

PROPOSED AGENDA

Meeting of the Town of Biltmore Forest
Board of Commissioners

To be held Tuesday, August 11, 2020 at 4:30 p.m.

HELD VIRTUALLY VIA ZOOM PLATFORM
LOG-IN INFORMATION AVAILABLE AT BILTMOREFOREST.ORG

A. Roll Call by the Clerk

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

B. Approval of the Minutes (*Roll Call Vote*)

1. The minutes of the regular meeting held on July 14, 2020 will be considered for approval.

C. Reports of Officers

1. Chief of Skyland Fire and Rescue
2. Police Department
3. Public Works Director
4. Town Manager

D. New Business

1. Consideration of Order for Tax Settlement for FY19-20 (*Roll Call Vote*)
2. Consideration of Order for Tax Collection for FY20-21 (*Roll Call Vote*)
3. Review Requests for Increased Traffic Control Devices on Cedarcliff Road
4. Review Existing Sign Ordinance
5. Review Potential Changes to Town Brush Ordinance
6. Zoning Ordinance Review related to Chapter 160-D Implementation

E. Petitions, Motions, and Other Business

F. Public Comment

G. Adjourn

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF
BILTMORE FOREST HELD JULY 14, 2020.

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 was present and Mr. William Clarke, the Town Attorney were also present.

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

Mayor Goosmann asked for a motion to approve the June 9, 2020 and June 10, 2020 meeting minutes. The motion was made by Commissioner Cogburn. The motion was seconded by Commissioner Kelly. Both sets of minutes were unanimously approved.

Chief Chris Beddingfield gave the Police Department monthly report. Chief Beddingfield said there were multiple attempted break-ins at various homes and vehicles throughout Town, and one break-in to a house. The County also had break-ins of a similar nature. The video footage obtained by Biltmore Forest police matched the description of the suspect the County had encounters with. The suspect from the County was wearing identical clothing. There were also many hours dedicated to watching surveillance footage from hotels to determine whether others were involved.

Residents were notified via Nixle and CodeRed about the break-ins. One individual is currently in custody and one is at large but not believed to be in the area.

Chief Beddingfield emphasized the importance of residents using security cameras and how effective it has been solving crimes in Town. Mayor Goosmann thanked Chief Beddingfield for all their hard work.

Mr. Harry Buckner gave the monthly report for the Public Works Department. The annual CCR water report was sent out. Mr. Buckner said Mr. Austin Tucker and Ms. Laura Jacobs put a great deal of effort into putting this together.

The Powell Bill map is almost complete and will be used more heavily for street assessments. Shoulder repairs have also been done on Brookside and Brooklawn Chase. Mr. Buckner is very pleased with the new employees, Mr. Cody Bartlett and Mr. John Divello.

Commissioner Loomis said Mr. Buckner's report was very detailed and thanked him for a great report. Mr. Buckner said 4,975 miles are driven every month for all of the public works vehicles.

Commissioner Kelly asked Chief Beddingfield what the combined mileage is for police cars. Chief Beddingfield was unsure at that moment but will obtain the data for Commissioner Kelly.

Commissioner Cogburn asked Mr. Buckner about the cleanup of Brooklawn Park. Mr. Buckner asked the Board for suggestions on how they would like the park to look. Commissioner Cogburn said she would like to revisit putting in a walking path especially with the bridge being redone. Commissioner Cogburn said it would be a safer place to walk and it would be free of traffic. Mr. Buckner said he would also like to get control of the underbrush. Mr. Buckner would like to bring in some equipment to mulch the underbrush because it would be much more efficient than simply bush hogging the area.

Commissioner Cogburn said it would be a great asset for the Town to create a walking path and have that area cleaned up. Mayor Goosmann appreciated all of the hard work and thanked Mr. Buckner.

Chief Ryan Cole gave the monthly report for the Skyland Fire Department. Chief Cole said the call volume is back up again and starting they are transporting a lot more COVID patients.

Buncombe County has been at a 2% positive rate for all tests conducted, and last week that jumped to 4%. The state average is about 7%. The state of Florida is at 17.5%. Fall will be challenging with kids going back to school on Plan B and the increase in flu. Chief Cole urged people to maintain social distancing and wear a mask. Mayor Goosmann thanked Chief Cole.

The Board considered Resolution 2020-03- A Resolution Approving the Sale of Surplus Town Property. This is for two vehicle that are no longer needed at the Police Department and also old equipment. This would all be listed on GovDeals. Commissioner Loomis moved to adopt Resolution 2020-03. Commissioner Kelly seconded the motion. Roll call was taken by the Town Clerk and the Resolution passed unanimously.

The Board considered Resolution 2020-04-A Resolution regarding the Dedication of Land Adjacent to Arboretum Road. Commissioner Kelly moved to adopted Resolution 2020-04. Commissioner Cogburn seconded the motion. Roll call was taken by the Town Clerk and the Resolution passed unanimously.

The Board considered Resolution 2020-05-A Resolution regarding the Dedication of Land Adjacent to Greenwood Park. Commissioner Cogburn made a motion to adopt Resolution 2020-05. Commissioner Loomis seconded the motion. Roll call was taken by the Town Clerk and the Resolution passed unanimously.

The Board considered Resolution 2020-06 A Resolution of Appreciation for Dr. Richard Landau for his service on the Board of Adjustment. Commissioner Loomis made a motion to adopt

Resolution 2020-06. Commissioner Cogburn seconded the motion. Roll call was taken by the Town Clerk and the Resolution passed unanimously.

The next topic of discussion was brush pick up procedures. Mr. Kanipe said brush pickup will be done twice in August and September. Next year this twice monthly pickup will occur in July and August. The current brush ordinance was discussed. Mr. Kanipe discussed enforcement of this ordinance. Mr. Kanipe asked the Board for feedback if they would like to see any changes or improvements. Mr. Kanipe said there have been three calls placed with the CodeRed system as to when they can put brush out.

Mr. Kanipe also discussed existing language in the brush pick-up ordinance. Mr. Kanipe suggested take the word “tree” out and leaving it as “commercial services.”

Commissioner Loomis asked where the brush should be placed. Mr. Buckner said it can be placed 2-3 feet from the road. Mr. Buckner said brush is sometime placed on thee road outside of the five day window. Mr. Buckner said the number one compliance issue is the brush being placed on the roadside outside of the placement window.

Commissioner Cogburn suggested having brush pickup twice a month.

Mr. Kanipe asked the Board if they would like to have the Ordinance clarified as to what the street right-of-way is for brush pickup. Commissioner Loomis said yes.

The next topic of discussion was Consideration of Appointments to Town Advisory Boards. Those members include Ms. Martha Barnes as a new member of the Board of Adjustment to be voted on. A reappointment to the Design Review Board for Ms. Trudy Capiello and Ms. Andrea Eglington. Commissioner Cogburn made a motion to approve all Board members. Commissioner Loomis seconded the motion. Roll call was taken by the Town Clerk. The motion was unanimously approved.

Mayor Goosmann and the Commissioners recognized Rachel Kuehn for being named All-American in golf. She is a resident of Biltmore Forest, and the daughter of Eric and Brenda Kuehn. Ms. Kuehn is a freshman at Wake Forest University. The Mayor noted that being named All-American is a something only few college freshman receive. The Town of Biltmore Forest wishes to congratulate her for being named an All-American in golf. The Board wishes her well in the many years to come and well done.

Mr. Kanipe gave the manager's report and said the Town is doing well in terms of PPE equipment and cleaning/disinfecting buildings. The staff is doing an excellent job with wearing face coverings. Governor Cooper said the State of North Carolina will remain in phase two for another three weeks.

Mr. Kanipe spoke about the Board of Adjustment meeting last month. The meeting went well considering all the cases that were presented. The second remote meeting is scheduled for next week on June 20th. There will be four cases presented.

Mr. Kanipe discussed the targeted underground program. Most easement are secure and Duke Energy has necessary access. A buried line will be placed within the Town's right of way on Stuyvesant Road, allowing Duke to design around a property for which they could not gain an easement.

Mr. Kanipe told the Board about a current code enforcement action. The nuisance within includes a very large hazardous tree removal for a dead tree off the Town right of way. The tree has been dropping large limbs in the road. There will also be weed and grass removal along with some other significant nuisances of a property. This work will be done on Friday. Four notices have been sent to the resident of this property.

The dispatch office is being updated and the fixtures and furniture were moved in. It is still a work in progress but it is moving along.

There was no Public Comment.

The meeting adjourned at 5:19 p.m.

ATTEST:

Ms. Laura Jacobs
Town Clerk

George F. Goosmann, III
Mayor

BILTMORE FOREST POLICE DEPARTMENT

Department Head Report

August 11th, 2020 Board of Commissioners Meeting

Chris Beddingfield, Police Chief

Police Dept. Monthly Report 07/01/20-07/31/20

Calls for Service: 701

Officers responded to the following calls for service:

Accident - 2	Accident - PI - 0
Alarm - 25	Animal Carcass - 21
Assist EOC –10	Assist Motorist - 2
Assist Other Agency – 25	Assist Resident - 15
Bear Report - 4	Business Check - 132
Busy - 3	Crime Prev. - 4
Chase- 0	Direct Traffic - 1
Distressed Animal - 3	Disturbance - 4
Dog Complaint - 3	Domestic disturbance-0
Fire – 0	Fight- 0
Hit and Run – 0	House Check - 99
Improper Parking- 5	Incomplete 911- 0
Investigation – 10	Intoxicated Driver- 0
Mental Patient - 0	Missing Person - 0
Noise Disturbance – 2	Ordinance Violation - 9
Out of Service - 0	Out of Town - 2
Person Down – 0	Power Outage - 1
Radar Operation – 16	Road Blocked - 7

Service of Car - 1	Sign Ord Violation - 0
Special Assignment –0	Special Check - 9
Speed/Reckless Driving- 1	Suspicious Person - 20
Suspicious Vehicle – 55	Vandalism - 0
Vehicle Stop – 48	Well-being Check – 5

Total Number Of Calls:701

Arrests:

3-Felony Arrests

One related to the car break-ins and attempted burglaries; One from a 2013 Home Invasion;
One for felony court violations out of a traffic stop.

3-Misdemeanor Arrests

One DWI; One drug arrest; and one misdemeanor court violation. All three resulted from traffic stops.

Time Consumption Summary:

Approximations

Business Checks- 6 hours

House Checks- 4 hours

Radar Operation- 16 hours

Vehicle Crash Investigation- 3 hours

Notable Calls and Projects:

Subject from 2013 Home Invasion case arrested in Tennessee. DNA case, subject brought back and processed here, awaiting trial.

Communication center remodel is continuing. Public works has been instrumental in assisting with the project

Dealt with some COVID issues at the department-All employees really stepped up to cover open shifts and other shortages

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

A handwritten signature in dark ink, appearing to read "HBB", is placed over the name "Harry B. Buckner" in the "From:" line.

Re: Public Works Department July 2020 Monthly Report

Date: August 6, 2020

Recurring Activities:

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

- Collected 33.97 tons of garbage.
- Diverted 18.23 tons of recycled goods from garbage.
- Picked up 22 loads of brush (approximately 660 cubic yards) over 9 days.
- Responded to 34 utility locate requests.
- Visited 8 residences for Tree Inspections, approving the removal of 27 trees.
- Completed daily chlorine residual tests across town and passed the required two bacteriological tests.
- The Public Works facility and Town Hall is cleaned weekly by staff.
- 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 daily and blow the streets clean as needed.
- We are mowing the parks, entryways, and islands as needed, now that growth has slowed from the heat.
- We are mowing and trimming the road shoulders as needed.

