

## PROPOSED AGENDA

### Meeting of the Town of Biltmore Forest Board of Commissioners

To be held Tuesday, September 12, 2023 at 4:30 p.m.

A. Pledge of Allegiance

B. Roll Call

Mayor George F. Goosmann, III  
Commissioner Fran G. Cogburn  
Commissioner E. Glenn Kelly  
Commissioner Doris P. Loomis

C. The minutes of the August 8, 2023 meeting will be presented for approval.

D. Public Comment

E. Departmental Reports

1. Chief of Skyland Fire and Rescue
2. Chief of Police Chris Beddingfield
3. Public Works Director Harry Buckner
4. Town Planner Tony Williams
5. Town Manager Jonathan Kanipe

F. New Business

1. Amended Zoning Ordinance Recommendations Presentation  
*Ch. 153.034 – Landscaping and Grading Plans, Land Disturbance, and Sedimentation Control*  
*Ch. 153.050 – Tree Preservation* (New Section to Replace Ch. 93 in Town Code)  
*Ch. 153.060 – Buffers, Screening, and Landscaping Requirements*
2. Brooklawn Chase Trail and Woodland Clean-Up – Update
3. Master Facility Planning Process – Update

G. Adjourn

For those interested in viewing the Board meeting remotely, please utilize the following information:  
<https://us02web.zoom.us/j/82228455470?pwd=SG9WU0FwUjFSdGZveS95b3pLTUIHdz09>

Meeting ID: 822 2845 5470

Passcode: 966757

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF  
BILTMORE FOREST HELD AUGUST 8, 2023

Be it remembered by those that follow these proceedings that the Governing Board of the Town of Biltmore Forest met and conducted the following business:

Roll call taken by the Clerk:

Mayor George F. Goosmann, III, present

Commissioner Doris P. Loomis, present

Commissioner E. Glenn Kelly, present

Commissioner Fran Cogburn, present

Mr. Jonathan Kanipe, the Town Manager, and Mr. William Clarke, the Town Attorney, were also present.

Mayor Goosmann called the meeting to order at 4:30 pm.

The Pledge of Allegiance was conducted.

Commissioner Loomis made a motion to approve the amended minutes from July 11, 2023. Commissioner Cogburn seconded the motion. The motion was unanimously approved.

Chief Trevor Lance from the Skyland Fire Department was unable to attend the meeting. Mr. Kanipe said there was one fire, but it was not in the Town of Biltmore Forest.

Chief Chris Beddingfield gave the report for the Police Department. There were 480 calls for service. Citations also decreased. Officers said speed throughout Town has decreased. Chief Beddingfield said National Night Out went very well and they had a good turnout with about 200 people in attendance. Chief Beddingfield mentioned the arrest made regarding a female in mental crisis who was assaulting officers. The situation was resolved but there is a great deal of mental health issues and homeless people. The Officers did an amazing job. There were two dirt bike

pursuits with two male subjects not wearing helmets passing police officers and using rude gestures. The Highway Patrol had the same issues on Sweeten Creek Road. They were able to identify one of them so the police department is working with them to see if it is the same subject. Officers acted appropriately during this pursuit.

Mayor Goosmann thanked Chief Beddingfield for all of their hard work.

Mr. Harry Buckner gave the report for Public Works. Mr. Buckner said they have been very pleased with their most recent new hires, and they are doing a great job and are very productive. Mr. Buckner said Mr. Daniel Rice is also back and doing well. Mr. Buckner said they are now fully staffed. Mr. Buckner said they now have the new Ford F-150 pickup truck which is working well. Mr. Buckner said they also had the invited OSHA (Occupational Safety Health Administration) consultative visit. It was about seven hours long and all facilities were inspected. It went very well.

Mr. Buckner said staff met with the Metropolitan Sewerage District (MSD) regarding the stormwater project. They are doing a capital project to replace a sewer line on Stuyvesant. This is an area that had a lot of deficiencies in it. Mr. Buckner said they are wonderful to work with.

Mr. Buckner said he investigated the streetlights at night and said there are eight of them out. They are waiting for Duke Energy to come back. MB Haynes also repaired one this morning. They are also working on three more on Vanderbilt Road today.

The contractor will be working on the striping in August. Mr. Buckner said he will also have information about the paving contractor to bring to the September meeting.

Commissioner Kelly asked Mr. Buckner about the status of taking pictures of various storage facilities. Mr. Buckner said Public Works has been very busy and has been focusing on taking care of the Town but they will actively pursue looking at other facilities. Mr. Buckner said the most useful visit was Weaverville since they are a small facility. Mr. Buckner said it is always good to see City of Asheville and MSD facilities, but it wouldn't look the same as what we have planned since they are much larger and have hundreds of vehicles. Mr. Drew Stephens said he

would like to be involved in trail location. Mr. Stephens also requested that the striping not be laid down on Hilltop Road.

Town Planner, Tony Williams, gave his report. Mr. Williams had thirty-three consults this month. There were also eight violations. Seven of those violations were resolved. There were seven complaints this month and all of them were addressed. There were seven approved permits. Mr. Williams and Chief Beddingfield have also been working on a welcome packet for new residents that move in Town. Mr. Williams registered for the North Carolina CZO certification which is a long process. Mayor Goosmann thanked Mr. Williams for his hard work.

Mr. Jonathan Kanipe gave his report for the Town. Mr. Kanipe said we have several ongoing projects going on at the Town Hall. The audio-visual equipment installation in the social room will be finished by the end of next week. Painting will also occur in the interior and exterior of Town Hall in September. The contractor has been very responsive to projects. We also plan on getting new furniture for the social room which would be modular tables and chairs. Mr. Kanipe said the first movie night in the park went well. There were about fifty people in attendance. Mayor Goosmann thanked Mr. Kanipe.

Mr. Kanipe discussed the Consideration on Greenwood Park Improvements. The master plan was attached for the Board to look at. A walking path, picnic shelter and safe parking areas were addressed. This would include playground equipment. The remaining ARP funds will go toward this project. The project cost quote for the paving and walking path construction is \$110,244. Mr. Kanipe asked the Board for approval not to exceed this amount. The second part of this is the picnic shelter which would cost \$58,899 not to exceed \$60,000. Commissioner Kelly asked for the dimensions of the picnic shelter. Mr. Buckner said it is 16' x 24'. It will be a stained gray color. It will be cedar shake shingles. It will be on a concrete pad and have two picnic tables. A motion was made by Commissioner Cogburn to approve the walking path and picnic shelter at Greenwood Park. Commissioner Loomis seconded the motion. The motion was unanimously approved.

The next item discussed is the Consideration of Brooklawn Park Clean Up and Trail Design. Multiple trail design companies were contacted. It would be ten days of work and the cost will not exceed \$45,000. Mr. Kanipe also suggested contracting with Long Cane Trails, Inc. to conduct flagging and locating approximately one mile of walking trail on the 17-acre parcel. The cost for this work is \$2,500 and will allow the Town to evaluate the best route within Brooklawn Park for any trail construction that will be established after clean up occurs.

Commissioner Kelly made a motion to approve the Consideration of Brooklawn Park Clean Up and Trail Design. Commissioner Cogburn seconded the motion. The motion was unanimously approved.

The next item discussed is the Cedar Hill Road Stabilization and Stream Restoration Project. Mr. Kanipe said we have received a tremendous amount of positive feedback regarding this project. The next phase will be planting along the stream and along Cedar Hill Drive in the middle of November.

The next topic of discussion is review of Zoning Ordinance Amendment Recommendations. Mayor Goosmann would like to table these three matters until the meeting in September. Commissioner Kelly made a motion to table these matters until September once they hear from the golf course architect. Commissioner Cogburn seconded the motion. The motion was unanimously approved.

Commissioner Cogburn said she liked what the Planning Commission has put together. Commissioner Cogburn did not like the word “exempt” stated in the language and it applies to all the non-residential properties not just the club but the school and the businesses. The matter was tabled until next month.

The final topic of discussion is the RFQ Submissions for Master Planning for Facilities Improvements. Commissioner Kelly asked to table this matter until September and wait for Mr. Kanipe, Mr. Buckner, and Chief Beddingfield to see the top two companies they would recommend. The Board discussed the positives and negatives of the six architectural firms. The

final four firms were narrowed down to Clark Nexsen, DP3, McMillan Pazdan Smith, and Moseley.

PUBLIC COMMENT

Mr. Drew Stephens made public comment and said he was conflicted between the tree ordinance and the landscape plans. Time considerations on what the trees will look like in ten years and what is needed in ten years. He would also like to see an urban forester comment on the plan.

The meeting was adjourned at 5:47 pm. The next meeting is scheduled for Tuesday, September 12, 2023 at 4:30 pm.

ATTEST:

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Laura Jacobs  
Town Clerk

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George F. Goosmann, III  
Mayor

Biltmore Forest Police  
355 Vanderbilt Road  
Biltmore Forest, NC 28803  
828-274-0822  
Chief M. Chris  
Beddingfield



George F. Goosmann, III, Mayor  
Doris P Loomis, Mayor-Pro Tem  
E. Glenn Kelly, Commissioner  
Fran Cogburn, Commissioner  
Jonathan Kanipe, Town Manager

## **Biltmore Forest Police Department September 12th, 2023 Commission Report**

### **August 2023 Data**

#### **Total Calls For Service:**

566 (480 last month)

#### **Arrests:**

1-Felony Arrest-Felony Breaking and Entering, Felony Larceny for a Breaking and Entering in Progress Call

1-Misdemeanor Arrest-One for Driving While Impaired from a traffic stop/disturbance call.

#### **Citations:**

16-Citations for various traffic violations (8 last month)

#### **Time Consumption Summary:**

##### *Approximations:*

Business Checks- 4 hours

House Checks- 4 hours

Radar Operation- 5 hours

Vehicle Crash Investigation- 1.5 hours

#### **Notable Calls and Projects:**

We now have two license plate reader cameras up and working. This has been a lengthy process but we are moving forward and we hope to add more cameras shortly.

There was an interesting arrest out of a disturbance call at MAHEC. Subject was causing problems and leaving as our officers arrived. He was arrested for impaired driving and was at almost three times the legal limit for alcohol.

We had the breaking and entering in progress call at the beginning of the month. Resident observed the suspect on security camera. Subject fled but was apprehended by our officers across Hendersonville Rd.

We continue to work with new leadership at Carolina Day School on security measures.

**Biltmore Forest Police Department**  
**355 Vanderbilt Rd**  
**Biltmore Forest , NC 28803**

Calls for service-08/01/2023 - 08/31/2023

<b>BILTMORE FOREST POLICE DEPARTMENT</b>	<b>Count</b>	<b>Percent</b>
ALARM	32	5.65%
ANIMAL CONTROL	13	2.30%
ASSIST MOTORIST	6	1.06%
ASSIST NON-RESIDENT	2	0.35%
ASSIST OTHER AGENCY	8	1.41%
ASSIST RESIDENT	13	2.30%
B&E	1	0.18%
BUSINESS CHECK	202	35.69%
CRIME PREVENTION	11	1.94%
DISTURBANCE	1	0.18%
DOMESTIC	1	0.18%
DRILL	1	0.18%
FOLLOW-UP INVESTIGATION	8	1.41%
HOUSE CHECK	131	23.14%
IMPROPER PARKING	4	0.71%
JUVENILE ISSUE	1	0.18%
MEDICAL EMERGENCY	9	1.59%
NOISE COMPLAINT	2	0.35%
ORDINACE VIOLATION	4	0.71%
PEDESTRIAN VIOLATION	1	0.18%
PROPERTY DAMAGE	2	0.35%
RADAR OPERATION	24	4.24%
ROAD BLOCKED	3	0.53%
SPECIAL ASSIGNMENT	2	0.35%
SUSPICIOUS ACTIVITY	3	0.53%
SUSPICIOUS PERSON	8	1.41%
SUSPICIOUS VEHICLE	20	3.53%
TALK WITH OFFICER	4	0.71%
TRAFFIC CONTROL	2	0.35%
TRAFFIC STOP	39	6.89%
TREE DOWN	3	0.53%
VEHICLE ACCIDENT	2	0.35%
WARRANT SERVICE	1	0.18%
WELFARE CHECK	2	0.35%
Total Records For BILTMORE FOREST POLICE DEPARTMENT	<b>566</b>	Dept Calls/Total Calls <b>100.00%</b>
<b>Total Records</b>	<b>566</b>	






## MEMORANDUM

**To:** Jonathan Kanipe, Town Manager  
Mayor and Board of Commissioners

**From:** Harry B. Buckner, PE, Director of Public Works

**Re:** Public Works Department  
August 2023 Monthly Report

**Date:** September 8, 2023



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### **Recurring Activities:**

The Public Works Department has completed the following activities during the month of August:

- Collected 38.68 tons of garbage.
- Diverted 15.02 tons of recycled goods from garbage.
- Picked up 15 loads of brush (approximately 450 cubic yards) over 9 days.
- Responded to 38 total utility locate requests, comprised of 27 new requests (including 1 short notice and 1 emergency request) and 11 updates.
- Visited 14 residences for Tree Assessments, approving the removal of 32 trees, and requiring the installation of 45 trees.
- Completed daily chlorine residual tests across town, the required two (2) bacteriological tests, and the four (4) disinfection byproduct tests. All tests were passed.
- Used the Beacon/Badger Meter automated meter reading system to monitor water leaks daily and attempted to contact residents of suspected leaks.
- We continue to perform litter pick-ups as needed, focusing on the entrances.
- Normal brush collection was performed on the North Route beginning on August 15<sup>th</sup>, and the South Route beginning on August 31<sup>st</sup>. We did have an unscheduled repair to the brush truck that delayed the South route by one day. Pick-ups will continue as scheduled with one pick-up per month per route until November 1<sup>st</sup> when leaf collection will begin.

### **Miscellaneous Activities in August**

- Training with our two new Public Works employees is continuing.
- We continue our weekly routine maintenance of all public spaces including mowing and general clean-up and servicing of five (5) dog waste stations.
- We are preparing areas for the installation of new mulch beds along the steeper banks in Rosebank Park. This will help to lower the overall maintenance effort in the park and improve the general appearance.

