

VIRGINIA:

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF TAZEWELL COUNTY, VIRGINIA, HELD AT THE COUNTY ADMINISTRATION BUILDING, 108 EAST MAIN STREET IN THE TOWN OF TAZEWELL, VIRGINIA, ON THE _____ DAY OF _____, 2009, THE FOLLOWING ORDINANCE WAS ADOPTED, FOLLOWING A PUBLIC HEARING UPON DULY ADVERTIZED NOTICE TO THE PUBLIC AND UPON NOTICE TO THE AFFECTED PROPERTY OWNERS AS REQUIRED BY STATUTE, UPON A MOTION AND SECOND:

Ordinance No.: _____ Date: _____

AN ORDINANCE TO REGULATE CONSTRUCTION OF TALL STRUCTURES ON CERTAIN RIDGELINES IN TAZEWELL COUNTY, VIRGINIA

WHEREAS, the Board desires to protect the scenic beauty of the County's Ridgelines;

WHEREAS, the Board finds that the County's ridgelines are a great resource to the county's economic development because the majestic views they provide attract tourism and encourage residential development in the County;

WHEREAS, Section 15.2-2295.1 of the Code of Virginia (1950) as amended, permits localities to regulate construction of tall structures on ridgelines;

WHEREAS, Section 15.2-2280(2) of the Code of Virginia (1950) as amended, permits localities to regulate the height of buildings and structures in the County;

NOW THEREFORE, be it ORDAINED, pursuant to Sections 15.2-2295.1 and 15.2-2280 *et seq* of the Code of Virginia (1950) as amended, that Chapter 15 of the County Code hereby is amended to include the following ordinance as Section 110 *et seq* thereof:

15-110 Regulation of Mountain Ridge Construction

Certain Mountain Ridgelines identified in the County's comprehensive plan shall be protected by limiting construction of tall buildings and structures that may obstruct the views of their crests or endanger the persons or property of residents located below those ridgelines. Additional areas surrounding the ridgelines shall be included in the protected areas to prohibit excessively tall buildings or structures that, though not built on the ridgeline, would extend to a height such that they nevertheless would endanger protected mountain ridgelines. To account for the County's undulating topography and to limit regulation of property to only that which is necessary to achieve the ordinance's purpose, the Planning Commission shall have discretion to approve some structures on some ridgelines located in protected areas.

15-111 - Definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Construction" means the building, alteration, repair, or improvement of any building or structure.

"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.

"Elevation" means elevation measured from sea level.

"Protected mountain ridgeline area" means areas above 3200 feet in elevation on property designated on the protected mountain ridgeline area map.

"Protected mountain ridge" means a ridge within the protected mountain area shown on the protected mountain area map with (i) an elevation of 3,200 feet or more and (ii) an elevation of 500 feet or more above the elevation of an adjacent valley floor.

"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 and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.

"Tall buildings or structures" means any building, structure or unit within a multi-unit building with a vertical height of more than forty feet measured from the top of the natural finished grade of the crest or the natural finished grade of the high side of the slope of a ridge to the uppermost point of the building, structure or unit. "Tall buildings or structures" do not include (i) water, radio, telecommunications or television towers or any equipment for the transmission of electricity, telephone or cable television; (ii) structures of a relatively slender nature and minor vertical projections of a parent building, including, but not limited to, chimneys, flagpoles, flues, spires, steeples, belfries, cupolas,

antennas, poles, wires or windmills; or (iii) any building or structure designated as a historic landmark, building or structure by the United States or by the Board of Historic Resources.

15-112 Protected Mountain Ridgeline Area Map- A map of the County's Protected Mountain Ridgeline Areas hereby is adopted and incorporated into this ordinance by reference. The County Building Inspectors Office shall maintain said map, showing Protected Mountain Ridgeline Areas within the County and shall maintain a list of property parcel numbers where any part of the parcel is located in a protected mountain ridgeline area identified on the map.

15-113 Regulation of Certain Buildings or Structures- Certain Buildings or structures built on property located within the protected mountain ridgeline area shall be regulated, in addition to any building codes or other ordinances, as follows:

- A. No tall building or structure over forty feet (40') in height may be built on a protected mountain ridgeline on property located within the protected mountain ridgeline area without approval of the Tazewell County Planning Commission.
- B. No tall building or structure over one hundred and twenty feet (120') in height may be built at an elevation of more than 3,200 feet on any property located in a protected mountain ridgeline area without approval from the Tazewell County Planning Commission.
- C. No tall building or structure over one hundred and twenty (120') feet in height may be built at an elevation of more than 3,200 feet on any property located in a protected mountain ridgeline area unless it is located a distance of more than one and one half times its height from a dwelling or the owner's property boundary, unless the affected adjacent property owner executes a written waiver.
- D. No tall building or structure over one hundred and twenty (120') feet in height may be built at an elevation of more than 3200 feet on any property located in a protected mountain ridgeline area, unless the applicant agrees in writing to remove such building or structure when it ceases to function or becomes defaced and provides bond or other reasonable security to provide for the expense of such removal.
- E. No tall building or structure may be built on a protected mountain ridgeline on property located within the protected mountain ridgeline area, unless the proposed building or structure plan (i) provides for sewerage, water, and drainage facilities, adequate for the building or structure proposed, including, but not limited to, facilities for drinking water and the adequate supply of water for fire protection and (ii) provides for compliance with Erosion and Sediment Control Law."

