

PROPOSED AGENDA

Meeting of the Town of Biltmore Forest Board of Commissioners

To be held Tuesday, December 8, 2020 at 4:30 p.m.

A. Roll Call by the Clerk

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

B. The minutes of the November 17, 2020 meeting will be presented for approval.

C. Organization of the Board

1. The Mayor and Board of Commissioners will be sworn in following the election of November 3, 2020.
2. Election of the Mayor Pro-Tem.

D. Reports of Officers

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

E. New Business

1. Review Potential Amendments to Town Code (Sign Ordinance)
2. Discuss Potential Amendments to Town Code (Tree Protection Ordinance)
3. Consideration of 2021 Holiday Schedule

F. Petitions, Motions, and Other Business

G. Public Comment

H. Adjourn

Accessing the December 8, 2020 Board of Commissioners Meeting

Topic: December 8 Board of Commissioners Meeting

Time: Dec 8, 2020 04:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87323358114?pwd=ZkVhSk5TaThkVTRUQk16WGxUZTBoZz09>

Meeting ID: 873 2335 8114

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Find your local number: <https://us02web.zoom.us/u/kiD6JpExY>

The Town Board of Commissioners will receive public comments submitted in writing to townhall@biltmoreforest.org. In order to be provided to the Board, please send comments no later than noon on Monday, December 7, 2020.

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF
BILTMORE FOREST HELD NOVEMBER 17, 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 October 13, 2020 meeting minutes. The motion was made by Commissioner Cogburn. The motion was seconded by Commissioner Kelly. Roll call was taken by the Clerk and the minutes were unanimously approved.

Chief Ryan Cole was not present to give the monthly report for the Skyland Fire Department.

Chief Chris Beddingfield said there were 720 calls last month. There were many issues with political signs not being compliant with the Town ordinance. A new idea this year was calling residents to let them know their sign was not in compliance rather than going on property and removing it. It was successful procedure and made those not in compliance less emotional over an emotional topic.

A major storm came through the area. Trees came down and roads were flooded. Several vehicles were also flooded in the middle of the road. Chief Beddingfield thanked Public Works and Mr. Kanipe for all the staff working together and helping during this time.

The drive through Halloween event was a success. There was a great deal of positive feedback about the event. A canopy was set up outside the police department and pre-bagged treats were distributed to trick-or-treaters. Chief Beddingfield thanked Ms. Jacobs for putting the treat bags together.

Chief Beddingfield discussed the delivery of two hybrid vehicles. They are currently at the outfitter and will be in service soon.

Commissioner Kelly thanked all the Town staff who have been working during these times which are very stressful right now.

Mr. Kanipe said the disinfectant machine arrived yesterday which should help tremendously. Chief Beddingfield said the air purifier also helps purifies the air.

Mayor Goosmann suggested having a drive through tree lighting ceremony with Santa Claus. The Board agreed and said this would be an excellent idea. Mr. Kanipe said they will check on Santa's availability first. Mayor Goosmann thanked the police department for all of their hard work.

Mr. Harry Buckner gave the report for Public Works. They are currently in leaf collection and brush collection mode. Mr. Austin Tucker retired and Mr. Buckner and Mr. Kanipe are working to fill this position. Mr. Buckner also said another position to fill will be Mr. Keith Bowman as he is retiring as well. Mr. John Divello put in his notice yesterday and will be moving on to work elsewhere.

Mr. Eric Anderson passed his pesticide license. Mr. Buckner wants all of the public works employees to be CDL certified. Mr. Buckner thanked the police department for helping with the

“hurricane” winds and clearing the roads. Within 24 hours, the road were cleared and the public works staff worked very hard.

Mr. Buckner mentioned the Greenwood Park restoration schedule which was included in the Board packet. The project will not start until spring.

Leaf and brush collection will keep staff very busy at this time. Commissioner Loomis asked if brush collection ended on the 15th of this month. Mr. Buckner said yes. Brush season will last until January if needed and can be picked up on an as needed basis. Mayor Goosmann said Mr. Buckner is doing an excellent job. Mayor Goosmann said Mr. John Divello will be missed and was an excellent employee. Mr. Buckner agreed.

