

Chapter 53
Apple Country Greenway Commission Agreement

[HISTORY: Adopted by the Board of Commissioners of Henderson County. Amended 11-17-1999.]

I. Purpose.

Greenways are linear parks or corridors that connect various nodes of activity and provide a community with a means of protecting its resources. They provide opportunities for passive recreation, alternative transportation, environmental education, and access to the natural landscape. The purpose of the Apple Country Greenway Commission ("Commission") is to promote and facilitate coordinated direction and guidance in the planning, development, and maintenance of a system of greenways throughout Henderson County by the participating governmental units, as hereinafter defined.

II. Objectives.

This greenway system is intended to enhance the quality of life for Henderson County citizens and visitors and to:

- (a) Encourage citizen wellness and maintain environments, which promote opportunities for recreation activities;
- (b) Promote an appreciation for the County's natural, historical and cultural resources and its neighborhoods;
- (c) Enhance the County's appearance to encourage tourism, promote economic development, and improve the living environment for residents;
- (d) Provide safe and efficient linkages between recreational sites, open spaces, residential areas, employment centers, educational and cultural facilities, and other activity centers;
- (e) Protect environmental assets and retain beneficial ecological habitats; and
- (f) Reduce community wide environmental problems.

III. Effective Date; Establishment of Commission.

This Agreement shall be effective, and the Commission shall be established, pursuant to [N.C.G.S. 160A-461](#), upon its ratification by resolution by the governing bodies of each of the following: the Village of Flat Rock, the Town of Fletcher, the County of Henderson, the City of Hendersonville, and the Town of Laurel Park, hereinafter referred to as "participating governmental units".

IV. Responsibilities, Duties, Authority, and Limitations of Authority.

The Commission shall have the following responsibilities and duties:

- (a) To study the needs of Henderson County and the desires of its residents and to work to implement a coordinated system of greenways into each jurisdiction's efforts;
- (b) To advise and inform the governing bodies and the citizens of the County of existing, planned, and potential opportunities for establishing greenways within the County;
- (c) To make recommendations to the governing bodies relative to desirable federal, state, and local legislation concerning greenway programs and related activities;
- (d) To investigate and recommend funding sources such as funds from other persons or entities, grants, and/or donations of land, property or services from the State of North Carolina, the United States of America, their agencies, private citizens, corporations, institutions and others to promote, construct or maintain greenways within Henderson County;
- (e) To study and recommend uniform standards for the design and construction of greenways, including sign standards, to be employed County-wide;
- (f) To actively pursue and promote public/private partnerships, work closely with the Carolina Mountain Land Trust and similar nonprofit organizations, and facilitate cooperation among local governments in the County in developing, constructing and maintaining a system of greenways throughout the County; and
- (g) To coordinate the efforts of the federal, state and local jurisdictions in the County to create a County-wide system of greenways and trails that satisfy the needs of all the residents of the County, including those with special needs.

- (h) To prepare and recommend a master plan for greenways in Henderson County. However, prior to adopting a recommended master plan the Commission shall distribute the plan to the participating governmental units for their review, comment, and concurrence.
- (i) To prepare and submit an annual report to each participating governmental unit on or before February 1 of each calendar year. Such annual report shall include a review of the prior year's activities and a statement of goals and objectives for the current year.

The Commission shall have the authority to do the following:

- (a) To enter into agreements within the limits specified by this Agreement.
- (b) To purchase or accept donations of personal property consisting of operating assets used to fulfill its duties and responsibilities, including but not limited to, office furniture, computers, office supplies, copier, facsimile machine, and other such similar items.
- (c) To establish any subcommittees necessary to fulfill the responsibilities and duties of the Commission; however, a majority of the members of any such subcommittee must be members of the Commission.
- (d) To contract for services necessary to fulfill the responsibilities and duties set out herein. Any such contract shall be subject to review by the Fiscal Agent to determine that such contract is not contrary to sound fiscal practices.
- (e) To perform the duties and responsibilities as specified throughout this Agreement.

The Commission shall not have the authority or capacity to:

