

## PROPOSED AGENDA

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

To be held Tuesday, January 12, 2021 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 December 8, 2020 meeting will be presented for approval.

#### C. Reports of Officers

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

#### D. New Business

1. Consideration of Resolution 2021-01 – A Resolution in Appreciation of Officer David Sharpton
2. Duke Energy Targeted Underground Project Update – Jason Walls, Duke Energy
3. Review Potential Amendments to Town Code (Sign Ordinance)
4. Review Potential Amendments to Town Code (Tree Protection Ordinance)
5. Coronavirus Relief Fund Report

#### E. Petitions, Motions, and Other Business

#### F. Public Comment

#### G. Adjourn

**Accessing the January 12, 2021 Board of Commissioners Meeting**

Topic: January Board of Commissioners Meeting

Time: January 12, 2021 04:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/85670708715?pwd=RytUM1hpbXFPai9FdVN6WHg2MEUzUT09>

Meeting ID: 856 7070 8715

Passcode: 851213

One tap mobile

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Dial by your location

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*The Town Board of Commissioners will receive public comments submitted in writing to [townhall@biltmoreforest.org](mailto:townhall@biltmoreforest.org). In order to be provided to the Board, please send comments no later than noon on Monday, January 11, 2021.*

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF  
BILTMORE FOREST HELD DECEMBER 08, 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.

A Resolution of Appreciation was presented for Mr. Keith Bowman for his retirement.

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF BUNCOMBE )

TOWN OF BILTMORE FOREST  
BOARD OF COMMISSIONERS

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**RESOLUTION 2020-08**

**RESOLUTION OF APPRECIATION**

**WHEREAS**, Mr. Keith Bowman has faithfully completed thirty years of employment with the Town, serving admirably as a member of the Town’s Public Works Department; and

**WHEREAS**, the Mayor and Town Board of Commissioners recognize the valuable service that Mr. Bowman has provided to the Town; and

**WHEREAS**, the Mayor and Town Board of Commissioners take this opportunity to express their thanks and gratitude to Mr. Bowman for outstanding dedication to the Town; and

**THEREFORE**, the Mayor and Town Board of Commissioners express their appreciation for the outstanding manner in which Mr. Bowman performed his duties, for his dedication in the day-to-day operation of the Town, and for his abilities to improve the lives of Biltmore Forest citizens.

This the 8<sup>th</sup> day of December, 2020.

Mayor Goosmann asked for a motion to approve the November 17, 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.

Mayor George Goosmann was sworn in following the election of November 3, 2020. Commissioner Fran G. Cogburn, Commissioner E. Glenn Kelly, and Commissioner Doris P. Loomis were also sworn in. Commissioner Kelly nominated Commissioner Doris P. Loomis for Mayor Pro-Tem. Commissioner Cogburn seconded. Commissioner Doris P. Loomis was sworn in as Mayor Pro-Tem.

Chief Ryan Cole gave the monthly report for the Skyland Fire Department. October and November were fairly average months. There were increased calls regarding heating and fireplaces. Last year there were quite a few calls regarding chimney fires but so far there have not been any calls. On Christmas Eve, the Fire Department and Santa Claus will be driving through Town.

Commissioner Kelly asked who responds to calls on the Biltmore Estate. Chief Cole said Asheville Fire Department responds.

Chief Chris Beddingfield gave the monthly report for the Police Department. There were 720 calls for the month of October and 680 calls for the month of November. Chief Beddingfield received several inquiries about the “glow” function lights on the police cars. It is a steady dimmer blue light which is a nationwide trend for high visibility. The citizens see us better and from a criminal standpoint, they see police better and tend to stay away. Chief Beddingfield will add this information to the Town newsletter. Commissioner Kelly asked if these lights are automatic. Chief Beddingfield said this is controlled from inside the vehicle and can be turned on and off at any time. Chief Beddingfield suggested Officers turn off the glow lights by 9:30pm.

Mr. Harry Buckner gave the monthly report for Public Works. Regarding leaf and brush collection, last month, we have picked up three times as much debris when comparing it month to

month. Two new hires will join the team at the start of the New Year. Mr. Mike Dale, the new public works supervisor, will start on January 4<sup>th</sup>. His current local employment is with a utility contractor. He was also a project manager for a construction company and is a landscape architect. Mr. Buckner said he felt very fortunate to have Mr. Dale on board with us. Mr. Buckner also said Daniel Rice will also be joining the public works team January 4<sup>th</sup>. Mr. Rice came from the City of Asheville in their sanitation department as a supervisor and will bring great experience to us. Mr. Buckner is very pleased and is looking forward to the changes within the department.

Commissioner Kelly mentioned several potholes on Stuyvesant and Vanderbilt Roads, and at the Parkway access. Mr. Buckner said he will have this repaired. Mayor Goosmann thanked Mr. Buckner for the monthly update.

Mr. Kanipe discussed the Sign Ordinance and discussed Ms. Joyce Young's suggestion on changing the political signage from 20' feet to 30' from the road. It is currently 20' and Ms. Young thought 30' might be too far away for some lots and not practical. Also, Section 93.01 was not omitted.

Mr. Clarke also mentioned Ms. Young suggested putting up a sign from the contractor when a house is being constructed or renovated.

Commissioner Loomis asked about the status of invisible fences. Commissioner Cogburn asked if the signage distance could be consistent for construction, real estate, and political with a distance of 20'. Security signage is 10'.

Mr. Kanipe received more feedback from Ms. Young and she suggested having a timeline for removal of real estate signs after a property sells. Mr. Kanipe suggested real estate signs could be removed three days after the real estate transaction closes. The Board thanked Ms. Young for her input.

The Tree Protection Ordinance was discussed. Commissioner Kelly discussed tree replanting for the number of acres should be raised from two acres to possibly three or four acres.