Coronavirus (COVID-19) Related Activities:

- The Town's buildings and playground equipment remains closed to the public.
- We are continuing to track any additional costs and activities associated with complying with the COVID-19 response effort.
- Manager Kanipe has provided the department with new cloth masks.

Miscellaneous Activities in July

- Training for our two new employees, Cody Bartlett and John Divello is essentially complete. They will be added to the Town on-call roster in mid-August.
- The new Powell Bill map and certified statement is completed and submitted, along with the Expenditures Report. Work has begun on preparing a street condition assessment, and I will be using the Pavement Condition Rating (PCR) system which is widely used by North Carolina municipalities. Completion of the basic assessment is scheduled for the end of August.
- I am continuing to take the Class B Water Distribution license review course. The course will be completed August 19, and I plan on taking the exam on September 29th.
- Staff visited each water meter in the distribution system and marked their location along the edge of pavement with a yellow stripe.
- Staff completed an inspection of all of the playground equipment in Town and identified necessary repairs.
- The stairs at Rosebank Park have been replaced.
- Re-painting the fire hydrants continues.
- We have purchased a new work order and asset management software package for the Town. Initial set-up and training is scheduled for August 7, 2020, and will likely continue for one to two months.
- I met with an engineering tech from Duke Power regarding power supply issues with street lights at Forest and East Forest, Vanderbilt and Hendersonville Rd, and Eastwood and Hilltop. They are planning to send a service technician the week of August 17th to review the power supply for these street light locations. Establishing a reliable contact person at Duke Power to assist with technical issues is important.
- I met with the owner of the split rail fence along Brookside Road near Southwood Road regarding removal of several rebar posts that have become exposed over the years as the fence has settled in place. We are working out details of a plan to allow us to remove the exposed rebar from the area to improve safety along the road.
- Shoulder repairs along Brookside Road are completed and we are monitoring the work for stability and correcting deficiencies as needed.
- We repaired two water meters that were not connecting to the automatic meter reading system.

Larger/Capital Projects Updates

Hilltop Road Speed Hump Installation

The speed hump modifications were completed on July 31, 2020, raising them by about 3 inches and extending the length about two feet. The striping/chevron thermoplastics are in hand, and are anticipated to be installed any day now, pending suitable weather. New signs were installed in June.

Brush Ordinance Compliance

At the direction of the Board, we have begun double brush pick-ups this month, to continue for the months of August and September. We are continuing to reach out to homeowners regarding compliance with the ordinance. Feedback from residents continues to be positive.

Assuming there are no objections, I plan on continuing to use the Code Red system to notify residents of the “Open Window” schedule for placing brush curbside on the 10th and 25th of each month. Since we are now collecting brush for the entire town on both the 15th and 30th each month, the call will go out to the whole town.

Manager Kanipe and I have reviewed the existing ordinance and are recommending a few clarifying edits. This topic will be covered in more detail during the Board meeting.

Brooklawn Park Improvements and Bridge Repairs

Cleanup and clearing of Brooklawn Park has begun, and Manager Kanipe and I are evaluating potential dates to request citizen feedback regarding additional work on the property. I appreciate any feedback the Board has regarding the work completed to date, and direction for additional work before it progresses.

I met with our consultant on August 3, 2020 to begin the feasibility report for the replacement pedestrian bridge. We anticipate having a draft of their findings by the August board meeting, to be finalized afterwards. I anticipate providing the Board a recommended project scope and budget for consideration at the September Board meeting. Again, your feedback on the ultimate use of this park is much appreciated.

Cedarcliff Road Traffic Analysis and Changes

There has been a recurrence of complaints regarding excessive traffic (both ways) and speeding traffic (leaving) along Cedarcliff Road that seems to correlate with the reopening of the Biltmore Estate to visitors. In response to the complaints, I personally observed traffic along Cedarcliff Road for about an hour on Tuesday August 4th. I was on site from about 1:00 pm to 2:00 pm and I witnessed four cars with out-of-state plates travel at a reasonable speed to the Bell Gate, and return back along Cedarcliff at a higher rate of speed leaving the Bell Gate. I believe this is due to the Estate’s implementation of timed entry into the house. Visitors think they have adequate time to park, and when they get to the Bell Gate and are rerouted another 10-15 minutes around, they don’t want to be late and speed away.

Apple Maps continues to report the Bell Gate as the primary entrance if searching for “Biltmore Estate”, however both Google Maps and Waze correctly direct all traffic to Estate properties to the main entrance. In an unusual event, I did personally get a response from Apple from an earlier reporting that routing was updated for searches to “The Bistro”. However, when I checked, I am still given the option of using the Bell Gate entrance when approaching from points south. When I am north of Biltmore Village, I am routed through the main entrance.

Along with the complaints, residents in the area are petitioning the Town to install a three-way stop at the intersection of Cedarcliff and Forest Roads. Traffic counts along Cedarcliff remain

very low, however, and there is no engineering justification for a three-way stop sign at Cedarcliff and Forest. In fact, multiple engineering studies suggest that installation of unnecessary stop signs tend to exacerbate speed and compliance issues over the long term. I have attached a summary document that discusses the proper application of all-way stops and the drawbacks of improper installation. Based on these studies, my professional opinion is that adding a three-way stop will not result in the desired effect of better compliance with the speed limit or reducing the overall amount of traffic.

In an attempt to provide some amount of relief to residents in the area, I am recommending the following measures in lieu of adding a three-way stop at this time:

- Requesting the police department increase speeding enforcement activities along Cedarcliff Road.
- Adding an additional 25mph speed limit sign midway between the Bell Gate and the Cedarcliff and Forest intersection for traffic departing the Bell Gate.
- Relocation of the digital speed sign on Cedarcliff to the proposed new speed limit sign to provide feedback to traffic leaving the Bell Gate.
- Additional, more conspicuous directional signage at the intersections of Cedarcliff and Vanderbilt, and Busbee and Vanderbilt directing Estate visitors to the main entrance. I recommend using a similar format to the signage already in place at the Bell Gate (see photo).
- Continue frequent reporting directly through the Apple Maps app error reporting feature until the routes are corrected, including requesting the Estate to spearhead efforts with Apple Maps. Manager Kanipe has spoken to the Biltmore Company and they are working to resolve this issue with Apple, but have not been successful as yet.



It is my professional opinion that if we can ever have Apple Maps correctly provide routing information, this will significantly reduce or eliminate the issue.

Greenwood Park Stream Restoration

The consultant received verbal ER/EID approval and the hard copy approval is anticipated the week of August 10. The Engineer is still anticipating having the hydraulic modeling and 60% design review drawings completed slightly ahead of schedule.

Area 4 Stormwater Project – Sinkhole at Cedar Hill Drive.

Manager Kanipe and I met with the consultant on August 5th to review the completed plans and specifications, and to review the proposed schedule moving forward. We anticipate securing the necessary easements by the September Board meeting, inviting bidders and obtaining bids during the month of September; bringing a recommendation of Award to the Board at the November meeting, and completion of the work before Christmas.

Police Department Dispatch Area Renovations

A few small work items are continuing in the Police Department dispatch area. We will be replacing the lights with new dimmable LED models, have ordered a matching laminate replacement for the painted countertop area, and are working to replace the teller window with a bullet proof unit. These small items are anticipated to be complete as soon as practical; in August with the possible exception of the window.

Town Hall Grounds Beautification

This project is completed.

Upcoming in August

- Finish the training and orienting of the new employees in the Public Works department.
- We will complete the manual reading of the few meters that are not reporting through the automatic system, and continue troubleshooting these locations.
- Continue road shoulder repairs. The next area of focus will be the area of standing water along the intersection of Arboretum and Vanderbilt.
- Complete the Pavement Condition Rating study and street asset inventory.
- Austin Tucker, the department supervisor, has announced his intentions to retire at the end of the year. Manager Kanipe and I will be developing a staffing and transition plan to prepare for this change in personnel to mitigate impacts to the department.
- I will begin the set-up of the automated work order and asset management system. This will include identifying the best practices for use by Town staff. This will assist us in identifying recurring maintenance needs and response times for calls to Public Works. I plan on having a larger discussion with the Board once the software is up and running, but before implementation at scale.
- Continue brush and debris removal from Brooklawn Park. Schedule a public feedback meeting.
- Complete the coursework for obtaining my B-Water Distribution System license and schedule the exam.
- We are sending two employees to school (online) to obtain their pesticides licenses.
- We will be replacing the toddler and infant swings in the parks.
- We will be completing the installation of the conference room meeting equipment in the Public Works building.
- I am continuing to request direct Board feedback on general appearance and maintenance items throughout the Town. I welcome any contact from you identifying areas needing

extra attention or areas we may have inadvertently overlooked. I am happy to answer any questions and make sure your concerns, if any, are addressed.

As always, we welcome your feedback on the activities of the Public Works department.

Stop Sign Fact Sheet

All-way stop signs are NOT speed control devices. We receive many requests from people who want four-way or all-way stops put in place to slow down speeding drivers. Studies show that stop signs only influence motorists to slow down approximately 150 feet before and after the stop sign. Speeds actually increase at mid-block locations to the original speeds and often higher as drivers attempt to make up for lost time.

All-way stop signs do not reduce traffic volumes. Before and after studies show that stop signs have little or no impact on vehicle volumes.

Unnecessary stop signs result in unacceptable levels of stop sign violations and lead to disrespect for all traffic signs. Stop sign compliance studies show that when all-way stop control was installed but not warranted, an average of 30% of the motorists approaching the intersection do not come to a complete stop. In general, if people see no reason for the stop sign, they disrespect the sign. Inappropriate signs become part of the landscape and their effectiveness is reduced.

All-way stop signs do not always increase safety or reduce collisions at intersections. Safety may be reduced because drivers will disregard the all-stop sign. Pedestrians may be lured into a false sense of security by the presence of a stop sign because they assume that drivers will stop. Young children who are brought up to believe that people obey laws are the most vulnerable victims. Other motorists may also assume a motorist will stop because of the presence of the sign and enter the intersection when it is not safe to do so.

All-way stop control may reduce the number of right-angle and left with opposing through collisions. However, there is a potential increase in the number of rear-end and fixed-object collisions, especially if there is a high volume of traffic being required to stop unnecessarily.

Unwarranted stop signs lead to air and noise pollution, as well as increased fuel consumption. Residents living closest to the intersection experience an increase in traffic noise from vehicles stopping and accelerating (tire noise and engine noise). Stopping and accelerating also increases environmental emissions and fuel consumption.

Proper Use of All-Way Stop Control

The purpose of all-way stop control (3-way or 4-way) is to assign right-of-way to traffic approaching an intersection. Stop signs should only be used where an engineering analysis indicates the usage of stop signs is warranted. The following factors are considered:

- **Traffic Volume** - All-way stop control may be recommended where there are large traffic volumes (vehicles and pedestrians) approaching the intersection from all directions and the volume of traffic approaching from each street is close to being equal.
- **Collision History** - All-way stop control may be recommended where there is a high incidence of right turn and/or left turn with on-coming traffic collisions.

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Town Manager's Monthly Report

Date: August 7, 2020

Area 4 Stormwater Project

The Town received final drawings for the Area 4 storm water project along Cedar Hill Road. As a reminder, this project will remove a failed storm water pipe, resulting in a sink hole on the property. The overall scope and design for the project will be presented at next month's meeting. If agreeable to the Board, the consultant will then proceed with bidding the project and we will plan for the Town to award the bid at the regular October meeting. The project is within the informal bidding statute range with an opinion of probable cost being finalized presently.

