

## An Ordinance Amending the Town of Biltmore Forest Zoning Ordinance

WHEREAS, Biltmore Forest, originally part of the Vanderbilt Estate, was established almost 100 years ago. Since its establishment, Biltmore Forest has been a forested residential community with substantial open space. Historic continuity and preservation of the forest environment requires substantial open space for trees, plants and wildlife.

WHEREAS, Given the Town's proximity to the Biltmore Estate, the Estate's large deer population, and the prevalence of other species including bear, the Town, through its Board of Adjustment, has received and continues to receive requests to approve fences and gates. The Board Commissioners is committed to preservation and protection of the forested residential community and to accommodating reasonable requests from its residents. Current and prospective residents can participate in this effort by landscaping with plants that will not attract deer, confining dogs and other household pets with invisible fencing, limiting the construction of new fences, gates, and walls, and removing and not replacing existing fences, gates, and walls.

NOW, THEREFORE BE IT ORDAINED, by the Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this ordinance.

### § 153.029 – Accessory Structures and Buildings

ADD the following under § 153.029 (B):

#### New Number “3” states as follows:

Fences, gates, and walls shall be regulated in accordance with § 153.049 of this Zoning Ordinance.

§ 153.029 (C) is deleted in its entirety.

### § 153.049 - Fence, Gate, and Wall Regulations

(A) New fences, gates, or walls may be approved by the ~~Town Manager~~ Board of Adjustment as a special use ~~and do not have to be approved by the Board of Adjustment~~, so long as the gate, fence or wall meets the following requirements.

- (1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks, and is constructed of materials deemed acceptable in 153.049(D)
- (2) Mature vegetation or other buffering sufficiently obscuring the structure from neighbors ~~must~~ may be required.

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(B) A driveway gate and supporting columns may be approved by the [Board of Adjustment as a special use](#) ~~Town Manager and does not have to be approved by the Board of Adjustment~~ so long as it meets the following requirements:

- (1) The Driveway Gate and columns must not be located in the front or side yard setback of a property in order to allow sufficient time and space when multiple vehicles are entering a property
- (2) The Driveway Gate shall not be more than eight (8) feet in height.
- (3) The Driveway Gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.
- (4) The Driveway Gate must open wide enough to provide for ingress and egress of emergency vehicles.

(C) Replacement of existing fences, gates, and walls may be approved by the ~~Town Manager~~ [Board of Adjustment as a special use](#) so long as the replacement fence is constructed of materials deemed acceptable in 153.049 (D) and meets the requirements below. ~~Otherwise, replacement of an existing fence or wall is a conditional use subject to the approval of the Board of Adjustment and the requirements of this zoning ordinance. An~~ [A special use permit](#) application to replace an existing fence, gate, or wall must include a photograph of the existing fence or wall, specify the type of fence, gate, or wall, include a map or sketch depicting the height and length of the fence, gate, or wall and state whether or not the fence, gate, or wall is located within any setbacks.

- (1) Existing chain link fences or gates may not be replaced with new chain link fences or gates.
- (2) Existing fences, gates, or walls in the front yard may not be replaced. No new fences, gates, or walls shall be allowed in the front yard.
- (3) Repair of more than half of an existing fence, gate, or wall shall be considered a replacement and shall be subject to this ordinance.

(D) Acceptable Materials and Standards for Fences and Walls / Maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

- (1) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.
- (2) Non-wooden fencing or gates shall be black, dark green or brown to blend with surrounding trees or vegetation.
- (3) No new chain link fencing or gates shall be allowed.
- (4) Fences may not exceed six (6) feet in height. Fences designed to prevent deer or other wildlife from entering the property may not exceed eight (8) feet in height.

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- (5) Walls should be constructed of stone or similar material, and should be compatible with the construction materials of the house located on the same property.
- (6) When a fence, gate, or wall is not properly maintained or fails to comply with a condition imposed by the Board of Adjustment, the Town may require the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate, or wall, the Town may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
Attorney