The next topic of discussion was the sign ordinance update and discussion. Mr. Billy Clarke said the Board discussed the changes to make last month. “No trespassing” signs were mentioned. Mr. Clarke said they are supposed to be placed close to the boundary and not more than 200 feet apart. Mr. Clarke suggested to leave the no trespassing sign ordinance “as is.” Commissioner Loomis suggested security signs be set back 30 feet but she was not sure if that distance would be too far away. Mr. Clarke recommended dimensions of security signs and up to two locations for these types of signs. It cannot be in the right-of-way. Ten feet was agreed upon to be a reasonable distance.

Mr. Kanipe discussed the storm water capital improvement project update. This is the first project out of the stormwater master plan. The second part of the plan will include the pipe going under Park Road which discharges to the creek.

Mr. Kanipe asked the Board to discuss impacts on Ridgefield. Mr. Kanipe heard back from five residents about their thoughts on the closing of the intersection of Ridgefield and Hendersonville Road. Mr. Kanipe has received a great deal of feedback regarding people trying to turn left onto Ridgefield avoiding the traffic light at Eastwood. They did petition to Department of Transportation to get the traffic light changed to a flashing yellow light. There is also the issue of contractor traffic which is also an issue everywhere in Town but particularly in this location

because it is such a narrow road. Mr. Kanipe suggested to the Board this area really needs to be focused on by speaking to the residents in this area and also have staff see what impacts may be from an emergency services standpoint. Mayor Goosmann suggested considering speaking to the residents about having a no left turn and only a right turn and making that road a no entrance. Mr. Kanipe said the Department of Transportation may not have an objection to closing off Ridgefield.

Commissioner Cogburn suggested having Browntown and Cedarcliff closed off as well.

Commissioner Loomis and Commissioner Cogburn asked Mr. Kanipe to check on the online mapping, specifically related to how navigation systems route people into the Town. Chief Beddingfield said turning left onto Hendersonville road is definitely a safety hazard due to the many lanes of traffic. Mr. Kanipe said they will look into this situation further and discuss with residents.

Mr. Kanipe said the Town has been locked for eight months now due to COVID-19. In terms of personnel impacts, the Town has one employee working remotely which is working very well. In July, the Town developed a relationship with the a local urgent care to receive COVID-19 rapid tests. Coronavirus relief funds have reimbursed us for this testing. Mr. Kanipe is also asking all employees to continue monitoring their temperatures and symptoms. Mr. Kanipe is also asking employees to socially distance and wear a mask. Mr. Kanipe is very proud of the Town employees and accepting the challenges and working through them during this time.

The financial projections for the Town due to the COVID-19 crisis had some unknowns such as property tax and sales tax. Property tax so far has been relatively stable. Regarding sales tax, staff projected a 17.5% reduction and right now we are currently 12.5% higher than our projected revenues.

The town hall facilities remain closed to the public. The town hall is now open on an appointment only basis and doors remain locked. Mr. Kanipe and Ms. Jacobs have been physically present during the week and being available for people when they need to come by.

Commissioner Cogburn asked when the Christmas lights will be turned. Mr. Kanipe said Friday, December 4th.

Commissioner Loomis suggested informing the residents who are watching the meeting via Zoom, there is a doorbell to get to the police department if needed. Commissioner Loomis asked Chief Beddingfield if it has an intercom. Chief Beddingfield said no but they have discussed doing this.

Mr. Kanipe explained the North Carolina Capital Management Trust Portfolios and the changes made. Nothing will change in terms of interest rates for the next two years.

There was no public comment.

Mayor Goosmann received a suggestion from a resident to ban all signs in the Town. Mr. Clarke said it is unconstitutional for the Town to prohibit ideological or political signs. The size and location can be regulated. Mr. Clarke referenced the 2015 Supreme Court case Reed vs. Town of Gilbert, Arizona. Commissioner Loomis said we should all be educated further about this and suggested referencing this in the town newsletter.

Mayor Goosmann adjourned the meeting at 5:31 p.m. The next meeting is scheduled for Tuesday, December 8, 2020.