- We responded to five (5) trees across the roads this month at the following locations:
  - Cedar Hill Road
  - Brookside Road
  - Park Road/Vanderbilt Road/E. Forest Road Intersection
  - Vanderbilt Road
  - Arboretum Road
- Shoulder clearing occurred in the following locations:
  - 26-32 Cedarcliff Road
  - 33 Hilltop Road
  - Holly Hill Road
  - Cedar Hill Road
  - Fir Tree Road
  - Cedar Chine
  - Brookside Road
  - Hemlock Road
  - Brooklawn Chase
  - Arboretum Road
  - Forest Road
- We removed storm debris from the road surface throughout Town with the tractor and blower.
- Staff continued to string trim and mow larger areas of Brookside Park in a continuation of efforts to reduce invasive plants and weeds.
- Staff weeded the ivy beds in the Town Hall median.
- We installed five (5) new house number signs throughout Town.
- Staff replenished the mulch on the walking trail between Greenwood Place and Brookside Road.
- We serviced the Town's three (3) large riding mowers.
- The Town's brush truck was in for repairs and had the rear tires replaced.
- Refurbishment of the Town's trailer mounted leaf vacuum continued this month. It is scheduled to be returned and placed back into service before the beginning of November leaf season.
- I attended the consultant selection interviews along with the Board, Town Attorney, Manager Kanipe, and Chief Beddingfield for the space planning master plan.
- Repainting the interior and exterior of the Town Hall began this month and will continue into September.
- Carter Asphalt and Sealing began the annual striping contract on Vanderbilt Road, Browntown Road, and Eastwood Road. The thermoplastic stop bars are installed, and the white lines on Browntown Road are completed. The contractor will be returning to complete the work the week of September 18<sup>th</sup>, weather pending.
- Our required annual testing of resident's backflow devices on irrigation systems began this month and should be completed in early September.

- Our Isuzu garbage truck was out of service for significant repairs, which are now completed, and the truck is back in service.
- I responded to the results of our voluntary OSHA consultative visit of Thursday, July 27, and brought the Town into compliance with noted deficiencies.
- I completed the Town's Solid Waste Local Government Annual Report (LGAR) and submitted it to the State. The report is currently under review, and when the review is finalized, I will provide a copy to the Board with a summary.

## **Larger/Capital Projects Updates**

### **Cedar Hill Road Stream Stabilization Project**

- A final inspection walk-through occurred on August 4, 2023, and construction activities are finished. Final plantings will occur in the fall planting season.

### **Master Plan Project Area 1 & Area 9 – Vanderbilt/Stuyvesant/Lone Pine Stormwater Project**

- The Metropolitan Sewerage District has completed their design of sewer replacement plans along Stuyvesant Road from Lone Pine Road south to the crest of the hill. MSD's internal construction crew is scheduled to begin work in mid-October and that work will last approximately 2-4 weeks.
- Our consultant has coordinated their stormwater plans with the revised sewer plans and submitted those to us for review. This will necessitate the modification of a couple of the easement plats, which are underway.
- We still anticipate releasing the project for bids in fall for construction this fiscal year.

### **Streetlight LED Conversions and Service Upgrades**

- MB Haynes has been continuing to work on non-functioning streetlights. As of the last inventory, there are a total of three (3) non-functioning streetlights. Of those three, one (1) is awaiting a service line replacement by Duke, and one has had the service restored by Duke, required Haynes to reconnect the lamp. There are a total of 64 total streetlights in the Town.
- Haynes is continuing to work on the remaining out-of-service lights this month.
- We have completed the reassembly of the damaged streetlight at 394 Vanderbilt and are rewiring the lamp. We anticipate the installation to be concluded the week of September 11.
- In conjunction with the Police Department, we will be assisting with the LPR camera installations, and we will be working with Haynes Electric to complete conversions as necessary and improvements to the desired locations.

### **Greenwood and Brookside Park Pedestrian Bridges – Greenwood Park Improvements**

- Greenwood Park amenities including the park benches, picnic tables, and trash receptacles are purchased and in the Public Works facility awaiting installation.

- We have received direction on the selected bridge design from the Board. The engineer is finalizing bridge construction drawings which are anticipated to be in hand in September.
- The picnic pavilion contractor has applied for a building permit through Buncombe County and has been informed that, because the structure is considered commercial, the structural plans will be required to be sealed by a professional. We will be coordinating that work with our structural engineer as well.
- We have authorized the site contractor to begin work on the walking trails and parking areas in the park and anticipate work beginning in late September or early October, weather pending.

#### Brookside Park Clean-up and Trail Construction

- Manager Kanipe has a separate agenda item to update the Board on this item.

#### Upcoming in September

- We are continuing training of our two new employees this month.
- Staff will complete the required daily chlorine and monthly bacteriological testing.
- Normal brush collection will continue with the North Route on August 15<sup>th</sup>, and the South Route on August 30<sup>th</sup>.
- Repairs and refurbishment of the leaf vacuum in Virginia will continue. It will be returned from the repair facility by October 15<sup>th</sup> for use in the coming leaf season.
- We will be listing the 2006 Ford F150 for sale on govdeals.com.
- We anticipate releasing the annual paving project for bids later this month. The project is approximately 3800 feet of Vanderbilt Road from Rosebank Park to Southwood Road with a budget of approximately \$215,000.
- Work will continue on our annual striping contract this month, weather pending.
- We anticipate performing significant shoulder repairs in the vicinity of 78 Forest Road. There is a large drop-off along the edge of pavement and erosion in the ditch line in this area.
- Backflow device testing of residents irrigation systems will be concluded this month.
- We are continuing our work on controlling invasive plant species in Brookside Park.
- The streetlight at 394 Vanderbilt Road is scheduled to be placed back in service this month.
- We anticipate construction activities to begin in Greenwood Park by the end of September.

As always, please do not hesitate to contact me with any questions or feedback.



## MEMORANDUM

**To:** Jonathan Kanipe, Town Manager  
Mayor and Board of Commissioners

**From:** Tony Williams, Town Planner

**Re:** August Monthly Report

**Date:** August 31, 2023

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### Recurring

- Check PD reports daily for code violations, make contact as needed to homeowners and contractors.
- Field inspections are conducted multiple times a week.
- Review plans for the Board of Adjustment for meeting packets
- Conducted site visits with the Board of Adjustment Members for all projects to be heard.
- Attended Board of Adjustment meeting (Planning Board Canceled)
- Communicate weekly with all who submit plans for approval.
- Weekly advising homeowners and contractors of the ordinances.
- Issuing permits as needed

### Monthly Breakdown

- Review of potential subdivisions: 0
- Land use conferences virtual/on site: 45
- Notice of violations verbal/written: 6
- Resolved violations: 6
- Complaints: 11
- Permitted projects finished: 2
- Plans reviewed: 21
- Plans reviewed for BOA: 10
- Plans reviewed for Design Review Board: 9
- Approved Permits: 4

### Miscellaneous

- The Board of Adjustment meeting had 10 items on the agenda.



## BOARD OF COMMISSIONERS MEETING

### STAFF MEMORANDUM

September 12, 2023

#### AGENDA ITEM E-5 TOWN MANAGER'S MONTHLY REPORT

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##### Fleet Upgrades

The Town's FY24 budget included funding for a new method to upgrade the Town's vehicle fleet. The Public Works Department took possession in August of a new Ford F-150 that will replace the 2007 F-150. We are moving forward with the acquisition of a Ford F-350 (likely to be delivered in late FY24) and another Ford Ranger, smaller duty, pickup truck. The Police Department is continuing to review the options available for their scheduled two vehicles this year as well.

##### New Camera Installations within Biltmore Forest

The Town has worked for some time to have new cameras installed in strategic locations throughout the Town. The Police Department has led this effort and has worked closely with our vendor to develop cameras that work within our forested environment. Two new license plate reading cameras have been installed at the intersection of Chauncey Circle/Valley Springs Road in The Ramble and a new reader installed at Busbee Road/Vanderbilt Road, in the same location as the previous LPR camera. These cameras do not track vehicles, but rather, are connected to a nationwide law enforcement server that notifies the telecommunicator on duty if a vehicle that passes through has a tag that is entered into a national crime database.

##### Town Hall and Police Department Facilities Work

*Painting Project at Town Hall:* The Town's painting contractor began work at the end of August. The first portion of the project is focused on the exterior of the building and included pressure washing all exterior surfaces. Painting of the soffits and walls began on August 31, and has continued since that time. Once this exterior work concludes, the contractor will move inside and begin re-painting all the offices, the Board Room, Social Room, and the entryways and bathrooms.

*Roof Repairs at the Police Department and Town Hall:* Unfortunately, we have also had multiple roof repairs to contend with at both the Police Department and Town Hall. Chief Beddingfield's office, and a smaller portion of the lieutenant's office, both began leaking in late July/August and we were able to have the roofing contractor out to make these repairs at the end of August. The area within

Chief Beddingfield's office is also the same location where the leak was patched approximately three years ago, and mold remediation had to take place. We contacted Reliant Environmental to come and assess the issue and remediate the mold.

### Centennial Events in September

#### *Southeastern Classic XXXVI – Austin Healey Car Show*

The Town and Centennial Committee are pleased to offer a unique opportunity for Town residents to see examples of one of the most beautiful sports cars ever made. On September 23rd, Rosebank Park will play host to a private car show featuring over one hundred Austin Healey sports cars, and provide an opportunity for Town residents to show off their classic cars as well. Cars entered by Town residents DO NOT have to be Austin Healeys. Those Town residents interested in participating may contact the Town or resident Tom Young for information about entry.

The Southeastern Classic XXXVI , an annual regional event hosted by Austin Healey Clubs located in the southeast United States, will be in the area September 20-24, 2023. They will be based at the DoubleTree and touring all over Western North Carolina during this time with the car show as a highlight of their weekend.

## REVENUE &amp; EXPENDITURE STATEMENT

07/01/2023 To 08/31/2023

Town of Biltmore Forest

FY 2023-2024

\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
<b>3010 Ad Valorem Tax</b>						
<b>Revenue</b>						
<b>3010 Ad Valorem Tax</b>						
10-3010-0000 AD VALOREM TAXES (PROPERTY)	2,980,215.00	0.00	0.00	0.00	2,980,215.00	0
10-3010-0100 AD VALOREM TAXES (DMV)	122,399.00	10,342.32	10,342.32	0.00	112,056.68	8
10-3010-0200 TAX INTEREST & PENALTIES	5,000.00	3.34	3.34	0.00	4,996.66	0
<b>3010 Ad Valorem Tax Subtotal</b>	<b>\$3,107,614.00</b>	<b>\$10,345.66</b>	<b>\$10,345.66</b>	<b>\$0.00</b>	<b>\$3,097,268.34</b>	<b>0</b>
<b>Revenue Subtotal</b>	<b>\$3,107,614.00</b>	<b>\$10,345.66</b>	<b>\$10,345.66</b>	<b>\$0.00</b>	<b>\$3,097,268.34</b>	<b>0</b>
After Transfers	<b>Excess Of Revenue Subtotal</b>	<b>\$3,107,614.00</b>	<b>\$10,345.66</b>	<b>\$10,345.66</b>	<b>\$0.00</b>	<b>0</b>
<b>3020 Unrestricted Intergovernm</b>						
<b>Revenue</b>						
<b>3020 Unrestricted Intergovernm</b>						
10-3020-0000 FRANCHISE & UTILITIES TAX DIST.	235,200.00	0.00	0.00	0.00	235,200.00	0
10-3020-0100 ALCOHOL BEVERAGE TAX	6,500.00	0.00	0.00	0.00	6,500.00	0
10-3020-0200 BUNCOMBE COUNTY 1% TAX	835,550.00	0.00	0.00	0.00	835,550.00	0
10-3020-0300 1/2 CENT SALES TAX A.40	358,260.00	0.00	0.00	0.00	358,260.00	0
10-3020-0400 1/2 CENT SALES TAX A.42	443,961.00	0.00	0.00	0.00	443,961.00	0
10-3020-0600 SALES TAX REFUND	15,000.00	0.00	0.00	0.00	15,000.00	0
10-3020-0700 GASOLINE TAX REFUND	5,000.00	0.00	0.00	0.00	5,000.00	0
<b>3020 Unrestricted Intergovernm Subtotal</b>	<b>\$1,899,471.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,899,471.00</b>	<b>0</b>
<b>Revenue Subtotal</b>	<b>\$1,899,471.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,899,471.00</b>	<b>0</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$1,899,471.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0</b>
<b>3030 Restricted Intergovernmen</b>						
<b>Revenue</b>						
<b>3030 Restricted Intergovernmen</b>						
10-3030-0000 SOLID WASTE DISPOSAL TAX	1,133.00	0.00	0.00	0.00	1,133.00	0
10-3030-0100 POWELL BILL	67,210.00	0.00	0.00	0.00	67,210.00	0
10-3030-0200 ILLICIT SUBSTANCE TAX	18.00	-4.00	-4.00	0.00	22.00	-22
<b>3030 Restricted Intergovernmen Subtotal</b>	<b>\$68,361.00</b>	<b>-\$4.00</b>	<b>-\$4.00</b>	<b>\$0.00</b>	<b>\$68,365.00</b>	<b>0</b>
<b>Revenue Subtotal</b>	<b>\$68,361.00</b>	<b>-\$4.00</b>	<b>-\$4.00</b>	<b>\$0.00</b>	<b>\$68,365.00</b>	<b>0</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$68,361.00</b>	<b>-\$4.00</b>	<b>-\$4.00</b>	<b>\$0.00</b>	<b>0</b>
<b>3040 Permits &amp; Fees</b>						
<b>Revenue</b>						
<b>3040 Permits &amp; Fees</b>						
10-3040-0000 ZONING PERMITS	30,000.00	2,337.00	2,337.00	0.00	27,663.00	8
10-3040-0100 DOG LICENSE FEE	1,300.00	55.00	55.00	0.00	1,245.00	4
<b>3040 Permits &amp; Fees Subtotal</b>	<b>\$31,300.00</b>	<b>\$2,392.00</b>	<b>\$2,392.00</b>	<b>\$0.00</b>	<b>\$28,908.00</b>	<b>8</b>
<b>Revenue Subtotal</b>	<b>\$31,300.00</b>	<b>\$2,392.00</b>	<b>\$2,392.00</b>	<b>\$0.00</b>	<b>\$28,908.00</b>	<b>8</b>



