

ORDINANCE NO. 10-10-07

ORDINANCE AMENDING CHAPTER 78, ARTICLE VI OF THE BUNCOMBE COUNTY CODE OF ORDINANCES, THE ZONING ORDINANCE OF BUNCOMBE COUNTY

- WHEREAS, the County of Buncombe has the authority pursuant to Part 3 of Article 18 of Chapter 153A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety, and welfare; 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;
- 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;
- WHEREAS, the Board has adopted a Statement of Consistency indicating that the adoption of the proposed amendments are consistent with the Buncombe County Comprehensive Land Use Plan and updates and outlining why it is reasonable and in the public interest to adopt the proposed amendments;
- 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; and
- WHEREAS, this Board is of the opinion that it is in the best interest of the citizens and residents of Buncombe County to amend Chapter 78, Article VI of the Buncombe County Code of Ordinances, The Zoning Ordinance of Buncombe County, to clarify sections of the Ordinance and to provide for the protection of steep slopes, high elevations, and protected mountain ridges.

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

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

(a) Section 78-581 is revised by deleting the opening paragraph and the existing definitions of “Building Height” and “Planned Unit Development” and adding the following revised opening paragraph and definitions as well as adding the new definitions for “Crest”, “Diameter at Breast Height”, “Impervious Surface”, “Land Disturbing Activity”, “Permitted Use” and “Ridge” as follows:

“Sec. 78-581. Definitions.

The following words, terms, and phrases, when used in this article, including overlay districts, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building height means the vertical distance of any building or structure, as measured from the highest ground level at the structure foundation to the uppermost point of the roof. For purposes of the Steep Slope/High Elevation and Protected Ridge Overlay Districts only, building height means the average of the vertical distance measured from the highest ground level at the structure foundation to the uppermost point of the roof and the vertical distance measured from the lowest ground level at the structure foundation to the uppermost point of the roof.

Crest means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

Diameter at Breast Height (DBH) means the outside bark diameter measured at 4.0 feet above the ground level on the uphill side of the tree.

Impervious surface means any surface that, in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but are not limited to, gravel, concrete, asphalt or other paving material, and all areas covered by the footprint of buildings or structures.

Land disturbing activity means any use of, or operation on, the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Permitted use means a use which is allowed in specific zoning districts and which such use might be further regulated or restricted in applicable overlay districts.

Planned unit development (PUD) means more than two principal buildings or uses proposed to be constructed on a single lot, any building with a gross floor area of 35,000 square feet or more, or any residential complex of five or more units. Residential units within a planned unit development may include single-family detached or attached units, townhouse

developments, garden apartments, patio homes, and other types of residential units, excluding mobile homes and mobile home parks. For purposes of the Steep Slope/High Elevation Overlay District only, planned unit development means more than two principal buildings or uses proposed to be constructed on a single lot, any building with a gross floor area of 10,000 square feet or more, or any residential complex of three or more units.

Ridge means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain.”

(b) Section 78-584 is revised to read as follows:

“Sec. 78-584. Remedies for violations of article.

- (a) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure, or land is used in violation of this article, the zoning administrator, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use; to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct of business or use in or about the premises.
- (b) The only activities that may take place outside the areas of disturbance documented on an approved site plan are:
 - 1. fire fuel reduction (fire fuel reduction may include the installation of firebreaks in the area immediately adjacent to structures and the removal of underbrush)
 - 2. control of invasive species listed in the invasive species table in this section. Other species may be approved by the Planning Department when demonstrated to be non-native invasive species.)
 - 3. removal of dead or diseased specimens
 - 4. maintenance of the area to ensure adequate screening and buffering (i.e. selective thinning of saplings)
 - 5. maintenance of the area to ensure public health and safety and
 - 6. Non-motorized passive recreation (such as running, walking, biking trails, gardening, primitive camping areas, and similar low impact outdoor activities). The location, type, and materials which will be used to construct passive recreation facilities shall be submitted on the preliminary plans and shall be approved by the Planning Department. The development of passive recreation areas within the natural state area shall not exceed 5% of the total acreage of the tract.