ATTEST:

Ms. Laura Jacobs
Town Clerk

George F. Goosmann, III
Mayor



Skyland Fire & Rescue

Biltmore Forest Valley Springs Station



Phone: (828) 684-6421 Address: PO Box 640 Skyland NC 28776 Fax (828) 684-1010
www.skylandfire.com

Biltmore Forest Valley Springs Station

Incident Response

October 2020

Station: 4 - BILTMORE FOREST STATION	
113 - Cooking fire, confined to container	1
311 - Medical assist, assist EMS crew	7
321 - EMS call, excluding vehicle accident with injury	4
322 - Motor vehicle accident with injuries	3
412 - Gas leak (natural gas or LPG)	1
561 - Unauthorized burning	1
611 - Dispatched & cancelled en route	4
733 - Smoke detector activation due to malfunction	2
745 - Alarm system activation, no fire - unintentional	2
813 - Wind storm, tornado/hurricane assessment	1
# Incidents for 4 - Biltmore Forest Station:	26

Respectfully Submitted,

Ryan M. Cole

Chief Ryan M. Cole
Skyland Fire Rescue



Skyland Fire & Rescue

Biltmore Forest Valley Springs Station



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Biltmore Forest Valley Springs Station

Incident Response

November 2020

Station: 4 - BILTMORE FOREST STATION	
111 - Building fire	1
162 - Outside equipment fire	1
251 - Excessive heat, scorch burns with no ignition	1
311 - Medical assist, assist EMS crew	4
321 - EMS call, excluding vehicle accident with injury	1
322 - Motor vehicle accident with injuries	3
324 - Motor vehicle accident with no injuries.	1
412 - Gas leak (natural gas or LPG)	1
424 - Carbon monoxide incident	1
500 - Service Call, other	1
510 - Person in distress, other	1
531 - Smoke or odor removal	1
571 - Cover assignment, standby, moveup	1
611 - Dispatched & cancelled en route	2
650 - Steam, other gas mistaken for smoke, other	1
651 - Smoke scare, odor of smoke	1
743 - Smoke detector activation, no fire - unintentional	1
745 - Alarm system activation, no fire - unintentional	4
746 - Carbon monoxide detector activation, no CO	1
# Incidents for 4 - Biltmore Forest Station:	28

Respectfully Submitted,

Ryan M. Cole



Skyland Fire & Rescue

Biltmore Forest Valley Springs Station

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Chief Ryan M. Cole
Skyland Fire Rescue

BILTMORE FOREST POLICE DEPARTMENT
Department Head Report

December 8th, 2020 Board of Commissioners Meeting

Chris Beddingfield, Police Chief

Police Dept. Monthly Report 11/01/20-11/30/20

Calls for Service:680

Officers responded to the following calls for service:

Accident - 6	Accident - PI - 0
Alarm - 17	Animal Carcass - 1
Assist EOC – 3	Assist Motorist - 6
Assist Other Agency - 3	Assist Resident - 15
Bear Report - 2	Business Check - 166
Crime Prev. – 12	Chase- 0
Direct Traffic – 0	Distressed Animal - 2
Disturbance - 3	Dog Complaint - 17
Domestic disturbance-3	Fire – 1
Fight- 0	Gun fire/Shots fired - 2
Hit and Run – 0	House Check - 105
Improper Parking- 5	Incomplete 911- 1
Investigation – 5	Intoxicated Driver- 0
Mental Patient - 0	Missing Person - 0
Noise Disturbance – 0	Ordinance Violation - 4
Person Down – 1	Power Outage - 2
Radar Operation – 14	Road Blocked - 5
Service of Car - 2	Sign Ord Violation - 0

Special Assignment – 1	Special Check - 22
Speed/Reckless Driving- 0	Suspicious Person - 16
Suspicious Vehicle – 28	Vandalism - 1
Vehicle Stop – 56	Well-being Check – 1

Total Number of Calls: 680

Arrests:

1-Felony Arrest-1-Breaking and Entering and Larceny, wanted suspect was recognized by officer at convenience store.

5-Misdemeanor Arrests-2- Court Violations, one from a vehicle stop the other was arrested with the wanted person at the convenience store. 1 Driving while impaired, 1 Speeding, 1 Drug paraphernalia, 1 No operator's license and 1 Misdemeanor flee to elude all from vehicle stops. 1 second degree trespassing from a call for service.

