



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, April 17, 2023 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Father Shawn O'Neal, Sacred Heart Catholic Church

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. March 1-2, 2023 Strategic Planning Retreat
2. Monday, March 20, 2023 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

1. Proclamation 2023-05 Month of the Young Child & Child Abuse Prevention Month
2. Proclamation 2023-06 Historic Preservation Month
3. Proclamation 2023-08 Sexual Assault Awareness Month, April 2023
4. Proclamation 2023-07 Arbor Day

I. Special Presentation(s)

1. Heart of Brevard Activities Update and Budget Request

J. Public Hearing(s)

1. Ordinance - Voluntary Contiguous Annexation - Nielsen, 31 York Circle
2. Proposed Amendments to City of Brevard Code of Ordinances Chapter 42 (re: Encampments)

3. Proposed Text Amendment to the Brevard Unified Development Ordinance, Chapters 2, 3, and 19-Land Use Matrix Revisions

K. Consent and Information

1. Tax Settlement Report - March, 2023
2. Audit Contract for Year Ending June 30, 2023
3. Ordinance Declaring Road Closures for Special Event - White Squirrel Weekend
4. Resolution Authorizing City Manager to Partially Relinquish Claim for Abandoned NCDOT Right of Way and Assert Claim Over Portion of NCDOT Right of Way
5. Resolutions Supporting Applications for Golden Leaf Grants for Stormwater Projects
 - a. Times Arcade Alley Stormwater
 - b. Citywide Stormwater Evaluation and Mapping System
6. Resolution Supporting PARTF Grant Application (TYSA)
7. Rosenwald Community Advisory Board Minutes - January 19, 2023
8. Council Public Works and Utilities Committee Minutes - February 1, 2023
9. Council Finance, Human Resources & Citizen Appointment Committee Minutes - February 27, 2023
10. Council Public Works and Utilities Committee Minutes - March 9, 2023
11. Correspondence (*No Action. Offered as information only*)
 - a. Proclamation 2023-04 100th Anniversary of American Legion Monroe Wilson Post 88
 - b. Transylvania County Building Permit Activity Report - March, 2023

L. Unfinished Business

1. Proposed Amendments to the City of Brevard Unified Development Ordinance, Chapter 13 - Waiver of Tap Fees

M. New Business

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

P. Adjourn

Agenda Posted, Website, Sunshine List (April 13, 2023)
D. Hodsdon, City Clerk

To review Agenda materials, go to the City's website www.cityofbrevard.com. Select "Your Government" tab followed by "Council Agenda Packet" tab. Agenda packet materials are posted on Thursday afternoon prior to Council's Monday meeting.

MINUTES
BREVARD CITY COUNCIL
STRATEGIC PLANNING RETREAT
MARY C. JENKINS COMMUNITY & CULTURAL CENTER

March 1-2, 2023

Wednesday, March 1, 2023 – Day One

The Brevard City Council met for a Strategic Planning Retreat on Wednesday, March 1, 2023, at 5:15 p.m. at the Mary C. Jenkins Community & Cultural Center, with Mayor Maureen Copelof presiding.

Present - Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, Council Members Mac Morrow, Maurice Jones, Aaron Baker and Geraldine Dinkins.

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, Assistant City Manager/Finance Director Dean Luebbe, City Clerk Denise Hodsdon, and Communications Coordinator Becky McCann.

Facilitator – John Stephens, Associate Professor at UNC School of Government.

Press – Jon Rich, Transylvania Times

A. Welcome and Call to Order – Mayor Copelof called the meeting to order at 5:32 p.m. and welcomed those present.

B. Certification of Quorum – City Clerk Denise Hodsdon certified a quorum present.

C. Approval of Agenda – Mr. Jones moved, seconded by Mr. Morrow to approve the agenda as presented. The motion carried unanimously.

Agenda – Day One

	Topic /Activity
5:15	Dinner
5:45	Getting Started ○ Retreat Goals ○ Review agendas ○ Group expectations/ ground rules (ADDENDUM 3) ○ Facilitator’s role ○ Practice Consensus Scale – a fun example (ADDENDUM 3)
6:00	Looking Back: 2022 Council Priorities (ADDENDUM 1) ○ Review of activity and accomplishments ○ Questions and Discussion ○ Lessons/perspectives for setting 2023 priorities
6:45	Financial Overview (ADDENDUM 2) ○ Summary of recent budgets ○ Revenue forecasts ○ Factors for 2023 budget development (e.g. water rate increase) ○ Questions and Discussion
7:30	Break

7:45	2023 Priority Setting – Part 1 <u>Proposed Categories (ADDENDUM 3)</u> ▪ Essential / Must Do ▪ Key Needs / High priority ▪ Want to do / Depends on conditions ▪ Nice to have / Must have change in funding or staff time to pursue Members: examples of what they might place in each category Discussion Seeking agreement (or revisions) on the categories
8:30	Break
8:40	2023 Priority Setting – Members’ Thinking about the Big Picture and Particular Goals a. Short- and Longer-term considerations for setting 2023 priorities b. Views on sources of revenue (i.e., taxes, fees, grants) c. How 2023 priorities could affect 2024 and beyond d. One or two proposed items for top two categories ▪ Essential / Must Do ▪ Key Needs / High priority
9:35	Wrapping up Part 1 Possible adjustments to Part 2 agenda
9:45	Recess for the evening

Agenda – Day Two

	Topic /Activity
5:15	Dinner
5:45	Getting Started ○ Summary of Retreat Part 1 ○ Questions from yesterday ○ Review Part 2 Agenda (revise as needed) ○ Review Group Expectations/ Ground Rules ○ Practice Consensus Scale – a fun example
6:00	2023 Priority Setting – Part 2 Continue Members’ thinking about the Big Picture and 2023 priorities
6:30	Create a List of Potential Priorities ○ Items from March 1st ○ Mayor and Members: New items? ○ Review and discuss full list ○ Town Manager input
7:00	Break
7:15	2023 Priority Setting – a Full Sort <u>Member Go round: no more than three items in each of</u> ▪ Essential / Must Do ▪ Key Needs / High priority <u>Member Go round: items for</u> ▪ Want to do / Depends on conditions ▪ Nice to have / Must have change in funding or staff time to pursue Discussion Testing for consensus ▪ Essential / Must Do ▪ Key Needs / High priority
8:30	Break

8:45	Discussion and Testing for Consensus ▪ Essential / Must Do ▪ Key Needs / High priority ▪ Want to do / Depends on conditions ▪ Nice to have / Must have change in funding or staff time to pursue <u>Possible topics</u> a) Contingencies? b) Items which need more information? c) At what point would Council reconsider the prioritization? Guidance for FY23-24 budget development
9:30	Wrapping up Part 2 ○ Fallback to Consensus Scale: Voting on priorities ○ Questions for staff investigation
9:45	Adjourn

Retreat Materials – A complete copy of the retreat materials and information provided to Council is on file in the City Clerk’s office.

