

The Madison County Board of Commissioners met in special session on Tuesday, October 25, 2022, at 4:00 p.m. at the North Carolina Cooperative Extension-Madison County Center located at 258 Carolina Lane, Marshall, North Carolina.

In attendance were Chairman Mark Snelson, Vice-Chairman Craig Goforth, Commissioner and Interim County Manager Norris Gentry, Commissioner Matt Wechtel, County Attorney Donny Laws, Clerk Mandy Bradley, and Commissioner Michael Garrison who entered the meeting at 5:03 p.m.

The meeting was called to order at 4:12 p.m. by Chairman Snelson.

**Item 1: Review of Proposed Biomass Development Moratorium**

Attorney John Noor with Roberts & Stevens, P.A. presented and discussed a draft of the proposed Biomass Moratorium and answered questions from members of the Board. Information discussed included items in consideration of enacting the Moratorium, meetings of the Planning Board regarding biomass development, regulation consistent with the County's Zoning Ordinance, areas in the County applicable to the proposed Moratorium, duration, and development included under the proposed Moratorium.

Upon motion by Commissioner Gentry and second by Vice-Chairman Goforth, the Board voted unanimously to accept John's work and if agreeable with the group, accept, make it a public record, and proceed for public hearing at the November meeting. (Attachment 1.1)

**Item 2: Review of Proposed County Noise Ordinance Amendments**

Attorney Noor presented and discussed a draft of proposed amendments to the County Noise Ordinance and answered questions from members of the Board. Components of the proposed Ordinance were discussed with the Board by Attorney Noor who also noted that North Carolina law allows regulation of noise by the County. Information discussed included decibel considerations of noise, citations consistent with proposed amendments, health and safety issues including noise harm, regulation, means of enforcement, and citation appeals process.

Discussion was had by the Board and Attorney Noor regarding daytime hours as set forth in the proposed amendments and fines possibly imposed for violations of the Ordinance with counsel being provided by County Attorney Donny Laws regarding penalties and violations.

Commissioner Garrison entered the meeting at 5:03 p.m.

Further discussion was had by the Board and Attorney Noor regarding components of proposed amendments with recommendations for items of consideration from Board members including exclusions and fines as well as subjective and objective means to determine violations. Information including possible future amendments to the special permit process under the County's Land Use Ordinance and additional work in consideration of the Moratorium on Commercial Assembly Related Development that is currently in place for the County was discussed by the Board. (Attachment 2.1)

**Item 3: Legal Advice Regarding Potential Litigation; Item 4: Madison County vs. Fried Tai; Case Number 19-CVD-51; Item 5: Jessica Ann Gunduz and Yavuz Gunduz vs. County of Madison et al; Case Number 21-CVS-312; Item 6: Legal Advice Regarding The State of North Carolina, Madison County, and Sanders; Item 7: Personnel; Item 8: Farragut Tax Office Software**

At 5:13 p.m., upon motion by Commissioner Gentry and second by Vice-Chairman Snelson, the Board voted unanimously to enter into closed session pursuant to N.C.G.S. 143-318.11 (a)(3) and 143-318.11 (a)(6) with County Attorney Laws and Attorney Noor noting litigation regarding Madison County vs. Fried Tai; Case Number 19-CVD-51, Jessica Ann Gunduz and Yavuz Gunduz vs. County of Madison et al; Case Number 21-CVS-312, and potential litigation regarding the enforcement of the Zoning Ordinance related to junk yards.

Upon motion by Chairman Snelson and second by Vice-Chairman Goforth, the Board voted unanimously to return to open session at 7:25 p.m.

**Item 9: Consideration of Bi-Tek Software**

No discussion was had.

**Item 10: Automated External Defibrillator Initial Deployment Plan**

Commissioner Gentry discussed the proposal for the initial deployment plan for automated external defibrillator devices in the County noting that the proposed plan would be to purchase ten to eleven devices with machines being placed at each fire department in the County and in patrol units.

Discussion was had by the Board regarding budgeting for the initial cost of the devices, future maintenance and supplies as well as the entity that would be responsible for completing the required maintenance in the future, and how similar operations are facilitated in other counties.

Further information regarding the number of devices to be purchased, considerations regarding allocation for the cost as well as funds that may be available and other budgetary constraints including funding previously obligated for other projects, and considerations regarding potential placement of the devices was had by the Board.

Upon motion for it by Vice-Chairman Goforth and second by Chairman Snelson, with clarification of the motion by Clerk Mandy Bradley and request of a maximum funding amount of \$25,000.00 by Commissioner Gentry, further discussion by the Board. County Attorney Laws provided counsel regarding the process to purchase the devices and noted that the Board could authorize the County Manager to go through the process and then purchase up to \$25,000.00, but that a budget amendment would be required first. The Board voted 3-2 with Chairman Snelson, Vice-Chairman Goforth, and Commissioner Gentry voting in favor and Commissioners Wechtel and Garrison voting opposed.

**Item 11: Records Retention and Disposition Schedule**

Clerk Bradley presented and discussed the request for consideration of updated local government agency agreements as set forth by the North Carolina Department of Natural and Cultural Resources for records retention and disposition schedules as allowed in the agreements in accordance with N.C.G.S. 121-5(c) and N.C.G.S. 132-8.

Information discussed included the previous approval by the Board of Commissioners of the general schedule as outlined by the DNCR and the recommendation from the department for also updating the additional schedules as archives allows. Further information discussed included other schedules applicable to county departments that the Board of Commissioners is unable to sign off on including those governed by their own boards such as the Board of Elections, Health Department, Public Library System, Department of Social Services, and the Soil and Water Conservation District.

