

PROPOSED AGENDA

Meeting of the Town of Biltmore Forest Board of Commissioners

To be held Tuesday, September 13, 2022 at 4:30 p.m.

A. Pledge of Allegiance

B. Roll Call

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

C. The minutes of the August 9, 2022 meeting will be presented for approval.

D. Reports of Officers

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

E. New Business

1. Presentation of Information regarding Buncombe County Bond Referendum
2. Amendments to Town Code of Ordinances for Compliance with S.L. 2021-138
(*First Review*)
3. Duke Energy Targeted Underground/Streetlight Coordination Project
4. Consideration of Master Services Agreement with Paymentus
5. Discussion – Remote Meeting Allowance During Non-Emergency Times

F. Public Comment

G. Adjourn

For those interested in viewing the Board meeting remotely, please utilize the following information:

<https://us02web.zoom.us/j/82228455470?pwd=SG9WU0FwUjFSdGZveS95b3pLTUIHdz09>

Meeting ID: 822 2845 5470

Passcode: 966757

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF
BILTMORE FOREST HELD AUGUST 9, 2022

Be it remembered by those that follow these proceedings that the Governing Board of the Town of Biltmore Forest met and conducted the following business:

Roll call taken by the Clerk:

Mayor George F. Goosmann, III, present
Commissioner Doris P. Loomis, present
Commissioner E. Glenn Kelly, not present
Commissioner Fran Cogburn, present via Zoom

Mr. Jonathan Kanipe, the Town Manager, and Mr. William Clarke, the Town Attorney, were also present.

The Pledge of Allegiance was conducted.

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

Commissioner Cogburn made a motion to approve the minutes from July 12, 2022. The motion was seconded by Commissioner Loomis. Roll call was taken and the minutes were unanimously approved.

Chief Trevor Lance from Skyland Fire Department was not present, but the monthly report was issued to the Board.

Chief Chris Beddingfield gave the report for the Police Department. Chief Beddingfield discussed the fire that occurred at 33 Busbee Road. It was a structure fire that was a total loss. There was a total of 613 calls. Chief Beddingfield met with staff at Carolina Day School and conducted security assessments and worked on perimeters to make it a safer more secure facility. Internal candidates interviewed for the Sergeant position to replace John Driver. There were three

community stakeholders that interviewed potential candidates. A manager at the Country Club, the headmaster of Carolina Day School, and a resident interviewed the internal candidates. In addition, we had law enforcement from other agencies interview the internal candidates as well. The feedback was tremendous, and the process will finish on the 11th.

33 Busbee is still under investigation and should take approximately another 4-6 weeks. The fire scene needs to be left as is for investigation purposes.

On August 30th at Town Hall, there will be an event put on by the police department. They will have equipment displays, vehicle decals, dog registrations, and many more exciting things to present to the public. Everyone is welcome to attend.

Chief Beddingfield said the ambassador program has been going well. Officers made a pamphlet showing services of what the Town offers, the police department services offered, and the public works services. Mayor Goosmann thanked Chief Beddingfield for all the police department's hard work.

Mr. Harry Buckner gave the report for the Public Works Department. One of the public works employees resigned last month and is moving back home. Mr. Buckner said he will be sad to see Kasey Lake leave as he was an excellent employee. Ms. Jacobs has posted this position on the Town's website. So far, four candidates have applied, and Mr. Buckner and Mr. Dale will be interviewing soon.

There has been a lot of work done on the garbage truck repairs and they are working well now.

The endpoints have been fully replaced by the public works summer intern. The manual read list has significantly decreased and Ms. Jacobs and Mr. Buckner are working on the billing and reading side. Ms. Jacobs and Mr. Buckner also notified residents of the Eye on Water program where they can check their water consumption. This will also let them know if they have a potential leak.

The new trash cans will be distributed to residents on Thursday of next week.

Mr. Jonathan Kanipe gave the report for the Town. Regarding the stream restoration project, the Town received approval from State Wetlands Division, and we are currently waiting on approval by the Army Corps of Engineers. We have a revised timeline for the project. We will be inviting bids from contractors in early September. We will have a pre-bid conference scheduled in mid-September and receive bids in mid to late October. We want this project done by April 1st.

Mr. Kanipe said Duke Energy's underground project continues throughout Town. For instance, two new switch gears will be placed on the northwestern point of Rosebank Park. These switch gears are necessary to create power supply from either direction creating a loop system for power redundancy in the event of an outage on one side of the line.

Duke Energy's work south of Biltmore Forest Country Club has been ongoing since January with much progress. Their project area titled "Brookside" (encompassing Brookside Road, Westwood Road, and the western portion of Hilltop Road) is complete except for some final restoration pieces. This includes cutting customers over from their backlot services to the new front lot access points and overhead lines being removed. The "Ridgefield" segment (including portions of Stuyvesant and Greenwood Roads) includes cutovers completed with some further restoration necessary. The "Eastwood" segment (including Ridgefield, portions of Hilltop Road west of Stuyvesant Road, and portions of Eastwood Road) is ongoing with drilling work still occurring. Duke has also performed work in and around the Biltmore Forest Country Club and golf course as part of this project.

Mr. Kanipe said Public Works staff met with City of Asheville's director of the sanitation division last week. They reviewed the City's use of bear-proof containers and whether they may be serviceable for the Town's needs as we switch to uniform containers for residents. While we did not have many requests for bear-proof containers, we did want to determine whether there was any ability to use these with our equipment. The review found some manual work necessary to

disengage the locking system but because Town staff must manually push the cans onto the tipper, this may not be a deal breaker. Staff will continue to review and evaluate within the next month and determine whether we can procure a small number of containers. If we can provide these containers on a case-by-case basis, the preferred method would be to ask residents to pay for the difference in cost between a standard container and a bear-proof container.

The Stormwater Project for the Five Points Intersection to Rosebank Park was discussed. The Town signed off on the final design agreement for the stormwater project that runs from Stuyvesant Road north to the intersection of Lone Pine and Vanderbilt Roads, then heads southwest on Vanderbilt Road to Rosebank Park. McGill performed the 30 percent design drawings for this project at the end of fiscal year 2022 and the Board of Commissioners budgeted money for the final design and beginning portion of construction within the FY23 budget. This project will result in significant upgrades for the Town's stormwater system in a historically problematic area.

The final design is anticipated to be finished within 12 weeks and should be available for review by the first of December. McGill will prepare all drawings and apply for permits for this project through the NC Division of Water Quality and NC Department of Environmental Quality regarding erosion control. McGill will also coordinate the bid process for this project and provide recommendations regarding the sufficiency of bids received. Mr. Kanipe is anticipating construction can commence mid to late spring of 2023.

Mr. Kanipe discussed the SB300 Civil Ordinance Penalty Changes and said he has not received any feedback regarding this so Mr. Kanipe said they can go over this again at next month's meeting.

The Consideration of the FY22 Tax Settlement was discussed. Mayor Goosmann said Ms. Krystal Curtis has done an amazing job with the tax collection. We are at 99.98%. A motion was made by Commissioner Loomis to accept the FY22 Tax Settlement and seconded by Commissioner Cogburn. Roll call was taken and unanimously approved.



**TAX COLLECTOR
ANNUAL SETTLEMENT**

FY 2021-2022

August 1, 2022

Pursuant to the provisions of NCGS 105-373, the following is the Tax Collector's Report of Settlement for 2021 taxes for Fiscal Year 2021-2022 as of August 1, 2022.

2020 Levy from Scroll (Real & Personal Property Tax)	2,921,388
Exemptions, Releases & Deferrals	(1,773)
Afterlist	
Public Service Companies	17,387
2020 Total Levy	2,937,002
Penalties, Cost & Interest	4,481
2020 Total Charges	2,941,483
Collected (2020 Real & Personal)	2,940,901
Uncollected (2020 Real & Personal)	582
Percentage of Levy Collected	99.98%
Prior Years Collected During Period	25,960.62
Overpayments/ Prepayments	13,238

List of 2021 Delinquent Taxes- Real Property		
Berlin, Sanford	964683419500000	21.09

Total Delinquent Taxes by Year					
Year	2012	2014	2015	2016	2020
Amount	185.05	21.06	32.61	35.54	3,898.53

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

Consideration of FY23 Order for Tax Collection. The empowers the Tax Collector to collect the taxes. A motion was made by Commissioner Loomis and seconded by Commissioner Cogburn. Roll call was taken and unanimously approved.



ORDER OF COLLECTION

State of North Carolina
Town of Biltmore Forest

Order of the Board of Commissioners
Pursuant to NCGS 105-321 for the
Collection of 2022 and Prior Years' Taxes

To the Tax Collector of the Town of Biltmore Forest:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of Administration and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the Town of Biltmore Forest, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 9th day of August, 2022:

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

Attest:

Laura Jacobs
Clerk, Town of Biltmore Forest

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

Mr. Kanipe discussed the proposed implementation schedule for Busbee/Vanderbilt all-way stop. The proposed implementation schedule is installation of the new signs and thermoplastics (striping) by September 16, 2022. Also, re-striping of Busbee Road from Hendersonville Road to Forest Road, and Vanderbilt Road from Cedarcliff Road to Lone Pine by October 21, 2022. The final matter would be the removal of additional “new traffic pattern” signage and flagging by October 21, 2022. An attached map was presented for the Board’s review.

Mr. Kanipe discussed the Greenwood Park stream restoration project. Mr. Kanipe said Mr. Mike Dale put the PowerPoint presentation together. The Town has worked on stream restoration within Greenwood Park for several years. The first part of this project was a loan application from the Town to the Division of Water Quality in April 2019. This loan application was approved for \$292,000 at zero percent interest. The Town contracted with WithersRavenel consultants to design a stream restoration project. This was approved in mid-summer 2021 and funding approval was granted by the North Carolina Local Government Commission in December 2021.

Baker Grading and Landscaping was awarded the contract. Construction started in May. The idea of the project was to clean the creek and make it safer. The one exception to this work is the result of an underground utility conflict between the Town’s existing stormwater pipe (heading southeast on Greenwood Road) that was scheduled for replacement as part of this work. The existing underground stormwater pipe has a Duke Energy three-phase power bank located on top of it. There are workarounds for this, but proper design for this workaround resulted in a delay on finishing Phase 1. The engineer has now designed this, and the contractor is acquiring the pipe necessary to make these changes. Town staff are hopeful Phase 1 will conclude within the next several weeks.

Due to inhospitable planting conditions in summer months, the Town agreed to let Baker perform this work in a phased manner. Phase 1 included all hardscape improvements and Phase 2 will include final planting and vegetative work. This is scheduled to be completed by the end of October 2022.

The final matter discussed was the Planning Commission plan of work. In an effort to ensure the Planning Commission is working toward the Town goals, we have requested feedback on the following items: Development of a quick reference guide on Town Ordinances. This is something Mr. Zimmerman has a good handle on. Commissioner Loomis suggested the Town should let the public know about the Board of Commissioners via CodeRed messaging.

The following items are planned to be addressed by the Planning Commission:

1. An Ordinance addressing junk and/or abandoned vehicles. While the Town has authority to enforce junk vehicle ordinances under nuisance provisions, a more specific and clearer ordinance directed at junk vehicles would be beneficial.
2. An Ordinance addressing renewable energy power generation specifically related to EV charging stations and solar panels, having an ordinance review of the Town's existing maximum roof coverage and impervious surface coverage requirements.
3. A review of the Town's Tree Protection Ordinance. Mr. Kanipe said the zoning ordinance talks about buffering and landscaping. One consideration for the Planning Commission is whether to incorporate the Tree Protection Ordinance into the Zoning Ordinance or to have a separate new development Tree Protection standard that also includes landscaping, buffering, and new homes, and lot development. Mr. Kanipe and Mr. Zimmerman discussed "canopy coverage" that considered overall health of the Town's trees. Mr. Zimmerman discussed the "canopy coverage" tool that he created.
4. The next consideration is specific requirements for new home construction, including final landscape plan submittals prior to Board of Adjustment review, accessory building and accessory structure review, developing right-of-way road standards for sight line distances for walking and driving vehicles, and review and consolidate Town standards for lighting and review consideration of Dark Sky ordinances.

Mayor Goosmann thanked Mr. and Mrs. Zimmerman for all of their hard work and time they give to help the Town be a better place.

Mayor Goosmann adjourned the meeting at 5:49 p.m. The next meeting is scheduled for Tuesday, September 13, 2022 at 4:30 pm.

ATTEST:

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

August 2022

Station: 4 - BILTMORE FOREST STATION	
311 - Medical assist, assist EMS crew	7
322 - Motor vehicle accident with injuries	1
361 - Swimming/recreational water areas rescue	1
551 - Assist police or other governmental agency	1
554 - Assist invalid	1
611 - Dispatched & cancelled en route	1
622 - No incident found on arrival at dispatch address	2
733 - Smoke detector activation due to malfunction	1
743 - Smoke detector activation, no fire - unintentional	1
745 - Alarm system activation, no fire - unintentional	2
813 - Wind storm, tornado/hurricane assessment	1
# Incidents for 4 - Biltmore Forest Station:	19

Respectfully Submitted,

Trevor C. Lance

Chief Trevor C. Lance
Skyland Fire Rescue

Biltmore Forest Police
355 Vanderbilt Road
Biltmore Forest, NC 28803
828-274-0822
Chief M. Chris
Beddingfield



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

Biltmore Forest Police Department September 13, 2022 Commission Report

August 2022 Data

Total Calls For Service:

612 (613 last month)

Arrests:

1-Felony Arrests- Breaking and Entering, Larceny-Out of a suspicious person call.

2-Misdemeanor Arrests-Both for Court Violations out of traffic stops.

Citations:

16 -Citations for various traffic violations (17 last month)

Time Consumption Summary:

Approximations:

Business Checks- 4 hours

House Checks- 4 hours

Radar Operation- 1 hour

Vehicle Crash Investigation- 1 hours

Notable Calls and Projects:

Meet the police event was a huge success

App is working well

UTV is lettered and striped, waiting on lights and radios

Presentation by Aslyne Tate on APCO conference

Biltmore Forest Police Department
355 Vanderbilt Rd Asheville, NC 28803
Calls for Service

08/01/2022 - 08/31/2022

BILTMORE FOREST POLICE DEPARTMENT	Count	Percent
911 HANG-UP	1	0.16%
ALARM	25	4.08%
ANIMAL CONTROL	16	2.61%
ASSIST MOTORIST	8	1.31%
ASSIST NON-RESIDENT	1	0.16%
ASSIST OTHER AGENCY	10	1.63%
ASSIST RESIDENT	6	0.98%
B&E	1	0.16%
BICYCLIST VIOLATION	2	0.33%
BUSINESS CHECK	241	39.38%
C&R DRIVER	1	0.16%
CRIME PREVENTION	6	0.98%
DEBRIS IN ROADWAY	1	0.16%
DEPARTMENT OTHER	1	0.16%
DISCHARGE FIREARM	2	0.33%
DISTURBANCE	1	0.16%
EXTRA PATROL	2	0.33%
FIRE	1	0.16%
FOLLOW-UP INVESTIGATION	7	1.14%
HOUSE CHECK	130	21.24%
IMPROPER PARKING	6	0.98%
JUVENILE ISSUE	2	0.33%
MEDICAL EMERGENCY	6	0.98%
MENTAL PATIENT	1	0.16%
No CallType	1	0.16%
ORDINACE VIOLATION	2	0.33%
POWER OUTAGE	1	0.16%
PROPERTY DAMAGE	1	0.16%
RADAR OPERATION	2	0.33%
ROAD BLOCKED	1	0.16%
SPECIAL ASSIGNMENT	3	0.49%
SPECIAL CHECK	11	1.80%
STOLEN VEHICLE	1	0.16%
SUSPICIOUS ACTIVITY	3	0.49%
SUSPICIOUS PERSON	19	3.10%
SUSPICIOUS VEHICLE	37	6.05%
TALK WITH OFFICER	5	0.82%
TRAFFIC CONTROL	3	0.49%
TRAFFIC STOP	36	5.88%
TREE DOWN	2	0.33%
WELFARE CHECK	6	0.98%
Total Records For BILTMORE FOREST POLICE DEPARTMENT	612 Dept Calls/Total Calls	100.00%

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

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Jonathan Kanipe, Town Manager

Mayor and Board of Commissioners

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

A handwritten signature in black ink, appearing to read "HBB", positioned to the right of the "From:" line.

Re: Public Works Department August 2022 Monthly Report

Date: September 8, 2022

Recurring Activities:

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

- Collected 41.08 tons of garbage.
- Diverted 18.02 tons of recycled goods from garbage.
- Picked up 30 loads of brush (approximately 900 cubic yards) over 14 days.
- Responded to 165 total utility locate requests, comprised of 39 new requests, 124 updates, and 2 cancellations. This total includes 3 emergency requests.
- Visited 11 residences for Tree Assessments, approving the removal of 37 trees, and requiring the installation of 32 trees.
- Completed daily chlorine residual tests across town and passed the required two bacteriological tests and the four quarterly disinfection byproduct tests. Results are reported via the State's on-line reporting system.
- Used the Beacon/Badger Meter automated meter reading system to monitor for water leaks daily and informed residents of suspected leaks.
- We continue to perform litter pick-ups as needed, focusing on the entrances.
- Normal brush collection continued with the North Route on August 15^h, and the South Route on August 1st and August 30th. This schedule will continue typically with one collection for each route per month.

Miscellaneous Activities in August

- We continue to advertise for an open Public Services Worker Position. The position opened August 1 and is posted on the Town's webpage; we are attempting to fill two currently positions. Should anyone know of a good candidate they would be willing to refer, please reach out to either me or Mike.
- We extended an offer to one potential candidate and are awaiting a final confirmation of acceptance.
- We assisted the Friends of Biltmore Forest Committee with the Food Truck Friday event on August 12th.
- I met with the contractor on August 17th to review the re-striping of the proposed Busbee Road and Vanderbilt Road intersection all-way stop. As originally discussed, this work is anticipated to be completed in September, weather pending.
- Our team cleared a substantial red oak tree from Vanderbilt Road on Tuesday August 23rd. The tree brought down the power lines and telecommunication lines for most of the day. We were able to reopen the road Tuesday, but most of the cleanup occurred on Wednesday.
- We completed more dead and damaged tree removals on Town-owned property and rights-of-way utilizing an outside tree company on August 23rd and 24th. This also included a coordination meeting with the Director of Horticulture and staff Arborist to review specific trees adjacent to the right-of-way on Estate property.
- Repairs to the rock work on the bridge on Southwood Road were completed on September 1. I've attached some photos for you to see of the before and after work. They did an excellent job; the bridge looks great and is now back to fully restored condition.
- I completed and submitted the annual Local Government Solid Waste and Materials Management Report as required by the State on August 30. As soon as the Department of Environmental Quality reviews and approves the report, a copy will be made to the public. A couple of brief observations – we collected about 15 less tons of garbage (a 4% reduction) and about 18 less tons of recycled goods (about 8% less) over the year. Brush and leaf collection, however, was up approximately 5%. With increased expenses in fuel, labor, and vehicle maintenance, we did see significant increases in our per ton expenses, as well as overall expenses.
- Our meeting scheduled for August 31st with Duke Energy to discuss the streetlight reconnections was postponed until September 7. The results of that meeting were that we will be engaging with an outside contractor to perform modifications to the streetlights to allow connectivity to the new underground power system.
- We completed right-of-way clean-up on Forest Road and are currently working along Cedar Hill Road.
- On September 6, our team repaired a damaged section of storm drain pipe in the sharp bend of Vanderbilt Road near house 423. The existing clay pipe was apparently damaged some time ago during the installation of a natural gas line, and that damage finally showed up as a sizeable sinkhole near the edge of pavement. About four feet of pipe had

collapsed, but staff was able to safely excavate the area around the gas pipe and replace the damaged section of storm drain.

- We are currently repairing the heating and cooling system of the dump truck in preparation for leaf collection. I anticipate receiving the truck repaired in September.
- We completed additional repairs and modifications to the Isuzu recycling truck to adjust the PTO speed. It is now returned to service, and all sanitation vehicles are in service.
- We distributed 95-gallon trash cans to all residents but are still awaiting receipt of the 65-gallon cans from the vendor.
- I attended the national American Public Works Association (APWA) conference in Charlotte on August 29th and 30th. I was able to attend several relevant presentations and left with some great ideas and things to consider for the Town. I appreciate the Board's support of continuing education events such as these.

Larger/Capital Projects Updates

Greenwood Park Stream Restoration

- Manager Kanipe has a separate agenda item in his Manager's report with more project details.
- Just a reminder that the park will remain closed for additional improvements while awaiting the installation of the permanent vegetation which is currently scheduled for the fall planting season.

Cedar Hill Road Stream Stabilization Project

- Manager Kanipe has a separate agenda item in his Manager's report with more project details.
- The consultant has prepared a proposed schedule for the project through its completion, and we have received a draft proposed bid contract set that we are currently reviewing.

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

- We held a kick-off meeting with the consultant on this project on September 7th. They are advancing the plans from the current 30% level to a final bid set based on our detailed field review this week.
- Initial steps are to identify any potential easements that may need to be acquired, and to reach out to the Metropolitan Sewerage District to see if there is any need to coordinate work together in this area.
- The tentative schedule is to complete the contract documents this year and bid the project in the late winter for construction next year.

Garbage Can and Cart Tipper Project

- All residents should have received their new 95-gallon cans at this point.

- CES has completed outfitting all three trucks with cart grabbers and they performed some deferred maintenance and installed additional work lights to improve visibility.
- CES Environmental has indicated the anticipated delivery of the 65-gallon cans will be in October.
- We are continuing to collect requests for old can pick-ups and bear-proof options. We will begin collecting old cans as soon as the dump truck returns from the shop.

Upcoming in September

- We are continuing to focus on filling the open Public Services Worker position. We have completed two telephone interviews, one in-person interview, and have extended one offer. We will continue to keep the advertisement on-line and may expand the advertisement to other sources.
- Scheduled brush collection will continue in September, beginning Thursday, September 15th for the North Route, and Monday, October 3rd on the South Route.
- Manager Kanipe has asked that we increase activity on our hazardous tree removal program. This will involve the removal of hazardous trees along the road rights-of-way as well as notifications being issued to residents with hazardous trees threatening the public spaces.
- We will have several staff members completing their required continuing education credits for their various certifications.
- Weekly mowing of public areas will continue, weather pending.
- We anticipate installation of the new building signage in September.
- We have tentatively scheduled two more days of dead or damaged tree removals from Town property in mid-September.
- We will continue work on the streetlight meter and security project, incorporating new direction from Duke and feedback from the Board.
- We anticipate collecting old trash cans in in September.
- The Vanderbilt/Busbee intersection will be made into a four-way stop this month, weather pending.
- Significant effort continues on right-of way maintenance and pedestrian safety, including a significant project repairing the shoulder on Westwood Road east of Hilltop Road.
- We will finalize the proposed plan for the improved park amenities on the north side of Greenwood Park.

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

SOUTHWOOD ROAD BRIDGE REPAIRS

August, 2022



Examples of spalled rocks and eroded mortar



Re-pointing the grout joints for watertightness



Finished results



BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM

September 13, 2022



Agenda Item D-4

Town Manager's Monthly Report

Greenwood Park Stream Restoration Update

The change order necessary to complete the workaround along Greenwood Road has been agreed upon and all parties have signed off. The state must approve this change order and the Town and engineer are pushing them to have this occur as soon as possible. As you know, the project's hardscape was finalized except for the storm drain repair along Greenwood Road. This was unable to proceed due to the presence of Duke Energy's large, three-phase duct bank underground at this location. With the design revised and the change order signed, work should begin no later very soon with the final phase, including planting, still scheduled to conclude by the end of October.

All-way Stop Implementation Update

The Board authorized the Town to begin an all-way stop implementation at the July 2022 Board meeting. Public Works Director Harry Buckner presented a timeline and schedule for this work to commence. We have begun the process of notifying residents via the Town's newsletter. Heavy notifications will commence prior to full implementation, including CodeRED alerts, the BFPD mobile app, Nixle alerts, and on-site signage. We will also have a heavy police presence during the implementation timeline to assist with compliance.

Trash Can Implementation Update

Public Works staff completed the distribution of the initial 95-gallon containers in early September. Residents received the cans as well as instructions for their usage and the rationale behind the implementation. Staff will begin retrieving old cans from residents within the next several weeks as requested by individual residents. The Town's most recent newsletter includes further information about this process and the reasons for the switch to uniform containers. The 65-gallon containers are currently scheduled to arrive in mid-October. These cans will be distributed as quickly as possible.

Cedar Hill Road Stabilization Project

The Town has received the necessary permits from the US Army Corps of Engineers and the NC Division of Water Quality. The consultant is finalizing the bid package for this project and we hope to release that for interested contractors within the next several weeks. Our intent is to bid this project with a scheduled completion date of April 30, 2023.