Facilitator John Stephens introduced himself and went over the goals, group expectations and ground rules for the Retreat. The Retreat’s goal was for City Council to prioritize policy and program areas for 2023-24. Priorities are to guide the allocation of financial and human resources in city government. The Council used four categories of priorities:

- Category 1: Essential / Must Do
- Category 2: Key Needs / High Priority
- Category 3: Want To Do / Depends on Conditions
- Category 4: Nice To Have / Must Have Change in Funding or Staff Time to Pursue

Mr. Stephens provided the following summary of the discussion on Day One of the Retreat:

March 1, 2023

The first evening began with Mayor Copelof reviewing the 2022 Council priorities. (Addendum #1: Strategic Goals and Action from 2022). The mayor summarized the Council’s initial focus on “values to retain”:

- a. Our authenticity
- b. Sense of community
- c. Generational families
- d. Beauty of Brevard
- e. Friendly/feel lucky to be here
- f. Environment and sustainability

The six priority areas, which were not ranked, were Housing, Infrastructure, Workforce Capacity, Projects, Capital Projects, and Collaboration. The mayor noted where items had been completed, or there was tangible progress. Grants and one-time COVID relief monies were notable resources for 2022-23. The mayor reported on challenges encountered and what items did not see much or any progress. The final part was noting “other priorities” which were: fund balance, need to update the UDO, increase/improve communication (Dr. Becky McCann as the city’s first communications coordinator, hired February 2023), ways to pursue Ecusta Site potential and policies regarding green technology.

Council offered observations about the experience of setting the priorities and seeing how they were pursued. Discussion centered on staff capacity, financial resources, and what constitutes a feasible set of priorities. A concern was how “new opportunities” (mainly an offer of funding or in-kind donation) moved some lower priorities higher during 2022. How can Council be more deliberate about making changes to priorities and be ready to see the effects of one priority moving up and other higher priorities being delayed or deferred? One view was “to be more disciplined” about assessing the new opportunities compared to the higher priorities (which may take longer due to concerted staff time or committing city resources over several budget cycles).

Members engaged on impressions of the urgency of certain needs, such as housing, acknowledging their complexity and range of factors affecting what city government can do. Another view was to touch on several priorities in order to make notable, if more modest, progress for a “balanced” approach. Stormwater was an example of a potentially important priority, but something which may be relatively invisible to much of the public. Discussion of the values included perhaps identifying more clearly what the Council wants to prevent, and how to manage the public’s expectations around continuing key services while pursuing new efforts. A pithy phrasing was to “distinguish between plans and promises.”

The hiring of a new city manager was noted as an important step for building administrative capacity and for working on 2023-24 priorities. The discussion concluded with reflections or lessons on the previous priority setting process for the current work.

City Manager Wilson Hooper presented a revenue review for several funds: General Fund, Sanitation Fund, Water/Sewer Fund, Fire Department Fund, Health Insurance Fund, and various reserve funds. He also addressed rising costs (through inflation in general, and for health insurance) and other factors for his FY23-24 budget development.

Then, through presentation and discussion Hooper highlighted “Five Pressures” on the City’s Budget for FY23-24 (and beyond). They are:

1. Endow the Housing program / Housing Trust Fund. Hooper supports the current small and regular items of direct support for qualified renters or property owners, but he thinks there needs to be a sizable fund in place to support a private developer’s proposal for affordable / workforce housing.
2. Competitively compensate employees. Hooper noted the preliminary results from the class and compensation study and plans to propose a cost of living allowance (COLA) of 6.5% for all employees. His tentative target amount to cover re-classification of positions and the all COLA across funds is \$750,000.
3. Build up the fund balance. The balance is currently 36% and Hooper’s recommendation is to reach 50%. He said this is especially important for water and sewer. A healthy fund balance provides readiness in case of a large, unexpected cost. There was discussion about comparison with other municipalities; several comparable cities have a 60% fund balance. There was discussion about recent use of some fund balance for 2022 priorities.
4. Inflation: effects on city government costs. Hooper cited fuel, building materials and health care costs.
5. Evolving models of service provision. Hooper noted Fire Services recently added three full-time positions for a total of four. The rest of the force is part-time. It is increasingly hard to find part-time people. This raises the question: should Brevard move to a full-time fire service? Solid waste was also noted. It is likely that recycled materials will become a cost rather than a source for revenue, due to decreasing demand for recycled materials.

Hooper also noted that revenue collections have been running higher than projected for FY22-23.

Exercise: example priorities by category

The facilitator asked the mayor and council members to use index cards and four baskets (corresponding to the priority categories) and write down one item to place in each basket as an example of a priority they would put in that category. This was not committing the member to keep that priority in that category, but for the whole Council to see the collected ideas of “what could fit where.”

The greatest overlap of index cards were for the Bracken Preserve in category four and Housing in category one. Discussion focused on how to consider:

- a. Short- vs. long-term priorities: what kinds of actions can and should be taken in 2023-24 for a long-term priority
- b. The complexity and inter-relatedness of certain needs and priorities
- c. How much city government can do on its own versus working with partners.

Retreat Recessed – At 8:50 p.m. Mr. Jones moved, seconded by Mr. Baker to recess the Strategic Planning Retreat and reconvene tomorrow at 5:15 p.m. at the Mary C. Jenkins Community & Cultural Center. The motion carried unanimously.

Thursday, March 2, 2023 – Day Two

The Brevard City Council reconvened the Strategic Planning Retreat on Thursday, March 2, 2023 at 5:15 p.m. at the Mary C. Jenkins Community & Cultural Center, with Mayor Maureen Copelof presiding.

Present - Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, Council Members Mac Morrow, Maurice Jones, Aaron Baker and Geraldine Dinkins.

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, Assistant City Manager/Finance Director Dean Luebbe, City Clerk Denise Hodsdon, and Communications Coordinator Becky McCann.

Facilitator – John Stephens, Associate Professor at UNC School of Government.

Press – Jon Rich, Transylvania Times

Come Back to Order – At 5:33 p.m. Mr. Daniel moved, seconded by Mr. Morrow to come out of recess and reconvene the Retreat. The motion carried unanimously.

Certification of Quorum – City Clerk Denise Hodsdon certified a quorum present.

Mr. Stephens provided the following summary of the discussion held on Day Two and the final priorities identified by Council:

March 2, 2023

Review of the initial exercise of example priorities for each category from mayor and council led to several points¹ of discussion:

- a. How the soon-to-be-adopted comprehensive land use plan affects Council thinking on 2023-24 priorities
- b. The Downtown Master Plan
- c. An interest in setting and keeping to a 20-year road paving schedule (instead of falling behind)

¹ Topics are not in order of actual discussion. Inter-relationships are numerous.