When removing vegetation for the purposes of exceptions (1) through (5) above, vegetation can only be removed through the use of hand-held devices (i.e. chainsaws, pole pruners, hedge trimmers, weed eaters, etc.). Bulk application of chemical herbicides is prohibited. The removal of vegetation shall be conducted in such a manner as to preserve ground cover (through a vegetated cover or through the use of a substrate that will prevent sediment run-off from the site). Removal of healthy tree specimens greater than 3" diameter at breast height (DBH) is prohibited except when installing passive recreation facilities.

INVASIVE SPECIES

<u>Scientific name</u>	<u>Common name</u>
<u><i>Ailanthus altissima</i> (Mill.) Swingle</u>	<u>Tree of Heaven</u>
<u><i>Albizia julibrissin</i> Durz.</u>	<u>Mimosa</u>
<u><i>Alliaria petiolata</i> (Bieb.) Cavara & Grande</u>	<u>Garlic-mustard</u>
<u><i>Alternanthera philoxeroides</i> (Mart.) Griseb.</u>	<u>Alligatorweed</u>
<u><i>Celastrus orbiculatus</i> Thunb.</u>	<u>Asian bittersweet</u>
<u><i>Elaeagnus angustifolia</i> L.</u>	<u>Russian olive</u>
<u><i>Elaeagnus umbellata</i> Thunb.</u>	<u>Autumn olive</u>
<u><i>Hedera helix</i> L.</u>	<u>English ivy</u>
<u><i>Hydrilla verticillata</i> (L.f.) Royle</u>	<u>Hydrilla</u>
<u><i>Lespedeza bicolor</i></u>	<u>Bicolor lespedeza</u>
<u><i>Lespedeza cuneata</i> (Dum.-Cours.) G. Don</u>	<u>Sericea lespedeza</u>

<u><i>Ligustrum sinense</i> Lour.</u>	<u>Chinese privet</u>
<u><i>Lonicera fragrantissima</i> Lindl. & Paxton</u>	<u>Fragrant honeysuckle</u>
<u><i>Lonicera japonica</i> Thunb.</u>	<u>Japanese honeysuckle</u>
<u><i>Microstegium vimineum</i> (Trin.) A. Camus</u>	<u>Japanese stilt-grass</u>
<u><i>Murdannia keisak</i> (Hassk.) Hand.-Mazz.</u>	<u>Asian spiderwort</u>
<u><i>Myriophyllum aquaticum</i> (Vell.) Verdc.</u>	<u>Parrotfeather</u>
<u><i>Paulownia tomentosa</i> (Thunb.) Sieb.&Zucc. ex Steud.</u>	<u>Princess tree</u>
<u><i>Phragmites australis</i> (Cav.) Trin. ssp. <i>Australis</i></u>	<u>Common reed</u>
<u><i>Polygonum cuspidatum</i> Seib. & Zucc.</u>	<u>Japanese knotweed</u>
<u><i>Pueraria montana</i> (Lour.) Merr.</u>	<u>Kudzu</u>
<u><i>Rosa multiflora</i> Thunb.</u>	<u>Multiflora rose</u>
<u><i>Salvinia molesta</i> Mitchell</u>	<u>Aquarium water-moss</u>
<u><i>Vitex rotundifolia</i> L.f.</u>	<u>Beach vitex</u>
<u><i>Wisteria sinensis</i> (Sims) DC</u>	<u>Chinese wisteria</u>

- (c) Any land disturbance percentage in amounts that exceed those specified in this article shall be replanted according to the following re-vegetation plan.

Re-vegetation plan.

