



RESOLUTION TITLE: TO APPROVE A INTERLOCAL AGREEMENT FOR ENFORCEMENT SERVICES OF THE GASTON COUNTY SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE

WHEREAS, Article 20 of Chapter 160A of the North Carolina General Statutes authorizes the contractual exercise by one unit of local government for one or more other units of any administrative or governmental power, function, public enterprise, right, privilege, or immunity of local government; and,

WHEREAS, Article 6 of Chapter 153A of the North Carolina General Statutes authorizes the governing board of any City to permit any ordinance adopted by a County to be applicable within the City; and,

WHEREAS, the Municipality has requested that the County provide enforcement services within the corporate boundaries of the Municipality for the Gaston County Soil Erosion and Sedimentation Control Ordinance; and,

WHEREAS, pursuant to N.C. Gen Stat. Chapter 160A, Article 20 upon official request of the governing body of any municipality within the County, the Gaston County Board of Commissioners may by agreement exercise enforcement powers within said municipality and upon such direction may do so until such time as the Municipal governing body officially withdraws its request; and,

WHEREAS, the Gaston County Board of Commissioners upon approval of a resolution, and with written notice, may withdraw the offering of the service to the Municipality; and,

WHEREAS, the City of Gastonia, City Council upon approval of a Resolution, and with written notice, may withdraw the offering of the service from the County.

NOW, THEREFORE, BE IT RESOLVED that the Gaston County Board of Commissioners hereby approves the Revised Interlocal Agreement for Enforcement Services of the Gaston County Soil Erosion and Sedimentation Control Ordinance as set forth in Exhibit A (Attached).

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	CCloninger	AFraley	BHovis	KJohnson	TKeigher	RWorley	Vote
2023-252	07/27/2023	BH	AF	A	A	A	A	A	A	A	U

DISTRIBUTION:
Laserfiche Users

Exhibit A

NORTH CAROLINA
GASTON COUNTY

**INTERLOCAL AGREEMENT FOR
ENFORCEMENT SERVICES OF
GASTON COUNTY SOIL EROSION
AND SEDIMENT CONTROL
ORDINANCE**

This Agreement made and entered into on the _____ day of _____, 2023, by and between **GASTON COUNTY** a corporate and political body and a subdivision of the State of North Carolina, hereafter referred to as "County", and the **CITY OF GASTONIA**, a municipal corporation having a charter granted by the State of North Carolina, hereinafter referred to as "Municipality".

WITNESSETH:

WHEREAS, Article 20 of Chapter 160A of the North Carolina General Statutes authorizes the contractual exercise by one unit of local government for one or more other units of any administrative or governmental power, function, public enterprise, right, privilege, or immunity of local government; and,

WHEREAS, Article 6 of Chapter 153A of the North Carolina General Statutes authorizes the governing board of any City to permit any ordinance adopted by a County to be applicable within the City; and,

WHEREAS, the Municipality has requested that the County provide enforcement services within the corporate boundaries of the Municipality for the Gaston County Soil Erosion and Sedimentation Control Ordinance; and,

WHEREAS, pursuant to N.C. Gen Stat. Chapter 160A, Article 20 upon official request of the governing body of any municipality within the County, the Gaston County Board of Commissioners may by agreement exercise enforcement powers within said municipality and upon such direction may do so until such time as the Municipal governing body officially withdraws its request; and,

WHEREAS, the Gaston County Board of Commissioners upon approval of a resolution, and with written notice, may withdraw the offering of the service to the Municipality.

WHEREAS, the City of Gastonia, City Council upon approval of a resolution, and with written notice, may withdraw the offering of the service from the County.

NOW, THEREFORE, it is agreed by the parties hereto that the County through the Gaston County Department of Natural Resources will provide enforcement services for Gaston County Soil Erosion and Sedimentation Control Ordinance in the corporate limits of the Municipality on the terms and conditions set forth below:

1. **Purpose.** The purpose of this Agreement is to set forth the terms and conditions for

the Municipality to contract with the County for enforcement services for Gaston County Soil Erosion and Sedimentation Control Ordinance inside its corporate limits and to confer to the County the necessary geographical and subject matter jurisdiction to carry out the intent of this Agreement.

2. Term. The term of this Agreement is _____, 2023 through _____, 2024. This Agreement shall automatically renew each year hereafter for successive one-year terms unless terminated as provided herein.