## REVENUE &amp; EXPENDITURE STATEMENT

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\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
After Transfers	Excess Of Revenue Subtotal	\$31,300.00	\$2,392.00	\$2,392.00	\$0.00	8
<b>3050 Investment Earnings</b>						
<b>Revenue</b>						
<b>3050 Investment Earnings</b>						
10-3050-0000 INTEREST EARNED	148,800.00	37.99	37.99	0.00	148,762.01	0
3050 Investment Earnings Subtotal	\$148,800.00	\$37.99	\$37.99	\$0.00	\$148,762.01	0
Revenue Subtotal	\$148,800.00	\$37.99	\$37.99	\$0.00	\$148,762.01	0
After Transfers	Excess Of Revenue Subtotal	\$148,800.00	\$37.99	\$37.99	\$0.00	0
<b>3060 Miscellaneous</b>						
<b>Revenue</b>						
<b>3060 Miscellaneous</b>						
10-3060-0100 AMERICAN TOWER AGREEMENT	46,365.00	800.00	800.00	0.00	45,565.00	2
10-3060-0200 MISCELLANEOUS	20,000.00	6,064.36	6,064.36	0.00	13,935.64	30
3060 Miscellaneous Subtotal	\$66,365.00	\$6,864.36	\$6,864.36	\$0.00	\$59,500.64	10
Revenue Subtotal	\$66,365.00	\$6,864.36	\$6,864.36	\$0.00	\$59,500.64	10
After Transfers	Excess Of Revenue Subtotal	\$66,365.00	\$6,864.36	\$6,864.36	\$0.00	10
<b>3290</b>						
<b>Revenue</b>						
<b>3290</b>						
30-3290-0000 INTEREST EARNED	4,000.00	0.00	0.00	0.00	4,000.00	0
3290 Subtotal	\$4,000.00	\$0.00	\$0.00	\$0.00	\$4,000.00	0
Revenue Subtotal	\$4,000.00	\$0.00	\$0.00	\$0.00	\$4,000.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$4,000.00	\$0.00	\$0.00	\$0.00	0
<b>3350 Commissions, Sw Chg Coll</b>						
<b>Revenue</b>						
<b>3350 Commissions, Sw Chg Coll</b>						
30-3350-0000 COMMISSIONS, SEWER CHARGE COLL	8,000.00	0.00	0.00	0.00	8,000.00	0
3350 Commissions, Sw Chg Coll Subtotal	\$8,000.00	\$0.00	\$0.00	\$0.00	\$8,000.00	0
Revenue Subtotal	\$8,000.00	\$0.00	\$0.00	\$0.00	\$8,000.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$8,000.00	\$0.00	\$0.00	\$0.00	0
<b>3500 Other Financing</b>						
<b>Other Financing Source</b>						
<b>3500 Other Financing</b>						
10-3500-0000 SALE OF PERSONAL PROPERTY	10,000.00	0.00	0.00	0.00	10,000.00	0
10-3500-0300 TRANSFER FROM FUND BALANCE	1,213,866.00	0.00	0.00	0.00	1,213,866.00	0
10-3500-0700 INTERGOVERNMENTAL LOAN (RESTRIC	292,000.00	0.00	0.00	0.00	292,000.00	0
3500 Other Financing Subtotal	\$1,515,866.00	\$0.00	\$0.00	\$0.00	\$1,515,866.00	0
Other Financing Source Subtotal	\$1,515,866.00	\$0.00	\$0.00	\$0.00	\$1,515,866.00	0

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After Transfers						
<b>Deficiency Of Revenue Subtotal</b>	<b>\$1,515,866.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>0</b>
<b>3710 Water Sales</b>						
<b>Revenue</b>						
<b>3710 Water Sales</b>						
30-3710-0000 WATER CHARGES	0.00	105,222.05	105,222.05	0.00	-105,222.05	*100
30-3710-0100 MSD CHARGES	493,425.00	77,526.42	77,526.42	0.00	415,898.58	16
30-3710-0200 AMI TRANSMITTER CHARGES	7,700.00	1,367.04	1,367.04	0.00	6,332.96	18
<b>3710 Water Sales Subtotal</b>	<b>\$501,125.00</b>	<b>\$184,115.51</b>	<b>\$184,115.51</b>	<b>\$0.00</b>	<b>\$317,009.49</b>	<b>37</b>
<b>Revenue Subtotal</b>	<b>\$501,125.00</b>	<b>\$184,115.51</b>	<b>\$184,115.51</b>	<b>\$0.00</b>	<b>\$317,009.49</b>	<b>37</b>
After Transfers						
<b>Excess Of Revenue Subtotal</b>	<b>\$501,125.00</b>	<b>\$184,115.51</b>	<b>\$184,115.51</b>	<b>\$0.00</b>		<b>37</b>
<b>3730 Water Tap &amp; Connect Fees</b>						
<b>Revenue</b>						
<b>3730 Water Tap &amp; Connect Fees</b>						
30-3730-0000 WATER TAP AND CONNECTION FEES	6,000.00	180.00	180.00	0.00	5,820.00	3
<b>3730 Water Tap &amp; Connect Fees Subtotal</b>	<b>\$6,000.00</b>	<b>\$180.00</b>	<b>\$180.00</b>	<b>\$0.00</b>	<b>\$5,820.00</b>	<b>3</b>
<b>Revenue Subtotal</b>	<b>\$6,000.00</b>	<b>\$180.00</b>	<b>\$180.00</b>	<b>\$0.00</b>	<b>\$5,820.00</b>	<b>3</b>
After Transfers						
<b>Excess Of Revenue Subtotal</b>	<b>\$6,000.00</b>	<b>\$180.00</b>	<b>\$180.00</b>	<b>\$0.00</b>		<b>3</b>
<b>3800</b>						
<b>Revenue</b>						
<b>3800</b>						
10-3800-0000 LAW ENF.BLOCK GRANT	24,500.00	0.00	0.00	0.00	24,500.00	0
<b>3800 Subtotal</b>	<b>\$24,500.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$24,500.00</b>	<b>0</b>
<b>Revenue Subtotal</b>	<b>\$24,500.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$24,500.00</b>	<b>0</b>
After Transfers						
<b>Deficiency Of Revenue Subtotal</b>	<b>\$24,500.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>0</b>
<b>4000</b>						
<b>Revenue</b>						
<b>4000</b>						
40-4000-1100 ARP DISTRIBUTION	451,275.58	0.00	0.00	0.00	451,275.58	0
<b>4000 Subtotal</b>	<b>\$451,275.58</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$451,275.58</b>	<b>0</b>
<b>Revenue Subtotal</b>	<b>\$451,275.58</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$451,275.58</b>	<b>0</b>
After Transfers						
<b>Deficiency Of Revenue Subtotal</b>	<b>\$451,275.58</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>0</b>
<b>4200 Administration</b>						
<b>Expenditure</b>						
<b>4200 Administration</b>						
10-4200-0200 SALARIES	321,633.00	70,301.73	70,301.73	0.00	251,331.27	22
10-4200-0300 OVERTIME	3,000.00	0.00	0.00	0.00	3,000.00	0
10-4200-0500 FICA	24,605.00	5,227.67	5,227.67	0.00	19,377.33	21
10-4200-0600 HEALTH INSURANCE (MEDICAL)	42,598.00	6,084.68	6,084.68	0.00	36,513.32	14

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10-4200-0650 DENTAL, VISION, LIFE INSURANCE	10,500.00	1,377.08	1,377.08	0.00	9,122.92	13
10-4200-0675 HEALTH REIMBUSEMENT ACC	7,500.00	1,000.00	1,000.00	0.00	6,500.00	13
10-4200-0700 LGERS RETIREMENT	62,815.00	13,322.11	13,322.11	0.00	49,492.89	21
10-4200-0800 401K SUPP RETIREMENT	16,232.00	3,357.49	3,357.49	0.00	12,874.51	21
10-4200-1000 ACCOUNTING & TAXES	51,400.00	25,720.06	25,720.06	0.00	25,679.94	50
10-4200-1200 POSTAGE, PRINTING, STATIONARY	10,140.00	500.00	1,068.76	568.76	9,071.24	11
10-4200-1400 MILEAGE & BOARD SALARY	21,600.00	3,600.00	3,600.00	0.00	18,000.00	17
10-4200-1500 BLDG & GRNDS MAINTENANCE	20,000.00	4,935.36	4,935.36	0.00	15,064.64	25
10-4200-3300 SUPPLIES AND EQUIPMENT	10,000.00	1,735.92	1,735.92	0.00	8,264.08	17
10-4200-5300 DUES & FEES	5,070.00	2,914.84	2,914.84	0.00	2,155.16	57
10-4200-5700 MISCELLANEOUS	1,000.00	101.39	502.64	401.25	497.36	50
10-4200-6500 STAFF DEVELOPMENT	21,395.00	6,973.73	8,464.48	1,490.75	12,930.52	40
<b>4200 Administration Subtotal</b>	<b>\$629,488.00</b>	<b>\$147,152.06</b>	<b>\$149,612.82</b>	<b>\$2,460.76</b>	<b>\$479,875.18</b>	<b>24</b>
<b>Expenditure Subtotal</b>	<b>\$629,488.00</b>	<b>\$147,152.06</b>	<b>\$149,612.82</b>	<b>\$2,460.76</b>	<b>\$479,875.18</b>	<b>24</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$629,488.00</b>	<b>-\$147,152.06</b>	<b>-\$147,152.06</b>	<b>-\$2,460.76</b>	<b>23</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$629,488.00</b>	<b>-\$147,152.06</b>	<b>-\$147,152.06</b>	<b>-\$2,460.76</b>	<b>23</b>
<b>5100 Police Department</b>						
<b>Expenditure</b>						
<b>5100 Police Department</b>						
10-5100-0200 SALARIES	1,013,718.00	211,914.65	211,914.65	0.00	801,803.35	21
10-5100-0300 OVERTIME	30,412.00	0.00	0.00	0.00	30,412.00	0
10-5100-0400 SEPARATION ALLOWANCE	16,445.00	3,162.55	3,162.55	0.00	13,282.45	19
10-5100-0500 FICA	77,549.00	16,115.62	16,115.62	0.00	61,433.38	21
10-5100-0600 HEALTH INSURANCE (MEDICAL)	144,832.00	24,194.72	24,194.72	0.00	120,637.28	17
10-5100-0650 DENTAL, VISION, LIFE INSURANCE	35,700.00	3,767.20	3,767.20	0.00	31,932.80	11
10-5100-0675 HRA HEALTH REIMB ACCT	25,500.00	4,000.00	4,000.00	0.00	21,500.00	16
10-5100-0700 LGERS RETIREMENT	210,651.00	41,195.77	41,195.77	0.00	169,455.23	20
10-5100-0800 401K SUPP RETIREMENT	50,686.00	10,195.59	10,195.59	0.00	40,490.41	20
10-5100-1500 MAINT/REPAIR - BLDG/GROUNDS	20,000.00	7,200.00	7,200.00	0.00	12,800.00	36
10-5100-1600 MAINT/REPAIR - EQUIPMENT	1,000.00	640.00	640.00	0.00	360.00	64
10-5100-1700 MAINT/REPAIR - VEHICLES	10,000.00	1,076.64	1,076.64	0.00	8,923.36	11
10-5100-3100 MOTOR FUELS	24,600.00	2,593.45	2,593.45	0.00	22,006.55	11
10-5100-3300 SUPPLIES	10,080.00	1,391.59	1,391.59	0.00	8,688.41	14
10-5100-3600 UNIFORMS	15,000.00	1,437.89	2,098.08	660.19	12,901.92	14
10-5100-3700 SOFTWARE	18,725.00	15,480.00	15,480.00	0.00	3,245.00	83
10-5100-3800 TECHNOLOGY	58,740.00	6,468.28	6,468.28	0.00	52,271.72	11
10-5100-4000 RENTALS	0.00	501.09	501.09	0.00	-501.09	*100
10-5100-5700 MISCELLANEOUS	8,265.00	7,439.00	7,690.99	251.99	574.01	93
10-5100-5800 PHYSICAL EXAMS	2,000.00	70.00	70.00	0.00	1,930.00	4

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10-5100-6500 STAFF DEVELOPMENT	15,000.00	3,584.00	4,251.90	667.90	10,748.10	28
10-5100-7400 CAPITAL EQUIPMENT PURCHASES	169,000.00	8,335.14	8,335.14	0.00	160,664.86	5
<b>5100 Police Department Subtotal</b>	<b>\$1,957,903.00</b>	<b>\$370,763.18</b>	<b>\$372,343.26</b>	<b>\$1,580.08</b>	<b>\$1,585,559.74</b>	<b>19</b>
<b>Expenditure Subtotal</b>	<b>\$1,957,903.00</b>	<b>\$370,763.18</b>	<b>\$372,343.26</b>	<b>\$1,580.08</b>	<b>\$1,585,559.74</b>	<b>19</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,957,903.00</b>	<b>-\$370,763.18</b>	<b>-\$370,763.18</b>	<b>-\$1,580.08</b>	<b>19</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,957,903.00</b>	<b>-\$370,763.18</b>	<b>-\$370,763.18</b>	<b>-\$1,580.08</b>	<b>19</b>
<b>5200 Fire Services</b>						
<b>Expenditure</b>						
<b>5200 Fire Services</b>						
10-5200-0000 FIRE CONTRACT	425,000.00	106,250.00	106,250.00	0.00	318,750.00	25
<b>5200 Fire Services Subtotal</b>	<b>\$425,000.00</b>	<b>\$106,250.00</b>	<b>\$106,250.00</b>	<b>\$0.00</b>	<b>\$318,750.00</b>	<b>25</b>
<b>Expenditure Subtotal</b>	<b>\$425,000.00</b>	<b>\$106,250.00</b>	<b>\$106,250.00</b>	<b>\$0.00</b>	<b>\$318,750.00</b>	<b>25</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$425,000.00</b>	<b>-\$106,250.00</b>	<b>-\$106,250.00</b>	<b>\$0.00</b>	<b>25</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$425,000.00</b>	<b>-\$106,250.00</b>	<b>-\$106,250.00</b>	<b>\$0.00</b>	<b>25</b>
<b>5600 Public Works</b>						
<b>Expenditure</b>						
<b>5600 Public Works</b>						
10-5600-0200 SALARIES	211,888.00	41,601.36	41,601.36	0.00	170,286.64	20
10-5600-0300 OVERTIME	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5600-0500 FICA	16,209.00	2,711.62	2,711.62	0.00	13,497.38	17
10-5600-0600 HOSPITAL INSURANCE (MEDICAL)	68,156.00	5,242.22	5,242.22	0.00	62,913.78	8
10-5600-0650 DENTAL, VISION, LIFE INSURANCE	10,500.00	1,082.28	1,082.28	0.00	9,417.72	10
10-5600-0675 HRA HEALTH REIMB ACCT	7,500.00	875.00	875.00	0.00	6,625.00	12
10-5600-0700 LGERS RETIREMENT	41,382.00	7,064.49	7,064.49	0.00	34,317.51	17
10-5600-0800 401K SUPP RETIREMENT	10,594.00	1,681.15	1,681.15	0.00	8,912.85	16
10-5600-1300 STREETLIGHTS ELECTRIC	7,000.00	1,667.70	1,667.70	0.00	5,332.30	24
10-5600-1500 MAINT/REPAIR - BLDG/GROUNDS	9,600.00	1,510.01	3,823.39	2,313.38	5,776.61	40
10-5600-1600 MAINT/REPAIR- STREETLIGHTS	35,000.00	2,367.87	2,367.87	0.00	32,632.13	7
10-5600-1700 MAINT/REPAIR - VEHICLES	10,000.00	571.76	571.76	0.00	9,428.24	6
10-5600-3100 MOTOR FUELS	20,000.00	2,054.48	2,054.48	0.00	17,945.52	10
10-5600-3300 SUPPLIES	10,000.00	1,124.83	1,124.83	0.00	8,875.17	11
10-5600-3400 STREET SIGNS & NUMBERS	1,000.00	291.30	291.30	0.00	708.70	29
10-5600-3600 UNIFORMS	8,650.00	269.90	2,400.00	2,130.10	6,250.00	28
10-5600-3800 TECHNOLOGY	9,500.00	0.00	0.00	0.00	9,500.00	0
10-5600-5200 PARKS	60,000.00	10,654.31	12,502.31	1,848.00	47,497.69	21
10-5600-5800 PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	0
10-5600-5900 MISCELLANEOUS	1,000.00	801.34	801.34	0.00	198.66	80
10-5600-6000 CAPITAL OUTLAY	8,000.00	0.00	0.00	0.00	8,000.00	0
10-5600-6500 STAFF DEVELOPMENT	0.00	987.00	987.00	0.00	-987.00	*100

