

ORDINANCE No. _____

ORDINANCE CREATING THE BUNCOMBE COUNTY CULTURAL AND RECREATION AUTHORITY

WHEREAS, pursuant to House Bill 418, Ratified as Session Law 2013-262 by the North Carolina General Assembly on July 16, 2013, Buncombe County is authorized to create a Culture and Recreation Authority (hereinafter sometimes "Authority"), and which Authority shall be a body corporate and politic; and

WHEREAS, the purpose of the Authority shall be to manage or operate libraries, parks, greenways, recreation facilities, and cultural organizations; and

WHEREAS, this Board of Commissioners desires to create such an Authority, to appoint members to the Authority Board and designate the initial appointment terms, and to set forth the general powers and other general obligations of the Authority; and

WHEREAS, this Board is of the opinion that it is in the best interests of the citizens and residents of Buncombe County to create the Buncombe County Culture and Recreation Authority.

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 by including the following:

BUNCOMBE COUNTY CULTURE AND RECREATION AUTHORITY ORDINANCE

DIVISION 1. GENERALLY.

Sec. 1. Creation. By authority of the North Carolina General Assembly, Session Law 2013-262, the Buncombe County Culture and Recreation Authority is hereby created. Funding for the Authority was established by the Board of Commissioners pursuant to Section 3 of the Fiscal Year 2014 Budget Ordinance.

Sec. 2. Definitions. The following are defined for purposes of this Ordinance:

Authority: Buncombe County Culture and Recreation Authority.

Authority Board: the members of the seven (7) member board of the Authority.

Board of Commissioners: the Board of Commissioners of Buncombe County.

County. Buncombe County.

Sec. 3. Purpose of Article. The purpose of the Authority shall be to manage or operate libraries, parks, greenways, recreation facilities, and cultural organizations.

Sec. 4. Membership.

- a. Membership Requirements. Requirements for members shall be as follows:
1. The Authority shall consist of seven members (hereinafter "Authority Board"). All Board members shall be appointed by the Board of Commissioners.
 2. At least one of the members appointed shall be a member of the Board of Commissioners.
 3. The Board of Commissioners may choose to appoint only elected officials to the Authority Board.
 4. All appointments to the Authority Board shall be for a term of three years, except that initial members shall serve one-, two-, or three-year terms to provide for staggering.
 5. Authority Board terms shall run from July 1 of the year of appointment and shall expire at the end of the term as established above on June 30 of the appropriate year. The regular three-year terms shall begin to run shall as follows:

- Three (3) members beginning July 1, 2013
- Two (2) members beginning July 1, 2014
- Two (2) members beginning July 1, 2015

b. Vacancies. Any vacancy on the Authority Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

c. Removal. Any member of the Authority Board may be removed by the Board of Commissioners upon a majority vote of the Commissioners, a quorum being present. No cause for removal shall be required.

d. Authority Board Officers. The members of the Authority Board shall elect a chair and vice-chair from the membership of the Authority Board. They shall also elect a secretary who may or may not be a member of the Authority Board.

e. Quorum. A majority of the members shall constitute a quorum for the transaction of business, and an affirmative vote of the majority of the members present at a meeting of the Authority Board shall be required to constitute action of the Authority. Members of the Authority Board shall receive such compensation, if any, as may be fixed by the Board of Commissioners.

Sec. 5. General powers of the Authority. The general powers of the Authority shall be to:

- (1) Make rules and regulations not inconsistent with Session Law 2013-262 for its organization and internal management.
- (2) Employ persons deemed necessary to carry out functions and duties assigned to them by the Authority and to fix their compensation within the limit of available funds.
- (3) To use officers, employees, agents, and facilities of the County on such basis as may be agreed upon.
- (4) Appoint a full-time Director to serve at its pleasure. The Director is responsible to the Authority for the administration of all departments within the Authority. The Director shall appoint, suspend, or remove all Authority employees. The Director shall make his or her appointments, suspensions, and removals in