- d. Sidewalk maintenance: to similarly stick to regular maintenance and perhaps supplement the Powell bill monies for adequate upkeep
- e. Extensive dialogue on the wastewater treatment plant upgrade, including state laws and procedures; projections of residential, business and industrial customers; funding options and possible debt load
- f. Careful consideration of money and staff time for choosing and pursuing priorities, including staff time for seeking grants or other “outside” resources
- g. Hotel and parking: clarification from the city attorney about existing contractual obligations and timelines on parking improvements. Parking fees and parking related to the Bike and Pedestrian plan were discussed.
- h. Space needs and constraints for police, fire and other functions. The old courthouse was raised as a potential opportunity for municipal space.
- i. How to think about and the relative emphasis of shorter-term vs. multi-year priorities. Different views about focusing on “one big thing” or breaking things down to work on several priorities. The potential attention to and “balance” for the groups in Brevard was highlighted
- j. The ability and constraints of working with partners on certain priorities (e.g., Ecusta Trail and other connections, and its fit with the Bike and Pedestrian plan)
- k. The efforts to seek and leverage partners’ resources, which can be uncertain or extend the timeline of action, vs. smaller “city money only” work that can be more certain.
- l. The appropriate role for city government for larger-scale priorities: where does city involvement “bring value?”
- m. If a new project arises (i.e., a plan becomes more active due to a potential in-kind or financial donation), should there be a way to “rate it” compared to the existing priorities (e.g. a point system; or cost/benefit for staff time needed to implement)?
- n. For pursuing the Housing priority: the potential need for additional staff

Completing the prioritization

As noted above, Category Four items were briefly noted and affirmed. Category Three items received extensive discussion and tests for consensus. The facilitator then directed discussion to potential Category One items, with discussion, proposed trade-offs and tests for consensus.

The retreat turned to the potential Category Two items, with significant differences about

- a. how important certain items were for this priority or should be moved to Category Three,
- b. if there should be a limit on the number of items in Category Two, and
- c. if there should be a ranking of items within Category Two.

The facilitator guided the Council in testing for consensus about which items should be placed in Category Two, and then used the two dots ranking method noted above.

The priorities are:

Category 1: Essential / Must Do

- Personnel compensation + COLA increase
- Wastewater treatment plant
- Additional Housing Funding / Housing Policy Action (including researching new options for city government action)

Category 2: Key Needs / High priority

Members chose to rank items within this category, each person got “two dots” to distribute

- Downtown Master Plan (4 dots)
- Estatoe Trail (and connections to FBR and BC - 4 dots)

- Paving road to keep on 20-year cycle (approximately \$200,000 per year – 2 dots)
- Sidewalk repair/extension (1 dot)

Category 3: Want to do / Depends on conditions (Note: Edited by Staff)

- Stormwater Management plan
- More space for City Operations

Category 4: Nice to have / Must have change in funding or staff time to pursue
(Note: Edited by Staff)

- Ecusta Trail
- Finish Silversteen Park
- Bracken Preserve / Bracken Platform

There was one item without consensus on its placement: Parking plan with Hotel. There were split results when testing for consensus for placing this in category three or four. Category Four items were briefly discussed and agreed to. The major discussion focused on categories 1, 2 and 3.

Adjourn – There being no further business, at 9:37 p.m. Mr. Morrow moved, seconded by Ms. Dinkins, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: April 17, 2023

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
March 20, 2023 – 5:30 PM**

The Brevard City Council met in regular session on Monday, March 20, 2023, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

Present – Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel and Council Members Mac Morrow, Maurice Jones, Geraldine Dinkins, and Aaron Baker

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant City Manager/Finance Director Dean Luebbe, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Acting Public Works Director Wesley Shook, Community Center Director Tyree Griffin, ORC Water Treatment Plant Dennis Richardson, and ORC Wastewater Treatment Plant Emory Owen

Press – Jon Rich, Transylvania Times

A. Welcome and Call to Order – Mayor Copelof called the meeting to order and welcomed those present.

B. Invocation – Pastor Kenneth Albright of the Lutheran Church of the Good Shepherd offered an invocation.

C. Pledge of Allegiance - Mayor Copelof led the pledge of allegiance.

D. Certification of Quorum – City Clerk Denise Hodsdon certified a quorum present.

E. Approval of Agenda – Mr. Morrow moved, seconded by Mr. Jones to approve the agenda as presented. The motion carried unanimously.

F. Approval of Minutes

F-1. Monday, February 20, 2023 Regular Meeting – Mr. Morrow moved, seconded by Mr. Baker to approve the minutes of the February 20, 2023 Regular Meeting as presented. The motion carried unanimously.

F-2. Monday, March 6, 2023 Special Meeting – Mr. Morrow moved, seconded by Mr. Daniel, to approve the minutes of the March 6, 2023 Special Meeting as presented. The motion carried unanimously.

G. Public Comment

Judith West spoke on behalf of Rice Street neighbors. Almost 47 years ago I took a new job in Brevard and the realtor I was working with drove me through town down to Rice Street and by the time we got down to the curve, I knew I wanted to live there. I bought the house in the curve and I have lived there for almost 47 years. It's a pretty good place to live. We are a neighborhood, we keep in touch and during the pandemic it was like a party there most of the time. We really got to know each other even better. We take pride in our neighborhood, with our yards, our trees, our flowers and our sharing. We welcome lots of people who walk and bike through Rice Street. To anticipate half of our neighborhood being moved into a downtown district really makes us very sad. It would destroy our traditional neighborhood. You can help us. You can change the map to include all of Rice Street in traditional neighborhoods, rather than leaving half of it in the downtown area. We understand that this is a plan, but a plan, if it is worth anything, informs future action. We support a plan, but we don't support it

as it is. Thank you for your attention to that and I hope you will consider making that change as you adopt this plan.

Diane Daniel said I am here to address the ongoing road and sewer repairs in our Railroad Lumberyard district. First, we are grateful for the repairs that have been a very long time in coming. We have heard that once the sewer repairs are complete, the road surface will be patched. This busy neighborhood has been living with patched for a very long time. As a rapidly growing commercial district and a lively residential neighborhood, as well as a very busy traffic thoroughfare, this neighborhood deserves more than patch. King Street is of particular concern as traffic and parking concerns are pressing. Some temporary parking was lost recently as we won our lovely bike trail and path. Old curbing and rough sidewalks still make pedestrian traffic a hazard in some places. We understand this district is undergoing major repairs and that all work needs to be done with consideration and durability and longevity. I really like this funky old neighborhood that I live in. It has fascinating history and is part of the walkable world that some of us really want, knowing full well that we must share it with vehicles of all sorts. I am asking, as a resident, and I am speaking for the residential aspects of our neighborhood, we are asking for an update on this road/sewer project, when the district roads will be fully repaved and parking markings back in place.

Madeline Magin said I am the owner of 185 King Street in the King Street district and I am here speaking more to the business side of things where Diane is speaking to the residents' side. We are here together to address the concerns brought to us by both the residents and business owners in our neighborhood. While we are very grateful for the recent infrastructure improvements brought to our neighborhood, we are a little concerned that these projects went underway without a plan for completing them. We have been notified that when the waterline replacement is finished there will be a patch thrown on the street. A patch job is just a mere band-aid and will not be adequate. Our streets were in dire need of resurfacing even before this construction took place and we are currently quite embarrassed of the hazardous state of our roads and sidewalks in our district. The community has been certainly growing and now hosts a large percent of the commerce for the town and we are requesting that we be provided notification on what the plan is to improve the walking and driving conditions in our neighborhood.