<u>ELEVATION UNDER 4,000 FEET</u>	
<u>East/North Facing</u>	<u>South/West Facing</u>
<u>Overstory Species</u>	
<u>Eastern White Pine</u>	<u>Black Locust</u>
<u>Yellow Poplar</u>	<u>Virginia Pine</u>
<u>Chestnut Oak</u>	<u>Shortleaf Pine</u>
<u>Northern Red Oak</u>	<u>Southern Red Oak</u>
<u>Black Walnut</u>	<u>White Oak</u>
<u>Native Ash</u>	<u>Chestnut Oak</u>
<u>Sycamore</u>	<u>Hickory</u>
<u>Beech</u>	<u>Red Maple</u>
<u>Yellow Buckeye</u>	<u>Sycamore</u>
<u>Red Maple</u>	
<u>Sugar Maple</u>	
<u>Understory Species</u>	
<u>Sourwood</u>	<u>Native Blueberry</u>
<u>Dogwood</u>	<u>Eastern Redbud</u>
<u>Mountain Laurel</u>	<u>American Holly</u>
<u>Native Rhododendron</u>	<u>Box Elder</u>
<u>Sumac</u>	<u>Sassafras</u>
<u>American Hornbeam</u>	<u>Dog Hobble</u>
	<u>Persimmon</u>
<u>ELEVATION 4,000 FEET AND OVER</u>	
<u>East/North Facing</u>	<u>South/West Facing</u>
<u>Overstory Species</u>	
<u>Sugar Maple</u>	<u>Pitch Pine</u>
<u>Black Birch</u>	<u>Chestnut Oak</u>
<u>Yellow Birch</u>	<u>Northern Red Oak</u>

<u>Beech</u>	<u>Black Cherry</u>
<u>Red Spruce</u>	<u>Eastern White Pine</u>
<u>Black Cherry</u>	
<u>Eastern White Pine</u>	
<u>Northern Red Oak</u>	
<u>Understory Species</u>	
<u>Native Rhododendron</u>	<u>Hawthorn</u>
<u>Mountain Maple</u>	<u>Striped Maple</u>
<u>Native Blueberry</u>	<u>Serviceberry</u>
<u>Native Crabapple</u>	
<u>American Mountain Ash</u>	

All planted species shall be on a ten-foot by ten-foot spacing. A mix of one overstory and one understory species from the table above, appropriate for site elevation and aspect, shall be planted on each 100 square feet.

Pines shall be three to four feet in height, with a minimum stem diameter at the ground of one inch. The root ball shall be 14-18 inches.

Hardwoods shall be 14-18 inches in height, with a minimum stem diameter at the ground of one-half to three-fourths-inches. These trees can be bare-rooted at planting.

All overstory and understory plants shall be limed and slow-release fertilizer stakes shall be inserted around each plant.

All plants shall be mulched with organic mulch to control weeds. Mulch shall extend two feet around each plant.

- (d) Any impervious surface percentage in amounts that exceed those specified in this article shall be removed."

- (c) **Section 78-657 is revised to read as follows:**

"Sec. 78-657. Non Conforming uses.

- (1) Nonconforming vacant lots. This category of nonconformance consists of vacant lots for which plats or deeds have been recorded in the Buncombe County Register of Deeds Office, which at the time of the adoption of this article fails to comply with the minimum area requirements of the districts, including overlay districts, in which they are located. Any use allowed in the affected district may be erected, improved, or expanded on any single lot of record existing at the time of the adoption of the ordinance from which this article is derived. All

current dimensional requirements as set forth in Division 4 of this Article or as amended must be met to build any new ~~residential use. other than a single-family dwelling.~~ This provision shall apply even though such lot fails to meet the requirements for lot area that are generally applicable in the district, provided that ~~yard dimensions and~~ all dimensional requirements other than those applying to the area of the lot shall conform to the regulations for the district in which such lot is located. Variance of ~~yard dimensional~~ requirements shall be obtained only through action of the board of adjustment.”