- accordance with any general personnel rules, regulations, policies, or ordinances that the Authority may adopt.
- (5) Acquire, maintain, and operate any buildings, structures, and facilities as may be necessary or convenient for the operations of the Authority.
 - (6) Establish rules governing the use of the cultural and recreational facilities under the jurisdiction of the Authority.
 - (7) Enter into contracts and leases for facilities and services.
 - (8) Acquire and dispose of real and personal property under the jurisdiction of the Authority with the approval of the County.
 - (9) Surrender to the County any property no longer required by the Authority.
 - (10) Allocate funds for repairs, renovations, and improvements of real and personal property under the jurisdiction of the Authority.
 - (11) Solicit financial and material support from public and private sources.
 - (12) Receive public and private donations, appropriations, and grants.
 - (13) Prepare and submit an annual budget to the County in the same manner as other County departments, and the budget is subject to adoption by the County.
 - (14) Make recommendations and an annual report to the County concerning the operation of the Authority and the status of cultural and recreational programs under the jurisdiction of the Authority.
 - (15) Make plans, surveys, and studies of libraries, parks, greenways, recreational facilities, and cultural organizations under the jurisdiction of the Authority and to prepare and make recommendations to the County in regard thereto.
 - (16) Retain and employ counsel, auditors, engineers, and private consultants on an annual salary contract basis or otherwise for rendering professional or technical services and advice.
 - (17) Sue and be sued.
 - (18) Have a seal.
 - (19) Do all things necessary or convenient to carry out the purposes provided for in this act and for the exercise of the powers granted to the Authority.

Sec. 6. Funding. Buncombe County may provide for funding of the Authority as follows:

- a. The County may appropriate funds to support the establishment and operation of the Authority.
- b. The County may also dedicate, sell, convey, donate, or lease any of its interest in any property to the Authority.
- c. Subject to the approval of the Board of Commissioners, the Authority may establish any license and regulatory fees and charges as it may deem appropriate.
- d. In accordance with G.S. 153A-149, Buncombe County may separately levy and collect an ad valorem tax in the County, but not exceeding seven cents (7¢) on the one hundred dollars (\$100.00) valuation of property in the County from year to year and shall keep the same as a separate and special fund to be used only for cultural and recreational purposes under the jurisdiction of the Authority.
- e. The County may also issue general obligation bonds as authorized by the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes.
- f. The Authority shall have no authority to tax property within its jurisdictional boundaries and shall have no powers of eminent domain.
- g. The Authority is not eligible to receive local sales or use or any other taxes allocated by the State to taxing counties and cities.

Sec 7. Fiscal accountability. The Authority shall be fiscally accountable to the County, which has the authority to examine all records and accounts of the Authority at any time.

Sec. 8. Termination. The County shall have the authority to terminate the existence of the Authority at any time by a majority vote of the Board of Commissioners. In the event of termination, (i) all property and assets of the Authority which were conveyed to the Authority shall automatically become the property of the County and (ii) the County shall jointly succeed to all other rights, obligations, and liabilities of the Authority. Provided, however, that if other units of local government within the County have become members of the Authority then assets and liabilities of the Authority shall succeed to the participating units as provided in the enabling legislation or the agreement granting membership in the Authority by such other units of local government.

Sec. 9. Assignment of Employees to the Authority. The Board of Commissioners may assign Buncombe County employees to the Authority, and the Buncombe County Personnel Ordinance shall not be applicable to such employees assigned to the Authority. Such employees shall be considered employees of the Authority from and after the date of the assignment.

Sec. 10. Current Boards and Committees. The Board of Trustees of the Asheville-Buncombe Library System, established by Buncombe County Resolution #: 17075 and as amended by Buncombe County Resolution #: 17093, as well as the Parks, Greenways and Recreation Services Advisory Committee are hereby disbanded. It is the intent of this Board of Commissioners to relinquish any formal authority it has over these boards and leave future decisions regarding the efficacy of advisory panels regarding libraries, parks, greenways, recreation facilities, or cultural organizations to the Authority Board.

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 anyone 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 ordinance is effective upon adoption.

Read, approved and adopted this 6th day of August, 2013.

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