Upon motion by Vice-Chairman Goforth and second by Chairman Snelson, the Board voted unanimously to approve with counsel being provided by County Attorney Laws who requested that the Clerk be authorized to send information out to departments not covered in the retention scheduled for consideration of their boards. (Attachment 11.1)

**Item 12: Surplus Property Deeds**

Clerk Bradley discussed properties having property identification number 8890-07-1337 and property identification number 9862-15-5358 previously owned by the County after being acquired as tax foreclosures before being sold as surplus. She noted a request from the bid winner of the properties for consideration of the issuance of replacement deeds due to loss of the original deeds after failure of the purchaser to record the transactions. County Attorney Laws noted that language could be incorporated into the replacement deeds for the individual to reimburse the County for any community fees that may have been paid by the County during the period of time that the deeds have not been recorded.

An update regarding county owned surplus property located on Blannahassett Island in Marshall as well as tax foreclosures was discussed by Commissioner Gentry.

**Item 7: Personnel (Cont.)**

Human Resources Director Brooke Ledford requested on behalf of the Tax Department, the hire of Molly Goforth as Business and Personal Property Appraiser. Upon motion by Chairman Snelson and second by Commissioner Gentry, the Board voted unanimously to approve.

Ms. Ledford requested on behalf of the Tax Department, the hire of Garrett Wilson as Tax Appraiser. Upon motion by Commissioner Garrison and second by Chairman Snelson, the Board voted unanimously to approve.

**Item 4: Madison County vs. Fried Tai; Case Number 19-CVD-51 (Cont.)**

County Attorney Laws requested consideration to approve the settlement of Madison County vs. Fried Tai to accept the full payment of the judgement plus interest within ten days of the order in return for consideration for the defendants to purge themselves from the contempt order. Upon motion by Chairman Snelson and second by Commissioner Garrison, the Board voted unanimously to approve.

**Item 13: Adjournment**

Upon motion by Vice-Chairman Goforth and second by Commissioner Gentry, the Board voted unanimously to adjourn at 8:10 p.m.

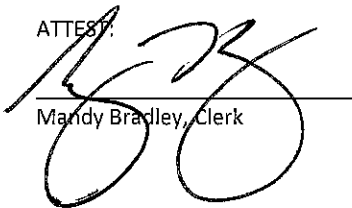
This the 25th day of October 2022.

MADISON COUNTY



Mark Snelson, Chairman  
Board of Commissioners

ATTEST:



Mandy Bradley, Clerk

**AN ORDINANCE OF THE COUNTY OF MADISON ADOPTING A LIMITED MORATORIUM ON BIOMASS ENERGY FACILITIES**

THAT WHEREAS, the County of Madison, North Carolina (the "County") is experiencing significant real estate development and population growth within its boundaries; and

WHEREAS, the County recently completed an update to its Comprehensive Plan, which provides recommendations to manage future growth in the County; and

WHEREAS, as part of the process for updating the Comprehensive Plan County, staff hosted a number of community listening sessions regarding the direction the County should take with development in the future and numerous members of the public spoke about the need to preserve the scenic and recreational assets of the County and ensure that they can continue to provide for a wide variety of economic development opportunities; and

WHEREAS, within the past several months County staff have received inquiries about the siting of biomass facilities within the County; and

WHEREAS, the County's Planning Board considered the addition of land-use standards for biomass facilities at meetings in July and August of this year and received extensive public comment in opposition to such facilities; and

WHEREAS, the Planning Board unanimously recommended that a moratorium be implemented to provide staff with adequate time to develop land-use standards that would allow for the appropriate regulation and siting of such facilities; and

WHEREAS, the existing zoning and development regulations within the County are not compatible and congruous with the impacts articulated from biomass facilities, and the Comprehensive Plan; and

WHEREAS, the County has and is currently working on amendments to its land use regulations that would address the siting of biomass facilities; and

WHEREAS, allowing certain development activities to occur prior to adoption of the anticipated amendments to the County's land use regulations is an inadequate alternative to a moratorium because it may result in development and land uses that are incompatible and incongruous with current residential development and the Comprehensive Plan's goals, standards, and guidelines; and

WHEREAS, proactively rezoning or removing problematic uses without a comprehensive analysis of where those uses should be located within the County is an inadequate alternative to a moratorium because it could also result in development and land uses that are incompatible and incongruous with the Comprehensive Plan's goals, standards, and guidelines; and

WHEREAS, the County will need time to evaluate the best location and conditions for biomass facilities; and

WHEREAS, the County should be able to adopt amended land use regulations within six (6) months from the enactment of a moratorium; and

WHEREAS, the goals, standards, and guidelines in the County's Comprehensive Plan would be best achieved if certain development within the areas identified in this Ordinance is temporarily halted during the period when amendments to the land use ordinances are considered; and

WHEREAS, a temporary moratorium would provide County staff with the time needed to determine the appropriate zoning necessary to address the likely impacts of any future biomass facilities; and

WHEREAS, the purpose of this Ordinance is to preserve the status quo of existing land uses and development patterns, as well as promote the health, safety, morals, and general welfare of the citizens of the County by providing time for staff to develop policy options to mitigate and abate the traffic, noise light, air, and other polluting emissions that are associated with biomass facilities; and

WHEREAS, County staff will propose and finalize changes to the County's land use regulations to address biomass facilities and present those plans to the relevant bodies for consideration and approval prior to the expiration of the moratorium established in this Ordinance to address the problems and conditions leading to the imposition of the moratorium.

