



Buncombe County Legal Department

Michael C. Frue
Senior Staff Attorney
J. Brandon Freeman
Staff Attorney

November 30, 2018

Via Electronic Mail to:

The NCGA Joint Legislative Administrative Procedure Oversight Committee
c/o Co-Chair Rep. Jonathan C. Jordan (Jonathan.Jordan@ncleg.net)
Co-Chair Sen. Andy Wells (Andy.Wells@ncleg.net)

The NCGA Joint Legislative Oversight Committee on Justice and Public Safety
c/o Co-Chair Rep. James L. Boles, Jr. (Jamie.Boles@ncleg.net)
Co-Chair Rep. Ted Davis, Jr. (Ted.Davis@ncleg.net)
Co-Chair Sen. Shirley B. Randleman (Shirley.Randleman@ncleg.net)

NCGA Principal Legislative Attorney Susan Sitze (susan.sitze@ncleg.net)


RE: Buncombe County's Submission Regarding Session Law 2018-69 (HB 379)
Entitled "An Act to Assist the Criminal Law Recodification Working Group"

Esteemed Committee Members:

Enclosed please find Buncombe County's submission as ordered by Session Law 2018-69 (HB 379).

Please do not hesitate contacting me if I may answer any questions, supplement this submission, or assist in any other way.

Respectfully Submitted,


J. Brandon Freeman
Buncombe County Staff Attorney

Cc: Susan Sitze (susan.sitze@ncleg.net)
NCGA Principal Legislative Attorney

Enclosure: (1)

BUNCOMBE COUNTY CODE OF ORDINANCES' TABLE OF CONTENTS,
REDACTED TO LIST THOSE ORDINANCES PUNISHABLE BY N.C. GEN.
STAT. § 14-4(A), AND ANNOTATED TO DESCRIBE THE CONDUCT
PUNISHABLE BY THE SAME¹

BUNCOMBE COUNTY CODE OF ORDINANCES²

Chapter 1 - GENERAL PROVISIONS

Sec. 1-7. - General penalty. (Establishes a general penalty of misdemeanor for provisions or requirement in the Buncombe County Code of Ordinances)

- (a) Any person violating or failing, refusing or neglecting to comply with any provision or requirement of any section or subsection of this Code, or any ordinance of this county now in force or hereafter enacted, to which no specific penalty is affixed, shall be punished by a fine not to exceed \$500.00, or shall be imprisoned for not more than 30 days, for each offense.

State Law reference — Violations of county ordinances deemed misdemeanors, G.S. 14-4, 153A-123; prescribing alternate methods for enforcement of ordinances and authorizing the making of each day's continuing violation a separate offense; injunction, G.S. 1-485 et seq.

Chapter 6 - ANIMALS

ARTICLE II. - ANIMAL CONTROL

DIVISION 1. - GENERALLY

Sec. 6-26. - Purpose.(It is the purpose of this article to regulate ownership and possession of animals; prohibit certain acts, omissions and conditions which interfere with the health, safety and general welfare of the inhabitants of the county and those municipalities coming under the provisions of this article; to protect the public from unvaccinated, diseased, stray, roaming, dangerous or wild animals; to make unlawful, acts of animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; to provide for the peace and dignity of residents; and to perform any other duties authorized by applicable state laws.)

¹ Disclaimer: this annotated and redacted table of contents represents Buncombe County's good-faith effort to "create a list of applicable ordinances with a description of the conduct subject to criminal punishment in each ordinance" as required by S.L. 2018-69 (H 379). While every effort was made to ensure the accuracy and completeness of this list, Buncombe County does not warrant that this list is exhaustive. Any questions regarding criminal and or civil liability under Buncombe County's Code of Ordinances should be directed to an attorney.

² Please note that all blue text in this document is a hyperlink to the relevant section of the Buncombe County Code, which is available online at:

<https://library.municode.com/nc/buncombe%20county/codes/code%20of%20ordinances?nodeid=COOR%20CH34FL>

DIVISION 3. - REGULATIONS

Sec. 6-56. - Rabies control. (Criminalizes failure to follow rabies laws).

Sec. 6-57. - Public nuisance. (Criminalizes maintain animals in a manner that creates a public nuisance).

Sec. 6-58. - Animal care. (Criminalizes the abuse, abandonment, and/or neglect of animals).