Time Consumption Summary:

Approximations

Business Checks- 8 hours

House Checks- 4 hours

Radar Operation- 10 hours

Vehicle Crash Investigation- 3 hours

Notable Calls and Projects:

Started operating police vehicles with glow/cruise steady blue light activated to increase visibility. Several questions about it, many positive comments and we are planning on explaining it in more detail in the next newsletter.

Officers observed and recognized a subject wanted on numerous break-ins go into a convenience store. He was arrested without incident along with another wanted person who was with him. Excellent police work resulted in the arrest.

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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 

Re: Public Works Department November 2020 Monthly Report

Date: December 3, 2020

Recurring Activities:

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

- Collected 35.33 tons of garbage.
- Diverted 19.53 tons of recycled goods from garbage.
- Picked up 55 loads of leaves and brush (approximately 1650 cubic yards) with the knuckle boom truck, and vacuumed another 22 loads of leaves only (approximately 660 cubic yards) with the vacuum trailer and leaf box, over 16 days. Note that this is a 280% increase over October.
- Responded to 29 utility locate requests.
- Visited 4 residences for Tree Inspections, approving the removal of 16 trees.
- Completed daily chlorine residual tests across town and passed the required two bacteriological tests. Completed required additional quarterly TTHM and HAA5 testing.
- Used the Beacon/Badger Meter automated meter reading system to monitor for water leaks daily and informed residents of suspected leaks.
- We continue to perform litter pick-ups as needed.
- Mowing for the season is more or less over. We are mowing to mulch leaves at the parks, entryways, islands, and road shoulders as needed.
- Leaf collection is fully underway, and every property in Town has had one collection. The last official brush collection occurred simultaneously. Leaf collection activities will continue until January.

Coronavirus (COVID-19) Related Activities:

- The Town's buildings remains closed to the public; playgrounds are open.

- We are continuing to track any additional costs and activities associated with complying with the COVID-19 response effort.
- We are logging employee temperatures and keeping self-reporting documents daily.
- COVID supplies and PPE have been purchased and are stored at Public Works in a new PPE cabinet, all funded through the CARES grant.

Miscellaneous Activities in November

- We have successfully hired a new Public Works Supervisor, Mr. Mike Dale. Mike comes to the Town from a local utility contractor, HNH Construction, and has an extensive background in utility system construction management and planning as well as utility system design, specifically stormwater and water distribution. In addition, he is a registered Landscape Architect and was a partner in a local environmental engineering and landscape architecture firm that focused on land development, stormwater system design, and environmental projects. I am excited to bring him on-board, and his first day of employment will be January 4th.
- We have tested and test driven the salt and sand spreaders and plows in order to be prepared for inclement weather.
- Work is slowly continuing on the street condition assessment (which includes an assessment of the shoulders, general drainage, and striping), but is delayed.
- As noted above, Public Works staff has been focused on leaf and brush removal in November, and collected almost 3 times as much in November as October. December will continue to be focused on leaf pick-up.
- I continued my virtual attendance at the Municipal and County Administrator's School through the UNC School of Government. This course will continue through May, 2021.
- The new work order and asset management software package is continuing to be tested. DSI is continuing to assist me with this effort. Tentatively, the schedule is to implement the software more broadly in January.
- We are continuing to troubleshoot non-reporting automatic water meters as time allows.
- New toddler swings are ordered and will be delivered in early December.
- We have added a vendor that can provide tires from the Statewide Purchasing Contract program through the Department of Administration.

Larger/Capital Projects Updates

Area 4 Stormwater Project – Sinkhole at Cedar Hill Drive.

Construction activities have begun. This project has a separate agenda item to be covered in more detail.

Greenwood Park Stream Restoration

No new updates. This project remains on-schedule with the following milestones:

- Bid and Design Package Approval – March 1, 2021
- Advertise, Receive, Submit and Approve Bids – July 1, 2020
- Execute Construction Contracts – August 2, 2020

Brooklawn Park Improvements and Bridge Replacement

No additional updates at this time. Please feel free to contact me with any feedback regarding this potential project.