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40-5600-7401 ARP CAPITAL PROJECTS	451,275.58	11,441.34	11,441.34	0.00	439,834.24	3
<b>5600 Public Works Subtotal</b>	<b>\$1,002,754.58</b>	<b>\$93,999.96</b>	<b>\$100,291.44</b>	<b>\$6,291.48</b>	<b>\$902,463.14</b>	<b>10</b>
<b>Expenditure Subtotal</b>	<b>\$1,002,754.58</b>	<b>\$93,999.96</b>	<b>\$100,291.44</b>	<b>\$6,291.48</b>	<b>\$902,463.14</b>	<b>10</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,002,754.58</b>	<b>-\$93,999.96</b>	<b>-\$93,999.96</b>	<b>-\$6,291.48</b>	<b>9</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,002,754.58</b>	<b>-\$93,999.96</b>	<b>-\$93,999.96</b>	<b>-\$6,291.48</b>	<b>9</b>
<b>5700 Streets &amp; Transportation</b>						
<b>Expenditure</b>						
<b>5700 Streets &amp; Transportation</b>						
10-5700-1700 VEHICLE REPAIRS - STREET DEPT.	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5700-2200 CONTRACTS- PAVING & STRIPING	255,000.00	7,850.00	7,850.00	0.00	247,150.00	3
10-5700-2300 SUPPLIES	10,000.00	615.93	615.93	0.00	9,384.07	6
10-5700-2400 TRAFFIC SIGNS	500.00	0.00	0.00	0.00	500.00	0
10-5700-2500 STORM WATER DRAINAGE	1,400,000.00	445.77	445.77	0.00	1,399,554.23	0
10-5700-3800 TECHNOLOGY	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5700-6500 STAFF DEVELOPMENT	1,000.00	62.15	62.15	0.00	937.85	6
10-5700-7400 CAPITAL EQUIPMENT PURCHASES	19,200.00	2,732.71	2,732.71	0.00	16,467.29	14
10-5700-7500 ENGINEERING	50,000.00	15,846.80	15,846.80	0.00	34,153.20	32
<b>5700 Streets &amp; Transportation Subtotal</b>	<b>\$1,745,700.00</b>	<b>\$27,553.36</b>	<b>\$27,553.36</b>	<b>\$0.00</b>	<b>\$1,718,146.64</b>	<b>2</b>
<b>Expenditure Subtotal</b>	<b>\$1,745,700.00</b>	<b>\$27,553.36</b>	<b>\$27,553.36</b>	<b>\$0.00</b>	<b>\$1,718,146.64</b>	<b>2</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,745,700.00</b>	<b>-\$27,553.36</b>	<b>-\$27,553.36</b>	<b>\$0.00</b>	<b>2</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,745,700.00</b>	<b>-\$27,553.36</b>	<b>-\$27,553.36</b>	<b>\$0.00</b>	<b>2</b>
<b>5800 Sanitation &amp; Recycling</b>						
<b>Expenditure</b>						
<b>5800 Sanitation &amp; Recycling</b>						
10-5800-0200 SALARIES	141,376.00	35,134.65	35,134.65	0.00	106,241.35	25
10-5800-0300 OVERTIME	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5800-0500 FICA	11,198.00	2,665.54	2,665.54	0.00	8,532.46	24
10-5800-0600 HEALTH INSURANCE (MEDICAL)	68,156.00	4,062.76	4,062.76	0.00	64,093.24	6
10-5800-0650 DENTAL,VISION, LIFE INSURANCE	6,300.00	669.84	669.84	0.00	5,630.16	11
10-5800-0675 HRA HEALTH REIMB ACCT	4,500.00	750.00	750.00	0.00	3,750.00	17
10-5800-0700 LGERS RETIREMENT	27,611.00	6,450.33	6,450.33	0.00	21,160.67	23
10-5800-0800 401K SUPP RETIREMENT	7,069.00	1,666.69	1,666.69	0.00	5,402.31	24
10-5800-1500 GENERAL REPAIRS & MAINTENANCE	0.00	87.30	87.30	0.00	-87.30	*100
10-5800-1700 MAINT/REPAIRS - VEHICLES	40,000.00	1,983.75	12,546.36	10,562.61	27,453.64	31
10-5800-3100 MOTOR FUELS	30,000.00	2,726.73	2,726.73	0.00	27,273.27	9
10-5800-3300 SUPPLIES	1,000.00	0.00	0.00	0.00	1,000.00	0
10-5800-3600 UNIFORMS	1,000.00	0.00	0.00	0.00	1,000.00	0
10-5800-3800 TECHNOLOGY	3,000.00	0.00	0.00	0.00	3,000.00	0
10-5800-5800 PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	0

## REVENUE &amp; EXPENDITURE STATEMENT

07/01/2023 To 08/31/2023

Town of Biltmore Forest

FY 2023-2024

\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
10-5800-5900 MISCELLANEOUS	1,000.00	1,000.00	1,000.00	0.00	0.00	100
10-5800-6000 CAPITAL OUTLAY	80,000.00	0.00	0.00	0.00	80,000.00	0
10-5800-8000 TIPPING FEES & BRUSH REMOVAL	50,000.00	8,277.00	8,277.00	0.00	41,723.00	17
10-5800-8100 RECYCLING	20,000.00	818.96	818.96	0.00	19,181.04	4
10-5800-8200 BRUSH & LEAF DISPOSAL FEES	31,200.00	2,100.00	2,100.00	0.00	29,100.00	7
<b>5800 Sanitation &amp; Recycling Subtotal</b>	<b>\$528,910.00</b>	<b>\$68,393.55</b>	<b>\$78,956.16</b>	<b>\$10,562.61</b>	<b>\$449,953.84</b>	<b>15</b>
<b>Expenditure Subtotal</b>	<b>\$528,910.00</b>	<b>\$68,393.55</b>	<b>\$78,956.16</b>	<b>\$10,562.61</b>	<b>\$449,953.84</b>	<b>15</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$528,910.00</b>	<b>-\$68,393.55</b>	<b>-\$68,393.55</b>	<b>-\$10,562.61</b>	<b>13</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$528,910.00</b>	<b>-\$68,393.55</b>	<b>-\$68,393.55</b>	<b>-\$10,562.61</b>	<b>13</b>
<b>6600 General Government</b>						
<b>Expenditure</b>						
<b>6600 General Government</b>						
10-6600-0400 OUTSIDE PROFESSIONAL SERVICES	45,959.00	0.00	0.00	0.00	45,959.00	0
10-6600-0401 LEGAL SERVICES	35,000.00	675.00	675.00	0.00	34,325.00	2
10-6600-1100 TECHNOLOGY	105,937.00	16,755.77	16,755.77	0.00	89,181.23	16
10-6600-1300 MUNICIPAL UTILITIES	40,000.00	3,449.75	3,449.75	0.00	36,550.25	9
10-6600-1500 GE. REPS. AND MAINT.	40,000.00	6,569.79	6,569.79	0.00	33,430.21	16
10-6600-2800 ELECTIONS	6,000.00	0.00	0.00	0.00	6,000.00	0
10-6600-5400 INSURANCE	110,000.00	116,114.47	116,114.47	0.00	-6,114.47	106
10-6600-6000 CONTINGENCY	50,000.00	0.00	0.00	0.00	50,000.00	0
10-6600-6100 MISCELLANEOUS	10,000.00	489.83	489.83	0.00	9,510.17	5
10-6600-6300 COMMUNITY EVENTS	55,000.00	8,522.47	9,856.77	1,334.30	45,143.23	18
10-6600-6301 4TH OF JULY	10,000.00	4,266.34	4,266.34	0.00	5,733.66	43
10-6600-6302 NATIONAL NIGHT OUT	7,000.00	552.16	552.16	0.00	6,447.84	8
10-6600-6303 HOLIDAY LIGHTING	21,500.00	0.00	0.00	0.00	21,500.00	0
10-6600-6304 ARBOR DAY EVENT	2,000.00	0.00	0.00	0.00	2,000.00	0
10-6600-6400 WILDLIFE MANAGEMENT	5,000.00	0.00	0.00	0.00	5,000.00	0
10-6600-6500 FOREST MANAGEMENT	60,000.00	5,550.00	5,550.00	0.00	54,450.00	9
<b>6600 General Government Subtotal</b>	<b>\$603,396.00</b>	<b>\$162,945.58</b>	<b>\$164,279.88</b>	<b>\$1,334.30</b>	<b>\$439,116.12</b>	<b>27</b>
<b>Expenditure Subtotal</b>	<b>\$603,396.00</b>	<b>\$162,945.58</b>	<b>\$164,279.88</b>	<b>\$1,334.30</b>	<b>\$439,116.12</b>	<b>27</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$603,396.00</b>	<b>-\$162,945.58</b>	<b>-\$162,945.58</b>	<b>-\$1,334.30</b>	<b>27</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$603,396.00</b>	<b>-\$162,945.58</b>	<b>-\$162,945.58</b>	<b>-\$1,334.30</b>	<b>27</b>
<b>6700 Debt Service</b>						
<b>Expenditure</b>						
<b>6700 Debt Service</b>						
10-6700-0100 Police Dept Renovations-Principal	23,334.00	5,833.33	5,833.33	0.00	17,500.67	25
10-6700-0200 Street Improvements-Principal	6,667.00	1,666.67	1,666.67	0.00	5,000.33	25
10-6700-0500 Public Works Building-Principal	84,211.00	0.00	0.00	0.00	84,211.00	0
10-6700-0600 2020 POLICE CARS-PRINCIPAL	14,600.00	0.00	0.00	0.00	14,600.00	0

## REVENUE &amp; EXPENDITURE STATEMENT

07/01/2023 To 08/31/2023

Town of Biltmore Forest

FY 2023-2024

\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
10-6700-1100 Police Dept Renovations-Interest	556.00	222.25	222.25	0.00	333.75	40
10-6700-1200 Street Improvements-Interest	159.00	63.50	63.50	0.00	95.50	40
10-6700-1500 Public Works Building-Interest	14,855.00	0.00	0.00	0.00	14,855.00	0
<b>6700 Debt Service Subtotal</b>	<b>\$144,382.00</b>	<b>\$7,785.75</b>	<b>\$7,785.75</b>	<b>\$0.00</b>	<b>\$136,596.25</b>	<b>5</b>
<b>Expenditure Subtotal</b>	<b>\$144,382.00</b>	<b>\$7,785.75</b>	<b>\$7,785.75</b>	<b>\$0.00</b>	<b>\$136,596.25</b>	<b>5</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$144,382.00</b>	<b>-\$7,785.75</b>	<b>-\$7,785.75</b>	<b>\$0.00</b>	<b>5</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$144,382.00</b>	<b>-\$7,785.75</b>	<b>-\$7,785.75</b>	<b>\$0.00</b>	<b>5</b>
<b>8100 Water Dept.</b>						
<b>Expenditure</b>						
<b>8100 Water Dept.</b>						
30-8100-0200 SALARIES	169,693.00	29,231.47	29,231.47	0.00	140,461.53	17
30-8100-0400 PROFESSIONAL SERVICES	5,000.00	226.34	3,162.70	2,936.36	1,837.30	63
30-8100-0500 FICA	12,981.00	2,201.67	2,201.67	0.00	10,779.33	17
30-8100-0600 HEALTH INSURANCE (MEDICAL)	0.00	3,637.30	3,637.30	0.00	-3,637.30	*100
30-8100-0650 DENTAL, VISION, LIFE INSURANCE	0.00	587.28	587.28	0.00	-587.28	*100
30-8100-0675 HRA HEALTH REIMBURSEMENT ACCT	0.00	625.00	625.00	0.00	-625.00	*100
30-8100-0700 LGERS RETIREMENT	27,611.00	5,658.73	5,658.73	0.00	21,952.27	20
30-8100-0800 401K SUPP RETIREMENT	8,485.00	1,677.63	1,677.63	0.00	6,807.37	20
30-8100-1200 POSTAGE, PRINTING,& STATIONARY	5,000.00	660.42	660.42	0.00	4,339.58	13
30-8100-1500 GENERAL REPAIRS	25,000.00	403.75	403.75	0.00	24,596.25	2
30-8100-3300 SUPPLIES & EQUIPMENT	15,000.00	234.88	234.88	0.00	14,765.12	2
30-8100-3800 TECHNOLOGY	5,000.00	0.00	0.00	0.00	5,000.00	0
30-8100-4800 WATER PURCHASES	204,750.00	19,687.91	19,687.91	0.00	185,062.09	10
30-8100-4900 SEWER PURCHASES	396,000.00	0.00	0.00	0.00	396,000.00	0
30-8100-5000 AMI TRANSMITTER FEES	7,700.00	0.00	0.00	0.00	7,700.00	0
30-8100-5700 MISCELLANEOUS	6,196.00	0.00	0.00	0.00	6,196.00	0
30-8100-6000 CAPITAL RESERVE	178,891.00	0.00	0.00	0.00	178,891.00	0
30-8100-6500 STAFF DEVELOPMENT	5,000.00	470.00	470.00	0.00	4,530.00	9
30-8100-7400 CAPITAL IMPROVEMENT	19,200.00	0.00	0.00	0.00	19,200.00	0
<b>8100 Water Dept. Subtotal</b>	<b>\$1,091,507.00</b>	<b>\$65,302.38</b>	<b>\$68,238.74</b>	<b>\$2,936.36</b>	<b>\$1,023,268.26</b>	<b>6</b>
<b>Expenditure Subtotal</b>	<b>\$1,091,507.00</b>	<b>\$65,302.38</b>	<b>\$68,238.74</b>	<b>\$2,936.36</b>	<b>\$1,023,268.26</b>	<b>6</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,091,507.00</b>	<b>-\$65,302.38</b>	<b>-\$65,302.38</b>	<b>-\$2,936.36</b>	<b>6</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,091,507.00</b>	<b>-\$65,302.38</b>	<b>-\$65,302.38</b>	<b>-\$2,936.36</b>	<b>6</b>



## **BOARD OF COMMISSIONERS MEETING**

### **STAFF MEMORANDUM**

**SEPTEMBER 12, 2023**

#### **AGENDA ITEM F-1**

#### **REVIEW ZONING ORDINANCE AMENDMENT RECOMMENDATIONS**

*CHAPTERS 153.034; 154.050-059; 153.060-070*

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#### **Background**

Last month, the Board received copies of proposed zoning ordinance amendments as noted above. The Planning Commission has reviewed the Town's existing ordinances related to landscaping, buffering, and tree preservation and worked for nearly a year to craft more equitable and enforceable ordinances related to these issues. The Planning Commission met in June and recommended the attached drafts being considered for adoption by the Board of Commissioners. Over the course of the past month, staff has consulted with members of the Planning Commission and others to revise certain pieces of the tree preservation ordinance to more fully adhere to the original intent of the Ordinance regarding the intent to preserve the forested, parkland qualities of the Town.

