

## PROPOSED AGENDA

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

To be held Tuesday, October 10, 2023 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 September 12, 2023 meeting will be presented for approval.

D. Public Comment

E. Departmental Reports

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

F. Public Hearing

ZTA 2023-04 – An Ordinance to Amend the Town of Biltmore Forest Zoning Ordinance

G. New Business

1. Proclamation of Domestic Violence Awareness Month
2. Consideration of Ordinance 2023-04 – An Amendment to Amend the Town of Biltmore Forest Zoning Ordinance and Town Code of Ordinances  
*Ch. 153.034 – Landscaping and Grading Plans, Land Disturbance, and Sedimentation Control*  
*Ch. 153.050 – Tree Preservation (New Section to Replace Ch. 93 in Town Code)*  
*Ch. 153.060 – Buffers, Screening, and Landscaping Requirements*
3. Consideration of Brooklawn Chase Trail Proposal
4. Consideration of Professional Services Agreement with DP3 Architects for Master Facility Planning Work

H. Adjourn

For those interested in viewing the Board meeting remotely, please utilize the following information:  
<https://us02web.zoom.us/j/82228455470?pwd=SG9WU0FwUjFSc0ZveS95b3pLTUIHdz09>

Meeting ID: 822 2845 5470

Passcode: 966757

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF  
BILTMORE FOREST HELD SEPTEMBER 12, 2023

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 Fran Cogburn, present

Commissioner Glenn Kelly, not present

Mr. Jonathan Kanipe, the Town Manager, was also present. Mr. William Clarke, the Town Attorney, and Commissioner Glenn Kelly were not present.

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

The Pledge of Allegiance was conducted.

Commissioner Cogburn made a motion to approve the amended minutes from August 8, 2023. Commissioner Loomis seconded the motion. The motion was unanimously approved.

Chief Trevor Lance from the Skyland Fire Department was unable to attend the Board meeting due to working at the North Carolina Mountain State Fair.

Chief Chris Beddingfield gave the report for the Police Department. There were a total of 566 calls for the month of August. There were several arrests for the month. One arrest was at MAHEC and one arrest was at a residential home in Town.

Chief Beddingfield said the Town now has two license plate readers installed and they are working great. Chief Beddingfield also said they are hoping to cover the entrances and exits throughout Town soon.

Mayor Goosmann thanked the Police Department for all their hard work.

Mr. Harry Buckner gave the report for the Public Works Department. There were five trees that fell blocking the road this month. They were all taken care of.

As far as larger projects go, Mr. Buckner said the contractors are partially complete with the striping project. They are waiting for good weather to finish the project.

They are working on annual backflow systems for the irrigation systems in Town. A subcontractor is currently working on this project and there are approximately six left until completion. There are about 145 devices to check overall. There was only one failing backflow device.

Mr. Buckner said they received a clean sign off from OSHA (Occupational Safety Health Administration).

The Town's solid waste report was also completed. The state will review it and Mr. Buckner will provide a copy to the Board once finished.

Mr. Buckner said the trails consultant came and looked at Brooklawn Park. He will be back tomorrow, and staff are going to walk the proposed route. He will provide a proposal in order to move forward.

Work will begin at Greenwood Park around the beginning of October. Mayor Goosmann asked about putting goats in Brooklawn Park. Mr. Buckner said he did not have any experience with this but referenced a few other places in the area where he had seen them used. Commissioner

Loomis said Brooklawn and the Brookside Road area looks great and thanked Mr. Buckner. Mayor Goosmann thanked Mr. Buckner for all their hard work.

### PUBLIC COMMENT

There was no public comment.

Mr. Tony Williams gave the Planning report. Mr. Williams had 45 conferences regarding planning applications. There were six violations and all six were resolved. There were eleven complaints. Twenty-one plans were reviewed this month. They are very busy with no signs of slowing down. There were ten items on the Board of Adjustment agenda last month. Mayor Goosmann suggested they put a cap on the number of cases per month. Mr. Kanipe said they have discussed this, and the Planning Commission is going to look further into this as well. Mayor Goosmann said Mr. Williams is doing a great job and thanked him.

Mr. Jonathan Kanipe gave the report for the Town and said there was an incorrect charge noted on the Metropolitan Sewerage District fee schedule. The correct fee schedule was shown to the Board. It was about twenty cents off per thousand gallons. A motion was made to amend the fee schedule by Commissioner Loomis. Commissioner Cogburn seconded the motion and was unanimously approved.

Mr. Kanipe said the first Ford F-150 was delivered in early August with the Town's agreement with Enterprise. We have placed an order for a Ford Ranger as well. Mr. Kanipe said the Police vehicle orders are delayed due to no availability at this time. The Police Department vehicles are still in good shape. We are now leasing our vehicles instead of buying them and so far, it has worked out very well.

Mr. Kanipe said the exterior painting of the Town Hall is currently being done. They are doing a great job. They will then work on painting the interior of the Town Hall.

The roof leaks/repairs have been fixed at the Town Hall and Police Department. The mold issue will also be fixed and addressed in Chief Beddingfield's office.

The Centennial event Austin Healy car show will be at Rosebank Park September 23, 2023.

New Business discussed was Amended Zoning Ordinance recommendations regarding:  
Ch. 153.034 – Landscaping and Grading Plans, Land Disturbance, and Sedimentation Control  
Ch. 153.050 – Tree Preservation (New Section to Replace Ch. 93 in Town Code)  
Ch. 153.060 – Buffers, Screening, and Landscaping Requirements

All three of the above Zoning Ordinances will have a Public Hearing in October. Mr. Kanipe indicated that Chapter 153.034 talked about landscaping and grading plans and didn't require grading plans, it just mentioned landscaping plans. The Planning Commission went through it and defined what they wanted. Mr. Tony Williams is meeting with landscape architects and contractors to make sure they are abiding by the Ordinance. We are requiring this pre-construction process and make sure this is all being done.

The next Ordinance is 153.050 regarding the Tree Preservation Ordinance. It dovetails very well when landscape architects present their plans and guidelines. The Ordinance does change quite a bit with what they have laid out, mainly in what needs to be replanted. In this Ordinance, we did change paragraph C, the word "exemption" was taken out. It clarifies more of what is expected of certain entities in Town that have forestry management plans. This will be regulated differently. The word "exemption" was moved to page seven which flows a lot better because they are already talking about non-residential lots. Mr. Kanipe created an allocation for trees being removed outside the setback within a calendar year. A diagram of the setback area was shown in the handouts.

The last Ordinance discussed is 153.060. This is regarding buffers, screening, and landscaping. This allows the Town to have a landscaping and grading plan back in and allows us to have replanting at a significant level. There is a distinction between adding on a large addition as opposed to a mudroom.

These will all be published on the website and the Public Hearing will be held on October 10, 2023.

Commissioner Cogburn discussed hazardous trees and additional plantings and ensuring safety along the Town streets. Mr. Kanipe referenced additional buffering and replanting included within the proposed ordinance as potentially being an avenue to address this concern.

Commissioner Loomis expressed her concerns of the Board to be the judges of replanting and buffering. Mr. Kanipe said Mr. Clarke will look this over.

The Brooklawn Chase trail and woodland clean-up update was discussed. This will be a wonderful opportunity to clean this up and get some great work done. We will report back next month to see where we are with this update. Mr. Buckner said the concept is to have a mile-long loop. More information will be presented at next month's meeting.

Mr. Kanipe said we had a Special Call Meeting for the selection of an architect for the Town's Master Facility Project update. DP3 architects were selected. Staff will have a meeting with them Thursday morning to discuss the proposal.

The meeting was adjourned at 5:11 pm. The next meeting is scheduled for Tuesday, October 10th, 2023 at 4:30 pm.

ATTEST:

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Laura Jacobs  
Town Clerk

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George F. Goosmann, III  
Mayor



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 October 10th, 2023 Commission Report**

### **September 2023 Data**

#### **Total Calls For Service:**

579 (566 last month)

#### **Arrests:**

1-Felony Arrest-Outstanding Felony warrants for Forgery, Out of a traffic stop

3-Misdemeanor Arrest-One for Driving While Impaired from a traffic accident, One for Trespass and Misdemeanor Breaking and Entering out of a call for service, and One for Misdemeanor Drug Possession from a traffic stop.

#### **Citations:**

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

#### **Time Consumption Summary:**

##### *Approximations:*

Business Checks- 4 hours

House Checks- 4 hours

Radar Operation- 5 hours

Vehicle Crash Investigation- 1.5 hours

#### **Notable Calls and Projects:**

We sent our two newest officers and two telecommunicators to Crisis Intervention Training (CIT). This keeps us in line with our goal of having all sworn personnel certified. We felt that the information and training is so important we wanted our telecommunicators certified as well.

There was an interesting arrest out of a minor traffic accident on Hendersonville Rd. Subject was causing problems and leaving as our officers arrived. He was arrested for impaired driving and had a blood alcohol content (BAC) at .32 which is four times the legal limit for alcohol.

NCLM Audit coming in the next few weeks. We had two officers attend evidence management training.

We have two officers in an intensive on-line leadership program for seven weeks.



**Biltmore Forest**  
**355 Vanderbilt Rd**  
**Biltmore Forest , NC 28803**

September 2023 Calls for Service

BILTMORE FOREST POLICE DEPARTMENT	Count	Percent
ALARM	16	2.76%
ANIMAL CONTROL	9	1.55%
ASSIST MOTORIST	16	2.76%
ASSIST NON-RESIDENT	2	0.35%
ASSIST OTHER AGENCY	4	0.69%
ASSIST RESIDENT	9	1.55%
B&E/VEHICLE	1	0.17%
BUSINESS CHECK	216	37.31%
C&R DRIVER	1	0.17%
COMMUNICATING THREATS	1	0.17%
CRIME PREVENTION	6	1.04%
DEPARTMENT OTHER	1	0.17%
DISCHARGE FIREARM	1	0.17%
DISTURBANCE	2	0.35%
DOMESTIC	1	0.17%
DOWN POWER LINES	1	0.17%
FOLLOW-UP INVESTIGATION	5	0.86%
HOUSE CHECK	143	24.70%
IDENTITY THEFT	1	0.17%
IMPROPER PARKING	5	0.86%
IVC	2	0.35%
JUVENILE ISSUE	2	0.35%
MEDICAL EMERGENCY	3	0.52%
MENTAL PATIENT	1	0.17%
ORDINACE VIOLATION	2	0.35%
PROPERTY DAMAGE	1	0.17%
RADAR OPERATION	14	2.42%
RECOVERED PROPERTY	1	0.17%
ROAD BLOCKED	3	0.52%
SPECIAL ASSIGNMENT	1	0.17%
SPECIAL CHECK	2	0.35%
SUSPICIOUS ACTIVITY	3	0.52%
SUSPICIOUS PERSON	8	1.38%
SUSPICIOUS VEHICLE	18	3.11%
TALK WITH OFFICER	10	1.73%
TRAFFIC CONTROL	3	0.52%
TRAFFIC STOP	54	9.33%
VEHICLE ACCIDENT	3	0.52%
WARRANT SERVICE	2	0.35%
WELFARE CHECK	5	0.86%
<b>Total Records For BILTMORE FOREST POLICE DEPARTMENT</b>	<b>579</b>	<b>Dept Calls/Total Calls 100.00%</b>

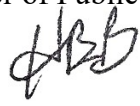




## MEMORANDUM

**To:** Jonathan Kanipe, Town Manager  
Mayor and Board of Commissioners

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

**Re:** Public Works Department   
September 2023 Monthly Report

**Date:** October 5, 2023

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### **Recurring Activities:**

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

- Collected 34.90 tons of garbage.
- Diverted 12.78 tons of recycled goods from garbage.
- Picked up 19 loads of brush (approximately 570 cubic yards) over 10 days.
- Responded to 33 total utility locate requests, comprised of 28 new requests and 5 updates.
- Visited 12 residences for Tree Assessments, approving the removal of 31 trees, and requiring the installation of 46 trees.
- Completed daily chlorine residual tests across town and the required two (2) bacteriological tests. All tests were passed.
- Used the Beacon/Badger Meter automated meter reading system to monitor water leaks daily and attempted to contact residents of suspected leaks.
- We continue to perform litter pick-ups as needed, focusing on the entrances.
- Normal brush collection was performed on the North Route beginning on September 15<sup>th</sup>, and the South Route beginning on October 2<sup>nd</sup>. Pick-ups will continue as scheduled with one pick-up per month per route until November 1<sup>st</sup> when leaf collection will begin.

### **Miscellaneous Activities in September**

- Training with our two new Public Works employees is continuing. Their probationary periods conclude in mid-November.
- We continue our weekly routine maintenance of all public spaces including mowing and general clean-up and servicing of five (5) dog waste stations.
- New mulch bed installation (along with invasive plant material removal) was completed along the steeper banks on the east side of Rosebank Park.
- We removed a downed tree from the roadway at Park Road and East Forest Road, as well as one at the end of the dead-end street off Cedar Hill Road.

- Shoulder clearing occurred in the following locations:
  - Vanderbilt Road near TGI Friday's
  - Hilltop Road
  - Forest Road
- Staff removed stump grinding debris from Lower Vanderbilt and Brookside Park.
- The streetlight was repaired, reinstalled, and placed back into service at 394 Vanderbilt Road.
- Work is continuing to refurbish the Town's leaf vacuum. We anticipate getting the unit back from the repair shop in the next month.
- The annual road striping contract was completed this month. Roads striped this year were Vanderbilt Road from Biltmore Village to the I-40 bridge, Browntown Road, and Eastwood Road.
- The exterior painting of the Town Hall was completed this month, and work has moved to the inside. It is anticipated that work will continue throughout the month of October.
- Public Works Supervisor/Town Arborist Mike Dale attended the annual Tree Conference by the NC Urban Forestry Council in Cary, NC.
- Staff repaired a damaged storm drain inlet at the intersection of Hilltop Road and Westwood Road.
- Manager Kanipe, Supervisor Dale, and I walked and reviewed the proposed trail alignment identified by the Town's trail consultant.
- Town Staff continued to remove invasive plant materials from Brookside Park.
- Supervisor Dale and I participated with Manager Kanipe and Chief Beddingfield in a scoping meeting with the selected facilities plan consultant.
- Grading work was completed on the parking and trail improvements in Greenwood Park.
- Several damaged glass panes were replaced in the streetlights.
- Town Arborist Dale contacted several property owners about dangerous trees that should be removed at multiple properties in Town.
- The Town's brush truck was in for repairs and had the rear tires replaced.
- Refurbishment of the Town's trailer mounted leaf vacuum continued this month. It is scheduled to be returned and placed back into service before the beginning of November leaf season.
- I attended the consultant selection interviews along with the Board, Town Attorney, Manager Kanipe, and Chief Beddingfield for the space planning master plan.
- We completed the required annual testing of resident's backflow devices this month. A total of 118 devices.
- Repaired road shoulder on Holly Hill Road.
- Cleaned out stormwater control measure at Greenwood Park.
- Performed routine maintenance on dump truck and knuckle boom truck, as well as leaf box in preparation for leaf season.
- Installed cellular endpoints on the MAHEC master meter.
- Installed park bench at Hemlock Road Pond.
- Installed park bench and landscape plantings at Lower Vanderbilt Park.

- Cleaned and restored teak park bench at Town Hall.
- Cleaned concrete median at Vanderbilt Road and Hendersonville Road.
- The contractor completed eradicating all three buildings of bats and rodents, and sealed the exterior envelopes of each building to prevent the return of the pests.

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

#### *Cedar Hill Road Stream Stabilization Project*

- Supervisor Dale met with the property owner along this project area to assist with plant selections for the replanting effort that will occur later in the season.

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

- Designs for both the sewer line improvements and modifications to the storm drain plans are finalized.
- The Metropolitan Sewerage District will begin their phase of work along Stuyvesant Road in mid- to late-October. Work is anticipated to last approximately 2 to 4 weeks, pending weather.
- I have begun contacting adjacent property owners to discuss both permanent easement and temporary construction easements.
- We anticipate releasing the project for bids shortly after completion of the MSD portion of the project is finalized.

#### *Streetlight LED Conversions and Service Upgrades*

- Our last inventory identified a total of three (3) non-functioning streetlights. We are continuing to wait for Duke Energy to replace a damaged service to the streetlight at the top island on Cedar Hill Road; there is a damaged feeder to the light at the corner of Brooklawn Chase and Brookside Road, and a homeowner damaged the feeder to light at the north intersection of Forest and East Forest Roads. There are a total of 64 total streetlights in the Town.
- The damaged streetlight at 394 Vanderbilt has been restored, reinstalled, and is in service.
- In conjunction with the Police Department, we will be assisting with the LPR camera installations, and we will be working with Haynes Electric to complete conversions as necessary and improvements to the desired locations.

#### *Greenwood and Brookside Park Pedestrian Bridges – Greenwood Park Improvements*

- Grading work on the parking areas and walking trails is completed. We will be moving forward with paving the parking areas but will wait for the completion of the picnic shelter to pave the walking trails so they can be properly tied to the slabs, bridge, and adjoining areas.

- The bridge designer is continuing to work on the construction drawings for the bridges and permitting drawings for the picnic shelter. We anticipate receiving the drawings by the end of the week.
- The picnic shelter contractor is awaiting the permit drawings from the designer to proceed with the construction.

#### Brookside Park Clean-up and Trail Construction

- Manager Kanipe has a separate agenda item to update the Board on this item.

#### Upcoming in October

- We are continuing training of our two new employees this month.
- Staff will complete the required daily chlorine and monthly bacteriological testing, as well as the quarterly disinfection byproduct testing.
- We will assist Ms. Jacobs with the bi-monthly water billing cycle.
- Normal brush collection will continue with the North Route on October 16<sup>th</sup>, and the South Route on October 30<sup>th</sup>. Dedicated and continuous leaf collection will begin as soon as the south route is finished.
- Repairs and refurbishment of the leaf vacuum in Virginia will finish this month so the unit can be used in early November.
- We will be listing the 2006 Ford F150 for sale on govdeals.com.
- I anticipate releasing the annual paving project for bids this month.
- Our striping contractor will be returning to install new thermoplastic markings on the remaining speed humps and cross walks in Town.
- Large tree clean-up and removals will begin this month through our contracted tree service in Brookside Park.
- Painting inside Town Hall will continue this month.
- We anticipate construction to begin on the picnic shelter and bridge in Greenwood Park late this month.
- We will be installing two (2) new irrigation meters for residents in Town.