(d) **Section 78-645 is revised by deleting Section 78-645 and adding the following revised section:**

“Sec. 78-645. Steep Slope/High Elevation Overlay District

(a) Purpose. The Steep Slope/High Elevation Overlay District is established in recognition that the development of land in steep, mountainous areas involves special considerations and requires unique development standards. This section is intended to limit the intensity of development, preserve the viewshed and protect the natural resources of Buncombe County’s mountains and hillsides at elevations of 2,500 feet above sea level and higher, consistent with the recommendations of the 1998 Buncombe County Land Use Plan.

(b) Applicability. This section shall apply to the portion of Buncombe County at elevations of 2,500 feet above sea level and higher and having a natural slope of 35 percent or greater as specifically identified and delineated on the zoning map entitled “The Official Zoning Map of Buncombe County, North Carolina.”

(c) Permitted uses. Uses are permitted in the High Elevation/Steep Slope Overlay District pursuant to the following table. All uses not listed are not allowed.

(d) Conditional uses. All conditional uses shall be administered in accordance with Division VI of this chapter.

<u>Steep Slope/High Elevation Overlay Permitted Use Table</u>										
<u>Uses</u>	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
	<u>Districts</u>									
	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>Single-family residential dwelling.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Steep Slope/High Elevation Overlay Permitted Use Table

<u>Uses</u>	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
	<u>Districts</u>									
	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>including modular</u>										
<u>Duplex/Two-family residential dwelling</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Multifamily residential dwelling units (3 or more units)</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Townhomes (3 or more units)</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Manufactured/mobile homes-Residential</u>	<u>P</u>			<u>P</u>			<u>P</u>			<u>P</u>
<u>Manufactured/mobile home parks</u>				<u>C</u>						<u>C</u>
<u>Planned unit developments</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Subdivisions</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Accessory buildings</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Bed and breakfast inns, gross floor area less than 5,000 sq. ft.</u>	<u>P</u>		<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Bed and breakfast inns, gross floor area 5,000 sq. ft. or more</u>	<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Cemetery</u>	<u>P</u>		<u>P</u>	<u>P</u>		<u>P</u>		<u>P</u>		<u>P</u>
<u>Churches</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Steep Slope/High Elevation Overlay Permitted Use Table

<u>Uses</u>	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
	<u>Districts</u>									
	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>Clubs or lodges, gross floor area less than 5,000 sq. ft.</u>				<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Day nursery and private kindergarten</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Family care home</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				<u>P</u>	<u>P</u>	<u>P</u>
<u>Government protective services</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Home occupations</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Hospitals, nursing homes, assisted living facilities, retirement communities</u>				<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Libraries</u>								<u>C</u>		<u>C</u>
<u>Mining and Extraction Operations</u>							<u>C</u>			<u>C</u>
<u>National Guard and Reserve Armories</u>						<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Private recreation facilities for profit, outdoor (parks, playgrounds, tennis courts, etc.)</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Private</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>

Steep Slope/High Elevation Overlay Permitted Use Table

<u>Uses</u>	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
	<u>Districts</u>									
	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>recreation facilities for profit, gross floor area less than 5,000 sq. ft. (bowling alleys, skating rinks, country clubs, etc.)</u>										
<u>Professional and business offices and services, gross floor area less than 5,000 sq. ft.</u>					<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Public or private nonprofit recreational facilities, outdoor (parks, playgrounds, tennis courts, etc.)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Public or private nonprofit recreational facilities, indoor, gross floor area less than 5,000 sq. ft. (bowling alleys, skating rinks,</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>