Leslie Logemann said I own Highland Books and I live on King Street. I am going to add a third layer to this. Last week construction began on the bulb-out in front of Highland Books. I was impressed with the precision and intention to detail. We're thankful that that work is happening and it appeared from what little information we've received and the plans that I had seen, that the construction of the bulb-out wouldn't affect us much and we were really excited about the finished product. Last Friday an employee from the Heart of Brevard came by the store to deliver information on a meeting for the owners that is this coming Friday, which I do plan to attend to get more information. They also mentioned that the construction and the removal of the sidewalk may mean that our business may not be accessible at some point for a couple of days. This was the first time I had heard that the sidewalk was coming out and I have to say that the thought of having to close my business for a couple of days came as quite a shock. I arrived at Highland Books this morning to find construction in front of the store with barricades and closed sidewalks signs. While we could get in and out, it certainly made us look like something to avoid and because of it, from the numbers I saw when I left the store, when we close tonight I would predict our numbers to be about half of what they were last Monday. I spent the day today in conversations with numerous people getting little done of my own job, but trying to get an answer to two simple things: 1) what will be removed from the front of our store and when; and 2) will removal of the sidewalk and other features cause our business to be closed at any point, and if so, when? It took me until 4:40 today to get an answer to those questions after numerous conversations. I still don't have a 100% answer but I at least have some information. I am here to express that I am more than a little disappointed with the absence of communication from the city in regards to this project. I am thankful for this project, but a business owner should not have to go to such lengths just to get an answer to something as important as whether or not I will be able to access my own business. I also live on King Street and there my disappointment continues; my

gratitude as well, as our street has needed work and I am thankful for the work that is done there. But residents have received no notification, updates or communication of any kind during what has become a bit of a nightmare. I have called the city twice to ask for updates and have been given very little information. The road is filled with potholes and debris, our water has been turned off more than once without notice, and we had a morning that we couldn't get out of our driveway. Our house is covered in concrete dust and the only information I received from my last call was that they would start patching the road, again as has been said by others, patching not paving, last week. As of this morning the road was blocked off and they were digging again. I am not here to complain about improvements. I very much appreciate what the city is doing to upgrade and improve and I really hope you hear me saying that we are very grateful, but the frustrations of your residents and business owners would be far less if you could communicate a concrete plan and a timeline before and during projects. When something affects our personal home and/or our business we should not be expected to look for emails, social media posts, to scour the paper, or call repeatedly for some kind of answer. I shouldn't have to fear that with events scheduled at my store in the coming months, I now don't know if I am going to arrive one morning and I can't open the door for the day. I implore Council and City Staff to think about how this is affecting those of us who invest our time and energy here in Brevard and please develop and communicate a plan for projects to ensure that we know what is to be expected in the coming months.

Lucy Clark said I am the owner of the Lucy Clark Gallery and Studio in downtown and in full disclosure, I am Vice President for the Heart of Brevard and I chair their Fine Arts Committee. I agree with everything Leslie has just said, but I also would like to add this is a very difficult situation for everyone involved and I really appreciate the city's efforts and I think in the end it is going to be a beautiful downtown. As a business owner I am appreciative of the communication from Heart of Brevard. We have worked very hard the past few months and I have been on the receiving end of this information from Heart of Brevard as a business owner at 51 West Main Street. It started with the information about the water line and sewer project and as it picked up last week, construction started and uncertainty grew, they went door-to-door on Friday. They were at a Main Street conference during the week so it took them until late Thursday afternoon and Friday to hit the streets and talk to all of the business owners that were available so that they could communicate effectively what they knew to be true. They cannot communicate anything that they don't know. I am imploring the city because we depend upon the vitality of downtown, not just as merchants, but as shop goers wanting to benefit the local community, that the city support and mirror the efforts of the communication for Heart of Brevard and that you work in tandem to give us daily updates. We know this is going to be an inconvenience, completely understand and support the efforts as long as we know we can plan and execute, rather than chaos management. Heart of Brevard has requested that parking fees be waived in city lots during this period and I urge you to grant this request.

James Carli expressed support for passing the Comprehensive Land Use Plan. He said I echo the statements I made last month that it is not etched in stone and it can be subject to tweaks on an ongoing basis. I support specifically all of the policy recommendations that are outlined individually in the plan. On the matter of the geographic definitions, which I have heard from community members, it is largely subjective and that will be subject to change over time, especially to your judgment and the judgment of future councilmembers. I am sensitive to the dozen or so residents who live on Rice Street. Regardless of how you define that specific issue, it will be market forces of supply and demand that exercise greater influence on the whole downtown area, greater than any particular street definition on a single planning map. As I am sensitive to current residents, I am also sensitive to the needs of the great many more people who wish to live in our downtown than currently exist homes to house. But as I said, it will be the market forces that impact the housing supply, which are the impacts of demand for housing that ultimately really determine the fate of downtown development, especially in downtown core and its surrounding areas, regardless of any specific street designation on this draft plan. Though I think keeping at least Rice, between Main and Jordan as a downtown, which is already largely commercial, is not a

terrible idea personally. I am speaking in my capacity as a member of the Planning Board and I was asked by the Board to speak tonight. I would encourage you to pass the Comprehensive Land Use Plan so we, as members of the Planning Board, can begin starting on work sessions on each of the policy recommendations that are in the plan. Once we start those work sessions, we can start giving you action steps to move forward on implementing the parts of the plan. The sooner you get it going, the sooner we can get to work and give you a road map to start putting the plan into action because the plan basically is compiled of recommendations from the citizens of Brevard for how they want to see the city develop, and from my planning perspective, they are good recommendations overall. Also just on a personal note, you put up double bollards in several sections on the bike path along Railroad Avenue and I have been impeded while walking my dog on my bicycle. Those double bollards also create bottlenecks that I have seen create congestion for cyclists especially when you are cruising. If you could change those double bollards down to a single bollard on that section on Railroad Avenue, there would be less congestion for cyclists.

H. Certificates/Awards/Recognition

H-1. Proclamation 2023-03 Second Chance Month – Mayor Copelof welcomed Libby Fisher of the Justice Ministry Team at St. Philips Church and read and presented the proclamation to her.