Town Website Improvements

Town staff are making improvements to the website as time and capacity allows, with a focus on provide more timely information and increased updates for Town projects. Several additions that residents will notice are the “Town Projects” tab on the right hand side of the website. This page will be updated with specific projects, and the hope is that as we continue working on large and highly visible projects, people will be able to visit this page and find necessary updates. Additionally, the Town is interested in connecting with residents how they want to receive information. We have an informational bulletin in the most recent newsletter asking people to visit the Town’s website and provide contact information as they want it included in the directory, and to provide information on how they want to receive information from the Town. This will allow us to better tailor our notices and communication to residents and, hopefully, achieve greater participation.

REVENUE & EXPENDITURE STATEMENT

Town of Biltmore Forest

07/01/2022 To 08/31/2022

FY 2022-2023

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
3010 Ad Valorem Tax						
Revenue						
3010 Ad Valorem Tax						
10-3010-0000 AD VALOREM TAXES (PROPERTY)	2,920,559.00	61,799.90	61,799.90	0.00	2,858,759.10	2
10-3010-0100 AD VALOREM TAXES (DMV)	109,396.00	0.00	0.00	0.00	109,396.00	0
10-3010-0200 TAX INTEREST & PENALTIES	5,000.00	62.63	62.63	0.00	4,937.37	1
3010 Ad Valorem Tax Subtotal	\$3,034,955.00	\$61,862.53	\$61,862.53	\$0.00	\$2,973,092.47	2
Revenue Subtotal	\$3,034,955.00	\$61,862.53	\$61,862.53	\$0.00	\$2,973,092.47	2
After Transfers	Excess Of Revenue Subtotal	\$3,034,955.00	\$61,862.53	\$61,862.53	\$0.00	2
3020 Unrestricted Intergovernm						
Revenue						
3020 Unrestricted Intergovernm						
10-3020-0000 FRANCHISE & UTILITIES TAX DIST.	211,384.00	0.00	0.00	0.00	211,384.00	0
10-3020-0100 ALCOHOL BEVERAGE TAX	6,450.00	0.00	0.00	0.00	6,450.00	0
10-3020-0200 BUNCOMBE COUNTY 1% TAX	793,429.00	0.00	0.00	0.00	793,429.00	0
10-3020-0300 1/2 CENT SALES TAX A.40	330,137.00	0.00	0.00	0.00	330,137.00	0
10-3020-0400 1/2 CENT SALES TAX A.42	419,847.00	0.00	0.00	0.00	419,847.00	0
10-3020-0600 SALES TAX REFUND	15,000.00	0.00	0.00	0.00	15,000.00	0
10-3020-0700 GASOLINE TAX REFUND	3,500.00	0.00	0.00	0.00	3,500.00	0
3020 Unrestricted Intergovernm Subtotal	\$1,779,747.00	\$0.00	\$0.00	\$0.00	\$1,779,747.00	0
Revenue Subtotal	\$1,779,747.00	\$0.00	\$0.00	\$0.00	\$1,779,747.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$1,779,747.00	\$0.00	\$0.00	\$0.00	0
3030 Restricted Intergovernmen						
Revenue						
3030 Restricted Intergovernmen						
10-3030-0000 SOLID WASTE DISPOSAL TAX	975.00	0.00	0.00	0.00	975.00	0
10-3030-0100 POWELL BILL	66,849.00	0.00	0.00	0.00	66,849.00	0
3030 Restricted Intergovernmen Subtotal	\$67,824.00	\$0.00	\$0.00	\$0.00	\$67,824.00	0
Revenue Subtotal	\$67,824.00	\$0.00	\$0.00	\$0.00	\$67,824.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$67,824.00	\$0.00	\$0.00	\$0.00	0
3040 Permits & Fees						
Revenue						
3040 Permits & Fees						
10-3040-0000 ZONING PERMITS	45,000.00	8,955.00	8,955.00	0.00	36,045.00	20
10-3040-0100 DOG LICENSE FEE	1,300.00	15.00	15.00	0.00	1,285.00	1
3040 Permits & Fees Subtotal	\$46,300.00	\$8,970.00	\$8,970.00	\$0.00	\$37,330.00	19
Revenue Subtotal	\$46,300.00	\$8,970.00	\$8,970.00	\$0.00	\$37,330.00	19
After Transfers	Excess Of Revenue Subtotal	\$46,300.00	\$8,970.00	\$8,970.00	\$0.00	19
3050 Investment Earnings						
Revenue						
3050 Investment Earnings						
10-3050-0000 INTEREST EARNED	2,000.00	0.00	0.00	0.00	2,000.00	0
3050 Investment Earnings Subtotal	\$2,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00	0

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Revenue Subtotal	\$2,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$2,000.00	\$0.00	\$0.00	\$0.00	0
3060 Miscellaneous						
Revenue						
3060 Miscellaneous						
10-3060-0100 AMERICAN TOWER AGREEMENT	45,600.00	800.00	800.00	0.00	44,800.00	2
10-3060-0200 MISCELLANEOUS	20,000.00	213,334.52	213,334.52	0.00	-193,334.52	1,067
3060 Miscellaneous Subtotal	\$65,600.00	\$214,134.52	\$214,134.52	\$0.00	-\$148,534.52	326
Revenue Subtotal	\$65,600.00	\$214,134.52	\$214,134.52	\$0.00	-\$148,534.52	326
After Transfers	Excess Of Revenue Subtotal	\$65,600.00	\$214,134.52	\$214,134.52	\$0.00	326
3290						
Revenue						
3290						
30-3290-0000 INTEREST EARNED	50.00	0.00	0.00	0.00	50.00	0
3290 Subtotal	\$50.00	\$0.00	\$0.00	\$0.00	\$50.00	0
Revenue Subtotal	\$50.00	\$0.00	\$0.00	\$0.00	\$50.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$50.00	\$0.00	\$0.00	\$0.00	0
3350 Commissions, Sw Chg Coll						
Revenue						
3350 Commissions, Sw Chg Coll						
30-3350-0000 COMMISSIONS, SEWER CHARGE COLL	8,000.00	0.00	0.00	0.00	8,000.00	0
3350 Commissions, Sw Chg Coll Subtotal	\$8,000.00	\$0.00	\$0.00	\$0.00	\$8,000.00	0
Revenue Subtotal	\$8,000.00	\$0.00	\$0.00	\$0.00	\$8,000.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$8,000.00	\$0.00	\$0.00	\$0.00	0
3500 Other Financing						
Other Financing Source						
3500 Other Financing						
10-3500-0000 SALE OF PERSONAL PROPERTY	10,000.00	0.00	0.00	0.00	10,000.00	0
10-3500-0700 INTERGOVERNMENTAL LOAN (RESTRIC	292,000.00	0.00	0.00	0.00	292,000.00	0
3500 Other Financing Subtotal	\$302,000.00	\$0.00	\$0.00	\$0.00	\$302,000.00	0
Other Financing Source Subtotal	\$302,000.00	\$0.00	\$0.00	\$0.00	\$302,000.00	0
After Transfers	Deficiency Of Revenue Subtotal	\$302,000.00	\$0.00	\$0.00	\$0.00	0
3710 Water Sales						
Revenue						
3710 Water Sales						
30-3710-0000 WATER CHARGES	369,000.00	92,086.70	92,086.70	0.00	276,913.30	25
30-3710-0100 MSD CHARGES	248,284.00	76,442.57	76,442.57	0.00	171,841.43	31
30-3710-0200 AMI TRANSMITTER CHARGES	7,700.00	1,379.50	1,379.50	0.00	6,320.50	18
3710 Water Sales Subtotal	\$624,984.00	\$169,908.77	\$169,908.77	\$0.00	\$455,075.23	27
Revenue Subtotal	\$624,984.00	\$169,908.77	\$169,908.77	\$0.00	\$455,075.23	27
After Transfers	Excess Of Revenue Subtotal	\$624,984.00	\$169,908.77	\$169,908.77	\$0.00	27
3730 Water Tap & Connect Fees						
Revenue						

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3730 Water Tap & Connect Fees						
30-3730-0000 WATER TAP AND CONNECTION FEES	6,000.00	3,180.00	3,180.00	0.00	2,820.00	53
3730 Water Tap & Connect Fees Subtotal	\$6,000.00	\$3,180.00	\$3,180.00	\$0.00	\$2,820.00	53
Revenue Subtotal	\$6,000.00	\$3,180.00	\$3,180.00	\$0.00	\$2,820.00	53
After Transfers	Excess Of Revenue Subtotal	\$6,000.00	\$3,180.00	\$3,180.00	\$0.00	53
4000						
Revenue						
4000						
40-4000-1100 ARP DISTRIBUTION	451,275.58	0.00	0.00	0.00	451,275.58	0
4000 Subtotal	\$451,275.58	\$0.00	\$0.00	\$0.00	\$451,275.58	0
Revenue Subtotal	\$451,275.58	\$0.00	\$0.00	\$0.00	\$451,275.58	0
After Transfers	Deficiency Of Revenue Subtotal	\$451,275.58	\$0.00	\$0.00	\$0.00	0
4200 Administration						
Expenditure						
4200 Administration						
10-4200-0200 SALARIES	226,063.00	46,083.71	46,083.71	0.00	179,979.29	20
10-4200-0300 OVERTIME	3,000.00	0.00	0.00	0.00	3,000.00	0
10-4200-0500 FICA	17,293.00	2,799.39	2,799.39	0.00	14,493.61	16
10-4200-0600 HEALTH INSURANCE (MEDICAL)	24,158.00	3,864.80	3,864.80	0.00	20,293.20	16
10-4200-0650 DENTAL, VISION, LIFE INSURANCE	4,935.00	778.44	778.44	0.00	4,156.56	16
10-4200-0675 HEALTH REIMBURSEMENT ACC	3,750.00	625.00	625.00	0.00	3,125.00	17
10-4200-0700 LGERS RETIREMENT	41,231.00	7,131.24	7,131.24	0.00	34,099.76	17
10-4200-0800 401K SUPP RETIREMENT	11,453.00	2,247.44	2,247.44	0.00	9,205.56	20
10-4200-1000 ACCOUNTING & TAXES	51,400.00	2,319.75	2,319.75	0.00	49,080.25	5
10-4200-1200 POSTAGE, PRINTING, STATIONARY	10,140.00	250.00	250.00	0.00	9,890.00	2
10-4200-1400 MILEAGE & BOARD SALARY	21,600.00	3,600.00	3,600.00	0.00	18,000.00	17
10-4200-1500 BLDG & GRNDS MAINTENANCE	20,000.00	0.00	0.00	0.00	20,000.00	0
10-4200-3300 SUPPLIES AND EQUIPMENT	7,722.00	1,468.35	1,468.35	0.00	6,253.65	19
10-4200-5300 DUES & FEES	5,070.00	2,732.00	2,732.00	0.00	2,338.00	54
10-4200-5700 MISCELLANEOUS	1,000.00	379.50	593.50	214.00	406.50	59
10-4200-6500 STAFF DEVELOPMENT	16,000.00	3,529.45	3,529.45	0.00	12,470.55	22
4200 Administration Subtotal	\$464,815.00	\$77,809.07	\$78,023.07	\$214.00	\$386,791.93	17
Expenditure Subtotal	\$464,815.00	\$77,809.07	\$78,023.07	\$214.00	\$386,791.93	17
Before Transfers	Deficiency Of Revenue Subtotal	-\$464,815.00	-\$77,809.07	-\$77,809.07	-\$214.00	17
After Transfers	Deficiency Of Revenue Subtotal	-\$464,815.00	-\$77,809.07	-\$77,809.07	-\$214.00	17
5100 Police Department						
Expenditure						
5100 Police Department						
10-5100-0200 SALARIES	951,387.00	196,175.94	196,175.94	0.00	755,211.06	21
10-5100-0300 OVERTIME	26,000.00	0.00	0.00	0.00	26,000.00	0
10-5100-0400 SEPARATION ALLOWANCE	38,117.00	13,387.95	13,387.95	0.00	24,729.05	35
10-5100-0500 FICA	72,781.00	12,704.56	12,704.56	0.00	60,076.44	17
10-5100-0600 HEALTH INSURANCE (MEDICAL)	164,272.00	24,668.08	24,668.08	0.00	139,603.92	15

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10-5100-0650 DENTAL, VISION, LIFE INSURANCE	35,558.00	3,128.08	3,128.08	0.00	32,429.92	9
10-5100-0675 HRA HEALTH REIMB ACCT	25,500.00	4,250.00	4,250.00	0.00	21,250.00	17
10-5100-0700 LGERS RETIREMENT	185,598.00	29,922.53	29,922.53	0.00	155,675.47	16
10-5100-0800 401K SUPP RETIREMENT	48,996.00	9,818.45	9,818.45	0.00	39,177.55	20
10-5100-1500 MAINT/REPAIR - BLDG/GROUNDS	20,000.00	175.00	175.00	0.00	19,825.00	1
10-5100-1600 MAINT/REPAIR - EQUIPMENT	1,000.00	900.00	900.00	0.00	100.00	90
10-5100-1700 MAINT/REPAIR - VEHICLES	10,000.00	1,512.60	2,496.78	984.18	7,503.22	25
10-5100-3100 MOTOR FUELS	24,600.00	3,777.36	3,777.36	0.00	20,822.64	15
10-5100-3300 SUPPLIES	20,080.00	1,420.26	1,650.38	230.12	18,429.62	8
10-5100-3600 UNIFORMS	15,000.00	1,759.72	12,302.93	10,543.21	2,697.07	82
10-5100-3700 SOFTWARE	18,725.00	624.00	624.00	0.00	18,101.00	3
10-5100-3800 TECHNOLOGY	58,740.00	6,967.92	7,899.50	931.58	50,840.50	13
10-5100-5700 MISCELLANEOUS	8,265.00	687.37	687.37	0.00	7,577.63	8
10-5100-5800 PHYSICAL EXAMS	2,000.00	0.00	0.00	0.00	2,000.00	0
10-5100-6500 STAFF DEVELOPMENT	15,000.00	4,353.95	5,716.55	1,362.60	9,283.45	38
10-5100-7400 CAPITAL EQUIPMENT PURCHASES	102,500.00	22,728.89	120,080.93	97,352.04	-17,580.93	117
5100 Police Department Subtotal	\$1,844,119.00	\$338,962.66	\$450,366.39	\$111,403.73	\$1,393,752.61	24
Expenditure Subtotal	\$1,844,119.00	\$338,962.66	\$450,366.39	\$111,403.73	\$1,393,752.61	24
Before Transfers	Deficiency Of Revenue Subtotal	-\$1,844,119.00	-\$338,962.66	-\$338,962.66	-\$111,403.73	18
After Transfers	Deficiency Of Revenue Subtotal	-\$1,844,119.00	-\$338,962.66	-\$338,962.66	-\$111,403.73	18
5200 Fire Services						
Expenditure						
5200 Fire Services						
10-5200-0000 FIRE CONTRACT	425,000.00	0.00	0.00	0.00	425,000.00	0
5200 Fire Services Subtotal	\$425,000.00	\$0.00	\$0.00	\$0.00	\$425,000.00	0
Expenditure Subtotal	\$425,000.00	\$0.00	\$0.00	\$0.00	\$425,000.00	0
Before Transfers	Deficiency Of Revenue Subtotal	-\$425,000.00	\$0.00	\$0.00	\$0.00	0
After Transfers	Deficiency Of Revenue Subtotal	-\$425,000.00	\$0.00	\$0.00	\$0.00	0
5600 Public Works						
Expenditure						
5600 Public Works						
10-5600-0200 SALARIES	244,822.00	52,251.80	52,251.80	0.00	192,570.20	21
10-5600-0300 OVERTIME	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5600-0500 FICA	19,111.00	3,084.85	3,084.85	0.00	16,026.15	16
10-5600-0550 UNEMPLOYMENT INSURANCE	500.00	0.00	0.00	0.00	500.00	0
10-5600-0600 HOSPITAL INSURANCE (MEDICAL)	43,484.00	5,301.62	5,301.62	0.00	38,182.38	12
10-5600-0650 DENTAL, VISION, LIFE INSURANCE	8,883.00	637.72	637.72	0.00	8,245.28	7
10-5600-0675 HRA HEALTH REIMB ACCT	6,750.00	1,000.00	1,000.00	0.00	5,750.00	15
10-5600-0700 LGERS RETIREMENT	44,968.00	7,588.55	7,588.55	0.00	37,379.45	17
10-5600-0800 401K SUPP RETIREMENT	12,491.00	2,270.98	2,270.98	0.00	10,220.02	18
10-5600-1000 OUTSIDE SERVICES	10,000.00	275.00	275.00	0.00	9,725.00	3
10-5600-1300 STREETLIGHTS ELECTRIC	7,000.00	0.00	0.00	0.00	7,000.00	0
10-5600-1500 MAINT/REPAIR - BLDG/GROUNDS	9,600.00	479.51	479.51	0.00	9,120.49	5

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10-5600-1600 MAINT/REPAIR- STREETLIGHTS	35,000.00	0.00	0.00	0.00	35,000.00	0
10-5600-1700 MAINT/REPAIR - VEHICLES	10,000.00	1,995.90	1,995.90	0.00	8,004.10	20
10-5600-3100 MOTOR FUELS	20,000.00	2,861.24	2,861.24	0.00	17,138.76	14
10-5600-3300 SUPPLIES	10,000.00	1,582.06	1,582.06	0.00	8,417.94	16
10-5600-3400 STREET SIGNS & NUMBERS	1,000.00	0.00	0.00	0.00	1,000.00	0
10-5600-3600 UNIFORMS	8,650.00	940.91	2,878.45	1,937.54	5,771.55	33
10-5600-3800 TECHNOLOGY	9,500.00	7,782.92	7,782.92	0.00	1,717.08	82
10-5600-5200 PARKS	60,000.00	121.62	121.62	0.00	59,878.38	0
10-5600-5202 GREENWOOD PARK STREAM RESTORA	292,000.00	106,082.19	106,082.19	0.00	185,917.81	36
10-5600-5800 PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	0
10-5600-5900 MISCELLANEOUS	1,000.00	204.30	204.30	0.00	795.70	20
10-5600-6500 STAFF DEVELOPMENT	8,000.00	377.57	377.57	0.00	7,622.43	5
40-5600-7401 ARP CAPITAL PROJECTS	451,275.58	0.00	0.00	0.00	451,275.58	0
5600 Public Works Subtotal	\$1,319,534.58	\$194,838.74	\$196,776.28	\$1,937.54	\$1,122,758.30	15
Expenditure Subtotal	\$1,319,534.58	\$194,838.74	\$196,776.28	\$1,937.54	\$1,122,758.30	15
Before Transfers	Deficiency Of Revenue Subtotal	-\$1,319,534.58	-\$194,838.74	-\$194,838.74	-\$1,937.54	15
After Transfers	Deficiency Of Revenue Subtotal	-\$1,319,534.58	-\$194,838.74	-\$194,838.74	-\$1,937.54	15
5700 Streets & Transportation						
Expenditure						
5700 Streets & Transportation						
10-5700-1700 VEHICLE REPAIRS - STREET DEPT.	10,000.00	66.64	66.64	0.00	9,933.36	1
10-5700-2200 CONTRACTS- PAVING & STRIPING	210,000.00	6,000.00	6,000.00	0.00	204,000.00	3
10-5700-2300 SUPPLIES	10,000.00	3,862.63	8,814.90	4,952.27	1,185.10	88
10-5700-2400 TRAFFIC SIGNS	500.00	0.00	0.00	0.00	500.00	0
10-5700-2500 STORM WATER DRAINAGE	275,000.00	0.00	0.00	0.00	275,000.00	0
10-5700-3800 TECHNOLOGY	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5700-6500 STAFF DEVELOPMENT	1,000.00	0.00	0.00	0.00	1,000.00	0
10-5700-7400 CAPITAL EQUIPMENT PURCHASES	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5700-7500 ENGINEERING	100,000.00	10,675.50	10,675.50	0.00	89,324.50	11
5700 Streets & Transportation Subtotal	\$616,500.00	\$20,604.77	\$25,557.04	\$4,952.27	\$590,942.96	4
Expenditure Subtotal	\$616,500.00	\$20,604.77	\$25,557.04	\$4,952.27	\$590,942.96	4
Before Transfers	Deficiency Of Revenue Subtotal	-\$616,500.00	-\$20,604.77	-\$20,604.77	-\$4,952.27	3
After Transfers	Deficiency Of Revenue Subtotal	-\$616,500.00	-\$20,604.77	-\$20,604.77	-\$4,952.27	3
5800 Sanitation & Recycling						
Expenditure						
5800 Sanitation & Recycling						
10-5800-0200 SALARIES	125,190.00	26,044.03	26,044.03	0.00	99,145.97	21
10-5800-0300 OVERTIME	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5800-0500 FICA	9,960.00	1,622.60	1,622.60	0.00	8,337.40	16
10-5800-0600 HEALTH INSURANCE (MEDICAL)	28,989.00	3,431.76	3,431.76	0.00	25,557.24	12
10-5800-0650 DENTAL,VISION, LIFE INSURANCE	5,922.00	329.44	329.44	0.00	5,592.56	6
10-5800-0675 HRA HEALTH REIMB ACCT	4,500.00	750.00	750.00	0.00	3,750.00	17
10-5800-0700 LGERS RETIREMENT	23,435.00	4,027.63	4,027.63	0.00	19,407.37	17

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10-5800-0800 401K SUPP RETIREMENT	6,510.00	1,302.16	1,302.16	0.00	5,207.84	20
10-5800-1700 MAINT/REPAIRS - VEHICLES	25,000.00	6,807.84	9,230.21	2,422.37	15,769.79	37
10-5800-3100 MOTOR FUELS	30,000.00	3,097.58	3,097.58	0.00	26,902.42	10
10-5800-3300 SUPPLIES	1,000.00	0.00	0.00	0.00	1,000.00	0
10-5800-3600 UNIFORMS	1,000.00	0.00	0.00	0.00	1,000.00	0
10-5800-3800 TECHNOLOGY	600.00	92.30	92.30	0.00	507.70	15
10-5800-5800 PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	0
10-5800-5900 MISCELLANEOUS	1,000.00	0.00	0.00	0.00	1,000.00	0
10-5800-6000 CAPITAL OUTLAY	55,000.00	36,794.95	36,794.95	0.00	18,205.05	67
10-5800-8000 TIPPING FEES & BRUSH REMOVAL	30,000.00	6,603.25	6,603.25	0.00	23,396.75	22
10-5800-8100 RECYCLING	6,000.00	0.00	0.00	0.00	6,000.00	0
10-5800-8200 BRUSH & LEAF DISPOSAL FEES	31,200.00	140.00	140.00	0.00	31,060.00	0
5800 Sanitation & Recycling Subtotal	\$390,806.00	\$91,043.54	\$93,465.91	\$2,422.37	\$297,340.09	24
Expenditure Subtotal	\$390,806.00	\$91,043.54	\$93,465.91	\$2,422.37	\$297,340.09	24
Before Transfers	Deficiency Of Revenue Subtotal	-\$390,806.00	-\$91,043.54	-\$91,043.54	-\$2,422.37	23
After Transfers	Deficiency Of Revenue Subtotal	-\$390,806.00	-\$91,043.54	-\$91,043.54	-\$2,422.37	23
6600 General Government						
Expenditure						
6600 General Government						
10-6600-0401 LEGAL SERVICES	35,000.00	3,928.23	3,928.23	0.00	31,071.77	11
10-6600-1100 TECHNOLOGY	92,120.00	10,380.52	10,380.52	0.00	81,739.48	11
10-6600-1300 MUNICIPAL UTILITIES	25,000.00	2,764.89	2,764.89	0.00	22,235.11	11
10-6600-1500 GE. REPS. AND MAINT.	28,200.00	9,597.10	9,597.10	0.00	18,602.90	34
10-6600-2800 ELECTIONS	6,000.00	0.00	0.00	0.00	6,000.00	0
10-6600-5400 INSURANCE	105,000.00	0.00	0.00	0.00	105,000.00	0
10-6600-6000 CONTINGENCY	181,444.00	0.00	0.00	0.00	181,444.00	0
10-6600-6100 MISCELLANEOUS	10,000.00	1,411.73	1,411.73	0.00	8,588.27	14
10-6600-6201 COVID EXPENDITURES	2,000.00	0.00	0.00	0.00	2,000.00	0
10-6600-6300 COMMUNITY EVENTS	50,000.00	2,885.60	2,885.60	0.00	47,114.40	6
10-6600-6301 4TH OF JULY	10,000.00	1,385.09	1,385.09	0.00	8,614.91	14
10-6600-6302 NATIONAL NIGHT OUT	7,000.00	0.00	0.00	0.00	7,000.00	0
10-6600-6303 HOLIDAY LIGHTING	21,500.00	0.00	0.00	0.00	21,500.00	0
10-6600-6304 ARBOR DAY EVENT	2,000.00	0.00	0.00	0.00	2,000.00	0
10-6600-6400 WILDLIFE MANAGEMENT	5,000.00	0.00	0.00	0.00	5,000.00	0
10-6600-6500 FOREST MANAGEMENT	60,000.00	15,300.00	15,300.00	0.00	44,700.00	26
6600 General Government Subtotal	\$640,264.00	\$47,653.16	\$47,653.16	\$0.00	\$592,610.84	7
Expenditure Subtotal	\$640,264.00	\$47,653.16	\$47,653.16	\$0.00	\$592,610.84	7
Before Transfers	Deficiency Of Revenue Subtotal	-\$640,264.00	-\$47,653.16	-\$47,653.16	\$0.00	7
After Transfers	Deficiency Of Revenue Subtotal	-\$640,264.00	-\$47,653.16	-\$47,653.16	\$0.00	7
6700 Debt Service						
Expenditure						
6700 Debt Service						
10-6700-0100 Police Dept Renovations-Principal	23,334.00	5,833.33	5,833.33	0.00	17,500.67	25