Mr. Kelly also suggested having a timeline on when replanting should occur for the larger acreage properties. Mayor Goosmann asked Mr. Kanipe to come up with a list of properties in Town that have four or more acres for next month's meeting.

Commissioner Kelly provided additional thoughts regarding 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.

Mr. Clarke asked if the Ordinance should still say "preservation of the trees." Commissioner Kelly suggested adding the word "safety" to the Ordinance. Mayor Goosmann agreed the timeline for replanting should be six months and not eighteen months.

The 2021 Holiday Schedule was discussed. There were no questions or concerns. A motion was made by Commissioner Cogburn. The motion was seconded by Commissioner Kelly and unanimously approved.

The Town Manager provided his monthly report. Federal funding for the Coronavirus relief fund expires December 31, 2020. The Town should be reimbursed by the middle of January. The approximate reimbursement amount will total close to \$52,000.

Governor Cooper issued a stay-at-home order from 10pm-5am. This order will go until January 8<sup>th</sup>.

Hyatt Pipeline has begun staging pipe and materials on site and construction should begin in earnest on the Cedar Hill storm water project the week of December 7<sup>th</sup>. 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.

On Friday, from 5:30pm-7pm, the Christmas tree lights drive by event will occur. Santa Claus will be in attendance and will be socially distancing. A CodeRed message was sent out

regarding this. Mayor Goosmann emphasized people should not get out of their cars when driving through to look at lights.

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.

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. The Board would like to see what an estimated price would cost to replace this.

Mr. Kanipe said Duke is replacing a large conduit power line on Hemlock Road.

Commissioner Kelly asked about the status of employees getting the Coronavirus vaccine. Mr. Kanipe and Chief Beddingfield are waiting for responses from the county health department. Mayor Goosmann would like to see public works employees receive the vaccine as well.

Mayor Goosmann adjourned the meeting at 5:43 p.m. The next meeting is scheduled for Tuesday, January 12, 2021.

ATTEST:

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Ms. Laura Jacobs  
Town Clerk

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George F. Goosmann, III  
Mayor



**BILTMORE FOREST POLICE DEPARTMENT**  
**Department Head Report**

January 12th, 2021 Board of Commissioners Meeting

*Chris Beddingfield, Police Chief*

**Police Dept. Monthly Report 12/01/20-12/31/20**

**Calls for Service:660**

**Officers responded to the following calls for service:**

Accident - 4	Accident - PI - 0
Alarm - 17	Animal Carcass - 1
Assist EOC – 3	Assist Motorist - 6
Assist Other Agency - 9	Assist Resident - 16
Bear Report - 0	Business Check - 198
Crime Prev. – 1	Chase- 0
Direct Traffic – 2	Distressed Animal - 0
Disturbance - 6	Dog Complaint - 10
Domestic disturbance-0	Fire – 1
Fight- 0	Gun fire/Shots fired - 1
Hit and Run – 1	House Check - 100
Improper Parking- 1	Incomplete 911- 0
Investigation – 4	Intoxicated Driver- 0
Mental Patient - 2	Missing Person - 0
Noise Disturbance – 1	Ordinance Violation - 1
Person Down – 0	Power Outage - 0
Radar Operation – 18	Road Blocked - 6
Service of Car - 1	Sign Ord Violation - 1

Special Assignment – 2	Special Check - 10
Speed/Reckless Driving- 0	Suspicious Person - 15
Suspicious Vehicle – 13	Vandalism - 0
Vehicle Stop – 36	Well-being Check – 5

**Total Number of Calls: 660**

**Arrests:**

0-Felony Arrests

1-Misdemeanor Arrest-1- Court Violations, from a suspicious persons call

**Time Consumption Summary:**

Approximations

Business Checks- 7.5 hours

House Checks- 3 hours

Radar Operation- 16 hours

Vehicle Crash Investigation- 2.5 hours

**Notable Calls and Projects:**

Worked several protests at MAHEC-All were lawful except initial one which was on private property

Weather event-Assisted with road condition monitoring as well as assisting and supporting public works

Recovered stolen vehicle operated by juveniles

**2020 Yearly Data:**

Calls for service-8,277 (7,359-2109)

Arrests-86 Felony (27-2019) 71 Misdemeanor (55-2019)

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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", positioned to the right of the "From:" line.

Re: Public Works Department December 2020 Monthly Report

Date: January 8, 2021

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### **Recurring Activities:**

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

- Collected 38.61 tons of garbage.
- Diverted 21.43 tons of recycled goods from garbage.
- Picked up 32 loads of leaves and brush (approximately 960 cubic yards) with the knuckle boom truck, and vacuumed another 8 loads of leaves only (approximately 240 cubic yards) with the vacuum trailer and leaf box, over 13 days.
- Responded to 23 utility locate requests.
- Visited 4 residences for Tree Inspections, approving the removal of 12 trees.
- Completed daily chlorine residual tests across town and passed the required two bacteriological tests. I have transitioned to using the State's on-line reporting system to reduce paperwork and increase efficiency.
- Used the Beacon/Badger Meter automated meter reading system to monitor for water leaks daily and informed residents of suspected leaks.
- We continue to perform litter pick-ups as needed, focusing on the entrances.
- Leaf collection is wrapping up, but will continue every day until at least January 15. At that point, we hope to return to the once per month schedule.

