

RESOLUTION OF PLANNING BOARD RECOMMENDING THAT THE BUNCOMBE  
COUNTY BOARD OF COMMISSIONERS AMEND THE TEXT OF CHAPTER 70 OF  
THE BUNCOMBE COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT  
AND SUBDIVISION ORDINANCE OF BUNCOMBE COUNTY

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WHEREAS, pursuant to Section 70-11 of the Buncombe County Code of Ordinances, the Board of Commissioners may amend the Subdivision Ordinance after the Buncombe County Planning Board has reviewed and made a recommendation on the amendments;

WHEREAS, the Buncombe County Planning Board reviewed the proposed amendments to modify the ordinance in order to be consistent with recent changes to North Carolina General Statutes at a duly advertised public hearing held by the Planning Board on February 15, 2016; and

WHEREAS, the Planning Board has reviewed the proposed amendments, has heard public comment, and consulted with planning staff, and, after careful review, has determined that it is in order to approve the proposed amendments and make recommendation to the Board of Commissioners for Buncombe County that the proposed amendments be approved.

NOW THEREFORE, BE IT RESOLVED, Based on the facts as set forth above the Buncombe County Planning Board hereby finds and concludes as follows pertaining to the proposed amendments to the Subdivision Ordinance of Buncombe County:

1. This Planning Board hereby recommends that the Board of Commissioners amend Chapter 70 of the Buncombe County Code of Ordinances as follows:

**Amend Sec. 70-94. Guarantee of improvements.**

Where the required roadbed, utility improvements, or erosion control devices indicated on the construction documents have not been completed prior to submission of the final plat, the incomplete elements are to be itemized in an attachment to the guarantee of improvements. The approval of the plat shall be subject to the owner/developer guaranteeing the installation of all required improvements within a specified time. The construction elements, cost and anticipated construction schedule for the all work must be itemized and certified by a licensed professional consultant and submitted to the planning department for approval. The guarantee of improvements shall be secured in one of the following forms acceptable to the planning department:

- (1) A surety performance bond made by a surety bonding company licensed and authorized to do business in North Carolina. A surety bond issued by any company authorized to do business in North Carolina.

(2) ~~A bond of the owner/developer with an assignment to the county of a certificate of deposit with an institution licensed and authorized to do business in North Carolina as security for the bond. A letter of credit issued by any financial institution licensed to do business in North Carolina.~~

(3) ~~A bond of the owner/developer by an official bank check drawn in favor of the county and deposited with the county. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.~~

(4) ~~Cash or an irrevocable letter of credit from an institution licensed and authorized to do business in North Carolina deposited with the county.~~

Such guarantee shall be in the amount equal to 125 percent of the remaining identified cost of the planned improvements and the continuing maintenance until completion as estimated by the licensed professional consultant retained by the owner/developer. The guarantee will remain in full force and effect until all obligations have been faithfully performed.

If the cost estimate for improvements, and maintenance or the schedule for installation is deemed inadequate by the planning department, the planning board reserves the right to require an independent construction appraisal, at the owner/developer's expense, as a condition of final plat approval.

All guarantees of improvements shall contractually stipulate a completion date that is at least 180 days past the stipulated completion date as stated in the approved construction schedule. The owner/developer must submit a signed and sealed statement by a ~~registered land surveyor or~~ civil engineer licensed in North Carolina certifying that all work has been completed to the standards of this article before the planning department will determine satisfactory completion of all guaranteed work. Work not completed within 90 consecutive days following the stipulated completion date will be considered in default. The planning department will proceed immediately with a claim against the guarantee of improvements for all work in default.

An extension of time required for completion may be granted by the planning board planning department if ~~extenuating circumstances are deemed a justifiable cause for such revision the developer demonstrates reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension.~~

2. This resolution is approved by a vote of **9 to 0** and shall be effective upon its adoption.

This the 15<sup>th</sup> day of February 15, 2016.

BUNCOMBE COUNTY PLANNING BOARD


By: \_\_\_\_\_

Chair

Consented to:

Planning Board Members:

Nancy Waldrop  
David Rittenberg  
Thad B. Lewis  
Dusty Pless  
Joan M. Walker  
Robert J. Martin  
Gene Bell  
Parker Sloan  
Bob Taylor

  
Debbie Truempy, Zoning Administrator

Approved as to form:



Michael Frue, Senior Staff Attorney