REVENUE & EXPENDITURE STATEMENT

Town of Biltmore Forest

07/01/2022 To 08/31/2022

FY 2022-2023

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
10-6700-0200 Street Improvements-Principal	6,667.00	1,666.67	1,666.67	0.00	5,000.33	25
10-6700-0500 Public Works Building-Principal	84,211.00	0.00	0.00	0.00	84,211.00	0
10-6700-0600 2020 POLICE CARS-PRINCIPAL	29,106.00	0.00	0.00	0.00	29,106.00	0
10-6700-1100 Police Dept Renovations-Interest	1,445.00	444.50	444.50	0.00	1,000.50	31
10-6700-1200 Street Improvements-Interest	413.00	127.00	127.00	0.00	286.00	31
10-6700-1500 Public Works Building-Interest	17,685.00	0.00	0.00	0.00	17,685.00	0
10-6700-1600 2020 POLICE CARS-INTEREST	801.00	0.00	0.00	0.00	801.00	0
6700 Debt Service Subtotal	\$163,662.00	\$8,071.50	\$8,071.50	\$0.00	\$155,590.50	5
Expenditure Subtotal	\$163,662.00	\$8,071.50	\$8,071.50	\$0.00	\$155,590.50	5
Before Transfers	Deficiency Of Revenue Subtotal	-\$163,662.00	-\$8,071.50	-\$8,071.50	\$0.00	5
After Transfers	Deficiency Of Revenue Subtotal	-\$163,662.00	-\$8,071.50	-\$8,071.50	\$0.00	5
8100 Water Dept.						
Expenditure						
8100 Water Dept.						
30-8100-0200 SALARIES	144,572.00	23,064.80	23,064.80	0.00	121,507.20	16
30-8100-0400 PROFESSIONAL SERVICES	5,000.00	615.84	2,815.04	2,199.20	2,184.96	56
30-8100-0500 FICA	11,060.00	1,420.03	1,420.03	0.00	9,639.97	13
30-8100-0600 HEALTH INSURANCE (MEDICAL)	19,326.00	2,750.34	2,750.34	0.00	16,575.66	14
30-8100-0650 DENTAL, VISION, LIFE INSURANCE	3,948.00	429.04	429.04	0.00	3,518.96	11
30-8100-0675 HRA HEALTH REIMBURSEMENT ACCT	3,000.00	500.00	500.00	0.00	2,500.00	17
30-8100-0700 LGERS RETIREMENT	26,023.00	3,595.62	3,595.62	0.00	22,427.38	14
30-8100-0800 401K SUPP RETIREMENT	7,229.00	1,446.03	1,446.03	0.00	5,782.97	20
30-8100-1200 POSTAGE, PRINTING, & STATIONARY	5,000.00	0.00	0.00	0.00	5,000.00	0
30-8100-1500 GENERAL REPAIRS	10,000.00	3,093.21	3,093.21	0.00	6,906.79	31
30-8100-3300 SUPPLIES & EQUIPMENT	15,000.00	1,473.82	1,473.82	0.00	13,526.18	10
30-8100-3800 TECHNOLOGY	5,000.00	0.00	0.00	0.00	5,000.00	0
30-8100-4800 WATER PURCHASES	179,580.00	35,535.52	35,535.52	0.00	144,044.48	20
30-8100-4900 SEWER PURCHASES	185,400.00	0.00	0.00	0.00	185,400.00	0
30-8100-5000 AMI TRANSMITTER FEES	7,700.00	0.00	0.00	0.00	7,700.00	0
30-8100-5700 MISCELLANEOUS	6,196.00	0.00	0.00	0.00	6,196.00	0
30-8100-6500 STAFF DEVELOPMENT	5,000.00	0.00	0.00	0.00	5,000.00	0
30-8100-7400 CAPITAL IMPROVEMENT	29,939.00	0.00	0.00	0.00	29,939.00	0
8100 Water Dept. Subtotal	\$668,973.00	\$73,924.25	\$76,123.45	\$2,199.20	\$592,849.55	11
Expenditure Subtotal	\$668,973.00	\$73,924.25	\$76,123.45	\$2,199.20	\$592,849.55	11
Before Transfers	Deficiency Of Revenue Subtotal	-\$668,973.00	-\$73,924.25	-\$73,924.25	-\$2,199.20	11
After Transfers	Deficiency Of Revenue Subtotal	-\$668,973.00	-\$73,924.25	-\$73,924.25	-\$2,199.20	11

**BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM**

September 13, 2022



Agenda Item E-1

**Presentation – Information regarding Buncombe County
Bond Referendum**

Background

Susan Bean and Wes Wright will attend the Board's meeting to provide information related to Buncombe County's bond referendum on the November 2022 ballot. Ms. Bean will present information related to the referendum. Both she and Mr. Wright will be available to answer questions following the presentation.

Ms. Bean is a volunteer on the committee, representing Mountain True. Mr. Wright is the campaign co-chair and affiliated with Asheville Area Habitat for Humanity and Truist Bank.



**BETTER WITH
BONDS**

BUNCOMBE VOTES YES

Investing in Community

Open Space Bond **\$30 million**

Housing Bond **\$40 million**



Our Neighbors Say

- 80%** Natural environment (mountains, rivers, creeks, wildlife, etc.)
- 76%** Housing is not affordable to many families
- 50%** Losing natural areas and agricultural lands
- 57%** Greenways and Trails





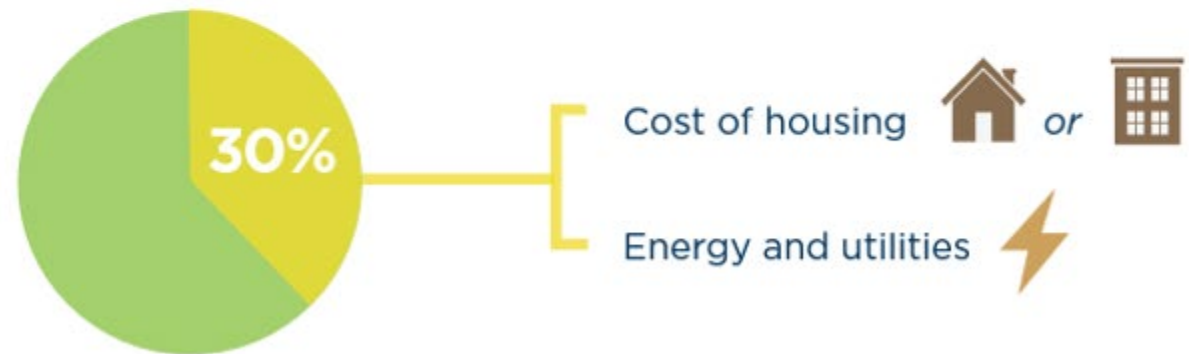
Housing is
Hard

Housing Challenges



The 2021 Housing Need in Buncombe County

Housing is affordable when it comprises no more than **30% of the family's budget**. Families that spend more than this on housing are **cost-burdened**.



Housing Challenges



30% of Buncombe County are **cost-burdened**
32,766 households

Renters who have difficulty affording their homes:



48%
19,075 households

Homeowners who have difficulty affording their homes:



20%
13,691 households

Funds to Help

Average Annual Salaries

\$51,160

income needed to afford a two-bedroom apartment



Food prep and service

\$24,760



Childcare

\$27,430



Retail sales

\$28,730



Healthcare

\$31,630



Construction

\$40,150



Teacher

\$45,890



Police officer

\$47,600

**Statistics from the American Community Survey and the Bureau of Labor Statistics.*

\$75,500

Area Median Income (AMI) for Buncombe County

Affordable communities are healthier communities with opportunity for all



Open Space Challenges

Cost of land is a barrier for new farmers

Farmlands are being sold and developed

Farmers want to conserve land

Iconic views and recreation areas are being lost

Potential Cost

\$32 per year (\$2.67/month) per household per year

- Zero population growth (stagnant tax base)
- All bonds would be issued at once
- Your home is assessed at median value
- Retiring debt

Transparency & Oversight

Existing Programs

- Buncombe County Affordable Housing Committee
- Land Conservation Advisory Board
- Recreation Advisory Board
- Agricultural Advisory Board

Annual independent audit

Two full-time bond project managers (staff)

General Obligation Bonds Community Oversight Committee

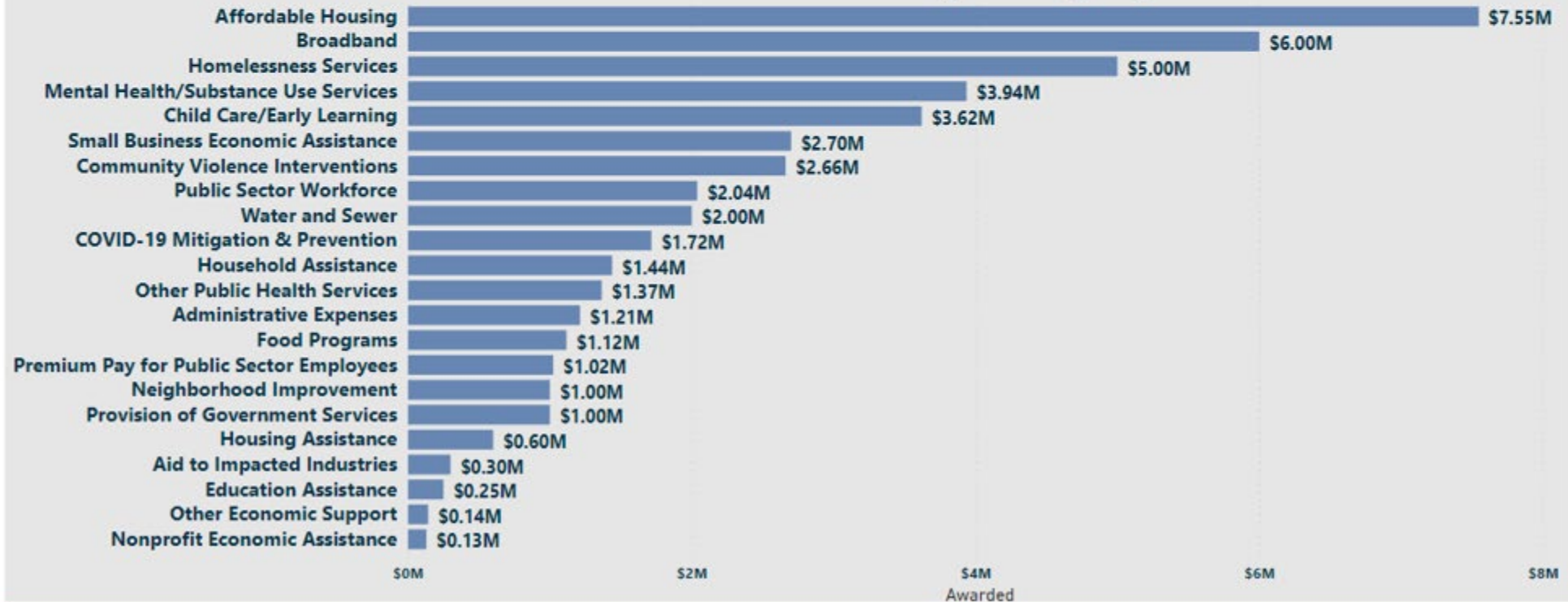
How is Buncombe County using this funding?

Buncombe County is making rolling awards. See below for the projects awarded to date.

Last Refreshed
August 4, 2022

Total Funds	# of Projects	Total Awarded	% Awarded	Total Spent	% Awards Spent
\$50.7M	49	\$46.8M	92.3%	\$12.7M	27.1%

Total Funds Awarded by Category





Our Goals

20% Land Protection

2,800 – 3,150 Housing Units



RIVERLINK



THE
CANNON
FOUNDATION

Explore ASHEVILLE
Convention & Visitors Bureau

Greenways Story



BETTER WITH
BONDS


BUNCOMBE VOTES YES ✓


Additional Resources

BetterWithBonds.org
and
BuncombeCounty.org

Visit the Buncombe County Covid-19 informational site.

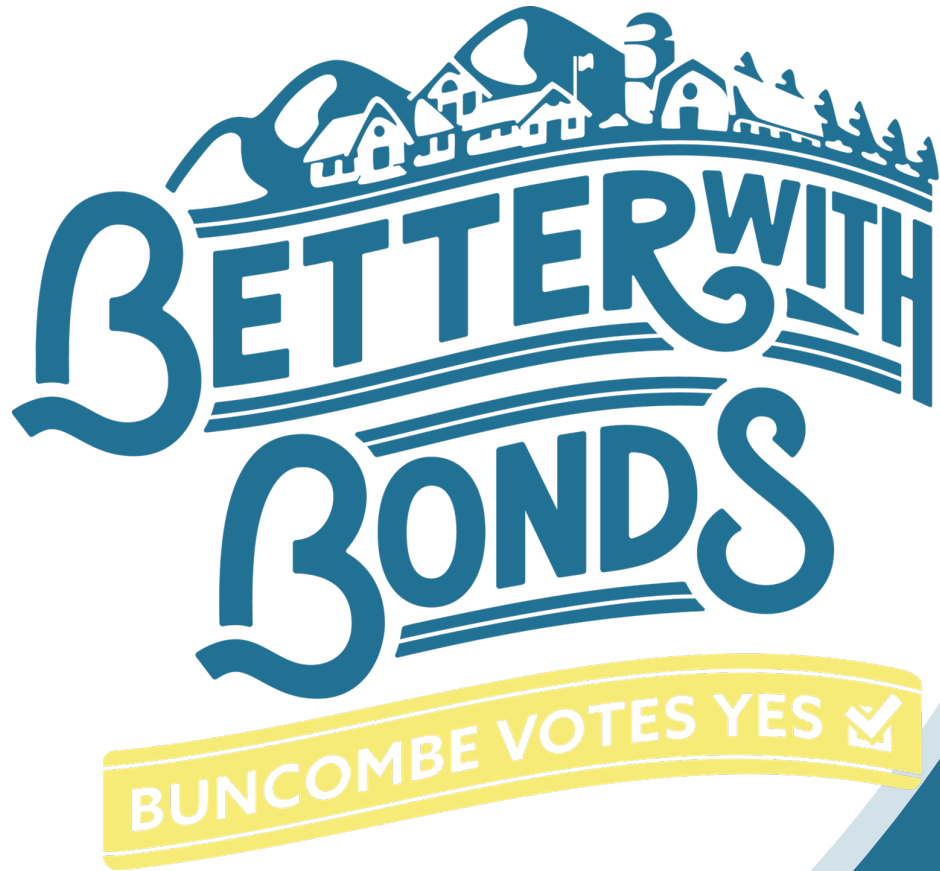
COVID-19 Updates, Testing and Vaccines
Stay up to date with the most current information.

 **BUNCOMBE COUNTY**
NORTH CAROLINA

I WANT TO... ▾ COUNTY SERVICES ▾ TRANSPARENCY ▾ COMP PLAN 2043 **2022 BONDS**  

Community Investment 2022 Bonds

Overview Open Space Housing News Locate & Contact



Susan Bean
MountainTrue

susan@mountaintrue.org

828-258-8737

BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM
September 13, 2022



Agenda Item E-2

**Amendments to Town Code of Ordinances for Compliance
with S.L. 2021-138 (*First Reading*)**

Background

State law changes regarding criminal enforcement of municipal ordinances require the Town amend its ordinances and affirmatively state violations that carry criminal penalties. The new state law dictates an ordinance violation leads to a civil penalty *unless* the municipality specifically states that criminal penalties apply. S.L. 2021-138 also specifies the maximum criminal penalty that may be enforceable for any municipal ordinance violation.

The attached document includes existing Town ordinances that require amendments in order to comply with S.L. 2021-138. As a reminder, the new law also mandates that no ordinance specifying a criminal penalty may be enacted at a meeting in which it is first introduced. This lengthy document includes the full text of each chapter with redline deletions and blue highlighted text for additions. In order to expedite the process of compliance with S.L. 2021-138, attention was paid solely to the addition and deletion of language related to civil and criminal penalties. If the Board wishes to change the substance of any ordinance during this process, that is certainly doable as well. Any changes would be viable for the Board's next meeting in October when these ordinances are eligible for consideration of approval.

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be penalized in accordance with N.C.G.S. 160A-175.

~~be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.~~

(G.S. § 14-4(a))

§ 34.99 PENALTY.

The violation of any provision of this chapter, or any provision of any restriction imposed by any proclamation authorized by this chapter, unless otherwise stated within the specific ordinance, shall ~~constitute a misdemeanor,~~ be punishable as provided by § 10.99.

§ 50.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

~~—(B) (1) Any person violating any of the provisions of § 50.10, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500 or imprisoned not longer than two years or both fined and imprisoned in the discretion of the court.~~

~~—(2) Whoever is found in a civil action to have violated any provision hereof shall be liable to the water supplier in the triple amount of losses and damages sustained or \$500 whichever is greater.~~

§ 51.99 PENALTY.

~~—(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.~~

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

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

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

~~—(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.~~

~~—(B) Any person violating the provisions of § 90.02 shall be subject to a penalty as provided in § 10.99.~~

(2013 Code, § 4-2)

~~—(C) The violation of any portion of §§ 90.35, 90.36, or 90.39 by any of those persons described in said sections shall constitute a misdemeanor and the violator shall be punished accordingly.~~

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

~~—(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.~~

~~—(B) Violation of § 91.02 shall constitute a misdemeanor, for each day such violation occurs and subject the violator of § 91.02 to a fine of \$50 or 30 days imprisonment or both for each violation of § 91.02.~~

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

~~—(B) (1) A violation of §§ 93.30 through 93.41 is a Class 3 misdemeanor under North Carolina law. The penalty for violating §§ 93.30 through 93.41 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 subchapter including injunctive relief, and a civil penalty of \$250 for each day's violation of the subchapter pursuant to G.S. § 160A-175.~~

~~—(2) 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. 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 G.S. § 14-4, or may take such other enforcement action as may be necessary to carry out the purposes of §§ 93.30 through 93.41.~~

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

~~—Any person violating the provisions of this chapter shall be guilty of misdemeanor subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days as provided by G.S. § 14-4.~~

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

~~—(A) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$25,000 or imprisoned for not more than 120 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.~~

§ 153.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

~~—(A) Any person, firm, or corporation who violates the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be fined not exceeding \$50 and/or imprisoned for a period of time not exceeding 30 days. Each day of violation shall be considered a separate offense.~~

CHAPTER 34: CIVIL EMERGENCIES

Section

- 34.01 State of emergency defined
- 34.02 Declaration of state of emergency
- 34.03 Proclamation
- 34.04 Curfew authorized
- 34.05 Termination
- 34.06 Restrictions
- 34.07 Extension, alteration, or repeal
- 34.08 Violation of restrictions

- 34.99 Penalty

Statutory reference:

Authority of town to enact ordinances dealing with states of emergency, see G.S. § 166A-19.31

Continuity of local government in emergency, see G.S. §§ 162B-1 et seq.

One political subdivision to assist officers of another, see G.S. § 160A-288

§ 34.01 STATE OF EMERGENCY DEFINED.

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

STATE OF EMERGENCY. Exists whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property.

(2013 Code, § 6-1)

§ 34.02 DECLARATION OF STATE OF EMERGENCY.

In the event of an existing or threatened state of emergency endangering the lives, safety, health, and welfare of the people within the town, or threatening damage to or destruction

of property, the Mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency, and in order more effectively to protect the lives and property of people within the town, to place into effect any or all of the restrictions hereinafter authorized.

(2013 Code, § 6-2)

§ 34.03 PROCLAMATION.

In accordance with § 34.02, the following proclamation shall be issued.

PROCLAMATION

“WHEREAS, the Governing Body of the town has duly adopted an ordinance providing that when there exists within the town a state of emergency, extraordinary measures are authorized to cope with any widespread illegal activity endangering the lives, safety, and property of persons within the town; and

WHEREAS, by ordinance duly adopted by the Governing Body of the town, the Mayor is authorized to proclaim the existence of such a state of emergency to all citizens and to impose certain restrictions for the protection of the lives and property;

NOW, THEREFORE, I, _____ Mayor of the town, do hereby proclaim that:

I. A state of emergency exists within the town.

II. Except as provided in Section IV below, and until the state of emergency as hereby proclaimed is ended, it shall be unlawful for any person:

(a) To possess off his own premises, or to buy, sell, give away, or otherwise transfer or dispose of any explosives, firearms, ammunition, or dangerous weapons of any kind;

(b) To buy or sell beer, wine, or intoxicating beverages of any kind;

(c) To organize or participate in any demonstrations, parades, marches, or vigils on any public ways or public property within the town.

III. Until the state of emergency as hereby proclaimed is ended, all persons shall remain in their homes, offices or places of business, between ____ p.m. on each day and ____ a.m. on the next day, and during such hours it shall be unlawful for any person to:

(a) To be or travel upon any public street, alley or roadway or upon any public property, unless in search of medical assistance, food, or other commodity or service necessary to sustain the well being of himself or herself or his family or some member thereof;

(b) Participate in or carry on any business activity;

(c) Keep open any place of business, place of entertainment, or any other place of public assembly.

IV. (a) The following persons are exempt from the restrictions imposed by Section III (c) above:

(1) (List, such as law enforcement officers, and the like)

(2) And the like

(b) The following businesses are exempt from the restrictions imposed by Section III(c) above:

(1) (List, such as public utilities, news media, and the like)

(2) And the like

V. This proclamation shall become effective at ___ this ___ day of _____, 2___, and shall remain in force until dissolved by the Mayor or governing body of the town”.

(2013 Code, § 6-3)

§ 34.04 CURFEW AUTHORIZED.

The Mayor is hereby authorized and empowered to limit by the proclamation set out in § 34.03 the application of all or any part of such restrictions to any area specifically designated or described within the corporate limits and to specific hours of the day or night and to exempt from all or any part of such restrictions law enforcement officers, firefighters, and other public employees, doctors, nurses, employees of hospitals, and other medical facilities, on-duty military personnel, whether state or federal; on duty employees of public utilities, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people.

(2013 Code, § 6-4)

§ 34.05 TERMINATION.

The Mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the governing body.

(2013 Code, § 6-5)

§ 34.06 RESTRICTIONS.

During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

- (A) Prohibit or regulate the possession of explosives, firearms, ammunition, or dangerous weapons of any kind, and prohibit the purchase, sale, transfer, or other disposition thereof;
- (B) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises;
- (C) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein taking place on any of the public ways or upon any public property;
- (D) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances;
- (E) Prohibit or regulate travel upon any public street, alley, or roadway, or upon any other public property, except by those in search of medical assistance, or other commodity or service necessary to sustain the well-being of themselves or their families; or
- (F) Prohibit or regulate the participation in, or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.

[\[G\] Pursuant to N.C.G.S 14-4, any person found guilty of violating the above restrictions during a declared State of Emergency shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

(2013 Code, § 6-6) ~~Penalty, see § 34.99~~

Cross-reference:

Alcoholic Beverages, see Ch. 110

Town Offenses, see Ch. 130

§ 34.07 EXTENSION, ALTERATION, OR REPEAL.

Any proclamation may be extended, altered, or repealed, in part or in whole, during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

(2013 Code, § 6-7)

§ 34.08 VIOLATION OF RESTRICTIONS.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.

(2013 Code, § 6-8) Penalty, see § 34.99

§ 34.99 PENALTY.

The violation of any provision of this chapter, or any provision of any restriction imposed by any proclamation authorized by this chapter, shall constitute a misdemeanor, punishable as provided by § 10.99.

(2013 Code, § 6-8)

CHAPTER 50: UTILITIES

Section

General Provisions

- 50.01 Tampering with city property
- 50.02 Contamination of water supply
- 50.03 Water tap-on fees
- 50.04 Water rates
- 50.05 Applications and returned checks
- 50.06 Service fees
- 50.07 Discontinuing service
- 50.08 Restoration of services
- 50.09 Testing of meters
- 50.10 Metering tampering and/or unauthorized taps
- 50.11 Service interruption
- 50.12 Office and service hours
- 50.13 Title to water meters and connections
- 50.14 Reservation of rights to remove, test, and the like
- 50.15 Connections for sprinkler systems
- 50.16 Metering for sprinkler system

Cross-Connections, Backflow, and Back-Siphonage Control

- 50.30 Intent, purpose, and control
- 50.31 Responsibilities
- 50.32 Definitions
- 50.33 Regulations

Identity Theft Program

- 50.45 Purpose
- 50.46 Definitions
- 50.47 Identification of relevant red flags

50.48 Detection, prevention, and mitigation

50.49 Identify theft prevention

50.50 Additional legal requirements

50.51 Administration

50.99 Penalty

Cross-reference:

Building Regulations, see Ch. 150

Statutory reference:

Water and sewer authority, G.S. §§ 162A-1 through 162A-58

GENERAL PROVISIONS

§ 50.01 TAMPERING WITH CITY PROPERTY.

