

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 amendment;
- WHEREAS, the Planning Board recommended in a vote of **6 to 0** on October 3, 2016 that the amendment to modify the Zoning Ordinance of Buncombe County in order to provide clarification on Board of Adjustment procedures and to bring consistency to certain provisions based on recent changes to the North Carolina General Statutes is consistent with the Buncombe County Comprehensive Land Use Plan and Updates thereto, and is reasonable and in the public interest, and further recommended that the Board of Commissioners approve the proposed amendment;
- WHEREAS, this Board has reviewed this written recommendation of the Buncombe County Planning 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 BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

- Section 1. This Board has resolved by Resolution adopted separately that the adoption of the proposed amendment to the text of the Zoning Ordinance of Buncombe County is consistent with the Buncombe County Land Use Plan and updates and is reasonable and in the public interest;
- Section 2. That this Board does hereby approve the following amendment to The Zoning Ordinance of Buncombe County:

Sec. 78-623. Appeals and applications.

(a) *Appeals and Hearings.* The board of adjustment shall hear and decide all appeals from any order, requirement, decision, or determination made by the zoning administrator as well as appeals and

requests for variances pursuant to any Chapter or Article of the Code of Ordinances for Buncombe County indicating that such appeals or requests for variances shall be heard by the board of adjustment, in which cases the requests for variances shall be treated as and may be referred to as appeals as set forth herein. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of this article and those based upon alleged hardship resulting from strict interpretation of this article.

(b) *Procedure for Filing Appeals.* All statute of limitations and procedures for filing an appeal to the Board of Adjustment are set forth in N.C. Gen. Stat. §153A-345.1 or as amended.

(c) *Hearings.* All board of adjustment hearings shall be conducted in accordance with N.C. Gen. Stat. §153A-345.1 or as amended.

(d) *Decisions.* All board of adjustment decisions shall be made in accordance with N.C. Gen. Stat. §153A-345.1 or as amended.

(e) *Filing of Decisions.* Decisions of the board of adjustment are effective upon filing the written decision with the Zoning Administrator or his/her designee following delivery of such decision by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy. The person required to provide notice of the decision shall certify that proper notice has been made.

~~(e)~~ (f) *Expiration of Approval.* Unless otherwise specified, an order or decision of the board of adjustment granting a conditional use permit or variance shall expire if a building permit or certificate of occupancy for such use is not obtained within two years from the date of the signed order.

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 1st day of November, 2016.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

BY _____
David Gantt, Chairman

APPROVED AS TO FORM

County Attorney