

## **AN ORDINANCE TO GOVERN THE HEIGHT OF STRUCTURES IN WATAUGA COUNTY**

WHEREAS, the Board of Commissioners of Watauga County are concerned about the health, safety and general welfare of the general public; and

WHEREAS, the fire departments of Watauga County together with other appropriate agencies have stated that structures higher than forty (40) feet are hazardous to the people in them in case of fire or other disasters; and

WHEREAS, the Watauga County Planning Board and Board of Soil and Water Conservation have requested the Board of Commissioners of Watauga County to exercise its ordinance making power to protect the fragile lands of Watauga County in order to promote the general welfare and safety of the citizens of Watauga County and the people who might visit the County; and

WHEREAS, the Board of Commissioners are authorized to enact ordinances for safety and general welfare by North Carolina General Statutes 153A-121;

NOW, THEREFORE, the Watauga County Board of Commissioners do ordain and establish the following:

### ARTICLE I- REGULATION OF HEIGHT OF STRUCTURES

No building or structure intended for dwelling use may be constructed, reconstructed, or remodeled with a vertical height of more than 40 feet. For purposes of calculating vertical height, the applicant may elect to use either of the following two methods:

- (1) 40 feet measured vertically from the highest point of the roof to the highest point of finished grade within 6 feet horizontally of an exterior wall, or
- (2) 40 feet measured vertically from the average height of the highest roof surface to the “grade plane” as defined in the NC Residential code and NC Building code.

Excluded from this ordinance are the following:

- (a) Water, radio, television, or telephone towers or any equipment for the transmission of electricity or communications, or both.
- (b) Structures which are slender in nature and minor vertical projections of a parent building including chimneys, flag poles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills, provided that part of the structure which is higher than 40 feet is no intended for human habitation.

### ARTICLE II – PERMITS

In the event any person, partnership, or corporation requests a building permit for a structure that is in violation of this ordinance the Watauga County Planning and Inspections Department shall deny the issuance of a building permit.

### ARTICLE III – APPEALS

Appeals from a final binding decision by the Department of Planning and Inspections may be taken to the Board of Adjustment by giving written notice of appeal to the Department and the Clerk to the

Board of Commissioners within thirty (30) days following issuance of the final decision. The appeal shall contain the grounds thereof.

#### ARTICLE IV – VARIANCES

When unnecessary hardships would result from strict application of the ordinance, upon application by an aggrieved party with standing, the Board of Adjustment may hold a hearing pursuant to NCGS §160A-388 (a2) and may grant variances to the provisions of the ordinance in accordance with the standards and procedures established in NCGS §160A-388(d), and as established by County policy.

#### ARTICLE V- ENFORCEMENT AND PENALTIES

Violations of this ordinance shall be subject to the same criminal sanctions, civil penalties and equitable remedies as violations of any county ordinance under North Carolina General Statute 153A-123.

#### ARTICLE VI- SEVERABILITY

Should any section or provision of this ordinance be found by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so found to be unconstitutional or invalid.

#### ARTICLE VII – REPEAL

This ordinance replaces, in its entirety, the existing ordinance entitled An Ordinance to Govern the Height of Structures in Watauga County, adopted March 15, 1983. The previous ordinance shall be repealed as of the effective date of this ordinance.

#### ARTICLE VIII – EFFECTIVE DATE

This ordinance shall become effective on the 2<sup>nd</sup> day of November, 1987.  
Amended the 18<sup>th</sup> Day of August, 2009, 18<sup>th</sup> Day of February, 2014 & the 16<sup>th</sup> Day of September, 2014.