Proclamation No. 2023-03 Designation of April as Second Chance Month

WHEREAS, every person is endowed with human dignity and value;

WHEREAS, redemption and second chances are American values;

WHEREAS, an estimated 70 million American citizens have a criminal record;

WHEREAS, those individuals who have paid their debt after committing a crime face significant barriers, also known as collateral consequences, to reintegrating into society;

WHEREAS, youth face more than one thousand collateral consequences affecting their high school and higher education;

WHEREAS, many of these consequences are mandatory, without taking into account the seriousness of the offense, the time passed since the offense, the individual's efforts to make amends, or whether the consequence has a proven public safety benefit;

WHEREAS, gaining meaningful employment is one of the most significant predictors of successful reentry, and ninety percent of those who have been incarcerated struggle to find employment because of societal and legal barriers;

WHEREAS, while education is also a significant predictor of successful reentry, those with a criminal record have lower levels of educational attainment than the general population and have significant difficulty acquiring admission to and funding for educational programs;

WHEREAS, people with a criminal history also face significant barriers in securing a place to live, and this inability to access housing has been found to increase the number of individuals returning to prison;

WHEREAS, many people with a criminal history also face significant debt and other challenges such as an inability to regain voting rights, volunteer in their community, and secure identification documentation;

WHEREAS, these barriers prevent the 70 million Americans with criminal records from contributing fully to their families and communities, which negatively impacts the well-being of their children and families for generations;

WHEREAS, the anniversary of the Second Chance Act of 2007 falls on April 9;

WHEREAS, the designation of April as Second Chance Month can contribute to increased awareness about the challenges faced by those who have paid their debt and generate opportunities for individuals, employers, congregations, and communities to extend second chances;

NOW, THEREFORE, I, Maureen Copelof, Mayor of Brevard, do hereby proclaim April 2023 as "Second Chance Month." During this month I call on residents to honor the work of those who strive to

remove barriers that prevent individuals with a criminal record from becoming productive members of society and to observe Second Chance Month through actions and programs that promote opportunities to unlock second chances.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Brevard to be affixed on this 20th day of March, 2023.

I. Public Hearing(s)

I-1. Proposed Amendments to City of Brevard Unified Development

Ordinance, Chapter 13 – Waiver of Tap Fees – Emily Brewer recalled that on May 16, 2022, City Council adopted Ordinance 2022-25 amending Chapters 13 and 19 of the Unified Development Ordinance authorizing the City to issue water and sewer tap fee waivers for eligible affordable rental housing projects. The ordinance states that projects are eligible for the waiver if the developer agrees to provide housing for persons of low-income for a minimum of five years. Since then, the UNC School of Government has determined that fee waivers for affordable housing projects are not permissible under NC law. On February 14, 2023 the Housing Committee discussed the possibility of changing the existing tap fee waivers to an eligible expense for reimbursement with Housing Trust Fund resources. Over the past year, Staff has been working closely with the Housing Committee to revise the Housing Trust Fund bylaws and programs to support privately-created affordable housing within the City’s jurisdiction. These materials will be presented later for Council’s consideration, and if approved, with this new process, developers of eligible affordable housing projects can apply during a regular funding cycle to be reimbursed for the cost of the water and sewer tap fees instead of issuing a waiver in advance. The Housing Committee recommended adoption of the text amendment and folding this initiative into the Housing Trust Fund programs. The Committee also recommends that City Council consider using the General Fund to provide funds to the Housing Trust Fund annually for this purpose, so as not to diminish the limited funds currently available. However, that will need to be discussed as part of the FY24 budget development process. The proposed text amendment removes Section 13.4.F from the UDO. The Planning Board considered the text amendment at their February 28, 2023, meeting and unanimously recommended approval.

Public Hearing Public Participation – There was no public participation.

Public Hearing Closed – Mayor Copelof closed the hearing at 5:32 p.m.

Following questions and comments from City Council, Mayor Copelof noted that there would be no action taken at this time and this will come back to Council for action at the next regular meeting in April.

J. Consent and Information - Consent Agenda items are considered routine and are enacted by one motion. Mayor Copelof read aloud the items listed and asked for a motion to approve the consent agenda. Mr. Daniel moved, seconded by Mr. Baker to approve the consent agenda as presented. The motion carried unanimously.

J-1. Tax Settlement Report - February, 2023

J-2. Property Tax Releases – February, 2023

RESOLUTION 2023-13 A RESOLUTION APPROVING PROPERTY TAX RELEASES

WHEREAS, The City of Brevard has previously determined to collect property taxes for the City of Brevard and the Heart of Brevard and it is necessary to release the below shown amount from the city tax records.

BE IT NOW, THEREFORE, RESOLVED THAT:

The Tax Collector is hereby authorized to remove February 2023 property values from the tax scroll in the amount of:

2022:	<u>\$ 87.81</u>
2021:	<u>\$ 24.09</u>
2020:	<u>\$ 27.44</u>

Adopted this the 20th day of March, 2023.

J-3. Resolution Fixing a Date of Public Hearing for Annexation - Nielsen

RESOLUTION NO. 2023-14

A RESOLUTION FIXING A DATE OF PUBLIC HEARING ON THE QUESTION OF ANNEXATION PURSUANT TO NCGS 160A-31, AS AMENDED

WHEREAS, a petition was received on February 3, 2023, requesting the annexation of a contiguous area described in said Petition as the Catherine and David Nielsen property, 31 York Circle, Brevard, NC 28712, consisting of 45,599 square feet, more or less, be annexed into the City of Brevard. (Tax Property Identification Numbers 8596-26-2338-000); and

WHEREAS, the Brevard City Council has by Resolution No. 2023-11 directed the City Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the City Clerk as to the sufficiency of said petition has been made.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section 1. That a public hearing on the question of annexation of the contiguous area described below as requested by Catherine and David Nielsen, will be held at Brevard City Hall at 5:30 P.M. on the 17th day of April, 2023.

Section 2. The area proposed for annexation is described as follows:

Metes and Bounds Property Description:

All of Lot 2-A, containing 45,599 square feet, as shown on the plat of a survey dated August 18, 2021, prepared by E. Roger Raxter, PLS, for Carolyn Osborne Howie and Parks Hunter Howie, recorded in Plat File 21, Slide 453, Records of Plats for Transylvania County, in the office of the Register of Deeds, Transylvania County, North Carolina.

This conveyance is made together with a right to use the shared driveway shown on the referenced Plat located partially on the adjoining Lot 2-B, and this conveyance is also subject to the rights of owners adjoining both sides of Lot 2-A for the joint use of the driveways shown on the Plat.

Being the same property conveyed in a Deed from James H. Wolfe, individually and as Executor of the Estate of Carolyn Osborne Howie, joined by his wife, Ellen Wolfe; Elizabeth H. Alexander (the same as Barbara H. Alexander, joined by her husband Donald Max Alexander; Martha Jeanne Howie, unmarried; Rebecca H. Beard, unmarried; Parks Hunter Howie, Jr., joined by his wife Robin Howie; and Tracy Frances Howie, unmarried, recorded October 18, 2021 in Book 1006, Pages 499 - 506 in the Transylvania County, North Carolina Register of Deeds Office.

Section 3. Notice of said public hearing shall be published in the Transylvania Times, a newspaper having general circulation in the City of Brevard, at least ten (10) days prior to the date of said public hearing.

Section 4. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 20th day of March, 2023.

J-4. Project Ordinance Amendment – Main Street Streetscape Project

ORDINANCE NO. 2023-11

CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE NO. 2022-13 AND 2022-47, MAIN STREET STREETSCAPE PROJECT

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1: The budgeted expenditures and revenues listed under the ordinance (2022-33, Times Arcade Alley Improvements) of \$550,000 will be eliminated and transferred to the Main Street Streetscape Project, bringing the total project to \$880,000. Additionally, \$918,200 will be added to this project from the following sources:

Minutes – Brevard City Council Meeting – March 20, 2023

- 1. \$91,200 will be transferred from the Capital Reserve Fund.
- 2. \$140,000 will be transferred from the Parking Fund, fund balance.
- 3. The City is in the process of completing paperwork requesting \$125,000 from the Tourism Development Authority.
- 4. \$562,000 will be transferred from the General Fund, as certain revenue line items are projected to be over budget, and cost savings associated with the Administration Department budget.