It shall be unlawful for any person not authorized by the town to tamper with alter or injure any valve on street mains or curb cocks, or any cut-offs or fixtures or attachments used in connection with the waterworks system of the town. All cut-offs and cut-ons are to be performed by town employees.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 50.01 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

~~(2013 Code, § 18-1) Penalty, see § 50.99~~

§ 50.02 CONTAMINATION OF WATER SUPPLY.

No person shall contaminate or pollute in any way the water supply of the town, nor shall he or she throw any dirt or other foreign substance of any kind into any reservoir containing water for the supply of said town or in any other fountain or source of the town's water supply.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 50.02 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

~~(2013 Code, § 18-2) Penalty, see § 50.99~~

§ 50.03 WATER TAP-ON FEES.

(A) Each person hooking onto the town's water supply shall pay an initial tap-on fee. Water tap fees shall be set from time to time by the Board of Commissioners and such fees shall be posted in the office of the Town Clerk.

(B) In addition to the initial tap on fee, each person shall pay a bi-monthly meter charge as follows: as set by the Board of Commissioners from time to time and such charge shall be posted in the office of the Town Clerk.

(C) This charge shall be included on the bi-monthly bill for water.

(2013 Code, § 18-3)

§ 50.04 WATER RATES.

(A) Generally. Water rates shall be set from time to time by the Board of Commissioners and such rates shall be posted in the office of the Town Clerk.

(2013 Code, § 18-4)

(B) Minimum bi-monthly charge or base rate. The minimum bi-monthly charge for water service is determined by the size of the meter and is outlined in the rate schedule. Customers shall be charged, as set by the Board of Commissioners from time to time, per month for each and every water meter on their property regardless of whether the service has been used.

(2013 Code, § 18-41)

(C) Seasonal customers.

(1) Seasonal and irrigation meter customers can make arrangements to have the water meter disconnected, by completing a "request to disconnect water service".

(2) To reconnect the water meter, customers should complete a "request to reconnect water service".

(2013 Code, § 18-42)

§ 50.05 APPLICATIONS AND RETURNED CHECKS.

(A) Scope. The intent of this policy is to provide uniform procedures, rates, and charges for providing water and sewer service to the town's customers that will treat all citizens in a fair and indiscriminate manner.

(2013 Code, § 18-50)

(B) Original application.

(1) Any person requesting services shall be required to complete an application for services as approved at that time. The requestor will be required to supply Social Security number or driver's license number, and sign the application in the presence of a Town Finance office employee or a notary public.

(2) Applications must be received by 12:00 p.m. to be turned on the next business day. Only the primary tenant(s) or residents) can apply for membership with the town. Other persons living in the household are not eligible. As previously stated, the utility requires proof that the applicant is the primary tenant. If service has been disconnected for nonpayment or meter tampering, the town may require the new applicant to sign an affidavit attesting to the fact that the previous primary tenant is no longer living in the residence.

(2013 Code, § 18-51)

(C) Returned checks.

(1) When a customer's check is returned from the bank for any reason, the customer is notified, by mail that the check was not honored and that the service will be disconnected unless arrangements are made with Town Hall to pay the bill within 72 hours from mailing of notification.

(2) The town reserves the right to require a customer to pay a utility bill in cash only when three or more bad checks have been received during a 12-month period.

(3) After the town has received more than one bad check, the town will charge, an amount as set by the Board of Commissioners, for each bad check.

(2013 Code, § 18-52)

§ 50.06 SERVICE FEES.

(A) Service fees shall be charges to customers for the purpose of recovering costs associated with supplying service.

(B) Service fees shall be charged as follows.

Description

Fees

Description

Fees

Capital improvement charge (monthly charge)

3-inch meter

4-inch meter

6-inch meter

\$440

\$770

\$990

Complete a request for utility service

\$20

Cut-on service(s) at a fixed time or date, read and set up account

\$20

Development fee new meter

3-inch meter

4-inch meter

6-inch meter

\$9,000

\$24,000

\$60,000

Drop-in meters - used when service lines, meter, and box are already installed and not for newly requested services

3-inch meter

4-inch meter

6-inch meter

Labor and Materials

\$1,628

\$2,687

\$5,205

Service Charge

\$25

\$25

\$25

Development Fee

\$9,000

\$24,000

\$60,000

Installation of a second, 1-inch irrigation meter

\$1,770

Meter tamping charge

\$100 and/or legal action

Restore service following involuntary termination of delinquent account after full payment received

First occasion: \$100

Second and all subsequent occasions: \$200

Transfer from a previous customer to a new customer and leave on

\$20

Transfer from tenant to owner, read meter(s) and leave service on

\$20

Two free meter re-reads are allowed per year, thereafter

Letter to advise of disconnection for nonpayment: first occasion

Letter to advise of disconnection for nonpayment: second occasion

\$20 each reading

\$20

\$30

Unauthorized tap

\$100 and/or legal action

*An additional \$75 on weekends, holidays, or nights in an emergency as determined by the Town Manager

Third and subsequent occasion of nonpayment by due date will result in automatic disconnect

Water service fees shall be billed on the same billing as solid waste fees, and water and sewer fees. Any payment made on said bill shall first be applied to the payment of solid waste collection fees, water service fees, sewer fees, and finally to water fees

(2013 Code, § 18-53)

§ 50.07 DISCONTINUING SERVICE.

(A) Requested discontinuance of service. When a customer desires to discontinue service, 24-hours' advance notice must be given to the town. The customer will be responsible for all service usage within the 24 hours following the time of notice to the town.

(2013 Code, § 18-54)

(B) Involuntary discontinuance of service. The town may discontinue service for one or more of the following reasons:

(1) Failure of the customer to pay billings for utility services when due as required by the current cut-off policy; or

(2) Upon evidence of meter tampering meter by pass or any attempt to defraud the town of utility services.

(2013 Code, § 18-55)

(C) Customer's rights prior to discontinuance of service.

(1) It is the policy of the town to discontinue water service to customers for reason of nonpayment only after the customer has a reasonable opportunity to be heard when the

accuracy of the bill is questioned. Reasonable opportunity is defined as 30 days from the issuance of the bill.

(2) (a) If a customer disputes the accuracy of his or her bill, he or she has the right to a hearing at which he or she may be represented in person, or by another person of his or her choosing, and may present, orally or in writing his or her complaint and contentions.

(b) A hearing shall be required within 30 days of the date the bill is issued and must be heard by the Finance Officer at the Town Hall, 355 Vanderbilt Road, Biltmore Forest, North Carolina or telephone at (828) 274-0824.

(c) A hearing may be scheduled between 9:00 a.m. and 5:00 p.m., Monday through Friday.

(2013 Code, § 18-57)

§ 50.08 RESTORATION OF SERVICES.

When it becomes necessary for the town to discontinue services for any of the reasons listed in § 50.07(B), service will be restored only after:

(A) Payment of all billings owed to the town, including penalties and service fees; and

(B) Payment of any reconnection fees and any material and labor costs incurred by the town.

(2013 Code, § 18.56)

§ 50.09 TESTING OF METERS.

(A) (1) If the customer suspects a malfunction, he or she has the right to request the municipality to test his or her meter for accuracy.

(2) Such requests for accuracy tests may be made at intervals of no less than six months at a fee not to exceed the town's actual cost.

(B) (1) The results of all such tests will be made available to the customer.

(2) Should the owner's meter prove to be faulty (registering at 4% above correct 100%), the above charge shall be refunded and adjustment made to the customer.

(3) The adjustment shall be determined by the previous six months' use and not be adjusted for more than a total of six months.

(2013 Code, § 18.58)

§ 50.10 METERING TAMPERING AND/OR UNAUTHORIZED TAPS.

Tampering with water meters is prohibited by G.S. § 14-159.1 as follows.

(A) It shall be unlawful for any unauthorized person to alter, tamper with, or bypass a meter which has been installed for the purpose of measuring water or knowingly to use water bypassing a meter provided by water supplier for the purpose of measuring and registering the quantity of water consumed.

(B) Any meter or service entrance facility found to have been altered, tampered with, or bypassed in a manner that would cause such meter to inaccurately measure and register the water to be diverted from the recording apparatus of the meter, shall be the prima facie evidence of intent to violate and of the violation of this section by the person in whose name such meter is installed or the person or persons so using or receiving the benefits of such unmetered, unregistered, or diverted water and shall be assessed a meter tampering and/or unauthorized tap charge, in an amount as set by the Board of Commissioners from time to time, and/or legal action.

(C) Nothing in this act shall be construed to apply to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards.

(D) The person or persons making unauthorized taps or meter tampering or the person knowingly benefiting from such water or sewer service will be billed for unauthorized usage at current rates. The usage shall be estimated by the town and the minimum charge shall be \$25.

(E) Connection fees and unauthorized tap charges must also be paid. Service to the house, building, or other customer-owned facilities will not be restored until such payment has been received by the town.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 50.10 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

~~(2013 Code, § 18.59) Penalty, see § 50.99~~

§ 50.11 SERVICE INTERRUPTION.

(A) The town does not guarantee continuous and uninterrupted water service and shall not be liable for loss or damage caused by any failure to supply water or by any interruption unless due to the negligence of the town.

(B) The customer shall notify the town promptly of any defect in service or of any trouble or irregularity in the water supply or quality. In no event shall the town be responsible for any damage resulting during the customer's delay in notifying the town of such trouble or irregularity.

(C) Whenever service is interrupted for work on the water lines or on related equipment such work shall be done, as far as practicable, at a time that will cause the least

inconvenience to the customer. The customer or customers to be effected by such interruptions shall, if practical, be notified in advance.

(2013 Code, § 18.60)

§ 50.12 OFFICE AND SERVICE HOURS.

The Town Hall Office is open for business between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday. Routine and regular service work is performed during the hours of 8:00 a.m. and 4:30 p.m., except that no routine or regular service work shall be performed on Saturdays, Sundays, or holidays. Service personnel can be readied by calling the town's regular number as listed in the local telephone directory during regular office hours and by calling the Police Department during non-office hours.

(2013 Code, § 18.61)

§ 50.13 TITLE TO WATER METERS AND CONNECTIONS.

The title and ownership of the water meters and connections are retained by the town.

(2013 Code, § 18.62)

§ 50.14 RESERVATION OF RIGHTS TO REMOVE, TEST, AND THE LIKE.

The town reserves the right to remove, test, seal, and interfere with any meter for causes deemed justifiable by the Director of Public Works.

(2013 Code, § 18.63)

§ 50.15 CONNECTIONS FOR SPRINKLER SYSTEMS.

(A) All irrigation systems shall have a separate tap from the water main and a separate meter. No irrigation system shall be connected in any manner to the house service. An RPZ device must be placed within 15 feet of the irrigation meter and before any branch lines. All RPZ devices shall be installed above ground with a minimum of 12 inches of unimpeded clearance from the bottom of the discharge port. All connections shall be made in accordance with specifications furnished by the Public Works Director.

(B) Any persons with irrigation connections who do not comply with the aforesaid requirements shall immediately bring the system into compliance.

(C) No water passing through connections made for irrigation purpose shall be used for any purposes other than to operate sprinkler system.

(D) In the event any person fails to comply with any of the provisions of this section, the town shall terminate water service to the irrigation connection until such time as the person is in compliance with this chapter.

(E) Any persons with an irrigation connection that does not comply with the aforesaid requirements in divisions (A) through (D) above, shall be given notice to conform thereto. A period of 14 days shall be allowed for the owner of the irrigation system to bring said system into compliance. After a period of 30 days of noncompliance, the water supply to the irrigation system shall be terminated until said system is brought into compliance.

(2013 Code, § 18.64)

§ 50.16 METERING FOR SPRINKLER SYSTEM.

The metering for an irrigation system shall be installed and maintained by the town. The meter for an irrigation system shall be adjacent to the present meter for the customer or adjacent to the town right-of-way. The cost of the tap for the meter shall be in an amount as set by the Board of Commissioners from time to time. Larger taps can be achieved but at a significantly higher cost.

(2013 Code, § 18.66)

CROSS-CONNECTIONS, BACKFLOW, AND BACK-SIPHONAGE CONTROL

§ 50.30 INTENT, PURPOSE, AND CONTROL.

(A) Intent.

(1) It is the intent of this subchapter to recognize that there are varying degrees of hazard to potable water within the water main and water supply systems.

(2) It is also the intent to apply the principle that the degree of protection should be commensurate with the degree of hazard.

(B) Purpose. The purpose of this subchapter is:

(1) To protect public potable water supply of the town against actual or potential cross-connections, backflow, and back-siphonage by isolating with the premises or private property contamination or pollution that has occurred or may occur because of some undiscovered or unauthorized cross-connection on the premises or private property;

(2) To eliminate cross-connections, backflow, and back-siphonage or any other source of water or process water used for any purpose whatsoever this may jeopardize the safety of the public potable water supply of the town; and

(3) (a) To establish a cross-connection, backflow, and back-siphonage control program.

(b) Cross-connection, backflow, and back-siphonage control require cooperation between the town and the consumer. The responsibilities and duties of each shall be as set forth in the subchapter and other applicable regulations.

(2013 Code, § 18.65)

§ 50.31 RESPONSIBILITIES.

(A) (1) The town is primarily responsible for the prevention of contamination and pollution of the public water system. Such responsibility begins at the point of origin of the public water supply and includes all of the public water distribution system, and ends at the service connection to the consumer's water system.

(2) In addition, the town shall exercise reasonable vigilance to ensure that the consumer has taken the proper steps to protect the public potable water system.

(3) When it is determined that a backflow prevention device is required for the protection of the public system of the town, the town shall require the consumer, at the consumer's expense, to install an approved backflow prevention device at each service connection.

(B) (1) The consumer has the prime responsibility of preventing contaminants and pollutants from entering his or her potable water system or the public water system at his or her service connection. The consumer, at his or her own expense, shall install, operate, and maintain an approved backflow prevention device and the service connection as directed by the town.

(2) Any testing, maintenance, and repairs of backflow prevention devices shall be made by a licensed plumber at the consumer's expense. Installations are to be made by a licensed plumber.

(C) Enforcement of this subchapter shall be administered by the Director of Public Works in cooperation with the County Health Department - Environmental Health Division.

(2013 Code, § 18.65)

§ 50.32 DEFINITIONS.

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

AIR GAP SEPARATION. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flow leveling of the receptacle. An approved AIR GAP

SEPARATION shall be at least double the diameter of the supply pipe measured vertically above the top rim of the vessel.

APPROVED. The term approved as herein used in reference to a water supply system or backflow prevention device (or method) shall mean one that has been approved by the Public Works Director.

BACK-PRESSURE BACKFLOW. Backflow caused by a pump elevated tank boiler or other means that could create pressure within the system greater than the supply pressure.

BACK-SIPHONAGE BACKFLOW. A reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

BACKFLOW PREVENTION DEVICE-TYPE - A. Any effective device, method, or construction used to prevent backflow into a potable water system. The type of device used shall be based on the degree of hazard either existing or potential.

CHECK VALVE-APPROVED. A check valve that is drip-tight in the normal direction of flow when the inlet pressure is one P.S.I. and the outlet pressure is zero. The check valve shall permit no leakage in a direction reverse to the normal flow. The closure element (e.g. clapper) shall be internally weighted or otherwise internally loaded to promote rapid and positive closure.

CONSUMER. Any person, firm, or corporation using or receiving water from the Town of Biltmore Forest water system.

CONTAMINATION. An impairment of the quality of the water by sewage or industrial fluids or waste to a degree, which creates an actual hazard to the public health through poisoning or through the spread of disease.

CROSS-CONNECTION. Any actual or potential connection of structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. Bypass arrangements jumper connections, removable sections, swivel or change-over devices, and other temporary/permanent devices through which or because of which backflow can or may occur are considered to be CROSS-CONNECTIONS.

DOUBLE CHECK ASSEMBLY. An assembly composed of two single independently acting approved check valves, including tightly closing shut-off valves located at each end of the assembly and suitable connections for testing the water-tightness of each check valve.

HAZARD - DEGREE OF. Plumbing type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation, or other device. Unprotected, plumbing type cross-connections are considered to be a health hazard. They include, but are not limited to, cross-connections to toilets, sinks, lavatories, wash trays, domestic washing machines, and lawn sprinkling systems. Plumbing type

cross-connections can be located in many type of structures, including homes, apartment houses, hotels, and commercial and industrial establishment.

HAZARD POLLUTION. An actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard as defined. The maximum degree of intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

HAZARD-SYSTEM. An actual or potential threat of severe danger to the physical properties of the public or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

INDUSTRIAL FLUIDS. Any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health system, pollutional, or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated used water; all types of process water and "used waters" originating from the public potable water system which may deteriorate in sanitary quality; chemicals in fluid form; planting acids and alkalis; circulated cooling waters collected to an open cooling tower and/or cooling waters that are chemically or biologically treated or stabilized with toxic substances; contaminated natural water such as from wells, springs, streams, rivers, irrigation canals or systems, and the like; oils, gases, glycerin, paraffines, caustic and acid solutions; and other liquid and gaseous fluids used in industrial or other processes or for firefighting purposes.

INDUSTRIAL PIPING SYSTEM-CONSUMER'S. Any system used by the consumer for transmission of or to confine or store any fluid, solid, or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and apparatus used to produce, convey, or store substances which are or may be polluted or contaminated.

POLLUTION. An impairment of the quality of the water to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonably affect such waters for domestic use.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION DEVICE. A device containing within its structure a minimum of two independently acting, approved check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure at predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks. It shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by its discharging to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shut-off valves located at each end of the device and each device shall be fitted with properly located test cocks between the source and the service connection such as valves,

pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store a potable water for public consumption or use.

SERVICE CONNECTION. The terminal end of a service connection from the public potable water system (i.e., where the town loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water. If a meter is installed at the end of the service connection, then the SERVICE CONNECTION shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or backflow prevention device located at the point of delivery to the consumer's water system.

WATER-POTABLE. Water from any source which has been investigated by the health agency having jurisdiction and which has been approved for human consumption.

WATER SUPPLY-AUXILIARY. Any water supply on or available to the premises other than the Town of Biltmore Forest's approved public potable water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, and the like, or used water, or industrial fluids. They may be polluted or contaminated or they may be objectionable and constitute an unacceptable water source over which the Town does not have sanitary control.

WATER SYSTEM-CONSUMERS. Includes any water system located on the consumer's premises whether supplied by a public potable water system or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

WATER SYSTEM-CONSUMER'S POTABLE. The portion of the privately-owned potable water system tying between the service connection and the point of use. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or use potable water.

WATER SYSTEM-PUBLIC POTABLE. Any publicly- or privately-owned water system operated as a public utility under a valid health permit to supply water for domestic purposes. This system will include all sources, facilities, and appurtenances.

WATER USED. Any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water purveyor.

(2013 Code, § 18.65)

§ 50.33 REGULATIONS.

(A) No water service connections to any premises shall be installed or maintained unless the potable water and water supply are protected against actual or potential contamination or pollution in the manner required.

(B) In the event of contamination or pollution of a potable water system, the consumer shall notify immediately the town, in order that appropriate measures may be taken to overcome the contamination or pollution.

(C) The Director or his or her authorized representative shall have the right to enter any building, structure, or premises to perform any duty imposed upon by this subchapter where cross-connection, backflow, and back-siphonage is deemed possible.

(D) Nothing herein shall relieve the consumer of the responsibility for conducting or causing to be conducted, periodic surveys of water use practices on his or her premises to determine whether there are actual or potential cross-connection in the consumer's water system through which contaminants or pollutants could flow back into the public water system.

(E) On request, the consumer shall furnish to the Director any pertinent information regarding the water supply system on such property where cross-connection, backflow, and back-siphonage is deemed possible.

(F) Water service may be discontinued after reasonable notice to the consumer if a violation of this subchapter exists on the premises. Such other precautionary measures may be taken as are deemed necessary to eliminate any danger to the potable water system. Water service shall not be restored until the danger has been eliminated in compliance with the provisions of this subchapter. Installation of all cross-connections, backflow, and back-siphonage control devices will be made by a licensed plumber approved by the Director of Public Works. All installations shall be made under the supervision of the town's Cross-Connection Control Inspector.

(G) Installations of all reduced pressure principle backflow prevention devices on existing or proposed water meters shall be installed adjacent to the property line or within 15 feet of the meter.

(H) All cross-connections, backflow, and back-siphonage all control equipment shall meet the testing requirements of the Foundation for Cross-Connection Control and Hydraulic Research, the American Water Works Association, and the State Building Code, Volume II Plumbing, and the EPA.

(I) (1) All cross-connections, backflow, and back-siphonage control devices, both existing and new, and all parts thereof, shall be maintained in a safe condition and in good working order. The consumer shall be responsible for the maintenance of all backflow prevention devices downstream from the service connection on the private water system.

(2) (a) All backflow prevention devices located at the service connections shall be tested at least once a year, or more often in those instances where inspections indicate a need by the Department of Public Works. Test results shall be made available to the consumer.

(b) The consumer shall be notified by the Public Works Department prior to the requirement that all rubber goods shall be replaced every five years or more often if

needed. Removal, rebuilding, and installation shall be made by a licensed plumber approved by the Director of Public Works.

(3) All maintenance and repairs of the backflow device shall be made at the expense of the consumer.

(J) Any RPZ devices that have been installed inside a building shall be required to be inspected at least annually by an independent inspector certified by the state to conduct such inspections. The test results shall be mailed to the Public Works Director within 14 days of inspection.

(K) All RPZ devices must remain free of obstructions (i.e., brush, shrubbery, fences, and the like) for testing or inspection purposes.

(L) The town assumes no responsibility for the RPZ device during an annual inspection.

(M) All fire protection water lines must have an RPZ device.

(N) All commercial buildings that use a boiler system must have an RPZ device and that device must be inspected annually by an independent inspector certified by the state to conduct such inspections. The test results shall be mailed to the Public Works Director within 14 days of inspection.

(O) All permanent installations designed to introduce water into a swimming pool from a potable water supply shall be done only through an air gap of at least two times the diameter of the introducing pipe. In those instances where a permanent water introduction system is not installed and water from a potable water supply is introduced into a swimming pool by means of a hose, the hose bib to which the hose is connected shall be equipped with an RPZ backflow preventer.

(P) No irrigation lines shall be placed within the town rights-of-way.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 50.33 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

~~(2013 Code, § 18.65) Penalty, see § 50.99~~

IDENTIFY THEFT PROGRAM

§ 50.45 PURPOSE.

The purpose of this subchapter is for the creation and implementation of an identity theft prevention program for the town to identify, detect, mitigate, and update red flags that signal the possibility of identity theft in connection with the opening of a covered utility account or any existing covered utility account.

(2013 Code, § 18.67)

§ 50.46 DEFINITIONS.

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

COVERED ACCOUNT. An account that the Town of Biltmore Forest offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions and any other account that the Town of Biltmore Forest offers or maintains for which there is a reasonably foreseeable risk to customers or the safety and soundness of the Town of Biltmore Forest from identity theft, including financial, operational, compliance, reputation, or litigation risks.

IDENTITY THEFT. A fraud committed or attempted using the identifying information of another person without authority.

RED FLAG. A pattern, practice, or specific activity that indicates the possible existence of identity theft. Section 50.47 provides a specific description of which red flags are applicable to this policy.

(2013 Code, § 18-67.1)

§ 50.47 IDENTIFICATION OF RELEVANT RED FLAGS.

(A) After careful examination of our accounts, including the methods by which we open access and past experience with identity theft, the following events/occurrences reasonably indicate the potential for identity theft and should be considered “red flags” for purposes of this policy.

(B) Alerts, notifications, or other warnings received from consumer reporting agencies or service providers, such as fraud detections services.

(C) The presentation of suspicious documents, such as:

- (1) Document provided for identification that appears to have been altered or forged;
- (2) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification;
- (3) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification;
- (4) Other information on the identification is not consistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or

(5) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(D) The presentation of suspicious personal identifying information, such as a suspicious address changes:

(1) Personal identifying information provided is inconsistent when compared against external information sources used by the town;

(2) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the Social Security number range and date of birth; or

(3) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the town, for example, the address on an application is the same as the address provided on a fraudulent application.

(E) The phone number on an application is the same as the number provided on a fraudulent application:

(1) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor;

(2) For example:

(a) The address on an application is fictitious, a mail drop, or a prison; or the phone number is invalid, or is associated with a pager or answering service;

(b) The Social Security number provided is the same as that submitted by other persons opening an account or other customers;

(c) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers;

(d) The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete; or

(e) Personal identifying information provided is not consistent with personal identifying information that is on file with the town.

