

ORDINANCE NO. _____

ORDINANCE AMENDING THE TEXT OF 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;

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 6 to 0 on April 7, 2014 that the amendments regarding the creation of an Airport Industry District and associated uses and standards, as well as the addition of a "Medical Clinics" use to the permitted use tables, 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 April 7, 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 April 7, 2014;

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

Sec. 78-581. Definitions.

Cargo/freight terminals, operations and activities means transportation establishments furnishing services incidental to air, motor freight, and rail transportation including but not limited to freight

forwarding services; freight terminal facilities; packing, crating, inspection and weighing services; postal/package service bulk mailing distribution centers; transportation arrangement services; and trucking facilities, including transfer and storage.

Airport means property that is maintained for the landing, refueling and takeoff of aircraft and for the receiving and discharge of passengers and cargo traveling by air, to include aviation related facilities, structures, and property.

Aviation-related means any activity, use, facility, structure, service, property used for any operational purpose related to, in support of, or complementary to the flight of aircraft to and from the airport, to include convenience concessions serving the public.

Landing strips means aircraft landing strips without normal airport facilities including, but not limited to runways, landing fields, and heliports.

Medical clinic means a facility for examining, consulting with, and treating patients with medical, dental, or optical problems on an out-patient basis with no overnight admission.

Personal landing strip means a landing strip or heliport for personal use of the tenant or owner of the site, not available for public use, and with no commercial operations.

Sec. 78-636. Use districts; enumeration.

For the purpose of this article, the zoning districts of Buncombe County as delineated on the official zoning map of Buncombe County, adopted by the board of commissioners, shall be divided into the following designated use districts:

R-LD	Low-Density Residential District
R-1	Single-Family Residential District
R-2	Residential District
R-3	Residential District
CS	Commercial Service District
EMP	Employment District
PS	Public Service District
CR	Conference Center/Resort District
NS	Neighborhood Service District
BDM	Beaverdam Low-Density Residential District
OU	Open Use District
<u>AI</u>	<u>Airport Industry District</u>

Sec. 78-640. Statement of district intent.

(k) *Open Use District (OU)*. The OU Open Use District is established as a district in which all uses are allowed by right, except for certain uses that are regulated as conditional uses so as to ensure

that neighborhood impact is mitigated. Additionally, those uses which are specific to the Airport Industry District (AI) are excluded from the OU Open Use District. The neighborhood impact from conditional uses will be mitigated through the use of minimum specific site standards combined with general standards which provide the flexibility to impose a higher level of specific site standards dependent upon the degree of neighborhood impact. No zoning permit shall be required for permitted uses in the OU Open Use District.

(1) Airport Industry District (AI). The AI Airport Industry District is established as a district that includes but is not limited to airport facilities, aviation related uses, and related aerospace uses. The AI Airport Industry District will also support office uses, industrial uses, storage and warehousing, and wholesale trade either directly related to or dependent upon the aviation industry. Such locations should currently have public water and sewer services available or be expected to have these services in the future. The AI Airport Industry District shall exist only in areas below 2,500' in elevation.

Sec. 78-641. Permitted uses.

(a) *Permitted use table.* Uses are permitted in the various zoning districts pursuant to Table 1.

Table 1 – Permitted Use Table												
Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P		P	P
Duplex/Two-family residential dwelling			P	P	P	P	P	P	P			P
Multifamily residential dwelling units (only one building)			P	P	P	P	P	P	P			
Open-Use Multifamily dwelling (less than six units on single lot)												P
Open-Use Multifamily dwelling (six or more units on single lot)												C
Manufactured/mobile homes-Residential	P			P			P					P
Manufactured/mobile home parks				C								P
Planned unit developments			C	C	C	C	C	C	C	<u>C</u>		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
Subdivisions	P	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Accessory buildings	P	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Adult Entertainment Establishments						C	C					C
<u>Airports</u>										<u>C</u>		
Amusement Parks						C	C	C	C			C
Animal hospitals and veterinarian clinics					P	P	P			<u>P</u>		P
Asphalt Plants							C					C
<u>Aviation-related services and facilities</u>										<u>P</u>		
Banks and other financial institutions					P	P	P	C	C	<u>P</u>		P
Bed and breakfast inns	P		C	P	P	P	P	P	P			P
Campus office use			C		P			P	P	<u>P</u>		P
<u>Cargo/freight terminals, operations and activities</u>						<u>C</u>	<u>P</u>			<u>P</u>		<u>P</u>
Cemetery	P		P	P		P		P	P			P
Chip Mills												C
Churches	P	P	P	P	P	P	P	P	P		P	P
Clubs or lodges				P	C	P	P	P	P	<u>P</u>		P
Concrete Plants							C					C
Day nursery and private kindergarten	C	C	C	C	P	P	P	P	P	<u>P</u>		P
Family care home	P	P	P	P				P	P		P	P
Funeral homes						P	C	P	P			P
Government protective services			P	P	P	P	P	P	P	<u>P</u>		P
Greenhouses, commercial (nursery, lawn and garden)					P	P	P	P	P	<u>P</u>		P

