

ORDINANCE NO. \_\_\_\_\_

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

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

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;

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;

WHEREAS, in accordance with the procedures set forth in the Buncombe County Zoning Ordinance, the Buncombe County Planning Board met to consider the proposed amendments and recommended in a vote of 8 to 0 on January 27, 2014 that the amendments regarding accessory use setbacks are consistent with the Buncombe County Comprehensive Land Use Plan and Updates thereto, and are reasonable and in the public interest, and further recommended that the Board of Commissioners approve the proposed amendments;

WHEREAS, this Board has reviewed these written recommendations of the Buncombe County Planning Board dated January 27, 2014; 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 BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. This Board finds that, pursuant to N.C. Gen Stat. §153A-341, the proposed amendments to The Zoning Ordinance are consistent with the Buncombe County Land Use Plan and updates and are reasonable and in the public interest based upon the reasons set forth by the Planning Board in their resolution dated January 27, 2014;

Section 2. That this Board does hereby approve the following amendments to The Zoning Ordinance of Buncombe County:

**Sec. 78-663. Accessory structures and buildings.**

~~Accessory buildings shall not be erected in any front yard building setback; or side yard setback; within 20 feet of any side street or highway right-of-way line; or within ten feet of any rear lot line.~~

~~Accessory uses or structures shall not involve any use or structure otherwise prohibited by this division or requiring a conditional use permit. Accessory uses or structures shall meet the following standards:~~

- ~~(1) Front yard setback, 20 feet;~~
- ~~(2) Side yard setback, ten feet; and~~
- ~~(3) Rear yard setback, ten feet.~~

~~(1) Accessory uses or structures shall not involve any use or structure otherwise prohibited by this division or requiring a conditional use permit. Accessory uses or structures with a building footprint of no more than 320 square feet and a height of no more than 15 feet shall meet the following standards:~~

- ~~(a) Front yard: set forth per relevant zoning district under Sec. 78-642;~~
- ~~(b) Side yard setback: seven feet; and~~
- ~~(c) Rear yard setback: seven feet.~~

~~(2) Accessory uses or structures with a building footprint of greater than 320 square feet or a height of more than 15 feet shall meet the following standards:~~

- ~~(a) Front yard, set forth per relevant zoning district under Sec. 78-642;~~
- ~~(b) Side yard setback, no public sewer: ten feet;~~
- ~~(c) Side yard setback, public sewer: seven feet; and~~
- ~~(d) Rear yard setback: ten feet.~~

~~The front yard setback requirements of this section shall not apply to accessory structures on lots where the existing primary structure is a legal nonconformance with respect to the front setbacks set forth under Sec. 78-642. In such cases, the setback shall be that of the aforementioned existing buildings.~~

Section 3. That if any section, subsection, 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; and

Section 4. That all ordinances and clauses of ordinances in conflict herewith be and are hereby repealed to the extent of such conflict.

Section 5. This ordinance is effective upon adoption.

Read, approved and adopted this 18<sup>th</sup> day of February, 2014.

ATTEST

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

\_\_\_\_\_  
Kathy Hughes, Clerk

BY \_\_\_\_\_  
David Gantt, Chairman

APPROVED AS TO FORM

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