

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 78, ARTICLE VI OF THE BUNCOMBE COUNTY CODE OF ORDINANCES,
THE ZONING ORDINANCE OF BUNCOMBE COUNTY

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-340, the County may adopt a zoning ordinance to regulate development within its territorial jurisdiction; and

WHEREAS, on December 1, 2009, the Buncombe County Commissioners enacted Buncombe County Ordinance No. 09-12-01 which established a comprehensive zoning plan for the properties located in Buncombe County outside of the boundaries of incorporated municipalities and their zoning jurisdictions; and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-323, the County may amend its zoning ordinance after giving proper public notice and holding a public hearing; and

WHEREAS, in accordance with the procedures set forth in the Buncombe County Zoning Ordinance, the Planning Board met to consider these proposed amendments and has recommended in a vote of 9-0 on February 7, 2011 that the proposed amendments are consistent with the Buncombe County Comprehensive Land Use Plan and updates thereto, and further recommended that the Board of Commissioners adopt the proposed amendments; and

WHEREAS, the Board has reviewed the written recommendations of the Buncombe County Planning Board which found that the proposed amendments are consistent with the Buncombe County Comprehensive Land Use Plan and updates thereto, and further recommended that the Board of Commissioners adopt the proposed amendments; and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-341, this Board finds that the proposed amendments are consistent with the Buncombe County Comprehensive Land Use Plan and are reasonable and in the public interest and adopts the reasons set forth by the Planning Board in their resolution dated February 7, 2011 and provided to this Board; and

WHEREAS, in accordance with North Carolina General Statutes and with the provisions set forth in Division 8 of Chapter 78, Article VI of the Buncombe County Code of Ordinances, the Board of Commissioners duly advertised and held a public hearing to consider the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the County of Buncombe as follows:

Section 1. The Buncombe County Code of Ordinances is hereby amended as follows:

Amend Sec. 78-581. Definitions.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development, ~~(whether immediate or future),~~ and includes all division of land involving the dedication of a new ~~road~~ street or a change in existing ~~roads~~ street.

Delete Section 78-583 in its entirety and replace with the following:

Section 78-583. Penalties for violations.

- (a) No penalty under this section shall be issued prior to issuing a Notice of Violation except for civil penalties issued in accordance with Sec. 78-583(d). The Notice of Violation shall be served by certified or registered mail to the person's last known address, or by personal service or by posting the violation conspicuously on the property.
- (b) Any owner or occupant who has received a notice of violation may appeal the decision of the Zoning Administrator in accordance with Sec. 78-623.
- (c) Any person violating this Article of this Chapter shall be subject to the remedies as set forth in Code Sec. 1-7.
- (d) The County may assess a \$ 100.00 per day civil penalty for each day that the property is in violation of this Article. The civil penalty shall be effective upon receipt of the Notice of Violation but shall be waived if the Zoning Administrator determines the person remedied the violation within thirty (30) days of receipt of the Notice of Violation.
- (e) If the person issued the civil penalty fails to pay the penalty, the County may seek to recover the civil penalty by filing a civil action in the nature of a debt and/or refer the debt to the State Debt Setoff program for collection.
- (f) The Zoning Administrator may reduce the civil penalty upon a determination that the person responsible for the violation acted in good faith and cooperated with the Planning Department to remedy the violation.
- (g) The County may enforce this Article by using one or any combination of the foregoing remedies. Nothing in this section shall limit any other remedy provided by law or this Chapter.

Amend Section 78-623 (c)(1) *Hearings*.

- (1) *Time*. After receipt of notice of appeal, the ~~board chairperson~~ zoning administrator or his designee shall schedule the time for a hearing, which

shall be at ~~a~~ the next available regular ~~or special~~ meeting of the board of adjustment ~~within 31 days from the filing of such notice of appeal.~~

Delete Section 78-642, Footnote 5, (1) Single-family residential with public water and sewer in its entirety and replace with the following:

(1) Single-family residential with public water and sewer:

<u>% Natural Slope</u>	<u>Lot Frontage (Feet)*</u>	<u>Minimum Lot Size (Acres)</u>	<u>Maximum Disturbed</u>	<u>Maximum Impervious Cover (Acres)</u>
<u>0-9.99</u>	<u>100</u>	<u>0.5</u>	<u>If lot is < 0.75 Acres: 80% of lot</u>	<u>0.375</u>
			<u>If lot is 0.75 - 1 Acres: 75% of lot</u>	
			<u>If lot is >1 Acre: 0.75 acres</u>	
<u>10-14.99</u>	<u>100</u>	<u>1.1</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>15-19.99</u>	<u>100</u>	<u>1.5</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>20-24.99</u>	<u>150</u>	<u>2</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>25-29.99</u>	<u>150</u>	<u>2</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>30-34.99</u>	<u>175</u>	<u>2.5</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>35-39.99</u>	<u>175</u>	<u>3</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>40+</u>	<u>200</u>	<u>5</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>*Minimum lot frontage shall be 75 feet where adjoining a cul-de-sac.</u>				

Sec. 78-677. Procedure for obtaining a conditional use permit.

(h) *Decisions.* Decisions shall be made as follows:

(2) *Form.* Written notice of the decision in a case shall be given by certified or registered mail to the applicant by the zoning administrator as soon as practicable after the case is decided. Also, written notice shall be given to owners of the subject property, if not the applicant, and to other persons who have made written request for such notice. ~~The final decision of the board of adjustment shall be shown in the record of the case as entered in the minutes of the board of adjustment and signed by the zoning administrator and the chairperson upon approval of the minutes by the board of adjustment.~~ Such record shall show the reasons for the determination, with a summary of evidence introduced and the findings of fact made by the board of adjustment. The record shall state in detail any facts supporting findings required to be made prior to the issuance of such permit. The record shall state in detail what, if any, conditions and safeguards are imposed by the board of adjustment in connection with the granting of a conditional use permit. The record shall be

signed by the zoning administrator and the chairperson of the Board of Adjustment.

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This resolution is effective upon adoption.

Read, approved and adopted this 19th day of April, 2011.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

BY _____
David Gantt, Chairman

APPROVED AS TO FORM

Michael C. Frue, County Attorney