### **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 December**

- We began on-boarding our new Public Works Supervisor, Mr. Mike Dale, as well as a new Public Services Worker, Mr. Daniel Rice. Daniel comes to us from the City of Asheville's sanitation department and most recently served as one of three supervisors over the brush collection unit. He has 6 years of experience working his way up at the City. We were very excited to have him join our team, and his first day of work is also January 4<sup>th</sup>, 2021.
- Staff completed the installation of the Christmas decorations around the Town Hall complex.
- The snow removal equipment received a good work-out on Christmas Eve and Christmas Day, as we had our first snow event of the season. There was approximately 2-4 inches of accumulation beginning Christmas Eve and ending Christmas morning, followed by severe low temperatures. There was also a downed tree during the event. This event just happened to occur at our lowest staffing point (only four employees plus me), but the whole team worked together to keep things well in hand. We basically worked two 8+hour shifts with two employees in each shift and it worked out very well. Cody, Jeff, Lu and Eric all deserve a great deal of credit for working over the holidays to keep things open.
- While technically not completed in December, but from January 4<sup>th</sup> through 6<sup>th</sup>, the Public Works staff oversaw the replacement of a failed storm drain under Southwood Road near Stuyvesant Road. We were alerted to the existence of a sinkhole on either end of the pipe, and upon deeper investigation, the pipeline had completely failed with a rusted out invert and substantial loss of fill material around the pipe. We immediately blocked the shoulders, and chose to hire Hyatt Pipeline to perform an emergency replacement. Work was completed on the afternoon of Wednesday the 6<sup>th</sup>.
- We completed manually reading the few (~30-40) non-automated water meters in December, troubleshooting non-reporting water meters as we went.
- There were several scheduled holiday leave days in December. With the department's retirements, we were also simultaneously at our lowest staffing levels. We shifted priorities to make sure basic services (garbage, recycling, water) maintained a high service level and let all excess hours be focused on leaf collection.
- 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 ready for implementation. With our new supervisor starting in January, Manager Kanipe and I will

be discussing some improvements in technology to correlate with the work order system roll-out. DSI is continuing to provide excellent support.

- We are continuing to troubleshoot non-reporting automatic water meters as time allows.
- New toddler swings are here, and partially installed. Replacement chains are on order, and will be installed in early January.
- It appears that our utilization of the new Statewide Purchasing Contract vendor (McCarthy Tire in Fletcher) should save approximately 5%-10% per transaction for tires in the PW department. They offer broader services as well and can support our commercial vehicle fleet more robustly than the previous vendor. I am continuing to look for opportunities to leverage our status as a local government to maximize savings in the department.

### **Larger/Capital Projects Updates**

#### **Area 4 Stormwater Project – Sinkhole at Cedar Hill Drive.**

This project was completed before Christmas as planned. 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

We are reviewing the overall park master plan documents to determine if there are opportunities to improve the overall park while the stream restoration project is ongoing. As mentioned above, we are also planning maintenance activities for the park.

#### **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 January**

- January is anticipated to be back to near-full staffing levels, and we will be making a strong effort to catch-up on leaf collection and prepare for a normal brush schedule.
- I will be training our two new employees and help them integrate into the department. This will likely take two to three months, and will take a substantial allocation of my time in order to complete correctly.
- Work with Manager Kanipe to finalize and distribute the 2021 garbage, recycling, and brush collection calendar.

- Complete the Pavement Condition Rating study and street asset inventory.
- Continue implementation of the new work order and asset management system.
- Complete preventive maintenance activities for the roof at the Police Department.
- Two employees are scheduled to take their final CDL licensing process on January 14<sup>th</sup> 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 complete the installation of the remaining toddler 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. Happy New Year.



# Monthly Financial Report NOVEMBER 2020

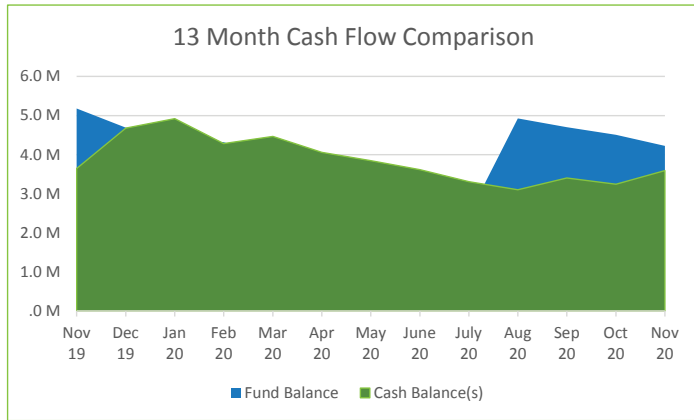
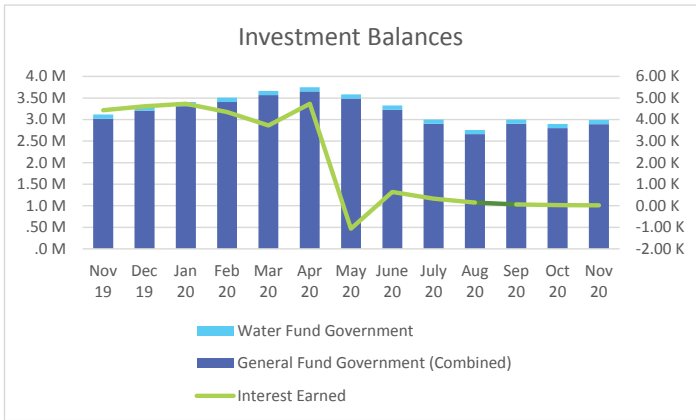
CASH ACCOUNTS	
First Citizens Money Market Checking	599,792.11
NCCMT General Fund Term	-
NCCMT General Fund Government	2,893,480.29
NCCMT Water Fund Government	97,528.20
<b>TOTAL</b>	<b>3,590,800.60</b>

NORTH CAROLINA CASH MANAGEMENT TRUST	
<b>GENERAL FUND Government</b>	
Beginning Balance	381,393.52
Local Gov't Distribution (NCDOR)	94,093.57
Transfer from General Fund Term	2,417,972.45
Interest Earned	20.75
<b>Ending Balance</b>	<b>2,893,480.29</b>
<b>GENERAL FUND Term</b>	
Beginning Balance	2,417,972.45
Transfer to General Fund Governmental	(2,417,972.45)
<b>Ending Balance</b>	<b>-</b>
<b>WATER FUND Government</b>	
Beginning Balance	97,527.40
Interest Earned	0.80
<b>Ending Balance</b>	<b>97,528.20</b>