(3) If the town uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report:

(a) The unusual use of, or other suspicious activity related to, a covered account;

(b) Notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts held by the town; or

(c) The town is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

(2013 Code, § 18-67.2)

§ 50.48 DETECTION, PREVENTION, AND MITIGATION.

(A) Detection.

(1) In an effort to ensure proper detection of any red flags, all customers (consumers) must provide at least the following information/documentation before any new covered account will be opened:

(a) Full name;

(b) Date of birth (individual);

(c) Address, (a residential or business street address for an individual; for an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of next of kin or of another contact individual; or for a person other than an individual (such as a corporation, partnership, or trust), a principal place of business, local office, or other physical location; and

(d) Identification number, which shall be:

1. For a U.S. person, a taxpayer identification number; or

2. For a non-U.S. person, one or more of the following: a taxpayer identification number; passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

(2) For any account holder of a covered account for which the above information is not already on file at the town, the customer will be contacted within a reasonable period of time after discovering the missing information to obtain the necessary information; and

(3) (a) To assist with detection of red flags, the town will implement the appropriate computer programs tailored to the town business needs to help authenticate customers, monitor transactions, and change of address requests.

(b) The following programs are being used and the town continued use thereof is incorporated and made part of this policy: CSI Technology Outfitters 900 East Main Street, Suite T Easley, South Carolina 29640.

(B) Preventing and mitigating identity theft.

(1) (a) In the event a red flag is detected, the town committed to preventing the occurrence of identity theft and taking the appropriate steps to mitigate any harm caused thereby.

(b) In order to respond appropriately to the detection of a red flag, the town shall consider any aggravating circumstance(s) that may heighten the risk of identity theft.

(2) After assessing the degree of risk posed, the town will respond to the red flag in an appropriate manner, which may include:

(a) Monitoring a covered account for evidence of identity theft;

(b) Contacting the customer;

(c) Changing any passwords, security codes, or other security devices that permit access to a covered account;

(d) Reopening a covered account with a new account number;

(e) Not opening a new covered account;

(f) Closing an existing covered account;

(g) Notifying law enforcement; or

(h) Determining that no response is warranted under the particular circumstances.

(3) In an effort to mitigate the damage caused by identity theft, the following programs/software are being used, and the town's continued use thereof is incorporated and made part of this policy: CSI Technology Outfitters.

(4) (a) For the protection of our customers, all service providers hired by the town to perform any activity in connection with any covered account must also take appropriate steps to prevent identity theft.

(b) To this end, the town will only contract with service providers that have implemented and follow a similar identity theft prevention policy.

(2013 Code, § 18-67.3)

§ 50.49 IDENTIFY THEFT PREVENTION.

(A) The town is committed to maintaining an identity theft prevention policy that is current with the ever-changing crime of identity theft. To that end, the town will reassess this policy on a periodic (annual) basis to reflect changes in risks to customers or to the safety and soundness of the town from identity theft.

(B) The determination to make changes to this policy will be within the discretion of the responsible parties, identified in § 50.51, but after careful consideration of the following:

- (1) The town's past experience(s) with identity theft;
- (2) Changes in methods of identity theft;
- (3) Changes in methods to detect, prevent, and mitigate identity theft;
- (4) Changes in the types of accounts that the town offers or maintains; and
- (5) Changes in the business arrangements of the town, including service provider arrangements.

(2013 Code, § 18-67.4)

§ 50.50 ADDITIONAL LEGAL REQUIREMENTS.

(A) (1) The town shall develop policies and procedures designed to enable the organization to form a reasonable belief that a credit report relates to the consumer for whom it was requested.

(2) In an effort to ensure that the town maintains accurate address information for its consumers and to ensure the town provides accurate address information of its consumers to reporting agencies if requested, at least one of the following steps must be taken prior to providing the consumer's address to the consumer reporting agency:

- (a) Verify the address on file with the consumer;
- (b) Confirm the address being sent to the consumer reporting agency matches the address the town has on file for that particular consumer;
- (c) Compare the address with information received from any third-party source; or
- (d) Verify by other means that are reasonably available at the time.

(B) If an accurate address is confirmed, the town shall furnish the consumer's address to the nationwide consumer reporting agency from which it received the notice of address discrepancy if:

- (1) The town establishes a continuing relationship with the customer; and
- (2) The town regularly and in the ordinary course of business, furnishes information to the consumer reporting agency.

(2013 Code, § 18-67.5)

§ 50.51 ADMINISTRATION.

The Town Manager will be responsible for overseeing the implementation, management, and updating of this new policy and shall have the following responsibilities:

- (A) Assign specific responsibility for the program's implementation, including appropriate training for staff;
- (B) At least annually, the assigned person/staff must report to the Board of Commissioners and provide an update on the policy's effectiveness, any service provider arrangements, and significant incidents involving identity theft and the town's response, and recommendations for ways to improve the program;
- (C) Review reports prepared by staff to ensure that the town remains compliant with its legal responsibility to maintain an identity theft prevention program; and
- (D) Approve material changes to this program as necessary to address changing identity theft risks.

(2013 Code, § 18-67.6)

§ 50.99 PENALTY.

- (A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.
- (B) (1) Any person violating any of the provisions of § 50.10, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500 or imprisoned not longer than two years or both fined and imprisoned in the discretion of the court.
- (2) Whoever is found in a civil action to have violated any provision hereof shall be liable to the water supplier in the triple amount of losses and damages sustained or \$500 whichever is greater.

(2013 Code, § 18.59)

CHAPTER 51: SOLID WASTES

Section

51.01 Definitions

51.02 Littering

51.03 Construction debris

51.04 Materials resulting from clearing land

51.05 Garbage collection

51.06 Garbage receptacles

51.07 Tree limbs, brush, leaves, and the like

51.08 Placement of limbs, brush, leaves, and the like

51.09 Grass clippings

51.10 Fees

51.11 Refuse not collected by the town

51.12 Accumulation of garbage, refuse, rubbish, and waste prohibited

51.13 Recycling and recyclable material

51.14 Notice of noncompliance

51.99 Penalty

Statutory reference:

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

§ 51.01 DEFINITIONS.

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

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

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

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

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

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

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

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

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

PATHOLOGICAL WASTE. Human tissues, organs, and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that humans died with a known or suspected disease transmissible to humans.

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

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

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

SHARPS. Needles, syringes, and scalpel blades

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

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

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

(2013 Code, § 9-1)

§ 51.02 LITTERING.

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

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 51.02 shall be guilty of a Class 3 misdemeanor and fined \\$250.00.](#)

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

§ 51.03 CONSTRUCTION DEBRIS.

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

(2013 Code, § 9-3)

§ 51.04 MATERIALS RESULTING FROM CLEARING LAND.

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

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

§ 51.05 GARBAGE COLLECTION.

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

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

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

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

§ 51.06 GARBAGE RECEPTACLES.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2013 Code, § 9-7)

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

Limbs, brush, and leaves shall be placed by occupant upon that portion of residents' property immediately adjacent to the street right-of-way normally used by vehicles, but at least three feet off of the pavement.

(2013 Code, § 9-8)

§ 51.09 GRASS CLIPPINGS.

The town strongly discourages the deposit of grass clippings within the street rights-of-way adjacent to residences; however, should an occupant of a residence place grass clippings within the street rights-of-way, the town may remove said grass clippings and, if so removed, shall bill the owner of said residence a flat fee in an amount as set by the Board of Commissioners from time to time.

(2013 Code, § 9-9)

§ 51.10 FEES.

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

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

(2) One hundred dollar fee per dump truck load;

(3) Twenty-five dollar fee for limbs and brush placed at roadside seven days prior to scheduled pickup;

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

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

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

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

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

(2013 Code, § 9-10)

§ 51.11 REFUSE NOT COLLECTED BY THE TOWN.

The following is a list of refuse not collection by the town (*denotes refuse not accepted by the County Landfill. Asbestos not accepted unless prior arrangement with County Landfill personnel):

(A) Asbestos*;

(B) Ashes;

(C) Batteries;

(D) Bedding;

(E) Building materials;

(F) Flammable materials;

(G) Gas tanks*;

(H) Hazardous waste*;

(I) Liquids*;

(J) Materials resulting from clearing land;

(K) Medical waste;

(L) Paint;

(M) Pathological waste;

(N) Rocks;

(O) Sharps;

(P) Tires; and

(Q) White goods.

(2013 Code, § 9-11)

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

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

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

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

§ 51.13 RECYCLING AND RECYCLABLE MATERIAL.

(A) Recycling encouraged. Each person who owns, leases, or manages a residence, residential unit, or place of business, industry, commerce, or other place providing goods or services, or institution, church, camp, or school is strongly encouraged to remove recyclable materials from solid waste generated and make them available for recycling.

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

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

(1) Jars and bottles. All brown, clear, and green container (bottles and jars) glass));

(2) Cans. Aluminum beverage and bimetal (tin or steel) food cans;

(3) Plastic containers. Plastic containers No. 1 PETE (soda containers) and No. 2 HDPE (milk and shampoo containers) and No. 3, 5, and 7 (mixed plastic);

- (4) Corrugated containers and cardboard. Must be flattened;
- (5) Newspapers. May be bundled with string or left loose. Inserts may remain; and
- (7) Mixed paper. See definition in § 51.01.

(D) Prohibitions.

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

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

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

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

§ 51.14 NOTICE OF NONCOMPLIANCE.

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

(2013 Code, § 9-15)

§ 51.99 PENALTY.

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

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

(2013 Code, § 9-15)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC REGULATIONS
- 72. REGULATIONS
- 73. TRAFFIC SCHEDULES

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

- 70.01 Leaving ignition keys in unattended vehicles
- 70.02 Driving unsafe vehicles
- 70.03 Improperly equipped vehicles
- 70.04 Weight limitation permit required

Traffic-Control Devices

- 70.15 Obedience to official traffic-control devices
- 70.16 Obedience to no-turn signs and turning markers
- 70.17 Obedience to no-parking zone and safety markers
- 70.18 Traffic-control signal legend
- 70.19 Flashing signals

- 70.99 Penalty

Cross-reference:

- Streets and Sidewalks, see Ch. 91
- Traffic Regulations, see Ch. 71

GENERAL PROVISIONS

§ 70.01 LEAVING IGNITION KEYS IN UNATTENDED VEHICLES.

No person driving or in charge of a motor vehicle shall permit it to stand unattended in any public place or parking lot without first stopping the engine, locking the ignition, removing the ignition key from the vehicle, effectively setting the brakes and, when standing on any grade, turning the front wheels to the curb or side of the highway.

(2013 Code § 11-1) Penalty, see § 70.99

§ 70.02 DRIVING UNSAFE VEHICLES.

It shall be unlawful for any person to drive on the streets of the town any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.

(2013 Code § 11-2) Penalty, see § 70.99

§ 70.03 IMPROPERLY EQUIPPED VEHICLES.

No automobile or motor vehicle shall be operated on the streets of the town, unless the same shall be equipped with all necessary equipment to make the vehicle safe. This shall include an adequate muffler, properly installed to prevent unnecessary noise.

(2013 Code § 11-3) Penalty, see § 70.99

§ 70.04 WEIGHT LIMITATION PERMIT REQUIRED.

No person shall operate a motor vehicle upon the streets of the town when the gross weight of such vehicle exceeds 40,000 pounds, or which is of the tractor-trailer type, unless a permit is issued. If it is necessary for such a vehicle to enter the town for the purpose of loading or unloading, then the operator of such vehicle shall apply to the Chief of Police or other designated officer who, upon showing the necessity of such entry, shall issue a permit therefor.

(2013 Code § 11-4) Penalty, see § 70.99

TRAFFIC-CONTROL DEVICES

§ 70.15 OBEDIENCE TO OFFICIAL TRAFFIC-CONTROL DEVICES.

(A) The driver of every motor vehicle, and any other vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic regulations in this traffic code, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(B) No provision of this traffic code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective without signs being placed to give notice thereof.

(2013 Code, § 17-62) Penalty, see § 70.99

§ 70.16 OBEDIENCE TO NO-TURN SIGNS AND TURNING MARKERS.

Whenever authorized signs are placed, erected, or installed indicating that no right or left or U-turn is permitted, it shall be unlawful for the driver of a vehicle to disobey the directions of any such sign, and when authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles traversing or turning thereat, it shall be unlawful for any driver of a vehicle to disobey the directions of such indications.

(2013 Code, § 17-63) Penalty, see § 70.99

§ 70.17 OBEDIENCE TO NO-PARKING ZONE AND SAFETY MARKERS.

Whenever authorized signs or markings are placed, erected, or installed indicating no parking zones or safety zones, it shall be unlawful for the driver of any vehicle to disobey the regulations in connection therewith.

(2013 Code, § 17-64) Penalty, see § 70.99

§ 70.18 TRAFFIC-CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop", or exhibiting different colored lights successively one at a time, the following colors only shall be used, and said terms and lights shall indicate as follows.

(A) Green alone or "Go".

(1) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(B) Yellow alone or "Caution" when shown following the green or "Go" signal.

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(2) Pedestrians facing such signal are thereby advised that there is insufficient time to cross a roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(C) Red alone or "Stop".

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "Go" is shown alone.

(2) No pedestrian facing such signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(D) Red with green arrow.

(1) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow, but shall not interfere with other traffic.

(2) No pedestrian facing such signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(2013 Code, § 17-65) Penalty, see § 70.99

§ 70.19 FLASHING SIGNALS.

Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows.

(A) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(B) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2013 Code, § 17-67) Penalty, see § 70.99

§ 70.99 PENALTY.

If any person shall violate an ordinance regulating the operation or parking of vehicles, he or she shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.

(G.S. § 14-4(b))

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Provisions

- 71.01 Definitions
- 71.02 Required obedience to traffic regulations
- 71.03 Obedience to police
- 71.04 Public employees to obey traffic regulations
- 71.05 Authority of police in special cases
- 71.06 Exemptions to authorized emergency vehicles
- 71.07 Zone of quiet
- 71.08 Play streets
- 71.09 School zone
- 71.10 Push carts, bicycles, or animals
- 71.11 Riding on handlebars prohibited
- 71.12 Riding on sidewalks or without hands on handlebars prohibited
- 71.13 Clinging to moving vehicles
- 71.14 Unlawful riding
- 71.15 Boarding or alighting from vehicles in motion
- 71.16 Persons riding must stay inside
- 71.17 Entering, jumping on, or riding vehicles without permission
- 71.18 Limitation of number in driver's seat
- 71.19 Moving of vehicles into restricted areas
- 71.20 Bicyclists to ride in single file

Operation of Vehicles

- 71.35 Vehicles prohibited on sidewalks
- 71.36 Emerging from private drives
- 71.37 Limitations on turning around

71.38 Driving through funeral processions

71.39 Limitations on backing

71.40 Speed regulations

71.41 Left turns

Cross-reference:

Police Department, see § 31.15

Streets and Sidewalks, see Ch. 91

Statutory reference:

Authority of cities relative to traffic, see G. S. § 20-169 and 160A-300

Operation of vehicles and rules of the road, see G.S. Ch. 20

GENERAL PROVISIONS

§ 71.01 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLE. Vehicles of the Fire Department, police vehicles, and such ambulances designated or authorized by the Chief of Police.

BLOCK. A portion of any street located between two intersections next adjacent to each other.

CROSSWALK.

(1) The portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at, intersections; or

(2) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

DRIVER. Every person who drives or is in actual physical control of a vehicle.

INTERSECTION. The area embraced within the prolongation of the lateral curb lines, or if none, then the lateral boundary lines of two or more highways which join one another at an angle whether or not one such highway crosses the other.

MOTOR VEHICLE. Every vehicle, which is self-propelled, and every vehicle, which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

OFFICIAL TIME STANDARD. Whenever certain hours are named herein, they shall mean standard time or daylight savings time as may be in current use.

OFFICIAL TRAFFIC SIGNALS. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

PARK. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading, or unloading.

PEDESTRIAN. Any person afoot.

PRIVATE ROAD OR DRIVEWAY. Every road or driveway not open to the use of the public for purposes of vehicular travel.

RESIDENTIAL DISTRICT. Any area not comprising a business district and which is mainly occupied by dwellings or by dwellings and buildings in use for business.

RIGHT-OF-WAY. The privilege of the immediate use of a roadway.

ROADWAY. The portion of a street improved, designed, or ordinarily used for vehicular travel.

SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety.

SIDEWALK. The portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

STOP OR STOPPING WHEN PROHIBITED. Any stopping of a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal.

STOP WHEN REQUIRED. The complete cessation of movement.

STANDING. Any stopping of a vehicle, whether occupied or not.

STREET or HIGHWAY. The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly or together while using any street for the purpose of travel.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used

exclusively upon stationary rails or tracts; provided, that for the purpose of this chapter, a bicycle or a ridden animal shall be deemed a vehicle.

(2013 Code, § 17-1)

Cross-reference:

General definitions and rules of construction, see § 10.99

§ 71.02 REQUIRED OBEDIENCE TO TRAFFIC REGULATIONS.

It is a misdemeanor for any person to do any act forbidden or to fail to perform any act required in this chapter.

(2013 Code, § 17-2) Penalty, see § 70.99

§ 71.03 OBEDIENCE TO POLICE.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer.

(2013 Code, § 17-3) Penalty, see § 70.99

Cross-reference:

Police Department, see § 31.15

§ 71.04 PUBLIC EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the U.S. government, this state, county, or town, and it shall be unlawful for any said driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

(2013 Code, § 17-4) Penalty, see § 70.99

§ 71.05 AUTHORITY OF POLICE IN SPECIAL CASES.

In the event of a fire or other emergency or when necessary to expedite traffic or safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this chapter.

(2013 Code, § 17-5) Penalty, see § 70.99

Cross-reference:

Fire and Fire Protection, see §§ 92.20 through 92.22

Town Emergencies, see Ch. 34

§ 71.06 EXEMPTIONS TO AUTHORIZED EMERGENCY VEHICLES.

(A) (1) The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles as defined in § 71.01, except as follows:

(2) A driver when operating such vehicle in an emergency, except when otherwise directed by a police officer may:

(a) Park or stand, notwithstanding the provisions of this chapter;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limits so long as he or she does not endanger life or property; or

(d) Disregard regulations governing direction of movement or turning in specified directions so long as he or she does not endanger life or property.

(B) The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his or her reckless disregard for the safety of others.

(2013 Code, § 17-6)

§ 71.07 ZONE OF QUIET.

Whenever authorized signs are placed, erected, or installed indicating a zone of quiet, it shall be unlawful for any person operating a motor vehicle within any such zone to sound the horn or other warning device of said vehicle, except in an emergency.

(2013 Code, § 17-7) Penalty, see § 70.99

§ 71.08 PLAY STREETS.

Whenever authorized signs are placed, erected, or installed indicating any street or part thereof as a play street, it shall be unlawful to drive a vehicle upon any such street or portion thereof, except drivers of vehicles having residences within such closed area, and then said drivers shall exercise the greatest care in driving upon any such street or portion thereof.

(2013 Code, § 17-8) Penalty, see § 70.99

§ 71.09 SCHOOL ZONE.

Whenever authorized signs are placed, erected, or installed indicating any street or parts thereof as school zones, all drivers of motor vehicles and operators of other vehicles using said streets or parts thereof shall exercise the greatest care in driving upon said streets or parts thereof for the protection of children.

(2013 Code, § 17-9) Penalty, see § 70.99

§ 71.10 PUSH CARTS, BICYCLES, OR ANIMALS.

Every person propelling a push cart or riding a bicycle or any animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

(2013 Code, § 17-10) Penalty, see § 70.99

Statutory reference:

Application to persons riding animals or driving animal-drawn vehicles, see G. S. § 20-171

§ 71.11 RIDING ON HANDLEBARS PROHIBITED.

The operator of a motorcycle or bicycle when upon a street shall not carry any person upon the handle bar, frame, or tank of any such vehicle, nor shall any person so ride upon any such vehicle.

(2013 Code, § 17-11) Penalty, see § 70.99

§ 71.12 RIDING ON SIDEWALKS OR WITHOUT HANDS ON HANDLEBARS PROHIBITED.

(A) Riding on sidewalks or without hands on handlebars prohibited.

(B) It shall be unlawful to ride a bicycle or motorcycle on any street without having his or her hands upon the handlebars, or to ride a bicycle upon any sidewalk or walkway.

(2013 Code, § 17-12) Penalty, see § 70.99

§ 71.13 CLINGING TO MOVING VEHICLES.

No person riding upon any bicycle, coaster, sled, rollerskates, skateboards, go-carts, or any toy vehicle shall attach himself or herself or his or her vehicle to any moving vehicle upon any roadway.

(2013 Code, § 17-13) Penalty, see § 70.99

§ 71.14 UNLAWFUL RIDING.

It shall be unlawful for any person to ride on any public conveyance or vehicle or any portion thereof not designed or intended for the use of passengers. This provision shall not apply to employees engaged in the necessary discharge of a duty or to persons riding within truck bodies in spaces intended for merchandise.

(2013 Code, § 17-14) Penalty, see § 70.99

§ 71.15 BOARDING OR ALIGHTING FROM VEHICLES IN MOTION.

It shall be unlawful for any person to board or alight from any public conveyance or other vehicle while such conveyance or vehicle is in motion.

(2013 Code, § 17-15) Penalty, see § 70.99

§ 71.16 PERSONS RIDING MUST STAY INSIDE.

No person, when riding, shall allow any part of his or her body to protrude or extend beyond the limits of the vehicle in which he or she is riding, except to give such signals as by law are required, and it shall be unlawful for any person to hang onto any vehicle whatsoever.

(2013 Code, § 17-16) Penalty, see § 70.99

Cross-reference:

Clinging to motor vehicles, see § 71.13

§ 71.17 ENTERING, JUMPING ON, OR RIDING VEHICLES WITHOUT PERMISSION.

It shall be unlawful for any person to jump on or ride any automobile or other vehicle without the consent of the owner or driver.

(2013 Code, § 17-17) Penalty, see § 70.99

§ 71.18 LIMITATION OF NUMBER IN DRIVER'S SEAT.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons, including the driver, to ride in the front or driver's seat of a motor vehicle.

(2013 Code, § 17-18) Penalty, see § 70.99

§ 71.19 MOVING OF VEHICLES INTO RESTRICTED AREAS.

It shall be unlawful for any person to move a vehicle not owned by him or her into any prohibited area or away from a curb, such distance as is unlawful.

(2013 Code, § 17-19) Penalty, see § 70.99

§ 71.20 BICYCLISTS TO RIDE IN SINGLE FILE.

(A) All persons operating a bicycle upon a road in the town shall ride in single file only, and as near to the cyclists right side of the road as is reasonably safe under the existing conditions, and exercising due care when passing a standing vehicle, or being passed by a moving vehicle, or one proceeding in the same direction.

(B) Every person operating a bicycle upon a highway or bikeway shall be subject to the provisions of G.S. Ch. 20, Art. 3, Motor Vehicle Act of 1937, except those provisions of such sections of the General Statutes which by their nature can have no application.

(C) All persons operating a bicycle upon a road in the town shall ride in single file only, and as near to the cyclists right side of the road as is reasonably safe under the existing conditions, and exercising due care when passing a standing vehicle, or being passed by a moving vehicle, or one proceeding in the same direction.

(2013 Code, § 17-20) Penalty, see § 70.99

OPERATION OF VEHICLES

§ 71.35 VEHICLES PROHIBITED ON SIDEWALKS.

It shall be unlawful for the driver of any vehicle to drive upon or within any sidewalk area, except as a permanent or temporary driveway.

(2013 Code § 17-30) Penalty, see § 70.99

§ 71.36 EMERGING FROM PRIVATE DRIVES.

The driver of a vehicle emerging from a private driveway shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk areas extending across such drive, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(2013 Code § 17-31) Penalty, see § 70.99

§ 71.37 LIMITATIONS ON TURNING AROUND.

No driver shall turn any vehicle so as to proceed in the opposite direction in any street or street intersection, unless the same is clearly marked for such U-turns.

(2013 Code § 17-32) Penalty, see § 70.99

Statutory reference:

Turning movements generally, see G.S. § 20-153

§ 71.38 DRIVING THROUGH FUNERAL PROCESSIONS.

No vehicle shall be driven through a funeral procession, except Fire Department vehicles, police patrols, and ambulances, when the same are responding to calls.

(2013 Code § 17-33) Penalty, see § 70.99

Statutory reference:

Authority to regulate processions, see G.S. § 20-157.1

§ 71.39 LIMITATIONS ON BACKING.

The driver of a vehicle shall not back the same into any intersection or over a crosswalk and shall not in any event or at any place back a vehicle unless such movement can be made in safety, and he or she shall have given ample warning to those who may be behind him or her by hand and horn or other signal.

(2013 Code § 17-34) Penalty, see § 70.99

§ 71.40 SPEED REGULATIONS.

No person shall drive a vehicle on a street or highway in the town at a speed greater than is reasonable and prudent under the conditions then existing.

(2013 Code § 17-35) Penalty, see § 70.99

§ 71.41 LEFT TURNS.