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



## MEMORANDUM

**To:** Jonathan Kanipe, Town Manager  
Mayor and Board of Commissioners

**From:** Tony Williams, Town Planner

**Re:** September Monthly Report

**Date:** October 10, 2023

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### Recurring

- Check PD reports daily for code violations, make contact as needed to homeowners and contractors.
- Field inspections are conducted multiple times a week.
- Review plans for the Board of Adjustment for meeting packets
- Conducted site visits with the Board of Adjustment Members for all projects to be heard.
- Attended Board of Adjustment meeting (Planning Board Cancelled)
- Communicate weekly with all who submit plans for approval.
- Weekly advising homeowners and contractors of the ordinances.
- Addressing violations as needed.
- Issuing permits as needed

### Monthly Breakdown

- Review of potential subdivisions: 1- (*Multiple times to find a solution that will meet the ordinance.*)
- Land use conferences virtual/on site: 47
- Notice of violations verbal/written: 6
- Resolved violations: 7
- Complaints: 12
- Permitted projects finished: 0
- Plans reviewed: 17
- Plans reviewed for BOA: 4
- Plans reviewed for Design Review Board: 0
- Approved Permits: 1

### Miscellaneous

- Created an information list to be handed out with permits for construction to address parking, work hours, and other Town concerns before construction begins.



## BOARD OF COMMISSIONERS MEETING

### STAFF MEMORANDUM

OCTOBER 10, 2023

#### AGENDA ITEM E-5 TOWN MANAGER'S MONTHLY REPORT

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##### Facilities Improvements and Repairs

*Town Hall Painting Project:* The painting project at Town Hall continues moving forward. The contractor finished the exterior work on Friday, September 30. Work has now moved inside, with the initial focus on the Board Room and work on the Social Room scheduled to begin the week of October 9. The contractor intends to have work in the Social Room completed by the next Centennial Event on November 2.

*Pest Control Remediation:* Asheville Wildlife Rescue completed remediation efforts at all three Town facilities during the week of October 2. This included placing metal gridding over vent openings in each building and repairing soffits along the rear wall of the Police Department.

##### Greenwood Park Improvements

The Board's authorized work in Greenwood Park began in earnest in September. The paving and grading contractor began work to prepare the area for new parking spaces, removed the existing, unsafe spaces, and install the area for the walking path. It is likely that paving work for the parking spaces will occur in October prior to the picnic shelter installation. The Town is still awaiting approval from Buncombe County building inspections for the permit to construct this facility. The structural engineer designing the bridge should have this work finalized within the next few weeks and we intend to have a local contractor build this structure once the final design and permitting is completed. New playground infrastructure, specifically new swing sets, are scheduled to be installed in late November.

##### Road Striping

The road striping on Eastwood and Browntown Roads, and a portion of Vanderbilt Road north of I-40, was completed the week of September 25. The contractor also completed thermoplastic installation on the Town's speed bumps and will be installing the thermoplastic at the speed table adjacent to Biltmore Forest Country Club within the next few weeks. We will also be re-striping the crosswalk on Stuyvesant Road just north of Southwood Road that provides access for golf carts and pedestrians to cross the road.



## FY23 Audit

Carter PC anticipates concluding most of their work for the FY23 audit within the next few weeks. We anticipate this year's audit being submitted well ahead of the statutory deadline and are pleased by the alacrity with which things are progressing.

**REVENUE & EXPENDITURE STATEMENT**

07/01/2023 To 10/02/2023

Town of Biltmore Forest

FY 2023-2024

\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
<b>3010 Ad Valorem Tax</b>						
<b>Revenue</b>						
<b>3010 Ad Valorem Tax</b>						
10-3010-0000 AD VALOREM TAXES (PROPERTY)	2,980,215.00	385,516.98	385,516.98	0.00	2,594,698.02	13
10-3010-0100 AD VALOREM TAXES (DMV)	122,399.00	10,342.32	10,342.32	0.00	112,056.68	8
10-3010-0200 TAX INTEREST & PENALTIES	5,000.00	3.34	3.34	0.00	4,996.66	0
<b>3010 Ad Valorem Tax Subtotal</b>	<b>\$3,107,614.00</b>	<b>\$395,862.64</b>	<b>\$395,862.64</b>	<b>\$0.00</b>	<b>\$2,711,751.36</b>	<b>13</b>
<b>Revenue Subtotal</b>	<b>\$3,107,614.00</b>	<b>\$395,862.64</b>	<b>\$395,862.64</b>	<b>\$0.00</b>	<b>\$2,711,751.36</b>	<b>13</b>
After Transfers	<b>Excess Of Revenue Subtotal</b>	<b>\$3,107,614.00</b>	<b>\$395,862.64</b>	<b>\$395,862.64</b>	<b>\$0.00</b>	<b>13</b>
<b>3020 Unrestricted Intergovernm</b>						
<b>Revenue</b>						
<b>3020 Unrestricted Intergovernm</b>						
10-3020-0000 FRANCHISE & UTILITIES TAX DIST.	235,200.00	0.00	0.00	0.00	235,200.00	0
10-3020-0100 ALCOHOL BEVERAGE TAX	6,500.00	0.00	0.00	0.00	6,500.00	0
10-3020-0200 BUNCOMBE COUNTY 1% TAX	835,550.00	0.00	0.00	0.00	835,550.00	0
10-3020-0300 1/2 CENT SALES TAX A.40	358,260.00	0.00	0.00	0.00	358,260.00	0
10-3020-0400 1/2 CENT SALES TAX A.42	443,961.00	0.00	0.00	0.00	443,961.00	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	5,000.00	0.00	0.00	0.00	5,000.00	0
<b>3020 Unrestricted Intergovernm Subtotal</b>	<b>\$1,899,471.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,899,471.00</b>	<b>0</b>
<b>Revenue Subtotal</b>	<b>\$1,899,471.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,899,471.00</b>	<b>0</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$1,899,471.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0</b>
<b>3030 Restricted Intergovernmen</b>						
<b>Revenue</b>						
<b>3030 Restricted Intergovernmen</b>						
10-3030-0000 SOLID WASTE DISPOSAL TAX	1,133.00	0.00	0.00	0.00	1,133.00	0
10-3030-0100 POWELL BILL	67,210.00	0.00	0.00	0.00	67,210.00	0
10-3030-0200 ILLICIT SUBSTANCE TAX	18.00	-4.00	-4.00	0.00	22.00	-22
<b>3030 Restricted Intergovernmen Subtotal</b>	<b>\$68,361.00</b>	<b>-\$4.00</b>	<b>-\$4.00</b>	<b>\$0.00</b>	<b>\$68,365.00</b>	<b>0</b>
<b>Revenue Subtotal</b>	<b>\$68,361.00</b>	<b>-\$4.00</b>	<b>-\$4.00</b>	<b>\$0.00</b>	<b>\$68,365.00</b>	<b>0</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$68,361.00</b>	<b>-\$4.00</b>	<b>-\$4.00</b>	<b>\$0.00</b>	<b>0</b>
<b>3040 Permits &amp; Fees</b>						
<b>Revenue</b>						
<b>3040 Permits &amp; Fees</b>						
10-3040-0000 ZONING PERMITS	30,000.00	4,181.00	4,181.00	0.00	25,819.00	14
10-3040-0100 DOG LICENSE FEE	1,300.00	60.00	60.00	0.00	1,240.00	5
<b>3040 Permits &amp; Fees Subtotal</b>	<b>\$31,300.00</b>	<b>\$4,241.00</b>	<b>\$4,241.00</b>	<b>\$0.00</b>	<b>\$27,059.00</b>	<b>14</b>
<b>Revenue Subtotal</b>	<b>\$31,300.00</b>	<b>\$4,241.00</b>	<b>\$4,241.00</b>	<b>\$0.00</b>	<b>\$27,059.00</b>	<b>14</b>

**REVENUE & EXPENDITURE STATEMENT**

07/01/2023 To 10/02/2023

Town of Biltmore Forest

FY 2023-2024

\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
After Transfers	<b>Excess Of Revenue Subtotal</b>	<b>\$31,300.00</b>	<b>\$4,241.00</b>	<b>\$4,241.00</b>	<b>\$0.00</b>	<b>14</b>
<b>3050 Investment Earnings</b>						
<b>Revenue</b>						
<b>3050 Investment Earnings</b>						
10-3050-0000 INTEREST EARNED	148,800.00	37.99	37.99	0.00	148,762.01	0
	<b>3050 Investment Earnings Subtotal</b>	<b>\$148,800.00</b>	<b>\$37.99</b>	<b>\$37.99</b>	<b>\$0.00</b>	<b>\$148,762.01</b>
	<b>Revenue Subtotal</b>	<b>\$148,800.00</b>	<b>\$37.99</b>	<b>\$37.99</b>	<b>\$0.00</b>	<b>\$148,762.01</b>
After Transfers	<b>Excess Of Revenue Subtotal</b>	<b>\$148,800.00</b>	<b>\$37.99</b>	<b>\$37.99</b>	<b>\$0.00</b>	<b>0</b>
<b>3060 Miscellaneous</b>						
<b>Revenue</b>						
<b>3060 Miscellaneous</b>						
10-3060-0100 AMERICAN TOWER AGREEMENT	46,365.00	1,200.00	1,200.00	0.00	45,165.00	3
10-3060-0200 MISCELLANEOUS	20,000.00	6,506.56	6,506.56	0.00	13,493.44	33
	<b>3060 Miscellaneous Subtotal</b>	<b>\$66,365.00</b>	<b>\$7,706.56</b>	<b>\$7,706.56</b>	<b>\$0.00</b>	<b>\$58,658.44</b>
	<b>Revenue Subtotal</b>	<b>\$66,365.00</b>	<b>\$7,706.56</b>	<b>\$7,706.56</b>	<b>\$0.00</b>	<b>\$58,658.44</b>
After Transfers	<b>Excess Of Revenue Subtotal</b>	<b>\$66,365.00</b>	<b>\$7,706.56</b>	<b>\$7,706.56</b>	<b>\$0.00</b>	<b>12</b>
<b>3290</b>						
<b>Revenue</b>						
<b>3290</b>						
30-3290-0000 INTEREST EARNED	4,000.00	0.00	0.00	0.00	4,000.00	0
	<b>3290 Subtotal</b>	<b>\$4,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$4,000.00</b>
	<b>Revenue Subtotal</b>	<b>\$4,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$4,000.00</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$4,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0</b>
<b>3350 Commissions, Sw Chg Coll</b>						
<b>Revenue</b>						
<b>3350 Commissions, Sw Chg Coll</b>						
30-3350-0000 COMMISSIONS, SEWER CHARGE COLL	8,000.00	0.00	0.00	0.00	8,000.00	0
	<b>3350 Commissions, Sw Chg Coll Subtotal</b>	<b>\$8,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$8,000.00</b>
	<b>Revenue Subtotal</b>	<b>\$8,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$8,000.00</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$8,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0</b>
<b>3500 Other Financing</b>						
<b>Other Financing Source</b>						
<b>3500 Other Financing</b>						
10-3500-0000 SALE OF PERSONAL PROPERTY	10,000.00	0.00	0.00	0.00	10,000.00	0
10-3500-0300 TRANSFER FROM FUND BALANCE	1,213,866.00	0.00	0.00	0.00	1,213,866.00	0
10-3500-0700 INTERGOVERNMENTAL LOAN (RESTRIC	292,000.00	0.00	0.00	0.00	292,000.00	0
	<b>3500 Other Financing Subtotal</b>	<b>\$1,515,866.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,515,866.00</b>
	<b>Other Financing Source Subtotal</b>	<b>\$1,515,866.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,515,866.00</b>

**REVENUE & EXPENDITURE STATEMENT**

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Town of Biltmore Forest

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After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$1,515,866.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0</b>
<b>3710 Water Sales</b>						
<b>Revenue</b>						
<b>3710 Water Sales</b>						
30-3710-0000	WATER CHARGES	0.00	104,456.27	104,456.27	0.00	-104,456.27 *100
30-3710-0100	MSD CHARGES	493,425.00	76,032.94	76,032.94	0.00	417,392.06 15
30-3710-0200	AMI TRANSMITTER CHARGES	7,700.00	1,367.04	1,367.04	0.00	6,332.96 18
	<b>3710 Water Sales Subtotal</b>	<b>\$501,125.00</b>	<b>\$181,856.25</b>	<b>\$181,856.25</b>	<b>\$0.00</b>	<b>\$319,268.75 36</b>
	<b>Revenue Subtotal</b>	<b>\$501,125.00</b>	<b>\$181,856.25</b>	<b>\$181,856.25</b>	<b>\$0.00</b>	<b>\$319,268.75 36</b>
After Transfers	<b>Excess Of Revenue Subtotal</b>	<b>\$501,125.00</b>	<b>\$181,856.25</b>	<b>\$181,856.25</b>	<b>\$0.00</b>	<b>36</b>
<b>3730 Water Tap &amp; Connect Fees</b>						
<b>Revenue</b>						
<b>3730 Water Tap &amp; Connect Fees</b>						
30-3730-0000	WATER TAP AND CONNECTION FEES	6,000.00	210.00	210.00	0.00	5,790.00 4
	<b>3730 Water Tap &amp; Connect Fees Subtotal</b>	<b>\$6,000.00</b>	<b>\$210.00</b>	<b>\$210.00</b>	<b>\$0.00</b>	<b>\$5,790.00 4</b>
	<b>Revenue Subtotal</b>	<b>\$6,000.00</b>	<b>\$210.00</b>	<b>\$210.00</b>	<b>\$0.00</b>	<b>\$5,790.00 4</b>
After Transfers	<b>Excess Of Revenue Subtotal</b>	<b>\$6,000.00</b>	<b>\$210.00</b>	<b>\$210.00</b>	<b>\$0.00</b>	<b>4</b>
<b>3800</b>						
<b>Revenue</b>						
<b>3800</b>						
10-3800-0000	LAW ENF.BLOCK GRANT	24,500.00	0.00	0.00	0.00	24,500.00 0
	<b>3800 Subtotal</b>	<b>\$24,500.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$24,500.00 0</b>
	<b>Revenue Subtotal</b>	<b>\$24,500.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$24,500.00 0</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$24,500.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0</b>
<b>4000</b>						
<b>Revenue</b>						
<b>4000</b>						
40-4000-1100	ARP DISTRIBUTION	451,275.58	0.00	0.00	0.00	451,275.58 0
	<b>4000 Subtotal</b>	<b>\$451,275.58</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$451,275.58 0</b>
	<b>Revenue Subtotal</b>	<b>\$451,275.58</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$451,275.58 0</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>\$451,275.58</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0</b>
<b>4200 Administration</b>						
<b>Expenditure</b>						
<b>4200 Administration</b>						
10-4200-0200	SALARIES	321,633.00	97,940.09	97,940.09	0.00	223,692.91 30
10-4200-0300	OVERTIME	3,000.00	0.00	0.00	0.00	3,000.00 0
10-4200-0500	FICA	24,605.00	7,281.96	7,281.96	0.00	17,323.04 30
10-4200-0600	HEALTH INSURANCE (MEDICAL)	42,598.00	6,084.68	6,084.68	0.00	36,513.32 14

**REVENUE & EXPENDITURE STATEMENT**

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10-4200-0650 DENTAL, VISION, LIFE INSURANCE	10,500.00	1,377.08	1,377.08	0.00	9,122.92	13
10-4200-0675 HEALTH REIMBUSEMENT ACC	7,500.00	1,000.00	1,000.00	0.00	6,500.00	13
10-4200-0700 LGERS RETIREMENT	62,815.00	18,703.27	18,703.27	0.00	44,111.73	30
10-4200-0800 401K SUPP RETIREMENT	16,232.00	4,707.82	4,707.82	0.00	11,524.18	29
10-4200-1000 ACCOUNTING & TAXES	51,400.00	38,020.06	38,020.06	0.00	13,379.94	74
10-4200-1200 POSTAGE, PRINTING, STATIONARY	10,140.00	4,516.34	4,516.34	0.00	5,623.66	45
10-4200-1400 MILEAGE & BOARD SALARY	21,600.00	5,400.00	5,400.00	0.00	16,200.00	25
10-4200-1500 BLDG & GRNDS MAINTENANCE	20,000.00	11,048.36	11,774.64	726.28	8,225.36	59
10-4200-3300 SUPPLIES AND EQUIPMENT	10,000.00	2,441.28	2,441.28	0.00	7,558.72	24
10-4200-5300 DUES & FEES	5,070.00	5,846.07	6,071.07	225.00	-1,001.07	120
10-4200-5700 MISCELLANEOUS	1,000.00	582.84	984.09	401.25	15.91	98
10-4200-6500 STAFF DEVELOPMENT	21,395.00	8,232.81	8,232.81	0.00	13,162.19	38
<b>4200 Administration Subtotal</b>	<b>\$629,488.00</b>	<b>\$213,182.66</b>	<b>\$214,535.19</b>	<b>\$1,352.53</b>	<b>\$414,952.81</b>	<b>34</b>
<b>Expenditure Subtotal</b>	<b>\$629,488.00</b>	<b>\$213,182.66</b>	<b>\$214,535.19</b>	<b>\$1,352.53</b>	<b>\$414,952.81</b>	<b>34</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$629,488.00</b>	<b>-\$213,182.66</b>	<b>-\$213,182.66</b>	<b>-\$1,352.53</b>	<b>34</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$629,488.00</b>	<b>-\$213,182.66</b>	<b>-\$213,182.66</b>	<b>-\$1,352.53</b>	<b>34</b>
<b>5100 Police Department</b>						
<b>Expenditure</b>						
<b>5100 Police Department</b>						
10-5100-0200 SALARIES	1,013,718.00	295,789.23	295,789.23	0.00	717,928.77	29
10-5100-0300 OVERTIME	30,412.00	0.00	0.00	0.00	30,412.00	0
10-5100-0400 SEPARATION ALLOWANCE	16,445.00	4,427.57	4,427.57	0.00	12,017.43	27
10-5100-0500 FICA	77,549.00	22,493.52	22,493.52	0.00	55,055.48	29
10-5100-0600 HEALTH INSURANCE (MEDICAL)	144,832.00	24,194.72	24,194.72	0.00	120,637.28	17
10-5100-0650 DENTAL, VISION, LIFE INSURANCE	35,700.00	3,767.20	3,767.20	0.00	31,932.80	11
10-5100-0675 HRA HEALTH REIMB ACCT	25,500.00	4,000.00	4,000.00	0.00	21,500.00	16
10-5100-0700 LGERS RETIREMENT	210,651.00	57,626.27	57,626.27	0.00	153,024.73	27
10-5100-0800 401K SUPP RETIREMENT	50,686.00	14,237.80	14,237.80	0.00	36,448.20	28
10-5100-1500 MAINT/REPAIR - BLDG/GROUNDS	20,000.00	8,270.00	8,270.00	0.00	11,730.00	41
10-5100-1600 MAINT/REPAIR - EQUIPMENT	1,000.00	640.00	640.00	0.00	360.00	64
10-5100-1700 MAINT/REPAIR - VEHICLES	10,000.00	6,474.76	6,686.09	211.33	3,313.91	67
10-5100-3100 MOTOR FUELS	24,600.00	3,614.65	3,614.65	0.00	20,985.35	15
10-5100-3300 SUPPLIES	10,080.00	2,020.01	2,370.01	350.00	7,709.99	24
10-5100-3600 UNIFORMS	15,000.00	2,285.33	2,945.52	660.19	12,054.48	20
10-5100-3700 SOFTWARE	18,725.00	15,480.00	15,480.00	0.00	3,245.00	83
10-5100-3800 TECHNOLOGY	58,740.00	23,657.26	23,657.26	0.00	35,082.74	40
10-5100-4000 RENTALS	0.00	501.09	501.09	0.00	-501.09	*100
10-5100-5700 MISCELLANEOUS	8,265.00	7,676.49	7,676.49	0.00	588.51	93
10-5100-5800 PHYSICAL EXAMS	2,000.00	70.00	70.00	0.00	1,930.00	4