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	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
products)												
Hazardous Waste Facilities												C
Home occupations	P	P	P	P	P	P	P	P	P		P	P
Hospitals, nursing homes, assisted living facilities, retirement communities				C		P	P	P	P			P
Hotels and motels						P	C	P	P	<u>P</u>		P
Incinerators												C
Junkyards							C					C
Kennels				C	P	P	P			<u>P</u>		P
<u>Landing Strips</u>				<u>e</u>		<u>e</u>	<u>e</u>	<u>e</u>	<u>e</u>			<u>e</u>
Laundry and dry cleaning services					P	P	C	P	P	<u>P</u>		P
Libraries			P	P	P	P	P	P	P			P
Manufacturing and processing operations						P	P			<u>P</u>		P
<u>Medical Clinics</u>				<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
Mining and Extraction Operations							C					C
Motor Sport Facilities												C
Motor vehicles maintenance and repair					C	P	P	P	P	<u>P</u>		P
Motor vehicles sales and rental						P	P			<u>P</u>		P
Motor vehicles service stations (fueling stations)					P	P	P	P	P	<u>P</u>		P
National Guard and Reserve Armories						P	P	P		<u>P</u>		P
Nightclubs, bars and pubs					P	P	P		P	<u>P</u>		P
<u>Personal Landing Strips</u>				<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>

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	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>AI</u>	BDM	OU
Physical fitness centers					P	P	C	P	P	<u>P</u>		P
Postal and parcel delivery services					C	P	P	P	P	<u>P</u>		P
Printing and lithography						P	P			<u>P</u>		P
Professional and business offices and services					P	P	P	P		<u>P</u>		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	C	<u>C</u>	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C	C	C	P	P	P	P	P	<u>P</u>	C	P
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	C	<u>C</u>	C	C
Radio, TV and telecommunications towers	C			C		C	C	C	C	<u>P</u>		P
Recreation use, nonprofit	C	C	C	C	P	P	P	P	P	<u>P</u>		P
Recreation use, profit			C	C	C	P	C	P	P	<u>P</u>		P
Repair services (electrical and appliances)					P	P	P			<u>P</u>		P
Restaurants, eating establishments and cafés					P	P	P	P	P	<u>P</u>		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building)					P	P	C	C	P	<u>P</u>		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	<u>A</u>	BDM	OU
with no outside sales storage)												
Retail trade, commercial services, sales and rental of merchandise and equipment						P	C		P	<u>P</u>		P
Rooming house			C	P	P	P	C	P	P			P
Schools, public and private		C	C	C		P		P	P			P
Schools--Vocational, business and special schools						P	P	P	P	<u>P</u>		P
Shooting Ranges – Outdoor Commercial									C			C
Slaughtering Plants												C
Solid Waste Facilities – Landfills, Transfer Stations, Materials Recovery							C	C		<u>C</u>		C
Storage and warehousing					C	P	P	P	C	<u>P</u>		P
Theaters						P		P	P			P
Travel trailers				C					P			P
Travel trailer parks				C					C			P
Vacation rentals	P	P	P	P	P	P	P	P	P		P	P
Vacation rental complex				C	C	C	C	C	C		C	C
Wholesale sales						P	P		C	<u>P</u>		P

Sec. 78-642. Dimensional requirements.

The dimensional requirements for structures and land in the various zoning districts shall be in accordance with Table 2.

Table 2. Dimensional Requirements

Districts	Minimum Lot Area 1,2 (Square Feet)	Density	Minimum Yard Setback Requirements in Feet ³						Maximum Height (Feet)
		Maximum Number Dwelling Units Per Acre	Front Yard Public Sewer	Side Yard Public Sewer	Rear Yard Public Sewer	Front Yard	Side Yard	Rear Yard	
R-LD Residential	43,560	2 per lot. No acreage based density requirement.	10	10	20	10	10	20	35
R-1 Residential	30,000 (no public water or sewer) 12,000 (public sewer only) 8,000 (public water and sewer)	2 per lot. No acreage based density requirement.	10	7	15	20	10	20	35
R-2 Residential	30,000 (no public water or sewer) 10,000 (public sewer only) 6,000 (public water and sewer)	12	10	7	15	20	10	20	35
R-3 Residential	Same as R-2	12	10	7	15	20	10	20	35
NS Neighborhood Service	30,000 (no public water or sewer) 10,000 (public sewer only) 5,000 (public water and sewer)	12	10	7	15	20	10	20	35
CS Commercial Service	Same as NS	13	10	10	10	10	10	10	50
EMP Employment	Same as NS	12	20	10	20	20	10	20	90
PS Public Service	Same as NS	12	20	10	20	20	10	20	50
CR Conference Center/Resort	Same as R-1	12	20	10	20	20	10	20	50 (plus 1ft additional for each additional 5 feet of setback from all property lines up to 100ft total).
AI	Same as NS	12	20	10	20	20	10	20	50

Table 2. Dimensional Requirements

Districts	Minimum Lot Area 1,2 (Square Feet)	Density	Minimum Yard Setback Requirements in Feet ³						Maximum Height (Feet)
		Maximum Number Dwelling Units Per Acre	Front Yard Public Sewer	Side Yard Public Sewer	Rear Yard Public Sewer	Front Yard	Side Yard	Rear Yard	
<u>Airport Industry</u>									
BDM Beaverdam	See Footnote 4 and 6	See Footnote 4 and 6	See Footnote 5 and 6	15	25	See Footnote 5 and 6	15	25	35
OU Open Use	No dimensional requirements except as applied to conditional uses.								

