

ORDINANCE NO. 17-10-12

ORDINANCE AMENDING THE TEXT OF 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;
- 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. §153A-323, the County may amend its zoning ordinance after giving proper public notice and holding a public hearing;
- 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;
- WHEREAS, the Planning Board recommended in a vote of **7 to 0** on October 2, 2017 that the text amendments to modify the Zoning Ordinance of Buncombe County in order to modify §78-719, Purposes in View to add clarifying language that ties adoption or rejection of zoning amendments to the comprehensive plan based on recent changes to state law adopted by the NCGA; modify §78-645(e)(3) and (4), Protected Ridge Overlay District to add clarifying language that removes references to the orientation of structures in relationship to the crest of the ridge to assist in the application of the Protected Ridge Overlay District's goals of regulating height and width of structures; and modify §78-650(c)(1)(a), Community Oriented Development to clarify and add language to the methodology for which density is calculated for Community Oriented Developments, 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;
- WHEREAS, this Board has reviewed this written recommendation 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 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 amendments to the text of the Zoning Ordinance of Buncombe County are

consistent with the Buncombe County Land Use Plan and updates and are reasonable and in the public interest;

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

Sec. 78-719. Purposes in view.

Prior to consideration by the board of commissioners of a proposed zoning amendment, the ~~The~~ planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan ~~that has been adopted and any other officially adopted plan that is applicable.~~ The planning board shall provide a written recommendation to the board of county commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners.

If no written report is received from the planning board within 30 days of referral of the amendment to that board, the board of county commissioners may proceed in its consideration of the amendment without the planning board report at a public hearing as provided below. The board of commissioners is not bound by the recommendations, if any, of the planning board.

Prior to adopting or rejecting any zoning amendment, the board of commissioners shall adopt a statement one of the following statements which shall not be subject to judicial review:

1. A statement approving the zoning amendment and describing whether its action is consistent its consistency with an adopted comprehensive plan and explaining why ~~the board of commissioners considers~~ the action taken ~~to be is~~ reasonable and in the public interest. ~~That statement is not subject to judicial review.~~
2. A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
3. A statement approving the zoning amendment and containing at least all of the following:
 - a. A declaration that the approval is also deemed an amendment to the comprehensive plan. The board of commissioners shall not require any additional request or application for amendment to the comprehensive plan.
 - b. An explanation of the change in conditions the board of commissioners took into account in amending the zoning ordinance to meet the development needs of the community.
 - c. Why the action was reasonable and in the public interest.

Sec. 78-645. Protected Ridge Overlay District

(e) *Development standards.*

(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 ~~then 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~~.

Sec. 78-650. Community Oriented Development

(c) Development Standards

- (1)(a)*Community Oriented Development Density Table.* Density may be increased up to 250 percent of that allowed in section 78-642, according to the following table. In order to obtain any bonus in density, points must be obtained from at least two of the three principal categories within the table (Community, Environment/Transit, Economy); additional points may be obtained through providing Added Amenities. ~~For every point earned according to the density table below, project density may be increased by one (1) percent. Project density will be calculated as follows: the number of points earned will be converted to a percentage which will be the density bonus multiplier. For example, an application that earns 159 points will result in a density bonus multiplier of 159% and the density earned will be 159% of that allowed in Sec. 78-642. In the case of a fractional unit, a fraction of one-half or more will be considered a whole unit and a fraction of less than one-half will be disregarded.~~

- 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 17th day of October, 2017.

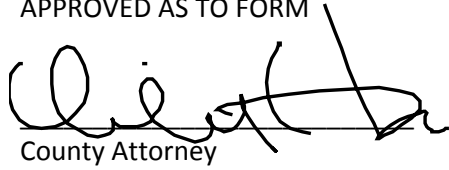
ATTEST


Kathy Hughes, Clerk

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

BY 
Brownie Newman, Chairman

APPROVED AS TO FORM


County Attorney