NOW, Therefore be ordained and established, by the Commissioners of the County of Madison, North Carolina that

Area – This Ordinance shall be applicable to all property within the County of Madison

2. Duration – This Ordinance shall be effective and enforceable from the date of adoption and shall continue in full force and effect for an initial period of six (6) months from the date of adoption, which is the estimated time necessary for the County to complete and adopt amendments to its land use ordinances to address the anticipated impacts of biomass facilities within the County. The County Commissioners may renew this moratorium or extend its duration, as necessary, consistent with the requirements of N.C. Gen. Stat. § 160D-107(e). The County Commissioners may also terminate this moratorium earlier than indicated in this Ordinance by action of the County Commission.

3. Moratorium – From and after the effective date of this Ordinance and continuing through its duration, no Development shall occur in the County's: Agricultural-Open Space (AO), Residential-Agricultural (RA), Residential (R-1), Residential-Resort (R-2), Neighborhood Commercial (N-C), Commercial Mixed Use (CMU), Commercial (CD), or Industrial (I) districts, unless it can be demonstratively shown to the County Commissioners that the health, safety, or

welfare of the public requires that the moratorium be waived with regard to that specific Development project. This moratorium prohibits the approval, denial, or consideration of all development approvals related to any Development within the above-listed districts.

4. Definitions – As used in this Ordinance, the terms listed below shall have the following meaning:

a. DEVELOPMENT: Unless the context clearly indicates otherwise, the term means the following:

i. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, demolition of any structure, excavation, grading, filling, clearing, alteration of land, subdivision of land as defined in N.C. Gen. Stat. § 160D-802, or initiation or substantial change in the use of land or the intensity of use of land related to any of the following uses:

1. Biomass Energy Facility – any commercial or manufacturing facility that converts organic matter, commonly known as biomass or feedstock, into electricity, heat, or transportation fuels, e.g. biofuels. Biomass Energy Facility includes facilities that store organic matter that is intended to be or is eventually converted into electricity, heat, or transportation fuel, as well as facilities that convert organic matter into other products that are then then converted into electricity, heat, or transportation fuel, including, but not limited to, wood fuel pellets.

5. Enforcement – If any person, firm, corporation, organization or association violates or attempt to violate any terms of this ordinance the County may enforce its terms by any means available to it by law, including those provided in N.C. Gen. Stat. § 160D-404.

6. Exclusions – In accordance with N.C. Gen. Stat. § 160D-107(c), absent an imminent threat to public health or safety, the Development moratorium adopted pursuant to this Ordinance shall not apply to:

- a. Any project for which a special use permit application has been accepted as complete;
- b. To development set forth in a site-specific vesting plan approved pursuant to G.S. 160D-108.1;
- c. To development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval;
- d. To sketch plans or preliminary or final subdivision plats that have been accepted for review by the County prior to the call for a hearing to adopt the moratorium;
- e. Repairs to existing buildings regulated by the North Carolina State Building Codes; and
- f. Site improvements for existing Biomass uses required to comply with the American with Disabilities Act.

Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of this moratorium, the permit choice provisions of N.C.

Gen. Stat. § 160D-108(b) shall be applicable when permit processing resumes. This allows an applicant to choose which version of the development regulation will apply if development regulations change between the time the application is submitted and when the decision is made.

THIS ORDINANCE passed and adopted this the \_\_\_ day of June, 2022.

COUNTY OF MADISON COUNTY  
COMMISSIONERS

(COUNTY SEAL)

\_\_\_\_\_  
Chair, County Commissioners

Attest:

\_\_\_\_\_  
Clerk, County Commissioners

\_\_\_\_\_  
County Attorney

DRAFT

## Madison County Noise Ordinance

### 1.0 PURPOSE

In order to ensure the citizens of Madison County have the right and expectation to have a reasonable enjoyment of their property for themselves and their family and are not being subjected to unnecessary and disturbing noises which unreasonable interfere with the enjoyment of their property, Madison County does hereby adopt the following ordinance pursuant to N.C.G.S. 153A-133.

(Ord. adopted July 14, 2003; Am Ord. adopted \_\_\_\_\_, 2022.)

### 2.0 Administration

Regulations governing the administration and enforcement of this ordinance shall be provided by the Madison County Board of Commissioners who shall administer, interpret, and enforce the provisions of this chapter by and through the County Zoning Office, Zoning Officer's designee(s), and other representatives employed within the Zoning Office as well as the Madison County Sheriff's Office or any other county employee the board deems necessary.

### 3.0 Definitions

**Commercial District** – A group of commercial facilities and the abutting public spaces.

**Commercial Facility/Business/Industry** – Any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- a. Banking and other financial institutions;
- b. Dining establishments;
- c. Establishments providing retail services;
- d. Establishments providing wholesale services;
- e. Establishments for recreation and entertainment;
- f. Landscaping Operations;
- g. Office buildings;
- h. Transportation facilities;
- i. Warehouses

**Construction** – Any grading site preparation, assembly, erection, repair, alteration or similar action to a structure or property, but excluding demolition of buildings or structures.

**Daytime** – The period of time occurring between the hours of 6:00 AM and 10:00 PM, local time.

**Decibel (dB) and Frequency** – The practical unit of measurement for sound pressure level, the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micro pascals); abbreviated "DB." Frequency is the number of sound pressure oscillations per second expressed in hertz; abbreviated "Hz."

