

PROPOSED AGENDA

Meeting of the Town of Biltmore Forest
Board of Commissioners

To be held Tuesday, February 8, 2022 at 4:30 p.m.

***MEETING WILL BE HELD VIA ZOOM ONLINE PLATFORM
ZOOM LINK AVAILABLE ON SECOND PAGE OF AGENDA
FOR THOSE WISHING TO PARTICIPATE REMOTELY***

A. Roll Call by the Clerk

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

B. The minutes of the January 11, 2022 meeting will be presented for approval.

C. Reports of Officers

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

D. New Business

1. Consideration of Tax Penalty Waiver – 398 Vanderbilt Road
2. Consideration of Ordinance 2022-03 – An Ordinance amending the Town of Biltmore Forest Town Code
3. Tax Collection Report and Consideration of Tax Collection Legal Remedies Schedule
4. Artificial Turf Zoning Regulations Review
5. Duke Energy Targeted Underground Project Update

E. Public Comment

F. Adjourn

**Town of Biltmore Forest
Board of Commissioners Meeting
February 8, 2022**

Zoom Log-In Instructions

Topic: Town of Biltmore Forest Board of Commissioners Meeting
Time: Feb 8, 2022 04:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87049985180?pwd=ZlBsRDJFVHVlbnpFSlFmblhaVEkvQT09>

Meeting ID: 870 4998 5180

Passcode: 190577

One tap mobile

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MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF
BILTMORE FOREST HELD JANUARY 11, 2022

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. The meeting was held remotely via Zoom for purposes of limiting the spread of Covid-19.

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

Commissioner Loomis made a motion to approve the minutes from December 14, 2021. The motion was seconded by Commissioner Cogburn. Roll call was taken by the Clerk and the minutes were unanimously approved.

Chief Trevor Lance gave the report for the Skyland Fire Department. Chief Lance said there were a total of 22 calls for the month of December. Most of the calls were medical calls to assist EMS. Chief Lance said the ride through with Santa Claus also went very well. Mayor Goosmann thanked Chief Lance for the hard work of Skyland Fire Department.

Chief Chris Beddingfield gave the report for the Police Department. There were a total of 523 calls last month versus 482 calls for November. Chief Beddingfield said the two new police vehicles are in and they are getting new equipment installed and they should be in service soon. There were more issues with vagrancy and some overnight camping. The police department has

networked with Asheville Police to see how they handle these issue with vagrancy and homelessness to combat this problem. Chief Beddingfield mentioned the upcoming ordinances that will be discussed shortly.

Chief Beddingfield discussed the break in at a home in The Ramble on Niagara Drive where the alarm system was activated and officers arrived in less than one minute. The alarm scared the suspect away. When officers arrived, they also noticed another home was broken into as well. Officers worked with Asheville Police and had one of the K-9 units to run a track. A large amount of costume jewelry was taken and they are trying to identify this. Officers are being proactive and making sure residents feel secure. Mayor Goosmann thanked Chief Beddingfield for all their hard work.

Mr. Harry Buckner gave the report for the Public Works Department. Leaf collection has taken up a lot of time. Public Works is working with Duke in supplying street lights in a more code compliant way. The street light will be moved at the intersection of the Parkway and Stuyvesant Road. The vast majority of mulch has been put down at Brookside Park and three large mulch beds at Rosebank Park.

Recycling, trash, and brush calendars are being distributed by public works staff. A stream stabilization update will be provided next month after staff meets with the consultant. Mr. Buckner also said there will be a meeting this week on the Town wide traffic study. Mr. Buckner said he has reached out to a contractor for a culvert replacement at 13 and 15 Park Road.

In January, Mr. Buckner said they will have the power system updated for the street lights and there will be improvement to the garbage trucks as well as trash cans.

Mr. Buckner also said there have been challenges with illness and COVID but public works staff is working together well to work with the lack of employees at this time.

Mayor Goosmann thanked Mr. Buckner for his department's hard work.

Mr. Kanipe gave the report for the Town. The latest Buncombe County positivity rate is 13.7% which is double what it was the prior month. Mr. Kanipe said staff are abiding by CDC recommendations regarding quarantine and isolation periods, and appropriate mask usage is being reinforced among all employees. The Town remains aligned with Buncombe County's mask order. This renewed order is now effective through February 5, 2022. Because of the significant increase in transmission and case numbers, the January Board of Commissioners meeting is virtual. Information for accessing the meeting is posted on the Town's website. Staff will coordinate with chairs of other Town boards regarding meeting virtually or in-person over the course of the next month.

Mr. Kanipe discussed the American Recovery Plan funding update. We received great news on January 6th when the Treasury Department released their final rule for American Recovery Plan funding. You likely recall the interim rules included specific restrictions for funding use. While reporting requirements remain, the Treasury Department made it much easier for local governments to use the funds for any purpose. Previously, a local government could utilize recovery funds to replace revenue that was lost during the thrust of the pandemic. This was calculated through a formula and the local government had to show the methodology for replacement. The Treasury Department's new rule, however, allows local governments to take a "standard revenue replacement" that, in essence, will allow the funds to be utilized directly for any general government purpose. The Town's plan continues to be funding significant stormwater needs, but there is much greater flexibility now.

Mr. Kanipe discussed the Greenwood Park Stream Restoration and said the Town submitted all documents as requested to the Division of Water Infrastructure (DWI) before the Christmas holiday. We are awaiting a final authorization to proceed from DWI and will then hold a pre-construction meeting with Baker Construction.

Mr. Kanipe said the trash containers will be ordered this week with a delivery timeline of 12-18 weeks.

The Duke targeted underground project is coming along and they are about to start phase 2. Mr. Kanipe set up a meeting with their team and our team to go over construction procedures. They are moving forward on their end and the project is running smoothly.

Levonía Reese, partner with Carter P.C., gave the FY 21 audit presentation. The Local Government Commission has made it mandatory that the audit report is to be presented in front of the Board. Carter issued an internal control letter regarding the segregation of duties within the financial staff, and this is noted as a significant deficiency. The Town is not doing anything incorrectly, it is a result of the small staff size.

Ms. Reese said there was a budget violation that occurred as the result of spreadsheet miscalculations. This is disclosed in the financial statements. Management's corrective action plan is a second review on any budget ordinance and to create amendments. There was no disagreement with management regarding accounting principles.

The total assets increased \$280,000. Liabilities decreased almost \$400,000. The net position increased \$422,000 for the fiscal year. The ending net position is \$6,100,000. Investments in capital assets is \$5,500,000. The total revenue increased \$216,000. The expenses decreased nearly \$140,000. The general fund revenue was \$150,000 more than budgeted. The expenses were \$270,000 less than budgeted. Regarding the water fund, it was \$40,000 less than budgeted and the expenses were \$189,000 under budget. The town maintains a property valuation of \$805,000,000 and has maintained a 99% tax collection rate. Mayor Goosmann thanked Ms. Reese for all of their hard work.

Mr. Kanipe discussed the Consideration of Ordinance 2022-01 to amend the Town Code regarding loitering and temporary structures. This proposed ordinance would amend the Town code's chapter on general offenses and include specific regulation regarding loitering and temporary structures. This is NCGS 160A-175. This ordinance specifies that people may not congregate in a manner to block traffic (vehicular or pedestrian), obstruct the entrances to buildings, or establish a temporary tent or other structure for illegally camping on public or private property without prior approval. The structure of the ordinance provides for the manner in which the Police Department may ask the individual to stop performing this action and then take further action if necessary.

Recent changes to North Carolina state law require the Board of Commissioners to consider an ordinance related to public safety only after the ordinance was introduced at a previous meeting. In this case, the proposed ordinance was introduced to the Board during the December 14, 2021 meeting. The ordinance draft contains specific language noting this compliance and provides a

record of the motion, second, and vote tally if the ordinance is adopted. If adopted, this ordinance is effective immediately.

In accordance with NCGS 14-4, this ordinance states the maximum fine may exceed \$50.00 but may not exceed \$500.00. NCGS 14-4 was revised as part of SB 300 to specifically require criminal penalties be affirmatively stated within the ordinance to be applicable.

Commissioner Cogburn made a motion to approve the ordinance, Commissioner Kelly seconded the motion. Roll call was taken by the clerk and unanimously approved.

Mr. Kanipe discussed the consideration of ordinance 2022-02 to amend the Town code prohibiting public urination and defecation. Last month, the Board of Commissioners received a potential ordinance to the Town Code of Ordinances. This proposed ordinance would amend the Town Code's chapter on General Offenses, and include specific regulations prohibiting public urination and defecation which relates to NCGS 160-A-175. This ordinance specifies that urination or defecation occurring in the manner described in the ordinance is a misdemeanor violation. Previously, the Police Department has relied upon trespass or littering portions of the General Statutes in order to prohibit or respond to similar actions.

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A motion was made to adopt the ordinance by Commissioner Loomis. Commissioner Cogburn seconded the motion. Roll call was taken by the Clerk and the motion was unanimously approved.

The next issue addressed was a request to amend the Town Code regarding “no trespassing” signs. Mr. Billy Clarke discussed this matter. This particular issue came to our attention last month with a petition by Mr. Richard Wyde and Ms. Angela Branch. The current sign ordinance does not address “no trespassing” signs and Mr. Clarke said the ordinance needs to address this. Mr. Clarke said he and Mr. Kanipe hoped to put together a recommendation but have not been able to do so at this time. Mr. Clarke said there are a number of “no trespassing” signs that exist throughout Town and Mr. Clarke said they hope to get something to the Board next month.

Mr. Kanipe asked the Board if they would like to see additional information included in this ordinance. Commissioner Cogburn said they need limitations on the number of signs allowed, the distance on the street for public viewing (no closer than twenty feet), and limitations to color. Mayor Goosmann said it should be in the front yard of homes and the distance of the sign is important as well.

Mr. Kanipe discussed artificial turf. The Board of Adjustment did make a unanimous ruling at their December meeting that artificial turf does not constitute as an accessory structure. There was, however, unanimous agreement among the Board of Adjustment members to request the Board of Commissioners review the matter and determine whether artificial turf should be explicitly regulated within the Zoning Ordinance. A neighbor who expressed disagreement with the Board’s decision also has presented the Board of Commissioners with a request to consider addressing this issue. Artificial turf regulation would be included within the Zoning Ordinance. Potential zoning ordinance amendments require review and recommendation from the Planning Commission, and then require a public hearing before the Board of Commissioners may consider the matter. The purpose of bringing this matter to the Board now is to determine whether you want staff to proceed with creating a draft ordinance, and if so, what the Board would like included within that framework.

Commissioner Loomis said she would like to see how other municipalities are handling this and to see alternatives presented to the Board to see how this is addressed. Commissioner Kelly asked if there is an ordinance that covers someone placing a large artificial tree in their yard. Mr. Clarke said they received a request from a neighbor on Holly Hill Road from a lawyer representing the neighbor to determine if artificial turf is an accessory structure. Mr. Clarke and Mr. Kanipe said based on the ordinance, the artificial turf is not an accessory structure. This

decision was appealed to the Board of Adjustment, and the Board of Adjustment considered it at length at the December meeting. The Board members affirmed Mr. Kanipe's decision but suggested the Board of Commissioners review it as well. Mr. Clarke responded to Commissioner Kelly and said an artificial tree in a yard would most likely be considered an accessory structure.

Commissioner Cogburn asked if artificial turf is considered impervious. Mr. Clarke said it depends on how it is installed. Commissioner Cogburn asked Mr. Kanipe if it has to go before the Board of Adjustment to be installed. Mr. Kanipe said, no it does not. Mr. Clarke said it would be best to ask people when they are presenting their projects. Mr. Kanipe said it would be best to get ideas from other places and see what they do.

Mr. Paul Zimmerman discussed the Town issued survey results. The Planning Commission created a survey and the results of the survey were delivered to the Board of Commissioners. January 25th is the next Planning Commission meeting. They will develop a series of goals and from each of these goals, the Board will develop strategies. The Planning Commission will be getting together and listing what they feel are appropriate goals and strategies for meeting this requirement by July 1st. The Commission hopes to have a public meeting and will work with the Town on how to handle a Public meeting which would explain the result and open it up to resident viewpoint. We hope to have this done in February. Following this meeting, a Comprehensive Plan will be developed and reviewed by Mr. Clarke, Mr. Kanipe, and the Board of Commissioners. Mayor Goosmann thanked Mr. Zimmerman for his efforts with this. Mr. Kanipe thanked Mr. Zimmerman for stepping up as Chairman of the Planning Commission.

PUBLIC COMMENT

Ms. Lauren Karlsson made comment and mentioned the plan to build a "little free library" at Rosebank Park on the Park Road side. Mr. Zimmerman said the design of the house fits with the character of Biltmore Forest for the little free library.

Mayor Goosmann adjourned the meeting at 5:27 p.m. The next meeting is scheduled for Tuesday, January 11, 2022 at 4:30 pm.

ATTEST:

Ms. Laura Jacobs
Town Clerk

George F. Goosmann, III
Mayor

Biltmore Forest Police
 Department
 355 Vanderbilt Road
 Biltmore Forest, NC 28803
 828-274-0822
 www.biltmoreforest.org



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

01/01/2022 - 01/31/2022

BILTMORE FOREST POLICE DEPARTMENT	Count	Percent
ALARM	27	5.31%
ANIMAL CONTROL	13	2.56%
ASSIST MOTORIST	3	0.59%
ASSIST OTHER AGENCY	12	2.36%
ASSIST RESIDENT	20	3.94%
B&E	2	0.39%
BUSINESS CHECK	187	36.81%
CRIME PREVENTION	5	0.98%
DEPARTMENT OTHER	3	0.59%
DISTURBANCE	1	0.20%
EXTRA PATROL	2	0.39%
FOLLOW-UP INVESTIGATION	7	1.38%
HIT AND RUN	1	0.20%
HOUSE CHECK	114	22.44%
IMPROPER PARKING	3	0.59%
JUVENILE ISSUE	1	0.20%
LARCENY	1	0.20%
MEDICAL EMERGENCY	4	0.79%
MENTAL PATIENT	1	0.20%
NOISE COMPLAINT	2	0.39%
ORDINACE VIOLATION	1	0.20%
POWER OUTAGE	1	0.20%
RADAR OPERATION	6	1.18%
ROAD BLOCKED	11	2.17%
SPECIAL ASSIGNMENT	3	0.59%
STOLEN VEHICLE	1	0.20%
SUSPICIOUS ACTIVITY	1	0.20%
SUSPICIOUS PERSON	11	2.17%
SUSPICIOUS VEHICLE	18	3.54%
TALK WITH OFFICER	6	1.18%
TEST CALL	1	0.20%
TOWN HALL BUSINESS	1	0.20%
TRAFFIC CONTROL	1	0.20%
TRAFFIC STOP	18	3.54%
TREE DOWN	5	0.98%
VEHICLE ACCIDENT	4	0.79%
WELFARE CHECK	10	1.97%
Total Records For BILTMORE FOREST POLICE DEPARTMENT	508	Dept Calls/Total Calls 100.00%

Total Calls For Service:

508 (523 last month)

Arrests:

0-Felony Arrests

2-Misdemeanor Arrests-One on a suspicious person call for court violations, One out of a vehicle stop for court violations as well.

Citations:

5-Citations for various traffic violations (13 last month)

Time Consumption Summary:

Approximations:

Business Checks- 5 hours

House Checks- 4 hours

Radar Operation- 2 hours

Vehicle Crash Investigation- 4 hours

Notable Calls and Projects:

One new police vehicle has been put into service, the other should be completed within the next week.