Sec. 78-644. Steep Slope/High Elevation Overlay District

- (a) *Purpose.* The Steep Slope/High Elevation Overlay District is established in recognition that the development of land in steep, mountainous areas involves special considerations and requires unique development standards. This section is intended to limit the intensity of development, preserve the viewshed and protect the natural resources of Buncombe County’s mountains and hillsides at elevations of 2,500 feet above sea level and higher, consistent with the recommendations of the 1998 Buncombe County Land Use Plan.
- (b) *Applicability.* This section shall apply to the portion of Buncombe County at elevations of 2,500 feet above sea level and higher and having a natural slope of 35 percent or greater as specifically identified and delineated on the zoning map entitled “The Official Zoning Map of Buncombe County, North Carolina.”
- (c) *Permitted uses.* Uses are permitted in the High Elevation/Steep Slope Overlay District pursuant to the following table. All uses not listed are not allowed.
- (d) *Conditional uses.* All conditional uses shall be administered in accordance with Division VI of this chapter.

Steep Slope/High Elevation Overlay Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P	P	P
Duplex/Two-family residential dwelling			P	P	P	P	P	P	P		P
Multifamily residential dwelling units (3 or more units)			C	C	C	C	C	C	C		C
Townhomes (3 or more units)			C	C	C	C	C	C	C		C
Manufactured/mobile homes-Residential	P			P			P				P
Manufactured/mobile home parks				C							C
Planned unit developments			C	C	C	C	C	C	C		C
Subdivisions	P	P	P	P	P	P	P	P	P	P	P
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P
Bed and breakfast inns, gross floor area less than 5,000 sq. ft.	P		C	P	P	P	P	P	P		P
Bed and breakfast inns, gross floor area 5,000 sq. ft. or more	C		C	C	C	C	C	C	C		C
Cemetery	P		P	P			P		P	P	P
Churches	P	P	P	P	P	P	P	P	P	P	P
Clubs or lodges, gross floor area less than 5,000 sq. ft.				C	C	C	C	C	C		C
Day nursery and private kindergarten	C	C	C	C	C	C	C	C	C		C
Family care home	P	P	P	P					P	P	P
Government protective services			P	P	P	P	P	P	P		P
Home occupations	P	P	P	P	P	P	P	P	P	P	P

Steep Slope/High Elevation Overlay Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	BDM	OU
Hospitals, nursing homes, assisted living facilities, retirement communities				C		C	C	C	C		C
Libraries								C	C		C
<u>Medical Clinics</u>				<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
Mining and Extraction Operations							C				C
National Guard and Reserve Armories						P	P	P			P
Professional and business offices and services, gross floor area less than 5,000 sq. ft.					P	P	P	P	P		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks	C	C	C	C	C	C	C	C	C	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks	C	C	C	C	C	C	C	C	C	C	C
Radio, TV and telecommunications towers	C			C		C	C	C	C		C
Recreation facilities, nonprofit, indoor, gross floor area less than 5,000 sq. ft.	C	C	C	C	P	P	P	P	P		P
Recreation facilities, nonprofit, indoor, gross floor area 5,000 sq. ft. or more					C	C	C	C	C		C
Recreation facilities, nonprofit, outdoor	C	C	C	C	P	P	P	P	P		P

Steep Slope/High Elevation Overlay Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	BDM	OU
Recreation facilities, profit, outdoor			C	C	C	C	C	C	C		C
Recreation facilities, profit, indoor, gross floor area less than 5,000 sq. ft.			C	C	C	C	C	C	C		C
Repair services, gross floor area less than 5,000 sq. ft. (electrical and appliances)					P	P	P				P
Restaurants, eating establishments and cafés, gross floor area less than 5,000 sq. ft.					P	P	P	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment, gross floor area less than 5,000 sq. ft. (inside building with no outside sales storage)					P	P	C	C	C		P
Schools, public and private		C	C	C		C		C	C		C
Schools--Vocational, business and special schools						C	C	C	C		C
Travel trailers				P					P		P
Travel trailer parks				C					C		C
Vacation rentals	P	P	P	P	P	P	P	P	P	P	P

Steep Slope/High Elevation Overlay Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	BDM	OU
Vacation rental complex; less than 11 units				C	C	C	C	C	C	C	C

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 13th day of May, 2014.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

BY _____
David Gantt, Chairman

APPROVED AS TO FORM

County Attorney