**Demolition** – Any dismantling, intentional destruction, or removal of building or structures

**Disturbing** - Noise that is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

**Dwelling** – Any residential unit housed in a building or structure used for residential purposes.



Emergency Work - Any work or action necessary to deliver essential services including, but not limited to repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Farming Operation (bona fide) – bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S. 106-581.1.

Industrial District – Any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Land Management – Any construction or other activity which changes the use or appearance of land or a structure or the intensity of the land or a structure. Land use activity shall include, but is not limited to; new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, etc.

Nighttime – The period of time occurring between the hours of 10:00 PM and 6:00 AM, local time.

Noise – Any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the County or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

Noise Disturbance – Any sound that:

- a. endangers the safety or health of any person, or
- b. disturbs a reasonable person of normal sensitivities, or
- c. tends to annoy, disturb or frighten citizens of normal activities, or
- d. endangers personal or real property

Person – Any individual, corporation, company, association, society, group, firm, partnership, joint-stock company, the County or any political subdivision, agency or instrumentality of the County or Municipality.

Public Right-of-Way – Any street, avenue, boulevard, road, highway, sidewalk, alley, that is leased, owned or controlled by a governmental entity.

Public Space - Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

Residential District – Any area with the following zoning designation: R-A Residential Agricultural, R-1, R-2.

Residential Property – Any property used for human habitation, including but not limited to:

- a. Private property used for human habitation;
- b. Commercial living accommodations and commercial property used for human habitation;
- c. Recreational and entertainment property used for human habitation;
- d. Community service property used for human habitation;
- e. Hospitals, nursing homes, and retirement homes and other areas where there is human habitation

Sound – Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by reasonable persons of normal sensitivity.

Sound Amplifying Device – any electronically powered, operated, or assisted device that amplifies sound. A sound amplification device includes, but is not limited to, any system of public address, bullhorns, boom box, music or voice amplifiers, megaphones, or any combination thereof.

Sound Level – The sound pressure level measured in decibels with a sound level meter set for a weighting expressed in “dBA.”

Sound Level Meter – An instrument used to measure sound level and conforms to Type 1 or Type 2 standards as specified by ANSI specification S1.4-1971.

Structure – Anything that is constructed, built, or erected on property or attached to something located on the property.

Unnecessary - Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

Unreasonably Loud - Any noise which a reasonably prudent person would consider or find substantially incompatible with the time and location where created to the extent that such noise creates an actual or imminent interference with the peace, dignity or good order in the immediate area where created.

#### **4.0 Loud, Disturbing, and Unnecessary Noise**

It shall be unlawful for any person to cause to emit or to allow to be emitted any sound from a property that the person owns, has ownership interest in, or controls, which goes beyond the boundaries of the property if that sound level would result in a noise disturbance or impair the reasonable use of property located up to 1,500 feet in distance of nearby property owners. Both property owners and/or any respective lessee are jointly and separately liable.

#### **5.0 General Regulation**

- (1) No person shall make, continue, cause, or wrongfully permit to be made or continued any noise disturbance originating from a residential district unless otherwise permitted by the County.
- (2) No person shall make, continue, cause, or wrongfully permit to be made or continued, any noise disturbance originating from a right-of-way, road, or other public space.
- (3) Daytime hours shall be considered from 6:00 AM to 10:00 PM.
- (4) Nighttime hours shall be considered from 10:00 PM to 6:00 AM.

#### **6.0 Sound Measurement**

- (1) In determining whether a sound is considered a noise disturbance, the utilization of a hand-held acoustic sound meter measuring the sound level and frequency; incident to the sound being considered will be

used to document the facts. Sound levels will be measured from a *sound receiver's* distance of up to 1,500 feet or public right-of-way in the proximity of where the sound is being received.

- (2) The following factors shall be considered when determining whether a sound constitutes a noise disturbance: bounds that originate during nighttime hours; proximity to onsite and adjacent residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity of the sound; whether the noise has been enhanced in volume or range by any sound amplifying device; the nature and zoning of the area; whether the noise is related to the normal operation of a commercial activity or is the result of some use for individual purposes; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (3) Unless otherwise specified in this Ordinance, no person shall cause or allow the emission of any sound originating from a district which, when measured pursuant to Table 1 exceeds the maximum decibel limits as specified.

**Table 1. Sound Level Limits**

Decibel (dBA)		Zoning District		
		Residential	Commercial	Industrial
Daytime	6:00 AM to 10:00 PM	55 dBA	65 dBA	70 dBA
Nighttime	10:00 PM to 6:00 AM	50 dBA	60 dBA	70 dBA
Frequency				
Daytime	6:00 AM to 10:00 PM	TBD	TBD	TBD
Nighttime	10:00 PM to 6:00 AM	TBD	TBD	TBD

**Section 7.0 Loud, Disturbing, and Unnecessary Noise**

The following is a list of per se loud, disturbing, and unnecessary noises in violation of this ordinance, but it is not an exclusive enumeration of such violations:

- (1) **Blowing horns:** The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle or railroad train, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound or the sound of such device for any unnecessary and unreasonable period of time.
- (2) **Amplified Music, Radio, Stereo Systems of any form, etc.:** The playing of any radio, television set, digital music systems, stereo systems, musical instrument or sound producing or any sound amplifying device in such a manner or with such volume, as to annoy or disturb the quiet, comfort or repose of any person of normal sensibilities in any dwelling, motel, hotel or other type of residence.
- (3) **Use of Vehicles:** The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or operated in such a manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noises.
- (4) **Discharging Firearms:** The discharge of any firearm must be in accordance with N.C.G.S 130.01 (b)(1).