We had two residential break-ins in The Ramble. We have worked extensively and had regular communication with residents in this area. We have a crime prevention meeting scheduled with residents there on February 28th.

We have hired a new police officer. Joe Zub will fill the vacancy left by Kevin Clark's resignation. He is a Brevard College Criminal Justice student traveling the same track as Officer Michael Anton did when he came to us.

Worked the snow event in conjunction with public works. Had to provide transportation for several civilian employees.

Had a serious vehicle crash on Hendersonville Rd at Cedarcliff. Impaired driver hit the concrete wall and took out a power pole. Significant property damage occurred. Initial calls came in as an explosion due to the impact.

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Jonathan Kanipe, Town Manager

Mayor and Board of Commissioners

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

Re: Public Works Department January 2022 Monthly Report

Date: February 3, 2022

Recurring Activities:

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

- Collected 32.53 tons of garbage.
- Diverted 17.26 tons of recycled goods from garbage.
- Picked up 22 loads of mixed brush and leaves (approximately 660 cubic yards) and 6 loads of leaves (180 cubic yards) over 15 days.
- Responded to 180 total utility locate requests, comprised of 82 new requests and 97 updates. This total includes 1 short-notice, 1 emergency, and 1 rush request.
- Visited 5 residences for Tree Assessments, approving the removal of 12 trees, and requiring the installation of 13 trees.
- Completed daily chlorine residual tests across town and passed the required two bacteriological tests. Results are reported via the State's on-line reporting system.
- Used the Beacon/Badger Meter automated meter reading system to monitor for water leaks daily and informed residents of suspected leaks.
- We continue to perform litter pick-ups as needed, focusing on the entrances.
- Dedicated leaf collection ceased on January 13th. The normal brush collection schedule began on the North Route on January 18th, and the South Route on January 31st. This schedule will continue with one collection for each route per month.

Coronavirus (COVID-19) Related Activities:

- Mask requirements and social distancing protocols continue at the Public Works facility, and they do remain open to the public.
- The Department did experience multiple COVID related absences during the month of January, but currently is back at full-force.

Miscellaneous Activities in January

- I am pleased to announce that we have filled the open Public Works position. Mr. Kasey Lake joined our team on January 31st, and we are excited to have him on board. He has just relocated to Asheville from Virginia. We have begun training activities and Mr. Lake is eager to learn and be with us. As has become our standard, training will proceed for approximately 6 months as he works through his probationary period. Please join me in making Kasey feel welcome to the Town.
- We are also happy to announce that that leaf collection activities formally concluded on January 13th for the season. We do have some residents that are continuing to put out small piles of leaves, but they are tending to be comingled with brush, and will be collected with the brush on the normal schedule moving forward.
- We made substantial efforts towards re-organizing our shop and storage areas, and these activities are concluding.
- Staff responded to two (2) snow events this month. The first event occurred on Sunday January 16th and Monday January 17th (the MLK Holiday). The department spent approximately 80 man-hours responding to this event over these two days. We estimate there was around 6 to 10 inches of accumulation from the storm. The second event occurred on Friday, January 28th into Saturday, January 29th. The response to this event was approximately 20 man-hours starting in the early morning of Saturday. Snow accumulations were estimated to be 2-4 inches of snow.
- During the first snow event we responded to two (2) downed trees in the roadway, and one (1) downed tree across the road during the second snow event.
- We did lose another sizeable tree during the first snow event; a large fir tree in the Busbee Wye near Hendersonville Road. The Town's on-call tree service handled the clean-up of this tree as it was very large.
- After each snow event, Staff carefully inspected the roads looking for accidental roadway or shoulder plow damage and performed numerous spot repairs throughout town.
- Manager Kanipe and I executed a contract with CR1 Electric LLC to install upgrades to our street light system to coordinate with the Duke Energy-Progress TUG utility project. This work is being implemented to bring the service connections for each light up to code, improve the overall safety and convenience of the systems, and to accommodate future improvements such the installation of traffic security cameras.

- We completed the relocation of the streetlight to the intersection of Parkway and Stuyvesant Road. Final power connections should be completed in February, pending power service being installed from Duke Energy Progress.
- Our mulch bed project in Rosebank Park with was completed this month. The Department would appreciate any feedback to this work, as if it is positively received, we will continue to plan similar improvements in other trouble spots throughout the Town's parks.
- We have cleaned and inspected the salt and sand trucks to keep them ready for service should another winter event occur.
- There continue to be delays to the repairs to the back-up garbage truck. Repairs are complete on the transmission and PTO, but we are still waiting on a new hydraulic tank fabrication. We are in contact with the shop weekly in attempt to expedite the repairs.
- Our sanitation workers hand delivered new 2022 Recycling and Brush Collection Calendars to each residence during the first week of January. The new calendar is also posted to the Town's website.
- We received the three additional dog waste stations in January, and they were installed on February 2nd, 2022. The stations were installed near the intersections Forest Road and East Forest Road; Browntown Road and Buena Vista Road; and along Cedar Hill Road south of Hemlock Road. We appreciate any feedback about these stations.
- We have added Robinson Iron of Birmingham, Alabama as a vendor and have ordered two (2) decorative park benches for the Commissioners to review. We do not have an anticipated delivery date at this time.
- I met with a paving contractor on February 1st, 2022 to discuss our annual paving program. We have tentatively identified this year's paving project to be Vanderbilt Road between the I-40 bridge and Cedarcliff Road as the target project, pending determination of an appropriate scope. The project this year will likely include some milling work and point repairs in addition to rebuilding the shoulders and striping.

Larger/Capital Projects Updates

Greenwood Park Stream Restoration

- The Town is still awaiting final release of the funds from DENR. A separate agenda item for this topic in the Manager's report.

Automatic Water Meter Reading System Endpoint Replacement Program

- We are still awaiting delivery of the replacement materials from the vendor. Work will begin upon receipt.

Cedar Hill Road Stream Stabilization Project

- Manager Kanipe and Supervisor Dale met with the consultant to review the latest draft of the proposed stream stabilization alignment on January 13th. We then met with the

affected property owner on February 1, 2022. The plan was well received and we have asked the consultant to proceed with permitting and finalizing the plans.

- The schedule remains unchanged, with the design and permitting phase of the project being completed in the spring, allowing us to pursue informal bids. Construction is anticipated to be completed by the end of the 2022, pending Board approval.

Town-wide Traffic Study

- A draft of the final study for review is anticipated to be received on February 4th, 2022, with a follow-up meeting tentatively scheduled for February 11th. The document is anticipated to be finalized near the end of February and presented at the March Board of Commissioners meeting.

Master Plan Project Area 2 – 13/15 Park Rd. Culvert Replacement

- We continue to wait for approval of the Pre-Construction Notification (PCN) from the US Army Corps of Engineers.
- Hyatt Pipeline is in the process of scheduling the work, pending the receipt of the PCN. As mentioned last month, we do have an acceptable proposal from that we received on December 30th.
- We received draft easement maps on February 2nd. I have requested a few modifications to the map to minimize the size of the permanent easements, and once we have a suitable map, we will be in contact with the adjoining property owners. .

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

- McGill Associates presented the 30% complete plans and performed a second site walk-through on January 25th. As a follow-up to that meeting, we worked with their staff to expose several additional inlets for detailed investigation. The remaining milestones are as follows:
 - The field survey is complete.
 - The preliminary horizontal alignment plan was submitted on December 14th.
 - We completed a walk-through field visit meeting on December 20th and provided feedback on the initial plan.
 - Updates to the 30% review plans are scheduled to be delivered by February 11th.
 - Cost estimates and phasing recommendations, along with the final 30% design drawings, are scheduled to be presented at the March board meeting, as requested by the Board.

Upcoming in February

- Brush collection will begin on the North Route, as usual, beginning Tuesday, February 15th, and on the South Route on Monday, February 28th.
- We plan on removing several smaller trees that were damaged during the recent snow events from Town property.

- Work will continue on general post-winter-storm clean-up.
- We will begin the permitting and installation of the new meter bases and electrical equipment near our streetlights. A total of 15 locations will be installed in this first phase.
- The new employee training will continue.
- We will be completing quarterly disinfection byproduct water quality testing in February.
- We will be completing the bi-monthly water billing cycle with Ms. Jacobs.
- Repairs to the Ford F-550 recycling truck compactor will be completed February 4, 2022, including the installation of new rear work lights.
- Routine maintenance on the mowers and small engine equipment will be performed in preparation for the mowing season.
- We will transfer the few remaining items from the temporary storage unit and have it removed from the site.
- We will be completing some shoulder repairs at 314 Vanderbilt during the month of February.
- We will be repairing a damaged storm drain box at the corner of Browntown Road and Deerfield Road.
- Storm drain repairs between 105 and 111 Stuyvesant Road are still in the works.
- I am working with CES on scheduling the installation of the cart grabbers on the garbage trucks, to be completed in the first quarter of 2022.
- Contracts for the purchase of the new garbage cans have been executed and we are awaiting delivery.
- We have scheduled the repair of two (2) small potholes; one on Arboretum Road, and one on Forest Road.
- We are prepared, should we be needed, to react to any winter weather events.
- Supervisor Dale and I are working on internal planning goals for the year.
- I will be working with Manager Kanipe on 2022-2023 department budget preparations.

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

BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM

February 8, 2022



Agenda Item C-4

Town Manager's Monthly Report

Covid-19 Update

Like many individuals and organizations, the Town experienced a tough January due to the Omicron surge. Several staff members were out but thankfully, all experienced mild cases and have returned to work. We worked diligently during this time to make sure our facilities were deep cleaned and disinfected, even more than we do on a regular basis. We are continuing these measures and all staff have been reminded to be considerate of wearing their face coverings and social distancing.

Traffic Study Update

The Town's traffic study is nearly complete. I asked the consultant to hold off on presenting this to the Board until our March meeting. This will provide Town staff additional time to review their final document and provide feedback and comments before presenting a final document. The study focuses on both short-term traffic safety recommendations and long-term projects the Town may want to consider in the future. The survey results and information gleaned from residents is being utilized extensively in the development of the study.

Greenwood Park Stream Restoration Project

We continue to await final authorization to proceed from the Division of Water Infrastructure. Staff and our consultants have checked with DWI staff over the course of the past month to ensure we have provided all documents and information needed to move forward.

Cedar Hill Drive Stabilization Project

Town staff met with the property owners adjacent to the road stabilization project along Cedar Hill Drive on February 1. The meeting was fruitful, with the property owners receiving the new proposal warmly. They continue to be excited about this project and are looking forward to working with the Town to create a strengthened stream channel that protects the integrity of Cedar Hill Road.

Trash Container Project

Trash containers were ordered in late January. All told, the Town ordered 80 65-gallon containers and 700 95-gallon containers. These will be stamped with the Town logo on both sides and will be the dark brown color as reviewed by the Board previously. The lids will be hot-stamped with the words "Trash Only" on them so that there is no issue with residents mixing up the containers. We also ordered some replacement recycling containers as well. While we wait for delivery of these

containers, the trash trucks will be outfitted with the grabbers necessary to remove the trashcans mechanically.

**BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM**

February 8, 2022



Agenda Item D-1

Consideration of Tax Penalty Waiver

Background

The Town received a request from the property owners at 398 Vanderbilt Road for a tax penalty waiver. As you know, state law prohibits Town staff from making adjustments or providing waivers without prior Governing Board approval. In this case, the tax notice was mailed to the resident's old address (also in Biltmore Forest) after they had moved and processed an address change with the Town.

The tax payer has paid the full taxes owed and requests a waiver of the initial interest penalty that remain on the account. This is a similar circumstance to a waiver granted by the Board in April 2017.

Tax Penalty Waiver Request

PAUL W FOSTER III REVOCABLE DECLARATION OF TRUST
JULIA HEATHER HANKS REVOCABLE DECLARATION OF TRUST
398 VANDERBILT RD, ASHEVILLE, NC, 28803

Type of Taxes: Real Property

Waiver of Penalty and Interest: \$540.33

**BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM**

February 8, 2022



Agenda Item D-2

**Consideration of Ordinance 2022-03
An Ordinance to Amend the Town Code**

Background

The Board discussed the Town's existing sign ordinance over the past two months, and specifically, reviewed provisions regarding "No Trespassing" signs. The Town's current ordinance does not regulate "no trespassing" signs. The Board directed the Town Attorney to review and construct a potential ordinance that provides regulation for "No Trespassing" signs within the Town's Code of Ordinances. That proposed ordinance is attached to this memorandum.

A public hearing is not required prior to consideration of this ordinance due to its status as part of the Town Code of Ordinances.

§93.02. POLICY REGARDING SIGNS.

This subchapter sets forth the Town of Biltmore Forest policies and regulations regarding the size, type and location of signs. The subchapter is intended to regulate size, type and location of signs, ensure that signs are not located in the public right of way, do not pose a threat to public safety, do not unreasonably interfere with aesthetic quality and are consistent with the nature of a primarily residential community. It is not the intent of this ordinance to regulate the content of signs or to limit the right of free speech.

(Ord. 2021-02, passed 2-9-21)

§ 93.03 SIGNS AND POSTERS GENERALLY.

Except as set forth herein, no sign of any kind, including posters, advertisements, billboards, announcements and like, shall be erected by any person in any district zoned R-1, R-2, R-3, R-4 or R-5 unless the sign, type, size and intended location comply with this subchapter or unless prior approval of the sign type, size, and intended location are first obtained from the Town Manager or Board of Commissioners. Any sign erected in violation of this subchapter shall be promptly removed.

(2013 Code, § 15-2) (Ord. 2021, passed 2-9-2021)

§93.04 DEFINITIONS

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONSTRUCTION SIGNS. Signs identifying a company or individual constructing or renovating a house or building on a property in the town.

IDEOLOGICAL SIGNS. Signs advocating support for a particular system of ideas and ideals which may form the basis of an economic or political theory and policy.

INVISIBLE FENCING SIGNS. Signs advertising the location of underground (invisible) fencing on a property or the location of installed underground utilities

NO TRESPASSING SIGNS. Signs providing notice, in a manner reasonably likely to come to the attention of intruders, not to enter the property on which the sign(s) are located.

ON-PREMISES COMMERCIAL SIGNS. On Premises Commercial signs – signs located on or attached to buildings in the zoning districts in the Town where commercial businesses are allowed.

POLITICAL SIGNS. Signs advocating support for a particular candidate for political office or

political party.

REAL ESTATE SIGNS. Signs advertising the sale or lease of residential or commercial real property.

SECURITY COMPANY SIGNS. Signs indicating that a security system has been installed on a property.

§ 93.05 SIGNS AND POSTERS; REQUIREMENTS.

(A) *Real Estate Signs.* No person, either as owner or real estate agent, shall post any sign except as follows:

- (1) One sign per lot, not to exceed six square feet in size, not to contain any electrical component and not to be lighted in any way;
- (2) If the sign is posted by a real estate agency, the wording shall be limited appropriately to indicate that the property is for sale or rent, the name and telephone number of the agency, the listing firm website, and the multiple listing service number, texting code, or individual website assigned to the home for sale;
- (3) If the sign is posted by an owner, the wording shall be limited to appropriately indicate that the property is for sale or rent, the name of seller, if so desired, a telephone number, and individual website assigned to the home for sale;
- (4) Wording shall be the same on both sides of the sign if both sides are exposed to the roadway;
- (5) The sign shall be set back at least 20 feet from the nearest edge of the pavement of the public road on which the house fronts or faces and in no event shall the sign be located within any public road right-of-way;
- (6) No portion of the sign shall extend more than four feet above the ground;
- (7) The sign shall be removed no later than three days after the closing of the sale of the property;
- (8) If a sign is for commercial use in the R-4 or R-5 Residential Zoning District and does not comply with the limitations herein, application must be made to the Board of Commissioners for approval; and
- (9) The owner of a residential lot and the real estate agent placing a real estate sign on the residential lot shall each be responsible for any violation of this section.

