

ORDINANCE NO. 15-09-02

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

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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 Buncombe County Planning Board met to consider the proposed amendments and recommended in a vote of 5 to 2 on August 17, 2015 that the amendments to modify the requirements of the Blue Ridge Parkway Overlay District are consistent with the Buncombe County Comprehensive Land Use Plan and Updates thereto, and are reasonable and in the public interest, and further recommended that the Board of Commissioners approve the proposed amendments; and

WHEREAS, this Board has reviewed these written recommendations of the Buncombe County Planning Board dated August 17, 2015; 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 BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. This Board has resolved by Resolution adopted separately that the adoption of the proposed amendment to the text of the Zoning Ordinance of Buncombe County is consistent with the Buncombe County Land Use Plan and updates and is reasonable and in the public interest.;

Section 2. That this Board does hereby approve the following amendments to The Zoning Ordinance of Buncombe County:

**Modify Sec. 78-643. Blue Ridge Parkway Overlay District as follows:**

(a) *Purpose.* Realizing the importance of the Blue Ridge Parkway to the economy of Asheville, Buncombe County, and western North Carolina, the Blue Ridge Parkway Overlay District is created to protect and preserve the unique features of this asset to the city, the county, and the region. The standards established in this district will protect the scenic quality of the Blue Ridge Parkway and reduce encroachment on its rural setting.

(b) *Applicability.* The provisions set forth in this section for the Blue Ridge Parkway Overlay District shall apply to all properties within 1,320 feet of the centerline of the Blue Ridge Parkway located within Buncombe County's zoning jurisdiction. Both privately and publicly owned property shall be subject to the requirements set forth herein.

(c) *Development standards.*

(1) *Setback requirements.*

a. *Principal buildings.* Principal buildings and structures to be located adjacent to the Blue Ridge Parkway shall have a minimum setback of 50 feet from the boundary of property owned by the United States government and designated as the Blue Ridge Parkway if the buildings and structures are visible from the Blue Ridge Parkway roadway.

b. *Accessory buildings.* Accessory buildings and structures to be located adjacent to the Blue Ridge Parkway shall have a minimum setback of 30 feet from the boundary of property owned by the United States government and designated as the Blue Ridge Parkway if the buildings and structures are visible from the Blue Ridge Parkway roadway.

(2) *Building heights.* No building or structure shall be constructed with a height in excess of 40 feet within 1,000 feet of the centerline of the Blue Ridge Parkway, if visible from the centerline of the Blue Ridge Parkway roadway.

~~(3) *Buffering requirements.* A buffer for development of any type, other than single-family residential, which is to be located adjacent to the Blue Ridge Parkway within 1,000 feet of the centerline of the Blue Ridge Parkway and which will be visible between April and October from the Blue Ridge Parkway roadway, shall be provided according to the following specifications:~~

~~a. *A minimum bufferyard width of 30 feet measured from the property line is required and shall be located within the required setback.*~~

b. Total number of plants: Ten plants per 100 linear feet are required, of which five should be evergreen trees (min. six feet at planting), three should be large deciduous trees (min. two-inch caliper, ten to 12 feet at planting), and two should be small deciduous trees (min. 1.5-inch caliper, eight to ten feet at planting). The preservation of existing trees within the bufferyard is encouraged.

(3) Screening standards. The following screening regulations shall be required within the Blue Ridge Parkway Overlay District for all new structures and any modification to an existing structure exceeding 50 percent of the appraised value of the structure, if the buildings and structures are visible from the Blue Ridge Parkway roadway, as viewed from the closest point on the roadway perpendicular to the proposed structure.

The surfaces of the structure which are visible and oriented to the Blue Ridge Parkway must be screened by one overstory species for each 15 linear feet and one understory species for each 10 linear feet of the structure. See Sec. 78-584 (c) for allowed overstory and understory species and required size at planting. No single species shall comprise more than 50 percent of the overstory or understory species planted. Overstory species shall be planted no less than 20 feet apart and no more than 40 feet apart. Understory species shall be planted no less than ten (10) feet apart and no more than 25 feet apart. Overstory and understory species shall not be planted in a row, shall not be evenly spaced, and shall be positioned no more than 100 feet from the structure to be screened.

Existing trees within 100 feet of the structure to be screened which are left intact and that appear in good health can be credited toward the screening requirement. Existing overstory species may only receive credit for the overstory requirement and existing understory species may only receive credit for the understory requirement. 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 8" DBH (minimum 15' tall)</u>      | <u>1.5 trees</u> |
| <u>8" or greater DBH (minimum 20' tall)</u> | <u>2 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.

(d) Notice of proposed development. The planning department shall assure that the National Park Service is notified and given an opportunity to make recommendations concerning major subdivisions, rezonings, conditional uses, and variances proposed within the Blue Ridge Parkway Overlay District.

Section 3. That 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; and

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

Section 5. This ordinance is effective upon adoption.

Read, approved and adopted this 1<sup>st</sup> day of September, 2015.

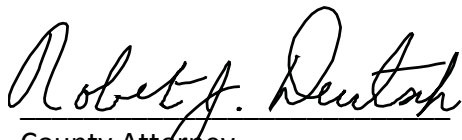
ATTEST

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

  
Kathy Hughes, Clerk

BY   
David Gantt, Chairman

APPROVED AS TO FORM

  
County Attorney