Steep Slope/High Elevation Overlay Permitted Use Table

<u>Uses</u>	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
	<u>Districts</u>									
	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>gymnasiums, etc.)</u>										
<u>Public or private nonprofit recreational facilities, indoor, gross floor area 5,000 sq. ft. or more (bowling alleys, skating rinks, gymnasiums etc.)</u>					<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Utility stations and substations, pumping stations, water and sewer plants, water storage tanks</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Radio and TV towers</u>	<u>C</u>			<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Repair services, gross floor area less than 5,000 sq. ft. (electrical and appliances)</u>					<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>
<u>Restaurants, gross floor area less than 5,000 sq. ft.</u>					<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Retail trade, commercial</u>					<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>		<u>P</u>

Steep Slope/High Elevation Overlay Permitted Use Table										
Uses	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
	<u>Districts</u>									
	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>services, sales and rental of merchandise and equipment, gross floor area less than 5,000 sq. ft. (inside building with no outside sales storage)</u>										
<u>Vacation rentals</u>				<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>		<u>P</u>
<u>Schools, public and private</u>		<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>		<u>C</u>		<u>C</u>
<u>Schools-- Vocational, business and special schools</u>						<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Travel trailers</u>				<u>P</u>						<u>P</u>
<u>Travel trailer parks</u>				<u>C</u>						<u>C</u>

(e) Development standards.

- (1) Lot size standards. Any new lot created in the Steep Slope/High Elevation Overlay District after the effective date of this section shall be a minimum of 1.5 acres.
- (2) Density standards. No more than 2 dwelling units per lot of record shall be allowed in the Steep Slope/High Elevation Overlay District except in those zoning districts that allow multifamily dwelling units. The maximum multifamily residential dwelling units allowed per acre shall be 0.75. No more than two principal buildings or structures shall be allowed on a single lot of record unless a planned unit development is approved by the Board of Adjustment.

(3) Height standards. The maximum building height in the Steep Slope/High Elevation Overlay District shall be 35 feet.

(4) Disturbed and Impervious standards.

(a) The maximum gross site area disturbance allowed in the Steep Slope/High Elevation Overlay District for any single lot, excluding disturbance for installation of individual septic systems, shall be:

- for lots less than 2.0 acres shall be 0.3 acres
- for lots 2.0 acres and larger shall be 15 percent

(b) The maximum gross site area impervious surface allowed in the Steep Slope/High Elevation Overlay District for any single lot shall be:

- for lots less than 2.0 acres shall be 0.16 acres
- for lots 2.0 acres and larger shall be 8 percent

These limits shall apply to individual lot improvements, including drives, utilities, and stormwater controls but shall not apply to installation of individual septic systems. When communal infrastructure, including but not limited to roadways, shared drives, public utilities, public facilities and stormwater controls, is installed in accordance with an approved minor or major subdivision plan, the disturbed and impervious area shall be regulated by the Land Development and Subdivision Ordinance and not by this article.

Expansions to structures existing at the time this article was adopted must meet the gross site area disturbed and impervious limitations, however the disturbed and impervious area of the existing development is not required to be included in the disturbed and impervious area calculations.

(5) Screening standards. The following screening regulations shall be required within the Steep Slope/High Elevation Overlay District for all new structures and any modification to an existing structure exceeding 50 percent of the appraised value of the structure.

The surfaces of the structure which are oriented to the downhill sections of the lot or the downhill sections of the adjacent topography (downhill sections are defined as areas of the property which drop 25 feet or more in elevation within 100 feet of the structure) must be screened at a ratio of one tree of 1.5 inch diameter measured 6 inches above the root ball for every 200 square feet of planar surface. Planar surface is defined as the

combined exterior surface area of all vertical surfaces within a single face of the structure. Trees planted to achieve the required ratio must be planted no greater than 50 feet from the furthest extending portion of the structure (measured perpendicularly). Trees must be of varying, native species, as defined by the Natural Resource Conservation Service of the United States Department of Agriculture, and no single species shall comprise more than 50 percent of the trees planted. Trees shall be spaced no less than 10 feet but no greater than 30 feet apart.