(B) *Construction Signs.* Signs advertising the name of an individual or company constructing or renovating a house or other building on a property are allowed as follows:

- (1) On any residential lot on which construction or renovation has begun, neither the general contractor nor the owner of the residential lot shall post or permit to be posted more than one sign in addition to any sign required by law to be posted (i.e., building permits and the like);
- (2) The general contractor may place one sign on the residential lot on which construction or renovation has begun which sign shall not exceed six square feet in size and shall be limited in wording to the street number or address of the property and the name, address, and telephone

number of the general contractor. The general contractor's sign shall also be subject to divisions (A) (1), (A) (4), (A) (5), and (A) (6) above. The general contractor's sign shall be removed from the property not later than three days from the completion of construction by the general contractor or occupancy by the owner of the property being constructed, whichever comes first; and

(3) The sign shall be set back at least 20 feet from the nearest edge of pavement of the public road on which the house fronts or faces. The sign shall not be posted in the public right of way.

(4) The owner of the residential lot and the general contractor shall be responsible for any violation of this section.

(C) *No Trespassing Signs* – No Trespassing Signs are allowed on private property provided the signs are erected as follows:

(1) The sign(s) shall be posted in manner reasonably likely to come to the attention of intruders and include notice not to enter the premises.

(2) The sign(s) shall not exceed two square feet in size, not contain electrical components and not be lighted in any way.

(3) The sign(s) must be set back at least ten feet from the nearest edge of the pavement on the public road or street, and in no event shall the sign be located within any public road or right-of-way.

(4) There may be no more than one sign per each side of a residential or business property.

(5) No portion of the sign(s) shall extend more than four feet above the ground.

(6) The owner of a residential lot placing a no trespassing sign on a lot shall be responsible for any violation of this section.

(D) *Political and Ideological Signs*. Political and ideological signs are allowed on private property provided the signs are erected as follows.

(1) Each sign shall not exceed four square feet in size and not contain any electrical component or be lighted in any way;

(2) The sign shall not be located within the Town owned public right-of-way or on Town property and must be set back at least twenty feet from the nearest edge of the paved road on which the house fronts or faces and shall not encroach on the public right of way;

(3) No portion of the sign is to extend more than four feet above the ground;

(4) A sign located on private property requires the owner's approval;

(5) Up to four (4) political signs may be placed on private property beginning thirty days before the beginning of early voting for a primary or general election. Political signs should be removed within five days after the primary, general or special election; and

(6) Political and ideological signs are not allowed on Town property.

(D) *Security Company Signs*. Security Company signs are allowed on private property as follows:

(1) On any residential or business property with a commercial security system, up to two (2) signs bearing the name of the security company and appropriate contact information, may be posted;

- (2) The signs shall not exceed one (1) square foot in size, not contain electrical components and not be lighted in any way;
- (3) The signs shall be set back at least ten (10) feet from the nearest edge of the pavement on the public road or street.

(E) *Invisible Fencing Signs.* Signs indicating the presence and location of underground fencing are allowed as follows:

- (1) On any property with an underground “invisible fence,” up to two signs noting the presence of the invisible fence and the name of the company providing the fence may be posted on the property;
- (2) The signs shall not exceed one (1) square foot in size, not contain electrical components and not be lighted in any way;
- (3) The signs shall be set back at least ten feet from the nearest edge of the pavement on the public road or street.
- (4) For the purpose of this subchapter, temporary flags indicating the installation of underground (invisible) fencing shall be removed no later than forty-five (45) days after installation.

(F) *Flags for Underground Utilities.* – Are allowed on a temporary basis to indicate the presence and location of underground utilities.

(G) *Signs Located in the R-4 and R-5 Zoning Districts.*

- (1) On any lot occupied by a business in the R-4 and R-5 Districts, on-premises signs are allowed provided the following definitions and permit requirements are met.
- (2) For the purpose of this division (G), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ATTACHED SIGN. Any sign attached to, applied on, or supported by the front wall or wall facing street of a building.

CLEARANCE. The vertical distance from the established finished grade to the lowest edge of the sign.

DEVELOPMENT IDENTIFICATION SIGN. A sign bearing only the name of the multiple tenant development.

ERECT. To construct, build, raise, assemble, install, place, replace, locate, affix, attach, display, alter, use, create, paint, draw, illuminate, or in any other way bring into being or establish.

FREESTANDING POLE SIGN. A sign which is permanently affixed to the ground by a pole or other structure and which is not part of the building.

GRADE. The lowest point at which a sign is attached to the ground.

GROUND SIGN. A freestanding sign flush to the ground and not elevated upon poles or stanchions and not attached to the building.

HEIGHT. The vertical distance between the highest part of the sign or its supporting structure, whichever is highest, and the base of the sign at grade.

INTERNALLY ILLUMINATED. Any sign designed to provide artificial light either through exposed lighting on the sign face or through transparent or translucent material, from a light source within the sign.

LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use.

MULTIPLE TENANT DEVELOPMENT. A development in which there exists a number of individual or separate activities and in which there are appurtenant-shared facilities (such as parking areas).

NONCONFORMING SIGN. Any sign, which was allowed when, erected or displayed but which does not conform to the standards of this ordinance and any sign, which was not allowed, but was nonetheless impermissibly created or displayed before the effective date of this ordinance and any amendments thereto.

ON-PREMISES SIGN. Any sign used for the purpose of displaying, advertising, identifying, or directing attention to a business, products, operations, or services sold or offered on the lots where the sign is located.

SETBACK. The horizontal distance between the leading face of the curb of a street and the closest point of a sign or sign structure on such lot. Where there is not a curb, the measurement shall be made from the edge of the pavement.

SIGN. Any words, lettering, numerals, parts of letters or numerals, figure, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is known, made of any material, except live vegetation, including any surface, fabric, or other material background structure designed to carry such devices, as are used to designate or attract attention.

SIGN STRUCTURE. Any structure, which supports, has supported or is capable of supporting a sign.

SINGLE TENANT. A single business establishment, activity or use.

WALL SIGN. Any sign painted or attached flat against and parceled to the exterior wall or surface of a building or other structure and/or which projects from the wall or surface.

(3) *On-premises single-tenant signs.*

(a) Allowed within the R-4 and R-5 Zoning District may be either:

1. *Freestanding.* Pole or ground; or
2. *Attached.* Wall.

(b) Two business identification signs are allowed per lot, only one of which shall be a freestanding or ground sign. For freestanding or attached signs, the total allowable area per face of selected sign(s) shall not exceed 40 square feet per face, with two faces per freestanding or ground sign allowed. In the event the freestanding sign is less than the 40 square feet per face allowed, the size of the attached sign erected may be increased by that difference. Signs may be internally or externally illuminated.

(c) Additionally, the following requirements must be met based on the type of sign selected:

1. If freestanding pole or ground, then the sign shall be a maximum of eight feet in height with a minimum setback of ten feet; and
2. If wall, then the maximum projection from a wall shall be six inches.

(4) *On-premises multiple-tenant development signs.*

(a) On-premises multiple-tenant development signs allowed within the R-4 and R-5 zoning district may be either:

1. Freestanding; pole or ground attached; or
2. Wall.

(b) For a multiple-tenant development, the development itself is allowed one identification sign. For a freestanding sign, the total allowable area per face of selected sign shall not exceed 60 square feet with two faces per freestanding or ground sign allowed. If freestanding pole or ground, the sign shall be a maximum of 20 feet in height and minimum setback of 15 feet. Individual tenants within the development shall be allowed one attached wall sign not to exceed ten square feet, and at the due discretion of the Board of Commissioners, not more than two, not to exceed ten square feet. The maximum projection from a wall shall be six inches.

(H) The owner of the business establishment erecting a sign shall be responsible for any violation of this ordinance.

(I) Any sign removed by the Town for violation of (A) or (B) of this ordinance shall be disposed of by the Town within five days from the date the sign is removed from the residential lot unless the residential lot owner, real estate agent or general contractor, as the case may be, claims said sign within the five-day period.

This section as amended on February 8, 2021, shall become effective on February 9, 2022.
(2013 Code, § 15-2) (Ord. passed 9-15-1987; Ord. passed 12-8-1990; Ord. passed 9- -2002; Ord. passed 2/9/2021, Ord. passed 2/8/2022)

This the 9th day of February, 2021.

George F. Goosmann, III
Mayor

Attest:

Laura Jacobs
Town Clerk

SEAL

**BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM**

February 8, 2022



Agenda Item D-3

FY22 Tax Collection Report as of 2/3/2022

Krystal Curtis, Tax Collector

Background and Compliance of NCGS

NCGS 105-350 requires the Tax Collector to submit a report of the amount collected on each year's taxes with which he is charged, the amount uncollected, and the steps to encourage or enforce payment of uncollected taxes.

NCGS 105-369(a) requires the Tax Collector to report on unpaid taxes for the current fiscal year on the second Monday in February. Since the February Commissioners meeting precedes the second Monday, this report is of current standings as of February 3, 2022.

Summary

As of February 3, 2022, the total levy billed for fiscal year 2022 is 97.57% collected.

Below is the Town of Biltmore Forest year to date reporting for fiscal year 2022.

Fiscal Year 2022	Personal Property	Public Service	Real Estate	Total
Total Levy	\$ 44,546.00	\$ 17,387.93	\$ 2,891,285.23	\$ 2,953,219.16
Amount Collected	\$ 43,688.92	\$ 17,386.51	\$ 2,820,514.40	\$ 2,881,589.83
Unpaid Balance	\$ 857.08	\$ 1.42	\$ 70,770.83	\$ 71,629.33
Interest Collected	\$ 12.65	\$ 18.31	\$ 1,544.81	\$ 1,575.77

FY22 Collection %	98.08%	99.99%	97.55%	97.57%
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**BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM**

February 3, 2022



Agenda Item D-3

Consideration of Order to Advertise Tax Liens

Krystal Curtis, Tax Collector

Background

Pursuant to N.C. General Statute 105-369(a), the second Monday in February of each year, a municipal tax collector must report the total amount of unpaid property taxes for the current fiscal year that are liens on real property, and present these findings to the governing body. Upon receipt of the report, the governing body must order the tax collector to advertise the tax liens.

Compliance with NCGS 105-369

Advertisement of current year delinquent real property tax liens is a required step in the collection process and is not an indicator that real property has begun or will go through foreclosure proceedings due to delinquent property tax. In compliance with NCGS 105-369(b1), there will be a notice to the record owner of each affected parcel of property prior to any advertisement. A tax collector's failure to comply with NCGS 105-369(b1) does not affect the validity of the taxes or tax liens.

If adopted, this order will be effective immediately for collections of FY21 taxes and prior years as well.



ORDER OF COLLECTION

State of North Carolina
Town of Biltmore Forest

Order of the Board of Commissioners
Pursuant to NCGS 105-369 for the
Advertisement of Tax Liens for 2021 and Prior Years' Taxes

To the Tax Collector of the Town of Biltmore Forest:

You are hereby authorized, empowered, and commanded to advertise tax liens unpaid as of this report, and that remain unpaid as of the time of advertisement. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the Town of Biltmore Forest, and this order shall be a full and sufficient authority to direct, require, and enable you to advertise notice of these delinquent taxes in accordance with law.

Witness my hand and official seal, this 8th day of February, 2022:

George F. Goosmann, III
Mayor, Town of Biltmore Forest

Attest:

Laura Jacobs
Clerk, Town of Biltmore Forest

**BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM**

February 8, 2022



Agenda Item D-4

Artificial Turf Zoning Regulations Review

Background

Last month, the Board of Commissioners requested staff review land use regulations related to artificial turf. This request came after a request that the Town consider regulating artificial turf installation on residential properties within the Town.

Review and Findings

Municipal or county land use regulations regarding artificial turf are not prominent in North Carolina, if in use at all. I was unable to find any direct regulation through zoning ordinances related to artificial turf installation at private residences. There were regulations in North Carolina communities related to artificial turf installation, but those were all portions of parks and recreation guidelines. The most significant land use regulation related to artificial turf in North Carolina is along the coast. This is regulated through the Coastal Resources Commission (CRC) and not through a local government. The CRC's involvement is due to the 30-foot buffer rule that exists along the North Carolina coast, and not the result of any local land use regulations against artificial turf. I have provided a news article about the CRC's discussion of this issue, as well as a letter from the state agency designated with enforcing the CRC's 30-foot buffer rule.

There are examples of local zoning regulations throughout other parts of the United States, however, and I have provided several of those for your review in the agenda packet. Nearly all zoning regulations found were from parts of the country where drought and water conservation efforts are mandated, so you will see several ordinances and staff reports that advocate for the inclusion of artificial turf as a landscaping element. Other places have modified their existing ordinances to allow limited use of artificial turf and devised specific regulations for doing so. Most of these ordinances were amended or created within the past 2-3 years as artificial turf has become increasingly popular in residential use.

Next Steps

All zoning ordinance amendments require a review and recommendation from the Planning Commission, as well as a public hearing, prior to consideration. Please let staff know how you would like to proceed.



NORTH CAROLINA
Environmental Quality

August 31, 2021

CRC-21-24

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director

MEMORANDUM

TO: Coastal Resources Commission
FROM: Robb Mairs
SUBJECT: Artificial Turfgrass within the Coastal Shoreline Buffer

The increasing use of artificial turf grass installation within the Coastal Shorelines Area of Environmental Concern, particularly within the 30' buffer, has recently presented implementation issues for DCM as there are no standards that specifically apply to this material. Your rules restrict development within the 30-foot buffer to water-dependent uses, which are typically docks, piers, boat ramps, bulkheads and accessways. There are also exceptions for limited non-water dependent uses, which include pile-supported signs; elevated, slatted wooden boardwalks; crab shedders; decks/observation decks; grading, excavation, and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. Questions have been raised about the use of artificial turf in the buffer under the landscaping exception.

DCM staff have consulted with the DEQ Division of Energy, Mineral, and Land Resources (DEMLR) State Stormwater Section and with the DEQ Division of Water Resources (DWR) 401 & Buffer Programs for assistance in determining whether this material, as installed, would be considered pervious (if it were being reviewed through a state stormwater permit), and if it would be consistent with vegetative setback and buffer requirements. Staff from DEMLR replied that the material could be considered pervious on a case-by-case basis, but that they have regulations on what can be placed in a required vegetated setback from surface waters in coastal stormwater permits. Their rules require this area to remain vegetated unless one of the exceptions listed in the rules has been met, and artificial turf is not one of these exceptions. Staff from DWR responded that the Tar-Pamlico and Neuse River buffer rules do not include artificial turf grass in their respective Table of Uses and that the material would appear to contradict the intent of the rule to preserve buffer function for nutrient removal. Furthermore, in some cases small plastic fibers are mixed into the soil under the turf during installation to enhance soil compaction, and turf "infill" (small silica, rubber or plastic beads) is also sometimes applied to the surface of the artificial turf to stand up the blades following installation. DWR staff expressed concerns with the potential for these small plastic fibers, and rubber or silica beads, to enter nearby receiving waters and potentially lead to water quality standards violations.

