

ORDINANCE # _____

**ORDINANCE AMENDING THE BUNCOMBE COUNTY SOIL EROSION AND
SEDIMENTATION CONTROL CHAPTER 26 SECTION 206 OF THE
BUNCOMBE COUNTY CODE OF ORDINANCES**

WHEREAS, this Board has heretofore enacted the “Soil Erosion and Sedimentation Control Ordinance of Buncombe County, North Carolina, Which is codified in Chapter 26-206 of the Buncombe County Code of Ordinances; and

WHEREAS, the Buncombe County Planning Director and the County Attorney have made recommendations for the improvement and enforcement of the aforesaid ordinance; and

WHEREAS, this Board has determined that it is in the best interest of the citizens of Buncombe County to amend Chapter 26 Section 206 of the County Code as hereinafter set forth.

NOW, THEREFORE BE IT ORDAINED BY the Buncombe County Board of Commissioners that Chapter 26-206 of the Buncombe County Code of Ordinance is hereby amended as follows:

1. Amend Sec. 26-209 Definitions:

Add: Detention basin – A facility constructed or modified to represent flow of storm water to a prescribed maximum rate and to concurrently detain the excess waters that accumulate behind the outlet.

Add: Logging – The practice of harvesting products or timber from a tract or part of a tract of land and then perpetuating a stand of timber or forest products on the same tract of land within reasonable timeframes and accepted best management practice guidelines as recommended by the Forest Practice Guidelines Related to Water Quality pursuant to the provisions of G.S. ch. 150B.

2. Amend Sec 26-210 Scope of article and exclusions from article.

Delete: This article shall not apply to the following land disturbing activities:

Add: (a) Geographical Scope of Regulated Land-Disturbing Activity. This ordinance shall apply to land –disturbing activity within the territorial jurisdiction of Buncombe County and to the extraterritorial jurisdiction of Biltmore Forest, Black Mountain, Woodfin, Weaverville, and Montreat as allowed by agreement between local governments.

(b) Exclusions from Regulated Land- Disturbing Activity. Notwithstanding the general applicability of this ordinance to all land –disturbing activity, this ordinance shall not apply to the following types of land-disturbing activity:

3. Amend Sec. 26-211 General Requirements:

Add: Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activities.

(a) (2) Change: “16” percent to “15” percent

*Any residential land disturbing activity which uncovers one-half acre or more (21,750 square feet) on a lot, parcel or tract with an average slope **15** to 25 percent in its natural state and applies to chapter 70, subdivisions, Section 70-68.*

(a)(6) Add: Plan designer must furnish a statement of an on site downstream evaluation for assessment of 25 year storm velocity impacts to adjoining property.

4. Amend Sec. 26-226 Permits

Change: “owned” to “obtained”

*If the intent is to disturb land, which requires a land disturbing permit, regardless of time frame, a land disturbing permit must be **obtained** prior to beginning the land disturbing activity.*

5. Amend Sec. 26-230(b) Inspections and investigations

Change: “1H-1” to “1A-1”

*Notice of violation; compliance time period specified; enforcement. If through inspection, it is determined that a person engaged in land disturbing activity has failed to comply with the Act, this article, or rules or orders adopted or issued pursuant to this article, or has failed to comply with an approved plan, a notice of violation shall be served upon that person by registered or certified mail or by any means authorized under G.S. **1A-1**, Rule 4. The notice shall set forth the actions necessary to achieve compliance with the plan or this article, specify a date by which the person must comply with the Act, this article, and inform the person of the actions that need to be taken to comply with the Act, this article, and warn that failure to correct the violation within the time period shall result in the assessment of a civil penalty or other enforcement action. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. If the person engaged in land disturbing activity fails to comply within the time specified, enforcement action shall be initiated.*

6. Amend Sec. 26-246 – Mandatory Standards

Change: “standards” to “requirements”

*No land disturbing activity subject to the control of this article shall be undertaken except in accordance with the following mandatory **standards requirements**.*

(1)(b) Add: horizontally

*Unless otherwise provided, the width of a buffer zone is measured **horizontally** from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land disturbing activity containing natural or artificial means of confining visible siltation.*

Change “which” to “that”; change “30” calendar days to “21” calendar days;

Add: temporary or permanent ; structures and shall not have fill-slopes steeper than 2H:1V , nor cut slopes steeper than 1.5 H : 1V at a maximum of 20’ in height unless designed by a geotechnical engineer.

Add: The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

Graded slopes and fills. The angle for graded slopes and fills shall be no greater than the angle ~~which that~~ can be retained by vegetative cover or other adequate erosion control devices or structures and shall not have fill-slopes steeper than 2 H : 1V, nor cut slopes steeper than 1.5H:1V at a maximum of 20' in height unless designed by a geotechnical engineer.. In any event, slopes left exposed will, within ~~30~~ 21 calendar days after completion of any phase of grading be planted or otherwise provided with temporary or permanent ground cover, devices or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints. In order to provide stabilization and maintenance of graded slopes and fills, a sufficient setback, as determined by the county erosion control officer, must be provided between all property lines and the top of graded slopes (cuts) and the toe of fills.

(4) Change: "such" to "the"

Prior plan approval. No person shall initiate any land disturbing activity on a tract requiring a land disturbing permit unless, 20 or more days prior to initiating the activity, an erosion and sedimentation control plan for ~~such the~~ activity is filed with the county. Should the plan be filed, approved and a land disturbing permit be issued in less than 20 days from the filing of the plan, the land disturbing activity may commence.

7. Amend Sec. 26-247 – Design and Performance Standards

Delete: "Except as provided in subsection (b)(2) of this section; change "ten-year" to "twenty-five year"

(a) ~~Except as provided in subsection (b)(2) of this section, Erosion and sedimentation control measures, structures and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the ~~ten-year~~ twenty-five year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.~~

8. Amend Sec. 26-248 – Stormwater outlet protection

(a) Change: "ten-year" to "twenty-five year"

(a) *Generally. Persons shall design and conduct land disturbing activity so that the post construction velocity of the ~~ten-year~~ twenty-five year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:*

(a)(2) Change: "ten-year" to twenty-five year"

(a)(2) *The velocity of the ~~ten-year~~ twenty-five year storm runoff in the receiving watercourse prior to development*

Add: Note: In any case a minimum 10' undisturbed setback to adjoining property at all drainage outfalls is required. Refer to subdivision ordinance for additional requirements section 70-66 general requirements.

If the condition in subsection (a) (1) or (a)(2) of this section cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the prior to development velocity by ten percent. In any case a minimum 10' undisturbed setback to adjoining property at all drainage outfalls is required. Refer to subdivision ordinance for additional requirements section 70-66 general requirements.

(a)(2) Add: Note: Detention may be necessary and shall be sufficient to store all excess flows to 25 yr frequency 24 hour storm. This is in excess of runoff that would occur from site left in pre-development.

9. That this Ordinance be effective upon its adoption.

Adopted this the ____ day of _____, 2006.

ATTEST

**BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE**

KATHY HUGHES, CLERK

BY: _____
NATHAN RAMSEY, CHAIRMAN

APPROVED AS TO FORM

JOE CONNOLLY, COUNTY ATTORNEY