FIRST CITIZENS CHECKING (Monthly Transaction Report)	
<b>Beginning Balance</b>	<b>359,972.14</b>
Cleared Checks	(228,253.09)
Cleared Deposits	728,568.23
Cleared Credits	11,778.43
Cleared Debits	(112,129.73)
Cleared E-payments	(124,587.38)
<b>Change in Account Balance</b>	<b>275,376.46</b>
<b>Prelim balance</b>	<b>635,348.60</b>
<b>Outstanding Items</b>	<b>(35,556.49)</b>
<b>Ending Balance (F/L Balance)</b>	<b>599,792.11</b>

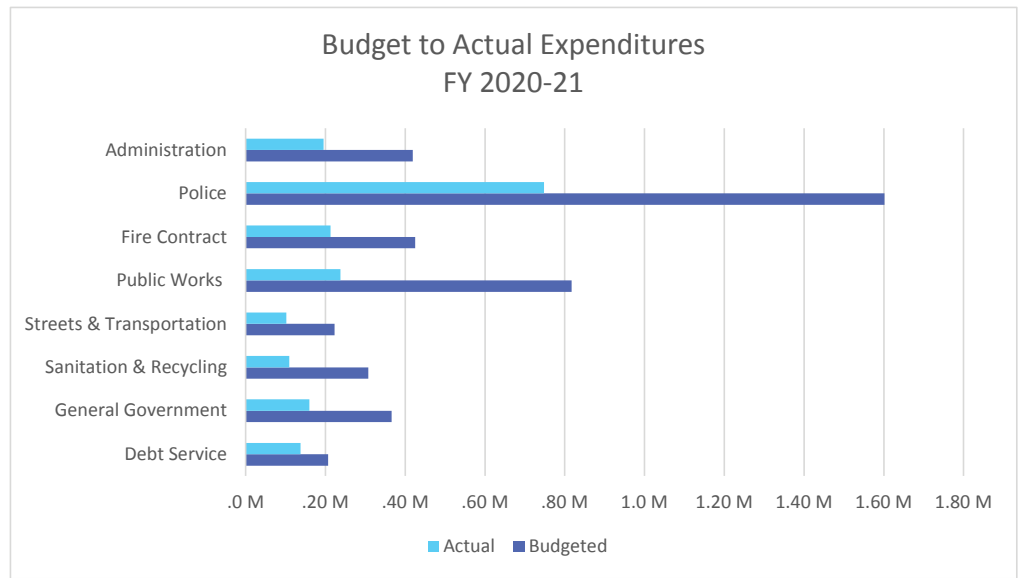
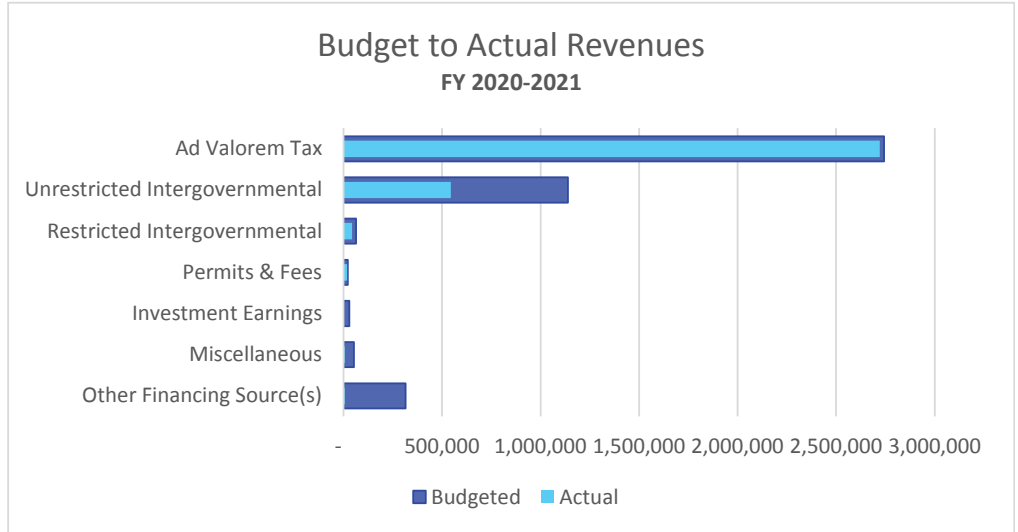
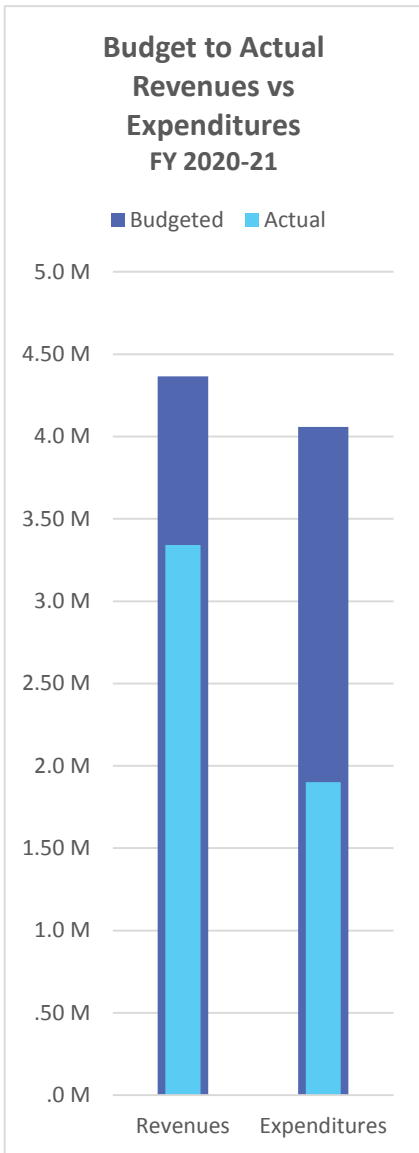
2020 PROPERTY TAXES	
Real Property	762,223,010
Personal Property (Including BUS & IND)	6,858,227
Personal Property (Public Service Companies)	4,945,147
<b>Total Assessed</b>	<b>774,026,384</b>
<b>Total Levy</b>	<b>2,670,391</b>
Budgeted Levy	2,638,767