In making left turns at street intersections, all traffic shall travel to the left of the center of said intersections as may be indicated by buttons, markers, or other directing signs.

(2013 Code § 17-36) Penalty, see § 70.99

CHAPTER 72: PARKING REGULATIONS

Section

72.01 Stopping, standing, or parking prohibited

72.02 Vehicles not to obstruct passage

72.03 Stop when traffic obstructed

72.04 Vehicles not to stop in streets; exceptions

72.05 Parking near fire hydrants or emergency apparatus

Statutory reference:

Authority of town to designate stop intersections, see G.S. § 20-158

Authority to regulate and limit vehicular parking, see G.S. § 160A-301

§ 72.01 STOPPING, STANDING, OR PARKING PROHIBITED.

It shall be unlawful for any person to stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control device in any of the following places:

(A) On the sidewalk;

(B) On a crosswalk;

(C) Within an intersection;

(D) Within 30 feet of any flashing beacon, stop sign, or traffic-control signal located at the side of a street or roadway;

(E) No vehicle shall park on either side of any street approaching a railroad underpass;

(F) No vehicle shall park on either side of any street approaching a grade crossing within 50 feet of the closest rail; provided, that where existing permanent structures are located along the street and closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited, if the said parking does not interfere with the view in either direction of an approaching locomotive or train;

(G) Alongside or opposite any street excavation or obstruction when such stopping or standing or parking would obstruct traffic;

(H) Upon any bridge or other elevated structure or within any underpass structure;

(I) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanitarium, or any public building; or

(J) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street.

(2013 Code, § 17-47) Penalty, see § 70.99

§ 72.02 VEHICLES NOT TO OBSTRUCT PASSAGE.

It shall be unlawful for any vehicle to stand on any street so as to interrupt or interfere with the passage of public conveyances or other vehicles.

(2013 Code, § 17-48) Penalty, see § 70.99

§ 72.03 STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall enter an intersection or a marked crosswalk unless there is a sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control sign to proceed.

(2013 Code, § 17-49) Penalty, see § 70.99

§ 72.04 VEHICLES NOT TO STOP IN STREETS; EXCEPTIONS.

It shall be unlawful for any person to stop, a vehicle in any street, except for the purpose of parking as prescribed in this chapter in designated areas, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral, or other procession which is given the right-of-way, by the giving of traffic signals, the passing of some other vehicle or a pedestrian, or by some emergency; and in any case covered by these exceptions, said vehicle shall not stop so as to obstruct any crossing or street intersection if the same can be avoided.

(2013 Code, § 17-50) Penalty, see § 70.99

Cross-reference:

Driving through funeral processions, see G.S. § 71-38

§ 72.05 PARKING NEAR FIRE HYDRANTS OR EMERGENCY APPARATUS.

It shall be unlawful for any person to stand, stop, or park a motor vehicle, vehicle, push cart, or other means of conveyance in any area where such stopping, or parking is prohibited, or within 15 feet of any fire hydrant or other emergency apparatus, or in any manner wherein such parking would cause a hazard to persons property. It shall be the duty of every police officer to take immediate steps by whatever means necessary and most expedient to remove any obstruction that might cause a hazard to persons or property within the corporate limits.

(2013 Code, § 17-51) Penalty, see § 70.99

CHAPTER 73: TRAFFIC SCHEDULES

Schedules

I. Speed limits

SCHEDULE I. SPEED LIMITS.

(A) No person shall operate a vehicle in excess of 35 mph on the following streets in the town: Vanderbilt Road, north from the Town Hall to the town limits with the City of Asheville.

(2013 Code, § 17-35.1)

(B) No person shall operate a vehicle in excess of 25 mph on the following streets in the town: Amherst Road; Arboretum Road; Brooklawn Chase; Brookside Road; Browntown Road; Buena Vista Road; Busbee Road; Cedar Chine Road; Cedarcliff Road; Cedar Hill Drive; Chauncey Circle; Deerfield Road; East Forest Road; Eastwood Road; Fairway Place; Fir Tree Lane; Forest Road; Frith Drive; Greenwood Place; Greenwood Road; Hemlock Road; Hilltop Road; Holly Hill Road; Lone Pine Road; Niagara Drive; Park Road; Parkway Road; Ridgefield Place; Southwood Road; Stuyvesant Crescent; Stuyvesant Road; Valley Springs Road; Vanderbilt Road South from the Town Hall; Westwood Road; and White Oak Road.

(2013 Code, § 17-35.2)

(C) No person shall operate a vehicle in excess of ten mph on Stuyvesant Road between Browntown and Southwood as posted.

Statutory reference:

Speed restrictions and authority of town relative thereto, see G.S. § 20-141

When speed limits not applicable, see G.S. § 20-145

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Cruelty to animals
- 90.02 Animals at large
- 90.03 Impoundment
- 90.04 Pens and enclosures
- 90.05 Limitation on household pets
- 90.06 Certain animals expressly prohibited
- 90.07 Killing dangerous animals
- 90.08 Dangerous animals
- 90.09 Effective date
- 90.10 Wild animals

Bird Sanctuary

- 90.20 Designated
- 90.21 Trapping, hunting, or shooting wild birds prohibited; exceptions
- 90.22 Erection of signs

Dogs

- 90.35 Identification of dogs and inoculation of dogs
- 90.36 Restraint of dogs
- 90.37 Impoundment of dogs
- 90.38 Reclaiming impounded dogs
- 90.39 Control of dangerous (very unruly) dogs

- 90.99 Penalty

Statutory reference:

Confinement or leashing of vicious dogs, see G.S. §§ 67-4.1 through 67-4.5

Dogs running at large, see G.S. § 67-12

License tax on privilege of keeping domestic animals, see G.S. § 160A-212

Regulation of domestic animals, see G.S. § 160A-186

GENERAL PROVISIONS

§ 90.01 CRUELTY TO ANIMALS.

No person shall cruelly treat any animal in any way; any person who inhumanely beats, underfeeds, overloads, abandons, or mistreats any animal in any way shall be deemed guilty of a violation of this section punishable as provided ~~below. by § 10.99.~~

Pursuant to N.C.G.S 14-4, any person found guilty of violating § 90.01 shall be guilty of a Class 3 misdemeanor and fined \$500.00.

(2013 Code, § 4-1)

Statutory reference:

City may define and prohibit abuse of animals, see G.S. § 160A-182

Cruelty to animals, see G. S. § 14-360

§ 90.02 ANIMALS AT LARGE.

It shall be unlawful for any person to allow any cow, calf, horse, mule, sheep, or any other such animal to run at large in the town.

(2013 Code, § 4-2) Penalty, see § 90.99

§ 90.03 IMPOUNDMENT.

Any animal caught running at large may be picked up by the police, and, unless immediately claimed, such animals shall be disposed of as deemed best by the police or other designated official.

(2013 Code, § 4-3)

Statutory reference:

Impoundment of stock, see G.S. §§ 68-17 through 68-25

§ 90.04 PENS AND ENCLOSURES.

(A) All pens where household pets of any kind are kept within the town limits shall be temporary, shall be kept in a clean and sanitary condition, and may only be located in the rear yard.

(B) If, in the opinion of the Chief of Police or Town Manager, or upon complaint of any person, any such pen is deemed to be unsanitary so as to create a health hazard or a nuisance from offensive odors, said official shall have the authority to close such pen and require removal of any animal kept therein.

(2013 Code, § 4-4) (Ord. passed 4-11-2017) Penalty, see § 90.99

Cross-reference:

Health and Safety, see §§ 92.01 through 92.05

§ 90.05 LIMITATION ON HOUSEHOLD PETS.

(A) It shall be unlawful for any person to keep on any lot or premises more than six household pets, no more than three of which may be dogs. HOUSEHOLD PETS means dogs, cats and rabbits, but shall not include:

- (1) Small domesticated rodents such as gerbils, guinea pigs, hamsters, rats or mice;
- (2) Small birds such as canaries, parakeets, finches, parrots, or mynas; or
- (3) Any amphibian, fish or non-venomous reptiles. It shall be unlawful for any person to keep on any lot or premises any venomous reptile.

(B) Should a person have more than six household pets as a result of a litter or litters, the person shall notify the Town Manager within 30 days of the birth of the litter. The person shall have up to six months to reduce the number of household pets so that the number is in compliance with this section.

(C) Persons keeping household pets shall provide appropriate care and exercise appropriate control over the household pets and shall not allow or cause the condition or behavior of household pets to constitute a nuisance. Should the condition or behavior of household pets unreasonably interfere with the use and enjoyment of other residents of the town, the town may require the owner of the household pets to take action to abate the nuisance including the removal of some or all of the household pets.

(2013 Code, § 4-5) (Ord. passed 4-11-2017) Penalty, see § 90.99

§ 90.06 CERTAIN ANIMALS EXPRESSLY PROHIBITED.

It shall be unlawful to keep within the corporate limits of the town any hog, pig, horse, pony, cattle, goat, sheep, chicken, duck, turkey, goose, swan or any other animals or fowl

commonly known as farm animals. Property owners keeping horses on their property, as of the effective date of this section, shall be allowed to continue keeping horses so long as they own the property. If the property is sold or transferred, this permission to keep horses shall terminate.

(2013 Code, § 4-6a) (Ord. passed 4-11-2017) Penalty, see § 90.99

§ 90.07 KILLING DANGEROUS ANIMALS.

The members of the Police Department or any other designated persons are authorized to kill any dangerous animal of any kind when it may be necessary for the protection of any person or property in the town.

(2013 Code, § 4-7) Penalty, see § 90.99

§ 90.08 DANGEROUS ANIMALS.

(A) An animal that:

- (1) Without provocation has killed or inflicted severe injury on a person;
- (2) Without provocation has killed or inflicted severe injury on another domestic animal;
- (3) Is determined by a police officer or an animal control officer to be a potentially dangerous animal; or
- (4) Is to be treated in accordance with § 90.39, “control of dangerous dogs”.

(B) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.

(2013 Code, § 4-7)

§ 90.09 EFFECTIVE DATE.

This chapter shall become effective November 15, 1982.

(2013 Code, § 4-40)

§ 90.10 WILD ANIMALS.

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

WILD ANIMAL. Any animal normally found in wild state, particularly feral, dangerous, non-domesticated animals which generally do not live in or about human habitation. Wild animals include, but are not limited to: bears, non-human primates, all felines other than domesticated house cats, racoons, skunks, squirrels, venomous snakes, elephants, camels, coyotes, wolves and any hybrid or crossbreed of such animals having similar characteristics of the animals specified herein.

(B) No person shall keep a wild animal on any lot or premises within the town limits.

(Ord. passed 4-11-2017)

BIRD SANCTUARY

§ 90.20 DESIGNATED.

The area within the corporate limits of the town and all lands owned or leased by the town outside the corporate limits is hereby designated as a bird sanctuary.

(2013 Code, § 4-19)

§ 90.21 TRAPPING, HUNTING, OR SHOOTING WILD BIRDS PROHIBITED; EXCEPTIONS.

It shall be unlawful to trap, hunt, shoot, or otherwise kill, within the sanctuary established in § 90.20, any native wild bird; provided, however, that it shall be lawful to trap starlings or similar birds or fowl when such birds or fowl are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health and property.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 90.21 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

~~(2013 Code, § 4-20) Penalty, see § 90.99~~

§ 90.22 ERECTION OF SIGNS.

Artistic signs may be erected giving notice of the regulations herein provided. Such signs shall be of a design as may be approved by the Board and shall be erected at such places as may be designated by the Board.

(2013 Code, § 4-21)

DOGS

§ 90.35 IDENTIFICATION OF DOGS AND INOCULATION OF DOGS.

(A) All persons owning, controlling, keeping, or maintaining any dog within the town shall provide and keep on such dog a collar or harness containing an identification tag on which is inscribed the owner's, keeper's, or controller's name, address, and telephone number.

(B) All persons owning, controlling, keeping, or maintaining any dog within said town shall also ensure that such dog has been currently inoculated against rabies and shall provide and keep on such dog's collar or harness a current rabies inoculation tag.

(2013 Code, § 4-32)

§ 90.36 RESTRAINT OF DOGS.

(A) Every person owning or having possession, charge, care, custody, or control of any dog shall keep such dog exclusively upon his or her premises; however, such dog may be off premises if it is under the physical control of a competent person and physically restrained by a chain, leash, or harness, not to exceed eight feet in length and held in the hand of said person.

(B) At all times dogs shall be under sufficient control so as not to disturb neighbors by barking excessively, and more particularly after dark.

(2013 Code, § 4-33) (Ord. passed 5-11-2005) Penalty, see § 90.99

§ 90.37 IMPOUNDMENT OF DOGS.

(A) Any dog seen violating or reported to have violated § 90.36 shall be picked up and impounded by the Police Department.

(B) The impounding officer shall make reasonable attempts to notify the owner or keeper of said dog of the dog's impoundment.

(C) As soon as possible after the expiration of 48 hours from the time the dog is impounded, such dog shall be turned over to the County Animal Shelter for disposition according to the rules regulations and policies of said County Animal shelter.

(2013 Code, § 4-34)

§ 90.38 RECLAIMING IMPOUNDED DOGS.

(A) The owner of any dog impounded pursuant to § 90.37 shall have the right to redeem said dog while said dog is in the custody of the Police Department by paying a fee to the town, in an amount as set by the Board of Commissioners from time to time.

(B) After any dog impounded pursuant to § 90.37 is turned over to the County Animal Shelter pursuant to § 90.37, the owner of such dog shall have only those rights to redeem said dog afforded such owner by the rules regulations and policies of the County Animal Shelter.

(2013 Code, § 4-35)

§ 90.39 CONTROL OF DANGEROUS (VERY UNRULY) DOGS.

No person shall own control keep or maintain in the town a dangerous (very unruly) dog unless said dog is confined within a secure building or enclosure which building or enclosure shall be clearly marked with a warning sign.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 90.39 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

~~(2013 Code, § 4-36) Penalty, see § 90.99~~

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person violating the provisions of § 90.02 shall be subject to a penalty as provided in § 10.99.

(2013 Code, § 4-2)

(C) The violation of any portion of §§ 90.35, 90.36, or 90.39 by any of those persons described in said sections shall constitute a misdemeanor and the violator shall be punished accordingly.

(2013 Code, § 4-38)

CHAPTER 91: STREETS AND SIDEWALKS

Section

91.01 Destruction of street signs

91.02 Construction of private drives; permit

91.03 Hauling building materials and construction debris

91.04 Permit required for cutting, excavating under, or boring within roadways of the town

91.99 Penalty

Cross-reference:

Authority to regulate travel on public streets during civil emergencies, see § 34.06(e)

General provisions of motor vehicles, see §§ 70.01 through 70.04

Littering, see § 51.02

Traffic, see Title VII

Statutory reference:

General authority relative to establishment and control of streets and sidewalks, see G.S. § 160A-296

§ 91.01 DESTRUCTION OF STREET SIGNS.

It shall be unlawful for any person to remove or cause to be removed, or to mutilate, deface, destroy, or injure in any manner any road or street sign located in the town.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 91.01 shall be guilty of a Class 3 misdemeanor and fined \\$250.00.](#)

~~(2013 Code, § 15-3) Penalty, see § 91.99~~

§ 91.02 CONSTRUCTION OF PRIVATE DRIVES; PERMIT.

(A) No private drive or entranceway shall be constructed upon any public street or road shoulder in the town without adequate provision through or under said way to preserve the pre-existing flow and drainage of surface water along the margin of the street or road affected.

(B) Before constructing or causing the construction of any drive or entranceway upon a public street or road shoulder, the owner of the lot or lots to be sewed thereby shall notify the Town Clerk in writing and the Clerk shall issue to the owner a permit for such construction when the same complies with the requirements of this section.

(C) (1) Private driveways and entranceways constructed within the town right-of-way shall be constructed of stone base or asphalt and any damages or disturbance of same resulting from maintenance or installation of underground facilities located in said right-of-way shall be repaired or replaced by the Town or other entity causing the damage.

(2) Such repair or replacement of existing driveways or entrances or curbing or obstructions constructed of concrete, brick pavers, or similar materials shall be the sole responsibility of the property owner. The construction of curbing or obstructions across the town right-of-way is prohibited.

(a) No person, firm, corporation, governmental body, or agency shall construct or cause to be constructed any drive or entranceway upon or connecting to any public street or road shoulder in the town which drive or entranceway shall serve or be designed to serve dwelling(s), residence(s), building(s), business(es) or separately platted lot(s), or any area, without first receiving written permission from the Town Board of Commissioners. This chapter shall not, however, apply to those applicants who receive driveway entrances by obtaining a certificate of zoning compliance for a new residence. The Board may grant or deny permission or may grant permission upon such terms as it, in its discretion, deems reasonably necessary to protect the best interest of the town.

(b) In determining whether or not to grant permission and if granted, under what conditions, the Board may consider and employ the provisions of G.S. §§ 160A-11, 160A-174, 160A-296, 160A-300, and 160A-307, and all other applicable statutes now or hereafter enacted by the State General Assembly.

(2013 Code, § 15-4) Penalty, see § 91.99

§ 91.03 HAULING BUILDING MATERIALS AND CONSTRUCTION DEBRIS.

(A) It shall be the responsibility of the owner of any lot or lots where construction is taking place to have all construction debris removed from the site and to ensure that any building materials and construction debris which may be dropped on the streets or other public ways is cleaned up and taken away.

(B) In the event it becomes necessary for the town to remove such building materials or debris, the costs incident to such removal shall be assessed against the owner of the property where such construction is taking place.

(2013 Code, § 15-5) Penalty, see § 91.99

§ 91.04 PERMIT REQUIRED FOR CUTTING, EXCAVATING UNDER, OR BORING WITHIN ROADWAYS OF THE TOWN.

(A) No person, firm, corporation, governmental unit, water or sewer authority, or public or private utility shall cut or excavate under, bore under, or in any way damage, any roadway owned or maintained by the town without first obtaining the written permission from the Town Chief Administrative Officer. Any applicant for such permission shall file a written application, stating the reason for the cut or excavation, and the proposed location of same, the length of time required to complete the project, and shall restore the roadway to its original condition. Wherever boring under the roadway surface can be done without

unreasonable expenses as determined by the town's Chief Administrative Officer, such boring, rather than roadway cut, shall be used.

(B) On receipt of an application, the town's Chief Administrative Officer shall consult with and obtain the advice of The Director of Public Works before granting written permission or imposition of any conditions or limitations on such permission. This chapter shall not apply to any act or project under the direction of the Director of Public works of the town. The violation of this chapter shall constitute a misdemeanor.

(2013 Code, § 15-6) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Violation of § 91.02 shall constitute a misdemeanor, for each day such violation occurs and subject the violator of § 91.02 to a fine of \$50 or 30 days imprisonment or both for each violation of § 91.02.

(2013 Code, § 15-4)

CHAPTER 92: HEALTH AND SAFETY

Section

General Provisions

- 92.01 Abatement of nuisances
- 92.02 Stagnant water
- 92.03 Obstruction of natural drainage
- 92.04 Cleanliness of premises
- 92.05 Removal of dead animals

Fire and Fire Protection

- 92.20 Burning trash within the town prohibited
- 92.21 Lots to be kept free from fire hazards
- 92.22 False fire alarms

Statutory reference:

Fire protection generally, see G.S. § 58-82-1

GENERAL PROVISIONS

§ 92.01 ABATEMENT OF NUISANCES.

(A) (1) Whenever a nuisance shall exist on any premises in the town, the Chief of Police or the County Health Officer shall give notice to the owner or occupant of the premises of the existence of the nuisance and shall direct that the nuisance be abated.

(2) It shall be unlawful for any person receiving a notice to abate a nuisance, given pursuant to this section, to fail to start abatement of the nuisance within 24 hours after such notice.

(B) In the event the owner or occupant of the premises shall fail to abate a nuisance on his or her premises after having been given notice pursuant to division (A) above, the town may abate the nuisance and the costs of abatement shall be certified to the tax collector and collected as taxes.

(2013 Code, § 10-1) Penalty, see § 10.99

Statutory reference:

Abatement of public health nuisances, see G.S. § 160A-193

§ 92.02 STAGNANT WATER.

It shall be unlawful for any person to allow stagnant water to accumulate or stand in ponds, holes, ditches, vats, or otherwise upon any lot or premises so as to be detrimental to health. Such stagnant water shall be subject to abatement as a nuisance as provided in § 92.01.

(2013 Code, § 10-2) Penalty, see § 10.99

§ 92.03 OBSTRUCTION OF NATURAL DRAINAGE.

No person shall erect any dam or obstruction of any kind which shall prevent the natural flow of water or which shall cause the same to be collected or dammed in a pool or pools upon any lot in the town, or upon any street, road, or alley; nor shall they do or cause to be done any work, the effect of which will cause the formation of such pool or pools; provided, however, that nothing in this section shall prevent the owner or owners of any lot or lots from filling up the same as may be found desirable if adequate drainage is provided through or across the same to care for the surface water that may be collected or diverted from its natural flow.

(2013 Code, § 10-3) Penalty, see § 10.99

§ 92.04 CLEANLINESS OF PREMISES.

(A) Owners or occupants of premises shall be required to keep such premises free from noxious weeds, trash or any other form of refuse which may be dangerous or detrimental to the public health or which may be unsightly.

(B) Proper maintenance requires that grass and weeds are to be cut neatly as reasonably required.

(C) Areas, such as decks, porches, yards and play areas, and the like, that are in view of neighboring property or in view from the streets, shall be maintained and arranged in an orderly open, uncluttered manner, utilizing furniture and appointments appropriate to the area.

(D) Failure to comply with this provision shall constitute a misdemeanor and shall also be subject to abatement as a nuisance as provided in § 92.01.

(2013 Code, § 10-4) Penalty, see § 10.99

§ 92.05 REMOVAL OF DEAD ANIMALS.

It shall be the duty of the owner to remove any dead animal from the town within eight hours.

(2013 Code, § 10-5)

Cross-reference:

Animals, see Ch. 90

Statutory reference:

Removal of dead animals and fowl, see G.S. § 106-403

FIRE AND FIRE PROTECTION

§ 92.20 BURNING TRASH WITHIN THE TOWN PROHIBITED.

It shall be unlawful for any person to burn or cause to be burned any trash, refuse, shavings, paper, leaves, litter, or other material of any kind outside any house, or on any street, sidewalk, alley, lot, or yard, within the corporate limits.

(2013 Code, § 8-1) Penalty, see § 10.99

§ 92.21 LOTS TO BE KEPT FREE FROM FIRE HAZARDS.

It shall be unlawful for any person to permit to remain or accumulate on any lot or premises any rubbish, refuse, or articles of combustible or inflammable nature.

(2013 Code, § 8-2) Penalty, see § 10.99

§ 92.22 FALSE FIRE ALARMS.

It shall be unlawful for any person to give any false alarm of fire, by means of the fire alarms system or otherwise.

(2013 Code, § 8-3) Penalty, see § 10.99

Statutory reference:

Giving false fire alarms, see G.S. § 14-286

CHAPTER 93: TOWN BEAUTIFICATION

Section

General Provisions

93.01 Protection of parkways

93.02 Policy regarding signs

93.03 Signs and posters generally

93.04 Definitions

93.05 Signs and posters; requirements

Parks and Recreation

93.15 Destruction, injury to park property

93.16 Riding motorized vehicles in park areas

Tree Protection

93.30 Purpose

93.31 Identification

93.32 Removal of protected trees

93.33 Applications for removal of protected trees in excess of ten

93.34 Removal of unprotected trees

93.35 Pre-construction conference and supervision

93.36 Enforcement

93.37 Drip line protection

93.38 Replacement of trees

93.39 Inspections

93.40 Appeals

93.41 Bond

93.99 Penalty

GENERAL PROVISIONS

§ 93.01 PROTECTION OF PARKWAYS.

(A) It shall be unlawful for any person to willfully destroy, injure, mutilate, carry away, break, or in any manner deface any tree, shrub, plant, grass, or other property of any kind within or upon any of the roads, streets, public grounds, or parkways of the town, nor shall any person allow any animal or pet belonging to him or her or in his or her charge to injure any such property.

(B) It shall further be unlawful for any person to allow any animal or to drive any vehicle upon any of the grass or grass-plots along the roadways and streets.

(2013 Code, § 15-1) Penalty, see § 93.99

§ 93.02 POLICY REGARDING SIGNS.

This subchapter sets forth the Town of Biltmore Forest policies and regulations regarding the size, type and location of signs. The subchapter is intended to regulate size, type and location of signs 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 subchapter to regulate the content of signs or to limit the right of free speech.

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

§ 93.03 SIGNS AND POSTERS GENERALLY.

Except as set forth herein, no sign of any kind, including posters, advertisements, billboards, announcements and like, shall be erected by any person in any district zoned R-1, R-2, R-3, R-4 or R-5 unless the sign, type, size and intended location comply with this

subchapter or unless prior approval of the sign type, size, and intended location are first obtained from the Town Manager or Board of Commissioners. Any sign erected in violation of this subchapter shall be promptly removed.

(2013 Code, § 15-2) (Ord. 2021-02, passed 2-9-2021)

§ 93.04 DEFINITIONS.