Section 2: The Project will create 3 mid-block bump-outs, corner bump-outs at the intersection of Main St. & Broad St., new landscaping including 16 street trees, shrubs, groundcover, and flowers along with outdoor seating furniture, trash receptacles and a water bottle filling station.

Section 3: The following amounts are appropriated for the project:

Account Number	Account Name	Budget Amount
83-6600-4570	Main Street Streetscape Project	\$1,798,200

TOTAL PROJECT APPROPRIATION **\$1,798,200**

Section 4: The following revenues are anticipated to be available for project expenses:

Account Number	Account Name	Budget Amount
83-3020-0100	Transfer from ARPA	\$357,100
83-3990-0000	Fund Balance Approp	\$522,900
83-3010-0000	Transfer from Cap Res Fund	\$91,200
83-3020-0300	Transfer from Parking Fund	\$140,000
83-3020-0000	Transfer from General Fund	\$562,000
83-3950-0500	Contribution from TDA	\$125,000

TOTAL PROJECT REVENUE **\$1,798,200**

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 20th day of March, 2023.

J-5. Fire Truck and Sanitation Trucks Funding

RESOLUTION NO. 2023-15
A RESOLUTION APPROVING FINANCING TERMS

WHEREAS: The City of Brevard (“City”) has previously determined to undertake a project for purchasing capital equipment (the “Project”) costing \$1,020,000 and the Finance Officer has now presented a proposal for the financing of such Project as listed below:

DEPARTMENT	EQUIPMENT
SANITATION FUND	One garbage truck and one dump bed
FIRE FUND	One rescue truck

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through United Community Bank Inc., in accordance with the proposal dated March 2, 2023. The amount financed shall not exceed \$1,020,000 for a fifty nine month loan, the annual interest rate (in the absence of default or change in tax status) shall not exceed 4.16%, and the financing term shall not exceed fifty nine months from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action, the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the United Community Bank Inc. financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's sanitation or fire fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted and approved this 20th day of March 2023.

J-6. Proclamation 2023-02 – Joe Cooper Day

**Proclamation No. 2023-02
Joe Cooper Day**

WHEREAS, Brevard native Joe Cooper honorably and bravely served his country in the U.S. Navy from December 1941 to December 1945; and

WHEREAS, Joe Cooper, a member of the Greatest Generation, bravely served his country during WWII in the Pacific Theater of war; and

WHEREAS, Joe Cooper served on the Escort Carrier USS Ommaney Bay in the Leyte Gulf; and

WHEREAS, in January 1945, Joe Cooper withstood the Kamikaze attack on the USS Ommaney Bay that killed 297 of his shipmates and resulted in the destruction of the ship; and

WHEREAS, Joe Cooper then survived shark infested waters for five hours after being ordered to abandon his burning ship; and

WHEREAS, Joe Cooper, after surviving the attack on the Ommaney Bay, continued to bravely serve his country on other naval vessels in the Pacific theater during WWII; and

WHEREAS, Joe Cooper was honorably discharged from the Navy after WWII; and

WHEREAS, Joe Cooper, native son of Brevard, has demonstrated extraordinary bravery and performed services to the United States and the community of Brevard that are honorable and deserving of recognition.

NOW, THEREFORE, be it proclaimed that I, Maureen Copelof, retired Navy Captain and Mayor of the City of Brevard, do hereby proclaim March 1, 2023 as **JOE COOPER DAY** in the fair City of Brevard, North Carolina, and commend its observance to all its residents.

IN WITNESS WHEREOF, I have set my hand and executed the Great Seal of the City of Brevard on this the 1st day of March 2023.

J-7. Council Finance, Human Resources & Citizen Appointment Committee Minutes – January 23, 2023

J-8. Council Public Safety Committee Minutes – January 23, 2023

J-9. Council Downtown Master Plan Committee Minutes – January 11, 2023

K. Unfinished Business

K-1. Proposed Amendments to City of Brevard Code of Ordinances, Chapter 2, Article IV, Division 2 - Recreation Advisory Committee – Mr. Hooper recalled that this amendment is to remove a redundancy in the City’s Code of Ordinances as the functions of this committee are now exercised by the Parks, Trails & Recreation Committee. Council held a public hearing on the proposed amendment at its February 20, 2023 meeting and there were no comments. Mr. Morrow moved, seconded by Ms. Dinkins to approve the proposed amendment. The motion carried unanimously.

ORDINANCE NO. 2023-12

AN ORDINANCE REMOVING CHAPTER 2, ARTICLE IV, DIVISION 2 OF THE CODE OF ORDINANCES OF THE CITY OF BREVARD

WHEREAS, Chapter 2, Article IV, Division 2, “Recreation Advisory Committee” of the Code of Ordinances of the City of Brevard was last updated in 1998; and

WHEREAS, the responsibilities of the Recreation Advisory Committee are now exercised by the Parks, Trails, & Recreation Advisory Committee

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section 1. Chapter 2, Article IV, Division 2 is removed from the City of Brevard Code of Ordinances.

Section 2. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Approved and adopted this 20th day of March, 2023.

K-2. Adoption of Comprehensive Land Use Plan – Aaron Bland recalled that in November, 2021 Staff began working with consultant Stewart, Inc. to develop the new Comprehensive Land Use Plan. The Planning Board served as the Steering Committee for this project and has discussed the plan throughout 2022. Most recently, the Planning Board reviewed the final draft and unanimously recommended adoption of the plan in January, 2023. On February 6, 2023 Planning Director Paul Ray shared a special presentation to introduce the Plan to City Council. At the February 20, 2023 Council meeting, Jake Petrosky from Stewart Inc. summarized the Plan's contents and a public hearing was held. Mr. Bland noted that the only real change since the public hearing is the inclusion of a downtown surface parking map. He also reminded Council that there are two different future land use options that were presented by Mr. Petrosky on February 20th. Those were mentioned during Public Comments earlier. He explained that what has been presented to Council tonight includes the Planning Board’s recommendation, which is the original map as drawn, but there is the option that removes Rice Street from that Downtown future designation. Mr. Morrow moved, seconded by Ms. Dinkins to approve the Comprehensive Land Use Plan.

During discussion, Mr. Jones said he was in favor of removing Rice Street from the downtown future designation and keeping it in the traditional setting. He pointed out that this is a living document and if we decided to go with the alternative and in the future see that maybe we need to go the other route, we can at that time.

Ms. Dinkins said we do need to respect what the plan's authors came up with and what the Planning Board approved. We do need a little bit of wiggle room for downtown and in my mind, if you live in a residential neighborhood that has this kind of proximity to downtown, it is going to come your way. We do need to grow and I have a concern that we are going to create pockets with homes in there and eventually that will turn into downtown density as well. I am proud of this plan otherwise and I think that this is a great guiding document.

