

## Proposed Amendments to Town of Biltmore Forest Zoning Ordinance

Add a new definition to 153.004 (B).

**CONSTRUCTION SITE** – The construction, on any lot or lots within the Town of Biltmore Forest of a new house or building, and the addition to, renovation of, or repair of an existing house or building.

**Amend 153.034 (A)** - By changing the title to “*Land Disturbing Activity Requiring Approval of the Board of Adjustment.*” No change to the text of this section.

**Amend 153.034 by adding a new Section (E)**

The Owner of any Construction Site, as defined in 153.004, shall be required to install and maintain, during the period of any construction on a lot or lots, appropriate measures to minimize soil erosion and to retain sediment on site. Such measures may include mud mats and sediment ponds. Prior to the start of construction, the Owner shall submit a plan for the minimization of soil erosion and the retention of sediment on sites to the Town Manager or his designee. The Town Manager or his designee may require the utilization of additional measures to minimize soil erosion, including mud mats, and to retain sediment on site. No construction shall begin until the plan has been approved by the Town Manager.

Amend the definition of “**ACCESSORY STRUCTURE**” in 153.00(B) by revising to read as follows:

**ACCESSORY STRUCTURE.** A structure incidental and subordinate to the principal use or building on the lots and located on the same lot with such principal use or building. **ACCESSORY STRUCTURES** include but are not limited to, fences, gates, walls, curbs pools, play sets, statues, water features, playhouses, decorative walls, sculptures, solar collectors, residential street lamps, rock and stone moved from its original location to any other location on the property and the like.

Amend **153.029 (C)(2)** so that it now reads as follows:

(2) Given Biltmore Forest’s proximity to the Biltmore Estate, and the Estate’s large deer population, a number of residents have had a problem with deer. In response to resident requests, the Board of Adjustment has approved a number of requests for temporary deer fencing. Over the last several years, the Town has attempted to reduce the number of deer through deprecation. The Board of Commissioners is committed to preservation and protection of the forested residential community concept. Current and prospective residents can participate in this effort by landscaping with plants that will not attract deer, confining dogs and other household pets with invisible fencing, limiting the construction of new fences, gates and walls, and removing and not

replacing existing fences, **gates** and walls. In addition, fences, **gates** and walls inhibit access to properties by the Police Department, Skyland Fire Department and other first responders.

Amend **153.029(C)(3)** so that it now reads as follows:

(3) As of the effective date of this section, construction of new fences, **gates** or walls is allowed only as follows:

Amend **153.029(C)(3)(a)** so that it now reads as follows:

- (a) The fence, gate or wall is necessary for safety, the protection of public health, or is required as a condition of obtaining homeowner's insurance. Examples include the installation of a fence, **gate** or wall around a swimming pool or along a steep grade or bank to prevent injury resulting from a fall. The property owner should provide written information from an insurance company documenting the need for a fence, **gate** or wall.

Amend **153.029 (C)(3)(c)** so that it now reads as follows:

- (c) On those properties abutting Hendersonville Road where, in the discretion of the Board of Adjustment, a fence, **gate** or wall is necessary to provide protection from pedestrians and motorists on Hendersonville Road.

Amend **153.029 (C)(3)(d)** so that it now reads as follows:

- (d) Properties abutting the Blue Ridge Parkway and the Biltmore Estate shall be allowed to construct appropriate fencing and **gates** to protect the property from deer. Such fencing and **gates** shall be subject to review and approval by the Board of Adjustment.

Amend **153.029 (C)(3)(e)** so that it now reads as follows:

- (e) The Board of Adjustment may require a property owner to construct a wall, fence or **gate** to provide buffering between incompatible land uses.

Amend **153.029 (C)(3)(f)** so that it now reads as follows:

- (f) Except as set forth in (C)(3)(d), the Board of Adjustment shall not approve a fence or **gate** for the purpose of confining or protecting dogs, other household pets or children, or for the purpose of preventing wild animals from entering a property.

Amend **153.029 (C)(3)(h)** so that it now reads as follows:

(h) in granting permission to construct a new fence, gate or wall, or to repair or replace an existing fence, gate or wall, the Board of Adjustment may impose reasonable conditions, including a requirement that the fence, gate or wall be buffered with vegetation so that it is not visible from adjacent properties and that the fence, gate or wall be removed if the purpose or condition for which it was originally constructed is no longer in effect.

Amend the title of **153.029 (C)(4)** so that it now reads as follows:

(4) *Replacement of existing fences, gates and walls.* Replacement of an existing fence, gate or wall is a conditional use subject to the approval of the Board of Adjustment and the requirements of this zoning ordinance. An application to replace an existing fence, gate or wall must include a photograph of the existing fence, gate or wall, specify the type of fence, gate or wall proposed, include a map or drawing depicting the height and length of the fence, gate or wall, and state whether or not the fence, gate or wall is in any setbacks.

Amend **153.029 (C)(4)(a),(b) and (c)** so that they now reads as follows:

- (a) Existing chain link fences or gates may not be replaced with new chain link fences or gates.
- (b) Existing fences, gates or walls in the front yard may not be replaced. No new fences, gates or walls shall be allowed in the front yard.
- (c) Repair of more than one half of an existing fence, gate or wall shall be considered a replacement and shall be subject to this section.

Amend the title of **153.029 (C)(5)** so that it now reads as follows:

(5) *Acceptable materials for fences, gates and walls / maintenance.* The following materials shall be deemed acceptable for fence and gate construction.

Amend **153.029 (C)(5) (a) through (c)** so that they now read as follows:

- (a) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and lot.
- (b) Non-wooden fencing or gates shall be black, dark green, or brown to blend with surrounding trees or vegetation.
- (c) No new chain link fencing or gates shall be allowed.

Amend **153.029 (C)(5)(e)** so that it now reads as follows:

(e)When a fence, gate or wall is not properly maintained or fails to comply with a condition imposed by the Board of Adjustment, the town may require the property owner to repair the fence, gate or wall, or remove the fence, gate or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate or wall, the Town may remove the

fence, gate or wall, and recover the cost of removal, including the cost of disposal, if any, from the property owner.