Sec. 6-60. - Bird sanctuaries. (Criminalizes the taking of birds within a sanctuary).

Sec. 6-61. - Wild animals. (Criminalizes the keeping of Wild and/or exotic animals).

Sec. 6-62. - Dead animals. (Criminalizes the improper disposal of dead animals).

Sec. 6-63. - Spaying and neutering requirements; unaltered animals permit required. (Criminalizes the unpermitted unaltering of dogs and cats over six months' old).

Sec. 6-64. - Obtaining an unaltered animal permit.

Sec. 6-65. - Prohibition against giveaways in public places. (Criminalizes the unpermitted display and giveaway of animals in public places).

DIVISION 4. - RESTRAINT AND IMPOUNDMENT

Sec. 6-76. - Restraint of dogs. (Criminalizes the improper restraint of dogs).

DIVISION 5. - PREVENTIVE MEASURES AND DANGEROUS DOGS

Sec. 6-82. - Unlawful to sell information. (Criminalizes the selling or giving away of personal information gathered under the Animal Control Article for commercial purposes or financial gain (excepting information constituting a public record under North Carolina's Public Records law)).

DIVISION 6. - SEIZURE AND DISPOSITION; BOND

Sec. 6-112. - Seizure and disposition of animals. (Criminalizes an animal's Owner's failure to comply with seizure order.)

DIVISION 7. - ENFORCEMENT AND APPEALS

Sec. 6-116. - Criminal penalties. ("Violation of this [Animal Control] article may subject the violator to criminal as well as civil action. In addition to the civil penalties or fees imposed under this article, violation of this article shall be a misdemeanor for which a criminal summons or warrant may be issued. Any violator convicted of such violation shall be punishable as provided in G.S. 14-4. Each day's violation of this section is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve the violator of his liability for taxes, civil penalties or fees imposed under this article.").

Chapter 10 - BUILDINGS AND BUILDING REGULATIONS

ARTICLE II. - REGULATORY CODES (Criminalizes non-compliance with the regulatory codes below, when applicable).

Sec. 10-26. - Scope of article and codes.

Sec. 10-27. - Adoption of building code.

Sec. 10-28. - Adoption of plumbing code.

Sec. 10-29. - Adoption of heating code.

Sec. 10-30. - Adoption of electrical code.

Sec. 10-31. - Adoption of residential building code.

Sec. 10-32. - Adoption of mobile and modular home code.

Sec. 10-33. - Adoption of the state fire prevention code.

Sec. 10-34. - Amendments to codes.

Sec. 10-35. - Compliance with codes.

Sec. 10-36. - Copies of codes filed with clerk.

ARTICLE III. - ADMINISTRATION AND ENFORCEMENT

DIVISION 2. - DEPARTMENT OF GENERAL SERVICES

Sec. 10-68. - Conflicts of interest. (Criminalizes financial conflicts of interest of members of general services).

Sec. 10-73. - Contractors—Registration. (Criminalizes contractors' non-registration).

Sec. 10-74. - Same—Evidence of insurance required. (Criminalizes contractors' non-insurance).

DIVISION 3. - PERMITS

Sec. 10-86. - Required. (Criminalizes certain unpermitted construction).

ARTICLE IV. - UNSAFE BUILDINGS

Sec. 10-135. - Willful failure or refusal to comply with order. (Criminalizes willful failure or refusal to comply with lawful order concerning unsafe buildings).

ARTICLE V. - RENTAL HOUSING ORDINANCE

Sec. 10-153. - Purpose. (The purpose of this article is to “remedy and prevent the decay and deterioration of places of human habitation by providing minimum requirements for the protection of the life, health, welfare, safety, and property of the general public and the owners and occupants of places of human habitation.”).

Sec. 10-164. - Enforcement. (Subsection (h) criminalizes any violation of the Rental Housing Ordinance Article).

Sec. 10-166. - Other unlawful acts. (Subsection (a) criminalizes the damage or defacement of any complaint, notice, order or certificate posted in accordance with the provisions of Rental Housing Article, unless the enforcement officer consents in writing to such action).

Chapter 14 - BUSINESSES

ARTICLE III. - MESSAGE PARLORS AND HEALTH SALONS

DIVISION 1. - GENERALLY

Sec. 14-79. - Hours of operation. (Criminalizes the practice of massage outside the hours of 8:00 a.m. and 10:00 p.m.).