Upcoming in December

- In order to accommodate the holiday vacation schedule, Public Works staff will be working shorter weeks in December, effectively only working three days per week all month (Monday through Wednesday), except for Thursday the 10th. This allows normal garbage and recycling schedules to be unaffected by the holidays this year.
- I will be staffing the PW office Monday-Friday with the exception of the normal Town holidays of December 24-25 and January 1.
- We will be manually reading the few (~30-40) non-automated water meters in order to complete the normal December water billing cycle. We are continuing our work on improving the percentage of fully reporting water meters by troubleshooting specific locations.
- Focus continues on leaf collection efforts.
- Staff will install the Christmas decorations around the Town Hall complex.
- I will be preparing the new garbage, recycling, and brush collection calendar for 2021 to be delivered to all residents.
- Complete the Pavement Condition Rating study and street asset inventory.
- Complete selection of and negotiations with two new Public Services Worker position(s). Coordinate start dates and on-boarding.
- Continue implementation of the new work order and asset management system.
- Complete preventive maintenance activities for the roof at the Police Department.
- Two employees will be completing their CDL licensing process through cooperation with the City of Asheville public works department.
- I am planning a refresh of the play surface and some general maintenance activities in Greenwood Park.
- We will be installing the toddler and infant swings in the parks.
- I will continue my virtual attendance at the Municipal and County Administrator's School through the UNC School of Government.
- As always, I continue 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.

We welcome your feedback on the activities of the Public Works department. We are looking forward to a productive 2021!

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Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Town Manager Monthly Report

Date: December 3, 2020

CRF Reimbursement Update and Timeline

The Coronavirus Relief Fund (CRF) reimbursements will expire at the end of December. The Town has two more submissions for reimbursement in December and January. At present, the Town has received \$14,242.81 from Buncombe County as the pass through agency from the State. We anticipate a minimum reimbursement request in December of \$7,000 and another in January of at least \$18,000. This estimate is approximately \$40,000 of reimbursement funds from Buncombe County. The remainder of our unused funds (approximately \$30,000) will be returned for use throughout Buncombe County. There is potential for additional funding to state and local governments, specifically, from the federal government but nothing that is set in stone. I will keep the Board informed of any potential changes related to this funding.

Historic Bus Shelter – Stuyvesant/Southwood Roads

One of the Town's historic bus shelters located at the intersection of Stuyvesant and Southwood Roads was demolished this autumn after a large red oak fell on top of it. We have received several questions from residents about whether the bus shelter will be rebuilt. If the Board would like, we can price the cost of rebuilding this shelter once construction concludes on the house at the corner. Please let me know what you think about this and whether you would like to consider options for reconstruction.

Cedar Hill Road Stormwater Project

Hyatt Pipeline has begun staging pipe and materials on site and construction should begin in earnest on this project the week of December 7th. Construction itself is estimated to conclude before Christmas. We will alert residents in the Cedar Hill area to traffic detours, as necessary, as well as provide information to residents there regarding the project generally.

Christmas Drive-Through Event

In lieu of the Town's annual tree lighting event at Town Hall, we are hosting a drive-through event next Friday night, December 11. This event will allow anyone to drive through and view the large, lit tree at Town Hall. We will have goodie bags and candy canes to hand out for kids and are hopeful that Santa will be able to attend as well. The event will take place from 5:30-7pm and is hosted by the Police Department.

Greenwood Park Stream Restoration and Additional Work

The final project drawings and proposal were received by NC Division of Water Infrastructure on November 16. These drawings and design will be reviewed by DEQ staff and we anticipate receiving feedback in the early spring. Ideally, we would like to bid this project in late FY21 with an eye to performing construction shortly thereafter. Staff met at the park recently to review necessary maintenance for the park before the stream restoration work and identify areas for executing portions of the park master plan after the stream restoration project. This will allow us to leverage the construction process and have the park in terrific and improved shape shortly thereafter.

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Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Swearing-In for Mayor and Board of Commissioners

Date: December 3, 2020

The Town held a municipal election Tuesday, November 3, 2020. Mayor George Goosmann, III and Commissioners Cogburn, Kelly, and Loomis were all re-elected. Per North Carolina General Statute, each newly elected or re-elected municipal official must be sworn in at the organizational meeting in December.