Covid-19 Update

The public facilities within the Town continue to be closed to the public. We are monitoring impacts and changes within the County and State, and continue working well with other local government partners. Governor Cooper's most recent Executive Order 155 extended Phase 2 for North Carolina through 5pm on September 11, 2020. Buncombe County, and the Town of Biltmore Forest, remain aligned with the Governor's order.

The State authorized the release of a second round of Coronavirus Relief Funds (CRF) to the counties. Buncombe County has chosen to distribute this money to municipalities under the same basis as the first round of funding. The Town will submit our request for funding to Buncombe County no later than Friday, August 21. The Town is eligible for approximately \$42,310 in funding. That brings the Town's total eligibility of funding to \$79,867. A significant portion of funding requested in the second round will focus on testing for employees, improvements to air circulation in public buildings, touchless door access, and remote meeting infrastructure.

Volkswagen Clean Diesel Grant Program

Unfortunately, the Town was not awarded the grant for the clean diesel vehicle replacement. I have asked Public Works Director Harry Buckner to review the Town's existing

fleet and determine the priority level for replacing the existing heavy duty truck. The Town operated well without this truck last year and it is possible that it is simply unnecessary at this point. We will continue to pursue grant funding for the electric vehicle (EV) charging stations.

Greenwood Park Stream Restoration Project

The Town received approval from the State for the environmental review and is moving forward into the next phase for the Stream Restoration project. The next milestone is the submission of bid and design package to the State. This is due by November 2, 2020. Because this project includes loan funding from the State, the project must be approved by the Local Government Commission (LGC). The Division is placing this item on the LGC's agenda for a September or October review and approval. The consultant will continue work on the bid and design package and we will keep pushing this project forward.

Slate Roof Repair to Police Department

The slate roof above the Chief's office needs repair – this failure allowed water to travel between the wall in the Chief's office, resulting in some need for abatement. The roofing company should be on site within the next week to begin this repair and then Reliant Environmental will perform any abatement necessary in the Chief's office. While on site, the roof company will also evaluate the remainder of the Police Department slate roof and the slate roof at the Town Hall for any maintenance needs.

Hilltop Road Speed Bumps

The speed bumps along Hilltop Road were modified Friday, July 31. The bumps are now more restrictive to traveling the speed limit and should prevent excessive speeding on this road. The bumps are scheduled for marking within the next several days, provided weather allows.

Dog Waste Stations

The Town is committed to improving aesthetic areas throughout the Town. With the increase in walkers during this pandemic, we have noticed more dog waste bags being left on the road or even on brush piles. Town staff drafted and published a newsletter article related to the impact of dog waste on streams and waters in the area. We have heard from citizens previously regarding this issue as well. As a result, town staff is reviewing potential common areas in the Town to locate dog waste stations – these would include waste bags and trash receptacles.



Monthly Financial Report

July 2020

CASH ACCOUNTS

First Citizens Money Market Checking	311,346.73
NCCMT General Fund Term	2,417,752.52
NCCMT General Fund Government	483,656.90
NCCMT Water Fund Government	97,521.16
TOTAL	3,310,277.31

2020 PROPERTY TAXES

The Annual Tax Settlement and Order for Collection for 2020 and Prior Year Taxes are included as separate documents with this report. The Town anticipates receiving the 2020 tax scroll from Buncombe County on or after August 15th. It will take approximately 10-14 days to enter the data from the scroll and generate the Town tax bills.

FIRST CITIZENS CHECKING (Monthly Transaction Report)

Beginning Balance	426,786.89
Cleared Checks	(197,286.92)
Cleared Deposits	94,682.11
Cleared Credits	407,261.42
Cleared Debits	(175,940.53)
Cleared E-payments	(239,362.51)
Change in Account Balance	(110,646.43)
Prelim balance	316,140.46
Outstanding Items	(4,793.73)
Ending Balance (F/L Balance)	311,346.73

NORTH CAROLINA CASH MANAGEMENT TRUST

GENERAL FUND Government

Beginning Balance	809,963.58
Local Gov't Distribution (NCDOR)	73,665.29
Transfer to First Citizens Checking	(400,000.00)
Interest Earned	28.03
Ending Balance	483,656.90

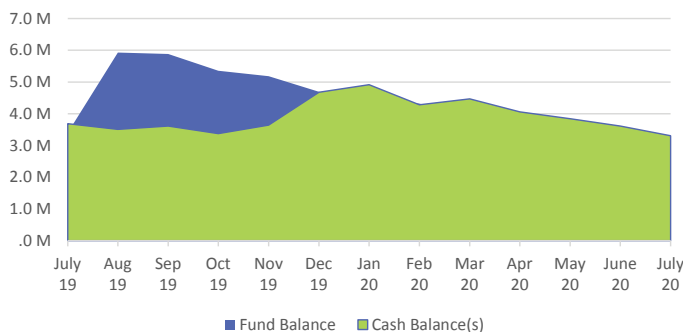
GENERAL FUND Term

Beginning Balance	2,417,458.45
Interest Earned	294.07
Ending Balance	2,417,752.52

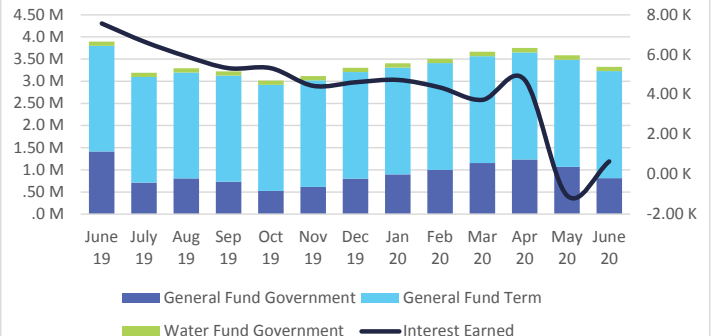
WATER FUND Government

Beginning Balance	97,515.25
Interest Earned	5.91
Ending Balance	97,521.16

13 Month Cash Flow



Investment Balances



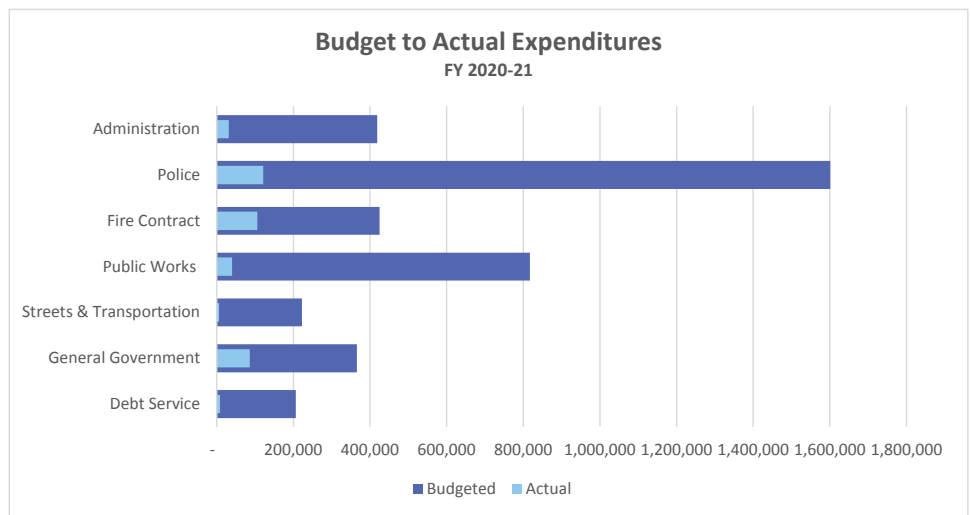
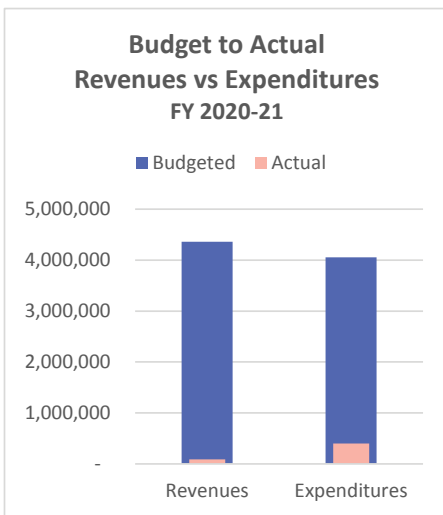
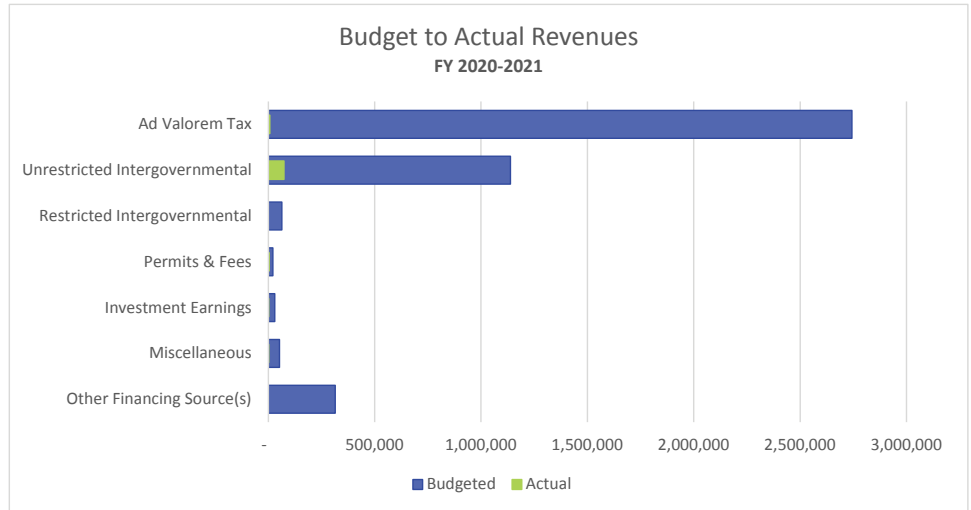


Monthly Financial Report

July 2020

NOTES RELATING TO THIS FINANCIAL REPORT

Virtual fieldwork for the FY19-20 audit is scheduled for the week of August 10th.