Existing trees within the area of allowed disturbance which are left intact and that appear in good health can be credited toward the required ratio. The following credit system will be observed:

<u>Tree Dimensions</u>	<u>Credits</u>
<u>2.5" to 4" DBH (minimum 8' tall)</u>	<u>1 tree</u>
<u>4" to 6" DBH (minimum 15' tall)</u>	<u>1.5 trees</u>
<u>6" to 10" DBH (minimum 20' tall)</u>	<u>2 trees</u>
<u>10" to 16" DBH (minimum 25' tall)</u>	<u>2.5 trees</u>
<u>16" or greater (minimum 30' tall)</u>	<u>3 trees</u>

Trees to be credited shall be marked using flagging tape prior to site disturbance in order to ensure their health throughout site development.

- (f) Engineering standards for certain slopes. Consultation with a geotechnical engineer shall be required for development in areas of a tract within the Steep Slope/High Elevation Overlay District in excess of 35 percent natural slope and for all areas designated as High Hazard or Moderate Hazard on the Buncombe County Slope Stability Index Map prepared by the North Carolina Geological Survey, and an investigation for colluvial deposits shall be made. Recommendations of the geotechnical engineer shall be submitted with the application for review. Prior to final approval, a report by the geotechnical engineer shall be required certifying that recommendations were followed during construction.

Global stability analysis shall be performed for homesites on a 35 percent or greater slope or in an area designated as High Hazard or Moderate Hazard on the Buncombe County Slope Stability Index Map prepared by the North Carolina Geological Survey."

- (e) **By adding Section 78-646 as follows:**

"Sec. 78-646. Protected Ridge Overlay District

(a) Purpose. The Protected Ridge Overlay District is established in recognition that the development of land in steep, mountainous areas involves special considerations and requires unique development standards. This section is intended to limit the density of development, preserve the viewshed and protect the natural resources of Buncombe County's protected mountain ridges, consistent with the recommendations of the 1998 Buncombe County Land Use Plan and supplemental to the provisions of the Mountain Ridge Protection Act of 1983. Further, in accordance with North Carolina General Statutes §153A-342, this Protected Ridge Overlay District provides for additional requirements on properties within one or more underlying general districts related to the erection, construction, reconstruction, alteration, repair, or use of buildings, or structures within the Protected Ridge Overlay District in addition to the general underlying zoning regulations including, but not limited to, height, number of stories and size of buildings and other structures.

(b) Applicability. This section shall apply to all Buncombe County mountain "ridges" whose elevation is at least 3,000 feet and whose elevation is 500 or more feet above the elevation of an adjacent valley floor and including 500 foot buffers, measured horizontally from the center line of the ridge as specifically identified and delineated on the zoning map entitled "The Official Zoning Map of Buncombe County, North Carolina."

(c) Permitted uses. Uses are permitted in the Protected Ridge Overlay District pursuant to the following table. All uses not listed are not allowed.

(d) Conditional uses. All conditional uses shall be administered in accordance with Division VI of this chapter.

<u>Protected Ridge Overlay Permitted Use Table</u>										
<u>Uses</u>	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
	<u>Districts</u>									
	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>Single-family residential dwelling, including modular</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Manufactured/mobile homes-Residential</u>	<u>P</u>			<u>P</u>			<u>P</u>			<u>P</u>

Protected Ridge Overlay Permitted Use Table										
Uses	<u>P = Permitted</u> <u>C = Allowed as Conditional Use</u> <u>Blank Space = Not Permitted</u>									
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	<u>R-LD</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>NS</u>	<u>CS</u>	<u>EMP</u>	<u>PS</u>	<u>BDM</u>	<u>OU</u>
<u>Subdivisions</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Accessory buildings</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Cemetery</u>	<u>P</u>		<u>P</u>	<u>P</u>		<u>P</u>		<u>P</u>		<u>P</u>
<u>Churches</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Family care home</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				<u>P</u>	<u>P</u>	<u>P</u>
<u>Government protective services</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Government radio and TV towers</u>	<u>P</u>			<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Home occupations</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Public or private nonprofit recreational facilities, outdoor (parks, playgrounds, tennis courts, etc.)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Utility stations and substations, pumping stations, water and sewer plants, water storage tanks</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>

(e) Development standards.