Tax Collection To Date	Percent Collected	Budgeted Levy	Amount Collected*
Ad Valorem (2020)	47.44%	2,638,767	1,251,717
	46.87%	2,670,391	
DMV Ad Valorem	43.47%	101,460	44,103





# Monthly Financial Report NOVEMBER 2020





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Fran G. Cogburn, Commissioner  
E. Glenn Kelly, Commissioner

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Mayor & Board of Commissioners  
From: Jonathan Kanipe, Town Manager  
Re: Agenda Item Number C-4 – Town Manager’s Report  
Date: January 6, 2021

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### Covid-19 Vaccination Protocol for Phase 1B – Residents 75 years and older

Buncombe County residents ages 75 and older can now register (as of January 7) for COVID-19 vaccinations online. The online registration offers opportunities to register for appointments through Jan. 29, 2021. While it is uncertain the total number or type of vaccines Buncombe County Health and Human Services will receive from the state each week, a minimum of 500 appointments per week will be scheduled, with additional appointments added when state allotments of vaccines are confirmed. Appointments for Buncombe County residents 75 and older can also be made by calling 828-250-5000 between the hours of 8 a.m. and 5 p.m. To help residents stay safe at home and prevent the spread of COVID-19, there is no in-person appointment scheduling.

The Town is assisting with Buncombe County’s roll out of the vaccine for residents in Phase 1B by placing this information on the Town’s website and educating all front line staff on this topic. My goal is for the Town to assist the County’s efforts and easing the process for our residents at the same time. We will continue monitoring this aspect of the vaccination rollout in the hopes that we can provide meaningful and worthwhile information to all.

### Covid-19 Vaccination Protocol for Town Employees

As we are all aware, the supply for Covid-19 vaccines is not yet available to the extent anyone can receive a vaccine that wants it. The State Department of Health and Human Services has set distribution protocols for distribution. From the best we can tell, police officers will be available to obtain the vaccine in Phase 2. At this point, we are uncertain about other municipal employees including sanitation workers and other forward facing, essential staff. I participated in a call with other municipal managers in Buncombe County this week and we are advocating for more information from the State and County about when other, vitally important employees may obtain a vaccine. While we understand the scarcity of the vaccine, we do want to be able to offer this to our employees as quickly as possible for their safety and to ensure that municipal services are not interrupted.

### Cedar Hill Storm Water Project

The Cedar Hill Road storm water project is the first to be completed in the Town's storm water master plan. This project took just under two weeks to complete and will come in under the budgeted amount of \$150,000 approved by the Board. The contractor did a terrific job in working within the confines of the site and Town staff was very pleased with the overall project. The project included a road cut and pipe replacement under Cedar Hill Road. The road was repaved in this one spot, but the Town intends to repave a larger section for a more uniform job in early spring.

### Stuyvesant Road/Southwood Road Storm Water Project

Town staff was alerted to a sink hole several feet off the edge of Southwood Road last week. Upon review, staff determined this sink hole occurred due to a failed storm water pipe running under Southwood Road near the intersection of Stuyvesant Road. Due to the urgency in this situation and to prevent the sink hole from growing larger and closer to Southwood Road, I authorized Hyatt Pipeline to perform an emergency storm water pipe replacement and repair this area. Emergency locate requests were called in for all utilities, and these were completed last weekend. Hyatt Pipeline crews were on site first thing Monday and began the process of making the necessary repairs. These repairs required that Southwood Road be shut down for two (2) days, but this closure allowed work to proceed in a much quicker fashion and without interference from vehicles or pedestrians. Work was completed, including asphalt being laid to repair the roadway, by Wednesday, January 6.

### FY21 Audit Information

Carter P.C. is finalizing the financial statements and will meet the deadline to submit the Town's audit to the Local Government Commission by January 31. Carter P.C. intends to present their audit findings to the Board, likely via Zoom, at the Board's next meeting in February.

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

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Mayor & Board of Commissioners  
From: Jonathan Kanipe, Town Manager  
Re: Agenda Item D-1 – Consideration of Resolution 2021-01  
Resolution of Appreciation for Police Officer David Sharpton  
Date: January 6, 2021

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Officer David Sharpton has served the Town of Biltmore Forest as a reserve/part-time officer for the better part of 24 years. The majority of those years, Officer Sharpton served the Town in a volunteer capacity and filled in when other full-time or part-time employees were able to be located to cover a shift. The Town is appreciative of Officer Sharpton's devotion to the Town of Biltmore Forest and his efforts to ensure the Town and its residents were protected over the past quarter-century.

STATE OF NORTH CAROLINA )  
  )  
COUNTY OF BUNCOMBE      )

TOWN OF BILTMORE FOREST  
BOARD OF COMMISSIONERS

\*\*\*\*\*

**RESOLUTION 2021-01**

**RESOLUTION OF APPRECIATION**

**WHEREAS**, Officer David Sharpton has faithfully completed 24 years and 4 months of employment with the Town, serving admirably as an Officer of the Town’s Police Department; and

**WHEREAS**, the Mayor and Town Board of Commissioners recognize the valuable service that Officer Sharpton has provided to the Town; and

**WHEREAS**, the Mayor and Town Board of Commissioners take this opportunity to express their thanks and gratitude to Officer Sharpton for outstanding dedication to the Town; and

**THEREFORE**, the Mayor and Town Board of Commissioners express their appreciation for the outstanding manner in which Officer Sharpton performed his duties, for his dedication in the day-to-day operation of the Town, and for his abilities to improve the lives of Biltmore Forest citizens.