Since adoption of the 30-foot buffer rule in 2000, the Commission has had a clear intent and has been consistent in not allowing non-water-dependent amenities within the buffer that could undermine the purposes and effectiveness of the buffer. The buffer area has been identified as crucial in protecting water quality by filtering contaminants from runoff, allowing infiltration, stabilizing soil, slowing floodwaters and preserving the natural character of the shoreline. When the Commission has granted variances, it has usually involved a habitable structure, and these variances have typically been conditioned on the use of an engineered stormwater system.

In order to retain the effectiveness of the 30' buffer in filtering runoff, Staff request that the Commission confirm DCM's interpretation that the application of artificial turf within an Area of Environmental



Concern requires a CAMA permit, and that it is not allowable under the “landscaping” exception to the 30’ buffer at 15A NCAC 07H.0209(d)(10)(G). While DCM can permit this material within the 75’ AEC, it may be deemed as impervious surface based on a case-by-case review and therefore count toward the maximum allowable impervious surface coverage (depending on installation methods and materials, and any existing impervious surfaces).

I look forward to answering any questions about this determination at our upcoming meeting.



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Coastal Resources Commission digs in on artificial turf

09/22/2021 by [Trista Talton](https://coastalreview.org/author/tristatalton/)



Artificial turf. Photo: Mabel Amber/pixabay

State regulators are cracking down on where property owners may install artificial turf near coastal waterways.

During the meeting of the Coastal Resources Commission Wednesday, Sept. 15, Robb Mairs, minor permits coordinator with the North Carolina Division of Coastal Management's Wilmington office, said the use of artificial turf within the state's 75-foot coastal shorelines area of environmental concern, or AEC, and associated 30-foot buffer "suddenly emerged" this year.

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sustainable use of ocean resources for economic growth, while preserving the health of the ecosystem. UNCW is an EEO/AA Institution.

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The seemingly new trend has raised concerns about certain materials used to install artificial grass, the different types of material used to make artificial turf, whether those materials are pervious or not, and how their proximity to coastal waters may affect water quality.

Coastal Resources Commission rules restrict development within the 30-foot buffer to water uses, including docks, piers, boat ramps, bulkheads and accessways. There are some exceptions to the rules, such as pile-supported signs, elevated, slatted wooden boardwalks, crab shedders, decks and grading, excavation, and landscaping as long as it excludes wetland fill — unless required by permit in a shoreline-stabilization project.

However, the state does not have standards for artificial turf being installed within that buffer, Mairs explained.

Coastal AECs include wetlands, estuarine waters, public trust areas and estuarine and public trust shorelines.

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The 30-foot buffer within those AECs is considered by state coastal officials to be particularly crucial in protecting water quality.

Division of Coastal Management officials this past May first caught wind of artificial turf being installed within the 75-foot AEC in Wrightsville Beach, according to Christy Simmons, division spokesperson.

“That case was resolved through an enforcement action and the shoreline buffer was restored,” Simmons said in an email.

Since then, the division has been reviewing cases in Corolla in Currituck County, Topsail Beach in Pender County and Wrightsville Beach in New Hanover County, she said. In some of those cases, artificial turf will have to be removed, at least from within the 30-foot shoreline buffer.

“In the limited enforcement cases we’ve had so far, we’ve only required removal of the artificial turf and have not assessed any civil penalties,” Simmons said.

As division permit officers are handling these cases, they’re fielding a growing interest from property owners and landscapers asking about placing artificial turf within the coastal shoreline AEC.

Part of the debate about regulating artificial turf within the AEC goes to the question whether fake grass and the materials used to install it are impervious.

Coastal Resources Commissioner Neal Andrew said at the commission’s Sept. 15 meeting that he’d seen some of the artificial turf that has been installed in Wrightsville Beach.

"It appears water does drain through this material and therefore appears to act as a pervious surface," he said. "I personally don't see an issue with it being outside that 30-foot range."

Division Director Braxton Davis said it had yet to be determined whether artificial turf is pervious and that any such determination may have to be concluded on a case-by-case basis.

Mairs said the problem is that some components of artificial turf appear to be inconsistent with standards set by the North Carolina Division of Water Resources and state Energy, Mineral and Land Resources, or DEMLR, state stormwater section.

DEMLR staff say they would have to decide case-by-case whether artificial turf is pervious.

Any such determination would not preclude DEMLR's regulations that require vegetated setbacks from surface waters in coastal stormwater permits. The rules mandate that the area within the buffer remain vegetated unless one or more exceptions in the rules have been met.

Artificial turf is not an exception.

Buffer rules in the Tar-Pamlico and Neuse rivers do not include artificial turf in their table of uses.

Division of Water Resources officials advised that artificial turf appears to contradict the intent of the rules to preserve the buffer as a function for removing nutrients.

Water resources officials have expressed concerns about the potential of small plastic fibers, and rubber or silica beads sometimes mixed into soil under the turf during installation getting into nearby waters and potentially violating state water quality standards.

Larry Baldwin, vice chair for the Coastal Resources Commission, said that if artificial turf is installed for the purpose of stormwater infiltration, design could make a difference, especially if it were to cut down on potential nutrient runoff if turf is used replace fertilized grass.

"I'm kind of torn on this in terms of what's better for water quality," he said.

Commissioners voted 10-1, with Baldwin dissenting, to prohibit the installation of artificial turf within the 30-foot buffer.

"I think if we're all concerned about water quality I'm going to make it as simple for staff as possible and protect the last line of defense for our waters," said commission Chair Renee Cahoon.

Commissioner Craig Bromby said the commission should look further into the matter.

"I think we can maintain the status quo and endorse (the division's) interpretation, but I think this needs looking at," he said.

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About Trista Talton

Trista Talton is a native North Carolinian who, shortly after graduating from Appalachian State University in 1996, took her first newspaper job as a reporter for the Hickory Daily Record. She has since migrated to the coast, covering everything from education and local governments to law enforcement, the environment and the military, including an embed with Marines in Kuwait for the start of the Iraq war in 2003. She has been a Coastal Review contributing writer since 2011 focusing on coastal-related issues from Onslow to Brunswick counties. She lives with her husband and two sons in Jacksonville.

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CITY OF MENIFEE

ENGINEERING DEPARTMENT

Residential Artificial Turf Installation Submittal Requirements

- _____ (1) copy Encroachment Permit Application (Issued to Contractor)
- _____ (2) copies 11"x17" Exhibit
Exhibit shall show:
 - Proposed work limits
 - Landscape/Turf Areas
 - Concrete mow curb
 - Type of Artificial Turf used/Material Info sheet
 - 1"= 20' scale max
- _____ (3) copies Traffic Control Plan
(Per MUTCD or as approved by the City Traffic Engineer)
 - Attachment is for streets 30 MPH Max
- _____ (1) copy Contractor's License
- _____ (1) copy City of Menifee Business License
- _____ (1) copy Contractor's Insurance Certificate naming City of Menifee as additional insured
 - \$1,000,000 min. for each occurrence
 - \$2,000,000 min. for general aggregate
- _____ (2) Original Hold Harmless Agreements
 - Signed and notarized by Property Owner
- _____ (1) \$155.00 Inspection Fee



City of Menifee

Residential Requirements for Artificial Turf

Per Menifee Municipal Code Chapter 9.86, the following requirements for artificial turf shall be implemented:

- (1) Artificial turf shall have a minimum eight-year "no fade" warranty.
- (2) Artificial turf shall be installed by a licensed professional and shall be installed pursuant to manufacturer's requirements.
- (3) Artificial turf shall be installed and maintained to effectively simulate the appearance of a well-maintained lawn. The turf shall be maintained in a green fadeless condition and shall be maintained free of weeds, debris, tears, holes, and depressions.
- (4) The use of poor quality indoor and/or outdoor plastic or nylon carpeting (at a quality of material that does not simulate the appearance of a well-maintained lawn as determined by the Community Development Department) as a replacement of artificial turf or natural turf is prohibited.
- (5) Areas of living plant material (i.e., flower beds, tree wells, etc.) shall be included within the overall landscape design within the front, side, and rear yards, as well as common areas when installing artificial turf.
- (6) Artificial turf shall be separated from planters by a concrete mow strip, bender board, or other barrier acceptable to the city in order to prevent intrusion of living plant material into the artificial turf.
- (7) Artificial turf shall be maintained by the homeowner fronting the improvement.
- (8) Any turf replacement due to City of Menifee or other agency construction is the responsibility of the home owner.



CITY OF MENIFEE ENGINEERING DEPARTMENT

29714 Haun Road, Menifee, CA 92586
Phone (951) 672-6777 / Fax (951) 679-3843



Know what's below.
Call before you dig.

Encroachment Permit

Permit Number: EP Date Submitted: _____

Issued to: _____

Contact Name: _____ Phone: _____ Email: _____

Location: _____

Description of Work to be Undertaken: _____

Insurance Certificate Received: _____ Underground Service Alert USA # _____

Contractor's License Received: _____

Business License No.: _____ Fee: _____

Additional information/submittals needed from applicant: _____

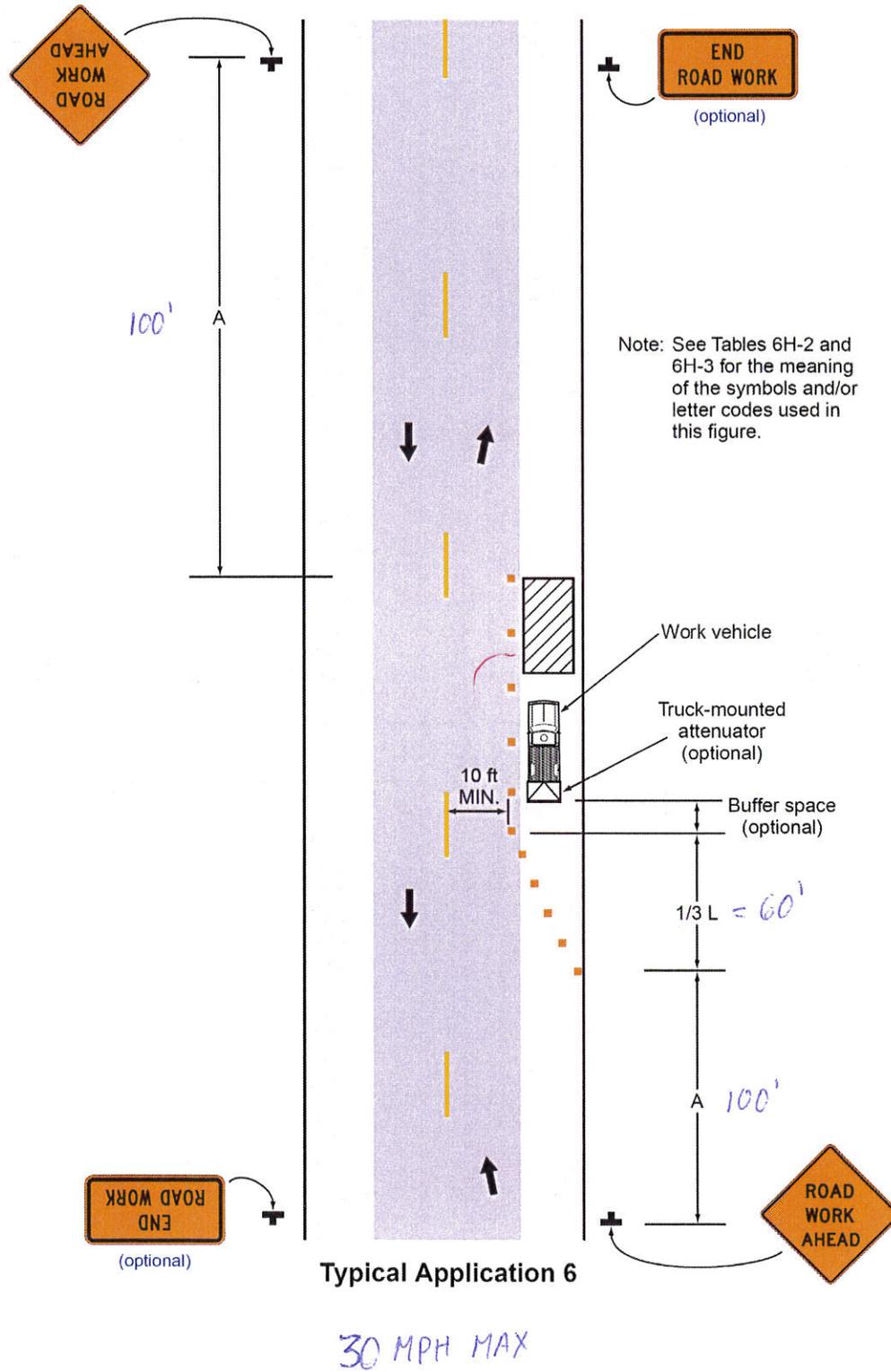
In granting of this application, the permittee hereby agrees to:

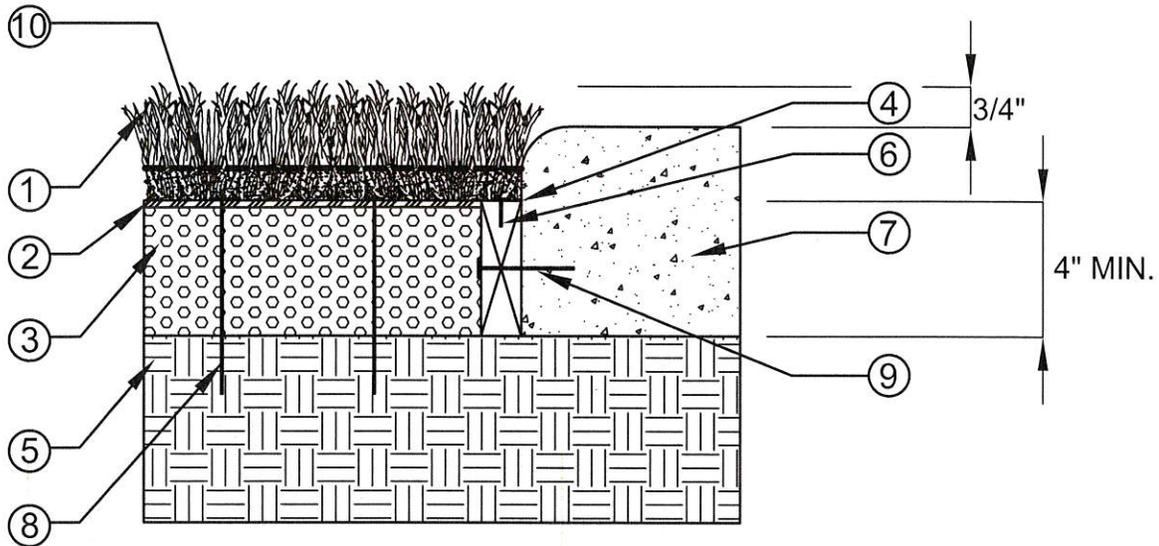
- Hours of work _____ (8:30 a.m. to 3:30 p.m. unless otherwise specified)
- NOTIFY THE COUNTY OF RIVERSIDE TRAFFIC SIGNAL SUPERVISOR DELANEY DAVEZAN AT 951-232-7293 OR AFTER HOURS 951-830-9196 48 HOURS PRIOR TO ANY WORK WITHIN 1,000 FEET OF A TRAFFIC SIGNAL.**
- The Public Right-of-Way Permit shall be presented upon demand to any City employee or agent at the site of work being performed. Failure to produce the permit shall be grounds for immediate suspension of work and immediate remedial measures, as may be determined necessary by the City.
- The Director of Public Works/City Engineer may impose, without prior notification, special conditions limiting the hours of operation or other conditions as deemed necessary to ensure the public health, safety or convenience. Violation of these or any other conditions may result in the immediate revocation of the permit and forfeiture of the cash deposit.
- Indemnify, defend and save the City, its authorized agents, officers, representatives and employees, harmless from and against any and all penalties, liabilities or loss resulting from claims or court action and arising out of any accident, loss or damage to persons or property happening or occurring as a proximate result of any work undertaken under the permit granted pursuant to this application.
- Notify the City Public Works Inspector (_____) at least 48 hours in advance of the time when work will be started, and upon completion of the work, immediately notify the City Public Works Inspector of such completion.
- Comply with County Ordinance No. 499, any amendments thereto, the terms and conditions of the permit, and all applicable rules and regulations of the City of Menifee and other public agencies having jurisdiction.
- The permittee shall accept full responsibility for complying with Federal, State and County environmental laws receiving any necessary environmental clearances and/or permits, prior to commencing any work as authorized by this permit.
- Remove all markouts from the public right-of-way.

