RESOLUTION NO. 26-06-13

RESOLUTION CREATING A LOCAL AIR POLLUTION CONTROL PROGRAM AND THE BUNCOMBE COUNTY AIR QUALITY ADVISORY COUNCIL IN ACCORDANCE WITH N.C. GEN. STAT. § 143-215.112(C)(1) AND N.C. GEN. STAT. § 143-215.112(C)(4).

WHEREAS, pursuant to N.C. Gen. Stat. § 143-215.112(c)(3) and N.C. Gen. Stat. § 160A-461, Buncombe County and the City of Asheville established the Asheville-Buncombe Air Quality Agency (herein "ABAQA") as a regional air quality agency; and

WHEREAS, the ABAQA operated pursuant to an Interlocal Agreement dated July 1, 2000 between the City and County (herein "Interlocal Agreement"); and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-76, the board of commissioners may create departments and boards, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs; and

WHEREAS, pursuant to N.C. Gen. Stat. § 143-215.112(c)(1), subject to the approval of the Environmental Management Commission (herein "EMC"), the Buncombe County Board of Commissioners (herein "Board") is authorized to establish, administer, and enforce a local air pollution control program (herein "Air Quality Program"); and

WHEREAS, pursuant to N.C. Gen. Stat. § 143-215.112(c)(4), the Board is authorized to establish an advisory council; and

WHEREAS, Buncombe County will assume the duties and responsibilities of the ABAQA; and

WHEREAS, to accomplish the transition, the Interlocal Local Agreement establishing the ABAQA needs to be amended; and

WHEREAS, the Board has determined that it is in the best interest of the citizens and residents of Buncombe County to amend the Interlocal Agreement, establish and operate an Air Quality Program, establish the Buncombe County Air Quality Advisory Council and for Buncombe County Government to assume the duties and responsibilities of the ABAQA.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE AS FOLLOWS:

1. That Section 2 of the Interlocal Agreement be deleted in its entirety and

replaced with the following:

"(2) Duration of the Agreement: This Agreement shall become effective upon the later of the July 1, 2000 or the date of certification by appropriate State agencies. It shall be automatically renewed for successive one-year terms on July 1st each calendar year unless terminated by either party given 30-day written notice of its intention to terminate."

2. That pursuant to N.C. Gen. Stat. § 143-215.112, Buncombe County shall establish and operate an Air Quality Program, subject to certification by the EMC with the following conditions:

    a. That the Board hereby appoints the County Manager or her designee as the County's authorized agent for administering the Air Quality Program including but not limited to issuing permits, assessing civil penalties, and instituting civil actions in superior court (herein "Air Quality Director").

    b. That, staff is authorized to publish a notice notifying the public of the opportunity to comment on the proposed Buncombe County Air Quality Code. The thirty (30) day comment period begins on June 17, 2026, and ends on July 17, 2026.

3. That pursuant to N.C. Gen. Stat. § 143-215.112(c)(4) and subject to the approval of the EMC, the Board hereby establishes the Buncombe County Air Quality Advisory Council (herein "Council") as follows:

    a. The Council shall consist of five (5) members.

    b. The Board is responsible for appointing the members to serve on the Council.

    c. Members shall be appointed for three-year staggered terms. Initially, one member shall be appointed for a one-year term, two members for two-year terms, and two members for three-year terms. Thereafter, all appointments shall be made for three-year terms, each member being subject to reappointment and the privilege of serving successive terms. Any vacancy on the Council shall be filled by the Board.

    d. That the Board shall appoint the following individuals as the initial members to the Council:

        1. Joel Storrow -1 year term;
        2. Ned Guttman-2 year term;
        3. James Neely-2 year term;

4. Catilin Cook-3 year term;
5. Garry Whisnant-3 year term.

e. That the Council shall be responsible for its own internal organization such as development of bylaws and the selection of a Chair, and Vice Chair.

f. That, the Council shall have the following duties and responsibilities:
1. Conduct public hearings and review and advise on air program actions;
2. Advise the Board in developing policies and plans to improve air quality programs.
3. Participate in the appeals review process over “air quality” regulations and ordinances promulgated by the Board;
4. Review and advise the local air quality program pursuant to the local air quality ordinance;
5. Advise the Board of actions necessary to maintain a certified local air quality program, including rules, regulations and standards as promulgated by the North Carolina Environmental Management Commission and administer such rules and regulations throughout its area of jurisdiction pursuant to N.C. Gen. Stat. § 143-215.112.

4. That pursuant to the requirements of § 128 of the Clean Air Act ("CAA") and, thereby, the requirements of § 110(a)(2)(E)(ii) of the CAA, the Air Quality Director and each member of the Council shall complete a Certification of Public Interest and Disclosure of Potential Conflict of Interest on an annual basis. A majority of the Air Quality Council members represent the public interest; a majority of the members do not derive any significant portion of their income from person subject to permitting or enforcement orders under the CAA; members must provide adequate disclosure of any potential conflicts of interest.

5. That all acts and doings of officers, employees, and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intends of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved, and confirmed.

6. Any prior resolutions or parts thereof in conflict with the provisions herein contained are, to the extent of such conflicts, are hereby superseded and repealed.

7. This Resolution is effective upon its adoption except for Sections 2 and 3 which

are effective on July 24, 2026.

This the 16th day of June 2026.

ATTEST

Sarah Gross

Sarah Gross, Clerk

BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE

Amanda Edwards

Amanda Edwards, Chair

APPROVED AS TO FORM

Curtis V. Euler

County Attorney