This the 12th day of January, 2021.

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**George F. Goosmann, III**  
Mayor

ATTEST:

---

**Laura M. Jacobs**  
Town Clerk

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Fran G. Cogburn, Commissioner  
E. Glenn Kelly, Commissioner

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Mayor & Board of Commissioners  
From: Jonathan Kanipe, Town Manager  
Re: Agenda Item Number D-2 – Duke Energy Targeted Underground Program Update  
Jason Walls, Duke Energy  
Date: January 6, 2021

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### Background

For over a year, the Town has worked with Duke Energy on the first stages of a targeted underground project that will modernize and strengthen the electricity grid within Biltmore Forest. Duke Energy has approached this project with a desire to bury all electrical lines within the Town by 2025. The project will commence on the southern end of Town (bounded by the Blue Ridge Parkway) and move north until the entirety of Town has lines buried.

### Project Update

Easements have been obtained from residents within the first project area, which includes Frith Drive, Holly Hill Road, and portions of Stuyvesant Road south of Greenwood Road. Duke Energy has moved the start date for the project up slightly and intends to begin construction on this project the week of January 25<sup>th</sup>.

The installation of the underground cable is anticipated to take 14 weeks. Duke Energy's contractor will install the conduit and their restoration crew will follow behind each time to repair and restore the areas where the lines are buried and leading to each home. Once the entire line is energized and all power restored and flowing through the new conduit to the home, Duke will then cut the service lines from the back lot and cut the top of the pole where there lines are presently located. Town staff and Duke Energy staff are working cooperatively to ensure the project goes as smoothly as possible. We understand it will not be without hiccups, but our goal is to do everything we can to ensure our residents are satisfied and the project occurs smoothly.

### Special Guest

Jason Walls, Duke Energy's District Manager for Local Government and Community Relations, will be attending Tuesday's Commissioner meeting via Zoom to provide additional information and answer any questions the Board may have concerning this project.

355 Vanderbilt Rd | Biltmore Forest, NC  
Po Box 5352 | Biltmore Forest, NC 28803  
P (828) 274-0824 | F (828) 274-8131  
www.biltmoreforest.org



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

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Mayor & Board of Commissioners  
From: Jonathan Kanipe, Town Manager  
Re: Agenda Item D-3 – Consideration of Amendments to Town Code (Sign Ordinance)  
Date: January 6, 2021

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### Background

The Board has reviewed potential amendments to the Town's sign ordinance during the past several meetings. The attached revision reflects the Board's discussion and direction in the December 2020 meeting.

### Changes within this Version

This specific revision retains the original ordinance's requirement that political signs be placed no closer than twenty (20) feet from the road. Under this amendment, real estate and contractor signs would also be allowed to be placed a minimum twenty (20) feet from the road. Uniformity with these provisions should aid compliance for all signs. The version presented last month added language regarding invisible fencing, and this version includes additional language limiting the time invisible fencing flags may be displayed after installation to (forty-five) 45 days.

Additional changes discussed last month were incorporated in this draft. Those changes relate to including the special elections as a category of elections, clarifying that real estate signs may remain on a property until such time that the closing occurs, and that contractors who are conducting a renovation to a residence are allowed to post signs on the property.

### Attachments

- Redline Copy of Existing Ordinance with Changes
- Clean Ordinance Copy with Proposed Changes

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### Attachments

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## **§93.042. 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. [\[ this is a new section \]](#)

### **§ 93.033 –SIGNS AND POSTERS GENERALLY.**

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

## **§93.02 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 renovating 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.](#)

[\(G\) Signs advertising the location of underground \(invisible\) fencing 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 ~~3~~20 feet from the nearest edge of the pavement of the public road on which the house fronts or faces and in no event shall the sign be located within any public road right-of-way;

(6) No portion of the sign shall extend more than four feet above the ground;

(7) The sign shall be removed no later than three days after the closing of the sale of the property; ~~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 this section ~~division (A) above.~~

**(B) Construction Signs.**

(1) On any residential lot on which construction or renovation 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 or renovation has begun which sign shall not exceed six square feet in size and shall be limited in wording to the street number or address of the property and the name, address, and telephone number of the general contractor. The general contractor's sign shall also be subject to divisions (A) (1), (A) (4), (A) (5), and (A) (6) above. The general contractor's sign shall be removed from the property not later than three days from the completion of construction by the general contractor or occupancy by the owner of the property being constructed, whichever comes first; and

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

(3) The owner of the residential lot and the general contractor shall be responsible for any violation of this section ~~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 ~~twenty~~ thirty feet from the nearest edge of the paved road on which the house fronts or faces and shall not encroach on the public right of way;

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

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

(5) Up to four (4) political signs may be placed on private property beginning thirty days

before the beginning of early voting for a primary or general election. Political signs should be removed within five days after the primary, ~~or~~ general, or special 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 \_\_\_\_\_ feet above the ground.~~

**(E) Invisible Fencing Signs**

(1) On any property with an underground "invisible fence," up to two signs noting the presence of the invisible fence and the name of the company providing the fence may be posted on the property;

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

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

**(F) 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 (**F**), 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.

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

(GH) 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.

## **§93.02. 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. **[ this is a new section ]**

## **§ 93.03 SIGNS AND POSTERS GENERALLY.**

Except as set forth herein, no sign of any kind, including posters, advertisements, billboards, announcements and like, shall be erected by any person in any district zoned R-1, R-2,R-3,R-4 or R-5 unless the sign, type, size and intended location comply with this ordinance or unless prior approval of the sign type, size, and intended location are first obtained from the Town Manager or Board of Commissioners. Any sign erected in violation of this section shall be promptly removed.  
(2013 Code, § 15-2)

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(E)Construction signs – signs identifying the company constructing renovating 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.