REVENUE & EXPENDITURE STATEMENT FOR 10 GENERAL FUND

Town of Biltmore Forest

07/01/2020 To 07/31/2020

FY 2020-2021

	Current Period (\$)	YTD (\$)	Encumbrance (\$)	Budget (\$)	% Used	
10 General Fund						
Revenue						
3010 Ad Valorem Tax Subtotal	\$7,303.00	\$7,303.00	\$0.00	\$2,743,227.00	0	
3020 Unrestricted Intergovernm Subtotal	\$73,665.29	\$73,665.29	\$0.00	\$1,138,733.00	6	
3030 Restricted Intergovernmen Subtotal	\$0.00	\$0.00	\$0.00	\$63,450.00	0	
3040 Permits & Fees Subtotal	\$4,190.00	\$4,190.00	\$0.00	\$21,400.00	20	
3050 Investment Earnings Subtotal	\$326.21	\$326.21	\$0.00	\$30,000.00	1	
3060 Miscellaneous Subtotal	\$1,037.03	\$1,037.03	\$0.00	\$52,645.00	2	
Revenue Subtotal	\$86,521.53	\$86,521.53	\$0.00	\$4,049,455.00	2	
Expenditure						
4200 Administration Subtotal	\$31,306.61	\$31,306.61	\$562.50	\$419,051.00	8	
5100 Police Department Subtotal	\$121,327.44	\$121,327.44	\$83,753.71	\$1,601,339.00	13	
5200 Fire Services Subtotal	\$106,250.00	\$106,250.00	\$0.00	\$425,000.00	25	
5600 Public Works Subtotal	\$39,991.19	\$39,991.19	\$7,071.68	\$817,263.00	6	
5700 Streets & Transportation Subtotal	\$6,496.68	\$6,496.68	\$695.29	\$222,446.00	3	
5800 Sanitation & Recycling Subtotal	\$15,223.70	\$15,223.70	\$2,086.50	\$307,182.00	6	
6600 General Government Subtotal	\$86,082.76	\$86,082.76	\$3,542.67	\$365,821.00	24	
6700 Debt Service Subtotal	\$8,643.00	\$8,643.00	\$0.00	\$206,353.00	4	
Expenditure Subtotal	\$415,321.38	\$415,321.38	\$97,712.35	\$4,364,455.00	12	
Before Transfers	Deficiency Of Revenue Subtotal	-\$328,799.85	-\$328,799.85	-\$97,712.35	-\$315,000.00	135
Other Financing Source						
3500 Other Financing Subtotal	\$0.00	\$0.00	\$0.00	\$315,000.00	0	
Other Financing Source Subtotal	\$0.00	\$0.00	\$0.00	\$315,000.00	0	
After Transfers	Deficiency Of Revenue Subtotal	-\$328,799.85	-\$328,799.85	-\$97,712.35	\$0.00	0

REVENUE & EXPENDITURE STATEMENT FOR 30 WATER & SEWER

Town of Biltmore Forest

07/01/2020 To 07/31/2020

FY 2020-2021

	Current Period (\$)	YTD (\$)	Encumbrance (\$)	Budget (\$)	% Used
30 Water & Sewer Fund					
Revenue					
3290 Subtotal	\$5.91	\$5.91	\$0.00	\$1,000.00	1
3350 Commissions, Sw Chg Coll Subtotal	\$1,602.30	\$1,602.30	\$0.00	\$8,000.00	20
3710 Water Sales Subtotal	-\$211.88	-\$211.88	\$0.00	\$785,417.00	0
3730 Water Tap & Connect Fees Subtotal	\$2,210.00	\$2,210.00	\$0.00	\$9,000.00	25
Revenue Subtotal	\$3,606.33	\$3,606.33	\$0.00	\$803,417.00	0
Expenditure					
8100 Water Dept. Subtotal	\$268.59	\$268.59	\$0.00	\$803,419.00	0
Expenditure Subtotal	\$268.59	\$268.59	\$0.00	\$803,419.00	0
Before Transfers	Excess Of Revenue Subtotal	\$3,337.74	\$3,337.74	\$0.00	-\$2.00 -166,887
After Transfers	Excess Of Revenue Subtotal	\$3,337.74	\$3,337.74	\$0.00	-\$2.00 -166,887

REVENUE & EXPENDITURE STATEMENT FOR 10 GENERAL FUND

Town of Biltmore Forest

07/01/2020 To 07/31/2020

FY 2020-2021

Account	Current Period (\$)	YTD (\$)	Encumbrance (\$)	Budget (\$)	% Used
10 General Fund					
Revenue					
3010 Ad Valorem Tax					
10-3010-0000 AD VALOREM TAXES (PROPERTY)	0.00	0.00	0.00	2,638,767.00	0
10-3010-0100 AD VALOREM TAXES (DMV)	7,257.30	7,257.30	0.00	101,460.00	7
10-3010-0200 TAX INTEREST & PENALTIES	45.70	45.70	0.00	3,000.00	2
3010 Ad Valorem Tax Subtotal	\$7,303.00	\$7,303.00	\$0.00	\$2,743,227.00	0
3020 Unrestricted Intergovernm					
10-3020-0000 FRANCHISE & UTILITIES TAX DIST.	0.00	0.00	0.00	177,778.00	0
10-3020-0100 ALCOHOL BEVERAGE TAX	0.00	0.00	0.00	6,000.00	0
10-3020-0200 BUNCOMBE COUNTY 1% TAX	37,218.16	37,218.16	0.00	492,564.00	8
10-3020-0300 1/2 CENT SALES TAX A.40	16,852.11	16,852.11	0.00	191,837.00	9
10-3020-0400 1/2 CENT SALES TAX A.42	19,595.02	19,595.02	0.00	257,554.00	8
10-3020-0600 SALES TAX REFUND	0.00	0.00	0.00	10,000.00	0
10-3020-0700 GASOLINE TAX REFUND	0.00	0.00	0.00	3,000.00	0
3020 Unrestricted Intergovernm Subtotal	\$73,665.29	\$73,665.29	\$0.00	\$1,138,733.00	6
3030 Restricted Intergovernmen					
10-3030-0000 SOLID WASTE DISPOSAL TAX	0.00	0.00	0.00	950.00	0
10-3030-0100 POWELL BILL	0.00	0.00	0.00	62,500.00	0
3030 Restricted Intergovernmen Subtotal	\$0.00	\$0.00	\$0.00	\$63,450.00	0
3040 Permits & Fees					
10-3040-0000 BUILDING PERMITS	4,190.00	4,190.00	0.00	20,000.00	21
10-3040-0100 DOG LICENSE FEE	0.00	0.00	0.00	1,400.00	0
3040 Permits & Fees Subtotal	\$4,190.00	\$4,190.00	\$0.00	\$21,400.00	20
3050 Investment Earnings					
10-3050-0000 INTEREST EARNED	326.21	326.21	0.00	30,000.00	1
3050 Investment Earnings Subtotal	\$326.21	\$326.21	\$0.00	\$30,000.00	1
3060 Miscellaneous					
10-3060-0100 AMERICAN TOWER AGREEMENT	400.00	400.00	0.00	37,645.00	1
10-3060-0200 MISCELLANEOUS	637.03	637.03	0.00	15,000.00	4
3060 Miscellaneous Subtotal	\$1,037.03	\$1,037.03	\$0.00	\$52,645.00	2
Revenue Subtotal	\$86,521.53	\$86,521.53	\$0.00	\$4,049,455.00	2
Expenditure					
4200 Administration					
10-4200-0200 SALARIES	19,313.78	19,313.78	0.00	218,357.00	9
10-4200-0300 OVERTIME	210.67	210.67	0.00	1,000.00	21
10-4200-0500 FICA	1,437.85	1,437.85	0.00	16,704.00	9
10-4200-0600 HEALTH INSURANCE (MEDICAL)	2,544.58	2,544.58	0.00	27,145.00	9
10-4200-0650 DENTAL, VISION, LIFE INSURANCE	370.00	370.00	0.00	4,470.00	8
10-4200-0675 HEALTH REIMBURSEMENT ACC	375.00	375.00	0.00	3,750.00	10
10-4200-0700 LGERS RETIREMENT	3,193.71	3,193.71	0.00	36,457.00	9
10-4200-0800 401K SUPP RETIREMENT	976.56	976.56	0.00	10,918.00	9
10-4200-1000 ACCOUNTING & TAXES	0.00	0.00	0.00	45,000.00	0

REVENUE & EXPENDITURE STATEMENT FOR 10 GENERAL FUND

Town of Biltmore Forest

07/01/2020 To 07/31/2020

FY 2020-2021

Account	Current Period (\$)	YTD (\$)	Encumbrance (\$)	Budget (\$)	% Used
10-4200-1200 POSTAGE, PRINTING, STATIONARY	701.32	701.32	0.00	6,000.00	12
10-4200-1400 MILEAGE & BOARD SALARY	1,800.00	1,800.00	0.00	22,000.00	8
10-4200-3300 SUPPLIES AND EQUIPMENT	200.39	200.39	0.00	7,000.00	3
10-4200-5300 DUES & FEES	182.75	182.75	277.50	5,000.00	9
10-4200-5700 MISCELLANEOUS	0.00	0.00	0.00	2,500.00	0
10-4200-6500 STAFF DEVELOPMENT	0.00	0.00	285.00	12,750.00	2
4200 Administration Subtotal	\$31,306.61	\$31,306.61	\$562.50	\$419,051.00	8
5100 Police Department					
10-5100-0200 SALARIES	68,903.15	68,903.15	0.00	837,914.00	8
10-5100-0300 OVERTIME	2,618.73	2,618.73	0.00	42,000.00	6
10-5100-0400 SEPARATION ALLOWANCE	2,355.18	2,355.18	0.00	30,617.00	8
10-5100-0500 FICA	5,484.86	5,484.86	0.00	67,313.00	8
10-5100-0600 HEALTH INSURANCE (MEDICAL)	10,494.54	10,494.54	0.00	146,349.00	7
10-5100-0650 DENTAL, VISION, LIFE INSURANCE	1,314.84	1,314.84	0.00	19,842.00	7
10-5100-0675 HRA HEALTH REIMB ACCT	2,000.00	2,000.00	0.00	24,000.00	8
10-5100-0700 LGERS RETIREMENT	11,751.70	11,751.70	0.00	146,508.00	8
10-5100-0800 401K SUPP RETIREMENT	3,517.82	3,517.82	0.00	42,721.00	8
10-5100-1500 MAINT/REPAIR - BLDG/GROUNDS	124.00	124.00	0.00	25,000.00	0
10-5100-1600 MAINT/REPAIR - EQUIPMENT	1,244.00	1,244.00	84.00	11,250.00	12
10-5100-1700 MAINT/REPAIR - VEHICLES	632.71	632.71	631.17	15,000.00	8
10-5100-3100 MOTOR FUELS	0.00	0.00	0.00	13,650.00	0
10-5100-3300 SUPPLIES	139.41	139.41	0.00	10,000.00	1
10-5100-3600 UNIFORMS	46.00	46.00	2,140.00	11,250.00	19
10-5100-3700 SOFTWARE	4,302.00	4,302.00	0.00	34,000.00	13
10-5100-3800 TECHNOLOGY	1,133.50	1,133.50	0.00	23,425.00	5
10-5100-5700 MISCELLANEOUS	5,265.00	5,265.00	285.78	2,500.00	222
10-5100-5800 PHYSICAL EXAMS	0.00	0.00	0.00	500.00	0
10-5100-6500 STAFF DEVELOPMENT	0.00	0.00	0.00	7,500.00	0
10-5100-7400 CAPITAL EQUIPMENT PURCHASES	0.00	0.00	80,612.76	90,000.00	90
5100 Police Department Subtotal	\$121,327.44	\$121,327.44	\$83,753.71	\$1,601,339.00	13
5200 Fire Services					
10-5200-0000 FIRE CONTRACT	106,250.00	106,250.00	0.00	425,000.00	25
5200 Fire Services Subtotal	\$106,250.00	\$106,250.00	\$0.00	\$425,000.00	25
5600 Public Works					
10-5600-0200 SALARIES	20,810.06	20,810.06	0.00	256,719.00	8
10-5600-0300 OVERTIME	1,108.51	1,108.51	0.00	10,000.00	11
10-5600-0500 FICA	1,742.33	1,742.33	0.00	20,404.00	9
10-5600-0600 HOSPITAL INSURANCE (MEDICAL)	3,039.30	3,039.30	0.00	41,609.00	7
10-5600-0650 DENTAL, VISION, LIFE INSURANCE	431.00	431.00	0.00	5,616.00	8
10-5600-0675 HRA HEALTH REIMB ACCT	625.00	625.00	0.00	7,500.00	8
10-5600-0700 LGERS RETIREMENT	3,730.61	3,730.61	0.00	44,329.00	8
10-5600-0800 401K SUPP RETIREMENT	1,147.41	1,147.41	0.00	13,336.00	9
10-5600-1000 OUTSIDE SERVICES	0.00	0.00	0.00	5,000.00	0
10-5600-1300 STREETLIGHTS ELECTRIC	700.37	700.37	0.00	7,000.00	10