- (5) Noises in proximity to Community Institutions: The creation of any noise disturbance on any street adjacent to any school, institution of learning, library, medical facility, sanitarium, or court while the same is in session, or adjacent to any hospital, or any church during services, which unreasonably interferes with the operations of such institution.
- (6) Bells and Gongs: The sounding of any bell or gong attached to any building or premises other than a church or religious institution, which disturbs the quiet or repose of persons in the vicinity, thereof.
- (7) Hawking, Peddling or Soliciting: The shouting and crying of peddlers, hawkers, vendors, who disturb the quiet and peace of the neighborhood.

## 8.0 Exemptions

The following shall be exempt from the application of this Ordinance:

- (1) Governmental emergency vehicles used in the performance of official duties;
- (2) Construction activity performed by an agency of governmental or utilities regulated by the State of North Carolina Utilities Commissioners provided that all equipment is operated in accordance with manufacture's specifications and is equipped with noise-reducing equipment in proper condition;
- (3) Sound emanating from refuse collection;
- (4) Barking dogs or other noise caused by animals as regulated in the Madison County Animal Ordinance and enforced by Madison County Animal Control;
- (5) Sound emanating from safety signals, warning devices, and church bells or religious institutions as defined by N.C.G.S 131 F-2 (17);
- (6) Sound emanating from any event for which special permit(s) have been issued by the County including but not limited to, events with amplified sound, fireworks, and outdoor events. If the County's zoning official determines that the event is causing sound in excess of the standards specified in the permit, the zoning official may modify or revoke the permit based on the case of urgent necessity;
- (7) Sound emanated from aircraft operated in accordance with applicable federal rules and regulations;
- (8) Sound emanating from railroad operations regulated by the Federal Railroad Administration;
- (9) Sound emanating from permitted parades or military ceremonies;
- (10) Sound emanating from regularly scheduled events held at County owned parks, fields, or fairgrounds; athletic events held at public or private schools except where a permit is otherwise required by the Madison County Ordinance;
- (11) Sound emanating from a bona fide farming operation located within the County and operating within the scope of agriculture as defined in N.C.G.S. 106-581.1;
- (12) Sound resulting within the normal operations of any governmental facility;

- (13) Construction and land management activities performed pursuant to a permit issued by the County's chief building official or their designee. Construction equipment must be operated in accordance with manufacturer's specifications with all standard sound-reducing equipment in place and in proper condition. If the chief building official determines that the construction activity is causing sound in excess of the standards specified, the chief building official may modify or revoke the permit based on the case of urgent necessity;
- (14) Building Operations which include the erection (including excavation), demolition, alteration, or repair of any building in a residential land use district between the hours of 6:00 AM and 10:00 PM of any day, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three (3) days or less while the emergency continues.

### **9.0 Enforcement**

The Madison County Sheriff's Office will investigate and document the source of the initial noise complaint. Documentation of the complaint will be reviewed by the Development Services Department with further action and administration as set forth in this ordinance in compliance with Section 0.8 Penalties and Remedies.

### **10.0 Penalties and Remedies**

If an offense is deemed as a violation of this ordinance, each subsequent violation after the initial violation shall constitute a separate offense and violations of the provisions of this article by the same person for the same activity occurring within two years of the first such violation shall be subject to revocation of the issuance and or renewal of special use permitting as outlined in the Madison County Land Use Ordinance as well as be subject to the following civil penalties:

First Offense – Written Notice of Violation

Second Offense - \$500

Third and Subsequent Offenses - \$1,000

Penalties are payable to the Madison County Zoning Office within thirty (30) days after the notice of violation is issued. Penalties not paid will be subject to civil action which can be levied against real property as provided in N.C. Gen. Stat. § 153A-123.

### **11.0 Appeal of Violation**

A request for an appeal of an issued penalty in conjunction with this Ordinance must be made in writing to the Madison County Zoning Office within 10 days of issuance of the penalty. The Board of Adjustment will have thirty (30) days to schedule the hearing. After due consideration of the appeal, the Board may direct that said citation(s) be withdrawn or enforced.

Additionally, a sound technician with technical knowledge and expertise in the production of sound, frequencies, and amplitudes of sound waves may be retained by the Board of Adjustment to provide testimony regarding the notice of violation. Such expert would be subject to cross-examination and other due process requirement.

**13.0 Effective Date**

The rules and regulations shall be full and in force and effect from and after the \_\_\_ day of \_\_\_\_\_, 2022.

**MADISON COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Mark Snelson, Chairman

ATTEST:

\_\_\_\_\_  
Mandy Bradley, Clerk

DRAFT

**Program Records Schedule:  
Local Government Agencies**

The records retention and disposition schedules and retention periods governing the records series listed herein are hereby approved. This approval extends to and includes the following standards in the **2021 Program Records Schedule: Local Government Agencies**:

10. Airport Authority Records
11. Animal Services Records
12. Code Enforcement and Inspection Records
13. Emergency Medical Services and Fire Department Records
14. Parks and Recreation Records
15. Planning and Regulation of Development Records
16. Public Housing Authorities, Redevelopment Commissions, and Entitlement Communities Records
17. Public Transportation Systems Records
18. Public Utilities and Environmental/Waste Management Records
19. Street Maintenance, Public Works, and Engineering Records
20. Law Enforcement Records (excluding Sheriff's Offices)
21. Tax Records (for municipalities)

In accordance with the provisions of Chapters 121 and 132 of the *General Statutes of North Carolina*, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement.