Issue Date: _____ Expiration Date: _____ Approved By: _____

Extension to: _____	Approved By: _____	Date: _____
Final Inspection Approval By: _____		Date: _____
Inspector Notes:		

Figure 6H-6. Shoulder Work with Minor Encroachment (TA-6)





**SECTION
NO SCALE**

1. ARTIFICIAL GRASS FIBER (100% POLYETHYLENE MONOFILAMENT) WITH SECONDARY THATCH FIBER AND BACKING (SEE NOTE F)
2. PERMEABLE GEOTEXTILE WEED BARRIER
3. CRUSHED AGGREGATE BASE, CLASS II (COMPACT 90 %) / 3/4-INCH MINUS WITH FINES
4. 2 X 4 NAILER BOARD / RECYCLED COMPOSITE OR TREATED LUMBER
5. NATIVE SUBGRADE - LEVEL (COMPACT 90 %)
6. SCREWS TO ATTACH TURF TO NAILER (1-IN LENGTH MIN.)
7. CONCRETE CURB OR HARDSCAPE EDGE - TYP.
8. SPIKES AT 3 FEET O.C. TRIANGULAR SPACING
9. DOWEL NAILER BOARD TO CONCRETE (OR OTHER APPROVED CONNECTION)
10. INFILL (SEE NOTE C)

NOTES:

- A. TURF SHALL BE INSTALLED AND SEAMED WITH ADJACENT PIECES RUNNING IN THE SAME DIRECTION. ALL SEAMS SHALL HAVE SEAMING GLUE & 6-INCH WIDE SEAMING TAPE.
- B. SECURE TURF ON BASE W 6-INCH 60D FLAT HEAD GALV. NAILS 3 FEET ON INT. FIELD. USE 1-INCH TARPON SCREWS @ 12 INCHES O.C. ALONG PERIMETER NAILER.
- C. INFILL SHALL BE IN ACCORDANCE W/MANUFACTURER'S SPECIFICATIONS - WASHED SILICA SAND & CRYOGENIC RUBBER.
- D. POWER BROOMING IS THE LAST STAGE OF TURF INSTALLATION.
- E. MINIMUM PRODUCT WARRANTY SHALL BE 8 YEARS, WITH MIN. 15 YEAR LIFE EXPECTANCY.
- F. TURF BACKING SHALL BE 100 % PERMEABLE (NON-ABSORBENT).
- G. TURF SHALL BE FIRE RETARDANT, AND 100 % RECYCLABLE.
- H. INSTALLATION SHALL BE COMPLETED IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND CITY DEVELOPMENT CODE REQUIREMENTS.

APPROVED BY:

Jonathan S. Li

4/24/15

DIRECTOR OF PUBLIC WORKS
JONATHAN GEORGE SMITH

DATE



CITY OF MENIFEE

**ARTIFICIAL TURF
(PARKWAY AREA ONLY)**

REVISION	BY:	APPROVED	DATE

INDEMNIFICATION & HOLD HARMLESS AGREEMENT

THIS AGREEMENT (“Agreement”) is made and effective ___ day of _____, 20__, by and between _____, _____ (“Indemnifier”) and the CITY OF MENIFEE, a municipal corporation (“City”).

RECITALS

WHEREAS, Indemnifier desires to install a planter area, artificial turf, and/or other landscape material in an area that encroaches upon the City right-of-way commonly known as a parkway; and

WHEREAS, City requires full compliance with all City Municipal Codes and regulations; and

WHEREAS, Indemnifier has committed to installing and maintaining a planter area, artificial turf, and/or other landscape material approved by the City of Menifee in compliance with all City Guidelines, City Standards, City Municipal Codes, including City Municipal Code Chapter 9.86; and

WHEREAS, City will allow the installation of a planter area, artificial turf, and/or other landscape material approved by the City of Menifee on the parkway within the City right-of-way so long as the Indemnifier agrees to indemnify and hold City harmless from any liability that may result from the installation and maintenance of said planter area, artificial turf, and/or other landscape material.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are an integral part of this Agreement, and are fully incorporated herein.

2. Indemnification and Hold Harmless. Indemnifier shall indemnify, defend, and hold harmless City and its elected and appointed officials, officers, employees, agents, contractors, and consultants (“City Parties”) from and against any and all claims, actions, or suits for damages to persons or property, losses, costs, penalties, obligations, errors, or omissions that may be asserted or claimed by any person, firm, or entity and any other liabilities whether actual or threatened (“Claims and Liabilities”) in connection with, or which may result, directly or indirectly, from the installation of, maintenance of, or the failure to maintain a planter area, artificial turf, and/or other landscape material within the parkway within the City right-of-way. Indemnifier waives his/her/its rights to make any of the above claims against the City Parties.

In addition, Indemnifier assumes any and all risks of injury, death, and property damage incurred in carrying out the installation and maintenance of a planter area,

artificial turf, and/or other landscape material within the parkway within the City right-of-way.

In connection with Indemnifier's obligation to indemnify, defend, and hold the City Parties harmless, where applicable:

a. Indemnifier shall defend any action or actions filed in connection with any of said Claims or Liabilities and shall pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

b. Indemnifier shall promptly pay any judgment rendered against the City Parties for any such Claims or Liabilities; and Indemnifier agrees to save and to hold the City Parties harmless therefrom; and

c. In the event that City Parties are made a party to any actions or proceeding filed or prosecuted against Indemnifier for damages or other claims, Indemnifier agrees to pay to the City Parties any and all reasonable costs and expenses incurred by City Parties in such action or proceeding, including, but not limited to, legal costs and attorneys' fees.

3. Security. Indemnifier shall provide security in a form and amount acceptable to the City to install a planter area, artificial turf, and/or other landscape material within the parkway within the City right-of-way.

4. Standard for Installation. Indemnifier shall install a planter area, artificial turf, and/or other landscape material within the parkway within the City right-of-way in conformity the City's Standard Plan No. 1301.14 for Artificial Turf (Parkway Area Only), Residential Parkway Landscape Conversion Guidelines, the provisions of City Municipal Codes, including City Municipal Code Chapter 9.86, and City Landscape Standards.

5. Maintenance. Indemnifier shall at all times comply with the provisions City Municipal Codes, including City Municipal Code Chapter 9.86, with respect to the maintenance of a planter area, artificial turf, and/or other landscape material within the parkway within the City right-of-way.

6. City Right-of-Way. Indemnifier acknowledges and agrees that nothing in this Agreement alters or restricts City's rights with respect to the City right-of-way. Indemnifier acknowledges that City may need to perform work on, in, or under the parkway within the City right-of-way, and City will have no obligation whatsoever to repair or re-install any planter area, artificial turf, and/or other landscape material removed or damaged by City within the City right-of-way. Indemnifier acknowledges and agrees that it is the sole responsibility of Indemnifier to maintain, repair, or re-install planter area, artificial turf, and/or other landscape material within the parkway within the City right-of-way in compliance with all City Municipal Codes, City Standards, including City Municipal Code Chapter 9.86.

7. **Severability.** In the event that any provision of this Agreement shall be held to be invalid, the same shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement.

8. **Choice of Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of California. Any legal action arising in any way in connection with this Agreement shall be filed in the County of Riverside, California.

9. **Entire Agreement; Amendments and Waivers.** This Agreement contains the entire agreement between City and Indemnifier with respect to the subject matter set forth herein and supersedes any prior discussions, negotiations, and agreements with respect thereto. This Agreement may be amended or modified only by a written agreement executed by both Parties. No waiver of any of the terms of this Agreement shall be effective or binding unless in writing and executed by an authorized representative of the Party waiving its rights hereunder.

10. **Attorneys' Fees.** In the event of any dispute between the parties hereto arising out of the terms of this Agreement, the prevailing party in such dispute shall be entitled to recover from the other all costs and expenses, including reasonable attorneys' fees and court costs incurred by the prevailing party in any such dispute (whether or not such dispute is prosecuted to a final judgment or other final determination), together with all costs of enforcement and/or collection of any judgment; provided, however, that the attorneys' fees awarded pursuant to this Section shall not exceed the hourly rate paid by City for legal services multiplied by the reasonable number of hours spent by the prevailing party in the conduct of the litigation. The court may set such fees in the same action or in a separate action brought for that purpose.

11. **Successors.** This Agreement shall be binding upon the heirs, executors, administrators, successors, transferees, and assigns of the parties. Indemnifier may not assign this Agreement without the express written consent of City.

12. **Execution of Contract.** The persons executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES OF FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

INDEMNIFIER

By: _____

Name: _____

By: _____

Name: _____

[NOTE: If the Indemnifier is a corporation we need two officers' signatures and their titles. If a partnership, we need that person's title. If an individual, we don't need a title.]

CITY OF MENIFEE

By: _____

Name: _____

COUNCIL UPDATE COMMUNICATION

Meeting Date: August 24, 2021	Agenda Item: B	Agenda Location: N/A	Goal(s):	Legal Review: N/A	<input type="checkbox"/> 1 st Reading <input type="checkbox"/> 2 nd Reading
Subject: Review outreach responses regarding proposed water conservation landscaping regulations, and present a draft Code amendment to allow artificial turf in front yards of single-family detached and attached homes.					
Recommended by: Jeff Coder <i>JC</i>				Approved by: Kevin S. Woods <i>KW</i>	
Presenter(s): Robin Brown, Senior City Development Analyst Grant Penland, Planning Director					Ordinance previously introduced by: _____

SYNOPSIS:

The City Code (Code) currently limits the use of artificial turf as landscaping to side and rear yards of residential properties. Council previously reached consensus and directed staff to prepare Code amendments to allow artificial turf in the front yards of single-family detached and attached homes. The draft Code amendments are included as Attachment A.

Council previously reached consensus regarding proposed water efficiency standards for new residential and nonresidential developments, with the goal of achieving a 50 percent reduction in water usage. In order to share information on the proposed standards and gather input for consideration during the amendment drafting process, staff conducted a virtual stakeholder outreach meeting on June 10, 2021, and the feedback received is included in this document.

RECOMMENDATION:

Staff recommends Alternative Nos. 1 and 2, direct staff to bring forward two ordinances, at future Council meetings, to expand the use of artificial turf as landscaping for single-family attached and detached homes, and to incorporate water efficiency standards for new residential and nonresidential developments. Additional allowances for artificial turf will provide alternative landscaping opportunities for existing residents, while the water efficiency standards will achieve a 50 percent reduction in water usage for landscaping in certain new residential and nonresidential developments.

BUDGET/STAFF IMPLICATIONS:

None currently anticipated.

ALTERNATIVES:

1. Direct staff to bring forward an ordinance, at a future Council meeting, to expand the use of artificial turf as landscaping for single-family attached and detached homes.
2. Direct staff to bring forward an ordinance, at a future Council meeting, to incorporate water efficiency standards for new residential and nonresidential developments, with the goal of achieving a 50 percent reduction in water usage.
3. Direct staff to bring forward the artificial turf Code amendments with modifications as directed by Council.
4. Direct staff to bring forward the water efficiency Code amendments with modifications as directed by Council.
5. Take no further action on artificial turf Code amendments at this time.

6. Take no further action on water efficiency Code amendments at this time.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

Proposed Amendments for Artificial Turf

Council previously discussed this item at a Council Update on August 25, 2020. Since that time, staff has continued to receive inquiries regarding the installation of artificial turf in front yards. Staff recently became aware of a situation where a resident received approval to install artificial turf from his homeowners' association but was unaware of the current Code limitations.

The City Code currently allows artificial turf to be utilized as landscaping in residential rear yards and in side yards that are not viewable from the public rights-of-way, subject to specific materials, buffering, installation, slope restrictions, general appearance, and maintenance requirements. Artificial turf cannot be installed in front yards. Since implementation in 2013, staff is aware of approximately 20 locations that have installed artificial turf.

Proposed changes to the current artificial turf regulations include:

- *Locations permitted.* Expanded allowances to include front yards.
- *Permitting.* Artificial turf requires a minor development permit before installation. Added clarifying language to address situations where landscaping plans have previously been approved.

In order to collect public input on the topic of artificial turf and proposed front yard allowances, staff prepared two basic surveys. One survey was focused on residents, while the other was sent to the management companies for homeowners' associations located in Thornton. The survey was linked from the City website, and the survey questions are included as Attachment B. Staff will share responses during the Council Update presentation.

Colorado House Bill 21-1229 amended the Colorado Common Interest Ownership Act to declare that prohibitions on artificial turf in backyards by homeowners' associations (HOAs) and similar entities are contrary to public policy and therefore unenforceable. HOAs may adopt design and aesthetic guidelines and/or regulate the type, number, and placement of drought-tolerant plantings or hardscapes installed on a property, but the guidelines or rules must not prohibit artificial turf in backyards. The bill did not address allowances for artificial turf in front yards, and HOAs could still prohibit its use in that location.

Thornton Water Resources currently offers a rebate of \$2 per square foot for the replacement of sod with artificial turf in side and rear yards, subject to the requirements in the City Code. If Council approves the proposed Code amendments, then staff would review this program for the potential inclusion of front yards.

Water Efficiency Standards Outreach

Council previously discussed proposed amendments that would incorporate water efficiency standards for new residential and nonresidential developments. The proposed requirements are targeted at achieving a 50 percent reduction in water usage for new single-family residential front yards and common area landscaping, new multifamily residential common area landscaping, and new nonresidential common area landscaping. Within these landscape areas, the proposed amendments provide options for reducing turf and/or utilizing high efficiency irrigation systems as ways to meet the

desired water savings, but a flexible option will allow alternative methods provided similar water savings can be accomplished.

Staff conducted a virtual stakeholder outreach meeting on June 10, 2021, after inviting over 130 developers/builders, landowners, and planning/landscape design consultants, along with neighboring jurisdictions. Presentation materials related to the conceptual landscaping requirement modifications were provided on a specific webpage. Participation in the meeting was limited to about four external attendees, and included representatives from Norris Design and the City of Westminster. Meeting responses included:

- General acceptance of the proposed requirements.
- Technical questions regarding the implementation of the proposed requirements.
- Questions about whether there will be on-site audits performed for each development, which has yet to be determined.
- A request for a list of recommended lower water or xeriscape plants, which staff will provide when available.
- A request that the proposed ordinance language be shared with stakeholders for review once the draft is finalized.