REVENUE & EXPENDITURE STATEMENT FOR 10 GENERAL FUND

Town of Biltmore Forest

07/01/2020 To 07/31/2020

FY 2020-2021

Account	Current Period (\$)	YTD (\$)	Encumbrance (\$)	Budget (\$)	% Used
10-5600-1500 MAINT/REPAIR - BLDG/GROUNDS	6,331.04	6,331.04	0.00	5,000.00	127
10-5600-1600 MAINT/REPAIR- STREETLIGHTS	0.00	0.00	0.00	15,000.00	0
10-5600-1700 MAINT/REPAIR - VEHICLES	14.49	14.49	1,681.02	25,000.00	7
10-5600-3100 MOTOR FUELS	0.00	0.00	0.00	11,250.00	0
10-5600-3300 SUPPLIES	311.07	311.07	0.00	10,000.00	3
10-5600-3400 STREET SIGNS & NUMBERS	0.00	0.00	0.00	1,000.00	0
10-5600-3600 UNIFORMS	0.00	0.00	5,390.66	7,500.00	72
10-5600-5200 PARKS	0.00	0.00	0.00	15,000.00	0
10-5600-5202 GREENWOOD PARK STREAM RESTORA	0.00	0.00	0.00	300,000.00	0
10-5600-5900 MISCELLANEOUS	0.00	0.00	0.00	1,000.00	0
10-5600-6000 CAPITAL OUTLAY	0.00	0.00	0.00	10,000.00	0
10-5600-6500 STAFF DEVELOPMENT	0.00	0.00	0.00	5,000.00	0
5600 Public Works Subtotal	\$39,991.19	\$39,991.19	\$7,071.68	\$817,263.00	6
5700 Streets & Transportation					
10-5700-0200 SALARIES	3,425.59	3,425.59	0.00	50,533.00	7
10-5700-0300 OVERTIME	0.00	0.00	0.00	5,000.00	0
10-5700-0500 FICA	262.08	262.08	0.00	3,866.00	7
10-5700-0600 HEALTH INSURANCE (MEDICAL)	582.36	582.36	0.00	7,440.00	8
10-5700-0650 DENTAL, VISION, LIFE INSURANCE	43.00	43.00	0.00	681.00	6
10-5700-0675 HRA HEALTH REIMB ACCT	125.00	125.00	0.00	1,500.00	8
10-5700-0700 LGERS RETIREMENT	552.36	552.36	0.00	8,399.00	7
10-5700-0800 401K SUPP RETIREMENT	171.28	171.28	0.00	2,527.00	7
10-5700-1700 VEHICLE REPAIRS - STREET DEPT.	-124.99	-124.99	0.00	18,750.00	-1
10-5700-2200 CONTRACTS- PAVING & STRIPING	0.00	0.00	0.00	35,000.00	0
10-5700-2300 SUPPLIES	0.00	0.00	0.00	10,250.00	0
10-5700-2400 TRAFFIC SIGNS	0.00	0.00	0.00	5,000.00	0
10-5700-2500 STORM WATER DRAINAGE	0.00	0.00	695.29	25,000.00	3
10-5700-6500 STAFF DEVELOPMENT	0.00	0.00	0.00	1,000.00	0
10-5700-7400 CAPITAL EQUIPMENT PURCHASES	1,460.00	1,460.00	0.00	10,000.00	15
10-5700-7500 ENGINEERING	0.00	0.00	0.00	37,500.00	0
5700 Streets & Transportation Subtotal	\$6,496.68	\$6,496.68	\$695.29	\$222,446.00	3
5800 Sanitation & Recycling					
10-5800-0200 SALARIES	8,815.93	8,815.93	0.00	118,318.00	7
10-5800-0300 OVERTIME	0.00	0.00	0.00	10,000.00	0
10-5800-0500 FICA	674.42	674.42	0.00	9,815.00	7
10-5800-0600 HEALTH INSURANCE (MEDICAL)	1,747.08	1,747.08	0.00	32,762.00	5
10-5800-0650 DENTAL, VISION, LIFE INSURANCE	129.00	129.00	0.00	4,170.00	3
10-5800-0675 HRA HEALTH REIMB ACCT	375.00	375.00	0.00	4,500.00	8
10-5800-0700 LGERS RETIREMENT	1,421.60	1,421.60	0.00	21,326.00	7
10-5800-0800 401K SUPP RETIREMENT	450.50	450.50	0.00	6,416.00	7
10-5800-1700 MAINT/REPAIRS - VEHICLES	0.00	0.00	2,086.50	25,000.00	8
10-5800-3100 MOTOR FUELS	0.00	0.00	0.00	13,125.00	0
10-5800-3300 SUPPLIES	38.97	38.97	0.00	500.00	8
10-5800-3600 UNIFORMS	0.00	0.00	0.00	500.00	0

REVENUE & EXPENDITURE STATEMENT FOR 10 GENERAL FUND

Town of Biltmore Forest

07/01/2020 To 07/31/2020

FY 2020-2021

Account	Current Period (\$)	YTD (\$)	Encumbrance (\$)	Budget (\$)	% Used	
10-5800-8000 TIPPING FEES & BRUSH REMOVAL	1,571.20	1,571.20	0.00	49,500.00	3	
10-5800-8100 RECYCLING	0.00	0.00	0.00	11,250.00	0	
5800 Sanitation & Recycling Subtotal	\$15,223.70	\$15,223.70	\$2,086.50	\$307,182.00	6	
6600 General Government						
10-6600-0401 LEGAL SERVICES	0.00	0.00	0.00	40,000.00	0	
10-6600-1100 TECHNOLOGY	3,287.69	3,287.69	0.00	90,000.00	4	
10-6600-1300 MUNICIPAL UTILITIES	99.20	99.20	0.00	18,569.00	1	
10-6600-1500 GE. REPS. AND MAINT.	311.43	311.43	3,542.67	20,000.00	19	
10-6600-2800 ELECTIONS	0.00	0.00	0.00	6,000.00	0	
10-6600-5400 INSURANCE	75,079.44	75,079.44	0.00	90,000.00	83	
10-6600-6000 CONTINGENCY	0.00	0.00	0.00	13,252.00	0	
10-6600-6100 MISCELLANEOUS	305.00	305.00	0.00	5,000.00	6	
10-6600-6301 4TH OF JULY	0.00	0.00	0.00	7,500.00	0	
10-6600-6302 NATIONAL NIGHT OUT	0.00	0.00	0.00	2,500.00	0	
10-6600-6303 HOLIDAY LIGHTING	0.00	0.00	0.00	5,000.00	0	
10-6600-6304 ARBOR DAY EVENT	0.00	0.00	0.00	3,000.00	0	
10-6600-6400 WILDLIFE MANAGEMENT	0.00	0.00	0.00	5,000.00	0	
10-6600-6500 FOREST MANAGEMENT	7,000.00	7,000.00	0.00	60,000.00	12	
6600 General Government Subtotal	\$86,082.76	\$86,082.76	\$3,542.67	\$365,821.00	24	
6700 Debt Service						
10-6700-0100 Police Dept Renovations-Principal	5,833.33	5,833.33	0.00	23,334.00	25	
10-6700-0200 Street Improvements-Principal	1,666.67	1,666.67	0.00	6,667.00	25	
10-6700-0400 2017 Garbage Truck-Principal	0.00	0.00	0.00	34,327.00	0	
10-6700-0500 Public Works Building-Principal	0.00	0.00	0.00	84,211.00	0	
10-6700-0600 2020 POLICE CARS-PRINCIPAL	0.00	0.00	0.00	29,506.00	0	
10-6700-1100 Police Dept Renovations-Interest	889.00	889.00	0.00	3,223.00	28	
10-6700-1200 Street Improvements-Interest	254.00	254.00	0.00	921.00	28	
10-6700-1400 2017 Garbage Truck-Interest	0.00	0.00	0.00	821.00	0	
10-6700-1500 Public Works Building-Interest	0.00	0.00	0.00	23,343.00	0	
6700 Debt Service Subtotal	\$8,643.00	\$8,643.00	\$0.00	\$206,353.00	4	
Expenditure Subtotal	\$415,321.38	\$415,321.38	\$97,712.35	\$4,364,455.00	12	
Before Transfers	Deficiency Of Revenue Subtotal	-\$328,799.85	-\$328,799.85	-\$97,712.35	-\$315,000.00	135
Other Financing Source						
3500 Other Financing						
10-3500-0000 SALE OF PERSONAL PROPERTY	0.00	0.00	0.00	15,000.00	0	
10-3500-0700 INTERGOVERNMENTAL LOAN (RESTRIC	0.00	0.00	0.00	300,000.00	0	
3500 Other Financing Subtotal	\$0.00	\$0.00	\$0.00	\$315,000.00	0	
Other Financing Source Subtotal	\$0.00	\$0.00	\$0.00	\$315,000.00	0	
After Transfers	Deficiency Of Revenue Subtotal	-\$328,799.85	-\$328,799.85	-\$97,712.35	\$0.00	0

REVENUE & EXPENDITURE STATEMENT FOR 30 WATER & SEWER

Town of Biltmore Forest

07/01/2020 To 07/31/2020

FY 2020-2021

Account	Current Period (\$)	YTD (\$)	Encumbrance (\$)	Budget (\$)	% Used
30 Water & Sewer Fund					
Revenue					
3290					
30-3290-0000 INTEREST EARNED	5.91	5.91	0.00	1,000.00	1
3290 Subtotal	\$5.91	\$5.91	\$0.00	\$1,000.00	1
3350 Commissions, Sw Chg Coll					
30-3350-0000 COMMISSIONS, SEWER CHARGE COLL	1,602.30	1,602.30	0.00	8,000.00	20
3350 Commissions, Sw Chg Coll Subtotal	\$1,602.30	\$1,602.30	\$0.00	\$8,000.00	20
3710 Water Sales					
30-3710-0000 WATER CHARGES	-34.92	-34.92	0.00	434,271.00	0
30-3710-0100 MSD CHARGES	-176.96	-176.96	0.00	343,446.00	0
30-3710-0200 AMI TRANSMITTER CHARGES	0.00	0.00	0.00	7,700.00	0
3710 Water Sales Subtotal	-\$211.88	-\$211.88	\$0.00	\$785,417.00	0
3730 Water Tap & Connect Fees					
30-3730-0000 WATER TAP AND CONNECTION FEES	2,210.00	2,210.00	0.00	9,000.00	25
3730 Water Tap & Connect Fees Subtotal	\$2,210.00	\$2,210.00	\$0.00	\$9,000.00	25
Revenue Subtotal	\$3,606.33	\$3,606.33	\$0.00	\$803,417.00	0
Expenditure					
8100 Water Dept.					
30-8100-0200 SALARIES	0.00	0.00	0.00	68,050.00	0
30-8100-0400 PROFESSIONAL SERVICES	60.00	60.00	0.00	4,000.00	2
30-8100-0500 FICA	0.00	0.00	0.00	5,206.00	0
30-8100-0600 HEALTH INSURANCE (MEDICAL)	0.00	0.00	0.00	17,977.00	0
30-8100-0650 DENTAL, VISION, LIFE INSURANCE	0.00	0.00	0.00	2,718.00	0
30-8100-0675 HRA HEALTH REIMBURSEMENT ACCT	0.00	0.00	0.00	2,250.00	0
30-8100-0700 LGERS RETIREMENT	0.00	0.00	0.00	11,310.00	0
30-8100-0800 401K SUPP RETIREMENT	0.00	0.00	0.00	3,403.00	0
30-8100-1200 POSTAGE, PRINTING,& STATIONARY	0.00	0.00	0.00	5,000.00	0
30-8100-1500 GENERAL REPAIRS	0.00	0.00	0.00	12,707.00	0
30-8100-3300 SUPPLIES & EQUIPMENT	177.29	177.29	0.00	20,000.00	1
30-8100-4800 WATER PURCHASES	0.00	0.00	0.00	237,275.00	0
30-8100-4900 SEWER PURCHASES	0.00	0.00	0.00	344,823.00	0
30-8100-5000 AMI TRANSMITTER FEES	0.00	0.00	0.00	7,700.00	0
30-8100-5700 MISCELLANEOUS	31.30	31.30	0.00	1,000.00	3
30-8100-6500 STAFF DEVELOPMENT	0.00	0.00	0.00	5,000.00	0
30-8100-7400 CAPITAL IMPROVEMENT	0.00	0.00	0.00	55,000.00	0
8100 Water Dept. Subtotal	\$268.59	\$268.59	\$0.00	\$803,419.00	0
Expenditure Subtotal	\$268.59	\$268.59	\$0.00	\$803,419.00	0
Before Transfers	Excess Of Revenue Subtotal	\$3,337.74	\$3,337.74	\$0.00	-\$2.00 -166,887
After Transfers	Excess Of Revenue Subtotal	\$3,337.74	\$3,337.74	\$0.00	-\$2.00 -166,887

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners
From: Jonathan Kanipe, Town Manager
Re: Consideration of Tax Settlement for FY19-20
Date: August 4, 2020

Pursuant to N.C.G.S. 105-373, the attached Tax Settlement must be approved by the Board of Commissioners prior to ordering the collection of taxes for the coming year. Please let me know if you have any questions regarding this settlement.