**Destructions**

N.C. Gen. Stat. § 121-5 authorizes the Department of Natural and Cultural Resources to regulate the destruction of public records. Furthermore, the local government agency agrees to comply with 07 NCAC 04M .0510 when deciding on a method of destruction. The North Carolina Administrative Code states:

“(a) Paper records which have met their required retention requirements and are not subject to legal or other audit holds should be destroyed in one of the following ways:

1. burned, unless prohibited by local ordinance;
2. shredded, or torn up so as to destroy the record content of the documents or material concerned;
3. placed in acid vats so as to reduce the paper to pulp and to terminate the existence of the documents or materials concerned; or
4. sold as waste paper, provided that the purchaser agrees in writing that the documents or materials concerned will not be resold without pulverizing or shredding the documents so that the information contained within cannot be practicably read or reconstructed.

(b) When used in an approved records retention and disposition schedule, the provision that electronic records are to be destroyed means that the data and metadata are to be overwritten, deleted, and unlinked so the data and metadata may not be practicably reconstructed.

(c) When used in an approved records retention and disposition schedule, the provision that confidential records of any format are to be destroyed means the data, metadata, and physical media are to be destroyed in such a manner that the information cannot be read or reconstructed under any means.”

All local government agencies should maintain logs of their destructions either in the minutes of their governing board or in their Records Management file. Confidential records will be destroyed in such a manner that the records cannot be practicably read or reconstructed.

**Public records, including electronic records, not listed in this schedule are not authorized to be destroyed.**

#### **Audits and Litigation Actions**

Records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of this schedule.

#### **Electronic Records**

All local government agencies and the Department of Natural and Cultural Resources concur that the long-term and/or permanent preservation of electronic records requires additional commitment and active management by the agency. Agencies agree to comply with all policies, standards, and best practices published by the Department of Natural and Cultural Resources regarding the creation and management of electronic records.

Local government agencies should consider retention requirements and disposition authorities when designing and implementing electronic records management systems. Any type of electronically-created or electronically-stored information falls under the North Carolina General Assembly's definition of public records cited above. For example, e-mail, text messages, blog posts, voicemails, websites, word processing documents, spreadsheets, databases, and PDFs all fall within this definition of public records. In addition, N.C. Gen. Stat. § 132-6.1(a) specifies:

“Databases purchased, leased, created, or otherwise acquired by every public agency containing public records shall be designed and maintained in a manner that does not impair or impede the public agency's ability to permit the public inspection and examination of public records and provides a means of obtaining copies of such records. Nothing in this subsection shall be construed to require the retention by the public agency of obsolete hardware or software.”

Local government agencies may scan any paper record and retain it electronically for ease of retrieval. If an agency wishes to destroy the original paper records before their assigned retention periods have been met, the agency must establish an electronic records policy, including putting into place procedures for quality assurance and documentation of authorization for records destructions approved by the Government Records Section. This electronic records policy and releases for destruction of records must be approved by the Government Records Section. Agencies should be aware that for the purpose of any audit, litigation, or public records request, they are considered the records custodian obligated to produce requested records, even if said records are being maintained electronically by an outside vendor. Therefore, contracts regarding electronically stored information should be carefully negotiated to specify how records can be exported in case a vendor goes out of business or the agency decides to award the contract to a different vendor.

#### **Reference Copies**

All local government agencies and the Department of Natural and Cultural Resources agree that certain records series possess only brief administrative, fiscal, legal, research, and reference value. These records series have been designated by retention periods that allow these records to be destroyed when “*reference value ends.*” All local government agencies hereby agree that they will establish and enforce internal policies setting minimum retention periods for the records that Natural and Cultural Resources has scheduled with the disposition instruction “*destroy when reference value ends.*” If a local government agency does not establish internal policies and retention periods, the local government agency is not complying with the provisions of this retention schedule and is not authorized by the Department of Natural and Cultural Resources to destroy the records with the disposition instruction “*destroy when reference value ends.*”

#### **Record Copy**

A record copy is defined as “The single copy of a document, often the original, that is designated as the official copy for reference and preservation.”<sup>1</sup> The record copy is the one whose retention and disposition is mandated by these schedules; all additional copies are considered reference or access copies and can be destroyed when their usefulness expires. In some cases, postings to social media may be unofficial copies of information that is captured elsewhere as a record copy (e.g., a press release about an upcoming agency event that is copied to various social

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<sup>1</sup> Society of American Archivists, *Dictionary of Archives Terminology*.



media platforms). Appropriately retaining record copies and disposing of reference copies requires agencies to designate clearly what position or office is required to maintain an official record for the duration of its designated retention period.

### **Transitory Records**

Transitory records are defined as “record[s] that [have] little or no documentary or evidential value and that need not be set aside for future use.”<sup>2</sup>

North Carolina has a broad definition of public records. However, the Department of Natural and Cultural Resources recognizes that some records may have little or no long-term documentary or evidential value to the creating agency. These records are often called transitory records. They may be disposed of according to the guidance below. However, all public employees should be familiar with their appropriate retention schedule and any other applicable guidelines for their office. If there is a required retention period for these records, that requirement must be followed. When in doubt about whether a record is transitory or whether it has special significance or importance, retain the record in question and seek guidance from a DNCR records analyst.

Routing slips and transmittal sheets adding no information to that contained in the transmitted material have minimal value after the material has been successfully transmitted. These records may be destroyed or otherwise disposed of after receipt of the material has been confirmed. Similarly, “while you were out” slips, memory aids, and other records requesting follow-up actions (including voicemails and calendar invites) have minimal value once the official action these records are supporting has been completed and documented. These records may be destroyed or otherwise disposed of once the action has been resolved.