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10-5100-6500 STAFF DEVELOPMENT	15,000.00	6,237.97	7,537.89	1,299.92	7,462.11	50
10-5100-7400 CAPITAL EQUIPMENT PURCHASES	169,000.00	8,335.14	8,916.23	581.09	160,083.77	5
<b>5100 Police Department Subtotal</b>	<b>\$1,957,903.00</b>	<b>\$511,799.01</b>	<b>\$514,901.54</b>	<b>\$3,102.53</b>	<b>\$1,443,001.46</b>	<b>26</b>
<b>Expenditure Subtotal</b>	<b>\$1,957,903.00</b>	<b>\$511,799.01</b>	<b>\$514,901.54</b>	<b>\$3,102.53</b>	<b>\$1,443,001.46</b>	<b>26</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,957,903.00</b>	<b>-\$511,799.01</b>	<b>-\$511,799.01</b>	<b>-\$3,102.53</b>	<b>26</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,957,903.00</b>	<b>-\$511,799.01</b>	<b>-\$511,799.01</b>	<b>-\$3,102.53</b>	<b>26</b>
<b>5200 Fire Services</b>						
<b>Expenditure</b>						
<b>5200 Fire Services</b>						
10-5200-0000 FIRE CONTRACT	425,000.00	106,250.00	106,250.00	0.00	318,750.00	25
<b>5200 Fire Services Subtotal</b>	<b>\$425,000.00</b>	<b>\$106,250.00</b>	<b>\$106,250.00</b>	<b>\$0.00</b>	<b>\$318,750.00</b>	<b>25</b>
<b>Expenditure Subtotal</b>	<b>\$425,000.00</b>	<b>\$106,250.00</b>	<b>\$106,250.00</b>	<b>\$0.00</b>	<b>\$318,750.00</b>	<b>25</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$425,000.00</b>	<b>-\$106,250.00</b>	<b>-\$106,250.00</b>	<b>\$0.00</b>	<b>25</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$425,000.00</b>	<b>-\$106,250.00</b>	<b>-\$106,250.00</b>	<b>\$0.00</b>	<b>25</b>
<b>5600 Public Works</b>						
<b>Expenditure</b>						
<b>5600 Public Works</b>						
10-5600-0200 SALARIES	211,888.00	59,051.24	59,051.24	0.00	152,836.76	28
10-5600-0300 OVERTIME	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5600-0500 FICA	16,209.00	3,995.73	3,995.73	0.00	12,213.27	25
10-5600-0600 HOSPITAL INSURANCE (MEDICAL)	68,156.00	5,242.22	5,242.22	0.00	62,913.78	8
10-5600-0650 DENTAL, VISION, LIFE INSURANCE	10,500.00	1,082.28	1,082.28	0.00	9,417.72	10
10-5600-0675 HRA HEALTH REIMB ACCT	7,500.00	875.00	875.00	0.00	6,625.00	12
10-5600-0700 LGERS RETIREMENT	41,382.00	10,461.98	10,461.98	0.00	30,920.02	25
10-5600-0800 401K SUPP RETIREMENT	10,594.00	2,507.84	2,507.84	0.00	8,086.16	24
10-5600-1300 STREETLIGHTS ELECTRIC	7,000.00	2,360.29	2,360.29	0.00	4,639.71	34
10-5600-1500 MAINT/REPAIR - BLDG/GROUNDS	9,600.00	6,617.60	8,949.36	2,331.76	650.64	93
10-5600-1600 MAINT/REPAIR- STREETLIGHTS	35,000.00	10,513.80	10,513.80	0.00	24,486.20	30
10-5600-1700 MAINT/REPAIR - VEHICLES	10,000.00	622.59	622.59	0.00	9,377.41	6
10-5600-3100 MOTOR FUELS	20,000.00	2,811.81	2,811.81	0.00	17,188.19	14
10-5600-3300 SUPPLIES	10,000.00	1,805.78	1,805.78	0.00	8,194.22	18
10-5600-3400 STREET SIGNS & NUMBERS	1,000.00	291.30	291.30	0.00	708.70	29
10-5600-3600 UNIFORMS	8,650.00	659.76	2,692.91	2,033.15	5,957.09	31
10-5600-3800 TECHNOLOGY	9,500.00	0.00	0.00	0.00	9,500.00	0
10-5600-5200 PARKS	60,000.00	15,057.25	17,392.70	2,335.45	42,607.30	29
10-5600-5800 PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	0
10-5600-5900 MISCELLANEOUS	1,000.00	935.50	1,438.40	502.90	-438.40	144
10-5600-6000 CAPITAL OUTLAY	8,000.00	0.00	0.00	0.00	8,000.00	0
10-5600-6500 STAFF DEVELOPMENT	0.00	1,325.94	1,325.94	0.00	-1,325.94	*100

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40-5600-7401 ARP CAPITAL PROJECTS	451,275.58	19,788.72	19,788.72	0.00	431,486.86	4
<b>5600 Public Works Subtotal</b>	<b>\$1,002,754.58</b>	<b>\$146,006.63</b>	<b>\$153,209.89</b>	<b>\$7,203.26</b>	<b>\$849,544.69</b>	<b>15</b>
<b>Expenditure Subtotal</b>	<b>\$1,002,754.58</b>	<b>\$146,006.63</b>	<b>\$153,209.89</b>	<b>\$7,203.26</b>	<b>\$849,544.69</b>	<b>15</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,002,754.58</b>	<b>-\$146,006.63</b>	<b>-\$146,006.63</b>	<b>-\$7,203.26</b>	<b>15</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,002,754.58</b>	<b>-\$146,006.63</b>	<b>-\$146,006.63</b>	<b>-\$7,203.26</b>	<b>15</b>
<b>5700 Streets &amp; Transportation</b>						
<b>Expenditure</b>						
<b>5700 Streets &amp; Transportation</b>						
10-5700-1700 VEHICLE REPAIRS - STREET DEPT.	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5700-2200 CONTRACTS- PAVING & STRIPING	255,000.00	11,770.00	11,770.00	0.00	243,230.00	5
10-5700-2300 SUPPLIES	10,000.00	805.27	805.27	0.00	9,194.73	8
10-5700-2400 TRAFFIC SIGNS	500.00	0.00	0.00	0.00	500.00	0
10-5700-2500 STORM WATER DRAINAGE	1,400,000.00	445.77	445.77	0.00	1,399,554.23	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	724.15	724.15	0.00	275.85	72
10-5700-7400 CAPITAL EQUIPMENT PURCHASES	19,200.00	2,732.71	2,732.71	0.00	16,467.29	14
10-5700-7500 ENGINEERING	50,000.00	17,688.80	17,688.80	0.00	32,311.20	35
<b>5700 Streets &amp; Transportation Subtotal</b>	<b>\$1,745,700.00</b>	<b>\$34,166.70</b>	<b>\$34,166.70</b>	<b>\$0.00</b>	<b>\$1,711,533.30</b>	<b>2</b>
<b>Expenditure Subtotal</b>	<b>\$1,745,700.00</b>	<b>\$34,166.70</b>	<b>\$34,166.70</b>	<b>\$0.00</b>	<b>\$1,711,533.30</b>	<b>2</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,745,700.00</b>	<b>-\$34,166.70</b>	<b>-\$34,166.70</b>	<b>\$0.00</b>	<b>2</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,745,700.00</b>	<b>-\$34,166.70</b>	<b>-\$34,166.70</b>	<b>\$0.00</b>	<b>2</b>
<b>5800 Sanitation &amp; Recycling</b>						
<b>Expenditure</b>						
<b>5800 Sanitation &amp; Recycling</b>						
10-5800-0200 SALARIES	141,376.00	46,953.73	46,953.73	0.00	94,422.27	33
10-5800-0300 OVERTIME	5,000.00	0.00	0.00	0.00	5,000.00	0
10-5800-0500 FICA	11,198.00	3,560.77	3,560.77	0.00	7,637.23	32
10-5800-0600 HEALTH INSURANCE (MEDICAL)	68,156.00	4,062.76	4,062.76	0.00	64,093.24	6
10-5800-0650 DENTAL,VISION, LIFE INSURANCE	6,300.00	669.84	669.84	0.00	5,630.16	11
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	27,611.00	8,624.93	8,624.93	0.00	18,986.07	31
10-5800-0800 401K SUPP RETIREMENT	7,069.00	2,225.13	2,225.13	0.00	4,843.87	31
10-5800-1500 GENERAL REPAIRS & MAINTENANCE	0.00	87.30	87.30	0.00	-87.30	*100
10-5800-1700 MAINT/REPAIRS - VEHICLES	40,000.00	15,770.29	16,296.82	526.53	23,703.18	41
10-5800-3100 MOTOR FUELS	30,000.00	3,251.89	3,251.89	0.00	26,748.11	11
10-5800-3300 SUPPLIES	1,000.00	44.94	44.94	0.00	955.06	4
10-5800-3600 UNIFORMS	1,000.00	552.67	552.67	0.00	447.33	55
10-5800-3800 TECHNOLOGY	3,000.00	0.00	0.00	0.00	3,000.00	0
10-5800-5800 PHYSICAL EXAMS	500.00	0.00	0.00	0.00	500.00	0

**REVENUE & EXPENDITURE STATEMENT**

07/01/2023 To 10/02/2023

Town of Biltmore Forest

FY 2023-2024

\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
10-5800-5900 MISCELLANEOUS	1,000.00	1,000.00	1,000.00	0.00	0.00	100
10-5800-6000 CAPITAL OUTLAY	80,000.00	0.00	0.00	0.00	80,000.00	0
10-5800-8000 TIPPING FEES & BRUSH REMOVAL	50,000.00	12,200.22	12,200.22	0.00	37,799.78	24
10-5800-8100 RECYCLING	20,000.00	1,615.02	1,615.02	0.00	18,384.98	8
10-5800-8200 BRUSH & LEAF DISPOSAL FEES	31,200.00	3,000.00	3,000.00	0.00	28,200.00	10
<b>5800 Sanitation &amp; Recycling Subtotal</b>	<b>\$528,910.00</b>	<b>\$104,369.49</b>	<b>\$104,896.02</b>	<b>\$526.53</b>	<b>\$424,013.98</b>	<b>20</b>
<b>Expenditure Subtotal</b>	<b>\$528,910.00</b>	<b>\$104,369.49</b>	<b>\$104,896.02</b>	<b>\$526.53</b>	<b>\$424,013.98</b>	<b>20</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$528,910.00</b>	<b>-\$104,369.49</b>	<b>-\$104,369.49</b>	<b>-\$526.53</b>	<b>20</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$528,910.00</b>	<b>-\$104,369.49</b>	<b>-\$104,369.49</b>	<b>-\$526.53</b>	<b>20</b>
<b>6600 General Government</b>						
<b>Expenditure</b>						
<b>6600 General Government</b>						
10-6600-0400 OUTSIDE PROFESSIONAL SERVICES	45,959.00	0.00	0.00	0.00	45,959.00	0
10-6600-0401 LEGAL SERVICES	35,000.00	4,612.50	4,612.50	0.00	30,387.50	13
10-6600-1100 TECHNOLOGY	105,937.00	21,345.05	21,345.05	0.00	84,591.95	20
10-6600-1300 MUNICIPAL UTILITIES	40,000.00	5,085.15	5,085.15	0.00	34,914.85	13
10-6600-1500 GE. REPS. AND MAINT.	40,000.00	9,168.24	9,168.24	0.00	30,831.76	23
10-6600-2800 ELECTIONS	6,000.00	0.00	0.00	0.00	6,000.00	0
10-6600-5400 INSURANCE	110,000.00	116,114.47	116,114.47	0.00	-6,114.47	106
10-6600-6000 CONTINGENCY	50,000.00	0.00	0.00	0.00	50,000.00	0
10-6600-6100 MISCELLANEOUS	10,000.00	3,087.83	3,087.83	0.00	6,912.17	31
10-6600-6300 COMMUNITY EVENTS	55,000.00	10,012.46	10,287.46	275.00	44,712.54	19
10-6600-6301 4TH OF JULY	10,000.00	4,266.34	4,266.34	0.00	5,733.66	43
10-6600-6302 NATIONAL NIGHT OUT	7,000.00	552.16	552.16	0.00	6,447.84	8
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	5,550.00	5,550.00	0.00	54,450.00	9
<b>6600 General Government Subtotal</b>	<b>\$603,396.00</b>	<b>\$179,794.20</b>	<b>\$180,069.20</b>	<b>\$275.00</b>	<b>\$423,326.80</b>	<b>30</b>
<b>Expenditure Subtotal</b>	<b>\$603,396.00</b>	<b>\$179,794.20</b>	<b>\$180,069.20</b>	<b>\$275.00</b>	<b>\$423,326.80</b>	<b>30</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$603,396.00</b>	<b>-\$179,794.20</b>	<b>-\$179,794.20</b>	<b>-\$275.00</b>	<b>30</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$603,396.00</b>	<b>-\$179,794.20</b>	<b>-\$179,794.20</b>	<b>-\$275.00</b>	<b>30</b>
<b>6700 Debt Service</b>						
<b>Expenditure</b>						
<b>6700 Debt Service</b>						
10-6700-0100 Police Dept Renovations-Principal	23,334.00	5,833.33	5,833.33	0.00	17,500.67	25
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	14,600.00	0.00	0.00	0.00	14,600.00	0



**REVENUE & EXPENDITURE STATEMENT**

07/01/2023 To 10/02/2023

Town of Biltmore Forest

FY 2023-2024

\*100 in the % Used column indicates that no budget exists

Account	Budget (\$)	Current Period (\$)	YTD With Encumbrance (\$)	Encumbrance (\$)	Remaining Balance (\$)	% Used
10-6700-1100 Police Dept Renovations-Interest	556.00	222.25	222.25	0.00	333.75	40
10-6700-1200 Street Improvements-Interest	159.00	63.50	63.50	0.00	95.50	40
10-6700-1500 Public Works Building-Interest	14,855.00	0.00	0.00	0.00	14,855.00	0
<b>6700 Debt Service Subtotal</b>	<b>\$144,382.00</b>	<b>\$7,785.75</b>	<b>\$7,785.75</b>	<b>\$0.00</b>	<b>\$136,596.25</b>	<b>5</b>
<b>Expenditure Subtotal</b>	<b>\$144,382.00</b>	<b>\$7,785.75</b>	<b>\$7,785.75</b>	<b>\$0.00</b>	<b>\$136,596.25</b>	<b>5</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$144,382.00</b>	<b>-\$7,785.75</b>	<b>-\$7,785.75</b>	<b>\$0.00</b>	<b>5</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$144,382.00</b>	<b>-\$7,785.75</b>	<b>-\$7,785.75</b>	<b>\$0.00</b>	<b>5</b>
<b>8100 Water Dept.</b>						
<b>Expenditure</b>						
<b>8100 Water Dept.</b>						
30-8100-0200 SALARIES	169,693.00	41,399.04	41,399.04	0.00	128,293.96	24
30-8100-0400 PROFESSIONAL SERVICES	5,000.00	12,019.51	18,215.87	6,196.36	-13,215.87	364
30-8100-0500 FICA	12,981.00	3,118.14	3,118.14	0.00	9,862.86	24
30-8100-0600 HEALTH INSURANCE (MEDICAL)	0.00	3,637.30	3,637.30	0.00	-3,637.30	*100
30-8100-0650 DENTAL, VISION, LIFE INSURANCE	0.00	587.28	587.28	0.00	-587.28	*100
30-8100-0675 HRA HEALTH REIMBURSEMENT ACCT	0.00	625.00	625.00	0.00	-625.00	*100
30-8100-0700 LGERS RETIREMENT	27,611.00	8,027.76	8,027.76	0.00	19,583.24	29
30-8100-0800 401K SUPP RETIREMENT	8,485.00	2,364.75	2,364.75	0.00	6,120.25	28
30-8100-1200 POSTAGE, PRINTING,& STATIONARY	5,000.00	660.42	1,309.29	648.87	3,690.71	26
30-8100-1500 GENERAL REPAIRS	25,000.00	403.75	403.75	0.00	24,596.25	2
30-8100-3300 SUPPLIES & EQUIPMENT	15,000.00	594.42	594.42	0.00	14,405.58	4
30-8100-3800 TECHNOLOGY	5,000.00	0.00	0.00	0.00	5,000.00	0
30-8100-4800 WATER PURCHASES	204,750.00	37,798.87	37,798.87	0.00	166,951.13	18
30-8100-4900 SEWER PURCHASES	396,000.00	74,836.09	74,836.09	0.00	321,163.91	19
30-8100-5000 AMI TRANSMITTER FEES	7,700.00	746.10	746.10	0.00	6,953.90	10
30-8100-5700 MISCELLANEOUS	6,196.00	0.00	0.00	0.00	6,196.00	0
30-8100-6000 CAPITAL RESERVE	178,891.00	0.00	0.00	0.00	178,891.00	0
30-8100-6500 STAFF DEVELOPMENT	5,000.00	470.00	470.00	0.00	4,530.00	9
30-8100-7400 CAPITAL IMPROVEMENT	19,200.00	0.00	0.00	0.00	19,200.00	0
<b>8100 Water Dept. Subtotal</b>	<b>\$1,091,507.00</b>	<b>\$187,288.43</b>	<b>\$194,133.66</b>	<b>\$6,845.23</b>	<b>\$897,373.34</b>	<b>18</b>
<b>Expenditure Subtotal</b>	<b>\$1,091,507.00</b>	<b>\$187,288.43</b>	<b>\$194,133.66</b>	<b>\$6,845.23</b>	<b>\$897,373.34</b>	<b>18</b>
Before Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,091,507.00</b>	<b>-\$187,288.43</b>	<b>-\$187,288.43</b>	<b>-\$6,845.23</b>	<b>17</b>
After Transfers	<b>Deficiency Of Revenue Subtotal</b>	<b>-\$1,091,507.00</b>	<b>-\$187,288.43</b>	<b>-\$187,288.43</b>	<b>-\$6,845.23</b>	<b>17</b>



## **BOARD OF COMMISSIONERS MEETING**

### **STAFF MEMORANDUM**

**OCTOBER 10, 2023**

#### **AGENDA ITEM F**

#### **PUBLIC HEARING – ZONING TEXT AMENDMENT 2023-05**

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A public hearing is required prior the adoption of any amendment to the Town's Zoning Ordinance. The Town appropriately notified the public of this hearing, including publication in the Asheville *Citizen-Times* (affidavit attached).