Sec. 14-80. - Treatment of persons of opposite sex. (Criminalizes the massaging of members of the opposite sex without an appropriate healthcare providers' note).

Sec. 14-81. - Patronage by minors. (Criminalizes the massaging of minors without an appropriate healthcare providers' note).

DIVISION 2. - LICENSE

Sec. 14-92. - False statements. (Criminalizes false statements in application for massage license).

Sec. 14-97. - Names of employees to be filed with sheriff. (Creates duty to register with sheriff).

Sec. 14-98. - Records to be kept by licensee. (Creates duty to keep records).

Sec. 14-100. - Massages by unlicensed persons. (Criminalizes massage by unlicensed persons without adequate supervision).

Sec. 14-101. - Bond required of certain businesses.

Secs. 14-102—14-120. - Reserved.

ARTICLE IV. - ADULT ESTABLISHMENTS (The purpose of this Article shall be to set forth the regulatory licensing requirements for adult establishments located within the county).

Sec. 14-125. - Prohibited acts and conduct.

(a) No person under the age of 21 years shall be permitted on the premises of any adult establishment.

(b) No person under the age of 21 years shall be granted a license for an adult establishment business or as an entertainer.

(c) No owner, operator, manager, employee or entertainer, nor any customer or patron, shall perform any specified sexual activities as defined in this article, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities, as defined in this article, or participate in any act of prostitution while on the premises of the adult establishment.

(d) No owner, operator, manager, employee, entertainer, customer or patron of an adult establishment shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of his or hers, whether such specified anatomical areas are clothed, unclothed, covered or exposed, while on the premises of the adult establishment.

(e) No owner, operator, manager or other person in charge of the premises of an adult entertainment premises shall knowingly allow or permit any person under the age of 21 years of age to be in or upon the premises or knowingly allow or permit a violation of this article.

(f) Where any adult establishment provides or contains booths designed for individual or private viewing of adult motion pictures, adult live entertainment, sexually anatomical areas, or specified sexual activities, said booths must be designed and situated so that the area occupied by the patron is visible at all times from a central location within the establishment, and may not have a door, curtain or other device that shields the patron from view.

(g) Any entertainer as defined herein, must keep his or her pubic region and genital area fully and opaquely covered at all times during any adult live entertainment, exhibition, show, or performance in an adult establishment. Other employees of adult establishments, including servers of alcoholic beverages, must keep their sexually anatomical areas fully and opaquely covered while in the public areas of the adult establishment.

(h) No person in an adult establishment who is not engaged in adult live entertainment, or an exhibition, show or performance may expose any sexually anatomical areas in any public area of an adult establishment.

(i) No entertainer in an adult establishment may touch a patron unless the entertainer's sexually anatomical areas are fully and opaquely covered.

(j) No other activity associated with an adult establishment may be conducted on the same premises as the adult establishment unless said activity is conducted within the same permanent enclosure housing the adult establishment. This limitation shall not apply to such activities as parking, building maintenance and other common incidents of premises use and occupancy.

Sec. 14-126. - License—Posting and display. (Requires License to be displayed).

Sec. 14-130. - Violations and penalties. (Criminalizes any violation of the Adult Establishment Article).

Sec. 14-131. - Outside signage. (Requires outside signage).

ARTICLE II. - EMERGENCY MANAGEMENT AGENCY

Sec. 21-131. - Violations. (“Any person who violates any provision of an ordinance or a declaration enacted or declared pursuant to this chapter shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.” Note: this is probably a reference to a specific statute rather than an ordinance made punishable by N.C. Gen. Stat. § 14-4(A)).

Chapter 22 - EMERGENCY SERVICES

ARTICLE II. - AMBULANCE SERVICES

Sec. 22-28. - Penalties for violations of article.

(a) It shall be a misdemeanor for any person to obtain or receive ambulance service without intending at that time of obtaining or receiving such services to pay, if financially able, the necessary charges....

(b) Violations of this article, or the terms of any franchise granted under this article, shall be a misdemeanor, as provided by G.S. 14-4....

Chapter 26 - ENVIRONMENT

ARTICLE II. - AIR POLLUTION CONTROL (establishes a local air pollution control program for the county.)

Sec. 26-33. - Penalties and remedies for violation of article. (Criminalizes violations of requirements contained in the Air Pollution Control Article).