Mr. Morrow said I think one of our biggest responsibilities is to protect our neighborhoods and particularly neighborhoods that are close to downtown. This one is unique in that it really doesn't have a buffer. We have seen some transition on Johnson Street from older homes to non-profit use. What bothers me is that we have national historic properties in here that we are going to say we are not going to honor. I don't know if that was an oversight, but certainly everything there at St. Philips Lane and the parking lot that sustains the St. Philips Episcopal Church, we would never want to do anything to impact its use. I agree with the alternate.

Mr. Baker said he was sensitive to both sides of the Rice Street discussion. I am a proponent of not only our downtown area, but zones where additional density can be built and the expansion of those zones because it really goes to the heart of the affordable housing issue that we are seeing. If we don't build more densely, we are never going to get out of where we are. That being said, that particular issue is addressed all over this plan so I don't want to hang up the passage of this plan based on a dispute over such a small area. There could be a potential compromise where perhaps the Johnson Street frontage remains in the downtown area since there are already some commercial businesses along Johnson Street, and all others are removed. Mr. Baker also noted that the plan was amended and Blue Zones was taken out of the section related to previous city plans. In my previous comments I said maybe they could be moved into an appendix that lists other non-profits that the City partners with. My main concern with Blue Zones still being in the plan is that none of those other non-profits are called out at all in the plan. Blue Zones has done work in our community over the last three years, but we have non-profits that have been partnering with the City for decades. I would advocate for either removing that mention altogether or creating a new appendix where we do list a lot of the partners that are going to have to work hand-in-hand with the City if the Comprehensive Land Use Plan is going to guide our actions over the next couple decades.

Mr. Daniel said he agreed with Mr. Baker regarding removing Blue Zones from the sidebar. He was referencing non-profits and Blue Zones in this reference is a for-profit business. As he pointed out there is no mention of any of our non-profit partners and I would like to see that either put into an appendix or some other recognition. As far as the Rice Street issue goes, frankly it is a non-issue to me. There is no zoning change being made and there is no recommendation for action by the City. Even if we excluded it from our map, if somebody in this neighborhood sells a property to someone who wants to have a downtown business in that neighborhood, it would come to us anyway regardless of that map. The only action that we would take is in reaction to what comes from that neighborhood to the City for a zoning request. If we want to take it out, I am fine with that because I don't think it really affects the future. The future lies in the hands of the people that own the property and not in the hands of the City. I would entertain an alternate to the map because I want to move forward with this plan that has been a long time coming.

Mr. Morrow amended his motion to include the alternative map for Rice Street and to remove the Blue Zones sidebar. Mr. Daniel seconded the amended motion. Vote on the amended motion was unanimously in favor.

RESOLUTION NO. 2023-16

A RESOLUTION ADOPTING THE CITY OF BREVARD BUILDING BREVARD 2030 COMPREHENSIVE LAND USE PLAN

WHEREAS, Brevard is a safe, friendly, family-oriented city with small town charm, outdoor

recreation, arts, and culture that bring investment opportunities, environmental consciousness, and economic diversity; and,

WHEREAS, the City of Brevard has a history of adopted plans that seek to inform long-range planning efforts, including, but not limited to, the 2002 Land Use Plan, 2015 Comprehensive Plan, Downtown Master Plan, and the 2023 Pedestrian and Bicycle Plan; and,

WHEREAS, North Carolina General Statute Chapter 160D requires local governments adopt and reasonably maintain and comprehensive plan or land use plan as a condition of adopting and applying zoning regulations; and,

WHEREAS, a comprehensive land use plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs; and,

WHEREAS, the Brevard City Council desires to update its long-range plans for the future of Brevard; and,

WHEREAS, the City Council selected and approved a contract with Stewart, Inc. to draft the 2030 Comprehensive Land Use Plan on November 15, 2021; and,

WHEREAS, the *Building Brevard 2030* Comprehensive Land Use Plan has been developed through a comprehensive planning process which included input from a diverse group of stakeholders, the Planning Board, and the public at large; and,

WHEREAS, the Plan includes community goals, actions, and a framework for implementation based on this community input and analysis; and,

WHEREAS, the City of Brevard Planning Board unanimously recommended adoption of the Plan on January 24, 2023; and,

WHEREAS, a public hearing was conducted on Monday, February 20, 2023, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed plan, it is the desire of the City Council of the City of Brevard that the *Building Brevard 2030* Comprehensive Land Use Plan be adopted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 1. The City of Brevard adopts the attached *Building Brevard 2030* Comprehensive Land Use Plan.

SECTION 2. The Plan replaces City of Brevard's 2002 Land Use Plan and 2015 Comprehensive Plan.

SECTION 3. City Staff is hereby directed to begin the Implementation Action Steps as outlined in the Plan.

Approved and adopted this the 20th day of March 2023.

K-3. Proposed Amendments to City of Brevard Code of Ordinances Chapter 42 (re: Encampments) – Mr. Hooper recalled that when this matter was brought to Council in November, the two main pieces of feedback were: 1) that the folks working with persons experiencing homelessness needed to be more engaged in the development of any policy that would have an impact on homeless folks, and 2) there needed to be guidelines on how any such ordinance was enforced so that those subject to it would be protected from overzealous enforcement. He explained that this latest proposal is based on the framework that Emily Lowery from The Haven shared at the January Public Safety Committee meeting with representatives from all the other continuum of care service providers. The essence of the new proposal is that a good faith effort must be made to connect every resident of an encampment on City property with continuum of care services before they are made to vacate the property. This protection will be codified in the ordinance. Further codified in the ordinance is that the enforcement of the new code must be governed by the administrative policy, which is referred to only by reference in the ordinance. We have not recommended codifying that procedure in the ordinance because staff needs some flexibility on that. The training it describes and the agency it refers to may change and it would inefficient to have to update the code of ordinances with a public hearing every time something changes. However, the code would require that the policy exist and our agents who are

enforcing the code be governed by it. The notable provisions of the Encampment Policy are:

- Residents of encampments have a two-week grace period before our agents can enforce the trespassing provision against them
- City agents must notify continuum of care providers about the presence of encampments within one business day of their discovery
- Continuum of care providers must visit the encampment and offer services within one business day of receiving that notification
- These services will include helping the camper connect with emergency or transitional housing and physically helping them relocate to it
- All city agents likely to interact with homeless folks as a product of this policy must have specialized training

Mr. Hooper added that at the January Public Safety Committee meeting, all of the continuum of care providers agreed that you need to have a trespassing ordinance so that your policy has teeth. Existing trespassing and loitering provisions in our code can be used to more quickly remove folks who pitch their tent in the middle of the sidewalk or inside of a public facility. There are some additional steps that need to be taken before we are ready to follow through on this so it won't be enforceable right away after it passes. This presentation was for information and discussion only and if the proposal is amenable to Council, the required public hearing will be held at the next regular meeting. During discussion, Council agreed that the proposed ordinance amendment and policy were a great improvement and thanked everyone involved in the process. The public hearing will be held on April 17, 2023.