TAX COLLECTOR ANNUAL SETTLEMENT FY 2019-2020

August 04, 2020

Pursuant to the provisions of NCGS 105-373, the following is the Tax Collector's Report of Settlement for 2019 taxes for Fiscal Year 2019-20 as of August 4th, 2020.

2019 Levy from Scroll (Real & Personal Property Tax)	2,645,380
Exemptions, Releases & Deferrals	(27,047)
Afterlist	
Public Service Companies	17,144
2019 Total Levy	2,635,477
Penalties, Cost & Interest	4,168
2019 Total Charges	2,639,645
Collected (2019 Real & Personal)	2,633,650
Uncollected (2019 Real & Personal)	5,995.31
Percentage of Levy Collected	99.773%
Prior Years Collected During Period	1,089
Overpayments/Prepayments	805

List of 2019 Delinquent Taxes - Real Property

Bacon, Natalie Whiteman	964774334900000	3,695.93
Berry, Adam B	964694686500000	898.60
Pankow, John Field	964774933200000	1,151.46
Rector, Judith Eller	965608142100000	249.31

Total Delinquent Taxes by Year

Year	2011	2012	2014	2015	2016
Amount	52.69	172.67	19.44	259.03	38.05

NCGS 105-373(3) requires that this settlement be submitted to the governing board. The settlement shall be entered into the minutes of the governing body as required by statute.

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George F. Goosmann, III, Mayor
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Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners
From: Jonathan Kanipe, Town Manager
Re: Consideration of Order for Tax Collection
Date: August 4, 2020

Pursuant to N.C.G.S. 105-321, the Board of Commissioners must issue an order directing the Tax Collector to collect taxes as set forth in the Town's records. Helen Stephens, Town Tax Collector, will send out tax notices to all property owners after the scroll is received from Buncombe County.



ORDER OF COLLECTION

State of North Carolina
Town of Biltmore Forest

Order of the Board of Commissioners
Pursuant to NCGS 105-321 for the
Collection of 2020 and Prior Years' Taxes

To the Tax Collector of the Town of Biltmore Forest:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of Administration and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. 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 levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 11th day of August, 2020:

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

Attest:

Laura Jacobs
Clerk, Town of Biltmore Forest

The Order of Collection shall be entered into the minutes of the governing body as required by statute (NCGS 105-321(b)).

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Review Request for Increased Traffic Control Devices on Cedarcliff Road

Date: August 4, 2020

In March, the Board of Commissioners received feedback from citizens living along Cedarcliff Road related to the installation of additional traffic control devices resulting from speeding vehicles and additional traffic along Cedarcliff Road that was misdirected to the Biltmore Estate. The Town has reached out to the Biltmore Company for assistance in regards to the Apple maps GPS issue and is working on having other directions added specifying the correct entry to the Estate. Town staff is further determining whether there are more effective placements for existing signage indicating that the Town is not an entrance to the Biltmore Estate.

Town staff has used the radar signs to capture traffic counts and data for this road both before and after the pandemic closed the Estate. This data is attached for the Board's review. This data, combined with anecdotal knowledge from residents along the road, does indicate a correlation between travelers attempting to find Biltmore Estate but going to an incorrect destination due to their GPS. The general consensus among residents on Cedarcliff is that the implementation of a three-way stop at Cedarcliff and Forest Roads would calm traffic. Town Public Works Director Harry Buckner has prepared additional information for the Board's consideration and review that is included with his department report. Please let me know if you would like additional information or have questions. Staff is happy to proceed with any options chosen by the Board.

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Review Existing Sign Ordinance

Date: August 4, 2020

In 2015, the United States Supreme Court ruled that government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. The Court found municipal or county sign ordinances can impose regulations based upon the size, material, lighting, moving parts, and portability of signs, but cannot regulate non-commercial speech based on the content of the sign.

The Town's existing sign ordinance (attached) does not meet this test. The Town Attorney has recommended amending this ordinance, and I have provided a draft for your review that, in my estimation, complies with the Supreme Court's decision. Please note this is a draft only and certainly the Board or Town Attorney may wish to change some, or all, of the items included in this draft before the Board moves forward to consideration. I have also attached an analysis of the Supreme Court ruling from the UNC School of Government that may be beneficial when reviewing this matter. Please let me know if you have questions or would like additional information.

§ 93.02 SIGNS AND POSTERS GENERALLY.

Except as set forth herein, no sign of any kind, including posters, advertisements, billboards, announcements, and the like, shall be erected by any person in any district zoned R-1, R-2, R-3, R-4, or R-5 unless prior approval of the sign and its intended location are first obtained from the Board of Commissioners. Any sign erected in violation of this section shall be promptly removed by the ~~Police Department~~Town. ~~Also, a~~Any sign allowed to that remains s for an unreasonable length of time may be removed by the ~~Police Department~~Town.

(2013 Code, § 15-2)

§ 93.03 SIGNS AND POSTERS; REQUIREMENTS.

(A) Real Estate Signs. No person, either as owner or real estate agent, shall post any sign on any residential lot to advertise the same for sale or rent or for any other purpose, 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 and the name and telephone number of the agency, the listing firm website, 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, and 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 only sign, per division (A)(1) above, shall be set back at least 30 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 a sales contract is signed on the property advertised for sale by such sign; and
- (8) If a sign is for commercial use in the R-4 or R-5 Residential Zoning District and does not comply with the regulations above, application is to be made to the Board of Commissioners for approval.

(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 division (A) above.

(B) Construction Signs.

- (1) On any residential lot on which construction has begun by a general contractor, neither the general contract nor the owner of the residential lot shall post nor 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 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.

(3) The owner of the residential lot and the general contractor shall be responsible for any violation of division (B) above.

(C) Political signs. Political signs are allowed on ~~any residential lot prior to a primary election, general election, or referendum provided the signs are erected as follows~~private property provided the signs are erected as follows.

~~___(1) Signs may be posted 30 days prior to the day of an election and removed within five days after the day of the election.~~

~~(2) Four signs are permitted per lot, with each sign representing one candidate, or one issue if a referendum.~~

~~___(31)~~ Each sign shall not exceed four square feet in size and not contain any electrical component or be lighted in any way.

~~___(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 all public roads on which the house borders, and in no way shall signs be located within the public right-of-way.~~ not be located within the Town owned public right of way or on Town property.

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

(7) A sign located on private property requires the owner's approval.

~~___(8) The property owner shall be fined if the signs are not removed within five days of an election or referendum.~~

(D) 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 (D), 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 with the standards of this division (D) and any sign, which was not allowed, but was nonetheless impermissibly created or displayed before the effective date of this division (D).

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.

(E) ~~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 division (A) above and the owner of the residential lot and the general contractor shall be responsible for any violation of division (B) above.~~ The owner of the business establishment erecting a sign shall be responsible for violation of division (C,D) above.

(F) Any sign removed by ~~the Police Department~~the Town for violation of ~~this section~~Divisions (A) and (B), above, shall be disposed of by the ~~Police Department~~Town within ~~ten~~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 ~~ten~~five-day period.

(G) This chapter was duly adopted by the Town Board of Commissioners ~~on the~~September 15, 1987 and shall become effective on ~~the~~October 1, 1987. This section as amended on December 18, 1990, shall become effective on the January 1, 1991. This section as amended on July 9, 2002, shall become effective on September 1, 2002.

(2013 Code, § 15-2) (Ord. passed 9-15-1987; Ord. passed 12-8-1990; Ord. passed 9- -2002)

Coates' Canons Blog: Sign Litigation: A Brief Analysis of *Reed v. Town of Gilbert*

By Adam Lovelady

Article: <http://canons.sog.unc.edu/sign-litigation-a-brief-analysis-of-reed-v-town-of-gilbert/>

This entry was posted on July 21, 2015 and is filed under Constitutional & Statutory Limitations, General Local Government (Miscellaneous), Land Use & Code Enforcement, Zoning

Temporary yard signs are springing up all around town. Town council wants to reduce the clutter, but also wants to respect the free speech rights of the community. Council is considering new rules that will allow *campaign signs* during election season, *event signs* within a day of the event, and *ideological signs* anytime. It seems like a reasonable balance—allowing the signs but limiting them to a relevant time-frame. Can the town's regulations distinguish among signs this way?

A recent U.S. Supreme Court decision says no. Such distinctions are unconstitutional content-based regulation of speech.

To be clear, every sign ordinance distinguishes among signs. Ordinances commonly distinguish between locations (commercial property, residential property, public property, etc.), between types of signs (free-standing, wall signs, electronic signs, etc.), and between messages on the signs (commercial, safety, political, etc.). Reasonable distinctions concerning *location* and *types* of signs remain permissible.

The *Reed* decision, though, clearly invalidated some distinctions based on the message content of signs, and it will require adjustments to many local ordinances and some state statutes. The decision, with its four separate concurring opinions, also left open several legal questions.

This blog considers the decision of [*Reed v. Town of Gilbert*, 576 U.S. ____ \(2015\)](#), and its impact on local sign ordinances.

Context of Free Speech Caselaw

In thinking about the *Reed* decision it is helpful to recall a few key points about Constitutional protections of free speech and local government sign regulation. This area of the law is complex—far beyond the scope and space of this blog—but some context is helpful in understanding the impact of the new decision.

Content-Neutral Sign Regulations. Some sign regulations concern the form and nature of the sign, not the content of the message. These regulations—called *reasonable time, place, or manner restrictions*—include regulation of sign size, number, materials, lighting, moving parts, and portability, among other things. These regulations are allowed, provided they are “[1] justified without reference to the content of the regulated speech, [2] that they are narrowly tailored to serve a significant governmental interest, and [3] that they leave open ample alternative channels for communication of the information” (*Ward v. Rock Against Racism*, 491 U.S. 781, 791, 109 S. Ct. 2746, 2753, 105 L. Ed. 2d 661 (1989)). Over the years the courts have allowed a variety of content-neutral sign regulations.