DIVISION 4. - CONTROL AND REDUCTION STANDARDS

Sec. 26-72. - Regulation no. 1; control and prohibition of open burning.

Sec. 26-73. - Regulation no. 2; control and prohibition of visible emissions from combustion processes.

Sec. 26-74. - Regulation no. 3; classifications for air contaminant sources.

Sec. 26-75. - Ambient air quality standards.

ARTICLE III. - JUNKYARDS

DIVISION 1. - GENERALLY

Sec. 26-121. - Purpose and intent of article. (Regulates any establishment, place of business or place which is maintained, operated, or used for storing, keeping, buying or selling junk, or for maintenance or operation of an automobile graveyard and the term shall include garbage dumps and sanitary fills.)

Sec. 26-138. - Penalties and remedies for violation of article. (Criminalizes violations of the Junkyard Article).

ARTICLE IV. - NOISE (makes it unlawful for any person or persons to make, permit, continue, or cause to be made or to create any unreasonably loud, disturbing, and unnecessary noise in the county. In determining whether a noise is unreasonably loud, disturbing and unnecessary, the following factors incident to the noise are to be considered: time of day; proximity to residential

structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of mechanical means; the nature and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity or is the result of some use for individual purposes; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof).

[Sec. 26-186. - Enforcement; violations; penalties.](#) (Criminalizes violations of the Noise Article).

ARTICLE V. - SOIL EROSION AND SEDIMENTATION CONTROL

[Sec. 26-208. - Purpose of article.](#) (This article is adopted for the purposes of: (1) Regulating certain land disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and (2) Establishing procedures through which these purposes can be fulfilled.)

[Sec. 26-231. - Penalties for violation of article.](#) (Subsection (c) provides that “Any person who knowingly or willingly violates any provision of this [Soil Erosion and Sediment Control] article, or rule or order adopted or issued pursuant to this article, or who knowingly or willfully initiates or continues a land disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a class 2 misdemeanor, which may include a fine not to exceed \$5,000.00, as provided by G.S. 113A-64.” Note: this is probably a reference to a specific statute rather than an ordinance made punishable by N.C. Gen. Stat. § 14-4(A)).

ARTICLE VI. - JUNKED AND ABANDONED VEHICLES

[Sec. 26-276. - Authority and purpose.](#) (The purpose of this article is to protect the health, safety, natural scenic beauty, and property values of the county from potential adverse effects caused by the proliferation and improper disposal of junked motor vehicles. It makes it unlawful “for the registered owner or person entitled to possession of a motor vehicle and for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave, or allow the vehicle to remain on the property after it has been declared an abandoned vehicle...; to leave, allow or suffer the vehicle to remain on the property after it has been declared a nuisance vehicle” and regulates and the keeping of junked vehicles on one’s own property).

[Sec. 26-283. - Enforcement provisions.](#) (Criminalizes violations of the Junked and Abandoned Vehicle Article).

ARTICLE VII. - STORMWATER MANAGEMENT

DIVISION 1. - GENERAL PROVISIONS

[Sec. 26-301. - Purpose.](#) (To “protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of stormwater runoff associated with new development. Proper management of stormwater runoff will protect property, control stream channel erosion, prevent increased flooding associated with new development, protect floodplains, wetlands, water resources, riparian and aquatic ecosystems, and otherwise provide for environmentally sound use of the county's natural resources”).

[Sec. 26-323. - Penalties for violation.](#) ((g.) “Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law”).

ARTICLE VIII. - RETAINING WALLS (Regulates the construction of retaining walls greater than ten (10) feet high).

Sec. 26-504. - Penalties for violations. (Criminalizes violations of the Retaining Wall Article).

Chapter 30 - FIRE PREVENTION AND PROTECTION

Sec. 30-26. - Purpose. (An ordinance to provide the county with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installment, use and maintenance of equipment; regulating the use of structures, premises and open areas; providing for the abatement of fire hazards; establishing the responsibilities and procedures for code enforcement; and setting forth the standards for compliance and achievement of these objectives.)

Sec. 30-44. - Violation; penalty. (Criminalizes violations of the Fire Prevention and Protection Article).

Chapter 34 - FLOODS

ARTICLE II. - FLOOD DAMAGE PREVENTION

Sec. 34-28. - Statement of purpose. (It is the purpose of this article to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to: (1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities; (2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction; (3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters; (4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and (5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.)

