

ORDINANCE NO. 24-11-07

ORDINANCE AMENDING THE OFFICIAL ZONING ORDINANCE OF BUNCOMBE COUNTY, CHAPTER 78, ARTICLE VI OF THE BUNCOMBE COUNTY CODE OF ORDINANCES, THE ZONING ORDINANCE OF BUNCOMBE COUNTY
ZPH2024-00024

- WHEREAS, pursuant to N.C. Gen. Stat. §160D-7-1, 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. §160D-6-2, the County may amend its zoning ordinance after giving proper public notice and holding a public hearing;
- WHEREAS, the Planning Board has reviewed and discussed proposed text amendments (ZPH2024-00024) and held a public hearing for an amendment to The Buncombe County Zoning Ordinance. The Board considered amendments to Chapter 78 (The Buncombe County Zoning Ordinance) of the Buncombe County Code of Ordinances, and more specifically, Sections 78-581 Definitions, 78-641 Permitted Uses, and 78-678 Uses by Right Subject to Special Requirements and Special Use Standards. The amendments proposes to further regulate crypto-currency mining operations, data centers, and government protective service, and is attached as Exhibit A.
- WHEREAS, in accordance with the procedures set forth in the Buncombe County Zoning Ordinance, the Planning Board met to consider the proposed amendment on September 16, 2024, at which meeting a motion to **approve** the proposed test amendment passed by a vote of **7 to 0**; and,
- WHEREAS, this Board has reviewed these written recommendations 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 amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. This Board has considered whether this proposed amendment is consistent with the Buncombe County 2043 Comprehensive Plan, and hereby finds the following:

- 1) The proposed text amendment is consistent with the Buncombe County 2043 Comprehensive Plan in that the text amendment:
 - a) **GEC – Action 6:** Support the protection of agricultural and forest lands, environmentally sensitive areas, and rural communities.
 - b) **FARMS, FOREST, & ENVIRON – Policy 2:** Preserve Buncombe County’s natural heritage.
 - c) **FARMS, FOREST, & ENVIRON – Policy 3:** Promote ecosystem enhancement...
 - d) **HEALTH & REC- Policy 5:** Utilize environmental protection and land conservation to...promote health.
 - e) **INFRASTRUCTURE & ENERGY - Policy 2:** Plan for the long-term sustainability of public services.
 - f) **INFRASTRUCTURE & ENERGY – Action 2:** Implement policies around new development and re-development that advance decarbonization and sustainability goals.

Therefore, the requested text amendment would be **reasonable and in the public interest**.

Section 2. This Board does hereby **approve** and adopt the Plan Consistency Statement and amendments to Chapter 78 (The Buncombe County Zoning Ordinance) of the Buncombe County Code of Ordinances, and more specifically, Sections 78-581 Definitions, 78-641 Permitted Uses, and 78-678 Uses by Right Subject to Special Requirements and Special Use Standards. The amendments propose to further regulate crypto-currency mining operations, data centers, and government protective services.

Section 3. 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;

Section 4. All ordinances and clauses of ordinances in conflict herewith be and are hereby repealed to the extent of such conflict; and

Section 5. This ordinance is effective upon adoption.

Read, approved and adopted this the 19th day of November, 2024.

ATTEST



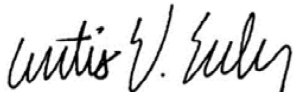
Sarah Gross, Clerk

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

BY 

Brownie Newman, Chairman

APPROVED AS TO FORM



County Attorney

ZPH2024-00024

PERMITTED USES TEXT AMENDMENTS- CRYPTO-CURRENCY MINING, DATA CENTERS, AND GOVERNMENT PROTECTIVE SERVICES

MODULE 2 SUBMODULE A

Additions underlined in red

Deletions ~~cross through in red~~

Sec. 78-581. - Definitions.

Crypto-currency mining operation means a process to verify transactions on the blockchain, enter new cryptocurrency unit into circulation, or perform other hardware or software processes to generate crypto information, processing, or distribution using computer servers. Crypto-currency mining operations are not permitted in Buncombe County.

Data Center means a facility of 5,000 square feet or greater, containing a grouping of computer servers and associated equipment and systems used for the remote storage, processing, or distribution of data, for purposes other than crypto-currency mining operations. Data Centers less than 5,000 square feet shall be regulated as manufacturing and processing operations.

Sec. 78-641. - Permitted uses.

Table 1—Permitted Use Table												
Uses	P = Permitted C = Allowed as Conditional <u>Special</u> Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	N S	CS	EM P	PS	CR	AI	BD M	OU
<u>Government protective services</u>	<u>P</u>	<u>P</u>	P	P	P	P	P	P	P	P	<u>P</u>	P
<u>Data Center, non-crypto currency</u>						<u>SR</u>	<u>SR</u>	<u>SR</u>		<u>SR</u>		
<u>Crypto-currency mining</u>												

Sec. 78-678. - Uses by right subject to special requirements and special use standards.

(a) Uses by right, subject to special requirements (SR).

(x) Data Center. Standards for non-crypto currency data centers shall be as follows:

- a) A pre-construction sound study shall be conducted at the property to establish a noise baseline, and the development shall include sound mitigation measures to ensure that noise levels from the data center and all associated equipment does not exceed levels observed during the baseline study. In no case shall a data center exceed 55 dBA at any time of day, as measured at the property lines.
- b) The center's operations must be completely enclosed within a building.

- c) No HVAC system, cooling system, or generator shall be located closer than 100 feet from a residentially-zoned property line or from a residential structure.
- d) Generators shall not undergo maintenance or testing between the hours of 8pm and 8am.
- e) Data Centers within the CS-Commercial Service zoning district shall conceal mechanical operations from all road frontages using solid architectural screening or commercial landscaping buffers.