#### **Zoning Ordinance Amendment Process - Public Hearing Requirement**

As with previous amendment recommendations, Town staff is providing the ordinances to the Board of Commissioners one month ahead of any public hearing. This will allow the Mayor and Board opportunity to review the recommendation, ask questions, and meet with staff, the Town Attorney, or Planning Commission members to discuss the proposals. A public hearing is likely to be scheduled for Tuesday, October 10, 2023.

#### **Planning Commission's Rationale for Recommending Changes**

1. The tree preservation ordinance proposal addresses the very high importance many Biltmore Forest residents (per 2021 survey) placed on larger, mature trees (as a forest in general) by preserving, replenishing, and promoting a healthy, diverse, and multilayered canopy.
2. The tree preservation ordinance recommendation has been incorporated into the Town's Zoning Ordinance to avoid confusion and to ensure its applicability and legality, as well as ensure future adjustments or amendments are deliberatively and publicly legislated. Any amendments to the Zoning Ordinance statutorily require a public hearing before consideration by the Board of Commissioners. The Planning Commission felt the public's interest in tree preservation, and desire to be involved in



the process, is evidenced by the survey results which benefit placement in the Zoning Ordinance. The Commission also felt the inherent impact of new construction and other land development activities on tree protection confirmed the Zoning Ordinance is the appropriate place for the Town's Tree Protection Ordinance to reside.

3. The draft incorporates different compliance requirements for different land uses. For example, regulations for residential vs nonresidential allow not only more specific expectations depending on land use type, but also allow for better monitoring and administrative capabilities to ensure compliance. Additionally, companion amendments within the Town's landscaping ordinance (153.034) require more stringent review and approval requirements for additions to existing structures as well as all new construction on undeveloped lots. This provides the Town greater ability to review and approve landscaping plans, including tree removal, and lead to more fully developed plans by applicants.

4. The tree ordinance specifically targets the importance of preserving the trees and buffering vegetation along the roadways and lot perimeters as expressed in the original Tree Protection Ordinance. The original ordinance specifically indicated that buffering between different land uses (residential versus non-residential) was important as well as buffering from the street. The new ordinance strengthens this original purpose through the enhanced replacement requirements noted "inside" the setback area.

5. The Planning Commission requested staff research other municipalities to adapt best practices and avoid possible legal limitations. Highlighting native species and amounts of preferred trees for additional attention are just one example of this. The Planning Commission felt the recommended ordinances adapt these best practices for Biltmore Forest and our specific needs, including being one of (if not the only) local government in North Carolina to regulate tree removal on private property.

### **Attachments**

1. Chapter 153.034 – Landscaping and Sedimentation Control DRAFT
2. Chapter 153.050-059 – New Tree Preservation Ordinance DRAFT
3. Chapter 153.060-070 – Buffering, Screening, and Landscape Ordinance DRAFT with revisions to include all new construction activities, including residential, based on certain thresholds.
4. COMPARISON Document Between Existing Tree Protection Ordinance and Proposed Tree Preservation Ordinance

PLANNING COMMISSION RECOMMENDATION  
JUNE 27, 2023

DRAFT AMENDMENT TO EXISTING LAND DISTURBANCE  
AND SEDIMENTATION CONTROL

§ 153.034 LANDSCAPING AND GRADING PLANS, LAND DISTURBANCE, AND SEDIMENTATION CONTROL.

(A) Plans Required. A landscaping and grading plan, as defined in the Town's Zoning Application process, are required for any or all of the following activities.

- (1) Any land-disturbing activity, such as grading projects or removal of natural vegetation, that involves the disturbance of 20% or more of the land area of any lot. Prior to commencing such activity in a public service district, any land-disturbing activity, such as grading projects or removal of natural vegetation other than routine maintenance, shall be subject to approval by the Town Board of Adjustment regardless of the area to be disturbed.
- (2) Any residential construction activity that results in an addition of greater than five-hundred (500) square feet of roof coverage.
- (3) Any non-residential construction activity as defined in § 153.061 of the Town of Biltmore Forest Zoning Ordinance.

(B) All landscape and grading plans shall demonstrate compliance with the Town's Tree Protection and Preservation regulations as found in §153.050-153.059 and §153.061(C) for existing residential and non-residential tree maintenance and new construction activities, respectively.

(C) Pre-construction conference and supervision.

- (1) Prior to the commencement of any pre-construction land-clearing or soil disturbance, a pre-construction conference will take place between a representative of the Town and the applicant to review procedures for protection and management of protected trees and other landscape elements identified in the approved landscape plan. The applicant will designate one or more persons responsible for ensuring the protection of new or existing landscaping elements to be preserved. The responsible person shall be present on site whenever activity is taking place that could damage or disturb such landscape elements, and will notify the Ordinance Administrator that such activity is taking place.
- (2) The applicant shall provide the following at least seven (7) days prior to the pre-construction conference:
  - a) Approved landscaping plan, showing all protected and unprotected trees to be removed, and all replacement trees to be planted.
  - b) Chart showing the quantity of trees, scientific species name, and tree designation (protected, unprotected, or tree of preference) and replacement quantities required.
  - c) Final grading plan showing tree preservation limits and limits of disturbance.

(D) Construction Supervision and Additional Compliance Requirements.

- (1) The Town shall have developed sites inspected periodically to ensure work is conforming to the approved landscape plan and the applicable sections of this

PLANNING COMMISSION RECOMMENDATION  
JUNE 27, 2023

subchapter. Prior to the commencement of any pre-construction land-clearing or soil disturbance, the developer/contractor shall be required to sign a document agreeing to abide by the conditions stipulated in this subchapter. At the option of the Town, a compliance bond may be required.

- (2) Compliance with G.S. § 113A-54. Where applicable, all proposed development projects or land-disturbing activities shall comply with G.S. § 113A-54, and Rules and Regulations for Erosion and Sediment Control as established by the State Sedimentation Control Commission, State Department of Natural Resources and Community Development.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

DRAFT

PLANNING COMMISSION RECOMMENDED CHANGES +  
REVISIONS BETWEEN AUGUST AND SEPTEMBER BOC MEETINGS

Chapter 153.050 Tree Preservation

Tree ~~Protection~~PRESERVATION

153.050 Purpose

153.051 Definitions

153.052 Removal of protected trees

153.053 Applications for removal of more than ten (10) protected trees

153.054 Removal of unprotected trees

153.055 Enforcement

153.056 Drip line protection

153.057 Replacement of trees

153.058 Inspections, Appeals, Bond, and Penalty

TREE ~~PROTECTION~~PRESERVATION

§ 153.050 PURPOSE.

(A) In order to maintain the unique characteristics of the Town of Biltmore Forest as a residential neighborhood with a history beginning as part of the Vanderbilt Estate, it is necessary to preserve the traditional appearance of Biltmore Forest as a true forest. This is particularly true of trees along the roads and around the perimeter of lots. Reference is hereby made to § 153.034 of the Town Zoning Ordinance relating to removal of natural vegetation, which section is routinely involved when residences or other structures are placed on a lot.

(B) Trees provide buffer and a natural canopy, and are a hallmark of the Town requiring protection. Preservation and appropriate replacement of trees is the intent of this subchapter. This subchapter shall apply to all properties within the Town of Biltmore Forest except as noted in part C below. The Town is focused on maintaining the current health of the forest and increasing species diversity, with a primary goal to replace hardwood trees, other native trees, and trees of preference more quickly. Trees provide shade, cooling, noise and wind reduction, prevent soil erosion, produce oxygen, filter dust, and absorb carbon dioxide. Trees also provide natural habitat and aesthetic enhancement in the Town.

(C) ~~Exemptions.~~ This subchapter does not apply to properties owned, leased, or controlled by the Town of Biltmore Forest. This subchapter does not apply to properties that perform forestry activity on forestland taxed on the basis of its present-use value as forestland under Article 12, Chapter 105, of the N.C. General Statutes. Once an active forestry management plan is no longer in place, the exception for the property will be removed. Property owners with an active forestry management plan shall provide a current copy of this plan to the Town each calendar year by January 31.

~~Non-residential properties where the primary purpose is for outdoor recreation activities, as defined below, are exempt from the replacement requirements of this ordinance outside the setback areas.~~

**PLANNING COMMISSION RECOMMENDED CHANGES +  
REVISIONS BETWEEN AUGUST AND SEPTEMBER BOC MEETINGS**

~~The Town recognizes that such properties are inherently different operationally. Notification shall be provided to the Town prior to removal of any tree in this exempt area.~~

(2013 Code, § 19-1) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 153.051 DEFINITIONS.

**NON-RESIDENTIAL USES.** For the purposes of this chapter, non-residential uses may include specific uses found throughout the Town that do not encompass single-family or multi-family residential dwellings. These uses may exist within a residential zoning district, but by actual use, are not residential in nature. Examples of these uses include, but are not limited to, public or private schools; country, athletic, and social clubs; medical or dental offices and campuses.

**ORDINANCE ADMINISTRATOR.** For the purposes of this chapter, the ordinance administrator charged with administration, inspection, review, and enforcement is the Town Manager or his/her designee.

**OUTDOOR RECREATION ACTIVITIES.** Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment, and taking place at prescribed non-residential places, sites, or fields. Active recreational uses and supporting services include swimming, tennis, golf, baseball and other field sports, track, and playground activities.

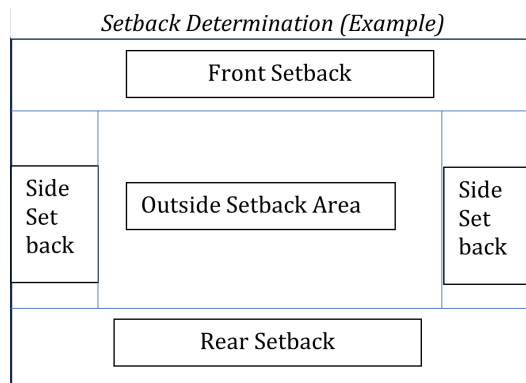
**PROTECTED TREE.** A protected tree is any tree six inches or more in diameter at a height of four and a half feet from the ground (DBH-diameter at breast height) that is in sound, healthy condition.

**RECOMMENDED PLANTING LIST (RPL).** A list developed and updated by the Town Arborist that includes preferred species based on the tree being removed and acceptable replacement locations. For all replanting requirements, a minimum of fifty (50) percent of the total replacement trees must come from the RPL with twenty-five (25) percent of the total replacement trees being those species identified as trees of preference, as defined below. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list as defined below. The replanting list may be updated periodically and is available on the Town's website.

**RESIDENTIAL USES.** For the purposes of this chapter, residential uses include single-family detached dwelling units found within the R-1, R-2, and R-3 zoning districts and includes attached multi-family residential units found within the R-1, R-2, and R-3 zoning districts.

**SETBACKS.** For the purposes of this chapter, setback refers to the minimum yard setback requirement found in § 153.007 "DIMENSIONAL REQUIREMENTS" of the Town Zoning Ordinance. "INSIDE SETBACK AREA" is the length found from the street or property line, and "OUTSIDE SETBACK AREA" is the remainder of the property area. An example of setback locations are shown below.

**PLANNING COMMISSION RECOMMENDED CHANGES +  
REVISIONS BETWEEN AUGUST AND SEPTEMBER BOC MEETINGS**



**TREES OF PREFERENCE (TOP).** Trees that warrant additional attention and regulation due to being a preferred native species or having distinctive height and/or diameter. Trees of preference include any healthy, living tree with the following characteristics:

- (A) Has a trunk diameter at breast height (DBH) of thirty-six (36) inches or more;
- (B) Any tree native to North Carolina per the United States Department of Agriculture Natural Resource Conservation Service Plants Database with a trunk DBH of thirty (30) inches or more.

**UNREGULATED TREE.** A tree that is less than six (6) inches in diameter, regardless of height or species, is to be unregulated and not subject to the provisions of this chapter.

**UNPROTECTED TREE.** A tree that is six inches or more in diameter at a height of four and a half feet from the ground, and is dead, produces no foliage during normal growing seasons, or a tree that is diseased or damaged to the extent that it is structurally compromised and poses a safety hazard, or a tree that, for any other reason, poses a safety hazard. Safety hazard concerns are evaluated by the Town Arborist in accordance with best management practices developed by the International Society of Arboriculture (ISA).

(2013 Code, § 19-2) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

**§ 153.052 REMOVAL OF PROTECTED TREES.**

(A) No person shall remove or in any way damage any protected tree on a property without receiving approval from the appropriate regulatory review body for the removal and paying any applicable fee. Any protected trees removed shall be replaced as outlined in § 153.058 below.

(B) If the Ordinance Administrator concludes the removal of the number of protected trees requested would be undesirable, and not within the letter or intent of this subchapter, he or she may refuse to approve such removal, or permit the removal of a lesser number of protected trees. Further, in his or her discretion, the Ordinance Administrator may require that the applicant provide a tree survey showing the location, size, and type of protected trees on a property, including common scientific names. The tree survey shall clearly indicate which protected trees are indicated for removal and which will be left undisturbed. In the case of new construction, the site plan must show the

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location of building, driveways, terraces, and other structures on the property. All protected trees must be clearly tagged as to retention or removal. The Ordinance Administrator may also require an applicant to provide documentary evidence, in the form of a survey or other documentation sufficient, in the opinion of the Ordinance Administrator, to confirm that the protected tree(s) are on the applicant's property. An applicant has the right to appeal a decision of the Ordinance Administrator to the Board of Adjustment within five (5) business days of the decision.

(2013 Code, § 19-3) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

**§ 153.053 APPLICATIONS FOR REMOVAL OF MORE THAN TEN (10) PROTECTED TREES.**

An application to remove more than ten (10) protected trees in twelve (12) successive months shall be made to the appropriate regulatory review authority as shown below. A fee for this application shall be paid along with the application.

*Table 1 - Residential Tree Replacement Requirements*

Protected Trees Requested for Removal	Regulatory Review Body
1-10 Trees	Ordinance Administrator
11-30 Trees	Board of Adjustment
31+ Trees	Board of Commissioners

(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

**§ 153.054 REMOVAL OF UNPROTECTED TREES.**

(A) An unprotected tree may be removed by the property owner after notifying the Town of the plans to remove the tree(s) and receiving approval to do so from the Ordinance Administrator.