Content-Based Sign Regulations. Some sign regulations, however, restrict the content of the message. The Supreme Court requires that content-based regulation of noncommercial signs must meet strict scrutiny. As phrased in the *Reed* majority opinion, a regulation is content-based if the rule “applies to a particular [sign] because of the topics discussed or the idea or message expressed” (slip op., at 6). The strict scrutiny standard demands that the local government must show that the regulation is (i) designed to serve a *compelling* governmental interest and (ii) *narrowly tailored* to achieve that interest. That is a steep hill to climb, and in practice few, if any, regulations survive strict scrutiny review.

It is worth noting that commercial speech is subject to yet another test—a version of intermediate scrutiny outlined in *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1987). That test is described in David Owens' blog on [Offensive Signs](#), and as discussed below, the impact of the *Reed* decision on the *Central Hudson*

test is unclear.

Case Summary

The Town of Gilbert, Arizona, had a sign code requiring permits for signs, but outlining a variety of exemptions. The *Reed* decision focused on the exemptions for three types of signs: Political Signs, Temporary Directional Signs, and Ideological Signs. Under the local code, Political Signs were signs designed to influence the outcome of an election; they could be up to 32 square feet and displayed during political season. Temporary Directional Signs were defined to include signs that direct the public to a church or other qualifying event; they could be up to six square feet and could be displayed 12 hours before and 1 hour after the qualifying event. Ideological signs were defined to be signs that communicate a noncommercial message that didn't fit into some other category; they could be up to 20 square feet.

A local church—after being cited for violation of the rules for Temporary Directional Signs—challenged the sign code as abridging their freedom of speech. The Town argued (and the lower courts found) that its regulations were content-neutral. The distinctions among types of signs, they said, were based on objective factors not the expressive content of the sign. The distinctions did not favor nor censor a particular viewpoint or philosophy. And, the justification for the regulation was unrelated to the content of the sign.

Justice Thomas, writing for the Court, disagreed. He found that the distinctions were plainly content-based and thus subject to strict scrutiny. The distinctions—between Political Signs, Temporary Directional Signs, and Ideological Signs—“depende[ed] entirely on the communicative content of the sign” (slip op., at 7). “Regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints with that subject matter” (12). And, “an innocuous justification cannot transform a facially content-based law into one that is content neutral” (9).

In its failed attempt to meet the strict scrutiny standard, the Town offered two governmental interests to support its distinctions: aesthetic appeal and traffic safety. Even if these were considered compelling governmental interests (which the Court assumed without ruling), the Town's distinctions were not narrowly tailored. Justice Kagan noted in her own opinion (concurring in the judgment only) that the Town's distinctions did “not pass strict scrutiny, or intermediate scrutiny, or even the laugh test” (slip op., at 6, Kagan, J., concurring in judgment).

Impact of Local Ordinances

So what does this decision mean for local ordinances? In the end, some distinctions among signs clearly are allowed and will withstand judicial review. Some code provisions, though, must be revised. And then, there are the open questions.

The Court was unanimous in judgment: The particular provisions of the Town of Gilbert's sign code violate Constitutional protections for free speech. The Court was fractured, though, in the opinions, making it harder to discern the full scope of the decision. Justice Thomas offered the majority opinion of the court with five justices joining. Justice Alito offered a concurring opinion to further clarify the impact of Justice Thomas' opinion. He was joined by Justices Kennedy and Sotomayor. Three justices concurred in judgment only, and they offered two separate opinions to outline their legal reasoning and their concerns with the majority's reasoning.

So we have a split court. Three joined the majority only; three joined the majority, but also joined an explanatory concurrence; and three disagreed with the majority's legal reasoning. This three-three-three split, unfortunately, causes even more head-scratching for an already complex topic.

Content-Based Distinctions. In thinking about your sign ordinance, ask this: Does this regulation apply to a particular sign because of the non-commercial content on the sign? If yes, the regulation must meet strict scrutiny under *Reed*. The government must show that the regulation is designed to serve a *compelling* governmental interest and *narrowly tailored* to achieve that interest.

If your ordinance distinguishes among noncommercial sign types—political v. ideological v. religious—those distinctions are unconstitutional and must be changed.

Justice Thomas did offer some content-based regulations that may survive strict scrutiny if they are narrowly tailored to address public safety. These include warning signs for hazards on private property, signs directing traffic, or street

numbers associated with private houses.

Content-Neutral Distinctions. The several opinions of the court outline some valid distinctions for regulation. In his majority opinion, Justice Thomas noted that local governments still have “ample content-neutral options available to resolve problems with safety and aesthetics” (slip op., at 16). These include regulation of, among other things,

- size
- building materials
- lighting
- moving parts
- portability

Moreover, “on public property the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner” (slip op., at 16). A local ordinance or state statute can prohibit all signs in the public right-of-way. But, if signs are allowed, the regulations must not distinguish based on the content of the message. Regulations that allow some, but not all, noncommercial signs run afoul of the *Reed* decision.

For example, NCGS § 136-32 allows for “political signs” (as narrowly defined) in the public right-of-way of state highways during election season. That statute and similar ordinances will need to be revised to either, prohibit all signs in the right-of-way, or allow compliant signs with any noncommercial message in the right-of-way during election season.

Justice Alito, in his concurring opinion, provided further explanation (although not an exhaustive list) of what distinctions may be valid, content-neutral distinctions. He included:

- Size (including different sizes for different types of signs)
- Location, including distinguishing between freestanding signs and attached signs
- Distinguishing between lighted and unlighted
- Distinguishing between fixed message and electronic signs
- Distinguishing between signs on public property and signs on private property
- Distinguishing between signs on commercial property and signs on residential property
- Restricting the total number of signs allowed per mile of roadway
- Distinguishing between on-premises and off-premises signs*
- And time restrictions on signs advertising a one-time event*

* These last examples—distinguishing between on-premises/off-premises and restricting signs for one-time events—seem to conflict with the majority opinion in *Reed*. Here, we get back to the issue of the fractured court and multiple opinions (discussed below).

Open Questions

Content-ish Regulations

Justice Alito’s concurrence (discussed above) listed many regulatory distinctions that are clearly authorized. He listed two distinctions that do not clearly square with the reasoning of the majority opinion. But, if you consider the three justices concurring with Alito plus the three justices concurring in judgment only, there are six justices that took the question of content neutrality with more practical consideration than Justice Thomas’ hard line. Thus, Alito’s opinion may in fact hold the greatest weight of this case. Only time will tell—time and more litigation.

First, Justice Alito listed signs for one-time events. This seems to be precisely what the majority stuck down in this case. It is unclear how a local regulation could structure such regulation without relying on the content of the message itself. But the inclusion on Justice Alito’s list points to some room for defining signs based on function.

And second, Justice Alito listed the distinction between on-premises and off-premises signs. The enforcement officer must read the sign in order to determine if a sign is off-premises or on-premises. As such, these would seem to be facially content-based and subject to strict scrutiny. But, prior Supreme Court caselaw has upheld the on-premise/off-premise distinction and that precedent is not overruled by the majority opinion.

Commercial and Noncommercial Speech. In past decisions the Supreme Court has treated commercial speech to slightly less protection than noncommercial speech. Commercial speech regulation needs to meet a version of intermediate scrutiny, not the strict scrutiny applied to regulation of non-commercial speech (See, generally, *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1987)).

Arguably, the *Reed* decision opened the door to challenge a sign ordinance that distinguishes between commercial and noncommercial speech. Justice Alito's concurring opinion noted that distinguishing based on the *type of property*—commercial or residential—would be valid. Regulating based on the *content of the sign*—commercial or noncommercial—arguably is undermined by the *Reed* decision.

Notably, though, the majority in *Reed* did not overrule its prior decisions. The *Reed* decision was focused on the Town code's distinctions among types of noncommercial speech. Presumably the long-held standards for regulation of commercial speech still apply.

Conclusion

In the wake of *Reed*, some things are clear. Governments still have an array content-neutral regulations to apply to signs. But, content-based distinctions such as the ones in the Town of Gilbert's code must survive strict scrutiny to stand. Because of mix of opinions from the Court, there are several open questions. We will not know the full scope and meaning of *Reed v. Town of Gilbert* until the federal courts begin to apply this decision to other sign litigation.

Links

- www.supremecourt.gov/opinions/14pdf/13-502_9olb.pdf

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners
From: Jonathan Kanipe, Town Manager
Re: Review Existing Brush Pick-Up Ordinance
Date: August 4, 2020

Last month, staff review the Town's existing brush policy with the Board. The Board and staff discussed potential changes and asked staff to provide potential changes. Staff completed this review and the attached draft is available for the Board's review and discussion. Please note, there are several items left as questions where more definition or clarity is needed. This is specifically true in the case of defining amounts of brush. I have asked Public Works Director Harry Buckner to develop a more clear way of explaining this measurement.

Again, this is a draft amendment for review and we are happy to make and adjustments or necessary changes prior to the Board's consideration.

CHAPTER 51: SOLID WASTES

Section

- 51.01 Definitions
- 51.02 Littering
- 51.03 Construction debris
- 51.04 Materials resulting from clearing land
- 51.05 Garbage collection
- 51.06 Garbage receptacles
- 51.07 Tree limbs, brush, leaves, and the like
- 51.08 Placement of limbs, brush, leaves, and the like
- 51.09 Grass clippings
- 51.10 Fees
- 51.11 Refuse not collected by the town
- 51.12 Accumulation of garbage, refuse, rubbish, and waste prohibited
- 51.13 Recycling and recyclable material
- 51.14 Notice of noncompliance

- 51.99 Penalty

Statutory reference:

Authority of town to regulate removal of garbage and trash, see G.S. § 160A-312

§ 51.01 DEFINITIONS.

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

BUILDING MATERIAL SCRAPS. Scrap building material from the construction, reconstruction, remodeling, or repair of a building, walkway, driveway, signs, and or other structures, including, but not limited to, excavated earth, tree stumps, rocks, gravel, bricks, plaster, concrete, lumber, or any other similar material used in construction or containers or wrappings therefor.

BULKY WASTE. Large items of solid waste such as furniture, white goods, large auto parts, stumps, and other oversize wastes whose large size precludes or complicates its handling by normal solid waste collection, processing, or disposal methods.

COLLECTION. The act of removing solid waste or recyclable material to a transfer station, processing facility, or disposal facility. For the purposes of this chapter, any collection receptacles or containers located on town property are considered to be in the stream of **COLLECTION**.

GARBAGE. Animal and vegetable matter resulting from the handling, preparation, cooking, and consumption of food, in cans, glassware, or other containers, rags, waste paper, includes all putrescible wastes, but excludes sewage and human waste.

HAZARDOUS WASTE. A solid waste or combination of solid wastes, including liquid or gaseous wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

MEDICAL WASTE. Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or the production of biologicals.

MIXED PAPER. Envelopes, catalogs, bulk mail, magazines, computer paper, copy paper, file folders, phone books, gray cartons, adding machine tapes, letters, scratch pads, soft-covered books, and other material as defined by the Director of Public Works.

PATHOLOGICAL WASTE. Human tissues, organs, and body parts, and the carcasses and body

parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologics or in vivo testing of pharmaceuticals, or that humans died with a known or suspected disease transmissible to humans.

PUTRESCIBLE. Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases; such as kitchen wastes, offal, and animal carcasses.

RECYCLE, RECYCLABLES, or RECYCLABLE MATERIAL. Those materials or that process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed or returned to use in the form of raw materials or products.

REFUSE. Solid waste that is non-putrescible waste collected from residences.