- (a) Bind or encumber the participating governmental units in any way. Advice and recommendations of the Commission regarding the development of greenways, their design standards, or any other recommendation rendered as permitted in this Agreement, shall not be binding on participating governmental units, which shall make all final decisions concerning such matters.
- (b) To own real property, or any interest therein. Ownership and maintenance of a greenway, or any portion thereof, shall be the responsibility of the participating governmental unit within whose jurisdiction it is situated.
- (c) To own personal property, or any interest therein. Although the Commission has the authority pursuant to this Agreement to purchase or accept donations of personal property consisting of operating assets, any personal property utilized by the Commission to fulfill its duties and responsibilities shall be held in the name of the Fiscal Agent.
- (d) To employ personnel. Any personnel employed to serve the Commission shall be deemed employees of the Fiscal Agent, shall be appointed by, supervised by and report to the Henderson County Manager, and shall enjoy all the jurisdiction, authority, rights, privileges, and immunities (including coverage under the workers' compensation laws) outside the territory of the Fiscal Agent which such employees enjoy within the territory of the Fiscal Agent when acting pursuant to this Agreement and within the scope of their employment. The Henderson County Manager, or his designee, shall be responsible for taking all disciplinary actions, up to and including dismissal, of any employees employed to serve the Commission.
- (e) To construct any greenways or obtain any easements. Construction of a greenway, or any portion thereof, shall be the responsibility of the participating governmental unit within whose jurisdiction it is situated.
- (f) To incur any financial liabilities exceeding the amount of its funding and awarded grants without the written approval of the participating governmental units.

V. Membership.

The membership of the Apple Country Greenway Commission shall be appointed and serve in accordance with this article.

- (a) There shall be fifteen (15) voting members on the Commission who shall be appointed as follows:
 - (1) Three (3) members to be appointed by the governing bodies of each of the participating governmental units. Additionally, each participating governmental unit may appoint at least one professional staff member or volunteer of the

- entity responsible for planning or for parks and recreation for the political subdivision to serve as an ex officio, non-voting member of the Commission.
- (2) The participating governmental units may make appointments at their discretion, without any restrictions as to place of residence, profession, affiliation, or membership in any particular organization. However, the participating governmental units agree that the Commission would benefit from having members familiar with or interested in Greenways in Henderson County. Such familiarity or interest in Greenways in Henderson County may be indicated from factors including, but not limited to, membership in environmental organizations or service on environmental committees; employment with a local, State, or Federal Parks and Recreation Department or Service; employment with the Henderson County Soil and Water Conservation District, the North Carolina Cooperative Extension Service, or Henderson County Travel and Tourism; membership in community clubs having an interest in preserving ecological habitats; or any other factors in the discretion of each participating governmental unit.
- (b) The terms of Commission members shall be three (3) years; provided, however, the terms of initial members shall be staggered so that one-third of the terms will end each year. Each participating governmental unit shall make one initial appointment for a 3 year term, 1 initial appointment for a 2 year term, and 1 initial appointment for a 1 year term. A vacancy for the remainder of any term shall be filled by the governing body making the original appointment.
- (c) The members of the Commission shall serve without pay.

VI. Meetings.

The Commission shall hold regular meetings at least once per quarter each calendar year. All meetings and hearings of the Commission shall comply with the North Carolina Open Meetings Law, [N.C.G.S. 143, Article 33C](#). Reasonable notice of the time and place of all regular and special meetings shall be given to the public. Meetings shall be called by the chairman or upon request of a majority of the members.

VII. Bylaws.

The Commission shall adopt bylaws consistent with this Agreement necessary to conduct the affairs of the Commission. Bylaws, including any amendments thereto, shall be subject to the review and approval of the participating governmental units.

VIII. Operating Revenue.

Henderson County shall serve as fiscal agent for the Commission. The Commission shall prepare an annual budget and submit same, along with any funding requests, to the governing board of each participating unit on or before February 1 of each year for consideration in the upcoming fiscal year's budget. Funding of the Commission requests shall be at the discretion of each participating unit from year to year. It is specifically noted that it is the preference of the participating governmental units that all funding requests be made in accordance with this Section VIII.

IX. Duration and Termination.

This Agreement shall remain in force for a period of twelve (12) years unless specifically extended or otherwise modified by action of the governing bodies of all member jurisdictions.

The Commission shall undergo a functional review in conjunction with the submittal of its annual report every four years to determine whether it has fulfilled its goals and objectives and whether it continues to serve a desired purpose.

A participating political subdivision may withdraw from this Agreement by adoption of an appropriate resolution.

In the event of dissolution of the Commission, assets actually purchased by a participating governmental unit shall be returned to the participating governmental unit. Funds not otherwise encumbered shall be distributed among the participating governmental units in an equitable manner, as determined by the Fiscal Agent. All other assets shall remain titled in the Fiscal Agent.

X. Amendments.

This Agreement may be amended only by approval by the governing bodies of each member jurisdiction.

XI. Liability.

The participating governmental units agree to indemnify, keep and hold their own appointed Commission members free and harmless from any liability on account of any injury or damage of any type to any person or property growing out of performance of the duties and responsibilities imposed by this Agreement. In the event of any suit or proceeding brought against the Commission, its members, or any staff employed to serve the Commission, the participating governmental units shall pay reasonable costs of the defense. The participating political subdivisions shall share equally any costs incurred under this section.