3. Responsibilities.

A. Municipality. The Municipality agrees to:

- (1) adopt County Fee Schedule with regards to Erosion and Sedimentation Control items;
- (2) allow the County to retain any fees or fines collected in accordance with the adopted schedule and in accordance with the law;
- (3) perform a preliminary submittal review before allowing plans to be submitted to County. Preliminary review will be to ensure items of concern to the Municipality or otherwise regulated by Municipal Ordinance (example: Driveway, tree save, etc.) are addressed prior to issuance of permit.
- (4) any erosion control measures that are added as part of conditions from a Conditional Rezoning, that are outside of the scope of the adopted Gaston County Soil Erosion and Sediment Control Ordinance will be the sole responsibility of the Municipality to enforce and maintain.
- (5) defend all claims against it and its employees for incidents related to the enforcement activities to be conducted pursuant to this Agreement that occur prior to the date of this Agreement and indemnify and hold the County harmless from any judgments against it and said employees. The County agrees to defend all claims against the Municipality arising out of like incidents that occur from and after the date of this Agreement, and further agrees to indemnify and hold the Municipality harmless from any judgments against the Municipality resulting therefrom, unless the claims or liability arise solely from the actions of the Municipality;

B. County. The County through the County Department of Natural Resources agrees to:

- (1) review plans submitted pursuant to the Gaston County Soil Erosion and Sediment Control Ordinance for compliance therewith and issue permits for those plans found to be in compliance.

- (2) issue single lot erosion control permits and inspect and enforce for construction projects disturbing less than one (1) acre in accordance with the Gaston County Soil Erosion and Sediment Control Ordinance.
- (3) notify the Municipality of all single lot permits as the permits are issued and closed out (When Requested by the Municipality);
- (4) ensure that all construction activities disturbing one acre or more and are subject to the scope of the Gaston County Soil Erosion and Sediment Control Ordinance, obtain an NCDEQ required NCG01 Permit for the construction activity. During scheduled erosion control inspections, monitor project site for NCG01 Permit compliance and report reoccurring non-compliance issues to NCDEQ and Municipality.
- (5) provide adequate enforcement staff to be able to effectively enforce the Gaston County Soil Erosion and Sedimentation Control Ordinance within the Municipality's corporate limits; this includes responding to citizen and municipal complaints within a 48-hour window of time from the receipt of the complaint;
- (6) seek civil and criminal enforcement of the law when necessary in the County's discretion.
- (7) send all Official Sediment and Erosion Control Inspection reports to the municipality.

4. Geographic and Subject Matter Jurisdiction. To the fullest extent permitted by the laws of the State of North Carolina and the United States, the Municipality hereby grants to the County the authority to enforce the Gaston County Soil Erosion and Sedimentation Control Ordinance as it now exists, or may be amended from time to time, and the County accepts the authority herein granted and agrees fully and faithfully to perform the duties and responsibilities implied by the acceptance of this grant subject to the terms and conditions of this Agreement.

5. Amendment. This Agreement may only be amended in writing upon the signature of both parties. No oral agreements or resolutions shall have any effect.

6. Entire Agreement. This Agreement is the only agreement between the parties and contains all the terms agreed upon and replaces any previous agreements regarding the subject matter. This Agreement has no effect upon enforcement of codes or ordinances not specifically mentioned. If any part of this Agreement is held invalid such decision shall not render the document invalid.

7. Governing Law & Forum:

This Agreement shall be deemed to have been made in the State of North Carolina, and its validity, construction and effect shall be governed by the laws of the State of North Carolina.

The parties hereto agree that any action brought by either party to enforce the terms of this Agreement shall be filed in the Superior Court of Gaston County, State of North Carolina.

Dispute Resolution. In addition to and prior to litigation, the parties shall endeavor to settle disputes first by negotiation between the parties, and, if negotiation is unsuccessful, then by non-binding mediation. Demand for mediation shall be filed in writing with the other party to this Agreement. A demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of repose or limitations. Each party hereto submits to the exclusive jurisdiction in the state and federal courts having jurisdiction in Gaston County, North Carolina and irrevocably waives any defenses to such venue including any defense based upon the principles of forum non conveniens.

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

GASTON COUNTY

By: _____
County Manager

ATTEST:

Clerk to the Board

APPROVED AS TO FORM:

County Attorney

CITY OF GASTONIA

By: _____
Mayor

ATTEST:

Clerk



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

Natural Resources

Board Action

File #: 23-355

Commissioner Hovis - Natural Resources - To Approve a Revised Interlocal Agreement for Enforcement Services of the Gaston County Soil Erosion and Sedimentation Ordinance

STAFF CONTACT

Joseph Alm - Gaston County Stormwater Administrator - 704-922-4181

BACKGROUND

Since the adoption of the Gaston County Soil Erosion and Sedimentation Ordinance in March 2003, Gaston County Natural Resources has provided Enforcement Services of the Ordinance within the municipal boundaries of Gastonia. Periodically when requested by either party, the Interlocal Agreement is reviewed and amended as agreed upon.

ATTACHMENTS

Resolution and Interlocal Agreement (Exhibit "A")

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	CCloninger	AFraleley	BHovis	KJohnson	TKeigher	RWorley	Vote
2023-252	07/27/2023	BH	AF	A	A	A	A	A	A	A	U

DISTRIBUTION:

Laserfiche Users