(G)Signs advertising the location of underground (invisible) fencing on a property.

## **§ 93.04 SIGNS AND POSTERS; REQUIREMENTS.**

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(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 20 feet from the nearest edge of the pavement of the public road on which the house fronts or faces and in no event shall the sign be located within any public road right-of-way;

(6) No portion of the sign shall extend more than four feet above the ground;

(7) The sign shall be removed no later than three days after the closing of the sale of the property;

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

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

**(B) Construction Signs.**

(1) On any residential lot on which construction or renovation has begun, neither the general contractor nor the owner of the residential lot shall post or permit to be posted more than one sign in addition to any sign required by law to be posted (i.e., building permits and the like);

(2) The general contractor may place one sign on the residential lot on which construction or renovation has begun which sign shall not exceed six square feet in size and shall be limited in wording to the street number or address of the property and the name, address, and telephone number of the general contractor. The general contractor's sign shall also be subject to divisions (A) (1), (A) (4), (A) (5), and (A) (6) above. The general contractor's sign shall be removed from the property not later than three days from the completion of construction by the general contractor or occupancy by the owner of the property being constructed, whichever comes first; and

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

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

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

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**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).

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**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.

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

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

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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.

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

(H) 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.

(I) 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.



Biltmore Forest, NC Code of Ordinances

**§93.02. POLICY REGARDING SIGNS.**

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**§ 93.03 SIGNS AND POSTERS GENERALLY.**

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

(2013 Code, § 15-2)

**§93.04 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 renovating 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.
- (G) Invisible fencing company signs - signs denoting that underground (invisible) fencing is installed on a property.
- (H) Temporary utility location flags – Flags placed by public utility companies denoting the location of utility infrastructure on or near a property. For the purpose of this ordinance, temporary utility location flags are not regulated.

**§ 93.05 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 20 feet from the nearest edge of the pavement of the public road on which the house fronts or faces and in no event shall the sign be located within any public road right-of-way;
- (6) No portion of the sign shall extend more than four feet above the ground;
- (7) The sign shall be removed no later than three days after the closing of the sale of the property;
- (8) If a sign is for commercial use in the R-4 or R-5 Residential Zoning District and does not comply with the limitations herein, application must be made to the Board of Commissioners for approval; and
- (9) The owner of a residential lot and the real estate agent placing a real estate sign on the residential lot shall each be responsible for any violation of this section.

**(B) Construction Signs.**

- (1) On any residential lot on which construction or renovation has begun, neither the general contractor nor the owner of the residential lot shall post or permit to be posted more than one sign in addition to any sign required by law to be posted (i.e., building permits and the like);
- (2) The general contractor may place one sign on the residential lot on which construction or renovation has begun which sign shall not exceed six square feet in size and shall be limited in wording to the street number or address of the property and the name, address, and telephone number of the general contractor. The general contractor's sign shall also be subject to divisions (A) (1), (A) (4), (A) (5), and (A) (6) above. The general contractor's sign shall be removed from the property not later than three days from the completion of construction by the general contractor or occupancy by the owner of the property being constructed, whichever comes first; and
- (3) The sign shall be set back at least 20 feet from the nearest edge of pavement of the public road on which the house fronts or faces. The sign shall not be posted in the public right of way.
- (4) The owner of the residential lot and the general contractor shall be responsible for any violation of this section.

**(C) 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 twenty feet from the nearest edge of the paved road on which the house fronts or faces and shall not encroach on the public right of way;
- (3) No portion of the sign is to extend more than four feet above the ground;
- (4) A sign located on private property requires the owner's approval;
- (5) Up to four (4) political signs may be placed on private property beginning thirty days before the beginning of early voting for a primary, general, or special election. Political signs should be removed within five days after the primary, general, or special election; and
- (6) Political and ideological signs are not allowed on Town property.

**(D) Security Company Signs.**

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

(E) Invisible Fencing Signs

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

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

**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. Attached. 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.

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

(G) Any sign removed by the Town for violation of Divisions (A),(B), and (C), 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 October 1, 1987. This section as amended on December 18, 1990, shall become effective on 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 \_\_\_\_\_, 2021. (2013 Code, § 15-2) (Ord. passed 9-15-1987; Ord. passed 12-8-1990; Ord. passed 7-9-2002; Ord. passed 01/\_\_\_/2021.

355 Vanderbilt Rd | Biltmore Forest, NC  
Po Box 5352 | Biltmore Forest, NC 28803  
P (828) 274-0824 | F (828) 274-8131  
www.biltmoreforest.org



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

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Mayor & Board of Commissioners  
From: Jonathan Kanipe, Town Manager  
Re: Agenda Item Number D-4 – Review of Draft Amendments to Town Code (Tree Protection Ordinance)  
Date: January 6, 2021

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### Background

Last month, the Board offered suggestions at potential changes to the Town's Tree Protection Ordinance. Town staff reviewed the discussion from last month's meeting and have provided the Board with the attached potential amendments for review.

### Changes within this Version

The enclosed draft specifies trees replanted must be located within fifty (50) feet of the original location and need to be replanted within six (6) months, instead of eighteen (18) months that is in the current ordinance. An additional change within this draft requires the replanting of any tree that is removed or falls, even by act of God, on parcels within the Town that are equal to or greater than five (5) acres.

This draft also clarifies the role of the Town's Zoning Ordinance, and triggers included within it, as it relates to Board of Adjustment review and approval. This is typically related to land disturbing activities including new homes, subdivisions, or other development. Further clarification is made to affirm that the tree protection ordinance is applicable only to trees that are six (6) inches in diameter at 4 ½ feet height. All trees that do not reach this threshold are not regulated under this ordinance. This is not a change, but rather, an affirmation of the standard for a tree to be regulated under the ordinance.