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

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

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

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

ON-PREMISES COMMERCIAL SIGNS. Signs located on or attached to buildings in the zoning districts in the town where commercial businesses are allowed.

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

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

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

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

§ 93.05 SIGNS AND POSTERS; REQUIREMENTS.

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

(1) One sign per lot, not to exceed six square feet in size, not to contain any electrical component and not to be lighted in any way;

(2) If the sign is posted by a real estate agency, the wording shall be limited appropriately to indicate that the property is for sale or rent, the name and telephone number of the agency, the listing firm website, and the multiple listing service number, texting code, or individual website assigned to the home for sale;

(3) If the sign is posted by an owner, the wording shall be limited to appropriately indicate that the property is for sale or rent, the name of seller, if so desired, a telephone number, and individual website assigned to the home for sale;

(4) Wording shall be the same on both sides of the sign if both sides are exposed to the roadway;

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

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

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

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

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

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

(1) On any residential lot on which construction or renovation has begun, neither the general contractor nor the owner of the residential lot shall post or permit to be posted more than one sign in addition to any sign required by law to be posted (e.g. 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 20 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 political signs may be placed on private property beginning 30 days before the beginning of early voting for a primary or general election. Political signs should be removed within five days after the primary, general or special election; and

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

(D) Security company signs. Security company signs are allowed on private property as follows:

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

(2) The signs shall not exceed one 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.

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

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

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

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

(4) For the purpose of this subchapter, temporary flags indicating the installation of underground (invisible) fencing shall be removed no later than 45 days after installation.

(F) Flags for underground utilities. Flags for underground utilities are allowed on a temporary basis to indicate the presence and location of underground utilities.

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

(1) On any lot occupied by a business in the R-4 and R-5 Districts, on-premises signs are allowed provided the following definitions and permit requirements are met.

(2) For the purpose of this division (G), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) On-premises single-tenant signs.

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

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

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

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

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

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

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

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

(b) For a multiple-tenant development, the development itself is allowed one identification sign. For a freestanding sign, the total allowable area per face of selected sign

shall not exceed 60 square feet with two faces per freestanding or ground sign allowed. If freestanding pole or ground, the sign shall be a maximum of 20 feet in height and minimum setback of 15 feet. Individual tenants within the development shall be allowed one attached wall sign not to exceed ten square feet, and at the due discretion of the Board of Commissioners, not more than two, not to exceed ten square feet. The maximum projection from a wall shall be six inches.

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

(I) Any sign removed by the town for violation of division (A) or (B) of this section 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.

(2013 Code, § 15-2) (Ord. passed 9-15-1987; Ord. passed 12-8-1990; Ord. passed 9- - 2002; Ord. 2021-02, passed 2-9-2021)

PARKS AND RECREATION

§ 93.15 DESTRUCTION, INJURY TO PARK PROPERTY.

It shall be unlawful for any person to cut, break, trample, injure, or take any plants, flowers, shrubbery, trees, or vegetation within any municipal park or playground area, or to deface, injure, or remove any benches, seats, playground equipment, or any other appurtenances of such parks or playground areas.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 93.15 shall be guilty of a Class 3 misdemeanor and fined \\$250.00.](#)

~~(2013 Code, § 13-1) Penalty, see § 10.99~~

§ 93.16 RIDING MOTORIZED VEHICLES IN PARK AREAS.

It shall be unlawful for any person to ride any motorcycle, go cart or other type of motorized vehicle in any park or playground area, except on trails or in areas specifically designated therefor.

(2013 Code, § 13-2)

Cross-reference:

General provisions of motor vehicles, see §§ 70.01 through 70.04

TREE PROTECTION

§ 93.30 PURPOSE.

(A) 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 § 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.

(B) Preservation of trees is the intent of this subchapter. This subchapter 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.

(2013 Code, § 19-1) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.31 IDENTIFICATION.

(A) For the purpose of this subchapter, a protected tree (“protected tree”) is any tree six inches or more in diameter at a height of four and a half 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 subchapter does not apply to trees that are less than six inches in diameter, regardless of the height of the tree.

(2013 Code, § 19-2) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.32 REMOVAL OF PROTECTED TREES.

(A) No person shall remove or in any way damage any protected tree on a property without first filing an application for 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 § 93.38 below.

(B) 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 subchapter, he or she 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 days of the Town Manager's decision.

(2013 Code, § 19-3) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.33 APPLICATIONS FOR REMOVAL OF PROTECTED TREES IN EXCESS OF TEN.

(A) An application for a permit to remove more than ten protected trees on a property must be presented directly to the Board of Adjustment. A fee of \$50.00 shall accompany the application.

(B) An application for the removal of 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 30 or more protected trees 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.

(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.34 REMOVAL OF UNPROTECTED TREES.

(A) An unprotected tree may be removed by the property owner after notifying the Town Manager of the plans to remove the tree(s) and receiving approval to do so from the Town Manager or Town Arborist.

(B) 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 the 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.

(C) Any unprotected trees removed shall be replaced as defined in § 93.38 below.
(Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.35 PRE-CONSTRUCTION CONFERENCE AND SUPERVISION.

(A) 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.

(B) 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 subchapter.

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

(2013 Code, § 19-4) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 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.

(2013 Code, § 19-5) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 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.

(2013 Code, § 19-6) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.38 REPLACEMENT OF TREES.

(A) Any protected or unprotected tree removed shall be replaced in that general area of the property within 50 feet of the trunk of the former tree as follows:

Minimum size of existing tree	Replacement of protected tree	Replacement of unprotected 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

(B) Any replacement tree shall be in the ground within six months of removal of the original tree. The Town Manager or Board of Adjustment may, for good cause shown, and in their sole discretion, extend this period for up to six months.

(C) 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.

(D) The minimum size for replacement is two 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 feet in height for evergreens. Additionally, the replanted trees shall meet the plant specifications of the Town Zoning Ordinance in § 153.070.

(E) Depending on the 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.

(F) 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 division (A) 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 division (F) shall apply only to properties within the town in excess of five acres.

(2013 Code, § 19-7) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 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 or her designee six months 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.

(2013 Code, § 19-8) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.40 APPEALS.

Any person aggrieved by a decision made under this subchapter by the Town Manager or his or her 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.

(2013 Code, § 19-9) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 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.

(2013 Code, § 19-11) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) A violation of §§ 93.30 through 93.41 is a Class 3 misdemeanor under North Carolina law. The penalty for violating §§ 93.30 through 93.41 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 §§ 93.30 through 93.41 including injunctive relief, and a civil penalty of \$250 for each day's violation of the subchapter pursuant to G.S. 160A-175.

(2) Upon determining that a violation of §§ 93.30 through 93.41 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 G.S. 14-4, or may take such other enforcement action as may be necessary to carry out the purpose of §§ 93.30 through 93.41.

(2013 Code, § 19-10) (Ord. passed - - ; Ord. 2019-02, passed 9-17-2019; Ord. 2021-01, passed 1-12-2021)

TITLE XIII: GENERAL OFFENSES

Chapter

130. TOWN OFFENSES

CHAPTER 130: TOWN OFFENSES

Section

130.01 Firearms and other weapons

130.02 Sounds impacting residential life

130.03 Offenses against the public peace

130.04 Regulating solicitors, peddlers, hawkers, itinerant merchants, or transient vendors

130.05 No human burials permitted

130.06 Removal of fallen tree limbs

130.07 Permitting the posting of signs prohibiting the carrying of concealed weapons on certain municipal property

130.08 Regulating loitering and temporary structures

130.09 Prohibiting public urination and defecation

130.99 Penalty

§ 130.01 FIREARMS AND OTHER WEAPONS.

(A) No person shall shoot, discharge or release within the corporate limits any firearms, spring-propelled devices, or guns, including a bow, which discharges sharp pointed arrows designed to penetrate. This section shall not apply to any law enforcement officer or representative of any governmental unit charged with the duties of protecting life or property or enforcing laws and regulations while engaged in the performance of official duties.

(B) It is further provided that this section shall not apply in defense of life; however, for promoting public health, safety, and welfare of the town, this section shall not preclude the officers or persons designated by the town for this purpose pursuant to any depredation permit issued by the State Wildlife Resources Commission or pursuant to the town's participation in the North Carolina Wildlife Resources Commission's Community Deer Management Assistance Program.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating § 130.01 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

(2013 Code, § 12-1) (Ord. 2019-01, passed 8-13-2019) ~~Penalty, see § 130.99~~

§ 130.02 SOUNDS IMPACTING RESIDENTIAL LIFE.

(A) (1) As a means of controlling and reducing noise levels in the town, all construction activities and property maintenance, including delivery of worker's material, machinery, or equipment to or from a work site, must be conducted from 7:30 a.m. until 6:00 p.m., on Monday thru Saturday.

(2) Such activities are prohibited on Sundays, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. These restrictions apply on all properties within the town, except for clubs.

(B) Should conditions on any property within the town occur that have the potential of injury or damage to persons or property during prohibited hours, persons in charge or involved in such matters shall contact the town's police officer in charge, present the problem, and seek permission to take appropriate action.

(C) Any sound from radio, music, or other noises are not permitted to the extent that they disrupt the quiet enjoyment of property.

(2013 Code, § 12-2) (Ord. passed 11-12-2006) Penalty, see § 130.99

§ 130.03 OFFENSES AGAINST THE PUBLIC PEACE.

It is intended by this section to prohibit the commission of and to provide punishment pursuant to ~~§ 10.99 for the following acts:~~ [N.C.G.S. 14-4 for the following acts:](#)

- (A) Disturbing the peace;
- (B) Resisting arrest and resisting any officer of the town in the lawful performance of his or her duties;
- (C) Impersonating any officer of the town;
- (D) Assembling for the purposes of gambling;
- (E) Committing a breach of the peace;
- (F) Appearing in an intoxicated condition outside the offender's own home;
- (G) Making unusual or unnecessary noises calculated to disturb the peace and good order;

(H) Violent or boisterous conduct calculated to disturb the peace and quiet of other persons;

(I) Using profane or obscene language towards others in such manner as to be offensive;

(J) Committing riotous acts;

(K) Maliciously interfering with pedestrians or with traffic; or

(L) Indecent acts in the presence of others.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating §130.03 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

(2013 Code, § 12-3) ~~Penalty, see § 130.99~~

Statutory reference:

Authority to regulate loud noises, see G.S. § 160A-184

Disorderly conduct in public places, see G.S. § 14-132

§ 130.04 REGULATING SOLICITORS, PEDDLERS, HAWKERS, ITINERANT MERCHANTS, OR TRANSIENT VENDORS.

No uninvited door-to-door solicitations are allowed in the town.

(2013 Code, § 12-4) ~~Penalty, see § 130.99~~

Statutory reference:

Regulation of solicitation, see G.S. § 160A-178

§ 130.05 NO HUMAN BURIALS PERMITTED.

There being no existing church cemeteries or duly licensed cemeteries by the State Cemetery Commission, no human body shall be buried inside the corporate limits of the town.

[Pursuant to N.C.G.S 14-4, any person found guilty of violating §130.05 shall be guilty of a Class 3 misdemeanor and fined \\$500.00.](#)

(2013 Code, § 12-5) ~~Penalty, see § 130.99~~

§ 130.06 REMOVAL OF FALLEN TREE LIMBS.

In the event a tree or limb located on private property falls out onto town property such as a road, road right-of-way, or public park, the town shall remove the same, haul it away, and dispose of the same. The property owner shall pay the disposal fee incurred by the town, but the town shall bear the costs of clean up and hauling to the disposal site. The property owner shall be solely responsible for cleaning up and disposing of all portions of fallen tree or limb not located on town property.

(2013 Code, § 12-6) Penalty, see § 130.99

§ 130.07 PERMITTING THE POSTING OF SIGNS PROHIBITING THE CARRYING OF CONCEALED WEAPONS ON CERTAIN MUNICIPAL PROPERTY.

(A) Posting of signs required. The Board of Commissioners is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed, or controlled by the town as well as the appurtenant premises to such the building, indicating that carrying a concealed handgun is prohibited therein.

(B) Location of signs. Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Board of Commissioners shall exercise discretion in determining the number and appropriate sign location of signs to be placed on or within appurtenant premises and parks.

(2013 Code, § 12-7)

§ 130.08 REGULATING LOITERING AND TEMPORARY STRUCTURES.

(A) Definition. For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC PLACE. Any place to which the general public has access and a right of resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, or other place of business and also public grounds, areas or parks.

(B) General provisions.

(1) It shall be unlawful for any person to stand alone or congregate with other persons on any street or sidewalk or public place within the town limits with the intent to, or who shall in fact:

(a) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians; or

(b) Obstruct the entrance to any business establishment without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

(2) It shall be unlawful for any person, singly or in groups, to erect on any property, public or private, any temporary shack, shanty, tent or structure for place of temporary habitation or abode, for the purpose of living thereon and in such a manner as to create a place of camping, or temporary abode; provided, however, that this section shall have no application to any individuals or group of individuals who are living in temporary quarters on the premises of another with that landowner's permission or consent, or who is engaged in the lawful and proper activities of any Boy Scout or Girl Scout organization, or auxiliary, or any other civic enterprise or project.

(3) When any person causes or commits any of the conditions in this section, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

(C) Penalty. In accordance with G.S. § 14-4, any person who violates this section shall be guilty of a Class 3 misdemeanor and shall be fined more than \$50 but not more than \$500.

(Ord. 2022-01, passed 1-11-2022)

§ 130.09 PROHIBITING PUBLIC URINATION AND DEFECATION.

(A) General provisions. Except in designated water closets or toilet facilities, it shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, or on private property. Having the permission of the owner or person in lawful possession of the real property shall constitute an affirmative defense to the charge of urinating or defecating on private property.

(B) Penalty. In accordance with G.S. § 14-4, any person who violates this section shall be guilty of a Class 3 misdemeanor and shall be fined more than \$50 but not more than \$500.

(Ord. 2022-02, passed 1-11-2022)

[§ 130.99 PENALTY. Any person found guilty of violating the provisions of this chapter, unless otherwise specified within the specific ordinance, shall be penalized in accordance with N.C.G.S. 160A-175.](#)

~~§ 130.99 PENALTY.~~

~~—Any person violating the provisions of this chapter shall be guilty of misdemeanor subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days as provided by G.S. § 14-4.~~

(2013 Code, § 12-8)

BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM

September 13, 2022



Agenda Item E-3

Duke Energy Targeted Underground Program *Streetlight Coordination Project*

Background

The Town has worked with Duke Energy since late March to determine a method that allows the Town's historic streetlights to remain operational without sacrificing the aesthetic quality that is so revered. The Town's first attempt at resolving this issue was to locate posts with appropriate electrical equipment (meters, space for future security cameras, etc.) that satisfied current code requirements. Unfortunately, these posts and the electrical infrastructure attached to them are unable to be camouflaged or made aesthetically pleasing.

This led the Town to start fresh with Duke Energy and attempt to arrive at a solution that met the Town's expectations for form and function. This is not a common or typical service provided by Duke Energy. Duke owns most streetlights for which provide energy – so the Town's ownership of the streetlights, and the uncommon and antique nature of our streetlights – presents unique challenges for both the utility and the Town. The result is that time was taken to develop the correct solution for the Town's needs and the solution that was allowable for Duke Energy to provide.

Proposed Solution

The Town is now able to present a workable solution that resolves the aesthetic dilemma of powering the streetlights. Duke has proposed the use of a handhole (in-ground container) that will serve as the line of demarcation between Duke's public energy system and the Town's private system. There will be no equipment above ground; the cover is flush with the ground. This will look similar to a water meter cover and is able to be mowed over and is vehicle rated for installation within a right-of-way. The handhole will be available for display at the Board meeting Tuesday. The transition to this handhole is not an inexpensive solution, but will result in Duke's underground infrastructure and the Town's streetlight infrastructure remaining underground.

There are two methods to bring these lines to the handhold. The first method is directional boring from Duke's underground transformer to the handhold. The boring option is similar in look and style to the work that has gone on throughout the Town. The other method is open cut trenching, wherein a trench is cut with a mini-excavator and the 2" conduit placed in the ground. The unit cost for directional boring is approximately \$36.00/foot and there is no cost for open trenching the conduit. In order to perform this work appropriately, a hybrid method is recommended to minimize cost where possible. For instance, directional boring will be utilized anytime there is a driveway or street crossing as we do not want the road cut. Directional boring may also be necessary in places

where there is existing landscaping or where new underground transformers may exist on private property. The open cut trenching is appropriate along the Town owned rights of way, where seed and straw can be utilized to sew and re-establish grass or other ground cover. Duke staff is defining the precise footage necessary for this work, including the road and driveway crossings or other areas that may require directional boring. Once this is determined and Town staff has evaluated the open-trenching areas, we will have a firm cost estimate for this portion of the project.

The final component for this transition is the rewiring of the Town's streetlights to make them ready for the new Duke Energy service. This rewiring will involve hiring an electrical contractor to bring new approved electrical lines from the handhole into the streetlight. The lights will also be changed to full LED lights at this time as Duke's unmetered service is only allowed to provide 100 watts of power. Staff is moving forward with procuring an appropriate electrical contractor to perform this work.

Consideration from the Board

1. Approve the handhole proposal that enables Duke Energy to bring their underground service to the Town's streetlights.
2. Approve the hybrid model for directional boring, where necessary, and open trenching, where appropriate.
3. Approve the Town moving forward with an electrical contractor to rewire the Town's streetlights to meet Duke's unmetered service requirements.

With these approvals, the Town will move forward as quickly as possible with Duke Energy and an electrical contractor for these improvements.

Moving Forward and Next Phases of Targeted Underground Program

A substantial benefit with this solution is we now have a roadmap for bringing power to our fifty-one (51) remaining streetlights and will not have to re-engineer this problem. This should alleviate cost in the future, as Duke may have flexibility in locating their new transformer closer to a new handhole to serve the streetlights. The Town will also have developed a relationship with an electrical contractor to rewire the streetlights and that should be a more straightforward process.

BOARD OF COMMISSIONERS MEETING
STAFF MEMORANDUM
September 13, 2022



Agenda Item D-4

Consideration of Master Services Agreement with Paymentus

Background

The Town has utilized Official Payments/ACI as our online payment processing vendor for several years. There is no charge to the Town for this service; any fees collected are paid by the user. Town staff undertook a review of our existing payment provider and reviewed several other vendors. The purpose for this review was to determine if there were additional services, payment types, or other features that would be beneficial to citizens. Following this review, staff has determined that Paymentus provides these necessary features and improvements.

Paymentus is widely used in the local government sector and has a great reputation for their quality and payment options. In making this change, the Town will be able to offer residents significantly more options for payment than we currently do, the option to utilize a mobile app for payment, and the ability to store a card (on Paymentus's platform) for repeat use. As with Official Payments, there is no charge for the Town – the only fees for residents are those associated with credit card purchases made to Paymentus. Those fees are lower than current charges.

The attached Master Services Agreement (MSA) with Paymentus does not include any charges or fees to the Town. Final implementation for the switch to Paymentus is likely to occur in the next 90-120 days. Staff will prepare detailed information for residents to alert them to these new services and how to utilize them. Staff recommends approval of this MSA.

MASTER SERVICES AGREEMENT

Client:	Biltmore Forest, North Carolina
Client Address:	355 Vanderbilt Road, Biltmore Forest, NC 28803
Contact for Notices to Client:	Jonathan Kanipe, Town Manager
Estimated Number of Yearly Payments:	10,000

This Master Services Agreement (“Agreement”) is entered into as of the date of the last of the signatures set forth below (“Effective Date”), by and between the Client identified above and Paymentus Corporation, a Delaware Corporation with a principal place of business at 11605 N. Community House Road, Suite 300, Charlotte, NC 28277. Client and Paymentus are also referred to as “Party” and collectively as the “Parties”.

STATEMENT OF PURPOSE

Paymentus desires to provide and Client desires to receive electronic bill payment services as more particularly described in this Agreement under the terms and conditions set forth herein.

AGREEMENT

In consideration of the mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows. This Agreement consists of the following documents:

- (i) this signature page
- (ii) the General Terms and Conditions; and
- (iii) the following Schedules:
 - Schedule A:** Paymentus Service Fee Schedule
 - Schedule B:** Client Payment Data

This Agreement represents the entire agreement between the parties with respect to its subject matter, supersedes all prior written or oral agreements or understandings related to the subject matter hereof, and may be changed only by agreements in writing signed by the authorized representatives of each of the parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

CLIENT:

By: _____

NAME: _____

TITLE: _____

DATE: _____

PAYMENTUS CORPORATION

By: _____

NAME: _____

TITLE: _____

DATE: _____

Paymentus

GENERAL TERMS AND CONDITIONS BY AND BETWEEN PAYMENTUS CORPORATION AND [CLIENT NAME]

1 **Definitions:**

For the purposes of the Agreement, the following terms and words have the meaning ascribed to them, unless the context clearly indicates otherwise.

1.1 **“Agreement”** or **“Master Agreement”** means the Master Services Agreement between the parties, as amended from time to time.

1.2 **“Average Bill Amount”** means the total amount of Payments processed through Paymentus in a given month divided by the number of the Payments for the same month.

1.3 **“Effective Date”** is the date the last party to execute the Agreement as indicated below the signature line, unless the Agreement is submitted to Client for acceptance in a manner that does not call for Paymentus to execute it, in which event the Effective Date shall be the date that Client signs the Agreement.

1.4 **“Excess Payment Amount”** means the Payment Amounts from Non-Qualified Transactions processed in a calendar month.

1.5 **“Fee Assumptions”** means information used to calculate the Paymentus Fee (as defined in Section 3.2), including (i) the projected Average Bill Amount, and (ii) the projected payment method mix (credit vs debit vs e-check) of all card Payments processed that month.

1.6 **“Initial Setup”** means the first personalization and activation of the standard service with respect to each channel described on Schedule A as specified during the implementation process.

1.7 **“IPN”** or **“Instant Payment Network”** means the network developed by Paymentus to enable customer engagement, bill presentment and receipt of payments by businesses through multiple channels as enabled from time to time by Paymentus.

1.8 **“Launch Date”** means the date on which Client completes the introduction to Users of

all Services selected by Client as of the Effective Date.

1.9 **“Non-Qualified Transaction”** means one or more payments that are either (i) made with a card or payment method generally issued for business use that results in interchange fees or other processing charges assessed by a Paymentus Authorized Processor or card payment association that are higher than those charged for transactions with card payment methods issued for consumer use; or (ii) that do not qualify for reduced interchange fees under programs in which Client is then currently participating. These high-cost card payment methods may include among others, corporate cards, virtual cards, purchase cards, business cards, travel and entertainment cards, or payment of a commercial account.

1.10 **“Payment”** means payment by a User through the Platform for Client’s services, Client’s bills, or other amounts owed to Client.

1.11 **“Payment Amount”** means the amount of a Payment.

1.12 **“Paymentus Authorized Processor”** means a Paymentus authorized merchant account provider or payment processing intermediary or gateway.

1.13 **“Paymentus Fee”** is defined in Section 3.2.

1.14 **“Platform”** is defined in Section 2.1.

1.15 **“Reversed or Chargeback Transactions”** means cancelled transactions due to User error, a User’s challenge to Payment authenticity, or action by a financial institution or a Paymentus Authorized Processor (commonly referred to as ACH or eCheck returns or credit/debit card chargebacks).

1.16 **“Services”** means the performance by Paymentus of the payment and related services selected by Client as set forth in Schedule A and as provided in Section 2.3.

1.17 **“User”** means a user of Client’s services.

2 Description of Services to be Performed

2.1 Scope of Services

When selected on Schedule A, Paymentus will provide Users the opportunity to view and receive bills, make Payments using the payment methods provided under Schedule A and other payment methods and wallets as offered by Paymentus from time to time. The payment methods and other services provided may be used within the channels described on Schedule A or on other websites or mobile/web apps or chatbots or voice assistants that are part of the Instant Payment Network, (collectively referred to as the "Platform"). Paymentus will provide a mechanism by which Client may select the channels and payment methods Client wishes to offer Users. Paymentus will be the exclusive provider to Client of the Services.

2.2 Professionalism

Paymentus will perform the Services in a professional manner.

2.3 New or Enhanced Services

From time to time Paymentus may offer Client new or enhanced services, such as new functionality within the IPN, the ability to accept other payment methods, methods of bill presentment, the ability to access alternative payment processors or other service providers or Paymentus Authorized Processors or otherwise modify the terms and conditions under which the Services are provided ("Service Enhancements"). Paymentus will provide Client with notice by email to the person designated as provided in Section 10.2 disclosing the terms, including any contracts or contract amendments, under which the Service Enhancements will be made available. If the Service Enhancements will result in additional fees to or impose additional obligations on Client or Users, Client will have at least thirty (30) days after the date of the notice to opt-out of the Service Enhancements in the manner provided in the notice. If Client does not opt-out, then when the Service Enhancements are introduced they will form part of the Services and Client will be bound by the additional terms as disclosed in the notice, and Schedule A will be deemed amended to reflect changes in the Services and fees.