SHARPS. Needles, syringes, and scalpel blades

SOLID WASTE. Garbage refuse, including **SOLID WASTE** materials resulting from residential and business activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved materials in irrigation return flows, or other common water pollutants.

WHITE GOODS. Inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

YARD TRASH/WASTE. Solid waste consisting solely of vegetative matter resulting from landscaping maintenance. Includes grass clippings, leaves, sod, tree limbs, and weeds.

(2013 Code, § 9-1)

§ 51.02 LITTERING.

This chapter provides that it shall be unlawful for any person to throw or deposit upon any street or street right-of-way (except as set forth in § 51.07), or upon any private property, any rocks, bricks, lumber, sawdust, bottles, jars, broken glass, or any plastic or paper bags, cups, or paper of any kind, or any trash, leaves, dirt, rubbish, or any thing that may be unsightly or offensive or that may, in any way, be dangerous to traffic.

(2013 Code, § 9-2) Penalty, see § 51.99

§ 51.03 CONSTRUCTION DEBRIS.

All refuse, lumber, and debris remaining as a result of the repair of a building or the erection and completion of a new building shall be removed by the property owner within ten days from the date of completion of said work.

(2013 Code, § 9-3)

§ 51.04 MATERIALS RESULTING FROM CLEARING LAND.

No materials such as trees, shrubbery, or underbrush resulting from land being cleared shall be placed for collection by the town, but such materials shall be disposed of by the contractor or builder. In the event the contractor or builder fails to remove such material, the removal thereof shall be the responsibility of the owner of the property.

(2013 Code, § 9-4) Penalty, see § 51.99

§ 51.05 GARBAGE COLLECTION.

(A) Garbage shall be collected in the back yard of the resident. Collection of garbage shall be made by the town on a regular basis. A schedule of such times and routes of collection shall be posted in the Town Hall and may be changed from time to time as may be necessary in the discretion of the Director of Public Works and Town Manager.

(B) It shall be unlawful for any person to place or deposit at any location within the corporate limits of the town for collection by the town any solid waste of any type that was generated outside the corporate limits of the town.

(C) It shall be unlawful for any owner or occupant of any residence, dwelling unit, business, or commercial premises to allow any person to place or deposit for collection by the town any solid waste of any type which was generated outside the corporate limits of the town.

(2013 Code, § 9-5) Penalty, see § 51.99

§ 51.06 GARBAGE RECEPTACLES.

(A) Garbage receptacles shall be cans made substantially of metal, plastic, or plastic bags. Cans shall have tight-fitting covers and strong handles and the covers shall be kept on at all times, except when cans are being filled or emptied.

(B) Plastic bags shall be properly secured at the bag opening with a twist tie or other means to eliminate any spillage of contents.

(C) Containers shall not exceed 32 gallons or exceed 50 pounds in weight. Each household may have up to five garbage receptacles.

(D) Garbage cans shall not be located behind closed fences, inside closed buildings, or in any other inaccessible place. Garbage from dumpsters shall not be collected by the town.

(2013 Code, § 9-6) Penalty, see § 51.99

§ 51.07 TREE LIMBS, BRUSH, LEAVES, AND THE LIKE.

(A) (1) All trees or portions thereof to be picked up shall be cut up and reduced in lengths so that no portion shall be more than six feet in length. Limbs shall be no greater than six inches in diameter (distance through the limb).

____ (2) All limbs shall be cut from the main body of any limb or trunk. All such materials shall be neatly piled with the length of such items substantially parallel to the street. One dump truck load of limbs and brush shall be allowed each resident per two months without additional charges. Should the volume exceed one dump truck load, a fee will be charged for each two cubic yards or any portion thereof.

____ (3) A fee, in an amount as set by the Board of Commissioners from time to time, per two cubic yards will be charged when limbs and brush have exceeded one dump truck load in a two-month period.

____ (A) Tree limbs and brush shall not be placed for pickup by the Town more than five days prior to the collection date.

____ (B) Limbs and brush shall not be placed at roadside from November 1 through January 15.

____ (C) Loose leaves shall be collected at roadside by town forces from November 1 through January 15. Leaves shall be free of sticks, rocks, and other debris, and not placed in plastic bags.

~~____ (C) Tree limbs and brush shall not be placed at roadside more than five days prior to the collection date.~~

~~____ (D) Limbs and brush shall not be placed at roadside from November 1 through January 15.~~

____ (D) Removal of limbs, brush, and debris of all types resulting from work of commercial tree-services shall be the responsibility of the property owner, and not the town.

(2013 Code, § 9-7)

§ 51.08 PLACEMENT OF LIMBS, BRUSH, LEAVES, AND THE LIKE.

____ (A) Limbs, brush, and leaves, and the like shall be placed by occupant upon that portion of residents' property immediately adjacent to the street right-of-way normally used by vehicles, provided however that limbs, brush, leaves, and the like shall be placed a minimum, but at least of three feet off of the Town street pavement.

____ (B) Limbs, brush, leaves, and the like originating from private property shall not be placed on public property or the property of an adjoining property owner.

(2013 Code, § 9-8)

§ 51.09 GRASS CLIPPINGS.

~~The town strongly discourages the deposit of grass clippings within the street rights-of-way adjacent to residences~~ Grass clippings are not allowed to be deposited along the street or with other yard waste piles; however, should an occupant of a residence place grass clippings within the street rights-of-way, the town may remove said grass clippings and, if so removed, shall bill the owner of said residence a flat fee in an amount as set by the Board of Commissioners from time to time.

(2013 Code, § 9-9)

§ 51.10 FEES.

(A) The following fees shall be charged and collected by the town:

(1) Collection of limbs and brush in excess of one dump truck per two months, \$50 fee per two cubic yards;

(2) One hundred dollar fee per dump truck load if deemed in excess of monthly allowance;

(3) Twenty-five dollar fee for limbs and brush placed closer than three feet from street at-
~~roadside-seven~~ five days prior to scheduled pickup;

(4) One hundred fifty dollar flat fee for disposal of grass clippings;

(5) Twenty-five dollar for placement of limbs, brush, and leaves in a location other than the street ~~right-of-way immediately~~ adjacent to the front of the residents' property; and

(6) ~~One~~ Five hundred dollar fee for collection of construction debris or other items not collected by the town in addition to \$10 fee per each two cubic yards or any portion thereof collected.

(B) ~~Solid~~ Yard waste collection fees shall be billed on the same billing as water and sewer fees. Any payment made on said bill shall first be applied to the payment of ~~solid~~ yard waste collection fees, water service fees, sewer fees, and finally to water fees.

(C) Where such an accumulation of yard waste exists for any reason, the town may summarily remove, abate, or remedy such accumulation and the expense of the action shall be a lien upon the land or premises and shall be collected as unpaid taxes.

(2013 Code, § 9-10)

§ 51.11 REFUSE NOT COLLECTED BY THE TOWN.

The following is a list of refuse not collection by the town. This list of unacceptable items is applicable to any dumpsters or trash receptacles provide for public use by the Town. (*denotes refuse not accepted by the County Landfill. Asbestos not accepted unless prior arrangement with County Landfill personnel):

- (A) Asbestos*;
- (B) Ashes;
- (C) Batteries;
- (D) Bedding;
- (E) Building materials;
- (F) Flammable materials;
- (G) Gas tanks*;
- (H) Hazardous waste*;
- (I) Liquids*;
- (J) Materials resulting from clearing land;
- (K) Medical waste;
- (L) Paint;
- (M) Pathological waste;
- (N) Rocks;
- (O) Sharps;
- (P) Tires; and
- (Q) White goods.

(2013 Code, § 9-11)

§ 51.12 ACCUMULATION OF GARBAGE, REFUSE, RUBBISH, AND WASTE PROHIBITED.

(A) No property owner or tenant shall allow the accumulation of garbage, refuse, rubbish, or waste upon land or premises owned or occupied by them so that such accumulation is dangerous or prejudicial to the public health.

(B) Where such an accumulation exists for any reason, the town may summarily remove, abate, or remedy such accumulation and the expense of the action shall be a lien upon the land or premises and shall be collected as unpaid taxes.

(2013 Code, § 9-12) Penalty, see § 51.99

§ 51.13 RECYCLING AND RECYCLABLE MATERIAL.

(A) *Recycling encouraged.* Each person who owns, leases, or manages a residence, residential

unit, or place of business, industry, commerce, or other place providing goods or services, or institution, church, camp, or school is strongly encouraged to remove recyclable materials from solid waste generated and make them available for recycling.

(B) *Containers*. The town provides each residence with a 95-gallon container. These containers are to be used for recycling materials only, and will be picked up once every two weeks by town staff. The containers remain the property of the town and remain with the residence if ownership is transferred. Anyone found to remove the container from the residence in violation of this section shall be charged the prevailing cost of a replacement container.

(C) *Recyclable materials*. Recyclable material shall consist of the following items and shall be prepared for recycling, prior to deposit in the town's recycling containers, as directed:

- (1) *Jars and bottles*. All brown, clear, and green container (bottles and jars) glass));
- (2) *Cans*. Aluminum beverage and bimetal (tin or steel) food cans;
- (3) *Plastic containers*. Plastic containers No. 1 PETE (soda containers) and No. 2 HDPE (milk and shampoo containers) and No. 3, 5, and 7 (mixed plastic);
- (4) *Corrugated containers and cardboard*. Must be flattened;
- (5) *Newspapers*. May be bundled with string or left loose. Inserts may remain; and
- (7) *Mixed paper*. See definition in § 51.01.

(D) *Prohibitions*.

(1) It shall be unlawful for any person to place or deposit at the town's recycling containers any recyclable material unless all such material can fit entirely within the appropriate container.

(2) It shall be unlawful for any person to place or deposit in the town's recycling containers any recyclable material of any type that was generated outside the corporate limits of the town.

(3) No person, other than persons authorized by the town, may remove recyclable material from a recycling container.

(2013 Code, § 9-13) Penalty, see § 51.99

§ 51.14 NOTICE OF NONCOMPLIANCE.

The town utilizes ~~red~~ tags to inform residents of receptacles that are not in compliance. A letter of warning shall be given on the first occasion of placement of tree limbs and brush more than five days prior to the date of collection.

(2013 Code, § 9-15)

§ 51.99 PENALTY.

(A) Any willful and knowing refusal to pay fees assessed in this chapter shall subject the offender to a civil penalty in the amount of \$50 payable to the town as law provided.

(B) Violation of this chapter shall constitute a misdemeanor for each day such violation occurs and subject the violator of this chapter to a fine of \$50 or 30 days imprisonment or both for each violation of this chapter.

(2013 Code, § 9-15)

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Zoning Ordinance Review related to Chapter 160-D Implementation

Date: August 5, 2020

Background

In May, staff reported changes to the state deadlines for amending Zoning Ordinances. The new compliance deadlines are August 1, 2021 for amending portions of the Town's zoning ordinance that may not be in compliance with the new state law. The second timeline remains July 1, 2022 for the adoption of a comprehensive plan. While the law is effective presently, all Town and County zoning ordinances must be amended to reflect these changes by August 1, 2021 in order to be enforceable.

The Town Attorney and I reviewed these revised timelines and believe the most effective way to handle these changes is to conduct the comprehensive planning phase concurrently with the necessary amendments to the Town Zoning Ordinance. This allows the Town to gather feedback from citizens regarding a comprehensive plan and the existing zoning ordinance and, ideally, move to adopt the comprehensive plan, mandatory changes, and any other zoning ordinance changes at the same time.

If this is agreeable to the Board, the Town Attorney and I will begin working to develop the scope of the comprehensive planning process with an eye to having this all completed by the spring of next year. Please let me know if you have questions.