(B) The Ordinance Administrator may require the property owner to retain a certified arborist to render an opinion as to the health and structural integrity of the tree(s) in question and report the findings, in writing, to the Town before final approval is given. The Town reserves the right to consult with its own tree specialist to confirm the health and condition of any tree(s) prior to removal.

(C) Any unprotected trees removed shall be replaced as defined in § 153.057 below.

(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

**§ 153.055 ENFORCEMENT.**

Any unauthorized removal, cutting, or damage to protected or unprotected tree(s) may result in the Ordinance Administrator placing a stop-work order on any activity on the property. This order shall

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remain in effect until all corrections are made to bring the property into compliance with this chapter, up to and including a final landscaping plan showing the full tree replacement as required by 153.057 below.

(2013 Code, § 19-5) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 153.056 DRIP LINE PROTECTION.

The health of protected trees requires the prevention of soil disturbance within the drip line of the trees. Covering this area with pavement or other materials, including excess soil, can affect the health of the tree. Final landscape plans shall protect this area around the tree and denote tree save areas on the plan.

(2013 Code, § 19-6) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 153.057 REPLACEMENT OF TREES.

(A) The replacement of protected and unprotected trees and trees of preference shall be established in accordance with the following requirements:

<i>Table 2 - Residential Tree Replacement Requirements</i>								
SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN- PROTECTED		PROTECTED		UN- PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	1	2"	1	2"	1	2"	x	x
19"-36"	1*	3"	1	2"	1	2"	x	x
36"+ <sup>T</sup>	1**	3"	1*	3"	2	2"	1	2"
* must include a minimum of 3 screening/buffering trees as defined in RPL								
** must include a minimum of 5 screening/buffering trees as defined in RPL								
<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements								



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*Table 3 - Non-Residential Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN- PROTECTED		PROTECTED		UN- PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	2	2"	x	x	1	2"	x	x
19"-36"	2*	3"	1	2"	1	3"	x	x
36"+ <sup>T</sup>	2**	4"	1*	3"	1	4"	1	3"

\* must include a minimum of 3 screening/buffering trees as defined in RPL

\*\* must include a minimum of 5 screening/buffering trees as defined in RPL

<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

(B) A replacement tree may be planted up to one (1) year prior to the removal of any tree in order to count toward replacement. Replacement trees planted after existing tree removal shall be in the ground within six months of removal of the original tree. The Ordinance Administrator may, for good cause shown, and in his or her sole discretion, extend this period for an additional six months.

(C) The Town's Recommended Planting List (RPL) shall be utilized by applicants when determining what species of trees are to be replanted. A minimum of fifty (50) percent of the total replacement trees shall come from the RPL with a minimum of twenty-five (25) percent of total replacement trees coming from the Trees of Preference (TOP) list. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list. Variation from these requirements must be granted by the Ordinance Administrator prior to approval and planting.

(D) See the above charts for the minimum replacement size for all deciduous trees. Evergreen trees that are planted as replacement trees shall be a minimum of six (6) feet in height at the time of planting.

(E) (1) Depending on the proximity of other trees and/or structures, lesser quantities of replacement trees may be authorized by the Ordinance Administrator or by the Board of Adjustment (in the case of an appeal to the Town) or the Ordinance Administrator may authorize the replanting or replacement of trees in a location or locations where such replacement trees are more likely to survive. For existing residential lots where mature canopies remain after tree removal, replacement requirements may be amended regarding location and species to provide the best opportunity for healthy growth. This replacement requirement amendment is meant solely to allow for maintenance of existing residential lots where the canopy is thick and growing new trees would be impractical and/or difficult. This allowance is not intended for new residential construction.

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(2) For non-residential lots, if replanting inside ~~a setback area results~~the setback results in an adverse condition to Town roads, other public property, other private property, or results in an undue hardship for an outdoor recreation activity, a variance application may be filed with the Board of Adjustment to replant the appropriate number of trees in a different location. Non-residential properties that include an outdoor recreation activity as a primary purpose, as defined above, are provided a tree removal allowance not to exceed net fifty (50) trees outside the setback of the property in a calendar year. Net removal is defined as the number of protected trees removed minus the number of trees re-planted on the property where the outdoor recreation activity occurs.

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(F) The Town encourages a diversity of species during replanting, with a focus on replenishing hardwood trees within the forest. However, to provide appropriate screening and buffering, particularly among non-residential uses, trees that have a lower canopy (height) at maturity are also encouraged for inclusion in a replanting plan. This combination will ensure the canopy is varied in both height and species.

(G) Replacement trees shall not be planted within the Town's right-of-way or in an area to obstruct the view of traffic.

((2013 Code, § 19-7) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

**§ 153.058 INSPECTIONS, APPEALS, BOND, AND PENALTY.**

(A) All protected trees designated to remain, pursuant to a tree survey, plus any replacement trees shall be inspected by the Ordinance Administrator six months following any construction to ensure the trees are in a healthy condition. The Ordinance Administrator may require replacement or replanting of replacement trees if the appropriate replacement trees are not in place during this review.

(B) Any person aggrieved by a decision made under this subchapter by the Ordinance Administrator may file, within five (5) days after the date of such decision, a petition to have such decision reviewed and acted upon by the Board of Adjustment. The decision of the Board of Adjustment shall be subject to review by the Board of Commissioners.

(C) At the option of the Town, a bond or other type of guarantee can be required of the property owner and/ or applicant when submitting a tree removal application to ensure all replanting requirements are met to the satisfaction of the Town.

(D) Any violation of this chapter shall be subject to the penalty provisions found in §153.999 of the Town of Biltmore Forest Zoning Ordinance.

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BUFFERS, SCREENING, AND LANDSCAPING REQUIREMENTS

§ 153.060 PURPOSE AND INTENT.

- (A) The town has an abundant and diverse tree and vegetative cover that is essential to the aesthetic value of the town and provides numerous ecological and economic benefits.
- (B) Landscape requirements for new construction and substantial additions are set forth below, in order to:
  - (1) Encourage the preservation of existing trees and vegetation on undeveloped residential lots and ensure the reforestation of the lot when tree removal is required for any construction activities.
  - (2) Ensure landscape plans presented to the Town include considerations for native species, reforestation, environmental protection, and effective stormwater management.
- (C) The landscape and buffering standards set forth below require buffers and landscaping between dissimilar land uses, along public rights-of-way, and within parking lots, in order to:
  - (1) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;
  - (2) Protect and improve the visual quality of the town and minimize the negative impacts of development such as noise, dust, litter, glare of lights, traffic, heat, overcrowding, odor, and views of unsightly parking lots, utilities, and mechanical systems and buildings;
  - (3) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;
  - (4) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and to preserve the character and value of property and to provide a sense of privacy; and
  - (5) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the town while allowing flexibility to promote well-designed and creative landscape plantings.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.061 GENERAL INFORMATION.

- (A) Applicability.
  - (1) Buffer strip plantings, street trees, and parking lot trees and shrubs are required for developments within the town limits.

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(2) The following developments are required to be in full compliance with this section:

(a) New residential development, including additions, exceeding more than 500 square feet of roof coverage, and all nonresidential development, including special uses; and

(3) New parking spaces or lots shall comply with the provisions of § 153.064.

(B) Landscape and grading plan required. Applicants are advised to meet with Town staff in order to review all ordinance requirements and procedures and receive a copy of the plan checklists. As required in § 153.034, a landscape and grading plan meeting Town requirements shall be reviewed and approved prior to any grading.

(C) Tree Replacement Requirements.

The following tree replacement requirements are in place for all developments as defined in (A)(2).

*Table 1 - New Construction Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	1	2"	1	2"	x	x
13"-18"	2	2"	1	2"	2	2"	1	2"
19"-36"	2*	3"	2	2"	2	3"	2	2"
36"+ <sup>T</sup>	2**	4"	2*	3"	2	4"	2	3"

\* must include a minimum of 3 screening/buffering trees as defined in RPL

\*\* must include a minimum of 5 screening/buffering trees as defined in RPL

<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

(C) Alternative compliance.

(1) The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The Board of Adjustment, in consultation with the Design Review Board, may alter the requirements of this section as long as the existing or added landscape features of the development site comply with the intent of this chapter.

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(2) Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

(a) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;

(b) Space limitations, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood; or

(c) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of the ordinance, and exhibits superior design quality.

(4) The property owner must submit a plan of the area for which alternative compliance is requested to the Town Manager 14 days prior to the meeting of the Design Review Board at which the request will be considered. The site plan shall show existing site features and any additional material the property owner will plant or construct to meet the intent of the buffer, street tree, and parking lot tree requirements.

(5) In addition, the applicant must submit a written statement explaining and justifying the need for alternative compliance. Upon recommendation from the Design Review Board following their review, alternative compliance plan shall then be considered by the Board of Adjustment. Alternative compliance shall be limited to the specific project being reviewed and shall not establish a precedent for acceptance in other cases.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**§ 153.062 EXISTING VEGETATION IN R-4 OR R-5 ZONES.**

(A) Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, and mitigate the impacts of development on the community. It is recommended that groups of trees be preserved, as well as individual trees. Existing trees and shrubs designated for preservation may be credited towards required buffer trees, street trees, and parking lot trees at the discretion of the Ordinance Administrator as described below.

(B) As required in § 153.052, no person shall remove or in any way damage any protected trees without first filing an application for the removal and receiving approval from the Town. This requirement is applicable to both residential and non-residential uses within the town.

(C) Special attention shall be given to protected trees located within 20 feet of the rear or side property line of property meeting the definition of an incompatible land use.

(1) Credits and other incentives to preserve vegetation within non-residential land use.

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(a) Vegetation located in the buffer strip. One existing evergreen shrub over four feet high located in the buffer strip may be credited for two new shrubs, also on a case-by-case basis by the Board of Adjustment.

(b) Vegetation located elsewhere on the property.

1. Trees designated for preservation may be credited at the rate of the following.

2-inch to 6-inch caliper tree = 1 tree

7-inch to 12-inch caliper tree = 2 trees

13-inch to 18-inch caliper tree = 3 trees

19-inch to 24-inch caliper tree = 4 trees

25-inch and greater = 5 trees

2. One existing shrub over four feet high may be credited for two new shrubs. In order to receive credit, vegetation designated for preservation shall be in good health and condition. Trees and shrubs designated to be preserved shall be indicated on the landscape and grading plan, as well as all protective barriers. If a tree or shrub designated for preservation dies within five years of the project's completion, it must be replaced with the total number of trees or shrubs which were credited to the existing tree or shrub within six (6) months from removal of the dead trees or shrubs.

(2) Protection of existing trees and shrubs during construction.

(a) 1. No grading or other land-disturbing activity shall occur on a site with existing trees or shrubs which are designated to be preserved in order to meet the landscaping requirements until the landscape and grading plan has been approved by the Board of Adjustment and protective barriers are installed by the developer and approved by the Zoning Administrator. Trees designated for preservation which are counted toward the landscape and buffering requirements shall be protected by barriers, while trees designated for preservation which do not count toward the landscape and buffering requirements are encouraged to be protected by barriers. The diameter of the trees designated for preservation and the location of protective barriers shall be shown on the landscape and grading and site plans with the dimensions between the tree trunk and barrier indicated.

2. Protective barriers shall be placed around the root protection zone of trees designated for preservation that are within 50 feet of any grading or construction activity. Protected ground areas for shrubs shall consist of an area twice the diameter of the shrub. All protective barriers shall be maintained throughout the building construction process.

(b) 1. All contractors shall be made aware of the areas designated for protection.

2. No disturbance shall occur within the protective barriers, including:

a. Grading;

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b. Filling, unless an aeration system which is certified by a registered landscape architect, certified arborist, or state cooperative extension specialist is installed to protect the tree from suffocation;

c. Temporary or permanent parking;

d. Storage of debris or materials, including topsoil;

e. Disposal of hazardous wastes or concrete washout; and

f. Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

3. If any area within the root protection zone will be disturbed for any reason, a registered landscape architect, certified arborist, or state cooperative extension specialist shall recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

4. The developer shall coordinate with the utility companies early in the design process to resolve potential conflicts about the placement of utilities and buffer and screening requirements in § 153.063(B)(5). The Zoning Administrator shall approve the placement of the utilities either outside of the root protection zone or tunneled at least two feet directly below the tree roots to minimize root damage.

5. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the drip line area.

(c) Tree protection zone signs shall be installed on the tree protection barriers visible on all sides of the protection area (minimum one on each side and/or every 300 linear feet). The size of each sign shall be a minimum of two feet by two feet and shall contain the following language: "TREE PROTECTION ZONE, KEEP OUT" or "TREE SAVE AREA, KEEP OUT".

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**§ 153.063 BUFFER STRIP AND SCREEN REQUIREMENTS.**

(A) Certain land uses are defined in this chapter as being an incompatible land use when developed adjacent to other less intensive land uses. A buffer strip can serve to lessen adverse impacts when development occurs.

(B) The installation of the applicable buffer strip shall be the responsibility of the owner of the developing land use. Buffer strips shall be located on the property of the developing land use between the property line and any vehicular use areas, buildings, storage, service areas, or other area of activity. The buffer strip shall extend along the entire rear and/or side property line which abuts an incompatible land use, up to any required street tree planting strip.

(1) Use of buffer strips. Required buffers shall not be disturbed for any reason except for approved driveway openings and other passive or accessory uses compatible with the general

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separation of land uses and; provided, that the total number of required plantings are still met. Approval from the Town Manager is required prior to initiating any disturbance of the buffer.

(2) Placement of buffer plantings. The exact placement of the required plants shall be the decision of the developer or designer, but shall be reviewed by the Town Manager and approved by the Board of Adjustment. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from any area accessible to the public or from adjacent properties. Trees or shrubs should be planted at least five feet away from the property line to ensure maintenance access and to avoid encroaching upon neighboring property.

(3) Composition of buffer plantings. A buffer consisting of two staggered rows of evergreen shrubs or sheared evergreen trees, planted 48 inches apart (as measured from the central stem) in a 20-foot wide strip shall be installed to screen the nonresidential use from neighboring residential properties. The trees or shrubs shall be between four and five feet high at time of planting. During times of extended dry weather, the applicant may petition the Board of Adjustment to reduce the required size of vegetation to be planted in order to better ensure its survival. It is suggested that a mixture of two to three shrubs selected from the recommended species list be planted to encourage healthier plants.

(4) Coordination with stormwater drainage provisions. If the buffer strip is to be used as part of the area for required stormwater runoff absorption as outlined in Ch. 52, then the shrubs and trees within the buffer shall be water tolerant.

(5) Coordination with utility easements. In circumstances when the property to be developed is adjacent to a utility easement, the buffer requirement of division (C) above maybe altered to be only ten feet wide at the discretion of the Board of Adjustment, based on the factors of space, feasibility, and other considerations which may make it difficult to provide a 20-foot buffer.