3 Compensation

3.1 No Fee Installation

Paymentus will charge no fees related to the Initial Setup of standard service.

3.2 Paymentus Fee

Client will be billed the fees as provided in Schedule A ("Paymentus Fee"), unless a fee is noted on Schedule A to be User paid, in which case Paymentus will charge each User the Paymentus Fee in addition to the corresponding Payment as part of the transaction. Paymentus will pay the corresponding processing and related fees ("Transaction Fees") except for fees related to Reversed or Chargeback Transactions.

The Paymentus Fee is based on the Fee Assumptions. Client will be billed additional Paymentus Fees equal to 2.85% of the Excess Payment Amount for each month. Paymentus may amend Schedule A upon prior written notice to Client if there are changes in the card or payment system rules or changes in payment processing fees or other events that increase the cost of processing transactions, such as changes in the average Payment Amount, the mix of payment methods or of interchange rates applied to transactions. The amended Paymentus Fee will take effect 30 days after written notice to Client.

4 Payment Processing

4.1 Integration with Client's Billing System

At no charge from Paymentus to Client, Paymentus will develop one (1) file format interface with Client's billing system using Client's existing text file format currently used to post payments to Client's billing system. Client will be responsible to provide Paymentus with the one file format specification and will fully cooperate with Paymentus during the development of the said interface. If Client chooses to create an automated file integration process to download the posting file, due to Paymentus security requirements, Client will use Paymentus specified integration process. As such, the Paymentus platform does and can function independent of any billing system integration. A payment posting file can be emailed or downloaded from the Paymentus Agent Dashboard. If Client chooses to have the Paymentus platform integrated with its billing system, Paymentus offers two options:

(i) Paymentus standard integration specification that Client can use to integrate its billing systems with Paymentus platform (“Standard Integration”); or

(ii) Paymentus to either customize or configure its platform to integrate with Client using file specification or APIs supported by Client’s billing system (“Client Specific Integration”).

If Client chooses Standard Integration, Paymentus agrees to fully cooperate with Client and provide its specification to Client. Paymentus also agrees to participate in meetings with Client’s software vendor to provide any information or clarifications needed to understand Standard Integration. Paymentus agrees to provide all integration/interface specifications within 30 days from the Effective Date. Client will take commercially reasonable steps to develop the integration within 60 days from the date on which Client has received all integration specifications from Paymentus.

If Client chooses Client Specific Integration, Paymentus agrees to develop that integration at no charge from Paymentus to Client, provided however, Client agrees to fully cooperate with Paymentus and cause its software vendors and other service providers to fully cooperate with Paymentus. Client agrees to provide all specifications required for Client Specific Integration. Client further agrees to participate in testing with Paymentus and if needed, cause its billing software vendors and other service providers to participate in testing. Client agrees to provide or make available all integration/interface specifications within 30 days from the Effective Date. Paymentus will take commercially reasonable steps to develop the integration within 60 days from the date on which Paymentus has received all the integration specifications from Client or its vendors.

Parties agree that if the parties do not cooperate fully, it can lead to each party being unable to perform its duties to deliver the integration in time.

Based on Client’s use of the Platform and its respective modules selected under the Agreement, Paymentus will require the following integration points:

MODULE	INTEGRATION POINT
One-time payment	Customer Information: Text File or Real Time Payment Posting: Text File or Real Time
Recurring Payment	Text File
E-billing for Billing Data	Text File or Real-time link to billing data
Outbound Notification-Audience File	Text File for customer engagement messages

Each of these can be based on Standard Integration or Client Specific Integration.

The Initial Setup for the Web or IVR interface will be considered complete when the first Standard Integration or Client Specific Integration, as applicable, is completed such that Paymentus and Client are able to exchange files relevant to that interface, as contemplated in this Section 4.1. In the event the Services are implemented without integration, the Initial Setup will be considered complete when a User is able to access the Platform to process a payment.

4.2 Enhancements

The parties agree that the Services are provided on a “platform as a service” basis, and not as a result of custom software development. Paymentus’ standard Platform will be personalized to achieve certain additional functional requirements of Client, as clarified and agreed during implementation (“Enhancements”). Enhancements may include some or all of the features included in any technical requirements or similar document provided to Paymentus. The parties will fully co-operate with one another to: a) ensure that requirements with respect to Enhancements are clarified as needed; b) accept Paymentus proposed reasonable alternatives to achieve Client’s functional objectives within the limits of the Paymentus platform; and c) accept Paymentus’ reasonable estimates of time for completion, designs and plans with respect to agreed Enhancements. There will be no fee charged by Paymentus to Client for Enhancements, provided Paymentus designs and plans are accepted by Client. If the Services are to be

offered at multiple locations, or if the Services include multiple Enhancements, the parties will agree to a phased implementation.

4.3 PCI Compliance

To the extent that either party receives payment card information subject to the Payment Card Industry Data Security Standards (“PCI-DSS”) in connection with providing the Services, such party will comply with all requirements of the PCI-DSS with respect to storage, transmission and disclosure of payment card information.

4.4 Explicit User Confirmation

Paymentus will confirm the dollar amount of all Payments, and when paid by the User, the corresponding Paymentus Fee to be charged and electronically obtain the User’s approval of the charges prior to initiating payment authorizations transaction. Paymentus will provide User with electronic confirmation of all transactions.

4.5 Merchant Account

Paymentus will arrange for Client to have a merchant account with the Paymentus Authorized Processor for processing and settlement of transactions.

4.6 Payment Authorization

For authorization purposes, Paymentus will electronically transmit all card or other payment transactions to the appropriate processing center, in real time as the transactions occur or as provided in applicable rules. In its discretion, Paymentus may refuse to process any transaction that is submitted in violation of its terms of use or to protect Client, Users, itself or others from potentially illegal, fraudulent or harmful transactions.

4.7 Settlement

Paymentus together with a Paymentus Authorized Processor will forward the payment transactions, to the appropriate organizations for settlement directly to Client’s depository bank account previously designated by Client (“Client Bank Account”) as a positive amount of payment processing funds, net of any User paid Paymentus Fee and any Reversed or Chargeback Transactions (described below). When Client pays the Paymentus Fee, Paymentus will invoice Client and debit the fees from the Client Bank Account on a monthly basis.

Paymentus together with the Paymentus Authorized Processor will continuously review its settlement and direct debit processes for its simplicity and efficiencies. Client and Paymentus agree to fully cooperate with each other if Paymentus were to change its settlement and invoicing processes.

4.8 Reversed or Chargeback Transactions

With respect to all Reversed or Chargeback Transactions, Client authorizes Paymentus and Paymentus Authorized Processor (and/or the respective payment organizations) to debit the Client Bank Account for the Payment Amount and/or offset the Payment Amount against future payouts and Paymentus will refund the applicable amount to the payment organization for credit back to the User the corresponding Paymentus Fee, if any.

Paymentus together with Paymentus Authorized Processor will continuously review its processes for Reversed or Chargeback Transactions for simplicity and efficiencies. Client and Paymentus agree to reasonably co-operate with each other if Paymentus requires any change to its settlement and invoicing processes for these transactions.

5 General Conditions of Services

5.1 Service Reports

Paymentus will provide Client with reports summarizing use of the Services by Users for a given reporting period.

5.2 User Adoption Communication by Client

Client will communicate the Services as a payment option to its customers wherever Client usually communicates its other payment options.

Client will make the Services known or available to its customers by different means of customer communication including a) through bills, invoices and other notices; b) if direct payments have been activated, by providing IVR and Web payment details on Client’s website including a “Pay Now” or similar link on a mutually agreed prominent place on the web site; c) if IVR payments have been activated, through Client’s general IVR/Phone system; and d) other channels deemed appropriate by Client.

Paymentus will provide Client with logos, graphics and other marketing materials for Client’s use in its

communications with its customers regarding the Services and/or Paymentus.

5.3 Independent Contractor

Paymentus is an independent contractor.

5.4 Client's Responsibilities

In order for Paymentus to provide the Services, Client will co-operate with Paymentus by:

- (i) Entering into (and authorizing Paymentus to do so on its behalf) all applicable merchant processing, cash management, ACH origination, or kiosk agreements, provided that Client is given notice of and approves any additional fees associated with those agreements, and providing information and consents reasonably requested in connection with the agreements.
- (ii) Keeping throughout the duration of the Agreement during which direct payments via the web is activated, a bill payment link connecting to the Paymentus Platform at a prominent and mutually agreed location on Client's website. If the IVR channel is activated, the phone number for IVR payments will also be added to the web site and as an option as part of Client's general phone system.
- (iii) Sharing User Adoption marketing as described in Section 5.2.
- (iv) Launching the Service within 30 days of Paymentus making the system available.
- (v) Dedicating sufficient and properly trained personnel to support the implementation process and its use of the Services in compliance with all laws applicable to its use of the Services.
- (vi) Providing Paymentus with the file format specification currently used to post payments to the billing system to allow Paymentus to provide Client with a posting file for posting to Client's billing system.
- (vii) Fully cooperating with Paymentus and securing the cooperation of its software and service providers and providing the information required to integrate with Client's billing system.
- (viii) Fully cooperating with Paymentus to integrate its systems with the Paymentus

Platform through the use of Paymentus' APIs to enable Client's access to the IPN, if selected.

6 Indemnification and Limitation of Liability

6.1 Paymentus Indemnification and Hold Harmless

Paymentus agrees to defend, hold harmless and indemnify Client and its directors, officers or governing officials, and employees (collectively, the "Client Indemnitees") from and against all liabilities, demands, losses, damages, costs or expenses (including reasonable attorney's fees and costs), incurred by any Client Indemnitee arising from a claim or demand brought by a third party to the extent the claim or demand alleges that the Services provided under this Agreement infringe the intellectual property rights of the third-party.

6.2 Client Indemnification and Hold Harmless

Client agrees to defend, hold harmless and indemnify Paymentus and its directors, officers, and employees (collectively, the "Paymentus Indemnitees") from and against all liabilities, demands, losses, damages, costs or expenses (including reasonable attorney's fees and costs), incurred by any Paymentus Indemnitee arising from a claim or demand brought by a third party to the extent the claim or demand relates to the underlying relationship or obligations of Client and its Users.

6.3 Indemnification Procedure

The indemnified party will give the indemnifying party prompt written notice of any claim for which indemnification is sought. The indemnifying party will have the right to control the defense and settlement of any claim, provided that any settlement that admits liability on behalf of the indemnified party, or adversely affects the indemnified party shall require the indemnified party's prior written consent, which consent will not be unreasonably delayed or withheld.

6.4 Warranty Disclaimer

Except as expressly set forth in the Agreement, Paymentus disclaims all other representations or warranties, express or implied, made to Client or any other person, including without limitation, any warranties regarding quality, suitability, merchantability, fitness, for a particular purpose or otherwise of any Services or any good provided

incidental to the Services provided under the Agreement.

6.5 Limitation of Liability

NOTWITHSTANDING THE FOREGOING, PAYMENTUS WILL NOT BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS OR OTHER SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF IT HAS BEEN ADVISED OF OR COULD HAVE FORESEEN THE POSSIBILITY OF THESE DAMAGES. IN NO EVENT WILL PAYMENTUS BE LIABLE FOR ANY LOSSES OR DAMAGES RESULTING FROM THE ACTS, OMISSIONS OR ERRORS OF THIRD PARTIES OR OF CLIENT OR FOR PROVIDING AGREEMENTS, INSTRUCTIONS OR INFORMATION TO USERS AS INSTRUCTED BY CLIENT. PAYMENTUS' TOTAL LIABILITY FOR DAMAGES FOR ANY AND ALL ACTIONS ASSOCIATED WITH THE AGREEMENT OR THE SERVICES WILL IN NO EVENT EXCEED (I) FOR AN ERROR OR OTHER ACTION AFFECTING THE PROCESSING OF ONE OR MORE PAYMENTS, THE AMOUNT OF THE PAYMENTUS FEE ASSOCIATED WITH EACH PAYMENT, (II) FOR OTHER CLAIMS, THE AMOUNT OF THE PAYMENTUS FEE (NET OF DIRECT PROCESSING AND OTHER FEES PAID BY PAYMENTUS) PAID TO PAYMENTUS ("NET FEES") IN THE SIX (6) MONTHS BEFORE THE EVENTS GIVING RISE TO THE CLAIM OR CLAIMS ARISING FROM THE SAME CIRCUMSTANCES; AND (III) IN NO EVENT MORE THAN THE LESSER OF \$1,000,000.00 OR THE NET FEES UNDER THE AGREEMENT.

7 Term and Termination

7.1 Term

The term of the Agreement will commence on the Effective Date and continue for a period of 5 (five) years ("Initial Term") from the Launch Date.

At the end of the Initial Term, the Agreement will automatically renew for successive three (3) year periods unless either Client or Paymentus provide the other party with not less than 6 (six) months prior written notice before the automatic renewal date that it elects not to automatically renew the term of the Agreement.

7.2 Material Breach

A material breach of the Agreement will be cured within 90 (ninety) business days ("Cure Period") after a party notifies the other in writing of the breach in accordance with the Notice Provisions of this Agreement. In the event a material breach has not been cured within the Cure Period, the non-breaching party can terminate the Agreement by providing the other party with a 30 business days' notice.

7.3 Upon Termination

Upon termination of the Agreement, the parties agree to cooperate with one another to ensure that all Payments are accounted for and all refundable transactions have been completed. Upon termination, Paymentus will cease all Services being provided hereunder unless otherwise agreed in writing.

8. Confidentiality

Client will not for any purpose inconsistent with the Agreement disclose to any third party or use any Paymentus confidential or proprietary non-public information that Client has obtained during the procurement process or during the term of the Agreement about Paymentus' business, including the terms of the Agreement, operations, financial condition, technology, systems, know-how, products, Services, suppliers, clients, marketing data, plans, and models, and personnel. Paymentus will not for any purpose inconsistent with the Agreement or its privacy policy in effect from time to time disclose to any third party or use any confidential User information it receives in connection with its performance of the Services other than as required in connection with the third parties described in Section 5.4(i) above.

9. Intellectual Property

In order that Client may promote the Services and Paymentus' role in providing the Services, Paymentus grants to Client a revocable, non-exclusive, royalty-free, license to use Paymentus' logo and other service marks (the "Paymentus Marks") for this purpose only. Client does not have any right, title, license or interest, express or implied in and to any object code, software, hardware, trademarks, service mark, trade name, formula, system, know-how, telephone number, telephone line, domain name, URL, copyright image, text, script (including, without limitation, any script used by Paymentus on the IVR or the Website) or other intellectual property right of Paymentus ("Paymentus Intellectual Property"). All Paymentus Marks, Paymentus Intellectual Property, and the Platform

and all rights therein (other than rights expressly granted herein) and goodwill pertain thereto belong exclusively to Paymentus.

10. Miscellaneous

10.1 Authorized Representative

Each party will designate an individual to act as its representative, with the authority to transmit instructions and receive information. The parties may from time to time designate and notify the other party of other individuals or change the individuals.

10.2 Notices

All notices of any type hereunder ("Notices") will be in writing and sent to the addresses indicated on the signature page and except as otherwise provided in these Terms and Conditions will be given by certified mail, a national courier or by hand delivery. Notices will be considered to have been given or received on the date the notice is physically received. Any party by giving notice in the manner set forth herein may unilaterally change the name of the person to whom notice is to be given or the address at which the notice is to be received, by sending Notice to the other party. Notices to Paymentus shall also be copied to the attention of the Legal Depart at the Paymentus address.

10.3 Interpretation

It is the intent of the parties that no portion of the Agreement will be interpreted more harshly against either of the parties as the drafter.

10.4 Governing Law

The Agreement will be governed by the laws of the state of Delaware, without giving effect to any principles of conflicts of law.

10.5 Severability

If a word, sentence or paragraph herein is declared illegal, unenforceable, or unconstitutional, that word, sentence or paragraph will be severed from the Agreement, and the Agreement will be read as if that word, sentence or paragraph did not exist.

10.6 Attorney's Fees

Should any litigation or other dispute requiring the involvement of attorneys arise between the parties

concerning the Agreement, the parties agree to bear their own costs and attorney's fees.

10.7 Force Majeure

Each of the Party's will be excused from performing the Services or other non-monetary obligations to the extent such Party's performance is delayed, impaired or rendered impossible by acts of God or other events that are beyond such Party's reasonable control and without its fault or judgment, including without limitation, natural disasters, war, terrorist acts, riots, acts of a governmental entity (in a sovereign or contractual capacity), quarantine restrictions, explosions, extra-ordinary loss of utilities (including telecommunications services), or external computer "hacker" attacks.

10.8 No Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer rights, benefits, remedies, obligations or liabilities on any person (including Users or customers of the parties) other than the parties or their respective successors and permitted assigns.

10.9 Entire Agreement

The Agreement represents the entire agreement between the parties with respect to its subject matter and supersedes all prior written or oral agreements or understandings related to its subject matter and except as provided in the Agreement may be changed only by agreements in writing signed by the authorized representatives of the parties.

10.9 Counterparts

The Agreement and any amendment or other document related to the Agreement may be executed in counterparts, each of which will constitute an original, and all of which will constitute one agreement. The Agreement and any amendment or other document related to the Agreement may be signed electronically. A photographic or facsimile copy of the signature evidencing a party's execution of the Agreement will be effective as an original signature.

Schedule A – Paymentus Service Fee Schedule

The Services will initially consist of the Services indicated by a check box on the following table. The Paymentus Fee will be as specified below, and will be paid by the Client, unless designated as a User paid fee.

Channel	Channels	Services	Payment Methods & Channels	Paymentus Fee	User Paid Fee
<input checked="" type="checkbox"/>	Instant Payment Network™	Ebill Presentment and Customer Engagement	All payment channels and methods offered under IPN such as PayPal, Venmo, PayPal Credit, Secure PDF Push, Chatbot, Advanced Notification Service (ECM), Text 2 Pay, Voice Assistants, Mobile Apps and others as offered by Payments from time to time	<p><u>Utility Billing:</u></p> <p>\$3.25 per transaction via Visa, MC, Discover, AMEX debit/credit card, PayPal, Venmo, PayPal Credit, AmazonPay or eCheck/ACH</p> <p><u>Non Utility Billing:</u></p> <p>2.95% per transaction via Visa, MC, Discover, AMEX debit/credit card, PayPal, Venmo, PayPal Credit</p> <p>\$1.00 per transaction via eCheck / ACH</p>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Direct Payments (Web, IVR, Recurring)	Ebill Presentment and Customer Engagement	Credit, Debit, ACH	<p><u>Utility Billing:</u></p> <p>\$3.25 per transaction via Visa, MC, Discover, AMEX debit/credit card, PayPal, Venmo, PayPal</p>	<input checked="" type="checkbox"/>

				Credit, AmazonPay or eCheck/ACH <u>Non Utility Billing:</u> 2.95% per transaction via Visa, MC, Discover, AMEX debit/credit card, PayPal, Venmo, PayPal Credit \$1.00 per transaction via eCheck / ACH	
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Note: Average Bill Amount: \$132.00. Maximum Amount per Payment is \$500 for utility billing and \$15,000 for non utility billing. Multiple payments may be made.

Chargebacks and returned checks will be billed at \$9.95 per item.

Encrypted card readers are provided at \$225 each; the first five are provided at no charge. EMV point of sale devices are billed at \$480 each.

2,500 monthly Enterprise Communication Manager Outbound notifications are included per month; additional outbound messages are provided at \$0.08 per message.

Schedule B – Client Payment Data

BOARD OF COMMISSIONERS MEETING STAFF MEMORANDUM

September 13, 2022



Agenda Item D-5

Discussion – Remote Meeting Allowance during Non-Emergency Times

Background

All local governments were allowed to utilize remote or other electronic means to conduct meetings during the Covid-19 pandemic. This allowance was included as part of Governor Cooper's State of Emergency declaration. This declaration expired on Monday, August 15, 2022, thereby eliminating the ability of elected local boards to conduct remote meetings. There are still allowances, via existing state law, for non-elected boards to meet remotely.

The Town of Weaverville has adopted a resolution encouraging the North Carolina General Assembly to pass legislation that would allow elected boards to hold remote meetings via electronic means in non-emergency times. Their resolution includes stipulations regarding this use that are tied back to existing remote meeting law requirements found in NCGS 166A-19.24. This law governs remote meetings held during declared states of emergency. This discussion is solely to determine whether the Board would like to join the Town of Weaverville in their request for the N.C. General Assembly to consider amending this law.

§ 166A-19.24. Remote meetings during certain declarations of emergency.

(a) Remote Meetings. – Notwithstanding any other provision of law, upon issuance of a declaration of emergency under G.S. 166A-19.20, any public body within the emergency area may conduct remote meetings in accordance with this section and Article 33C of Chapter 143 of the General Statutes throughout the duration of that declaration of emergency. Compliance with this statute establishes a presumption that a remote meeting is open to the public.

(b) Requirements. – The public body shall comply with all of the following with respect to remote meetings conducted under this section:

- (1) The public body shall give proper notice under G.S. 143-318.12 and under any other requirement for notice applicable to the public body. The notice shall also specify the means by which the public can access the remote meeting as that remote meeting occurs.
- (2) Any member of the public body participating by a method of simultaneous communication in which that member cannot be physically seen by the public body must identify himself or herself in each of the following situations:
 - a. When the roll is taken or the remote meeting is commenced.
 - b. Prior to participating in the deliberations, including making motions, proposing amendments, and raising points of order.
 - c. Prior to voting.
- (3) All documents to be considered during the remote meeting shall be provided to each member of the public body.
- (4) The method of simultaneous communication shall allow for any member of the public body to do all of the following:
 - a. Hear what is said by the other members of the public body.
 - b. Hear what is said by any individual addressing the public body.
 - c. To be heard by the other members of the public body when speaking to the public body.
- (5) All votes shall be roll call; no vote by secret or written ballots, whether by paper or electronic means or in accordance with G.S. 143-318.13(b), may be taken during the remote meeting.
- (6) The public body shall comply with G.S. 143-318.13(c).
- (7) The minutes of the remote meeting shall reflect that the meeting was conducted by use of simultaneous communication, which members were participating by simultaneous communication, and when such members joined or left the remote meeting.
- (8) All chats, instant messages, texts, or other written communications between members of the public body regarding the transaction of the public business during the remote meeting are deemed a public record.
- (9) The remote meeting shall be simultaneously streamed live online so that simultaneous live audio, and video, if any, of such meeting is available to the public. If the remote meeting is conducted by conference call, the public body may comply with this subdivision by providing the public with an opportunity to dial in or stream the audio live and listen to the remote meeting.

(b1) If a public body has provided notice of an official meeting and one or more of the members of the public body desire to participate remotely after the issuance of the notice, the public body may amend the notice of the meeting to include the means whereby the public can access the remote meeting as that remote meeting occurs. Such amended notice of remote meeting shall comply with all of the following:

- (1) Be issued no less than six hours prior to the official meeting.

- (2) Be distributed in accordance with G.S. 143-318.12(b)(2) and (b)(3), as applicable.
- (3) Be posted in accordance with G.S. 143-318.12(e).
- (c) Quorum. – A member of the public body participating by simultaneous communication under this section shall be counted as present for quorum purposes only during the period while simultaneous communication is maintained for that member. The provisions of G.S. 153A-44 and G.S. 160A-75 shall apply to all votes of each member of a county or municipal governing board taken during a remote meeting.
- (d) Voting by Members of the Public Body. – Votes of each member of a public body made during a remote meeting under this section shall be counted as if the member were physically present only during the period while simultaneous communication is maintained for that member.
- (e) Public Hearings. – A public body may conduct any public hearing required or authorized by law during a remote meeting, and take action thereon, provided the public body allows for written comments on the subject of the public hearing to be submitted between publication of any required notice and 24 hours prior to the scheduled time for the beginning of the public hearing.
- (f) Quasi-Judicial Hearings. – A public body may conduct a quasi-judicial proceeding as a remote meeting only when all of the following apply:
 - (1) The right of an individual to a hearing and decision occur during the emergency.
 - (2) All persons subject to the quasi-judicial proceeding who have standing to participate in the quasi-judicial hearing have been given notice of the quasi-judicial hearing and consent to the remote meeting.
 - (3) All due process rights of the parties affected are protected.
- (g) Closed Sessions. – The public body may conduct a closed session as authorized in G.S. 143-318.11. While in closed session, the public body is not required to provide access to the remote meeting to the public.
- (h) Not Exclusive. – This section applies only during emergency declarations and does not supersede any authority for electronic meetings under Article 33C of Chapter 143 of the General Statutes.
- (i) Definitions. – For purposes of this section, the following definitions apply:
 - (1) Official meeting. – As defined in G.S. 143-318.10(d).
 - (2) Public body. – As defined in G.S. 143-318.10(b) and (c).
 - (3) Remote meeting. – An official meeting, or any part thereof, with between one and all of the members of the public body participating by simultaneous communication.
 - (4) Simultaneous communication. – Any communication by conference telephone, conference video, or other electronic means. (2020-3, s. 4.31(a); 2021-35, s. 1.)