Sec. 34-38. - Penalties for violation. (Criminalizes violations of the Flood Damage Prevention Article).

Chapter 38 - HISTORICAL PRESERVATION

ARTICLE I. - IN GENERAL (The purpose of this chapter is to create a commission and framework for the preservation of historical districts and properties by, among other things, that “after the designation of an historic district, no exterior portion of any building or other structure, including stone or masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features; nor aboveground utility structure; nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the resources commission. Further, no archaeological resource associated with such a structure shall be altered, moved or removed within such district until after an application for a certificate of appropriateness as to the archaeological evidence has been submitted to and approved by the resources commission. The governing body shall require such a certificate to be issued by the

commission prior to the issuance of a building permit or other permit granted for purposes of constructing, altering, moving or demolishing structures, which certificate may be issued, subject to reasonable conditions necessary to carry out the purposes of this division. A certificate of appropriateness shall be required whether or not a building or other permit is required.” (Sec. 38-77.)).

[Sec. 38-2. - Penalty for violation of chapter.](#) (Criminalizes violations of the Historical Preservation Chapter).

Chapter 46 - MANUFACTURED HOMES AND TRAILERS

ARTICLE I. - IN GENERAL

[Sec. 46-1. - Entrance, movement and setup of all pre-1976 mobile homes within the county.](#) (“This section is designed to accomplish the following objectives: (1) To secure safety from fire, panic and other dangers. (2) To protect individuals from hazards associated with electrical dangers. (3) To protect surrounding properties and residents.” Subsection (f) criminalizes any violation of this Section).

ARTICLE III. - MANUFACTURED HOME PARKS

[Sec. 46-65. - Permit required to establish manufactured home park.](#) (Makes it unlawful “for any person, corporation, partnership or other entity to establish within the jurisdiction of this article any manufacturing home park as heretofore defined without first obtaining a manufactured home park construction permit from the ordinance administrator.”)

[Sec. 46-67. - False statements; penalty for violation.](#) (Makes it a crime “for any person to make any false statement or to submit any altered document in connection with or in support of any application for a permit to establish and operate a manufactured home park.”).

Chapter 50 - OFFENSES AND MISCELLANEOUS PROVISIONS

[Sec. 50-2. - County courthouse property.](#) (Criminalizes the damage, removal or disposal of County Courthouse property without authority)

[Sec. 50-3. - Regulating entry into courthouse.](#) (Criminalizes any bypass of the court security checkpoints/scanners/metal detectors and/or procedures).

[Sec. 50-4. - Carrying of concealed handguns.](#) (criminalizes the carrying of concealed handguns in county offices, buildings, and other property (excluding parks)).

[Sec. 50-5. - Certain usage of county property prohibited; signage.](#) (Criminalizes trespass on posted county property).

[Sec. 50-6. - Registered sex offenders prohibited from entering the county parks and recreation areas.](#) (Criminalizes the entry of registered sex offenders from county parks and recreation areas).

Chapter 54 - PARKS AND RECREATION

[Sec. 54-1. - Penalty for violation of chapter.](#) (Criminalizes violations of the sections below).

[Sec. 54-2. - Fishing permit.](#) (Required).

Sec. 54-3. - Littering.

Sec. 54-4. - Destruction of plants and wildlife.

Sec. 54-5. - Swimming. (Unlawful for any person to swim or bathe in any county-owned lake or pond without written authorization from the director of parks and recreation.)

Sec. 54-6. - Vehicles. (Prohibits off road use; regulates speed; regulates parking; prohibits unapproved vendors).

Sec. 54-7. - Use of facilities; signs. (Prohibits trespass and destruction of signs).

Sec. 54-8. - Permit for certain uses of park.

Sec. 54-9. - Dogs on leash.

Sec. 54-10. - Possession or use of weapons.

Sec. 54-11. - Alcoholic beverages.

Chapter 62 - SOLID WASTE MANAGEMENT

ARTICLE II. - COLLECTION, TRANSPORTATION AND DISPOSAL (Regulates and mandates the proper disposal of Solid Waste in the County).