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Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Review Potential Amendments to Town Code (Sign Ordinance)

Date: December 3, 2020

Background

The Board of Commissioners has reviewed the Town's existing sign ordinance for the past few months. These reviews have focused predominantly on ideological and political signs. We have reviewed Supreme Court decisions that regulate the Town's ability to impose *some* restrictions on ideological signage and the impact this may have on other non-commercial signage.

Additional Information

Last month, the Board requested the Town Attorney provide an update with an additional definition for construction signs and security signs. The changes from last month are noted below.

- *Add definition of "Construction signs" in 93.02*
- *93.04(D) (1) changed one to two so that two signs are now allowed.*
- *93.04 (D) (2) – deleted, "six" and added the max size for security company signs.*
- *93.04(D)(3) – changed "thirty" to "ten."*
- *93.04(D)(4) – added the maximum height above ground*
- *At the end – changed month of adoption – left blank.*

The Town reviewed existing security signs around the Town for their average height above ground as well as the average dimensions for these signs. Most security signs were 9"x9", but some were slightly larger or smaller. As a result, we have recommended a maximum area of one (1) square foot for these signs and that they be no taller than 2 feet off the ground.

Attachment

Proposed revisions to Town Sign Ordinance

§93.01. POLICY REGARDING SIGNS.

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

§93.02 DEFINITIONS

The following definitions shall apply in this section

(A) Real Estate signs – signs advertising the sale or lease of residential or commercial real property.

(B) On premises commercial signs – signs located on or attached to buildings in the zoning districts in the Town where commercial businesses are allowed.

(C) Political signs – Signs advocating support for a particular candidate for political office or political party.

(D) Ideological signs – signs advocating support for a particular system of ideas and ideals which may form the basis of an economic or political theory and policy.

(E) Construction signs – signs identifying the company constructing a house or building on property in the town.

(F) Security Company signs – signs indicating that a security system has been installed on a property.

§ 93.03 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 type, size and intended location are first obtained from the Board of Commissioners. Any sign erected in violation of this section shall be promptly removed by the Town.

(2013 Code, § 15-2)

§ 93.04 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, 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;

(8) If a sign is for commercial use in the R-4 or R-5 Residential Zoning District and does not comply with the limitations herein, application must be made to the Board of Commissioners for approval; and

(9) The owner of a residential lot and the real estate agent placing a real estate sign on the residential lot shall each be responsible for any violation of division (A) above.

(B) Construction Signs.

(1) On any residential lot on which construction has begun by a general contractor, neither the general contractor 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; and

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

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

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

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

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

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

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

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

(D) Security Company Signs.

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

(2) The signs shall not exceed one (1) square foot in size, not contain electrical components and not be lighted in any way;

(3) The signs shall be set back at least ten (10) feet from the nearest edge of the pavement on the public road or street; and

(4) No portion of the signs shall extend more than two (2) feet above the ground.

(E) 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.

(F) The owner of the business establishment erecting a sign shall be responsible for violation of division (D) above.

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

(H) This chapter was duly adopted by the Town Board of Commissioners on 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. This section as amended on _____, 202 , shall become effective on _____, 2020.

(2013 Code, § 15-2) (Ord. passed 9-15-1987; Ord. passed 12-8-1990; Ord. passed 9- -2002; Ord. passed 11/___/2020.

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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 Potential Amendments to Town Code (Tree Protection Ordinance)

Date: December 3, 2020

Background

The Board of Commissioners amended the Town's Tree Protection Ordinance in September 2019. A portion of the changes included specific replanting guidelines for *unprotected trees* as well as protected trees. These guidelines were applied to all locations within the Town regardless of lot size or use.

Additional Information

Commissioner Kelly has provided thoughts regarding additional amendments to the Tree Protection Ordinance that would require replanting for removed trees to occur within six (6) months instead of eighteen (18) months as currently allowed. Other potential amendments require tree removal applicants to submit a drawing or sketch showing the tree sought to be removed as well as the location of the replacement tree(s), with the Town official indicating approval of the location by stamping or signing the sketch. Replacement trees would also be required to be replanted – where practical – within fifty (50) feet of the removed tree. All these changes would further the Town's goal of ensuring a continued healthy tree canopy. One option is also to include verbiage indicating the Town's preference for replanting trees that fall due to storms or natural reasons in the opening "purpose" section of the ordinance. The Board may also wish to consider requiring replanting of fallen trees on lots that are over a certain size where, presumably, there is more space available for replanting.