The ordinance text itself may be found in Agenda Item G-2. Please note, there are three (3) separate sections of the Zoning Ordinance that will be considered for amendment. Each of these sections includes the clean version of the ordinance, as well as an annotated version showing specific areas where changes were made or clarifying sections. In lieu of individual memos for each proposed ordinance, please use the annotated versions to review the proposed changes.

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



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

Jonathan B. Kanipe,  
Town Manager

NOTICE  
PUBLIC HEARING  
TOWN OF BILTMORE FOREST

The Town Board of Commissioners will hold a Public Hearing on Tuesday, October 10, 2023 at 4:30pm regarding amendments to the Town Zoning Ordinance. The public is invited to view or request a copy of the proposed changes to the Zoning Ordinance at the Biltmore Forest Town Hall, or alternatively can review the full draft amendments on the Town's website at <http://www.biltmoreforest.org>. The proposed changes are related to landscaping and grading plans, land disturbance, and sedimentation control. The next proposed change will be tree preservation, followed by buffers, screening, and landscaping requirements.

The public is invited to attend and make comment.

Laura Jacobs  
Town Clerk

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Please run the above classified ad on Sunday, October 1, 2023 and Sunday, October 8, 2023. I understand that an affidavit will automatically be sent.

Send the invoice to: The Town of Biltmore Forest  
P.O. Box 5352  
Asheville, NC 28813

# Town of Biltmore Forest

## Proclamation

### Proclamation of Domestic Violence Awareness Month

**Whereas:** Domestic violence is a serious crime that violates an individual's security and humanity due to the systematic use of emotional, psychological, physical, sexual, and economic control;

**Whereas:** An average of 24 people per minute experience rape, physical violence, and/or stalking by an intimate partner in the United States, more than 12 million people over the course of a single year;

**Whereas:** The problems of domestic violence are not confined to any specific groups of people, but can happen to anyone regardless of racial or ethnic identity, sexual orientation, education level, socio-economic status, gender identity, or religious beliefs, and these problems are sustained by societal indifference;

**Whereas:** Intersecting layers of vulnerability due to race, ethnicity, gender identity, sexual orientation, age, ability, religion/spirituality, citizenship status, and spoken language, in the context of American society, make it easier for abusers to isolate, control, and create and sustain power over survivors with marginalized identities;

**Whereas:** Children who grow up witnessing domestic violence in their homes are deeply impacted and are more likely to have trouble in school, more likely to perpetuate and be victimized by violence themselves, and more likely to experience long-term mental and physical health challenges;

**Whereas:** Survivors should have help to find the compassion, comfort, and healing they need, and abusers should be held accountable for their violent behavior;

**Whereas:** Powerful partnerships exist locally between many non-profit and governmental organizations that are committed to supporting survivors in their journey toward safety and healing;

**Whereas:** It is survivors of abuse who have been at the forefront of efforts to bring peace and equality to the home;

**Whereas:** Domestic Violence Awareness Month is an opportunity to stand with survivors, to celebrate the progress we have made in combating these crimes, and to recommit to preventing domestic violence in our community;

**NOW THEREFORE**, be it proclaimed on behalf of all of the members of Board of Commissioners of the Town of Biltmore Forest and residents of the Town of Biltmore Forest, that the month of October 2023 be proclaimed Domestic Violence Awareness Month, and we urge our residents to make the commitment to stop domestic violence by speaking out against it and learning more about the resources available to survivors and their families.

---

George F. Goosmann, III  
Mayor

**ORDINANCE 2023-05**

**AN ORDINANCE TO AMEND CHAPTERS 153.034 OF THE TOWN OF BILTMORE FOREST ZONING ORDINANCE**

**WHEREAS**, the Town of Biltmore Forest has adopted a Zoning Ordinance which regulates the use of land within its corporate limits; and

**WHEREAS**, the Town of Biltmore Forest desires to revise a chapter of its existing zoning ordinance;

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF BILTMORE FOREST THAT:**

**Section 1. Chapter 153.034 shall be replaced in its entirety as follows:**

§ 153.034 LANDSCAPING AND GRADING PLANS, LAND DISTURBANCE, AND SEDIMENTATION CONTROL.

(A) Plans Required. A landscaping and grading plan, as defined in the Town’s Zoning Application process, are required for any or all of the following activities.

- (1) Any land-disturbing activity, such as grading projects or removal of natural vegetation, that involves the disturbance of 20 percent or more of the land area of any lot. Prior to commencing such activity in a public service district, any land-disturbing activity, such as grading projects or removal of natural vegetation other than routine maintenance, shall be subject to approval by the Town Board of Adjustment regardless of the area to be disturbed.
- (2) Any residential construction activity that results in an addition of greater than five-hundred (500) square feet of roof coverage.
- (3) Any non-residential construction activity as defined in § 153.061 of the Town of Biltmore Forest Zoning Ordinance.

(B) All landscape and grading plans shall demonstrate compliance with the Town’s Tree Protection and Preservation regulations as found in §153.050-153.059 and §153.061(C) for existing residential and non-residential tree maintenance and new construction activities, respectively.

(C) Pre-construction conference and supervision.

- (1) Prior to the commencement of any pre-construction land-clearing or soil disturbance, a pre-construction conference will take place between a representative of the Town and the applicant to review procedures for protection and management of 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 Ordinance Administrator that such activity is taking place.
- (2) The applicant shall provide the following at least seven (7) days prior to the pre-construction conference:

- a) Approved landscaping plan, showing all protected and unprotected trees to be removed, and all replacement trees to be planted.
- b) Chart showing the quantity of trees, scientific species name, and tree designation (protected, unprotected, or tree of preference) and replacement quantities required.
- c) Final grading plan showing tree preservation limits and limits of disturbance.

(D) Construction Supervision and Additional Compliance Requirements.

- (1) The Town shall have developed sites inspected periodically to ensure work is conforming to the approved landscape plan and the applicable sections of this subchapter. 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.
- (2) Compliance with G.S. § 113A-54. Where applicable, all proposed development projects or land-disturbing activities shall comply with G.S. § 113A-54, and Rules and Regulations for Erosion and Sediment Control as established by the State Sedimentation Control Commission, State Department of Natural Resources and Community Development.

**Section 2. Effective Date.**

This ordinance amendment shall take effect upon adoption.

\_\_\_\_\_  
Date

\_\_\_\_\_  
George F. Goosmann, III  
Mayor

\_\_\_\_\_  
Laura Jacobs  
Town Clerk

# Summary of Comments on Ch. 153.034 - Landscaping and Grading Ordinance (REV.230928) - CLEAN.pdf

Page: 1

## § 153.034 LANDSCAPING AND GRADING PLANS, LAND DISTURBANCE, AND SEDIMENTATION CONTROL.

(A) Plans Required. A landscaping and grading plan, as defined in the Town's Zoning Application process, are required for any or all of the following activities.

(1) Any land-disturbing activity, such as grading projects or removal of natural vegetation, that involves the disturbance of 20% or more of the land area of any lot. Prior to commencing such activity in a public service district, any land-disturbing activity, such as grading projects or removal of natural vegetation other than routine maintenance, shall be subject to approval by the Town Board of Adjustment regardless of the area to be disturbed.

(2) Any residential construction activity that results in an addition of greater than five-hundred (500) square feet of roof coverage.

(3) Any non-residential construction activity as defined in § 153.061 of the Town of Biltmore Forest Zoning Ordinance.

(B) All landscape and grading plans shall demonstrate compliance with the Town's Tree Protection and Preservation regulations as found in §153.050-153.059 and §153.061(C) for existing residential and non-residential tree maintenance and new construction activities, respectively.

(C) Pre-construction conference and supervision.

- (1) Prior to the commencement of any pre-construction land-clearing or soil disturbance, a pre-construction conference will take place between a representative of the Town and the applicant to review procedures for protection and management of 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 Ordinance Administrator that such activity is taking place.
- (2) The applicant shall provide the following at least seven (7) days prior to the pre-construction conference:
  - a) Approved landscaping plan, showing all protected and unprotected trees to be removed, and all replacement trees to be planted.
  - b) Chart showing the quantity of trees, scientific species name, and tree designation (protected, unprotected, or tree of preference) and replacement quantities required.
  - c) Final grading plan showing tree preservation limits and limits of disturbance.

(D) Construction Supervision and Additional Compliance Requirements.

(1) The Town shall have developed sites inspected periodically to ensure work is conforming to the approved landscape plan and the applicable sections of this subchapter. Prior to the commencement of any pre-construction land-clearing or soil disturbance, the developer/contractor shall be required to sign a document agreeing

- Author: jkanipe Subject: Highlight Date: 10/2/2023 10:09:00 AM  
Revised title, to encompass requirements for landscaping plans. Previous title was "Land disturbance and sedimentation control"
- Author: jkanipe Subject: Highlight Date: 10/2/2023 10:21:09 AM  
New language for landscaping and grading plans and allowing requirements of each plan to be developed at the staff level. Allows continual updating of requirements (or removal of requirements) based on Town needs and not specifically delineated within the Zoning Ordinance.
- Author: jkanipe Subject: Highlight Date: 10/2/2023 10:28:10 AM  
Existing language that dictates most development projects to be reviewed by Board of Adjustment prior to construction.
- Author: jkanipe Subject: Highlight Date: 10/2/2023 10:30:40 AM  
New language requiring landscaping and grading plans (as defined in the zoning application process) for any addition greater than 500 square feet of roof coverage.
- Author: jkanipe Subject: Highlight Date: 10/2/2023 10:17:56 AM  
New language requiring landscaping and grading plans in non-residential construction section of zoning ordinance.
- Author: jkanipe Subject: Highlight Date: 10/2/2023 10:18:53 AM  
New requirement for landscaping and grading plans to comply with tree protection and preservation ordinance tables for residential and non-residential construction activities.
- Author: jkanipe Subject: Highlight Date: 10/2/2023 10:26:46 AM  
New language specifying town inspections for landscaping and grading plans.



to abide by the conditions stipulated in this subchapter. At the option of the Town, a compliance bond may be required.

Author: jkanipe Subject: Highlight Date: 10/2/2023 10:27:09 AM  
New language allowing the Town to require a bond for landscaping, grading, or erosion control plans.

- (2) Compliance with G.S. § 113A-54. Where applicable, all proposed development projects or land-disturbing activities shall comply with G.S. § 113A-54, and Rules and Regulations for Erosion and Sediment Control as established by the State Sedimentation Control Commission, State Department of Natural Resources and Community Development.

**ORDINANCE 2023-06**

**AN ORDINANCE TO AMEND THE  
TOWN OF BILTMORE FOREST ZONING ORDINANCE BY ADDING CHAPTER  
153.050 AND DELETING CHAPTERS 93.30 THROUGH 93.41 OF THE TOWN OF  
BILTMORE FOREST TOWN CODE**

**WHEREAS**, the Town of Biltmore Forest has adopted a Zoning Ordinance which regulates the use of land within its corporate limits; and

**WHEREAS**, the Town of Biltmore Forest desires to revise a chapter of its existing zoning ordinance;

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF BILTMORE FOREST THAT:**

**Section 1. Chapter 153.050 shall be added to the Biltmore Forest Zoning Ordinance as follows:**

Chapter 153.050 Tree Preservation

TREE PRESERVATION

153.050 Purpose

153.051 Definitions

153.052 Removal of protected trees

153.053 Applications for removal of more than ten (10) protected trees

153.054 Removal of unprotected trees

153.055 Enforcement

153.056 Drip line protection

153.057 Replacement of trees

153.058 Inspections, Appeals, Bond, and Penalty

## TREE PRESERVATION

### § 153.050 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 traditional appearance of Biltmore Forest as a true forest. This is particularly true of trees along the roads and around the perimeter of lots. Trees provide buffer and a natural canopy, and are a hallmark of the Town requiring protection. The Town is focused on maintaining the current health of the forest and increasing species diversity, with a primary goal to replace hardwood trees, other native trees, and trees of preference more quickly. 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.

(B) Preservation and appropriate replacement of trees is the intent of this chapter. This chapter shall apply to all properties within the Town of Biltmore Forest except as noted in part C below.

(C) This chapter does not apply to properties owned, leased, or controlled by the Town of Biltmore Forest. This chapter does not apply to properties that perform forestry activity on forestland taxed on the basis of its present-use value as forestland under Article 12, Chapter 105, of the N.C. General Statutes. Once an active forestry management plan is no longer in place, the exception for the property will be removed. Property owners with an active forestry management plan shall provide a current copy of this plan to the Town each calendar year by January 31.

(D) This ordinance applies to residential and non-residential tree removal that does not involve construction activity. Refer to §153.034 for landscaping plan requirements and §153.061 for tree removal and replacement guidelines related to all construction activity.

### § 153.051 DEFINITIONS.

**NON-RESIDENTIAL USES.** For the purposes of this chapter, non-residential uses may include specific uses found throughout the Town that do not encompass single-family or multi-family residential dwellings. These uses may exist within a residential zoning district, but by actual use, are not residential in nature. Examples of these uses include, but are not limited to, public or private schools; country, athletic, and social clubs; medical or dental offices and campuses.

**ORDINANCE ADMINISTRATOR.** For the purposes of this chapter, the ordinance administrator charged with administration, inspection, review, and enforcement is the Town Manager or his/her designee.

**OUTDOOR RECREATION ACTIVITIES.** Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment, and taking place at prescribed non-residential places, sites, or fields. Active recreational uses and supporting services include swimming, tennis, golf, baseball and other field sports, track, and playground activities.

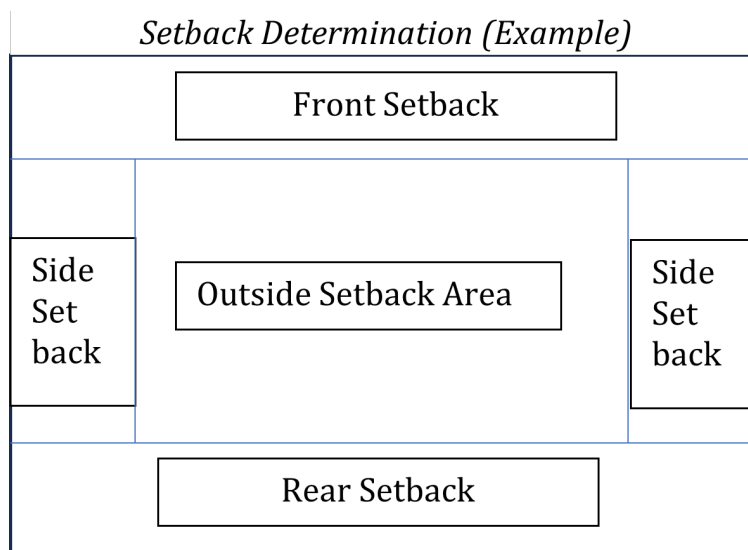
**PROTECTED TREE.** A protected tree is any tree six inches or more in diameter at a height of four and a half feet from the ground (DBH-diameter at breast height) that is in sound, healthy condition.

**RECOMMENDED PLANTING LIST (RPL).** A list developed and updated by the Town Arborist that includes preferred species based on the tree being removed and acceptable replacement locations. For all replanting requirements, a minimum of fifty (50) percent of the total replacement

trees must come from the RPL with twenty-five (25) percent of the total replacement trees being those species identified as trees of preference, as defined below. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list as defined below. The replanting list may be updated periodically and is available on the Town’s website.

**RESIDENTIAL USES.** For the purposes of this chapter, residential uses include single-family detached dwelling units found within the R-1, R-2, and R-3 zoning districts and includes attached multi-family residential units found within the R-1, R-2, and R-3 zoning districts.

**SETBACKS.** For the purposes of this chapter, setback refers to the minimum yard setback requirement found in § 153.007 “DIMENSIONAL REQUIREMENTS” of the Town Zoning Ordinance. “INSIDE SETBACK AREA” is the length found from the street or property line, and “OUTSIDE SETBACK AREA” is the remainder of the property area. An example of setback locations are shown below.



**TREES OF PREFERENCE (TOP).** Trees that warrant additional attention and regulation due to being a preferred native species or having distinctive height and/or diameter. Trees of preference include any healthy, living tree with the following characteristics:

- (A) Has a trunk diameter at breast height (DBH) of thirty-six (36) inches or more;
- (B) Any tree native to North Carolina per the United States Department of Agriculture Natural Resource Conservation Service Plants Database with a trunk DBH of thirty (30) inches or more.

**UNREGULATED TREE.** A tree that is less than six (6) inches in diameter, regardless of height or species, is to be unregulated and not subject to the provisions of this chapter.

**UNPROTECTED TREE.** A tree that is six inches or more in diameter at a height of four and a half feet from the ground, and is dead, produces no foliage during normal growing seasons, or a tree that is diseased or damaged to the extent that it is structurally compromised and poses a safety hazard,

or a tree that, for any other reason, poses a safety hazard. Safety hazard concerns are evaluated by the Town Arborist in accordance with best management practices developed by the International Society of Arboriculture (ISA).

§ 153.052 REMOVAL OF PROTECTED TREES.

(A) No person shall remove or in any way damage any protected tree on a property without receiving approval from the appropriate regulatory review body for the removal and paying any applicable fee. Any protected trees removed shall be replaced as outlined in § 153.057 below.

(B) If the Ordinance Administrator concludes the removal of the number of protected trees requested would be undesirable, and not within the letter or intent of this chapter, 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 Ordinance Administrator may require that the applicant provide a tree survey showing the location, size, and type of protected trees on a property, including common scientific names. The tree 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 Ordinance Administrator may also require an applicant to provide documentary evidence, in the form of a survey or other documentation sufficient, in the opinion of the Ordinance Administrator, to confirm that the protected tree(s) are on the applicant's property. An applicant has the right to appeal a decision of the Ordinance Administrator to the Board of Adjustment within five (5) business days of the decision.

§ 153.053 APPLICATIONS FOR REMOVAL OF MORE THAN TEN (10) PROTECTED TREES.

An application to remove more than ten (10) protected trees in twelve (12) successive months shall be made to the appropriate regulatory review authority as shown below. A fee for this application shall be paid along with the application.

*Table 1 - Regulatory Review Body Requirements*

Protected Trees Requested for Removal	Regulatory Review Body
1-10 Trees	Ordinance Administrator
11-30 Trees	Board of Adjustment
31+ Trees	Board of Commissioners

§ 153.054 REMOVAL OF UNPROTECTED TREES.

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

(B) The Ordinance Administrator 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 § 153.057 below.