(1) Lot size standards. Any new lot created in the Protected Ridge

Overlay District after the effective date of this section shall be a minimum of 2 acres.

- (2) Density standards. No more than two principal buildings or structures shall be allowed on a single lot of record in the Protected Ridge Overlay District unless a planned unit development is approved by the Board of Adjustment.
- (3) Height standards. The maximum building height in the Protected Ridge Overlay District shall be 25 feet when the structure is 50 or fewer vertical feet from the crest of the ridge. The maximum building height in the Protected Ridge Overlay District shall be 35 feet when the structure is more than 50 vertical feet from the crest of the ridge. The vertical distance between the structure and the crest shall be the difference between the elevation (above sea level) of the highest ground level at the structure foundation and the lowest elevation of the crest of the ridge perpendicular to the structure.
- (4) Building width standards. Building width in the Protected Ridge Overlay District shall not exceed 30 percent of the lot width as measured at the face(s) of the building oriented to the downhill section of the lot or adjacent topography and parallel to the crest of the ridge.
- (5) Lot width standards. Minimum lot width in the Protected Ridge Overlay District, as measured parallel to the crest of the ridge, shall be 200 feet.
- (6) Disturbed and Impervious standards.
 - (a) The maximum gross site area disturbance allowed in the Protected Ridge Overlay District for any single lot, excluding disturbance for installation of individual septic systems, shall be:
 - for lots less than 2.0 acres shall be 0.3 acres
 - for lots 2.0 acres and larger shall be 15%
 - (b) The maximum gross site area impervious surface allowed in the Protected Ridge Overlay District for any single lot shall be:
 - for lots less than 2.0 acres shall be 0.16 acres
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These limits shall apply to individual lot improvements, including

drives, utilities, and stormwater controls but shall not apply to installation of individual septic systems. When communal infrastructure, including but not limited to roadways, shared drives, public utilities, public facilities and stormwater controls, is installed in accordance with an approved minor or major subdivision plan, the disturbed and impervious area shall be regulated by the Land Development and Subdivision Ordinance and not by this article.

Expansions to structures existing at the time this article was adopted must meet the gross site area disturbed and impervious limitations, however the disturbed and impervious area of the existing development is not required to be included in the disturbed and impervious area calculations.

- (7) Screening standards. The following screening regulations shall be required within the Protected Ridge Overlay District for all new structures and any modification to an existing structure exceeding 50 percent of the appraised value of the structure.

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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 regarding Article VI, Chapter 78 or parts of ordinances regarding Article VI Chapter 78 of the Buncombe County Code of Ordinances which are in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Any ordinance outside of Article VI, Chapter 78 or parts of ordinances outside of Article VI, Chapter 78 of the Buncombe County Code of Ordinances which conflict with this ordinance, the most restrictive provision shall prevail.

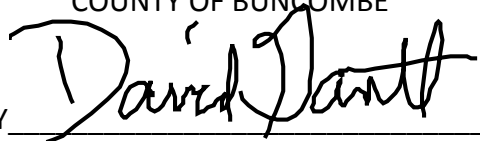
Section 5. This ordinance is effective upon adoption.

Read, approved and adopted this _____ day of October, 2010.

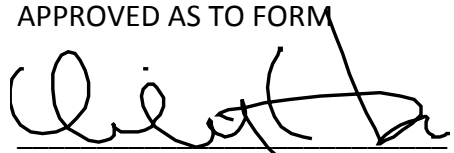
ATTEST


Kathy Hughes, Clerk

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

BY 
David Gantt, Chairman

APPROVED AS TO FORM


Michael C. Frue, County Attorney