Drafts and working papers, including notes and calculations, are materials gathered or created to assist in the creation of another record. All drafts and working papers are public records subject to all provisions of Chapter 132 of the General Statutes, but many of them have minimal value after the final version of the record has been approved, and may be destroyed after final approval, if they are no longer necessary to support the analysis or conclusions of the official record. Drafts and working documents that may be destroyed after final approval include:

- Drafts and working papers for internal and external policies
- Drafts and working papers for internal administrative reports, such as daily and monthly activity reports;
- Drafts and working papers for internal, non-policy-level documents, such as informal workflows and manuals; and
- Drafts and working papers for presentations, workshops, and other explanations of agency policy that is already formally documented.

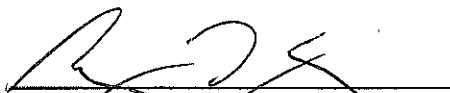
Forms used solely to create, update, or modify records in an electronic medium may be destroyed in office after completion of data entry and after all verification and quality control procedures, so long as these records are not required for audit or legal purposes. However, if the forms contain any analog components that are necessary to validate the information contained on them (e.g., a signature or notary’s seal), they must be retained according to the disposition instructions for the records series encompassing the forms’ function.


It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. These schedules supersede previous versions of these schedules and any localized amendments; they are to remain in effect from the date of approval until they are reviewed and updated.

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<sup>2</sup> Ibid.


APPROVAL RECOMMENDED

  
Municipal/County Clerk or Manager  
Title: Clerk, Board of Commissioners

  
Sarah E. Koonts, Director  
Division of Archives and Records

APPROVED

  
Head of Governing Body  
Title: Chairman, Board of Commissioners

  
D. Reid Wilson, Secretary  
Department of Natural and Cultural  
Resources

County/Municipality: Madison

Effective: October 1, 2021

**Register of Deeds  
Records Retention and Disposition Schedule**

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provision of Chapters 121 and 132 of the *General Statutes of North Carolina*, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. However, records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of this schedule. *Public records including electronic records not listed in this schedule are not authorized to be destroyed.*

This local government agency and the Department of Cultural Resources agree that certain records series possess only brief administrative, fiscal, legal, research, and reference value. These records series have been designated by retention periods which allow these records to be destroyed when "administrative value ends." The local government agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." If an office does not establish internal policies and retention periods, the office is not complying with the provisions of this retention schedule and is not authorized by the Department of Cultural Resources to destroy the records with the disposition instruction "destroy when administrative value ends."

It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

APPROVAL RECOMMENDED

Mary Jane Wallis  
Register of Deeds

Sarah E. Koontz  
Sarah E. Koontz, Director  
Division of Archives and Records

APPROVED

Mark Saulson  
Chairman  
Board of County Commissioners

Linda A. Carlisle  
Linda A. Carlisle, Secretary  
Department of Cultural Resources

Madison  
Name of County

October 10, 2012

**County Sheriff's Office**  
**Records Retention and Disposition Schedule**

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provisions of Chapters 121 and 132 of the *General Statutes of North Carolina*, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. The local government agency agrees to comply with 07 NCAC 04M .0510 when deciding on a method of destruction. Confidential records will be destroyed in such a manner that the records cannot be practicably read or reconstructed. However, records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of this schedule. **Public records, including electronic records, not listed in this schedule are not authorized to be destroyed.**

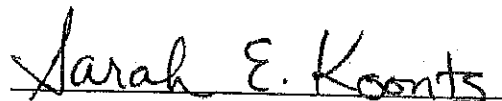
This local government agency and the Department of Natural and Cultural Resources agree that certain records series possess only brief administrative, fiscal, legal, research, and reference value. These records series have been designated by retention periods that allow these records to be destroyed when "reference value ends." The local government agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Natural and Cultural Resources has scheduled with the disposition instruction "destroy when reference value ends." If a local government agency does not establish internal policies and retention periods, the local government agency is not complying with the provisions of this retention schedule and is not authorized by the Department of Natural and Cultural Resources to destroy the records with the disposition instruction "destroy when reference value ends."

The local government agency and the Department of Natural and Cultural Resources concur that the long-term and/or permanent preservation of electronic records requires additional commitment and active management by the agency. The agency agrees to comply with all policies, standards, and best practices published by the Department of Natural and Cultural Resources regarding the creation and management of electronic records.

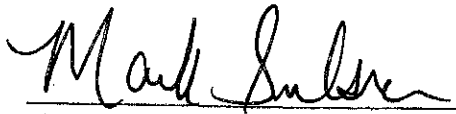
It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

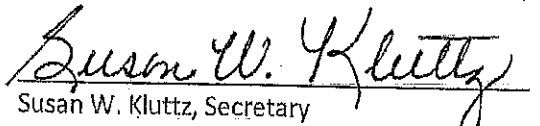
**APPROVAL RECOMMENDED**

\_\_\_\_\_  
County Sheriff

  
Sarah E. Koonts, Director  
Division of Archives and Records

**APPROVED**

  
Chairman, Bd. County Commissioners

  
Susan W. Kluttz, Secretary  
Department of Natural and Cultural Resources

County: \_\_\_\_\_

**County Sheriff's Office  
Records Retention Schedule Amendment**

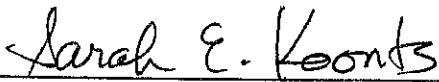
Amending the County Sheriff's Office Records Retention and Disposition Schedule published November 15, 2015.

