

ORDINANCE NO. _____

ORDINANCE AMENDING 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; and

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; and

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; and

WHEREAS, in accordance with the procedures set forth in the Buncombe County Zoning Ordinance, the Planning Board met to consider these proposed amendments and has recommended in a vote of 6-0 on March 7, 2011 that the proposed amendments are consistent with the Buncombe County Comprehensive Land Use Plan and updates thereto, and further recommended that the Board of Commissioners adopt the proposed amendments; and

WHEREAS, the Board has reviewed the written recommendations of the Buncombe County Planning Board which found that the proposed amendments are consistent with the Buncombe County Comprehensive Land Use Plan and updates thereto, and further recommended that the Board of Commissioners adopt the proposed amendments; and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-341, this Board finds that the proposed amendments are consistent with the Buncombe County Comprehensive Land Use Plan and are reasonable and in the public interest and adopts the reasons set forth by the Planning Board in their resolution dated March 7, 2011 and provided to this 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 Board of Commissioners for the County of Buncombe as follows:

Section 1. The Buncombe County Code of Ordinances is hereby amended as follows:

Add to Sec. 78-581. Definitions.

Drop-in or short term child care center means a facility that is not located in a home, that provides care to preschool children for no more than four hours a day such as “mother’s morning out” church programs and is not licensed by the State of North Carolina.

Amend Section 78-641 (a) Permitted use table.

	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	BDM	OU
Asphalt Plants							<u>C</u>			C

Add to Sec. 78-678. Conditional use standards.

(12) Asphalt plants. Standards for asphalt plants shall be as follows:

a. The parcel on which the facility is located shall be set back at least 2,640 feet from any parcel where a hospital; hospice facility; licensed nursing home; licensed adult care home; licensed family care home; drop-in or short term child care center providing care to at least 10 preschool children; licensed child care center; private or public elementary, middle or high school; or municipal or county park or recreation facility is located.

b. The facility must comply with the Buncombe County Flood Damage and Prevention Ordinance. But in no case shall production facilities or storage of hazardous materials be located in the Special Flood Hazard Area.

c. The area of operations shall be set back from all perennial waters, as shown on the most recent version of the quadrangle topographic maps prepared by the United States Geological Service, and from all wetlands, as defined by G.S. 143-212(6) for a distance sufficient to protect surface and groundwater from spills and leaks. Said setback shall be a vegetative buffer no less than 100 feet in width, with no less than the first 50 feet from the stream or wetland being undisturbed and the remaining area consisting of managed vegetation.

d. The facility shall be served by a public water system or situated a sufficient distance from any water supply well to ensure public health and safety. In all cases, the facility shall be located no closer to a water supply well than the minimum separation distance specified by NC Department of Environment and Natural Resources.

e. There shall be sufficient access to a major highway so as to minimize truck travel through residential neighborhoods.

f. A buffer strip along all property lines shall be required that is sufficient in height, density, and foliage at all times of the year to minimize the visual impact to persons and motorists not on the property and to maximize the buffering of noise and particulate matter. Said buffer strip shall not extend into the established setback along any street.

The required buffer shall be placed according to one or a combination of the following methods, as approved by the board of adjustment as fitting for the use and surrounding areas:

1. A continuous, natural and undisturbed 100 foot buffer strip of trees, shrubbery, and other natural vegetation.
2. A 100 foot planted buffer strip consisting of at least three rows of evergreen trees, whose species shall be approved by the board of adjustment, which at the time of planting shall be at least six feet in height, and which at maturity, shall be at least fifteen feet in height. In each row the trees shall be spaced no more than ten feet apart (from base of tree to base of tree) at time of planting, with trees in adjacent rows offset (staggered) five feet. The rows shall be no more than thirty feet apart and centered within the buffer strip. The buffer strip shall also contain at least two evergreen shrubs for every one tree and the shrubs shall be intermixed between the trees.
3. An earthen berm landscaped with evergreen shrubs and topped with a row of evergreen trees. The berm shall be a minimum of eight feet in height and shall have slopes that do not exceed one foot in height to three feet horizontal. The row of evergreen trees shall be at least five feet in height at the time of planting and which at maturity shall be at least ten feet in height. The trees shall be spaced no more than eight feet apart (from base of tree to base of tree) at the time of planting. No less than two evergreen shrubs for every tree shall be planted in two rows; the first row shall be planted at the base of the berm. The second row shall be planted at the midpoint of the berm and shall be offset (staggered) from the first row.

The owner of the property on which the buffer is located shall be responsible for the maintenance of said buffering. Unhealthy or dead plants shall be promptly removed and replaced within one planting season.

g. A security fence shall surround the entire production area, shall be a minimum of six feet in height, and shall be located between the production area and the required buffer strip. Driveways or entranceways shall be gated during the hours when the plant is not open and operating.

h. The facility shall employ the most current, state-of-the-art methods, systems, techniques, and production processes available in order to achieve the greatest feasible air and odor emissions reductions, including fugitive emissions and fugitive dust.

i. Hours of operation, signs and exterior lighting shall be evaluated for economic, noise, vibration, glare and odor effects and shall be compatible and in harmony with surrounding properties.

Section 2. If any section, subsection, sentence, 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. The Board of Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This resolution is effective upon adoption.

Read, approved and adopted this 19th day of April, 2011.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

BY _____
David Gantt, Chairman

APPROVED AS TO FORM

Michael C. Frue, County Attorney