#### § 153.055 ENFORCEMENT.

Any unauthorized removal, cutting, or damage to protected or unprotected tree(s) may result in the Ordinance Administrator placing a stop-work order on any activity on the property. This order shall remain in effect until all corrections are made to bring the property into compliance with this chapter, up to and including a final landscaping plan showing the full tree replacement as required by 153.057 below.

#### § 153.056 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. Final landscape plans shall protect this area around the tree and denote tree save areas on the plan.

§ 153.057 REPLACEMENT OF TREES.

(A) The replacement of protected and unprotected trees and trees of preference shall be established in accordance with the following requirements:

*Table 2 - Residential Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	1	2"	1	2"	1	2"	x	x
19"-36"	1*	3"	1	2"	1	2"	x	x
36"+ <sup>T</sup>	1**	3"	1*	3"	2	2"	1	2"

\* must include a minimum of 3 screening/buffering trees as defined in RPL

\*\* must include a minimum of 5 screening/buffering trees as defined in RPL

<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

*Table 3 - Non- Residential Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	2	2"	x	x	1	2"	x	x
19"-36"	2*	3"	1	2"	1	3"	x	x
36"+ <sup>T</sup>	2**	4"	1*	3"	1	4"	1	3"

\* must include a minimum of 3 screening/buffering trees as defined in RPL

\*\* must include a minimum of 5 screening/buffering trees as defined in RPL

<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

(B) A replacement tree may be planted up to one (1) year prior to the removal of any tree in order to count toward replacement. Replacement trees planted after existing tree removal shall be in the ground within six months of removal of the original tree. The Ordinance Administrator may, for good cause shown, and in his or her sole discretion, extend this period for an additional six months.

(C) The Town's Recommended Planting List (RPL) shall be utilized by applicants when determining what species of trees are to be replanted. A minimum of fifty (50) percent of the total replacement trees shall come from the RPL with a minimum of twenty-five (25) percent of total replacement trees coming from the Trees of Preference (TOP) list. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list. Variation from these requirements must be granted by the Ordinance Administrator prior to approval and planting.

(D) See the above charts for the minimum replacement size for all deciduous trees. Evergreen trees that are planted as replacement trees shall be a minimum of six (6) feet in height at the time of planting.

(E) (1) Depending on the proximity of other trees and/or structures, lesser quantities of replacement trees may be authorized by the Ordinance Administrator or by the Board of Adjustment (in the case of an appeal to the Town) or the Ordinance Administrator may authorize the replanting or replacement of trees in a location or locations where such replacement trees are more likely to survive. For existing residential lots where mature canopies remain after tree removal, replacement requirements may be amended regarding location and species to provide the best opportunity for healthy growth. This replacement requirement discretion is meant solely to allow for maintenance of existing residential lots where the canopy is thick and growing new trees would be impractical and/or difficult. This allowance is not intended for new residential construction.

(2) For non-residential lots, if replanting inside the setback results in an adverse condition to Town roads, other public property, other private property, or results in an undue hardship for an outdoor recreation activity, a variance application may be filed with the Board of Adjustment to replant the appropriate number of trees in a different location.

(3) Non-residential properties that include an outdoor recreation activity as a primary purpose, as defined above, are provided a tree removal allowance not to exceed net fifty (50) trees outside the setback of the property in a calendar year. Net removal is defined as the number of protected trees removed minus the number of trees re-planted on the property where the outdoor recreation activity occurs. For purposes of this net removal allowance, a property owner needs only to submit to the Ordinance Administrator documentation of any protected trees removed and any trees replanted as a record of same for each calendar year. Unprotected trees outside the setback of a non-residential property with an outdoor recreation activity as a primary purpose may be removed without replacement, provided that notice is given to the Ordinance Administrator regarding the necessity for removal.

(F) The Town encourages a diversity of species during replanting, with a focus on replenishing hardwood trees within the forest. However, to provide appropriate screening and buffering, particularly among non-residential uses, trees that have a lower canopy (height) at maturity are also encouraged for inclusion in a replanting plan. This combination will ensure the canopy is varied in both height and species.



(G) Replacement trees shall not be planted within the Town's right-of-way or in an area to obstruct the view of traffic.

§ 153.058 INSPECTIONS, APPEALS, BOND, AND PENALTY.

(A) All protected trees designated to remain, pursuant to a tree survey, plus any replacement trees shall be inspected by the Ordinance Administrator six months following any construction to ensure the trees are in a healthy condition. The Ordinance Administrator may require replacement or replanting of replacement trees if the appropriate replacement trees are not in place during this review.

(B) Any person aggrieved by a decision made under this subchapter by the Ordinance Administrator may file, within five (5) 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.

(C) At the option of the Town, a bond or other type of guarantee can be required of the property owner and/ or applicant when submitting a tree removal application to ensure all replanting requirements are met to the satisfaction of the Town.

(D) Any violation of this chapter shall be subject to the penalty provisions found in §153.999 of the Town of Biltmore Forest Zoning Ordinance.

**Section 2. Chapter 93, Sections 93.30 through 93.41, shall be deleted from the Biltmore Forest Town Code due to the removal of this ordinance to the Town of Biltmore Forest Zoning Ordinance.**

**Section 3. Effective Date.**

This ordinance amendment shall take effect upon adoption.

\_\_\_\_\_  
Date

\_\_\_\_\_  
George F. Goosmann, III  
Mayor

\_\_\_\_\_  
Laura Jacobs  
Town Clerk

Chapter 153.050 Tree Preservation

TREE PRESERVATION

153.050 Purpose

153.051 Definitions

153.052 Removal of protected trees

153.053 Applications for removal of more than ten (10) protected trees

153.054 Removal of unprotected trees

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153.058 Inspections, Appeals, Bond, and Penalty

Summary of Comments on F1C-Ch. 153.050 - Tree  
Preservation Ordinance (REV.230928) - CLEAN.pdf

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This page contains no comments

TREE PRESERVATION

§ 153.050 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 traditional appearance of Biltmore Forest as a true forest. This is particularly true of trees along the roads and around the perimeter of lots. Trees provide buffer and a natural canopy, and are a hallmark of the Town requiring protection. The Town is focused on maintaining the current health of the forest and increasing species diversity, with a primary goal to replace hardwood trees, other native trees, and trees of preference more quickly. 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.

(B) Preservation and appropriate replacement of trees is the intent of this chapter. This chapter shall apply to all properties within the Town of Biltmore Forest except as noted in part C below.

(C) This chapter does not apply to properties owned, leased, or controlled by the Town of Biltmore Forest. This chapter does not apply to properties that perform forestry activity on forestland taxed on the basis of its present-use value as forestland under Article 12, Chapter 103, of the N.C. General Statutes. Once an active forestry management plan is no longer in place, the exception for the property will be removed. Property owners with an active forestry management plan shall provide a current copy of this plan to the Town each calendar year by January 31.

(D) This ordinance applies to residential and non-residential tree removal that does not involve construction activity. Refer to §153.034 for landscaping plan requirements and §153.061 for tree removal and replacement guidelines related to all construction activity.

§ 153.051 DEFINITIONS.

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**ORDINANCE ADMINISTRATOR.** For the purposes of this chapter, the ordinance administrator charged with administration, inspection, review, and enforcement is the Town Manager or his/her designee.

**OUTDOOR RECREATION ACTIVITIES.** Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment, and taking place at prescribed non-residential places, sites, or fields. Active recreational uses and supporting services include swimming, tennis, golf, baseball and other field sports, track, and playground activities.

**PROTECTED TREE.** A 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.

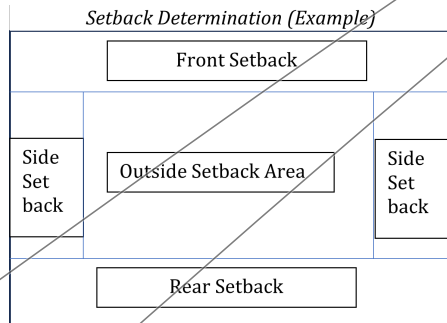
**RECOMMENDED PLANTING LIST (RPL).** A list developed and updated by the Town Arborist that includes preferred species based on the tree being removed and acceptable replacement locations. For all replanting requirements, a minimum of fifty (50) percent of the total replacement

- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:06:44 AM  
Preamble & rationale for ordinance. Includes application standards for properties.
- Status  
jkanipe None 9/28/2023 11:06:56 AM
- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:08:14 AM  
New section defining excepted properties within the Town. Includes rationale for non-public property exception, and when exception is lifted.
- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:09:23 AM  
Refers permit applicants to appropriate sections of Zoning Ordinance that deal with new construction removal and replanting standards. Goal is to ensure appropriate requirements are utilized before plans are developed and sent to the Town for review.
- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:10:55 AM  
Definition and location of Town's Recommended Planting List, as developed by Town Arborist & PLA.

trees must come from the RPL with twenty-five (25) percent of the total replacement trees being those species identified as trees of preference, as defined below. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list as defined below. The replanting list may be updated periodically and is available on the Town's website.

**RESIDENTIAL USES.** For the purposes of this chapter, residential uses include single-family detached dwelling units found within the R-1, R-2, and R-3 zoning districts and includes attached multi-family residential units found within the R-1, R-2, and R-3 zoning districts.

**SETBACKS.** For the purposes of this chapter, setback refers to the minimum yard setback requirement found in § 153.007 "DIMENSIONAL REQUIREMENTS" of the Town Zoning Ordinance. "INSIDE SETBACK AREA" is the length found from the street or property line, and "OUTSIDE SETBACK AREA" is the remainder of the property area. An example of setback locations are shown below.



**TREES OF PREFERENCE (TOP).** Trees that warrant additional attention and regulation due to being a preferred native species or having distinctive height and/or diameter. Trees of preference include any healthy, living tree with the following characteristics:

- (A) Has a trunk diameter at breast height (DBH) of thirty-six (36) inches or more;
- (B) Any tree native to North Carolina per the United States Department of Agriculture Natural Resource Conservation Service Plants Database with a trunk DBH of thirty (30) inches or more.

**UNREGULATED TREE.** A tree that is less than six (6) inches in diameter, regardless of height or species, is to be unregulated and not subject to the provisions of this chapter.

**UNPROTECTED TREE.** A tree that is six inches or more in diameter at a height of four and a half feet from the ground, and is dead, produces no foliage during normal growing seasons, or a tree that is diseased or damaged to the extent that it is structurally compromised and poses a safety hazard,

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Author: jkanipe Subject: Highlight Date: 9/28/2023 11:11:42 AM  
Setback definition, referring back to Town's Zoning Ordinance dimensional requirement definition, and utilized in determining replacement guidelines in 153.057.

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Author: jkanipe Subject: Highlight Date: 9/28/2023 11:14:16 AM  
Newly defined method to assist with removal of large, native tree species and replanting with native trees.

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Author: jkanipe Subject: Highlight Date: 9/28/2023 11:12:39 AM  
Specifies that trees or any vegetative material under 6" is not regulated by the Town via this Ordinance.

or a tree that, for any other reason, poses a safety hazard. Safety hazard concerns are evaluated by the Town Arborist in accordance with best management practices developed by the International Society of Arboriculture (ISA).

§ 153.052 REMOVAL OF PROTECTED TREES.

(A) No person shall remove or in any way damage any protected tree on a property without receiving approval from the appropriate regulatory review body for the removal and paying any applicable fee. Any protected trees removed shall be replaced as outlined in § 153.057 below.

(B) If the Ordinance Administrator concludes the removal of the number of protected trees requested would be undesirable, and not within the letter or intent of this chapter, 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 Ordinance Administrator may require that the applicant provide a tree survey showing the location, size, and type of protected trees on a property, including common scientific names. The tree 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 Ordinance Administrator may also require an applicant to provide documentary evidence, in the form of a survey or other documentation sufficient, in the opinion of the Ordinance Administrator, to confirm that the protected tree(s) are on the applicant's property. An applicant has the right to appeal a decision of the Ordinance Administrator to the Board of Adjustment within five (5) business days of the decision.

§ 153.053 APPLICATIONS FOR REMOVAL OF MORE THAN TEN (10) PROTECTED TREES.

An application to remove more than ten (10) protected trees in twelve (12) successive months shall be made to the appropriate regulatory review authority as shown below. A fee for this application shall be paid along with the application.

Table 1 - Regulatory Review Body Requirements

Protected Trees Requested for Removal	Regulatory Review Body
1-10 Trees	Ordinance Administrator
11-30 Trees	Board of Adjustment
31+ Trees	Board of Commissioners

§ 153.054 REMOVAL OF UNPROTECTED TREES.

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

This page contains no comments

(B) The Ordinance Administrator 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 § 153.057 below.

§ 153.055 ENFORCEMENT.

Any unauthorized removal, cutting, or damage to protected or unprotected tree(s) may result in the Ordinance Administrator placing a stop-work order on any activity on the property. This order shall remain in effect until all corrections are made to bring the property into compliance with this chapter, up to and including a final landscaping plan showing the full tree replacement as required by 153.057 below.

§ 153.056 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. Final landscape plans shall protect this area around the tree and denote tree save areas on the plan.

§ 153.057 REPLACEMENT OF TREES.

(A) The replacement of protected and unprotected trees and trees of preference shall be established in accordance with the following requirements:

*Table 2 - Residential Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	1	2"	1	2"	1	2"	x	x
19"-36"	1*	3"	1	2"	1	2"	x	x
36"+ <sup>T</sup>	1**	3"	1*	3"	2	2"	1	2"

\* must include a minimum of 3 screening/buffering trees as defined in RPL.  
 \*\* must include a minimum of 5 screening/buffering trees as defined in RPL.  
<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

*Table 3 - Non-Residential Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	x	x	x	x	x	x
13"-18"	2	2"	x	x	1	2"	x	x
19"-36"	2*	3"	1	2"	1	3"	x	x
36"+ <sup>T</sup>	2**	4"	1*	3"	1	4"	1	3"

\* must include a minimum of 3 screening/buffering trees as defined in RPL.  
 \*\* must include a minimum of 5 screening/buffering trees as defined in RPL.  
<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

(B) A replacement tree may be planted up to one (1) year prior to the removal of any tree in order to count toward replacement. Replacement trees planted after existing tree removal shall be in the ground within six months of removal of the original tree. The Ordinance Administrator may, for good cause shown, and in his or her sole discretion, extend this period for an additional six months.

(C) The Town's Recommended Planting List (RPL) shall be utilized by applicants when determining what species of trees are to be replanted. A minimum of fifty (50) percent of the total replacement trees shall come from the RPL with a minimum of twenty-five (25) percent of total replacement trees coming from the Trees of Preference (TOP) list. A minimum of one (1) tree scheduled for replacement shall come from the Tree of Preference (TOP) list. Variation from these requirements must be granted by the Ordinance Administrator prior to approval and planting.

(D) See the above charts for the minimum replacement size for all deciduous trees. Evergreen trees that are planted as replacement trees shall be a minimum of six (6) feet in height at the time of planting.

(E) (1) Depending on the proximity of other trees and/or structures, lesser quantities of replacement trees may be authorized by the Ordinance Administrator or by the Board of Adjustment (in the case of an appeal to the Town) or the Ordinance Administrator may authorize the replanting or replacement of trees in a location or locations where such replacement trees are more likely to survive. For existing residential lots where mature canopies remain after tree removal, replacement requirements may be amended regarding location and species to provide the best opportunity for healthy growth. This replacement requirement discretion is meant solely to allow for maintenance of existing residential lots where the canopy is thick and growing new trees would be impractical and/or difficult. This allowance is not intended for new residential construction.

(2) For non-residential lots, if replanting inside the setback results in an adverse condition to Town roads, other public property, other private property, or results in an undue hardship for an outdoor recreation activity, a variance application may be filed with the Board of Adjustment to replant the appropriate number of trees in a different location.

(3) Non-residential properties that include an outdoor recreation activity as a primary purpose, as defined above, are provided a tree removal allowance not to exceed net fifty (50) trees outside the setback of the property in a calendar year. Net removal is defined as the number of protected trees removed minus the number of trees re-planted on the property where the outdoor recreation activity occurs. For purposes of this net removal allowance, a property owner needs only to submit to the Ordinance Administrator documentation of any protected trees removed and any trees replanted as a record of same for each calendar year. Unprotected trees outside the setback of a non-residential property with an outdoor recreation activity as a primary purpose may be removed without replacement, provided that notice is given to the Ordinance Administrator regarding the necessity for removal.

(F) The Town encourages a diversity of species during replanting, with a focus on replenishing hardwood trees within the forest. However, to provide appropriate screening and buffering, particularly among non-residential uses, trees that have a lower canopy (height) at maturity are also encouraged for inclusion in a replanting plan. This combination will ensure the canopy is varied in both height and species.

- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:17:27 AM  
Existing discretion allowance for Ordinance Administrator - unchanged.
- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:19:06 AM  
Non-residential lots with outdoor recreation activities may apply to BOA for variance request if an undue hardship is created by replanting inside the setback.
- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:18:10 AM
- Author: jkanipe Subject: Highlight Date: 9/28/2023 11:20:57 AM  
Non-residential properties with outdoor recreation activities are provided an allowance each calendar year that prevents the removal of more than NET fifty (50) protected trees outside the setback. Unprotected tree removal outside the setback is allowed upon notice to the Ordinance Administrator regarding necessity for removal.



This page contains no comments

(G) Replacement trees shall not be planted within the Town's right-of-way or in an area to obstruct the view of traffic.

§ 153.058 INSPECTIONS, APPEALS, BOND, AND PENALTY.

(A) All protected trees designated to remain, pursuant to a tree survey, plus any replacement trees shall be inspected by the Ordinance Administrator six months following any construction to ensure the trees are in a healthy condition. The Ordinance Administrator may require replacement or replanting of replacement trees if the appropriate replacement trees are not in place during this review.

(B) Any person aggrieved by a decision made under this subchapter by the Ordinance Administrator may file, within five (5) 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.

(C) At the option of the Town, a bond or other type of guarantee can be required of the property owner and/ or applicant when submitting a tree removal application to ensure all replanting requirements are met to the satisfaction of the Town.

(D) Any violation of this chapter shall be subject to the penalty provisions found in §153.999 of the Town of Biltmore Forest Zoning Ordinance.

**ORDINANCE 2023-07**

**AN ORDINANCE TO AMEND CHAPTERS 153.034 OF THE  
TOWN OF BILTMORE FOREST ZONING ORDINANCE**

**WHEREAS**, the Town of Biltmore Forest has adopted a Zoning Ordinance which regulates the use of land within its corporate limits; and

**WHEREAS**, the Town of Biltmore Forest desires to revise a chapter of its existing zoning ordinance;

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF BILTMORE FOREST THAT:**

**Section 1. Chapter 153.060 shall be replaced in its entirety as follows:**

**BUFFERS, SCREENING, AND LANDSCAPING REQUIREMENTS**

§ 153.060 PURPOSE AND INTENT.