If Council still desires to consider Code amendments to incorporate water efficiency standards for new residential and nonresidential developments, staff will begin drafting the necessary ordinance.

Proposed Artificial Turf Amendments and Water Efficiency Outreach Results

Purpose

Staff will review proposed City Code amendments to allow artificial turf in front yards, along with the results of public outreach conducted. Staff will also review the proposed water efficiency standards for new residential and nonresidential developments and the stakeholder input received. Staff requests feedback before preparing the final versions for formal Council consideration.

Agenda

- Artificial Turf: Current and Proposed Requirements
- Artificial Turf: Outreach Responses
- Water Efficiency: Pending Amendments
- Water Efficiency: Outreach Responses
- Decision Points

Artificial Turf: Current Regulations

- Allowed as landscaping in residential
 - Rear yards
 - Side yards not viewable from the public rights-of-way
- Includes specific standards for
 - Materials
 - Buffering
 - Installation
 - Slope restrictions
 - General appearance
 - Maintenance
- Permit required

Artificial Turf: Changes & Impacts

- Proposed changes
 - Expand allowances to include front yards
 - Clarify permitting requirements when a landscaping plan has been previously approved
- Homeowners' association (HOA) impact
 - House Bill 21-1229 requires HOAs to allow artificial turf in backyards
 - Can continue to impose design and aesthetic guidelines
 - May also continue to prohibit in front yards

Water Efficiency Code Amendments

- Goal of achieving a 50% reduction in water usage
 - Single-family residential and common area landscaping
 - Multifamily residential common area landscaping
 - Nonresidential common area landscaping
- Options for achieving reduction
 - Reducing turf and/or
 - Utilizing high efficiency irrigation systems
 - Flexible, alternative proposals considered

Water Efficiency: Stakeholder Outreach

- Virtual meeting June 10, 2021
 - Provided presentation materials on a specific webpage
 - Invited developers/builders, landowners, planning/landscape design consultants, and neighboring jurisdictions
 - 4 attendees
- Responses
 - General acceptance
 - Technical questions
 - On-site audits
 - Recommended plant list request
 - Sharing of final ordinance draft

Decision Points

1. Artificial turf
 - Should staff prepare amendments for Council's future consideration that would allow artificial turf in front yards?
2. Water efficiency
 - Should staff begin drafting amendments to implement requirements to reduce water usage by 50% in new residential and nonresidential developments?

Attachment A

Sec. 18-542. Artificial turf.

- (a) *Design.* The design and installation of all artificial turf areas shall comply with the front, side, and rear yard landscaping requirements for single-family detached and single-family attached dwellings.
- (b) *Locations permitted.* Artificial turf is prohibited in all nonresidential zoning districts and in the multi-family district, manufactured home district, and Eastlake residential district, except as allowed through the development permit process for designated sports fields on public property when approved by city council. ~~See Figure 452.1.~~

~~Figure 452.1~~

Front Yards	Side Yards	Rear Yards
Artificial turf not allowed.	Side yards that are not visible from the public right-of-way: artificial turf is allowed. Side yards that are visible from the public right-of-way: artificial turf is not allowed.	Artificial turf allowed.

- (c) *Installation, maintenance and replacement.* The use of artificial turf shall be governed by the following standards:
 - (1) *Materials.*
 - a. Artificial turf shall be of a type known as cut pile infill and shall be manufactured from polypropylene, polyethylene, or a blend of polypropylene and polyethylene fibers stitched onto a polypropylene or polyurethane meshed or hole-punched backing.
 - b. Hole-punched backings shall have holes spaced in a uniform grid pattern with spacing not to exceed~~ing~~ four inches by six inches on center.
 - c. The use of indoor or outdoor carpeting in lieu of artificial turf, mulch or other plant material is not permitted.
 - (2) *Buffering.* There shall be a buffer of a minimum of three feet between the edge of the artificial turf and any impervious surface.
 - a. This buffer shall be organic landscape, planted with any combination of trees, shrubs, vines, groundcover, perennial or annual flowers, natural grass sod, and/or natural native grasses.
 - b. The landscaped buffer may be located on the property with the artificial turf or on existing adjacent landscaped HOA common area or city property, or in some combination thereof.
 - (3) *Installation.* Artificial turf shall be installed in accordance with the manufacturer's specifications and maintained in a manner to mimic healthy living turf, including the following:

- a. Sod or existing groundcover shall be removed prior to installation of any artificial turf.
 - b. Artificial turf shall be installed over a compacted and porous road base material that is a minimum of two inches deep.
 - c. Artificial turf shall be anchored at all edges and seams.
 - d. All artificial turf seams shall be glued and not sewn.
 - e. An infill medium consisting of ground rubber, ground coal slag, clean washed sand and/or ground rubber, or other approved mixture shall be brushed into the fibers to ensure that the fibers remain in an upright position and to provide ballast that will help hold the turf in place and provide a cushioning effect.
- (4) *Slope restrictions.* Artificial turf shall not be installed on slopes greater than six percent unless approved during the permitting process.
- (5) *General appearance.* Artificial turf shall be installed and maintained to effectively simulate the appearance of a well-maintained lawn. The department shall maintain and make available for public inspection a sample of various artificial turf products that meet this standard of appearance.
- a. Artificial turf products shall have a minimum eight-year warranty against fading.
 - b. Artificial turf must be a green color, similar to natural grass.
- (6) *Maintenance.* General maintenance requirements are specified in Section 18-556 of the Code. In addition, the following maintenance activities are required for artificial turf:
- a. Cleaning, sanitizing, brushing, and removal of debris. Cleaning shall be done with biodegradable products.
 - b. Hand raking of worn turf areas on an as needed basis.
 - c. Repairing of depressions to maintain an even visual surface.
 - d. Brushing back any loose infill that has been washed or moved off the turf.
 - e. Regular maintenance to eliminate any odors, flat or matted areas, weeds, looseness at edges, seams, or elsewhere.
 - f. Replacement of the artificial turf when maintenance or repair is unable to simulate a healthy living turf.
- (7) *Permits.* A permit is required prior to the installation of artificial turf as landscaping. Any permit approved under these provisions shall supersede any previously issued landscaping plan to the extent that the areas overlap.

ATTACHMENT B

Artificial Turf - Resident Survey

Artificial turf (grass) is a manufactured substitute for organic turf, lawn, or sod that effectively simulates the appearance of a well-maintained lawn. Thornton's current regulations limit artificial turf installations to rear yards and to side yards that are not publicly viewable, subject to specific materials, buffering, installation, slope restrictions, general appearance, and maintenance requirements. A permit is required. The current City Code requirements are available at this link: [Section 18-542 Artificial Turf](#).

The city of Thornton is exploring possible changes to the current City Code that would allow artificial turf to be installed in residential front yards. Any front yard installations, if authorized, would be subject to the same materials and other requirements as currently exist for rear and side yards.

Please share your thoughts about artificial turf in Thornton in this brief survey.

* 1. Should the city allow artificial turf in residential front yards?

Yes

No

Please explain your answer.

* 2. Are you interested in installing artificial turf on your property, now or in the future?

Yes

No

* 3. Where would you like to install artificial turf? Check all that apply.

Front yard

Side yard

Rear/Back yard

Not interested in installing artificial turf.

4. What obstacles are preventing you from installing artificial turf on your property? Check all that apply.

- Cost of turf and installation
- City regulations
- Homeowners' association (or similar) requirements
- Environmental concerns
- Other (please specify)

5. Please share any additional comments you have about artificial turf in Thornton.

6. Please provide your name and address.

If you would prefer not to provide this information, please provide the general area of the city where you reside, such as the city ward you live in (see map [here](#)) or the closest major street intersection.

Name

Address

Ward or Street Intersection

7. If you would like to receive further communication from the city about artificial turf, please provide your email address.

Artificial Turf - Homeowners' Association Survey

Artificial turf (grass) is a manufactured substitute for organic turf, lawn, or sod that effectively simulates the appearance of a well-maintained lawn. Thornton's current regulations limit artificial turf installations to rear yards and to side yards that are not publicly viewable, subject to specific materials, buffering, installation, slope restrictions, general appearance, and maintenance requirements. A permit is required. The current City Code requirements are available at this link: [Section 18-542 Artificial Turf](#).

The city of Thornton is exploring possible changes to the current City Code that would allow artificial turf to be installed in residential front yards. Any front yard installations, if authorized, would be subject to the same materials and other requirements as currently exist for rear and side yards.

Homeowners' associations may impose design and aesthetic standards and restrict artificial turf installations to rear yards only. However, based on the recently approved [Colorado House Bill 12-1229](#), associations may no longer prohibit its installation in backyards.

Please respond to this survey for each of the communities that you/your company manage in Thornton.

* 1. Do the homeowners' association covenants for the community allow artificial turf to be installed?

- Yes
 No

* 2. Where is artificial turf allowed to be installed? Check all that apply.

- Front yard
 Side yard
 Rear/Back yard
 Artificial turf is not allowed

3. If artificial turf is allowed, please generally describe the requirements for installation.

* 4. If Thornton were to allow artificial turf in front yards, do you anticipate changes to the covenants to allow it in front yards in the community?

- Yes
 No
 Don't know

5. Please share any additional comments you have about artificial turf in Thornton.

6. Please provide the community name and address (or general location).

If you are responding for more than one Thornton community and your responses are the same for all of them, list the communities/addresses here. If the responses vary, please complete a separate survey for each location.

7. If you would like to receive further communication about artificial turf in Thornton, please provide your email address.

**Staff Report to the
Municipal Planning Board
May 18, 2021**

LDC2021-10008

ARTIFICIAL TURF LANDSCAPE CODE AMENDMENT

<p>Applicant City of Orlando</p> <p>Project Planner Terrence Miller, Planner II</p>	<p>Property Location: City wide</p> <p>Summary— Land Development Code Amendment to Chapter 60 (Subdivisions and Landscaping) and Chapter 66 (Definitions) to provide specific regulations for artificial turf and providing standards for the installation and maintenance of artificial turf.</p> <p>Staff’s Recommendation: Approval</p> <p>Public Comment The notice of the public hearing for this proposed amendment was posted in the Orlando Sentinel. Staff did outreach to major builders and found no issues with this proposal.</p>
---------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ANALYSIS

OVERVIEW

The City updated the Landscaping Code in November 2013, which seeks to provide a lush, sub-tropical landscaping scheme for the City. It also specified requirements specifically for single family/duplex properties. Further non-living materials are specifically limited and discouraged in the Code – such as rocks, mulch, and arguably artificial turf. Among the reasons listed for the intent of the City landscape code is to enhance the city’s appearance, provide habitats for urban wildlife, improve air and water quality, mitigate heat and glare, and increase land values by providing landscaping as a capital asset; some of these objectives cannot be met with a substantial amount of artificial turf. Therefore, staff is proposing a regulation that allows some installation of artificial turf, spells out the permitting process, and places some limitations on it so that it fits within the context of a sub-tropical environment.

ANALYSIS

Many homeowners have turned to artificial turf as a means of replacing their existing lawns with a similar green surface that does not require irrigation or maintenance. The City has received code enforcement complaints regarding installation of artificial turf without a permit. Other residents have inquired about the approval process to install artificial turf. Right now, because the code is relatively silent, staff issued a determination that allows for artificial turf, but requires it to be counted toward the maximum amount of impervious surface on the lot (LDC2019-10020).

Healthy lawns clean and cool the air by absorbing carbon dioxide, releasing oxygen, and collecting dust and dirt. They filter stormwater runoff, facilitate groundwater recharge, and reduce erosion, glare, heat island effect and noise. Turfgrass plays a significant role, when compared to artificial turf, in reducing water runoff in urban and suburban environments that have significant areas of impervious surfaces such as sidewalks and driveways. Because it is not living and made of plastic and rubber - not plant material – artificial turf doesn’t offer any benefits of plants in a sub-tropical environment, such as abating the urban heat island effect. Artificial turf does not provide the cooling effect of a living lawn and becomes quite warm on a sunny day. Soil health is another factor. Instead of increasing the life of your soil, it compacts soil and creates an inhabitable environment for the living organisms in your soil, rendering it unable to grow other plant materials until that soil has been brought back to life.

While some artificial turf systems are designed with a permeable base layer, the 90% required compaction does not permit water absorption into the subgrade. This can cause runoff onto adjacent properties or into the streets/sewers instead of being absorbed into the ground like with turf grass.

As a result, artificial turf will be considered a non-living, impervious material that shall and does not emphasize the natural beauty of Central Florida and meeting the intent of establishing and maintaining living plant ecosystem. While artificial turf may be more appropriate for other biomes, such as an arid or semi-arid environment, it may not make as much sustainability sense in the humid environment of Central Florida.

Updated: May 13, 2021

The landscape code regulations are to protect the general welfare of Orlando residents and visitors by promoting water conservation and enhancing the city's appearance. As stated in the purposes of the Landscaping Code, this is done in part by improving the appearance of Orlando and perpetuate its image as "The City Beautiful," emphasizing the natural beauty of Central Florida and the unique flora of the region. The landscape code regulations also provide support of habitats for urban wildlife and protect endangered or threatened plant species, habitats, and rare or endangered ecosystems.

Because artificial turf lacks the ability to filter stormwater runoff, setbacks are established to protect waterfront swales natural bodies of water such as lakes, ponds and other drainage features (such as prohibiting the installation of artificial turf in swales). The appearance of artificial turf is another important aspect. Artificial turf must have an appearance of natural turf grass when visible from rights-of-way, adjacent properties and open space. The material must appear natural in appearance and color and must not be installed in a public or private rights-of-way, or natural features (wetlands, lakes, parks, common areas etc.).

A functional amount of artificial turf might still be obtained, depending on its location in a site's landscaping when limited as proposed. This code update is to address the growing desire to install artificial turf in residential zoning districts where artificial turf is not specifically allowed or prohibited as part of the residential landscape code requirements.

SUMMARY OF PROPOSED CHANGES

Staff is proposing to establish and adopt specific regulations for artificial turf standards, installation and maintenance. This code update also provides additional landscape definitions and minor code reorganization.

- Removed duplicate information from sec 60.223 that will be used in an updated/revised section 60.223 (Part G) Site Specific Plantings and Material Requirements
- New heading name for part 2G
- Added artificial turf requirements
- Moved code language to new sections
- Provide additional definitions in relation to artificial turf

REVIEW/APPROVAL PROCESS—NEXT STEPS

1. MPB minutes scheduled for review and approval by City Council.
2. Forward to City Attorney's Office for Legal Review
3. 1st reading of the Ordinance
4. Advertisement
5. 2nd reading of the Ordinance

CONTACT INFORMATION

For questions regarding Land Development review, please contact Terrence Miller at (407) 246-3292 or Terrence.miller@orlando.gov.

DRAFT ORDINANCE

The following is a draft Ordinance (subject to legal review) that establishes the draft changes. The struck through text are words that will be removed from the code. Text that is underlined will be words that are added to the code. Text that is neither is existing code let to remain.

PROPOSED CODE LANGUAGE

The draft code changes are as follows and are subject to final review and approval by the City Attorney's Office. New language is underlined and eliminated language is ~~struck through~~.