(6) Additional buffering. The Board of Adjustment has the authority to require that a wall or fence be constructed next to property used for residential purposes when the Board determines that the buffer strip alone does not provide adequate buffering. The fence or wall shall be constructed in a durable fashion of wood, stone, masonry materials, or other materials if deemed appropriate and shall be built of material compatible with the principal building. When concrete block is utilized, it shall be finished with stucco on both sides. The materials and design shall be approved by the Board of Adjustment on a case-by-case basis. The finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this section. Shrubs shall be planted on the applicant's side of the property at the rate of 25 per 100 linear feet; their placing and arrangement shall be the decision of the applicant.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**§ 153.064 PARKING LOT LANDSCAPING REQUIREMENTS.**

Trees and shrubs are required in and around parking lots with more than five spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, help absorb runoff, reduce glare from parking lots, and to help filter exhaust from vehicles.



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(A) There shall be a continuously-maintained growing strip planted with grass or similar low-growing vegetation, measured from the back of the curb and extending ten feet perpendicular to the road. The purpose of this growing strip is to provide a clear line of sight for motorists, pedestrians, and cyclists entering and leaving commercial properties.

(B) (1) Where parking areas with more than five spaces adjoin a public right-of-way, a landscaped planting strip ten feet wide shall be established and continuously maintained between the growing strip and parking area(s).

(2) Street trees shall be planted within the landscaped planting strip in accordance with § 153.066 and parking areas within 50 feet of the right-of-way shall have a visually modifying screen or barrier that meets one of these standards:

(a) Evergreen shrubs shall be planted 36 inches apart as measured from the center and attain a height of at least 48 inches within four years of installation;

(b) There shall be a fence or wall three feet high constructed of the same material as the principal building; or

(c) There is an earthen berm at least two feet high, with a minimum crown width of two feet and a width to height ratio of no greater than 2:1; shrubs shall be planted on top of the berm that will attain a height of at least 36 inches within four years of installation and shall be planted 36 inches apart.

(3) No screen is required at parking lot entrances or exits, and no screen shall obstruct vision within 50 feet of an entrance, exit, or intersection. The landscaped planting strip shall be covered with living material, including groundcover and/or shrubs, except for mulched areas directly around the trees, so that no soil is exposed.

(C) (1) (a) Parking areas with more than five spaces shall have at least one large-maturing deciduous tree for every three parking spaces, with some appropriate clustering of trees permitted, and six-foot by 18-foot projecting landscaped islands generally between ten and 12 parking spaces.

(b) Whenever possible, interior parking spaces should have a continuous planter strip six feet wide between rows of parking.

(2) Where appropriate, provisions shall be made to ensure that adequate pedestrian paths are provided throughout the landscaped areas. In all cases, at least one large maturing deciduous tree shall be provided for a parking lot regardless of the number of spaces provided. No parking space shall be located more than 50 feet from the trunk of a large-maturing deciduous tree. When calculating the number of trees required, the applicant shall round up to the nearest whole number.

(D) All landscaped areas shall be bordered by a concrete curb that is at least six inches above the pavement and six inches wide or a granite curb that is at least six inches above the pavement and four inches wide.

(E) To increase the parking lot landscaped area, a maximum of two feet of the parking stall depth may be landscaped with low-growth, hearty materials in lieu of asphalt, allowing a bumper overhang while maintaining the required parking dimensions.

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(F) When more than the required number of parking spaces is provided, the applicant shall provide two times the required number of trees for the spaces provided above the ordinance requirement.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.065 SCREENING OF DUMPSTERS, LOADING DOCKS, OUTDOOR STORAGE AREAS, AND UTILITY STRUCTURES.

(A) All dumpsters, loading docks, outdoor storage areas, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or buffer strip. Landscaping shall not interfere with the access and operation of any such structure or facility. Trash and storage areas shall be well-maintained, including prompt repair and replacement of damaged gates, fences, and plants.

(B) Openings of trash enclosures shall be oriented away from public view or screened with sturdy gates wide enough to allow easy access for trash collection, where practical. The consolidation of trash areas between businesses and the use of modern disposal techniques is encouraged. All dumpsters shall be located a minimum of 50 feet from a residential dwelling. All unenclosed outdoor storage areas greater than 25 square feet shall also be screened from adjacent properties and streets.

(C) Screen types include:

(1) A continuous hedge of evergreen shrubs planted in a five-foot strip spaced a maximum of 36 inches apart; and

(2) A wall or fence six feet high, with the finished side of the fence or wall facing the abutting property or street. Fences longer than 25 linear feet shall be landscaped with trees and/or shrubs planted in a minimum five-foot planting area, except around access areas, spaced no farther than eight feet apart in order to screen at least 50% of the fence or wall.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.066 STREET TREES.

(A) (1) Street trees are required for all developments meeting the applicability requirements of § 153.061(A). Street trees shall be required at the rate of one large-maturing tree (over 35 feet in height) for every 40 linear feet of property abutting a street.

(2) In the event that overhead utility lines are present, then one small-maturing tree (less than 35 feet in height) may be planted for every 30 feet of property abutting a street.

(3) This does not imply that trees must be spaced exactly 30 or 40 feet apart.

(4) The exact placement of the required tree or trees may be established with input from the reviewing boards in order to fit in with sign placement and other building issues.

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(B) Trees shall be planted within a landscaped planting strip adjacent to the growing strip as outlined in § 153.064(A) and also according to regulations from the State Department of Transportation.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**§ 153.067 CERTIFICATION OF COMPLETION.**

(A) Landscaping shall be installed and inspected prior to receiving a certificate of completion. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide an irrevocable letter of credit, or other financial surety in an amount equal to 110% of the cost of installing the required landscaping to guarantee the completion of the required planting.

(B) Upon approval of the financial surety, the certificate of completion shall be issued. The financial surety shall be canceled and/or returned upon completion.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**§ 153.068 MAINTENANCE.**

(A) The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall shall constitute a zoning violation and shall be subject to the penalty provisions in § 153.999 if not replaced within 30 days of notification.

(B) If an act of God or other catastrophic event occurs which destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material shall be in compliance with the minimum size, spacing, and quantity standards of the ordinance requirements in effect at the time of project approval.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

**§ 153.069 RESIDENTIAL SCREENING OF UTILITY STRUCTURES.**

It is required that all new utility structures, whether they are part of a new dwelling or are being added to an existing dwelling, located out of doors, including, but not limited to, heat pumps, air conditioning units (with the exception of window units), and generators shall be screened on all sides except the side closest to the dwelling. The screening shall consist of evergreen shrubs planted a maximum of 36 inches apart, with a height of 18 to 24 inches at time of planting. The shrubs may be planted three feet away from the utility structures so they do not interfere with proper functioning.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

PLANNING COMMISSION RECOMMENDATION  
JUNE 27, 2023

§ 153.070 PLANT SPECIFICATIONS.

(A) Recommended plant species. Plants may be chosen from the recommended plant list (RPL) available from the Town. The list encourages the use of plant materials which are indigenous to this region and are readily available from local nurseries. Plant materials which are not on the list may be used following approval from the Board of Adjustment.

(B) Minimum plant size requirements.

(1) Large-maturing deciduous tree. Greater than 35 feet at maturity. Minimum size at planting shall be 12 to 14 feet in height and two inches caliper (diameter);

(2) Small-maturing deciduous tree. Smaller than 35 feet at maturity. The tree shall be at least one and one-half inch caliper and eight to ten feet high at time of planting;

(3) Evergreen tree. Minimum height of eight (8) feet at time of planting; and

(4) Evergreen shrub. Minimum three gallon container or ten-inch root ball with a height of 18 to 24 inches at time of planting.

(C) Plant standards.

(1) All plants shall meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1.

(2) Plants shall be healthy, well-branched, and free of disease and insect infestation.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

Chapter 153.050 Tree Preservation

Tree Protection

153.050 Purpose

153.051 Definitions

153.052 Removal of protected trees

153.053 Applications for removal of more than ten (10) protected trees

153.054 Removal of unprotected trees

153.055 Enforcement

153.056 Drip line protection

153.057 Replacement of trees

153.058 Inspections, Appeals, Bond, and Penalty

TREE PROTECTION

~~§ 93.30~~ § 153.050 PURPOSE.

(A) In order to maintain the unique characteristics of the Town of Biltmore Forest as a residential neighborhood with a history beginning as part of the Vanderbilt Estate, it is necessary to preserve the ~~quality and flavor that form so much of the~~ traditional appearance of Biltmore Forest as a true forest. This is particularly true of trees along the roads and around the perimeter of lots. Reference is hereby made to § 153.034 of the Town Zoning Ordinance relating to removal of natural vegetation, which section is routinely involved when residences or other structures are placed on a lot.

(B) ~~Preservation~~ Trees provide buffer and a natural canopy, and are a hallmark of the Town requiring protection. Preservation and appropriate replacement of trees is the intent of this subchapter. This subchapter shall apply to all properties within the Town of Biltmore Forest except ~~properties owned, leased or controlled by the town~~ as noted in part C below. The Town is focused on maintaining the current health of the forest and increasing species diversity, with a primary goal to replace hardwood trees, other native trees, and trees of preference more quickly. Trees provide shade, cooling, noise and wind reduction, prevent soil erosion, produce oxygen, filter dust, and absorb carbon dioxide. Trees also provide natural habitat and aesthetic enhancement in the town. Trees provide buffer and a natural canopy, and are a hallmark of the town requiring protection. ~~Damage to and removal of trees requires regulation and control.~~ Town.

(C) ~~This subchapter does not apply to properties owned, leased, or controlled by the Town of Biltmore Forest. This subchapter does not apply to properties that perform forestry activity on forestland taxed on the basis of its present-use value as forestland under Article 12, Chapter 105, of the N.C. General Statutes. Once an active forestry management plan is no longer in place, the exception for the property~~

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will be removed. Property owners with an active forestry management plan shall provide a current copy of this plan to the Town each calendar year by January 31.

(2013 Code, § 19-1) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

#### **§ 93.31 IDENTIFICATION.**

~~—(A) For the purpose of this subchapter, a protected tree (“protected tree”)~~ § 153.051  
**DEFINITIONS.**

**NON-RESIDENTIAL USES.** For the purposes of this chapter, non-residential uses may include specific uses found throughout the Town that do not encompass single-family or multi-family residential dwellings. These uses may exist within a residential zoning district, but by actual use, are not residential in nature. Examples of these uses include, but are not limited to, public or private schools; country, athletic, and social clubs; medical or dental offices and campuses.

**ORDINANCE ADMINISTRATOR.** For the purposes of this chapter, the ordinance administrator charged with administration, inspection, review, and enforcement is the Town Manager or his/her designee.

**OUTDOOR RECREATION ACTIVITIES.** Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment, and taking place at prescribed non-residential places, sites, or fields. Active recreational uses and supporting services include swimming, tennis, golf, baseball and other field sports, track, and playground activities.

**PROTECTED TREE.** A protected tree is any tree six inches or more in diameter at a height of four and a half feet from the ground (DBH-diameter at breast height), ~~that is in sound, healthy condition. A tree that is dead, produces no foliage during normal growing season, or a tree that is diseased or storm damaged to the extent that it is structurally compromised and, thus, poses a safety hazard, or a tree that, for any other reason, poses a safety hazard, is an “unprotected tree.” This subchapter does not apply to trees that are less than six inches in diameter, regardless of the height of the tree) that is in sound, healthy condition.~~

**RECOMMENDED PLANTING LIST (RPL).** A list developed and updated by the Town Arborist that includes preferred species based on the tree being removed and acceptable replacement locations. For all replanting requirements, a minimum of fifty (50) percent of the total replacement trees must come from the RPL with twenty-five (25) percent of the total replacement trees being those species identified as trees of preference, as defined below. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list as defined below. The replanting list may be updated periodically and is available on the Town’s website.

**RESIDENTIAL USES.** For the purposes of this chapter, residential uses include single-family detached dwelling units found within the R-1, R-2, and R-3 zoning districts and includes attached multi-family residential units found within the R-1, R-2, and R-3 zoning districts.

**SETBACKS.** For the purposes of this chapter, setback refers to the minimum yard setback requirement found in § 153.007 “DIMENSIONAL REQUIREMENTS” of the Town Zoning Ordinance. “INSIDE SETBACK AREA” is the length found from the street or property line, and

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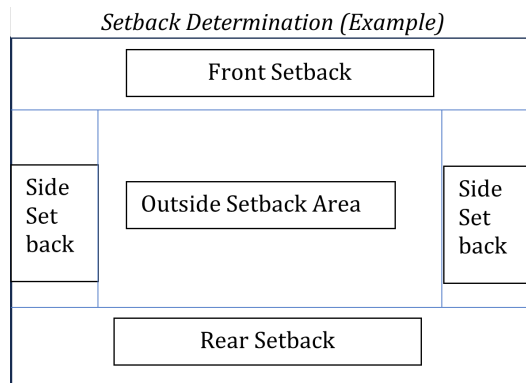
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“OUTSIDE SETBACK AREA” is the remainder of the property area. An example of setback locations are shown below.



**TREES OF PREFERENCE (TOP).** Trees that warrant additional attention and regulation due to being a preferred native species or having distinctive height and/or diameter. Trees of preference include any healthy, living tree with the following characteristics:

(A) Has a trunk diameter at breast height (DBH) of thirty-six (36) inches or more;

(B) Any tree native to North Carolina per the United States Department of Agriculture Natural Resource Conservation Service Plants Database with a trunk DBH of thirty (30) inches or more.

**UNREGULATED TREE.** A tree that is less than six (6) inches in diameter, regardless of height or species, is to be unregulated and not subject to the provisions of this chapter.

**UNPROTECTED TREE.** A tree that is six inches or more in diameter at a height of four and a half feet from the ground, and is dead, produces no foliage during normal growing seasons, or a tree that is diseased or damaged to the extent that it is structurally compromised and poses a safety hazard, or a tree that, for any other reason, poses a safety hazard. Safety hazard concerns are evaluated by the Town Arborist in accordance with best management practices developed by the International Society of Arboriculture (ISA).

(2013 Code, § 19-2) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

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#### **§ 93.32 § 153.052 REMOVAL OF PROTECTED TREES.**

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(A) No person shall remove or in any way damage any protected tree on a property without **first filing an application for removal,** receiving approval from the **Town Manager or Town**

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~~Arborist appropriate regulatory review body~~ for the removal, and paying any applicable fee. ~~The Town Manager, in his or her discretion, may allow the removal of up to three protected trees on the perimeter of a property or lot within the front, side or rear yard setbacks, as such setbacks are defined in the town's Zoning Ordinance. Within the remaining central portion of a property or lot, and the portion on which structures or improvements may be located, the Town Manager, in his or her discretion, may allow up to ten protected trees to be removed.~~ Any protected trees removed shall be replaced as outlined in § ~~93.38~~ 153.058 below.