15-114-Limited Building on Protected Mountain Ridgelines Allowed The Planning Commission may approve construction on Protected Mountain Ridgelines located within the Protected Mountain Ridgeline Area. The Commission's authority to approve such construction is limited as follows:

1. In areas designated as "A" on the protected mountain ridgeline area map no tall buildings or structures more than forty feet (40') in height may be built on a ridgeline.
2. In areas designated as "B" on the protected mountain ridgeline area map no tall buildings or structures more than one hundred and twenty feet (120') feet in height may be built on a ridgeline, and no Tall Buildings and Structures less than one hundred and twenty feet in height may be built on a ridgeline without approval from the Tazewell County Planning Commission.
3. In areas designated as "C" on the protected mountain ridgeline area map no tall buildings or structures more than two hundred and forty feet (240') in height may be built, and no Tall Buildings and Structures less than two hundred and forty feet (240') in height may be built on a ridgeline without approval from the Tazewell County Planning Commission.
4. In areas designated as D on the protected mountain ridgeline area map tall buildings or structures of any height may be built only with Planning Commission approval.

15-115- Planning Commission Approval- Any request for approval of construction of a tall building or structure shall be submitted the County Engineer.

- A. *Administrative Approval-* the County Engineer shall, within ten days, determine whether the proposed building site is on a protected mountain ridgeline or if the structure would be built in a protected mountain area at a height of more than one hundred and twenty feet (120'): If it is not he shall provide a letter to the applicant and the building inspector approving construction on the parcel conditioned upon the construction site being located as represented in the application. If it is on a protected mountain ridgeline or if the structure would be built in a protected mountain area at a height of more than one hundred and twenty feet (120'), the County Engineer shall, within ten days, notify the applicant in writing and advise him that the application shall be presented to the Tazewell County planning Commission within 30 days thereafter.

The notice shall include the date, location and approximate time when the application is to be considered by the Commission. Such notice shall be in writing delivered by Certified Mail. Failure to provide the applicant notice or any defect in notice shall be remedied by reconsideration upon proper notice.

- B. *Commission Approval*-The Commission may approve the application, deny the application, approve the application contingent on modifications, or take no action on the application.
- C. *Guidelines for Approval of Construction on Ridgelines*- In considering applications for authorization to construct tall buildings and structures on Protected Mountain Ridgeline Areas the Commission shall consider the purpose of the ordinance, the impact the building or structure would have on the appearance of the ridge, the potential safety hazards presented by the building or structure, and what modifications may mitigate such impact.

In considering whether to approve construction in areas designated as "A" and "B" on the protected mountain ridgeline area map, the Commission shall presume such construction is *per se* detrimental to the scenic beauty of Tazewell County and approve such construction only with conditions that the tall building or structure be carefully constructed to avoid observable damage to the County's scenic beauty.

In considering whether to approve construction in areas designated as "C" and "D" on the protected mountain ridgeline area map, the Commission shall presume such construction is not *per se* detrimental to the scenic beauty of Tazewell County and may approve construction reasonably designed not to unnecessarily damage the County's scenic beauty.

D. *Procedure for Disposition of Applications*

1. If the Planning Commission grants the application, the Commission shall communicate such approval to the Applicant and, where applicable, to the Building Inspector who may proceed to evaluate the permit application as with any other structure.
2. The planning commission may grant the application contingent upon modifications ordered in furtherance of the purposes of this ordinance. Such approval shall be communicated to the applicant, by certified mail, and, where applicable, to the building inspector.

3. If the planning Commission denies the application the Commission shall notify the applicant, by certified mail, and the building inspector.
 4. If the Commission fails to act on the application within ninety days of the application's submission it shall be deemed denied.
 5. Failure to provide the applicant notice or any defect in notice shall be remedied by reconsideration upon proper notice.
- E. *Application Fees* The Planning Commission may charge an application fee to pay for the costs of providing notices to the applicant by certified mail, to make copies of the application for the commission's review. Such fee shall not exceed Fifty Dollars (\$50.00)
- F. *Appeal*- the applicant may appeal denial or approval with modifications in the same manner as denials of approval of subdivision plats as set forth in section 5-10 to 5-11 of the subdivision ordinance, as amended.

15-116-Building Permits Not To Be Issued- The Building inspector's office shall not issue a permit for construction of any tall building or structure on any parcel where any part of such parcel is located on a protected mountain ridgeline area without a letter of authorization from the Planning Commission or the County Engineer. The building inspector shall accept applications for such approval and forward the same to the County Engineer.

15-117-Effect of Ordinance-Nothing in this ordinance shall be deemed to repeal, replace, pre-empt or otherwise displace any other authority the County may already have under existing ordinances to zone or regulate mountain ridgelines or specific structures.

It is so ORDAINED this the ____ day of _____, 200__.

RECORDED VOTE:

MEMBERS PRESENT: _____

MEMBERS ABSENT: _____

AYES: _____

NAYES: _____

ABSTENTATIONS: _____

 CHAIRMAN OF THE BOARD OF SUPERVISORS OF
 TAZEVELL COUNTY, VIRGINIA

ATTEST:

 COUNTY ADMINISTRATOR