Sec. 60.223. - One-Family and Two-Family Residential Development Standards

All landscaping improvements and modifications must conform to the below requirements. Landscaping upgrade to the below standards is required for new development or upon substantial enlargement of an existing property; in such cases, the Building Official shall not issue a Certificate of Occupancy until compliance is achieved. During the permitting process, the requirements of this section shall be noted on the development plan; however this section shall not require the submittal of a separate landscape plan unless required by other provisions in this Code or any other development order.
PART 2G

6. Non-Vegetative Materials. Stone, gravel, artificial turf and rock beds may be used as an accent, but shall not be considered permanent landscaping, and does not meet the intent of this code when a substantial portion of the landscape is non-vegetative material.

(f) Irrigation Systems. Landscape irrigation systems are not required on one-family and two-family lots. If installed, irrigation systems shall meet the requirements of Part 2I ~~be grouped according to high, medium and low water needs, with separate zones for turf and landscaping beds, without mixed heads to maximize water application efficiency.~~ All irrigation systems must have a properly installed, set and maintained rain shutoff device per state law. ~~Irrigation systems that are provided must be indicated on the building plans for the applicable lot and the site must comply with one of the following methods:~~

- ~~1. There is no turf on the site.~~
- ~~2. Water for irrigation is only provided from non-potable or non-well sources.~~
- ~~3. Irrigation is provided by a low-volume system that incorporates micro-irrigation or drip emitters, or multiple-trajectory rotating stream nozzles.~~
- ~~4. Install soil moisture sensors or a weather-based evapotranspiration (ET) controller.~~
- ~~5. Irrigation system is certified by Florida Water Star, by the appropriate water management district.~~

Renaming Part 2G**2G. - NON-RESIDENTIAL AND MULTIFAMILY LANDSCAPING REQUIREMENTS SITE SPECIFIC PLANTINGS AND MATERIAL REQUIREMENTS****Sec. 60.224. - ~~General Requirements Artificial Turf~~**

The use of artificial turf is permitted subject to obtaining permit from the Permitting Division and compliance with the provisions of this Section. All artificial turf shall, at a minimum, be installed according to the manufacturer's specifications and may be subject to further City stormwater requirements.

- (a) Location. The installation of artificial turf is permitted on residential, private parks and schools, commercial sites and limited to play areas of public parks and institutions subject to the requirements of this Section. Installation of artificial turf within public and private rights-of-way is prohibited. Artificial turf may not be installed within 50 feet of any artificial or natural water body. Within Historic Preservation Districts, artificial turf may not be installed where it is visible from any rights-of-way; further, a major Certificate of Appropriateness is required for its installation. Artificial turf is prohibited within drainage features (e.g. retention ponds, swales, and etc.). Artificial turf must be installed outside of the drip line of any tree.
- (b) Impervious Surface Ratio. The installation of artificial turf shall be calculated as an impervious surface, as the intent of the Landscape Code is the installation of living, sub-tropical materials on pervious areas of the site. Total impervious area calculations shall be submitted with any artificial turf application. The quantity of artificial turf to be incorporated into the landscaping of a property shall be limited by the maximum impervious surface ratio (ISR) for the subject property within the applicable zoning district and location requirements above.
- (c) Appearance. Artificial turf shall consist of materials that appear natural in appearance and color from any public or private rights-of-way, neighboring properties or natural features (wetlands, lakes, parks, common areas etc.). The use of indoor/outdoor plastic or nylon carpeting as an installation of artificial turf is prohibited.

(d) Maintenance. All artificial turf shall be maintained in a fadeless condition and shall be kept free of dirt, mud, stains, weeds, debris, tears, holes and impressions. Maintenance shall include, but not be limited to: cleaning, brushing, debris removal; repairing of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matted areas, weeds, and evasive roots; and all edges of the artificial turf shall not be loose and must be maintained with appropriate edging or stakes.

All artificial turf must be replaced if it falls into disrepair with fading, holes or loose areas. Replacement and repairs shall be done with like materials from the same manufacturer and done so in a manner that results in a repair that blends in with the existing artificial turf.

Relocating language from section 2G NON-RESIDENTIAL AND MULTIFAMILY LANDSCAPING REQUIREMENTS . - to 2H. - NON-RESIDENTIAL AND MULTIFAMILY LANDSCAPE WORKSHEET

Applicability. All landscaping on non-residential and multifamily sites shall be designed, installed, and maintained in conformance with this Part and shall meet the minimum points required in Part 2H, Non-Residential and Multifamily Landscape Worksheet, at time of new development, substantial improvement or enlargement, or change of use to a higher intensity class.

Tree Point Requirements. Where a project has a requirement for tree points, tree points shall be calculated to be equal to the following: 1 tree point = 1 installed tree, minimum 10'—12' ht., and 2" caliper. An existing retained tree greater than 4" in caliper (dbh) shall be equal to 3 tree points.

Adding Definitions

Chapter 66 - DEFINITIONS

Artificial Turf or artificial grass: An artificial grass mat manufactured with manmade materials such as polypropylene, polyethylene, and/or other materials, which is used to replicate the appearance of natural grass.

Florida-friendly landscape(ing): A landscape that incorporates the practices and philosophies promoted by programs such as Florida Yards and Neighborhoods/Environmental Landscape Management. These programs promote quality landscapes that conserve water, utilize water wise principles, protect the environment, are adaptable to local conditions, and are drought tolerant.

Florida Water StarSM is a program of the St. Johns River Water Management District that encourages indoor and outdoor water-efficient options and leak prevention by providing technical direction and certification for new construction and residential renovation that meets goals in water efficiency.

Impervious Surface Area: The area of ground covered by any part of a building, street, vehicular use area, or any other structure, improvement, facility or material which prevents or severely restricts natural percolation of moisture. This includes all asphalt and brick surfaces, artificial turf and areas devoted to any outdoor storage and/or display of materials and merchandise, but does not include exterior accessory swimming pools. Wooden patios under Chapter 58 shall be considered pervious.

Irrigation system: A system of pipes or other conduits designed to transport and distribute water to keep plants in a healthy and vigorous condition.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58, CITY OF WINTER PARK CODE OF ORDINANCES, LAND DEVELOPMENT CODE; AMENDING SECTION 58-95 AND ADDING SECTION 58-170 GOVERNING ARTIFICIAL TURF REQUIREMENTS; PROVIDING FOR DEFINITIONS; PROVIDING REQUIREMENTS FOR INSTALLATION AND MAINTENANCE OF IMPERVIOUS AND PERVIOUS ARTIFICIAL TURF; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City Land Development Code currently limits the amount of impervious surface that may be utilized in residential and commercial development; and

WHEREAS, the City wishes to clarify that artificial turf, which is a grass mat manufactured with man-made materials used to replicate natural grass, can constitute an impervious surface subject to the relevant City regulations; and

WHEREAS, the City further wishes to clarify and enact regulations governing the installation of artificial turf; and

WHEREAS, the City finds that this Ordinance advances the interests of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. Amendment of City Code. Section 58-95 of Chapter 58, Article III of the City Code of Ordinances is hereby amended, and a new Section 58-170 is hereby created in Chapter 58, Article V, Division 1 of the City Code of Ordinances, all as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; stars * * * * * indicate breaks between sections, subsections, or paragraphs and do not indicate changes to the City Code; provisions not included are not being amended):

Sec. 58-95. - Definitions.

For the purposes of this article, certain terms or words used herein shall be interpreted as follows:

* * * *

Artificial Turf or synthetic grass means an artificial grass mat manufactured with man-made materials such as polypropylene, polyethylene, and/or other materials, which is used to replicate the appearance of natural grass.

* * * *

Impervious coverage means the percentage of the lot land area that is covered with impervious materials such as building, swimming pools (including pool water and pool decks), decks, patios, driveways, etc. Artificial turf shall also be considered an impervious coverage unless specifically designed and permitted with a proper porous permeable underlying material such as gravel. Standard engineering coefficients of permeability shall be utilized for mixed surfaces. Land located across a street and separated from the building site shall not be included in the available land area calculation.

* * * *

Sec. 58-170. – Artificial Turf Installation. The following requirements shall govern the installation of artificial turf.

a) Impervious installations

- 1) A permit shall be required to install.
- 2) New total impervious area coverage to include the artificial turf shall be submitted with the permit application.
- 3) Proof of permeability is not required.
- 4) The first one inch of stormwater runoff from the artificial turf must be retained on site in accordance with Sec. 58-163.
- 5) Installations are not allowed under tree canopies.

b) Pervious installations

- 1) A permit shall be required to install.
- 2) Artificial turf shall have a backing of a uniform (every square inch) woven material, which precludes the use of a solid backed material with periodic holes.
- 3) The required minimum rate of permeability shall be 30 inches per hour uniformly (every square inch) across the artificial turf.
- 4) Underlying material (gravel, drainfield rock, sand setting, fabric, etc.) shall be included in the design per the manufacturer's specifications to meet the minimum rate of permeability.
- 5) Prior to installation of artificial turf, the property owner shall enter into an agreement, with and in a form acceptable to the City, providing for property

owner's and its successors' and assigns' scheduled maintenance activities and annual reports thereof to the City. Among other things, such agreement may provide for: (i) property owner's requirement to remove and/or replace the artificial turf in the future if the artificial turf ceases to function as designed and permitted, is not properly maintained and/or if the expiration of the artificial turf's life expectancy occurs; (ii) the City's remedies in the event property owner fails to comply with its maintenance, repair and replacement obligations; and (iii) property owner's indemnification and hold harmless of the City and its officials and employees with respect to the artificial turf installation, maintenance and repair, including any drainage problem that may arise therefrom.

c) Maintenance of artificial turf. The property owner shall routinely maintain artificial turf, including cleaning, brushing, debris removal, repairing and replacement. Such maintenance activities shall ensure that artificial turf continues to function as designed and permitted. The property owner's failure to maintain, repair and/or replace artificial turf in compliance with this section or any agreement entered into with the City as required herein shall constitute a violation of this subsection.

SECTION 3. Codification. Section 2 of this Ordinance shall be codified into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida (the "Effective Date"), and shall apply to all applications for permits received on or after the Effective Date.

ADOPTED this ____ day of _____, 2021, by the City Commission of the City of Winter Park, Florida.

CITY COMMISSION
CITY OF WINTER PARK

Steve Leary, Mayor

ATTEST:

Rene Cranis, City Clerk

S:\AKA\CLIENTS\Winter Park\Public Works Department W600-26039\Artificial turf ordinance\Ord. for Artificial Turf Regulations 12-4-2020.docx

**BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM**

February 8, 2022



Agenda Item D-5

Duke Energy Targeted Underground Program Update

Background

Duke Energy has started the construction process for Phase 2 of their targeted underground project (TUG). The first phase for the TUG project was completed last year, with lines and poles being removed from rear property lines in the late summer.

2022-2023 Construction

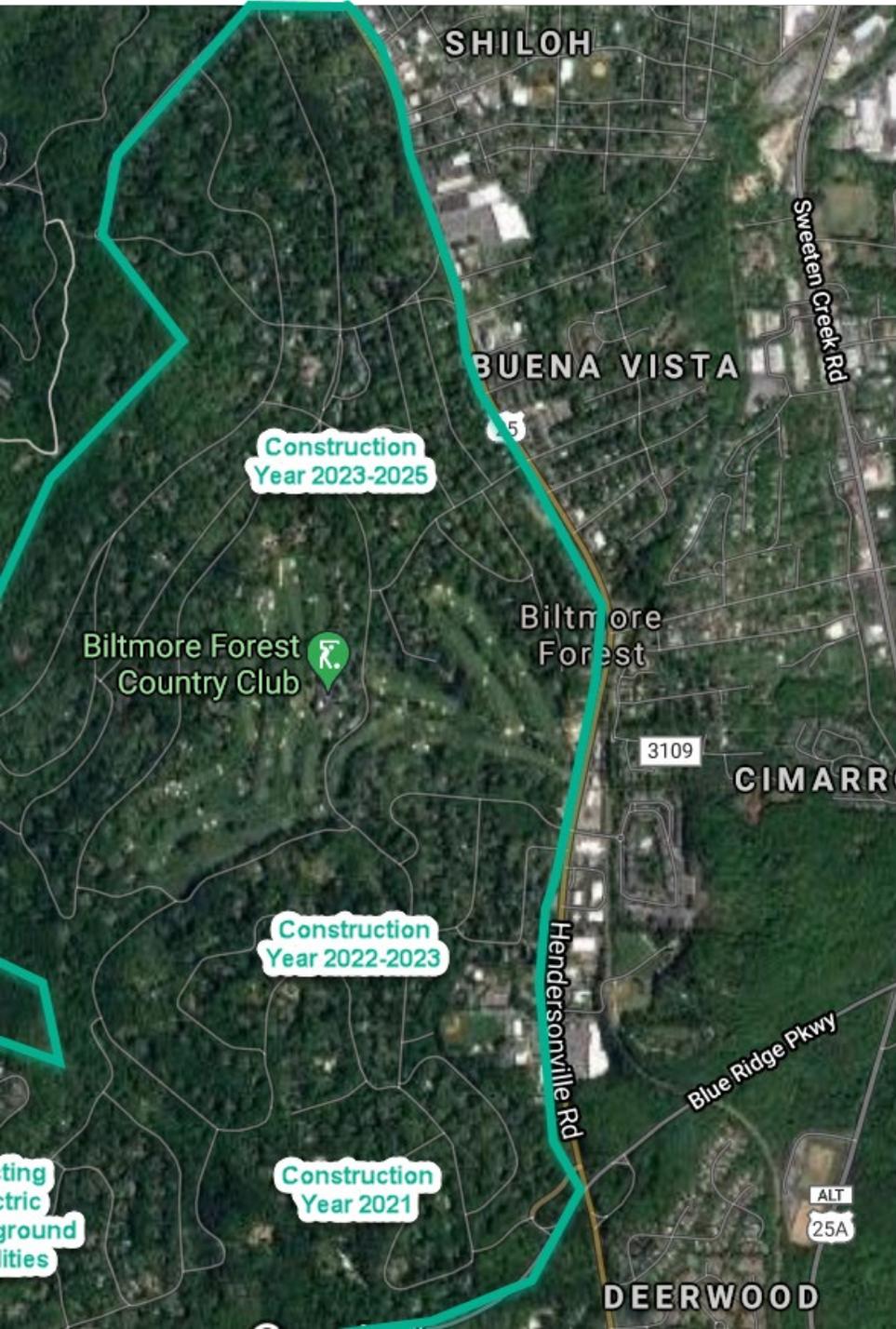
Phase 2 is underway with the first construction work occurring through Carolina Day School property. Additional work during this phase will focus on Brookside, Westwood, and Hilltop Roads. Portions of Stuyvesant Road, Greenwood Road, and the eastern side of Hilltop Road and Ridgefield Place will be completed within this phase as well.

The attached powerpoint provides specific information and timelines for work. Duke Energy staff has done a great job being communicative with the Town and working to ensure that our expectations are met while they accomplish this significant upgrade. Duke staff is scheduled to attend the April Board of Commissioners meeting to provide a more thorough update. Please let me know if you have any questions.