(B) If the ~~Town Manager~~ Ordinance Administrator concludes ~~that~~ the removal of the number of protected trees requested would be undesirable, and not within the letter or intent of this subchapter, he or she may refuse to approve such removal, or permit the removal of a lesser number of protected trees. Further, in his or her discretion, the ~~Town Manager~~ Ordinance Administrator may require that the applicant provide a tree survey showing the location, size, and type of protected trees on a property, including common scientific names. The tree survey shall clearly indicate which protected trees are indicated for removal and which will be left undisturbed. In the case of new construction, the site plan must show the location of building, driveways, terraces, and other structures on the property. All protected trees must be clearly tagged as to retention or removal. The ~~Town Manager~~ Ordinance Administrator may also require an applicant to provide documentary evidence, in the form of a survey or other documentation sufficient, in the opinion of the ~~Town Manager~~ Ordinance Administrator, to confirm that the protected tree(s) are on the applicant's property. An applicant has the right to appeal a decision of the ~~Town Manager~~ Ordinance Administrator to the Board of Adjustment within five (5) business days of the ~~Town Manager's~~ decision.

(2013 Code, § 19-3) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

#### ~~§ 93.33~~ 153.053 APPLICATIONS FOR REMOVAL OF MORE THAN TEN (10) PROTECTED TREES IN EXCESS OF TEN.

~~—(A) An application for a permit to remove more than ten (10) protected trees on a property must in twelve (12) successive months shall be presented directly made to the Board of Adjustment appropriate regulatory review authority as shown below. A fee of \$50.00 for this application shall accompany be paid along with the application.~~

~~—(B) An application for the removal of 30 or more protected trees on a property must be submitted to the Board of Commissioners for review and approval. A non-refundable fee of \$100.00 plus \$5.00 for each protected tree requested for removal shall accompany the application. Such applications will be considered on case-by-case basis. The cumulative removal of 30 or more protected trees from a single property in one year will result in a formal review and must be approved by the Board of Commissioners. As a part of its review, the Board of Commissioners shall have the authority to require replacement and replanting of trees as the Board determines is necessary, including the specific location of replacement trees. The decision of the Board of Commissioners shall be final.~~

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Table 1 - Residential Tree Replacement Requirements

<u>Protected Trees Requested for Removal</u>	<u>Regulatory Review Body</u>
<u>1-10 Trees</u>	<u>Ordinance Administrator</u>
<u>11-30 Trees</u>	<u>Board of Adjustment</u>
<u>31+ Trees</u>	<u>Board of Commissioners</u>

(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ ~~93.34~~153.054 REMOVAL OF UNPROTECTED TREES.

(A) An unprotected tree may be removed by the property owner after notifying the Town Manager of the plans to remove the tree(s) and receiving approval to do so from the ~~Town Manager or Town Arborist~~Ordinance Administrator.

(B) The ~~Town Manager~~Ordinance Administrator may require the property owner to retain a certified arborist to render an opinion as to the health and structural integrity of the tree(s) in question and report the findings, in writing, to the ~~town~~Town before final approval is given. The ~~town~~Town reserves the right to consult with its own tree specialist to confirm the health and condition of any tree(s) prior to removal.

(C) Any unprotected trees removed shall be replaced as defined in § ~~93.38~~153.057 below.

(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ ~~93.35~~ PRE-CONSTRUCTION CONFERENCE AND SUPERVISION.

~~—(A) Prior to the commencement of any pre-construction land-clearing or soil disturbance, a pre-construction conference will take place between a responsible representative of the town and the applicant to review procedures for protection and management of all protected trees and other landscape elements identified in the approved landscape plan. The applicant will designate one or more persons responsible for ensuring the protection of new or existing landscaping elements to be preserved. The responsible person shall be present on site whenever activity is taking place that could damage or disturb such landscape elements, and will notify the Town Manager that such activity is taking place.~~

~~—(B) The Town Manager shall have developed sites inspected frequently to ensure work is conforming to the approved landscape plan and the applicable sections of this subchapter.~~

~~—(C) Prior to the commencement of any pre-construction land-clearing or soil disturbance, the developer/contractor shall be required to sign a document agreeing to abide by the conditions stipulated in this subchapter. At the option of the town, a compliance bond may be required.~~

(2013 Code, § 19-4) (Ord. passed --; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

~~§ 93.36~~ 153.055 ENFORCEMENT.

~~If any~~ Any unauthorized removal, cutting, or damage to ~~trees takes place, protected or unprotected tree(s) may result in~~ the ~~Town Manager may issue~~ Ordinance Administrator placing a stop-work order ~~which on any activity on the property. This order~~ shall remain in effect until all corrections are made to bring the property ~~in~~ into compliance with this chapter, ~~up to and including a final landscaping plan showing the full tree replacement as required by 153.057 below.~~

(2013 Code, § 19-5) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

~~§ 93.37~~ 153.056 DRIP LINE PROTECTION.

The health of protected trees requires the prevention of soil disturbance within the drip line of the trees. Covering this area with pavement or other materials, including excess soil, can affect the health of the tree. ~~Landscaping~~ final landscape plans, ~~to the extent feasible,~~ shall protect this area around the tree ~~and denote tree save areas on the plan.~~

(2013 Code, § 19-6) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

~~§ 93.38~~ 153.057 REPLACEMENT OF TREES.

(A) ~~Any~~ The replacement of protected ~~or~~ and unprotected ~~tree removed~~ trees and trees of preference shall be ~~replaced~~ established in that general area of accordance with the property within 50 feet of the trunk of the former tree as follows following requirements:

-

Minimum size of existing tree	Replacement of protected tree	Replacement of unprotected tree
6-12" DBH	2 trees	1 tree
13-18" DBH	3 trees	1 tree
19-30" DBH	4 trees	2 trees
30" DBH or greater	5 trees	3 trees

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Table 2 - Residential Tree Replacement Requirements

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	1	2"	1	2"	1	2"	x	x
19"-36"	1*	3"	1	2"	1	2"	x	x
36"+ <sup>T</sup>	1**	3"	1*	3"	2	2"	1	2"

\* must include a minimum of 3 screening/buffering trees as defined in RPL

\*\* must include a minimum of 5 screening/buffering trees as defined in RPL

<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

Table 3 - Non-Residential Tree Replacement Requirements

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	2	2"	x	x	1	2"	x	x
19"-36"	2*	3"	1	2"	1	3"	x	x
36"+ <sup>T</sup>	2**	4"	1*	3"	1	4"	1	3"

\* must include a minimum of 3 screening/buffering trees as defined in RPL

\*\* must include a minimum of 5 screening/buffering trees as defined in RPL

<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

(B) ~~Any replacement tree~~ A replacement tree may be planted up to one (1) year prior to the removal of any tree in order to count toward replacement. Replacement trees planted after existing

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~~tree removal~~ shall be in the ground within six months of removal of the original tree. ~~The Town Manager or Board of Adjustment~~ The Ordinance Administrator may, for good cause shown, and in ~~their~~ his or her sole discretion, extend this period for ~~up to an additional~~ six months.

~~—(C) Subject to the approval of the Town Manager or the Board of Adjustment, replacement tree(s) may be planted in advance of any tree removal.~~

~~—(D) The minimum size for replacement is two inches diameter (measured from one foot above ground level) for a large-maturing deciduous tree, and one and one-half inch diameter for a small-maturing deciduous tree, or eight feet in height for evergreens. Additionally, the replanted trees shall meet the plant specifications of the Town Zoning Ordinance in § 153.070.~~

~~—(C) The Town's Recommended Planting List (RPL) shall be utilized by applicants when determining what species of trees are to be replanted. A minimum of fifty (50) percent of the total replacement trees shall come from the RPL, with a minimum of twenty-five (25) percent of total replacement trees coming from the Trees of Preference (TOP) list. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list. Variation from these requirements must be granted by the Ordinance Administrator prior to approval and planting.~~

~~(D) See the above charts for the minimum replacement size for all deciduous trees. Evergreen trees that are planted as replacement trees shall be a minimum of six (6) feet in height at the time of planting.~~

~~(E) (1) Depending on the proximity of other trees and/or structures, lesser quantities of replacement trees may be authorized by the Town Manager or Ordinance Administrator or by the Board of Adjustment (in the case of an appeal from the town/Town) or the Town Manager or Ordinance Administrator may authorize the replanting or replacement of trees in a location or locations where such replacement trees are more likely to survive. For existing residential lots where mature canopies remain after tree removal, replacement requirements may be amended regarding location and species to provide the best opportunity for healthy growth. This replacement requirement amendment is meant solely to allow for maintenance of existing residential lots where the canopy is thick and growing new trees would be impractical and/or difficult. This allowance is not intended for new residential construction.~~

~~—(F) In the event any tree dies or falls due to any condition whatsoever, including acts of God, each such tree shall be replaced as provided in division (A) above. By way of illustration and not limitation, this replacement is required as to each dead or fallen tree caused by one or more of the following conditions: disease, fire, drought, water, ice, sleet, snow, flood, hurricane, tornado, wind, storm of any type, lightning, earthquake or other earth movement. This division (F) shall apply only to properties within the town in excess of five acres.~~

~~{(2) For non-residential lots, if replanting inside the setback results in an adverse condition to Town roads, other public property, other private property, or results in an undue hardship for an outdoor recreation activity, a variance application may be filed with the Board of Adjustment to replant the appropriate number of trees in a different location. Non-residential properties that include an outdoor recreation activity as a primary purpose, as defined above, are provided a tree removal allowance not to exceed net fifty (50) trees outside the setback of the property in a calendar year. Net~~

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removal is defined as the number of protected trees removed minus the number of trees re-planted on the property where the outdoor recreation activity occurs.

(F) The Town encourages a diversity of species during replanting, with a focus on replenishing hardwood trees within the forest. However, to provide appropriate screening and buffering, particularly among non-residential uses, trees that have a lower canopy (height) at maturity are also encouraged for inclusion in a replanting plan. This combination will ensure the canopy is varied in both height and species.

(G) Replacement trees shall not be planted within the Town's right-of-way or in an area to obstruct the view of traffic.

((2013 Code, § 19-7) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

#### § 93.39 § 153.058 INSPECTIONS, APPEALS, BOND, AND PENALTY.

(A) —All protected trees designated to remain, pursuant to a tree survey, plus any replacement trees shall be inspected by the ~~Town Manager or his or her designee~~ Ordinance Administrator six months following any construction ~~and/or replacement trees,~~ to ensure the trees are in a healthy condition. The ~~Town Manager can~~ Ordinance Administrator may require replacement or replanting of replacement trees ~~if the appropriate replacement trees are not in place during this review.~~

(2013 Code, § 19-8) (Ord. passed — ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

#### § 93.40 APPEALS.

(B) —Any person aggrieved by a decision made under this subchapter by the ~~Town Manager or his or her designee~~ Ordinance Administrator may file, within five (5) days after the date of such decision, a petition to have such decision reviewed and acted upon by the Board of Adjustment. The decision of the Board of Adjustment shall be subject to review by the Board of Commissioners.

(2013 Code, § 19-9) (Ord. passed — ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

#### § 93.41 BOND.

(C) —At the option of the ~~town~~ Town, a bond or other type of guarantee can be required of the property owner ~~when initiating new construction, and/ or applicant when submitting a tree removal application~~ to ensure that all ~~permits and agreements~~ replanting requirements are met, to the satisfaction of the ~~town~~ Town.

(2013 Code, § 19-11) (Ord. passed — ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

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**§ 93.99 PENALTY.**

~~—(A) Any person violating any provision of violation of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions found in §153.999 of § 10.99.~~

~~—(B) (1) A violation of §§ 93.30 through 93.41 is a Class 3 misdemeanor under North Carolina law. The penalty for violating §§ 93.30 through 93.41 shall be \$250 per day. Each day of continued violation shall be a separate offense. The town shall also have the right to pursue civil remedies for a violation of §§ 93.30 through 93.41 including injunctive relief, and a civil penalty of \$250 for each day's violation of the subchapter pursuant to G.S. 160A-175.~~

~~—(2) Upon determining that a violation of §§ 93.30 through 93.41 has occurred, the Town Manager shall record the nature of the violation and send a notice of violation to the responsible person or entity by regular and certified mail or by hand delivery. The responsible person or entity shall have 30 days from the date of the letter to correct the violation. If the violation is not corrected within 30 days, the Town Manager may proceed with criminal charges pursuant to G.S. 14-4, or may take such other enforcement action as may be necessary to carry out the purpose of §§ 93.30 through 93.41.~~

~~(D) (2013 Code, § 19-10) (Ord. passed —; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021) Town of Biltmore Forest Zoning Ordinance.~~

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## **BOARD OF COMMISSIONERS MEETING**

### **STAFF MEMORANDUM**

**SEPTEMBER 12, 2023**

#### **AGENDA ITEM F-2**

#### **BROOKLAWN CHASE TRAIL AND WOODLAND CLEAN-UP PROJECT – UPDATE**

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##### **Background**

The Board of Commissioners approved two items related to the Brooklawn Chase park area last month. The first was to allow Family Tree Care to perform ten (10) days' worth of clean-up work in the park area. The purpose of this work is to remove fallen and hazardous trees and clear out invasive species. The second project was to contract with Long Cane Trails, Inc. to perform an initial trail feasibility assessment within the park area.

##### **Project Update**

Family Tree Care anticipates being in the park area within the next month performing the clean-up work. There was an initial hope that work would begin last week, but they were unable to make this work within their schedule. Again, the purpose of this work is not to remove healthy, living trees, but to ensure that the damaged, dangerous trees that are within this area are removed and/or mitigated.

Long Cane Trails has also provided an initial review of the trail and provided a nearly one-mile segment that will be walked and reviewed by staff later in the month. If you drive or walk by Brooklawn Chase park, you may notice white flagging in the park area – this is the proposed route of the trail. During our site visit, we will review the feasibility of this route and consider the estimates proposed for the construction. It is possible we will have more full information for the Board to consider in October regarding potential trail construction within this area.



## **BOARD OF COMMISSIONERS MEETING**

### **STAFF MEMORANDUM**

**SEPTEMBER 12, 2023**

#### **AGENDA ITEM F-3**

#### **MASTER FACILITY PLANNING PROCESS - UPDATE**

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##### **Background**

The Board of Commissioners held three special meetings over the course of the past month regarding the Town's master facility planning project. The first two meetings were to conduct interviews with the potential architectural firms that submitted qualifications for the project. The third meeting, held on Tuesday, September 5, was to consider the selection of a firm for this project.

##### **Project Update**

The Board of Commissioners selected DP3 Architects from Greenville, South Carolina to conduct this process. DP3 has an extensive breadth of similar work and a successful track record with similar projects. Their high satisfaction rate among clients and partners is indicative of their care and attention to detail.

##### **Next Steps**

Within the next week, it is likely that staff and the architect will meet to discuss and finalize the scope, schedule, and other constraints for the project. I anticipate receiving a fee proposal from them shortly after that, and we will begin the staff and legal review before providing this to the Board, if necessary.