

ORDINANCE 2023-05

**AN ORDINANCE TO AMEND CHAPTERS 153.034 OF THE
TOWN OF BILTMORE FOREST ZONING ORDINANCE**

WHEREAS, the Town of Biltmore Forest has adopted a Zoning Ordinance which regulates the use of land within its corporate limits; and

WHEREAS, the Town of Biltmore Forest desires to revise a chapter of its existing zoning ordinance;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF BILTMORE FOREST THAT:

Section 1. Chapter 153.034 shall be replaced in its entirety as follows:

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

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

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

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

(C) Pre-construction conference and supervision.

- (1) Prior to the commencement of any pre-construction land-clearing or soil disturbance, a pre-construction conference will take place between a representative of the Town and the applicant to review procedures for protection and management of protected trees and other landscape elements identified in the approved landscape plan. The applicant will designate one or more persons responsible for ensuring the protection of new or existing landscaping elements to be preserved. The responsible person shall be present on site whenever activity is taking place that could damage or disturb such landscape elements, and will notify the Ordinance Administrator that such activity is taking place.
- (2) The applicant shall provide the following at least seven (7) days prior to the pre-construction conference:

- a) Approved landscaping plan, showing all protected and unprotected trees to be removed, and all replacement trees to be planted.
- b) Chart showing the quantity of trees, scientific species name, and tree designation (protected, unprotected, or tree of preference) and replacement quantities required.
- c) Final grading plan showing tree preservation limits and limits of disturbance.

(D) Construction Supervision and Additional Compliance Requirements.

- (1) The Town shall have developed sites inspected periodically to ensure work is conforming to the approved landscape plan and the applicable sections of this subchapter. Prior to the commencement of any pre-construction land-clearing or soil disturbance, the developer/contractor shall be required to sign a document agreeing to abide by the conditions stipulated in this subchapter. At the option of the Town, a compliance bond may be required.
- (2) Compliance with G.S. § 113A-54. Where applicable, all proposed development projects or land-disturbing activities shall comply with G.S. § 113A-54, and Rules and Regulations for Erosion and Sediment Control as established by the State Sedimentation Control Commission, State Department of Natural Resources and Community Development.

Section 2. Effective Date.

This ordinance amendment shall take effect upon adoption.

10-9-2023

Date

George F. Goosmann III

George F. Goosmann, III

Mayor

Laura Jacobs

Laura Jacobs

Town Clerk