The Town Attorney and I are happy to provide any additional information that may be helpful as you review this ordinance.

Attachment

Existing Tree Protection Ordinance

ORDINANCE 2019-02
AN ORDINANCE TO AMEND CHAPTER 93 OF THE TOWN CODE
OF THE TOWN OF BILTMORE FOREST

WHEREAS, the Town of Biltmore Forest first created a Tree Protection Ordinance in 1989 to preserve the forested environment of the Town; and

WHEREAS, the protection and preservation of trees are vital to the natural habitat of animals, enhance the beauty of the Town, and provide shade, cooling, noise and wind reduction, prevent soil erosion, produce oxygen, filter dust, and absorb carbon dioxide.

NOW, THEREFORE BE IT ORDAINED, by the Board of Commissioners for the Town of Biltmore Forest that the following language known as the “Tree Protection Ordinance” replace the existing Town Code, Chapter 93 Section 93.30-93.41 in their entirety, as of the effective date of this ordinance.

TREE PROTECTION ORDINANCE

Section 93.30 Purpose

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

Preservation of trees is the intent of this Ordinance. This Ordinance shall apply to all properties within the Town of Biltmore Forest except properties owned, leased or controlled by the Town. Trees provide shade, cooling, noise and wind reduction, prevent soil erosion, produce oxygen, filter dust and absorb carbon dioxide. Trees also provide natural habitat and aesthetic enhancement in the Town. Trees provide buffer and a natural canopy, and are a hallmark of the Town requiring protection. Damage to and removal of trees requires regulation and control.

Section 93.31. Identification

For purposes of this Ordinance, a protected tree ("Protected Tree") is any tree six inches or more in diameter at a height of 4 ½ feet from the ground (DBH-Diameter at Breast Height), that is in sound, healthy condition. A tree that is dead, produces no foliage during normal growing season, or a tree that is diseased or storm damaged to the extent that it is structurally compromised and, thus, poses a safety hazard, or a tree that, for any other reason, poses a safety hazard, is an “Unprotected Tree.”

Section 93.32. Removal of Protected Trees

No person shall remove or in any way damage any Protected Tree on a property without first filing an application for said removal, receiving approval from the Town Manager for the removal, and paying any applicable fee. The Town Manager, in his or her discretion, may allow the removal of up to three Protected Trees on the perimeter of a property or lot within the front, side or rear yard setbacks, as such setbacks are defined in the Town's Zoning Ordinance. Within the remaining central portion of a property or lot, and the portion on which structures or improvements may be located, the Town Manager, in his or her discretion, may allow up to ten Protected Trees to be removed. Any Protected Trees removed shall be replaced as outlined in Section 93.38 below.

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

Section 93.33. Applications for Removal of Protected Trees in Excess of Ten (10)

An application for a permit to remove between eleven (11) and twenty-nine (29) Protected Trees on a property must be presented directly to the Board of Adjustment. A non-refundable fee of \$50.00 shall accompany the application. Such applications will be considered on a case-by-case basis. As a part of its review, the Board of Adjustments may require replacement and replanting of trees as the Board determines necessary, including the specific location of replacement trees.

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

Section 93.34. Removal of Unprotected Trees.

An Unprotected Tree may be removed by the property owner after notifying the Town Manager of the plans to remove said tree(s) and receiving approval to do so from the Town Manager. The Town Manager may also require an applicant to provide documentary evidence, in the form of a survey or other documentation sufficient, in the opinion of the Town Manager, to confirm that the Protected Tree(s) are on the Applicant's property. An Applicant has the right to appeal a decision of the Town Manager to the Board of Adjustment within five (5) days of the Town Manager's decision.

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

Any Unprotected Trees removed shall be replaced as defined in Section 93.38 below.

Section.93.35. Pre-Construction Conference & Supervision

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

The Town Manager shall have developed sites inspected to ensure work is conforming to the approved landscape plan and the applicable sections of this ordinance.