**STANDARD 8. PROGRAM OPERATIONAL RECORDS: SHERIFF RECORDS**

Amending Item 10, Audio and Video Recordings, as shown on substitute page 57.

**APPROVAL RECOMMENDED**

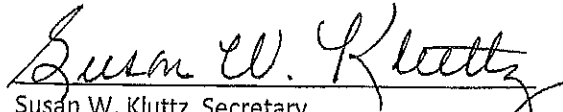
\_\_\_\_\_  
County Sheriff

  
\_\_\_\_\_

Sarah E. Koonts, Director  
Division of Archives and Records

**APPROVED**

  
\_\_\_\_\_  
Chairman, Bd. of County Commissioners

  
\_\_\_\_\_  
Susan W. Kluttz, Secretary  
Department of Natural and Cultural Resources

County: \_\_\_\_\_

October 1, 2016

**Tax Administration  
Records Retention and Disposition Schedule**

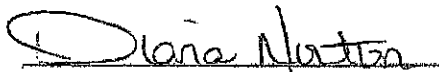
The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provision of Chapters 121 and 132 of the *General Statutes of North Carolina*, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. The local government agency agrees to comply with 07 NCAC 04M .0510 when deciding on a method of destruction. Confidential records will be destroyed in such a manner that the records cannot be practicably read or reconstructed. However, records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of this schedule. *Public records, including electronic records, not listed in this schedule are not authorized to be destroyed.*

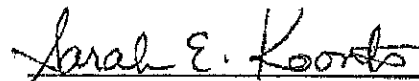
This local government agency and the Department of Cultural Resources agree that certain records series possess only brief administrative, fiscal, legal, research, and reference value. These records series have been designated by retention periods which allow these records to be destroyed when "administrative value ends." The local government agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." If a municipality does not establish internal policies and retention periods, the municipality is not complying with the provisions of this retention schedule and is not authorized by the Department of Cultural Resources to destroy the records with the disposition instruction "destroy when administrative value ends."

The local government agency and the Department of Cultural Resources concur that the long-term and/or permanent preservation of electronic records require additional commitment and active management by the agency. The agency agrees to comply with all policies, standards, and best practices published by the Department of Cultural Resources regarding the creation and management of electronic records.

It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

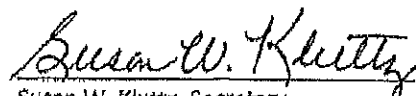
APPROVAL RECOMMENDED

  
Tax Assessor/Collector

  
Sarah E. Koonts, Director  
Division of Archives and Records

APPROVED

  
Chairman, Bd. County Commissioners

  
Susan W. Klutz, Secretary  
Department of Cultural Resources

County: Madison

April 17, 2013

**Tax Administration  
Records Retention Schedule Amendment**


Amending the Tax Administration Records Retention and Disposition Schedule published April 17, 2013.

**STANDARD 5. PERSONNEL RECORDS**

Amending Item 19 Employee Eligibility Records as shown on substitute page 36.

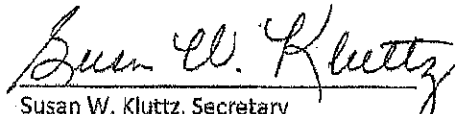
**APPROVAL RECOMMENDED**

  
Tax Assessor/Collector


  
Sarah E. Koonts, Director  
Division of Archives and Records

**APPROVED**

  
Chairman  
Board of County Commissioners

  
Susan W. Kluttz, Secretary  
Department of Cultural Resources

November 7, 2014

  
County

County Veterans Services  
Records Retention Schedule

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provision of Chapter 121 and 132 of the General Statutes of North Carolina, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

APPROVAL RECOMMENDED

 10-27-2022  
County Veterans Services Officer

\_\_\_\_\_  
David Brook, Director  
Division of Historical Resources

APPROVED

  
Chairman, Bd. County Commissioners

\_\_\_\_\_  
Lisbeth C. Evans, Secretary  
Department of Cultural Resources

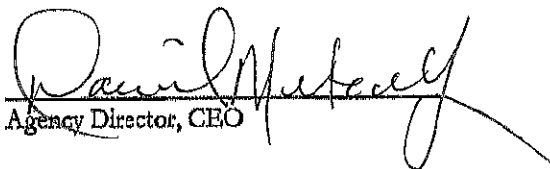
November 1, 2004

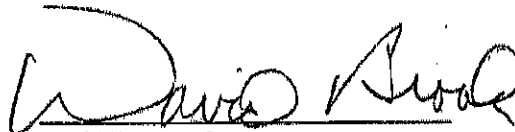


**PUBLIC TRANSPORTATION SYSTEMS AND AUTHORITIES  
RECORDS RETENTION AND DISPOSITION SCHEDULE**

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provision of Chapter 121 and 132 of the General Statutes of North Carolina, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.


**APPROVAL RECOMMENDED**

  
Agency Director, CEO

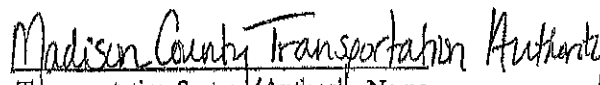
  
David Brook, Director  
Division of Historical Resources

**APPROVED**

  
Chairman, Agency Governing Board

  
Lisbeth C. Evans, Secretary  
Department of Cultural Resources

April 1, 2006

  
Transportation System/Authority Name