Sec. 62-33. - Penalties. (Criminalizes violations of the Solid Waste Management Collection,

DIVISION 2. - FRANCHISED COLLECTORS AND HAULERS

Sec. 62-41. - Purpose and intent of division. (“It is the purpose and intent of this division to protect public health and private property by granting one or more exclusive franchises for the collection and disposal of residential and household solid wastes to responsible persons or businesses equipped to render adequate and continuing service throughout the county, and under supervision and regulation by local government agencies, both as to the means and method of collection, and also as to the sanitary disposition of solid waste.”).

Sec. 62-43. - Penalty for violation of division. (Criminalizes violations of the Franchise Collectors and Haulers Division).

ARTICLE III. - HAZARDOUS WASTE

DIVISION 1. - GENERALLY

Sec. 62-71. - Purpose of article. (The purpose of this article is to develop procedures for the regulation and monitoring of all phases of hazardous waste management in order to protect the health, safety and welfare of the citizens and natural resources of the county ... [and] to regulate hazardous waste management not currently governed by state or federal rules and regulations to the extent deemed necessary by the board of commissioners.)

Sec. 62-75. - Enforcement; penalties for violation of article. (Subsection (c) criminalizes violations of any provisions of this article or conditions of a county license or permit).

DIVISION 2. - GENERATORS AND FACILITIES TREATING, STORING AND DISPOSING

Sec. 62-94. - License. (Required; fee; validity; site, owner and use specific; transferal. A county license shall be required for all 10 to 100 kilogram generators and 100 to 1,000 kilogram generators. The initial application for a license shall be accompanied by the currently required license fee. A county license shall be valid for a period of two years. A county license shall be issued for a specific site, owner and use and shall not be transferrable.)

Chapter 70 - SUBDIVISIONS

ARTICLE I. - IN GENERAL

Sec. 70-4. - Purpose of chapter. (“The purpose of this chapter shall be to: (1) Establish procedures and standards for the subdivision of land within the jurisdiction of the county, and to provide for orderly growth in a manner and under conditions that facilitate the adequate provision of streets, water, sewage disposal and other considerations essential to public health, safety, and the general welfare. (2) Provide the county commissioners, planning board, planning department, and other local government agencies and officials with information regarding land development taking place in the county. This information will assist county officials in projecting the need for various public programs and facilities, in estimating population growth, and in projecting revenues and expenditures.”)

Sec. 70-6. - Penalties for violation of chapter. (Any person who, being the owner or agent of any land located within the planning jurisdiction of the county, thereafter subdivides his land in violation of this chapter or transfers or sells land by reference to, exhibition of, or any other use of plat showing a subdivision and recorded in the office of the county register of deeds, shall be guilty of a misdemeanor as set forth in G.S. § 153A-335 or as amended.)

Chapter 72 - TELECOMMUNICATIONS

ARTICLE II. - WIRELESS COMMUNICATIONS FACILITIES

DIVISION 1. - GENERALLY

Sec. 72-29. - Permit required to erect wireless communications facility. (It shall be unlawful for any person, corporation, partnership or other entity to erect within the jurisdiction of this article any wireless communications facility or to increase the height of an existing tower without first obtaining a permit from the ordinance administrator. However, a permit shall not be required for the erection of a replacement tower of no greater height, located at the same site, and within 50 feet of the tower being replaced, provided the replacement tower shall not be closer to existing residences within a radius equal to the height of the tower, plus 50 feet. The tower being replaced shall be removed within 90 days of activation of the replacement tower.)

Chapter 78 - ZONING

ARTICLE II. - WATERSHED PROTECTION (Enacted to protect the county’s watershed).

DIVISION 1. - AUTHORITY AND GENERAL REGULATIONS

Sec. 78-30. - Criminal penalties. (Criminalizes violations of the Watershed Protection Article).

ARTICLE VI. - BUNCOMBE COUNTY ZONING ORDINANCE

DIVISION 1. - GENERALLY

Sec. 78-578. - Purpose. (The purpose of this article is to ensure orderly, attractive, and economically sound development and to protect existing property values within Buncombe County.)

Sec. 78-582. - Violations. (“Whenever, by the provisions of this article, the performance of any act is prohibited, or whenever any regulation, dimension, or limitation is imposed on the use of any land, or on the erection or alterations or the use or change of use of a structure, or the uses

within such structure, a failure to comply with such provisions of this article shall constitute a separate violation and a separate offense.”).

[Sec. 78-583. - Penalties for violations.](#) (Criminalizes violations of the Buncombe County Zoning Ordinance).