### Attachment

- Draft amendments to Tree Protection Ordinance

ORDINANCE 2020-02

AN ORDINANCE TO AMEND SECTION 93 OF THE TOWN CODE  
OF THE TOWN OF BILTMORE FOREST

TREE PROTECTION

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." [This ordinance does not apply to trees that are less than six inches in diameter, regardless of the height of the 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 or Town Arborist 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 more than ten (10) Protected Trees on a property must be presented directly to the Board of Adjustment. A fee of \$50.00 shall accompany the application.

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 or Town Arborist.

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 the 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 frequently 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 which shall remain in effect until all corrections are made to bring the Property in compliance with this Chapter.

Section 93.37. Dip 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~~Tree removed shall be replaced in that general area of the property within fifty feet of the trunk of the former tree 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 ~~sixteen~~ ~~(16)~~ sixteen (18) months of removal of the original trees. The Town Manager, or Board of Adjustment may, for good cause shown, and in their sole discretion, extend this period for up to six (6) months.

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

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

Depending on ~~the 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.

~~(a)~~ In the event any tree dies or falls due to any condition whatsoever, including acts of God, each such tree shall be replaced as provided in 93.38 above. By way of illustration and not limitation, this replacement is required as to each dead or fallen tree caused by one or more of the following conditions: disease, fire, -  
-drought, water, ice, sleet, snow, flood, hurricane, tornado, wind, storm of any type, lightning, earthquake or other earth movement. This paragraph (a) shall apply only to properties within the Town in excess of 25 acres.

### Section 93.39. Inspections

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

### 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~~ be ~~to~~ subject to review by the Board of Commissioners.

#### Section 93.41. Penalties and Enforcement

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.

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.

#### 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.

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E. Glenn Kelly, Commissioner

Jonathan B. Kanipe,  
Town Manager

## MEMORANDUM

To: Mayor & Board of Commissioners  
From: Jonathan Kanipe, Town Manager  
Re: Agenda Item Number D-5 – Coronavirus Relief Fund (CRF) Final Report  
Date: January 6, 2021

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### Background

Since July 2020, the Town has been able to request reimbursement from Buncombe County for expenses related to Covid-19. These expenditure requests were approved over the course of two (2) separate funding cycles to Buncombe County through the State of North Carolina. The funding was authorized through December 31, 2020.

### Last Reimbursement Request

The Town submitted the last request for reimbursement on January 4, 2021 for the month of December. The final request for reimbursement was for \$20,174.98. If approved, the total amount reimbursed to the Town for Covid-19 related expenditures, including personnel expenses, is \$43,032.71. The Town was originally allocated just over \$75,000 and a significant portion of our original estimate included funding for emergency paid sick leave (EPSL) or other Covid-19 related personnel expenses. Fortunately, we have done well with personnel to this point and that was not necessary for reimbursement.

### Final Report to State of North Carolina

As part of our final request, the Town and all other entities receiving funding had to submit an outline of how these funds were utilized. This was not intended to be a detailed report, as those were submitted monthly along with itemized expenditure requests. The attached report lays out succinctly how funds were expended by the Town. Please let me know if you have any additional questions.

### Attachment

- CRF Final Report provided to Buncombe County and State of North Carolina

# Attachment F

## Covid-19 Grant Outcomes and Accomplishments Final Report

To finalize this award, you are required to provide to the Agency with a narrative of the outcomes and accomplishments related to the funds spent for the specific purpose as stated in the grant contract. You can provide images, brochures, and other information to illustrate your outcomes and accomplishments.

<b>1. Organization:</b>	
Organization Name:	Town of Biltmore Forest

<b>2. Outcomes and Accomplishments:</b>
<p>The Town of Biltmore Forest is appreciative to Buncombe County and the State of North Carolina for providing us the means to navigate the Covid-19 crisis during the past seven (7) months. As a small town, our specific needs and demands are significantly less than those of larger jurisdictions – but the impact of losses (both economic and personnel) are likely felt more acutely because of our smaller staff and budget.</p> <p>The funding provided to the Town for reimbursement was utilized directly to the benefit of our Town employees’ safety and the safety and protection of the public who interacts with the staff. The initial thrust of our purchases were on personal protective equipment such as face coverings, disinfecting supplies, and medical equipment for employee health. The greatest expense early on were multiple deep clean/disinfecting of each building and then contracting with a local vendor for weekly cleaning of all buildings. Prior to this, the Town had cleanings performed on an irregular schedule, and even then it was not uniform to each building. These weekly cleanings ensure Town facilities are cleaned and safe for our staff.</p> <p>The Town also used funds for reimbursement of emergency paid sick leave (EPSL). Throughout the past seven months, we had three (3) employees who tested positive for Covid-19, but we had multiple exposures. In addition to the EPSL that covered quarantine and isolation orders, we also utilized reimbursement funds for rapid, antigen testing at a local urgent care. This allowed the Town to determine quickly whether employees with exposures were positive allowed quick and effective notification to other employees of potential exposures. Our initial request assumed that more than three (3) employees would end up testing positive for Covid-19, and that EPSL for isolation orders would be greater than they were. We are, unquestionably, pleased that this was not the case.</p> <p>Several large pieces of health-grade purification and disinfecting equipment were also made. This included three (3) health grade air purifier systems. Each unit was placed centrally within one of the three town buildings and ensured that the air circulation through each building was as clean as possible. This purchase was made in late September and the units put into service in October. The Town’s largest purchase was an Aeroclave Room Decontamination System (RDS) 3110. The equipment was received in mid-November and the bill paid in December. This RDS system is used to disinfect rooms and the hand applicator is being used to disinfect specific equipment, including Town police vehicles, sanitation vehicles, and public works vehicles. The benefits of the RDS system are numerous, but chief among them is the ability to ensure that decontamination occurs within our public safety and public works department if necessary. Another significant purchase were keyless locksets that allow keyless entry to the Town Hall, Police Department, and Public Works buildings. The installation of this equipment will allow manually entry doors to be opened with a key card and electronic means.</p>