- (A) The town has an abundant and diverse tree and vegetative cover that is essential to the aesthetic value of the town and provides numerous ecological and economic benefits.
- (B) Landscape requirements for new construction and substantial additions are set forth below, in order to:
  - (1) Encourage the preservation of existing trees and vegetation on undeveloped residential lots and ensure the reforestation of the lot when tree removal is required for any construction activities.
  - (2) Ensure landscape plans presented to the Town include considerations for native species, reforestation, environmental protection, and effective stormwater management.
- (C) The landscape and buffering standards set forth below require buffers and landscaping between dissimilar land uses, along public rights-of-way, and within parking lots, in order to:
  - (1) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;
  - (2) Protect and improve the visual quality of the town and minimize the negative impacts of development such as noise, dust, litter, glare of lights, traffic, heat, overcrowding, odor, and views of unsightly parking lots, utilities, and mechanical systems and buildings;
  - (3) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;
  - (4) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and to preserve the character and value of property and to provide a sense of privacy; and

(5) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the town while allowing flexibility to promote well-designed and creative landscape plantings.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.061 GENERAL INFORMATION.

(A) Applicability.

(1) Buffer strip plantings, street trees, and parking lot trees and shrubs are required for developments within the town limits.

(2) The following developments are required to be in full compliance with this section:

(a) New residential development, including additions, exceeding more than 500 square feet of roof coverage, and all nonresidential development, including special uses; and

(3) New parking spaces or lots shall comply with the provisions of § 153.064.

(B) Landscape and grading plan required. Applicants are advised to meet with Town staff in order to review all ordinance requirements and procedures and receive a copy of the plan checklists. As required in § 153.034, a landscape and grading plan meeting Town requirements shall be reviewed and approved prior to any grading.

(C) Tree Replacement Requirements.

The following tree replacement requirements are in place for all developments as defined in (A)(2).

*Table 1 - New Construction Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	1	2"	1	2"	x	x
13"-18"	2	2"	1	2"	2	2"	1	2"
19"-36"	2*	3"	2	2"	2	3"	2	2"
36"+ <sup>T</sup>	2**	4"	2*	3"	2	4"	2	3"

\* must include a minimum of 3 screening/buffering trees as defined in RPL

\*\* must include a minimum of 5 screening/buffering trees as defined in RPL

<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

(C) Alternative compliance.

(1) The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The Board of Adjustment, in consultation with the Design Review Board, may alter the requirements of this section as long as the existing or added landscape features of the development site comply with the intent of this chapter.

(2) Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

(a) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;

(b) Space limitations, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood; or

(c) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of the ordinance, and exhibits superior design quality.

(4) The property owner must submit a plan of the area for which alternative compliance is requested to the Town Manager 14 days prior to the meeting of the Design Review Board at which the request will be considered. The site plan shall show existing site features and any additional material the property owner will plant or construct to meet the intent of the buffer, street tree, and parking lot tree requirements.

(5) In addition, the applicant must submit a written statement explaining and justifying the need for alternative compliance. Upon recommendation from the Design Review Board following their review, alternative compliance plan shall then be considered by the Board of Adjustment. Alternative compliance shall be limited to the specific project being reviewed and shall not establish a precedent for acceptance in other cases.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.062 EXISTING VEGETATION IN R-4 OR R-5 ZONES.

(A) Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, and mitigate the impacts of development on the community. It is recommended that groups of trees be preserved, as well as individual trees. Existing trees and shrubs designated for preservation may be credited towards required buffer trees, street trees, and parking lot trees at the discretion of the Ordinance Administrator as described below.

(B) As required in § 153.052, no person shall remove or in any way damage any protected trees without first filing an application for the removal and receiving approval from the Town. This requirement is applicable to both residential and non-residential uses within the town.

(C) Special attention shall be given to protected trees located within 20 feet of the rear or side property line of property meeting the definition of an incompatible land use.

(1) Credits and other incentives to preserve vegetation within non-residential land use.

(a) Vegetation located in the buffer strip. One existing evergreen shrub over four feet high located in the buffer strip may be credited for two new shrubs, also on a case-by-case basis by the Board of Adjustment.

(b) Vegetation located elsewhere on the property.

1. Trees designated for preservation may be credited at the rate of the following.

2-inch to 6-inch caliper tree = 1 tree

7-inch to 12-inch caliper tree = 2 trees

13-inch to 18-inch caliper tree = 3 trees

19-inch to 24-inch caliper tree = 4 trees

25-inch and greater = 5 trees

2. One existing shrub over four feet high may be credited for two new shrubs. In order to receive credit, vegetation designated for preservation shall be in good health and condition. Trees and shrubs designated to be preserved shall be indicated on the landscape and grading plan, as well as all protective barriers. If a tree or shrub designated for preservation dies within five years of the project's completion, it must be replaced with the total number of trees or shrubs which were credited to the existing tree or shrub within six (6) months from removal of the dead trees or shrubs.

(2) Protection of existing trees and shrubs during construction.

(a) 1. No grading or other land-disturbing activity shall occur on a site with existing trees or shrubs which are designated to be preserved in order to meet the landscaping requirements until the landscape and grading plan has been approved by the Board of Adjustment and protective barriers are installed by the developer and approved by the Zoning Administrator. Trees designated for preservation which are counted toward the landscape and buffering requirements shall be protected by barriers, while trees designated for preservation which do not count toward the landscape and buffering requirements are encouraged to be protected by barriers. The diameter of the trees designated for preservation and the location of protective barriers shall be shown on the landscape and grading and site plans with the dimensions between the tree trunk and barrier indicated.

2. Protective barriers shall be placed around the root protection zone of trees designated for preservation that are within 50 feet of any grading or construction activity. Protected ground areas for shrubs shall consist of an area twice the diameter of the shrub. All protective barriers shall be maintained throughout the building construction process.

(b) 1. All contractors shall be made aware of the areas designated for protection.

2. No disturbance shall occur within the protective barriers, including:

- a. Grading;
  - b. Filling, unless an aeration system which is certified by a registered landscape architect, certified arborist, or state cooperative extension specialist is installed to protect the tree from suffocation;
  - c. Temporary or permanent parking;
  - d. Storage of debris or materials, including topsoil;
  - e. Disposal of hazardous wastes or concrete washout; and
  - f. Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.
3. If any area within the root protection zone will be disturbed for any reason, a registered landscape architect, certified arborist, or state cooperative extension specialist shall recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.
4. The developer shall coordinate with the utility companies early in the design process to resolve potential conflicts about the placement of utilities and buffer and screening requirements in § 153.063(B)(5). The Zoning Administrator shall approve the placement of the utilities either outside of the root protection zone or tunneled at least two feet directly below the tree roots to minimize root damage.
5. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the drip line area.

(c) Tree protection zone signs shall be installed on the tree protection barriers visible on all sides of the protection area (minimum one on each side and/or every 300 linear feet). The size of each sign shall be a minimum of two feet by two feet and shall contain the following language: “TREE PROTECTION ZONE, KEEP OUT” or “TREE SAVE AREA, KEEP OUT”.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

#### § 153.063 BUFFER STRIP AND SCREEN REQUIREMENTS.

(A) Certain land uses are defined in this chapter as being an incompatible land use when developed adjacent to other less intensive land uses. A buffer strip can serve to lessen adverse impacts when development occurs.

(B) The installation of the applicable buffer strip shall be the responsibility of the owner of the developing land use. Buffer strips shall be located on the property of the developing land use between the property line and any vehicular use areas, buildings, storage, service areas, or other area of activity. The buffer strip shall extend along the entire rear and/or side property line which abuts an incompatible land use, up to any required street tree planting strip.

(1) Use of buffer strips. Required buffers shall not be disturbed for any reason except for approved driveway openings and other passive or accessory uses compatible with the general

separation of land uses and; provided, that the total number of required plantings are still met. Approval from the Town Manager is required prior to initiating any disturbance of the buffer.

(2) Placement of buffer plantings. The exact placement of the required plants shall be the decision of the developer or designer, but shall be reviewed by the Town Manager and approved by the Board of Adjustment. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from any area accessible to the public or from adjacent properties. Trees or shrubs should be planted at least five feet away from the property line to ensure maintenance access and to avoid encroaching upon neighboring property.

(3) Composition of buffer plantings. A buffer consisting of two staggered rows of evergreen shrubs or sheared evergreen trees, planted 48 inches apart (as measured from the central stem) in a 20-foot wide strip shall be installed to screen the nonresidential use from neighboring residential properties. The trees or shrubs shall be between four and five feet high at time of planting. During times of extended dry weather, the applicant may petition the Board of Adjustment to reduce the required size of vegetation to be planted in order to better ensure its survival. It is suggested that a mixture of two to three shrubs selected from the recommended species list be planted to encourage healthier plants.

(4) Coordination with stormwater drainage provisions. If the buffer strip is to be used as part of the area for required stormwater runoff absorption as outlined in Ch. 52, then the shrubs and trees within the buffer shall be water tolerant.

(5) Coordination with utility easements. In circumstances when the property to be developed is adjacent to a utility easement, the buffer requirement of division (C) above maybe altered to be only ten feet wide at the discretion of the Board of Adjustment, based on the factors of space, feasibility, and other considerations which may make it difficult to provide a 20-foot buffer.

(6) Additional buffering. The Board of Adjustment has the authority to require that a wall or fence be constructed next to property used for residential purposes when the Board determines that the buffer strip alone does not provide adequate buffering. The fence or wall shall be constructed in a durable fashion of wood, stone, masonry materials, or other materials if deemed appropriate and shall be built of material compatible with the principal building. When concrete block is utilized, it shall be finished with stucco on both sides. The materials and design shall be approved by the Board of Adjustment on a case-by-case basis. The finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this section. Shrubs shall be planted on the applicant's side of the property at the rate of 25 per 100 linear feet; their placing and arrangement shall be the decision of the applicant.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

#### § 153.064 PARKING LOT LANDSCAPING REQUIREMENTS.

Trees and shrubs are required in and around parking lots with more than five spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, help absorb runoff, reduce glare from parking lots, and to help filter exhaust from vehicles.

(A) There shall be a continuously-maintained growing strip planted with grass or similar low-growing vegetation, measured from the back of the curb and extending ten feet perpendicular to the road. The purpose of this growing strip is to provide a clear line of sight for motorists, pedestrians, and cyclists entering and leaving commercial properties.

(B) (1) Where parking areas with more than five spaces adjoin a public right-of-way, a landscaped planting strip ten feet wide shall be established and continuously maintained between the growing strip and parking area(s).

(2) Street trees shall be planted within the landscaped planting strip in accordance with § 153.066 and parking areas within 50 feet of the right-of-way shall have a visually modifying screen or barrier that meets one of these standards:

(a) Evergreen shrubs shall be planted 36 inches apart as measured from the center and attain a height of at least 48 inches within four years of installation;

(b) There shall be a fence or wall three feet high constructed of the same material as the principal building; or

(c) There is an earthen berm at least two feet high, with a minimum crown width of two feet and a width to height ratio of no greater than 2:1; shrubs shall be planted on top of the berm that will attain a height of at least 36 inches within four years of installation and shall be planted 36 inches apart.

(3) No screen is required at parking lot entrances or exits, and no screen shall obstruct vision within 50 feet of an entrance, exit, or intersection. The landscaped planting strip shall be covered with living material, including groundcover and/or shrubs, except for mulched areas directly around the trees, so that no soil is exposed.

(C) (1) (a) Parking areas with more than five spaces shall have at least one large-maturing deciduous tree for every three parking spaces, with some appropriate clustering of trees permitted, and six-foot by 18-foot projecting landscaped islands generally between ten and 12 parking spaces.

(b) Whenever possible, interior parking spaces should have a continuous planter strip six feet wide between rows of parking.

(2) Where appropriate, provisions shall be made to ensure that adequate pedestrian paths are provided throughout the landscaped areas. In all cases, at least one large maturing deciduous tree shall be provided for a parking lot regardless of the number of spaces provided. No parking space shall be located more than 50 feet from the trunk of a large-maturing deciduous tree. When calculating the number of trees required, the applicant shall round up to the nearest whole number.

(D) All landscaped areas shall be bordered by a concrete curb that is at least six inches above the pavement and six inches wide or a granite curb that is at least six inches above the pavement and four inches wide.

(E) To increase the parking lot landscaped area, a maximum of two feet of the parking stall depth may be landscaped with low-growth, hearty materials in lieu of asphalt, allowing a bumper overhang while maintaining the required parking dimensions.

(F) When more than the required number of parking spaces is provided, the applicant shall provide two times the required number of trees for the spaces provided above the ordinance requirement.



§ 153.065 SCREENING OF DUMPSTERS, LOADING DOCKS, OUTDOOR STORAGE AREAS, AND UTILITY STRUCTURES.

(A) All dumpsters, loading docks, outdoor storage areas, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or buffer strip. Landscaping shall not interfere with the access and operation of any such structure or facility. Trash and storage areas shall be well-maintained, including prompt repair and replacement of damaged gates, fences, and plants.

(B) Openings of trash enclosures shall be oriented away from public view or screened with sturdy gates wide enough to allow easy access for trash collection, where practical. The consolidation of trash areas between businesses and the use of modern disposal techniques is encouraged. All dumpsters shall be located a minimum of 50 feet from a residential dwelling. All unenclosed outdoor storage areas greater than 25 square feet shall also be screened from adjacent properties and streets.

(C) Screen types include:

(1) A continuous hedge of evergreen shrubs planted in a five-foot strip spaced a maximum of 36 inches apart; and

(2) A wall or fence six feet high, with the finished side of the fence or wall facing the abutting property or street. Fences longer than 25 linear feet shall be landscaped with trees and/or shrubs planted in a minimum five-foot planting area, except around access areas, spaced no farther than eight feet apart in order to screen at least 50% of the fence or wall.

§ 153.066 STREET TREES.

(A) (1) Street trees are required for all developments meeting the applicability requirements of § 153.061(A). Street trees shall be required at the rate of one large-maturing tree (over 35 feet in height) for every 40 linear feet of property abutting a street.

(2) In the event that overhead utility lines are present, then one small-maturing tree (less than 35 feet in height) may be planted for every 30 feet of property abutting a street.

(3) This does not imply that trees must be spaced exactly 30 or 40 feet apart.

(4) The exact placement of the required tree or trees may be established with input from the reviewing boards in order to fit in with sign placement and other building issues.

(B) Trees shall be planted within a landscaped planting strip adjacent to the growing strip as outlined in § 153.064(A) and also according to regulations from the State Department of Transportation.

§ 153.067 CERTIFICATION OF COMPLETION.

(A) Landscaping shall be installed and inspected prior to receiving a certificate of completion. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide an irrevocable letter of credit, or other financial surety in an

amount equal to 110% of the cost of installing the required landscaping to guarantee the completion of the required planting.

(B) Upon approval of the financial surety, the certificate of completion shall be issued. The financial surety shall be canceled and/or returned upon completion.

§ 153.068 MAINTENANCE.

(A) The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall shall constitute a zoning violation and shall be subject to the penalty provisions in § 153.999 if not replaced within 30 days of notification.

(B) If an act of God or other catastrophic event occurs which destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material shall be in compliance with the minimum size, spacing, and quantity standards of the ordinance requirements in effect at the time of project approval.

§ 153.069 RESIDENTIAL SCREENING OF UTILITY STRUCTURES.

(A) It is required that all new utility structures, whether they are part of a new dwelling or are being added to an existing dwelling, located out of doors, including, but not limited to, heat pumps, air conditioning units (with the exception of window units), and generators shall be screened on all sides except the side closest to the dwelling. The screening shall consist of evergreen shrubs or trees planted a maximum of 36 inches apart, with a height of 18 to 24 inches at time of planting. The shrubs may be planted three feet away from the utility structures so they do not interfere with proper functioning.

(B) Electric vehicle (EV) charging stations are hereby included as a utility structure for the purposes of this chapter. The Town recommends that EV charging stations be installed inside a garage and out of the public view. However, when this is not possible, the following requirements shall apply.

- 1) The EV charging station shall not be located within a front, side, or rear yard setback.
- 2) The EV charging station shall be screened from the public road and adjacent properties per requirements in section (A) above. The only exception to this requirement is that screening is not required in a location inhibiting the ability to charge the vehicle per the manufacturer's recommendation.
  - a. A site plan shall be provided to the Town prior to installation indicating the location, species, and planting timeline for screening. This site plan shall also include applicable setback lines for the appropriate zoning district and the distance of the proposed EV charging station to each property line.
- 3) Upon approval from the Town regarding the placement of the EV charging station, the property owner must obtain building inspections approval from Buncombe County for installation. The applicant shall provide all appropriate documentation submitted to Buncombe County, and subsequent approvals, to the Town once permitted.

§ 153.070 PLANT SPECIFICATIONS.

(A) Recommended plant species. Plants may be chosen from the recommended plant list (RPL) available from the Town. The list encourages the use of plant materials which are indigenous to this region and are readily available from local nurseries. Plant materials which are not on the list may be used following approval from the Board of Adjustment.

(B) Minimum plant size requirements.

(1) Large-maturing deciduous tree. Greater than 35 feet at maturity. Minimum size at planting shall be 12 to 14 feet in height and two inches caliper (diameter);

(2) Small-maturing deciduous tree. Smaller than 35 feet at maturity. The tree shall be at least one and one-half inch caliper and eight to ten feet high at time of planting;

(3) Evergreen tree. Minimum height of eight (8) feet at time of planting; and

(4) Evergreen shrub. Minimum three gallon container or ten-inch root ball with a height of 18 to 24 inches at time of planting.

(C) Plant standards.

(1) All plants shall meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1.

(2) Plants shall be healthy, well-branched, and free of disease and insect infestation.

**Section 2. Effective Date.**

This ordinance amendment shall take effect upon adoption.

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Date

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George F. Goosmann, III

Mayor

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Laura Jacobs

Town Clerk

# Summary of Comments on Ch. 153.060 - Buffering and Landscaping Ordinance (REV.230928) - CLEAN.pdf

Page: 1

Author: jkanipe Subject: Highlight Date: 10/2/2023 11:10:34 AM  
Original purpose of this ordinance was for non-residential (i.e. commercial) uses and to protect dissimilar land uses by requiring buffering and landscaping.

## BUFFERS, SCREENING, AND LANDSCAPING REQUIREMENTS

### § 153.060 PURPOSE AND INTENT.

- (A) The town has an abundant and diverse tree and vegetative cover that is essential to the aesthetic value of the town and provides numerous ecological and economic benefits.
- (B) Landscape requirements for new construction and substantial additions are set forth below, in order to:
  - (1) Encourage the preservation of existing trees and vegetation on undeveloped residential lots and ensure the reforestation of the lot when tree removal is required for any construction activities.
  - (2) Ensure landscape plans presented to the Town include considerations for native species, reforestation, environmental protection, and effective stormwater management.
- (C) The landscape and buffering standards set forth below require buffers and landscaping between dissimilar land uses, along public rights-of-way, and within parking lots, in order to:
  - (1) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;
  - (2) Protect and improve the visual quality of the town and minimize the negative impacts of development such as noise, dust, litter, glare of lights, traffic, heat, overcrowding, odor, and views of unsightly parking lots, utilities, and mechanical systems and buildings;
  - (3) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;
  - (4) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and to preserve the character and value of property and to provide a sense of privacy; and
  - (5) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the town while allowing flexibility to promote well-designed and creative landscape plantings.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

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  - (2) The following developments are required to be in full compliance with this section:

(a) New residential development, including additions, exceeding more than 500 square feet of roof coverage, and all nonresidential development, including special uses; and

(3) New parking spaces or lots shall comply with the provisions of § 153.064.