Town of Biltmore Forest Targeted Undergrounding Utility Project





Town of Biltmore Forest Area Map

South of Biltmore Forest Country Club

- Construction: 2021-2023
- Miles of overhead removed = 4.43
- Customers with improved reliability = 205

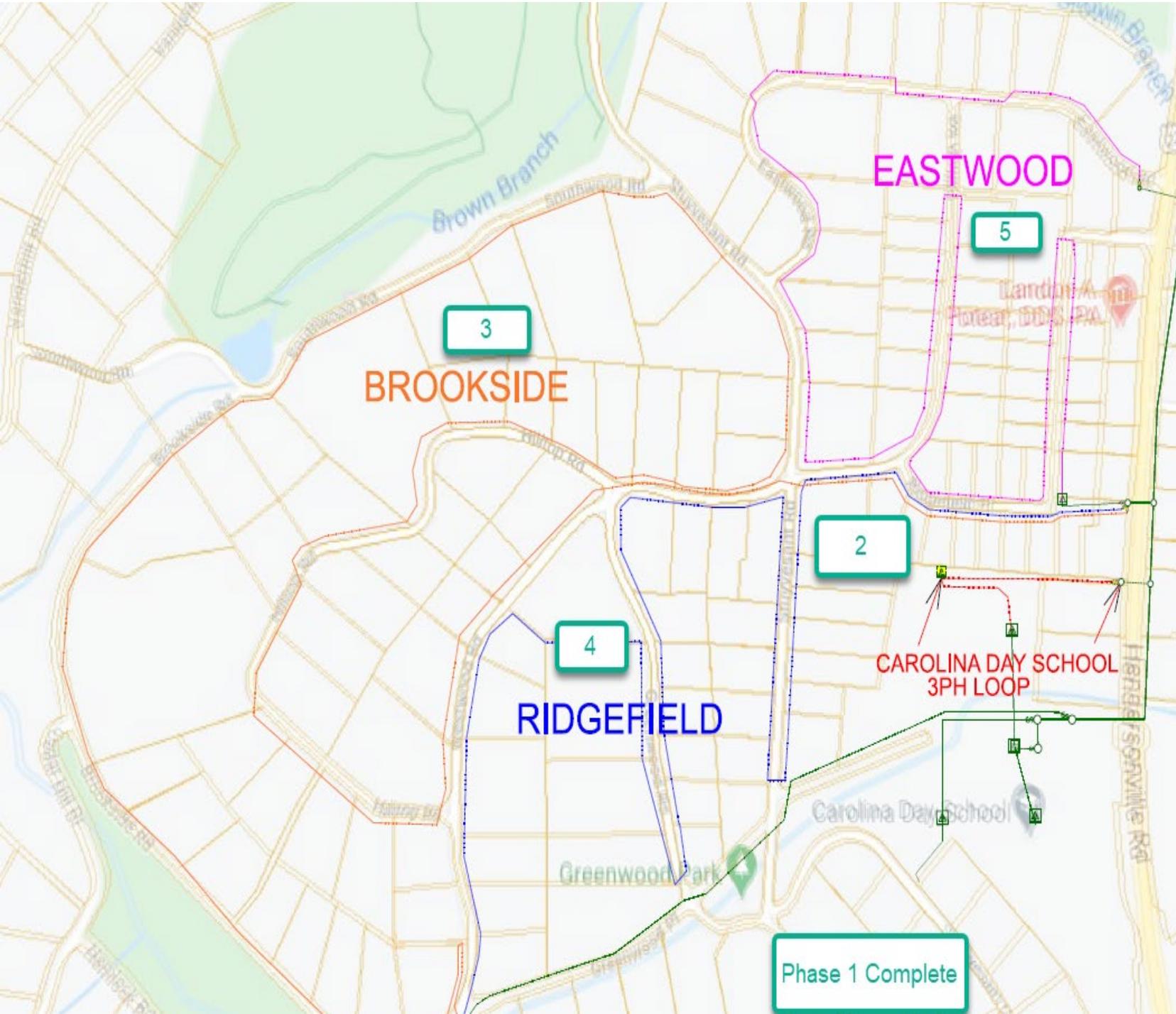
North of Biltmore Forest Country Club

- Construction Year: 2023-2025
- Miles of overhead removed = 7.03
- Customers with improved reliability = 316

***Construction schedule and completion is contingent upon right of way acquisition, ground conditions, annual budgets, and other variables. Updates to construction schedule will be provided when applicable.*

Biltmore Forest Phases 1-5 (South)

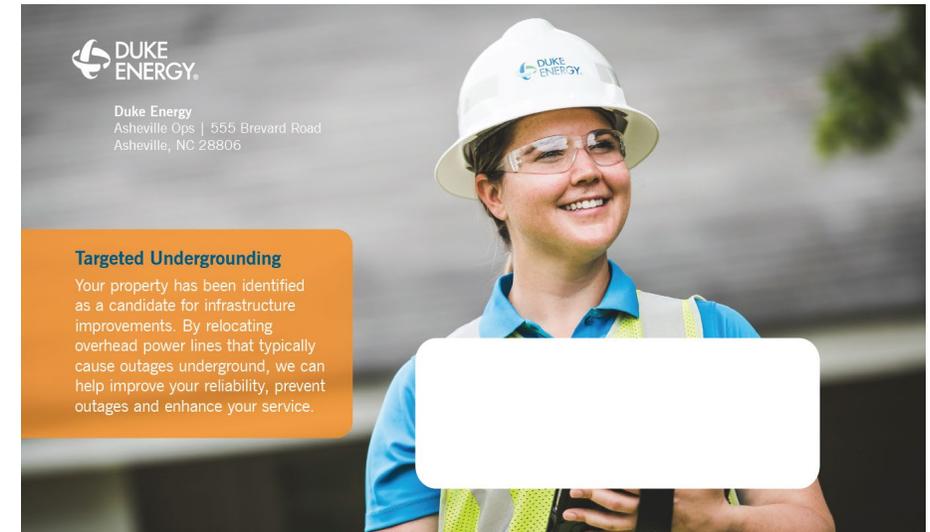
Construction Progress - Years 2022-2023



Biltmore – Carolina Day (Phase 2)	Biltmore – Brookside (Phase 3)
<input checked="" type="checkbox"/> Boring complete	<input checked="" type="checkbox"/> Construction start
<input type="checkbox"/> Cable pull / boxes complete	<input type="checkbox"/> Boring complete
<input type="checkbox"/> Transformers / terminations complete	<input type="checkbox"/> Cable pull / boxes complete
Biltmore – Ridgefield (Phase 4)	Biltmore – Eastwood (Phase 5)
<input checked="" type="checkbox"/> Postcards sent 12/30/2021	<input type="checkbox"/> Map and Design pending completion of Phase 2
<input checked="" type="checkbox"/> Easement acquisition underway (66%)	<input type="checkbox"/> Postcards sent

How will you be notified?

Look for this postcard from your dedicated Public Engagement Manager.



Dear Neighbor,

We've identified overhead power lines in your area that have experienced frequent outages and we will relocate them underground.

Relocating these lines underground will help:

- Improve the quality of your electric service
- Minimize service interruptions
- Increase safety in your area following an extreme weather event
- Speed up power restoration following major storms

In order to evaluate these lines, we will need to access poles and wires in the area. A Duke Energy team member will work with you to answer questions and share project updates.



If you have any questions, contact your Public Engagement Manager:

Avery Dolinger
Avery.Dolinger@duke-energy.com
828.545.0697

For more information, please visit duke-energy.com/TUG.
For our response to COVID-19, please visit dukenergyupdates.com.



What happens next?

Contacted by a right-of-way agent for an appointment to discuss the plan.

When they visit, what to look for:

- Duke Energy identification badge.
- Company-branded materials.
- Engagement Managers' contact information – Avery Dolinger.



Program at a Glance

We are using smart data to identify outage-prone overhead power lines and relocating these lines underground.

By relocating the power lines underground, we can:

- Reduce the number of power outages, improving the quality of your electric service
- Restore power more quickly following major storms
- Minimize service interruptions
- Increase safety in your area following an extreme weather event
- Eliminate frequent and potentially disruptive tree and other vegetation trimming needed for hard-to-access lines



Targeted Undergrounding Contact Information

Please feel free to contact us directly with any questions or concerns.

828.545.0697

Avery.Dolinger@duke-energy.com



Ask our representative to see an authorized Duke Energy identification badge.



Targeted Undergrounding

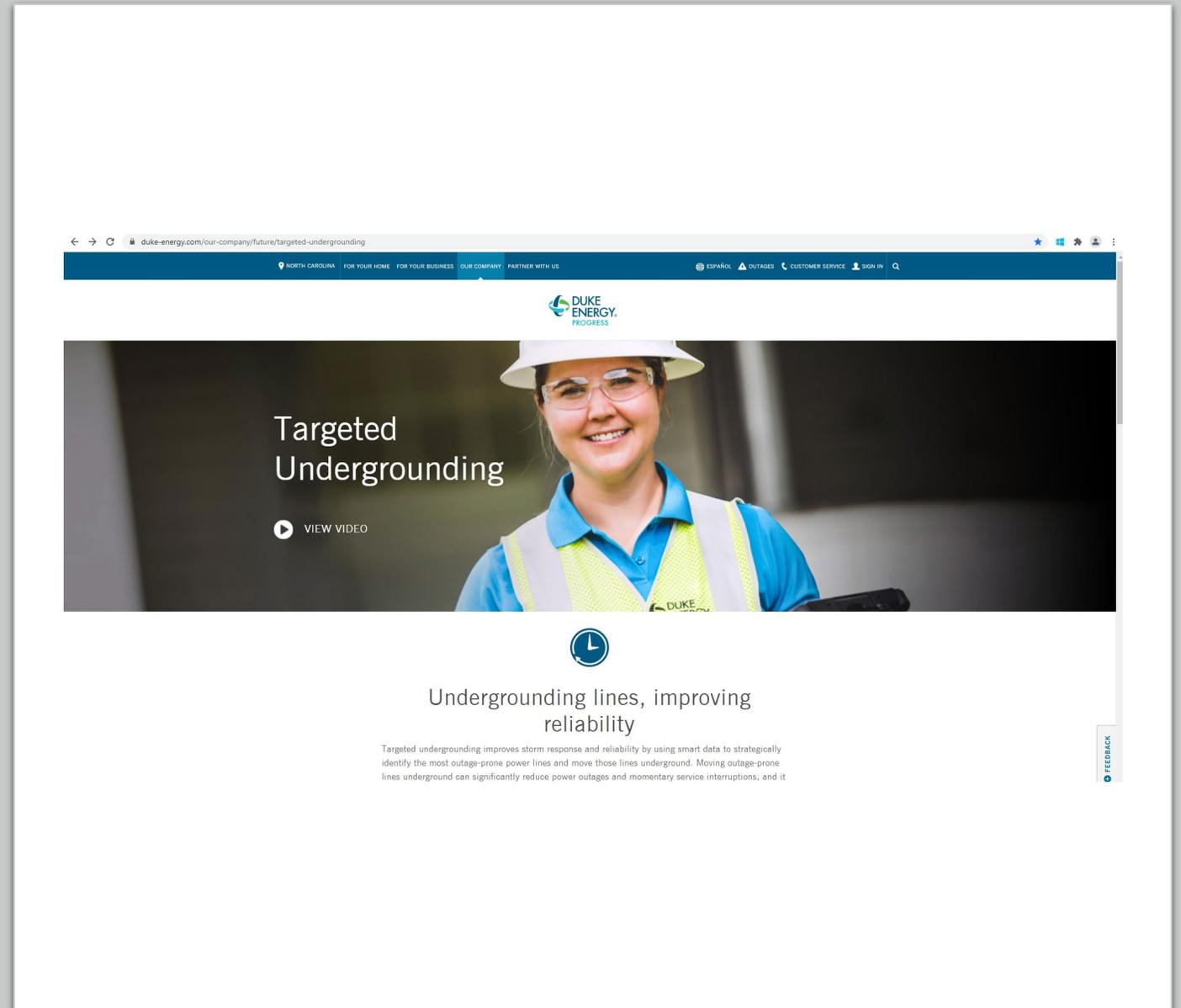
Improving the quality of electric service in your area.



BUILDING A SMARTER ENERGY FUTURE®

Targeted Undergrounding Webpage

duke-energy.com/tug



What to expect?

- Property evaluation
- Obtain Easements
- Reviewing the Plan
- Marking the Site
- Line Relocation
- Restoring the Site
- Overhead Lines removed
- Survey for you to provide opportunities for improvement, as well as successes

Targeted Undergrounding Improving the quality of electric service in your area.

What You Can Expect



Evaluation

A Duke Energy representative will be in your area to determine the best route for the proposed underground relocation. They will also look at the current meter base on your property to determine if any modifications are needed.

Obtain Easements

Easements give Duke Energy permission to install and maintain equipment along the proposed route. Duke Energy representatives will work with property owners to secure necessary easements along the planned underground route. If easements cannot be obtained, the work may be delayed or canceled.

Reviewing the Plan

You will have a chance to review the preliminary design and proposed equipment with our team so you understand the underground plan for your property.

Marking the Site

When it is time to relocate the lines underground, we will work with a utility locating service to mark and/or flag any public or privately owned preexisting facilities (e.g., water, cable, septic). These markings ensure a safe installation.



Line Relocation

When possible, Duke Energy will use low-impact drilling equipment to minimize property disruption. Once the final switch from overhead to underground takes place, there will be a short outage. We will communicate the outage date and time to you in advance so you can plan accordingly.

Restoring the Site

Once the work is complete, Duke Energy representatives will remove any overhead lines and/or other equipment. We will restore your property appropriately in coordination with you.



Other Equipment Required

In order to provide underground service in your area, we may also need to install the following equipment:

- **Padmount Transformer**
These transformers are in a locked steel cabinet mounted on a concrete pad. They are used with underground power lines to supply power to a large building or many homes.
- **Pedestal**
If necessary, a pedestal will be used to extend the underground system.
- **Meter Base Adapter**
In order to use your current meter with your new underground lines, an adapter may need to be installed. Our team will determine which adapter will work best with your meter. We will discuss details with you if we need to modify, add or remove service equipment attached to your home or business.



Ask our representative to see an authorized Duke Energy identification badge.

Communication throughout

Right of Way and construction crew team members will leave door hangers with contact info to let you know next steps.



Targeted Underground

Property Restoration Update

Date: _____

Great news!
We are happy to inform you that select overhead electrical lines in your area have been relocated underground and we have now completed our work.
As part of our commitment to you, we will be on your property soon to restore the areas impacted by our construction activities.
Respecting your property is a top priority for Duke Energy. Please contact your public engagement specialist if you have any concerns about your property restoration.
Contact: Avery Dolinger – 828.545.0697

We value your feedback.
Following restoration efforts, Duke Energy will share a short survey regarding your overall experience. We invite you to complete and return it as a way to help us improve our process.

Thank you for your patience as we work to improve the safety and reliability of your electric service.



DUKE ENERGY.
BUILDING A SMARTER ENERGY FUTURE®

©2021 Duke Energy Corporation 172891-G Dolinger 3/21 duke-energy.com/TUG



Targeted Underground Program

Planned Outage

Today's date: _____

A temporary outage is necessary as we make the conversion from overhead to underground electric lines in your area.
Your electric service will be shut off on _____ (day). We will make every effort to minimize the duration and inconvenience to you.
You don't need to be home during this time, but please ensure your yard and meter base are accessible to technicians.
If we discussed a new meter base adapter with you and it has not yet been installed, it will be installed during this planned outage.

Your project contact is:
Name: _____
Phone number: _____

Thank you for your patience as we work to increase the safety and reliability of your electric service.



DUKE ENERGY.
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Targeted Undergrounding Contact Information

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