) members appointed by the Polk County Board of Commissioners designating the Board of Adjustment as the Watershed Review Board. [county][town] Governing Board [Option: The local government may designate their Board of Adjustment as the Watershed Review Board].

~~(Option 1) [town] Three (3) residents of [town] shall be appointed for three year terms. Two~~

~~(2) residents of [town] shall be appointed for two (2) year terms. Thereafter, all new terms shall be for three (3) years, and members may be reappointed.~~

~~(Option 2) — [county] Three (3) residents of [county] shall be appointed for three year terms. Two (2) residents of [county] shall be appointed for two (2) year terms. Thereafter, all new terms shall be for three (3) years, and members may be reappointed.~~

~~(Option 3) — [joint town and county] Three (3) members shall reside within the town. Two (2) of the town members shall be appointed for a two (2) year term and one (1) shall be appointed for a three (3) year term. Two (2) members shall reside within the county and shall be appointed for three (3) year terms. Thereafter, all new terms shall be for three (3) years, and members may be reappointed.~~

~~(B) Two (2) alternate members shall be appointed to serve on the Watershed Review Board in the absence of any regular member and shall be appointed for three (3) year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all the powers and duties of the absent regular member.~~

~~(Option 1) — [town] The town shall appoint two (2) alternate members.~~

~~(Option 2) — [county] The county shall appoint two (2) alternate members.~~

~~(Option 3) — [joint town and county] The county shall appoint one (1) alternate member from the county and the town shall appoint one (1) alternate member from the town limits.~~

## **Section 606. Rules of Conduct for Watershed Review Board Members.**

Members of the Board may be removed by the Polk County Board of Commissioners or cause, including violation of the rules stated below:

(A) Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.

(B) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case will: 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns a ten (10) percent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his immediate family (i.e., parent, spouse, or child). The intent is to prohibit members of the Board from acting in situations where they have a conflict of interest in a manner similar to the prohibition in NCGS 14-234(c)(1). Please also see NCGS 160D – 109 – standards for conflicts of interest for local government development decisions.

(C) ~~Optional paragraph:~~ No Board member shall discuss the substance of any appeal or other quasi-judicial case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, or its secretary prior to the hearing.

(D) Members of the Board shall not express individual opinions on the proper judgement of any case prior to its determination on that case, and shall not form a fixed opinion on the case prior to the hearing on that case.

(E) Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.

(F) No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing or watched a recording of the meeting on that application or appeal.

#### **Section 607. Powers and Duties of the Watershed Review Board.**

(A) Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

(B) Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance, and may review major variance requests and make recommendations to the Environmental Management Commission regarding the same. In addition, Polk County shall notify and allow 15 days for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

(1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

(a) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; and surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.

(b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

(c) Evidence or proposed witness testimony that tends to support a finding that each of the factors listed in subsection (B)(3), below, are met.

(2) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

(3) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

(a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following

conditions exist:

(1) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(2) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

(3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(5) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

(b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

(c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(4) In granting the variance, the Board may attach thereto conditions regarding the location, character, and other features of the proposed building, structure, or use that relate to the purpose and standards of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(5) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(6) A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

(7) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

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

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

(C) Subdivision approval. See Article 300.

(D) Public Health. See Article 500.

(E) Approval of all development greater than the low density option.

### **Section 508. Appeals from the Watershed Review Board.**

Appeals from the Watershed Review Board must be filed with the Superior Court within thirty (30) days from the date of the Board's written decision. Decisions by the Superior Court will be in the manner of certiorari.

## **FOOTNOTES PAGE**

<sup>1</sup>House Bill 124, enacted in 1991, provides that watershed regulations may be adopted by a local government pursuant to its "general police power," to its power to adopt a land subdivision ordinance, to its zoning power, or to some combination of these powers. The model ordinance, since it has been established as a free-standing ordinance, cites the general police power statutes as its authority along with the watershed statutes. Local governments must choose which authority they wish to use and should not cite all legislative authorities because each authority has its own corresponding jurisdictional implications. Local governments should decide whether or not they intend to adopt a free-standing ordinance, or as an alternative, separate (or amendments to) zoning and subdivision ordinances. Whichever method is chosen, the appropriate authorities should be cited in this section and elsewhere in the ordinance whenever needed.

Coordination between the jurisdictions is very important. A county may enforce the watershed protection regulations for a municipality within that county if a resolution is passed by both the county and municipal governing boards.

<sup>2</sup> Statutory authority for this section is derived from N.C. General Statutes Chapter [153A][160A], Article [6][8], Section [121][174], Section [140][193] and Chapter 143-214.5.