(B) Landscape and grading plan required. Applicants are advised to meet with Town staff in order to review all ordinance requirements and procedures and receive a copy of the plan checklists. As required in § 153.034, a landscape and grading plan meeting Town requirements shall be reviewed and approved prior to any grading.

**(C) Tree Replacement Requirements.**

The following tree replacement requirements are in place for all developments as defined in (A)(2).

*Table 1 - New Construction Tree Replacement Requirements*

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	1	2"	1	2"	x	x
13"-18"	2	2"	1	2"	2	2"	1	2"
19"-36"	2*	3"	2	2"	2	3"	2	2"
36"+ <sup>T</sup>	2**	4"	2*	3"	2	4"	2	3"

\* must include a minimum of 3 screening/buffering trees as defined in RPL.  
 \*\* must include a minimum of 5 screening/buffering trees as defined in RPL.  
<sup>T</sup> If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

**(C) Alternative compliance.**

(1) The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The Board of Adjustment, in consultation with the Design Review Board, may alter the requirements of this section as long as the existing or added landscape features of the development site comply with the intent of this chapter.

(2) Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

- Author: jkanipe Subject: Highlight Date: 10/2/2023 11:06:55 AM  
New language, requiring landscaping plans and tree removal/replacement plans for any new construction exceeding 500 square feet in roof coverage and all non-residential development.
- Author: jkanipe Subject: Highlight Date: 10/2/2023 11:08:03 AM  
New table for tree replacement for anything that is defined in section (A)(2) above - i.e. tree replacement for new construction.
- Author: jkanipe Subject: Highlight Date: 10/2/2023 11:09:08 AM  
Section (C) includes existing language from current ordinance.

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(a) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;

(b) Space limitations, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood; or

(c) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of the ordinance, and exhibits superior design quality.

(4) The property owner must submit a plan of the area for which alternative compliance is requested to the Town Manager 14 days prior to the meeting of the Design Review Board at which the request will be considered. The site plan shall show existing site features and any additional material the property owner will plant or construct to meet the intent of the buffer, street tree, and parking lot tree requirements.

(5) In addition, the applicant must submit a written statement explaining and justifying the need for alternative compliance. Upon recommendation from the Design Review Board following their review, alternative compliance plan shall then be considered by the Board of Adjustment. Alternative compliance shall be limited to the specific project being reviewed and shall not establish a precedent for acceptance in other cases.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.062 EXISTING VEGETATION IN R-4 OR R-5 ZONES.

(A) Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, and mitigate the impacts of development on the community. It is recommended that groups of trees be preserved, as well as individual trees. Existing trees and shrubs designated for preservation may be credited towards required buffer trees, street trees, and parking lot trees at the discretion of the Ordinance Administrator as described below.

(B) As required in § 153.052, no person shall remove or in any way damage any protected trees without first filing an application for the removal and receiving approval from the Town. This requirement is applicable to both residential and non-residential uses within the town.

(C) Special attention shall be given to protected trees located within 20 feet of the rear or side property line of property meeting the definition of an incompatible land use.

(1) Credits and other incentives to preserve vegetation within non-residential land use.

(a) Vegetation located in the buffer strip. One existing evergreen shrub over four feet high located in the buffer strip may be credited for two new shrubs, also on a case-by-case basis by the Board of Adjustment.

(b) Vegetation located elsewhere on the property.

1. Trees designated for preservation may be credited at the rate of the following.

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- 2-inch to 6-inch caliper tree = 1 tree
- 7-inch to 12-inch caliper tree = 2 trees
- 13-inch to 18-inch caliper tree = 3 trees
- 19-inch to 24-inch caliper tree = 4 trees
- 25-inch and greater = 5 trees

2. One existing shrub over four feet high may be credited for two new shrubs. In order to receive credit, vegetation designated for preservation shall be in good health and condition. Trees and shrubs designated to be preserved shall be indicated on the landscape and grading plan, as well as all protective barriers. If a tree or shrub designated for preservation dies within five years of the project's completion, it must be replaced with the total number of trees or shrubs which were credited to the existing tree or shrub within six (6) months from removal of the dead trees or shrubs.

(2) Protection of existing trees and shrubs during construction.

(a) 1. No grading or other land-disturbing activity shall occur on a site with existing trees or shrubs which are designated to be preserved in order to meet the landscaping requirements until the landscape and grading plan has been approved by the Board of Adjustment and protective barriers are installed by the developer and approved by the Zoning Administrator. Trees designated for preservation which are counted toward the landscape and buffering requirements shall be protected by barriers, while trees designated for preservation which do not count toward the landscape and buffering requirements are encouraged to be protected by barriers. The diameter of the trees designated for preservation and the location of protective barriers shall be shown on the landscape and grading and site plans with the dimensions between the tree trunk and barrier indicated.

2. Protective barriers shall be placed around the root protection zone of trees designated for preservation that are within 50 feet of any grading or construction activity. Protected ground areas for shrubs shall consist of an area twice the diameter of the shrub. All protective barriers shall be maintained throughout the building construction process.

(b) 1. All contractors shall be made aware of the areas designated for protection.

2. No disturbance shall occur within the protective barriers, including:

- a. Grading;
- b. Filling, unless an aeration system which is certified by a registered landscape architect, certified arborist, or state cooperative extension specialist is installed to protect the tree from suffocation;
- c. Temporary or permanent parking;
- d. Storage of debris or materials, including topsoil;
- e. Disposal of hazardous wastes or concrete washout; and
- f. Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

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3. If any area within the root protection zone will be disturbed for any reason, a registered landscape architect, certified arborist, or state cooperative extension specialist shall recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

4. The developer shall coordinate with the utility companies early in the design process to resolve potential conflicts about the placement of utilities and buffer and screening requirements in § 153.063(B)(5). The Zoning Administrator shall approve the placement of the utilities either outside of the root protection zone or tunneled at least two feet directly below the tree roots to minimize root damage.

5. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the drip line area.

(c) Tree protection zone signs shall be installed on the tree protection barriers visible on all sides of the protection area (minimum one on each side and/or every 300 linear feet). The size of each sign shall be a minimum of two feet by two feet and shall contain the following language: "TREE PROTECTION ZONE, KEEP OUT" or "TREE SAVE AREA, KEEP OUT".

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.063 BUFFER STRIP AND SCREEN REQUIREMENTS.

(A) Certain land uses are defined in this chapter as being an incompatible land use when developed adjacent to other less intensive land uses. A buffer strip can serve to lessen adverse impacts when development occurs.

(B) The installation of the applicable buffer strip shall be the responsibility of the owner of the developing land use. Buffer strips shall be located on the property of the developing land use between the property line and any vehicular use areas, buildings, storage, service areas, or other area of activity. The buffer strip shall extend along the entire rear and/or side property line which abuts an incompatible land use, up to any required street tree planting strip.

(1) Use of buffer strips. Required buffers shall not be disturbed for any reason except for approved driveway openings and other passive or accessory uses compatible with the general separation of land uses and; provided, that the total number of required plantings are still met. Approval from the Town Manager is required prior to initiating any disturbance of the buffer.

(2) Placement of buffer plantings. The exact placement of the required plants shall be the decision of the developer or designer, but shall be reviewed by the Town Manager and approved by the Board of Adjustment. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from any area accessible to the public or from adjacent properties. Trees or shrubs should be planted at least five feet away from the property line to ensure maintenance access and to avoid encroaching upon neighboring property.

(3) Composition of buffer plantings. A buffer consisting of two staggered rows of evergreen shrubs or sheared evergreen trees, planted 48 inches apart (as measured from the central stem) in a 20-foot wide strip shall be installed to screen the nonresidential use from neighboring residential



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properties. The trees or shrubs shall be between four and five feet high at time of planting. During times of extended dry weather, the applicant may petition the Board of Adjustment to reduce the required size of vegetation to be planted in order to better ensure its survival. It is suggested that a mixture of two to three shrubs selected from the recommended species list be planted to encourage healthier plants.

(4) Coordination with stormwater drainage provisions. If the buffer strip is to be used as part of the area for required stormwater runoff absorption as outlined in Ch. 52, then the shrubs and trees within the buffer shall be water tolerant.

(5) Coordination with utility easements. In circumstances when the property to be developed is adjacent to a utility easement, the buffer requirement of division (C) above maybe altered to be only ten feet wide at the discretion of the Board of Adjustment, based on the factors of space, feasibility, and other considerations which may make it difficult to provide a 20-foot buffer.

(6) Additional buffering. The Board of Adjustment has the authority to require that a wall or fence be constructed next to property used for residential purposes when the Board determines that the buffer strip alone does not provide adequate buffering. The fence or wall shall be constructed in a durable fashion of wood, stone, masonry materials, or other materials if deemed appropriate and shall be built of material compatible with the principal building. When concrete block is utilized, it shall be finished with stucco on both sides. The materials and design shall be approved by the Board of Adjustment on a case-by-case basis. The finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this section. Shrubs shall be planted on the applicant’s side of the property at the rate of 25 per 100 linear feet; their placing and arrangement shall be the decision of the applicant.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.064 PARKING LOT LANDSCAPING REQUIREMENTS.

Trees and shrubs are required in and around parking lots with more than five spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, help absorb runoff, reduce glare from parking lots, and to help filter exhaust from vehicles.

(A) There shall be a continuously-maintained growing strip planted with grass or similar low-growing vegetation, measured from the back of the curb and extending ten feet perpendicular to the road. The purpose of this growing strip is to provide a clear line of sight for motorists, pedestrians, and cyclists entering and leaving commercial properties.

(B) (1) Where parking areas with more than five spaces adjoin a public right-of-way, a landscaped planting strip ten feet wide shall be established and continuously maintained between the growing strip and parking area(s).

(2) Street trees shall be planted within the landscaped planting strip in accordance with § 153.066 and parking areas within 50 feet of the right-of-way shall have a visually modifying screen or barrier that meets one of these standards:

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(a) Evergreen shrubs shall be planted 36 inches apart as measured from the center and attain a height of at least 48 inches within four years of installation;

(b) There shall be a fence or wall three feet high constructed of the same material as the principal building; or

(c) There is an earthen berm at least two feet high, with a minimum crown width of two feet and a width to height ratio of no greater than 2:1; shrubs shall be planted on top of the berm that will attain a height of at least 36 inches within four years of installation and shall be planted 36 inches apart.

(3) No screen is required at parking lot entrances or exits, and no screen shall obstruct vision within 50 feet of an entrance, exit, or intersection. The landscaped planting strip shall be covered with living material, including groundcover and/or shrubs, except for mulched areas directly around the trees, so that no soil is exposed.

(C) (1) (a) Parking areas with more than five spaces shall have at least one large-maturing deciduous tree for every three parking spaces, with some appropriate clustering of trees permitted, and six-foot by 18-foot projecting landscaped islands generally between ten and 12 parking spaces.

(b) Whenever possible, interior parking spaces should have a continuous planter strip six feet wide between rows of parking.

(2) Where appropriate, provisions shall be made to ensure that adequate pedestrian paths are provided throughout the landscaped areas. In all cases, at least one large maturing deciduous tree shall be provided for a parking lot regardless of the number of spaces provided. No parking space shall be located more than 50 feet from the trunk of a large-maturing deciduous tree. When calculating the number of trees required, the applicant shall round up to the nearest whole number.

(D) All landscaped areas shall be bordered by a concrete curb that is at least six inches above the pavement and six inches wide or a granite curb that is at least six inches above the pavement and four inches wide.

(E) To increase the parking lot landscaped area, a maximum of two feet of the parking stall depth may be landscaped with low-growth, hearty materials in lieu of asphalt, allowing a bumper overhang while maintaining the required parking dimensions.

(F) When more than the required number of parking spaces is provided, the applicant shall provide two times the required number of trees for the spaces provided above the ordinance requirement.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.065 SCREENING OF DUMPSTERS, LOADING DOCKS, OUTDOOR STORAGE AREAS, AND UTILITY STRUCTURES.

(A) All dumpsters, loading docks, outdoor storage areas, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or buffer strip. Landscaping shall not interfere with the access and operation of any such structure or facility. Trash and storage areas shall be well-maintained, including prompt repair and replacement of damaged gates, fences, and plants.

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(B) Openings of trash enclosures shall be oriented away from public view or screened with sturdy gates wide enough to allow easy access for trash collection, where practical. The consolidation of trash areas between businesses and the use of modern disposal techniques is encouraged. All dumpsters shall be located a minimum of 50 feet from a residential dwelling. All unenclosed outdoor storage areas greater than 25 square feet shall also be screened from adjacent properties and streets.

(C) Screen types include:

(1) A continuous hedge of evergreen shrubs planted in a five-foot strip spaced a maximum of 36 inches apart; and

(2) A wall or fence six feet high, with the finished side of the fence or wall facing the abutting property or street. Fences longer than 25 linear feet shall be landscaped with trees and/or shrubs planted in a minimum five-foot planting area, except around access areas, spaced no farther than eight feet apart in order to screen at least 50% of the fence or wall.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.066 STREET TREES.

(A) (1) Street trees are required for all developments meeting the applicability requirements of § 153.061(A). Street trees shall be required at the rate of one large-maturing tree (over 35 feet in height) for every 40 linear feet of property abutting a street.

(2) In the event that overhead utility lines are present, then one small-maturing tree (less than 35 feet in height) may be planted for every 30 feet of property abutting a street.

(3) This does not imply that trees must be spaced exactly 30 or 40 feet apart.

(4) The exact placement of the required tree or trees may be established with input from the reviewing boards in order to fit in with sign placement and other building issues.

(B) Trees shall be planted within a landscaped planting strip adjacent to the growing strip as outlined in § 153.064(A) and also according to regulations from the State Department of Transportation.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.067 CERTIFICATION OF COMPLETION.

(A) Landscaping shall be installed and inspected prior to receiving a certificate of completion. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide an irrevocable letter of credit, or other financial surety in an amount equal to 110% of the cost of installing the required landscaping to guarantee the completion of the required planting.

(B) Upon approval of the financial surety, the certificate of completion shall be issued. The financial surety shall be canceled and/or returned upon completion.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.068 MAINTENANCE.

(A) The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall shall constitute a zoning violation and shall be subject to the penalty provisions in § 153.999 if not replaced within 30 days of notification.

(B) If an act of God or other catastrophic event occurs which destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material shall be in compliance with the minimum size, spacing, and quantity standards of the ordinance requirements in effect at the time of project approval.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.069 RESIDENTIAL SCREENING OF UTILITY STRUCTURES.

It is required that all new utility structures, whether they are part of a new dwelling or are being added to an existing dwelling, located out of doors, including but not limited to, heat pumps, air conditioning units (with the exception of window units), and generators shall be screened on all sides except the side closest to the dwelling. The screening shall consist of evergreen shrubs planted a maximum of 36 inches apart, with a height of 18 to 24 inches at time of planting. The shrubs may be planted three feet away from the utility structures so they do not interfere with proper functioning.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.070 PLANT SPECIFICATIONS.

(A) Recommended plant species. Plants may be chosen from the recommended plant list (RPL) available from the Town. The list encourages the use of plant materials which are indigenous to this region and are readily available from local nurseries. Plant materials which are not on the list may be used following approval from the Board of Adjustment.

(B) Minimum plant size requirements.

(1) Large-maturing deciduous tree. Greater than 35 feet at maturity. Minimum size at planting shall be 12 to 14 feet in height and two inches caliper (diameter);

(2) Small-maturing deciduous tree. Smaller than 35 feet at maturity. The tree shall be at least one and one-half inch caliper and eight to ten feet high at time of planting;

(3) Evergreen tree. Minimum height of eight (8) feet at time of planting; and

(4) Evergreen shrub. Minimum three gallon container or ten-inch root ball with a height of 18 to 24 inches at time of planting.

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(C) Plant standards.

(1) All plants shall meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI Z60.1.

(2) Plants shall be healthy, well-branched, and free of disease and insect infestation.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)



## BOARD OF COMMISSIONERS MEETING

### STAFF MEMORANDUM

OCTOBER 10, 2023

#### AGENDA ITEM G-3

#### CONSIDERATION OF BROOKLAWN CHASE TRAIL PROPOSAL

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The Board of Commissioners authorized a scoping project for the rejuvenation of a trail in Brooklawn Park during their August meeting. The trail contractor, Long Cane Trails, has visited the site on multiple occasions and developed a route that will provide just over a one-mile loop around the site. Public Works Director Harry Buckner, Supervisor Mike Dale, and I met with the contractor in mid-September and walked the site. We are confident in the contractor's ability to perform the work and believe the trail itself, as presented in the attached scope, will provide an exceptional amenity for the Town's residents.

One significant benefit to this proposed trail construction is that it alleviates the need for a replacement bridge across Four Mile Creek that runs through Brooklawn Park. The trail construction would include a few bridges in narrower places and include some boardwalk areas as well to move through more frequently wet areas. The cost of the trail itself, as noted below, is nearly the same cost estimate as the bridge over Four Mile Creek.

#### Proposal Specifics

The trail includes 1.1 miles of graveled trail. This trail, and the gravel material, would allow easier access for residents as they walk the trail and allows greater maintenance flexibility for the trail. The initial installation of the trail with this gravel material will result in the ability for the trail to be constructed with upkeep and maintenance at top of mind. The cost for 1.1 miles of trail construction is just over \$150,000. The proposal also includes one (1) ten-foot locust bridge, one (1) six-foot locust bridge, nearly 2500 feet of locust plank in wet areas, and steps along portions of the trail. Staff asked the contractor to remove a parking area from the initial quote, as this is something that can be done in house at a later point, if the Board wishes. The full cost estimate is \$162,395. Funds for this project will be allocated from the Town's American Rescue Plan (ARP) proceeds.