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

Section 93.36. Enforcement

If any unauthorized removal, cutting or damage to trees takes place, the Town Manager may issue a Stop-Work Order that shall remain in effect until all corrections are made to bring the Property in compliance with this Chapter.

Section 93.37. Drip Line Protection

The health of Protected Trees requires the prevention of soil disturbance within the drip line of the trees. Covering this area with pavement or other materials, including excess soil, can

affect the health of the tree. Landscape plans, to the extent feasible, shall protect this area around the tree.

Section 93.38. Replacement of Trees

Any Protected or Unprotected Tree removed shall be replaced in that general area of the property as follows:

Minimum Size of Existing Tree	Replacement of Protected Tree	Replacement of Un-Protected Tree
6-12" DBH	2 trees	1 tree
13-18" DBH	3 trees	1 tree
19-30" DBH	4 trees	2 trees
30" DBH or greater	5 trees	3 trees

Any replacement tree shall be in the ground within eighteen (18) months of removal of the original trees.

The minimum size for replacement is two (2) inches diameter (measured from one foot above ground level) or eight (8) feet in height for evergreens. Additionally, the replanted trees shall meet the plant specifications of the Town Zoning Ordinance Section 153.070.

Depending on extenuating circumstances related to proximity of other trees and/or structures, lesser quantities of replacement trees may be authorized by the Town Manager or by the Board of Adjustment (in the case of an appeal from the Town) or the Town Manager may authorize the replanting or replacement of trees in a location or locations where such replacement trees are more likely to survive.

Section 93.39. Inspections

All Protected Trees designated to remain, pursuant to a tree survey, and any replacement trees, shall be inspected by the Town Manager or his designee one year following replacement, to ensure the trees are in a healthy condition. The Town Manager can require replacement or replanting of replacement trees if necessary.

Section 93.40. Appeals

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

Section 93.41. Penalties and Enforcement

Upon determining that a violation has occurred, the Town Manager shall record the nature of the violation, and send a Notice of Violation to the responsible person or entity by regular and certified mail or by hand delivery. The responsible person or entity shall have 30 days from the date of the letter to correct the violation. If the violation is not corrected within 30 days, the Town Manager may proceed with criminal charges pursuant to N.C.G.S. 14-4, or may take such other enforcement action as may be necessary to carry out the purposes of this Ordinance.

A violation of this Ordinance is a Class 3 misdemeanor under North Carolina law. The penalty for violating this ordinance shall be \$250 per day. Each day of continued violation shall be a separate offense. The Town shall also have the right to pursue civil remedies for a violation of the Ordinance including injunctive relief, and a civil penalty of \$250.00 for each day's violation of the ordinance pursuant to N.C.G.S. 160A-175.

Section 93.41. Bond

At the option of the Town, a bond or other type of guarantee can be required of the property owner when initiating new construction, to ensure that all permits and agreements are met, to the satisfaction of the Town.

This the 17th day of September, 2019.

George F. Goosmann, III
Mayor

Attest:

Jonathan B. Kanipe
Town Manager

SEAL

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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 2021 Holiday Schedule

Date: December 3, 2020

Background

The proposed holiday schedule for calendar year 2021 is attached for your review. The Board's regular meeting date of the 2nd Tuesday of each month will continue, and any changes to that scheduled will be announced at the preceding meeting.

Action Requested

Consideration of 2021 Holiday Schedule

Attachments

(1) 2021 Town Holiday Schedule



2021 Town of Biltmore Forest Holiday Schedule

Friday, January 1: New Year's Day

Monday, January 18: Dr. Martin Luther King, Jr. Day

Friday, April 2: Good Friday

Monday, May 31: Memorial Day

Monday, July 5: Independence Day (Observance)

Monday, September 6: Labor Day

Thursday, November 25: Thanksgiving Day

Friday, November 26: Day after Thanksgiving

Friday, December 24: Christmas Eve

Monday, December 27: Christmas Day (Observance)

Note: Holidays that fall on or are observed on Mondays will result in trash and recycling collection delay by one day each week. The Town will send out CodeRED notices and post this information to the Town's website regarding these one-day delays.