<sup>3</sup> This section states the watershed protection ordinance will not affect existing ordinances or agreements between parties unless those ordinances or agreements are less restrictive than the watershed protection ordinance. In those situations, the watershed protection ordinance will take precedence.

<sup>4</sup> Statutory authority for this section is derived from N.C. General Statutes Chapter [153A][160A], Article [6][8], Section [121][174], Section [140][193] and Chapter 143-214.5

<sup>5</sup>Statutory authority for this section is derived from N.C. General Statutes Chapter [153A][160A], Article

[6][8], Section [121][174], Section [140][193] and Chapter 143-214.5. This article contains development regulations for each of the watershed classifications. Watersheds designated WS-V require no local government regulatory program. Local governments will only need to include the regulations corresponding to the classifications assigned to watersheds in their jurisdiction. For WS-II, WS-III and WS-IV watershed areas, the EMC rules provide for single family residential development to be controlled either by limiting built-upon area or by limiting density (dwelling units per acre). Those involved in drafting the model ordinance felt that most local units of government would find it easier to enforce single family residential requirements through density controls rather than limiting built-upon area. All other residential and non-residential development is controlled by regulating the amount of built-upon area as required by the EMC rules.

POLK COUNTY BOARD OF COMMISSIONERS

**AGENDA ITEM**

February 5, 2024 Regular Meeting

**Agenda Item#:** 10.

**ATTACHMENTS:**

Description	Type	Upload Date
Request and Budget Amendment	Cover Memo	1/23/2024

# Polk County Schools



## ADMINISTRATION

Aaron Greene  
*Superintendent*

## BOARD OF EDUCATION

Mike Ashworth  
*Chairman*

Rick N. Covil  
*Vice Chairman*

Lucinda T. Allen

Danielle E. Gibbs

Judy N. Jackson

Sherry Page

Rob Parsons

Stearns Education Center  
PO Box 638  
125 East Mills Street  
Columbus, NC 28722  
828-894-3051  
828-894-8153 fax

[www.polkschools.org](http://www.polkschools.org)

Sandra Hughes  
Finance Officer  
Polk County Government

Jan 9, 2024

Dear Sandra,

Polk County Schools is requesting the transfer of **\$187,141.06** from the County's Capital Reserve account. The funds will be used to reimburse Polk County Schools for capital expenses paid to date.

Project	Amount to Reimburse Schools
District - Teacher Devices (Local Share from Grant)	\$23,943.25
PCHS - Campus Paving (Engineering - Phase 2)	\$24,825.00
PCHS - Waterline Repairs (Overage)	\$5,990.00
PCHS - Stormdrain Repair	\$11,636.56
PCHS - Softball Batting Cage / Drainage Repair	\$38,000.00
Stearns - HVAC Replacement	\$32,335.00
Stearns - Walkway Awning Repair/Paint	\$12,000.00
Food Services - Washer/Dryer Units x2	\$3,000.00
TES - Local Share from NBPSCF Payment	\$35,411.25
<b>Total</b>	<b>\$187,141.06</b>

Any questions about this transfer should be directed to Polk County Schools' Finance Officer Debbie Lovelace. Thank you for your consideration of this request and your continued support of our schools.

Sincerely,

Brandon Schweitzer  
Director of Operations  
Polk County Schools  
(828) 894-1023 ext.1216

**BUDGET AMENDMENT: CAPITAL RESERVE FUND BALANCE/ADDITON To GF**

DATE: 2/5/2024 BOC Meeting BATCH #: \_\_\_\_\_ LINE \_\_\_\_\_  
 Dept.: Capital Reserve-School Sales Tax/Transfer to School Capital

**Amendment # : 6-F Fund balance/ Addition #18**

INCREASE EXPENSE/REVENUE

GL ACCOUNT #		
22-8168-9800-0	Trans-out	\$ 187,141
	(School Capital)	
10-3981-9822	Trans-in	\$ (187,141)
10-5910-6313-0	Sales tax-School	(187,141)
		<u>(187,141)</u>

INCREASE FUND BALANCE APPROPRIATED

GL ACCOUNT #		
22-3931-0000	Fund Balance Approp	\$ 187,141
		<u>187,141</u>

EXPLANATION: To appropriate Capital Reserve fund balance for the funds that were reserved in prior years from the sales tax set-aside computation & to be transferred to the General Fund School Capital account for reimbursement of capital spending

**Date approved & entered into the BOC minutes**

**COUNTY MANAGER**

**FINANCE OFFICER**