# QUOTE

Date: 10/4/23

Quote # 379

Long Cane Trails  
 PO box 1701  
 Pisgah Forest, N.C.  
 28768  
 828-606-5107  
[epicrides@gmail.com](mailto:epicrides@gmail.com)

To: Town of Biltmore  
 Forest

Salesperson	Job	Payment Terms	Due Date
Todd	Town of Biltmore Forest		

Qty	Description	Unit Price	Line Total
5809' or 1.1 miles	graveled trail 4 feet wide compacted	\$26.00/ foot	\$151,034.00
2453	raised slightly but locust railing along side of trail 4 feet wide	\$2.00/ foot	\$4,906.00
25	locust steps 4 feet wide	\$75.00/ each	\$1,875.00
1	10 foot bridge with bumpers. 5 feet wide	\$320.00/ foot	\$3,200.00
1	6 foot bridge with bumpers. 5 feet wide	\$320.00/ foot	\$1,920.00
	make check payable to Long Cane Trails		

<b>Subtotal</b> \$162,935.00 <b>Sales Tax</b> N/A <b>Total</b> \$162,935.00
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## **BOARD OF COMMISSIONERS MEETING**

### **STAFF MEMORANDUM**

**OCTOBER 10, 2023**

#### **AGENDA ITEM G-4**

#### **CONSIDERATION OF FEE PROPOSAL WITH DP3 ARCHITECTS FOR MASTER FACILITY PLANNING PROJECT**

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During a special call meeting on September 5, 2023, the Board of Commissioners selected DP3 Architects for the Town's master facility planning project. A scoping meeting was held Thursday, September 14 to ensure all portions of the project were included within their final fee proposal.

The attached fee proposal includes all portions of work related to the master facility planning process. DP3 and their team will coordinate the work for this project with an eye toward finalizing the project and making a presentation at the Board's March 2024 meeting. Funding for this proposal is included in the FY24 budget under "Outside Professional Services". The placeholder budget for this project was just over \$45,000, so another \$10,000 will be re-allocated during the project process. The Town Attorney has reviewed and recommended several changes, all of which were made by the consultant. Town staff has reviewed the proposal, believes this is a fair fee proposal, and recommends approval.



05 October 2023

Mr. Jonathan Kanipe, Town Manager  
355 Vanderbilt Road  
Biltmore Forest, NC 28803

Subject: Town of Biltmore Forest Master Plan for Police Department  
and Public Works Storage Facility  
Town of Biltmore Forest, NC

Dear Jonathan,

Thank you for the opportunity to present a proposal to provide master planning and conceptual design services for the Town of Biltmore Forest to expand the facilities for the Police Department and Public Works Department.

### SCOPE OF PROJECT

The project will include providing space needs programming verification, identifying potential sites for future development, site analysis of various potential sites, development of conceptual design options for new buildings, and development of conceptual site plans for proposed sites.

### SCOPE OF WORK

The scope of work will include the following services:

#### **Facility Assessment Phase**

1. Visit the Town Hall site to document existing conditions to develop an understanding of the site constraints and opportunities for potential renovations and/or additions to the existing Town Hall campus.
2. We will utilize the current building drawings provided by the owner for development of the conceptual design and utilize GIS information for the site.
3. Photographically document the existing facilities.
4. Perform assessments of the existing police station structural, mechanical, plumbing, and electrical systems to develop a list of required code or functional upgrades.
5. Develop recommendations for repairs and renovations of the existing Police Station required to make the facility suitable for future use and its long-term function.

#### **Programming Verification Phase**

1. Meet with key project stakeholders to develop an understanding of the organization, operations, and facilities as they are currently utilized and discuss plans for any future campus growth.
2. Meet with the key project stakeholders to verify previously developed programming information for each department (Police & Public Works) to develop an understanding of short-term space needs and long-term space needs and goals. We will discuss functional operational needs, facility security, facility accessibility, best practices, and future trends and technologies related to the various operations.

DP3 Architects, Ltd.  
15 South Main Street  
Suite 400  
Greenville, SC 29601  
864.232.8200

[www.DP3architects.com](http://www.DP3architects.com)

### **Preliminary Site Analysis Phase**

DP3 Architects and its consultants will perform the following scope elements for the two sites currently owned by the Town. One is the existing parcel which houses the

- Town Hall, the Police Station, Public Works, and the Public Works Storage. The other
- is the approximate 10.3-acre parcel owned by the Town on the east side of Vanderbilt
- Road and just south of I-40.

1. Review zoning and subdivision ordinances for the identified parcels as related to the subject property for the development of the preliminary master plan.
2. Perform a site visit to review existing conditions and evaluate the suitability of the site to serve the needs identified by the Architect.
3. Prepare a preliminary site plan and rough grading plan for the site to verify the amount of usable area meets the programming needs.
4. Verify stormwater requirements and create a schematic layout to determine the impacts on the desired site use and cost of development.
5. Coordinate with the Town to determine the best connections for public water and sanitary sewer.
6. Coordinate with the owner and architect to refine preliminary site plan based on rough grading, stormwater, utilities, and delineations to create a final preliminary site plan.
7. Provide preliminary cost estimates for the proposed site improvements.
8. Provide a narrative description of the items above to include in the Master Plan Study.
9. Repeat steps 1-8 in the above scope for additional potential sites identified by the Town. These would be charged on a per site basis.

### **Stream and Wetland Delineation; T&E Survey Phase**

The following scope only applies to the Town owned 10.3 acre parcel off of Vanderbilt Rd. No delineation services or T&E survey is anticipated for the existing public works and Town Hall complex. If additional sites are chosen by the Town to be evaluated, the need and expenses of environmental services for those sites will need to be determined on an individual basis.

1. A jurisdictional determination of the project area will be completed. The jurisdictional determination will include a delineation of the project area by McGill Associates, PA Environmental Specialists performed in accordance with the guidelines and standards of the US Army Corps of Engineers (USACE) - Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Eastern Mountains and Piedmont Region (Version 2.0), and the NC Division of Water Resources (NCDWR) – Methodology for Identification of Intermittent and Perennial Streams and Their Origins v. 4.11. Any jurisdictional areas found on the property will be flagged and located with GPS accuracy in the field. This wetland determination does not include the request of a Jurisdictional Determination (JD) or any other consultation with the USACE. JD services will be provided in a separate scope of services if necessary.
2. During the site visit, a Federally listed Threatened and Endangered Species survey will be completed in accordance with the Endangered Species Act of 1973. Any listed species occurrence or potential habitat areas found on the property will be flagged and located with Global Positioning System (GPS) accuracy in the field. This survey does not include consultation with the US Fish and Wildlife Service. Consultation services will be provided in a separate scope of services if necessary.

**Conceptual Building Design & Recommendations Phase**

1. Develop conceptual floor plans for proposed facility renovations or new construction on the existing Town Hall site and Vanderbilt Road site.
2. Develop conceptual renderings of the exterior of new buildings.
3. Develop conceptual order of magnitude cost estimates for each site.
4. Prepare a written report outlining our findings for presentation.
5. Attend two presentation meetings with the Board of Commissioners (50% and Final) for the purposes of reviewing the process undertaken, discussing the findings, and answering any questions related to the proposed operations facilities and/or site.

COMPENSATION

Compensation for the scope of work defined above is Fifty-three Thousand, Four Hundred Dollars (\$53,400.00) broken down as follows:

<u>Facility Assessment Phase</u>		
Architecture	\$3,600.00	
Structural Engineering	\$2,500.00	
MEP Engineering	\$2,500.00	
		<b>\$8,600.00</b>
<u>Programming Verification Phase</u>		
Architecture	\$1,800.00	
		<b>\$1,800.00</b>
<u>Preliminary Site Analysis Phase</u>		
Architecture	\$3,900.00	
Civil Engineering	\$10,900.00	
		<b>\$14,800.00</b>
<u>Stream &amp; Wetlands Delineation; T&amp;E Survey Phase</u>		
Civil Engineering	\$4,200.00	
		<b>\$4,200.00</b>
<u>Conceptual Building Design &amp; Recommendations Phase</u>		
Architecture	\$24,000.00	
		<b>\$24,000.00</b>
		<b>\$53,400.00</b>

Alternative site identification and assessment indicated in the Preliminary Site Analysis Phase would be billed at \$9,700 per alternative site as an Additional Service.

No design or engineering fees for the development of construction documents or services related to bidding and/or construction administration services are being quoted for individual projects at this time. We will include projected fees in the proposed project budgets for each phase for planning purposes.

## REIMBURSABLE EXPENSES

- Normal reimbursable expenses including out-of-town travel, postage, review and recording fees, and printing, will be additional to compensation defined above and invoiced at the actual costs expended. Reimbursables are estimated to be \$1,500.00.

## ASSUMPTIONS AND EXCLUSIONS

1. Information provided by the Client, Surveyor or Owner will be deemed reliable for use by DP3 Architects and its consultants.
2. Preliminary site design will be performed using publicly available LiDAR topographic survey information. No surveying services are proposed for this phase of the project.
3. Environmental permitting is not included in the above scope of services at this time.
4. No Traffic Impact Analysis (TIA), geotechnical exploration, or construction materials testing are included in this scope of services.
5. Detailed site design and permitting are not included in this scope of services. This can be provided under a separate proposal once master planning and site selection is complete and approved by client and owner.
6. Evaluation of existing dry utilities (fiber, power, natural gas, cable, phone, etc.) and coordination with applicable service providers for service extensions is not included in this scope of services. We can coordinate these services at a later date.
7. Services for tasks other than those specifically detailed above are not included in the above fee.

## ADDITIONAL SERVICES

Services not identified in the scope of work above will be additional and will be invoiced at current hourly rates. These additional services include, but are not limited to:

- • Public meetings with entities other than the Town of Biltmore Forest Board of Commissioners (i.e. planning boards, architectural review boards, neighborhood associations, etc.)
- Architectural design and engineering services related to development of Construction Documents, Permitting/Bidding Services, or Construction Administration Services
- Services to make measured drawings of existing conditions or facilities, or to verify the accuracy of drawing or other information furnished by owner.
- Site surveying and geotechnical surveying
- Right of Way / easement negotiations / acquisition
- Traffic Studies
- Archaeological Survey
- Flood Study Report
- Surveying Services
- Rezoning services
- Photorealistic Renderings or Models
- Detailed cost estimates
- Site Lighting Design or Impact Studies
- Energy analysis, energy modeling, Life cycle cost analyses
- Phase I / II Environmental Site Assessments including testing for asbestos, lead paint and radon
- Material and sample boards

- Analysis, documentation, and engineering associated with green building rating systems such as LEED, Green Globes, Energy Star, etc.
- Other services performed or furnished by Architect not otherwise provided for in this Agreement.

#### INFORMATION PROVIDED BY OWNER TO ARCHITECT

Compensation for this project is based upon the following information being provided by the Owner to the Architect:

- Planned equipment/vehicle numbers, sizes, and weights
- Due diligence information including, but not limited to potential site information
- CAD file of the Town Hall Survey
- As-built drawings of the existing Administration, Public Works, and Police Station Buildings

#### TERMS AND CONDITIONS

Additional terms and conditions governing this proposal are as follows:

##### **Standard of Care**

- In providing services under this Agreement, the Architect and engineers agree to exercise the same degree of professional skill, care, and diligence, and act consistent with the same professional standards, ordinarily exercised by professionals practicing in the same or similar locality as the Project, under similar circumstances, in connection with projects similar to this Project.

##### **Ownership of Instruments of Service**

The Client/Owner acknowledges the Architect's construction documents as instruments of professional service prepared specifically for use on this project. Nevertheless, the plans and specifications prepared under this agreement shall become the property of the Client/Owner upon completion of the work and payment in full of all monies due to the Architect. The Client/Owner may reuse or make modifications to the plans and specifications without the prior written authorization of the Architect. However, in doing so, the Client/Owner agrees, to the fullest extent permitted by law, to indemnify and hold the Architect harmless from any claim, liability, or cost, including reasonable attorneys' fees and defense costs, arising or allegedly arising out of any reuse or modification of the construction documents by the Client/Owner or any person or entity that acquires or obtains the plans and specifications from or through the Client/Owner for future work on this project or other projects at other locations.

##### **CADD Documents**

The Client/Owner acknowledges the plans and specifications, including all documents on electronic media, as instruments of professional service. Nevertheless, the plans and specifications prepared under this agreement shall become the property of the Client/Owner upon completion of the services and payment in full of all monies due to the Architect.

It is understood that magnetic media CADD documents are very susceptible to file corruption and are easily changed by others. Therefore, the Client/Owner will be supplied with a hard copy record set of the information contained on the CADD documents and the hard copy record set will be considered the "information of record" for the project. The Client/Owner may reuse the plans and specifications for future

work to this site or other sites without the prior written authorization of the Architect. However, in doing so the Client/Owner agrees to waive any claim against the Architect arising from any unauthorized reuse or modification of the plans and specifications.

In addition, the Client/Owner agrees, to the fullest extent permitted by law, to indemnify and hold the Architect harmless from any damage, liability, or cost, including reasonable attorneys' fees and costs of defense, arising from any reuse or modification of the plans and specifications by the Client/Owner or any person or entity which acquires or obtains the plans and specifications from, or through, the Client/Owner without the prior written authorization of the Architect. The Architect makes no warranties, either expressed or implied, of merchantability and fitness for any particular purpose. In no event shall the Architect be liable for any loss of profit or any damages.

■ **Certifications, Guarantees, and Warranties**

The Architect shall not be required to execute any document that would result in their certifying, guaranteeing, or warranting the existence of conditions relating to the project whose existence the Architect cannot reasonably ascertain without incurring undue expense.

■ **Dispute Resolution**

Any claims or disputes between the Client/Owner and the Architect arising out of, or related to, this agreement shall be resolved in the following manner as the sole and exclusive means of resolving any such claim or dispute.

1. Direct Negotiation. The parties shall initially attempt to resolve the dispute by direct negotiation in an amicable manner.
2. Mediation. If the parties fail to reach agreement by direct negotiation within 60 days from the commencement of negotiation, the parties will submit the dispute to non-binding mediation under the Construction Industry Mediation Rules of the American Arbitration Association before a mediator certified to conduct Superior Court mediations in North Carolina.
3. Arbitration. If the parties cannot settle the dispute by non-binding mediation within 60 days from the commencement of mediation, the dispute shall be settled by arbitration in accordance with North Carolina Rules governing arbitration before a single arbitrator agreeable to both parties. In any such arbitration proceeding, any party may join any party who participated in the project who is, or may be, necessary to resolution of the dispute.
4. Demand for Arbitration. Notice of demand for arbitration shall be filed in writing with the other party to this agreement within 60 days after the parties fail to reach agreement by non-binding mediation.
5. Discovery before Arbitration. Prior to the arbitration, discovery shall be conducted in accord with the Federal Rules of Civil Procedure which shall apply to such discovery.
6. Judgment. Judgment upon the award rendered by the arbitrators shall be final and may be entered in any court having lawful jurisdiction thereof.

Client/Owner and Architect agree to include a similar binding, dispute resolution clause in all agreements with contractors, sub-contractors, sub-consultants, suppliers, and fabricators involved in the project. The intent is that all parties involved on the project be joined in a single dispute resolution proceeding as the most efficient means of resolving project-related disputes.

### **Billings/Payments**

Invoices for the Architect's services shall be submitted at the beginning of each month. The invoice amount will be for costs incurred to the date of invoice. Invoices shall be payable within 10 days after the invoice date. If the invoice is not paid within 30 days after the invoice date, the Architect may, without waiving any claim or right against the Client/Owner, and without liability whatsoever to the Client/Owner, terminate the performance of the service. Should the Client/Owner wish to pay the invoice via credit card, a service charge equal to current third-party processing fees shall be added to the amount paid.

### **Late Payments**

Accounts unpaid 60 days after the invoice date shall be subject to a monthly service charge of 1.5 percent on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after the invoice date, the Client/Owner shall pay all costs of collection, including reasonable attorneys' fees.

### **Termination of Services**

This agreement may be terminated by the Client/Owner or the Architect should the other fail to perform any of its material obligations hereunder. In the event of termination, the Client/Owner shall pay the Architect for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

### **Limitation of Liability**

In recognition of the relative risks, rewards, and benefits of the project to both the Client/Owner and the Architect, the risks have been allocated such that the Client/Owner agrees that, to the fullest extent permitted by law, the Architect's total liability to the Client/Owner for any and all injuries, claims, losses, expenses, damages, or claim expenses arising out of this agreement from any cause or causes, shall not exceed the total fee paid to the Architect to perform the work. Such causes include, but are not limited to, the Architect's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty.

### **Insurance**

#### Architect's Insurance

The Architect currently retains insurance coverage for Professional Liability for limits of \$2,000,000.00 per claim/\$2,000,000.00 annual aggregate and General Liability for limits of \$2,000,000.00 umbrella.

#### Contractor's Insurance

In all agreements between Client/Owner and contractor(s) that relate to the project covered by this agreement. Client/Owner shall require that:

1. Contractor(s) have all insurance policies required by their agreements with Client/Owner endorsed to name Owner and Architect as additional insureds.
2. Certificates evidencing this insurance coverage and endorsement shall be sent by the contractor(s)' insurance carrier to Owner and Architect.

#### Client/Owner Insurance

Should Client/Owner obtain or require others to obtain property insurance including, but not limited to, Builders' Risk Insurance, boiler and machinery insurance, or other first party insurance insuring the project, the work or other real or personal property

adjoining, adjacent to, or located on or in the project site (including materials and equipment stored at the project site or at another location) which insurance is to apply during design or construction, or after completion of the project:

3. Client/Owner shall cause Architect to be added as an additional insured on each such policy of insurance and shall furnish Architect a copy of a Certificate of Insurance confirming that this has been done.
4. Client/Owner and Architect and their insurers shall waive all rights (including rights of subrogation) against each other and against any contractors for loss or damage covered by such insurance. Client/Owner shall require similar waivers from all contractors and their insurers in favor of Client/Owner and Architect.

### **Architect's Right to Rely**

Architect shall be entitled to rely on all information provided by Client/Owner in performing its services hereunder and shall not be held responsible or liable in any manner for any defect or deficiency in the information supplied, or in the performance of professional services resulting from reliance thereon. Architect shall be compensated for costs incurred because of defective Client/Owner-furnished information.

### **Exclusion of Warranties and Damages**

Architect makes no warranty or guarantee of any kind in connection with performance of professional services under this agreement other than those expressly provided for under this agreement. All implied warranties including the implied warranties of merchantability and fitness for a particular purpose are excluded. Under no circumstances shall the Architect be liable to the Client/Owner or any third party for any special, collateral, indirect, punitive, incidental, or consequential damages of any type.

### **Applicable Laws**

- This agreement shall be governed by the laws of the State of North Carolina without
- regard for its choice of law rules.

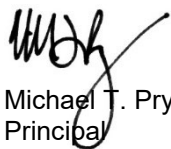
### **SCHEDULE**

We can begin services in October 2023 and expect that all portions of the work outlined in this proposal would be completed by the end of February 2024.

If in agreement with the scope and outline of the project and related fees, please return an executed copy of this proposal to our office.

Thank you for the opportunity to provide services for the Town of Biltmore Forest. Please contact our office if additional information is required.

Sincerely,



Michael T. Pry, AIA, LEED AP  
Principal  
DP3 Architects, Ltd.

Approved,

Jonathan Kanipe  
Town Manager  
Town of Biltmore Forest, NC