L. New Business

L-1. Introduction to Housing Trust Fund Guidebook and Bylaws Update –

Mr. Hooper noted that at its Strategic Planning Retreat two weeks ago Council identified housing as one its must-do priorities for the coming fiscal year and Staff is developing a proposal on how we can endow this undertaking financially and otherwise. Tonight we are kicking off our public campaign on why this is important, what has been done so far, and what we can do in the years to come. Emily Brewer gave a PowerPoint presentation (copy attached) which included an update on affordable housing, proposed revisions to the Housing Trust Fund, and a new Housing Trust Fund Program Guidebook. The next step would be for Council to adopt the Housing Trust Fund Bylaws, which received a favorable recommendation from the Housing Committee at its February meeting. Mr. Daniel moved, seconded by Mr. Jones to approve the Housing Trust Fund Guidebook and Bylaws as presented. Attorney McKeller clarified that Council would only be voting on the bylaws, not the guidebook, which would be the purview of the Housing Committee. Mr. Daniel amended his motion to approve only the bylaws. Following discussion and comments, the amended motion to approve the Housing Trust Fund Bylaws carried unanimously.

ORDINANCE NO. 2023-13

AN ORDINANCE AMENDING THE CITY OF BREVARD HOUSING TRUST FUND

WHEREAS, the Brevard City Council created the Housing Trust Fund for the purposes of supporting the development of affordable housing within the City of Brevard on January 23, 2012 by adopting Ordinance 2012- 02; and

WHEREAS, the Housing Trust Fund Selection Committee has met since its formation to discuss the Housing Trust Fund and has identified a need to amend the existing Ordinance to better facilitate furthering the goals of the Housing Trust Fund; and

WHEREAS, City Council's adopted goals for the development of affordable and workforce housing within the City of Brevard are set forth within the *Building Brevard 2030* Comprehensive Land Use Plan; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. The City of Brevard Housing Trust Fund Ordinance (Ord. No. 2012-02) Exhibit A is hereby amended as set forth in the attached.

SECTION 02. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 03. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 20th day of March, 2023.

L-2. City Council Meeting Schedule Amendment to Add Budget Workshops

Mr. Hooper requested that Council amend its meeting schedule to add a budget workshop as either an all-day session or over a couple of evening sessions. He recommended amending the already scheduled April 3rd meeting from a regular meeting to a budget workshop and adding another session on the evening of April 4th from 5:30 to 9:00 p.m. Mr. Daniel moved, seconded by Ms. Dinkins to approve the meeting schedule amendment as recommended by the City Manager. The motion carried unanimously.

L-3. Committee and Board Appointments – Mr. Hooper reported that all committee vacancies were advertised through the end of February. The Finance, Human Resources and Citizen Appointment Committee has reviewed the applications received and made the following recommendations for appointment:

- Planning Board (Molly Jenkins)
- Public Safety Committee (Kevin Gallo)
- Housing Committee (Doug Harris)
- Transylvania Economic Alliance (Al Platt)
- Brevard Housing Authority (Rodney Locks and Jennifer Kerr)

The committee recommended extending the application period for the following committees:

- Public Works and Utilities Committee
- Finance, Human Resources and Citizen Appointment Committee
- Downtown Master Plan Committee
- Parks, Trails & Recreation Committee

Mr. Baker added that we have separated the policy committees and advisory committees with an eye towards how important it is to name those folks to the policy committees, which only have three voting members, two of whom are council members, so having that third voting member from the public is very important. Whereas the advisory committees have more members so a little bit of extra time to recruit members may not be a problem. With that in mind, he suggested that because the Public Works & Utilities Committee is a policy committee, he feels it is critical to have a third voice as soon as possible.

Mr. Baker moved, seconded by Ms. Dinkins to appoint the applicants listed in addition to William Carson to the Public Works & Utilities policy committee so we can have these policy committees working at full-strength. During discussion, Mr. Daniel said he was not in favor of the entire list and would like to see Victor Foster continue to serve on the Housing Committee. Mayor Copelof suggested that Mr. Baker modify his motion and that Council vote on each one separately.

Mr. Baker moved, seconded by Mr. Morrow to appoint Molly Jenkins to the Planning Board. Following discussion the motion carried unanimously.

Mr. Morrow moved, seconded by Mr. Daniel to appoint Kevin Gallo to the Public Safety Committee. The motion carried unanimously.

Mr. Morrow moved to appoint Doug Harris to the Housing Committee. The motion died for lack of a second. Mr. Daniel moved, seconded by Ms. Dinkins to appoint Victor Foster to the Housing Committee. Following discussion the motion carried unanimously.

Mr. Morrow moved, seconded by Ms. Dinkins to appoint Al Platt to the Transylvania Economic Alliance. The motion carried unanimously.

Ms. Dinkins moved, seconded by Mr. Morrow to reappoint Rodney Locks to the Brevard Housing Authority. The motion carried unanimously.

Mr. Daniel moved, seconded by Mr. Baker to appoint Jennifer Kerr for a partial term to the Brevard Housing Authority. The motion carried unanimously.

Mr. Baker moved, seconded by Mr. Daniel to appoint William Carson to the Public Works and Utilities Committee. Following discussion, vote on the motion was 3 in favor and 2 opposed (Morrow and Jones). The motion carried.

RESOLUTION NO. 2023-17
RESOLUTION APPOINTING MEMBERS TO POLICY COMMITTEES AND
STATUTORY COMMITTEES

WHEREAS, in Fall 2022 the City of Brevard City Council held a work retreat to reform its committee structure; and

WHEREAS, committees were designated into one of three categories: policy committees, statutory committees, and advisory committees; and

WHEREAS, the Council initiated a new system for making appointments that would apply to every body to which the Council makes an appointment; and

WHEREAS, the Finance and Human Resources Committee was renamed the Finance, Human Resources and Citizen Appointment Committee and charged with reviewing applicants for the various committees/advisory groups and making appointment recommendations to the full Council; and

WHEREAS, under the direction of the Finance, Human Resources and Citizen Appointment Committee, city staff conducted an open recruitment for citizens interested in serving on the various committees/advisory groups; and

WHEREAS, the applications received were reviewed by the Finance, Human Resources and Citizen Appointment Committee at their February 27, 2023 meeting; and

WHEREAS, the Council agreed to extend the recruitment period for committees/ advisory groups where no appointment was made.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

- 1) The Brevard City Council does hereby appoint Victor Foster to the Housing Committee, for a term to be effective immediately and expiring in December 2025; and
- 2) The Brevard City Council does hereby appoint Kevin Gallo to the Public Safety Committee, for a term to be effective immediately and expiring in December 2025; and
- 3) The Brevard City Council does hereby appoint William Carson to the Public Works and Utilities Committee, for a term to be effective immediately and expiring in December 2025; and
- 4) The Brevard City Council does hereby appoint Molly Jenkins to fill the vacant seat on the Brevard Planning Board, for a term to be effective immediately and expiring in September 2025; and
- 5) The Brevard City Council does hereby appoint Al Platt to fill Brevard's designated seat on the Transylvania Economic Alliance's Board of Directors, for a term to be effective immediately and expiring in 2026; and

- 6) The Brevard City Council does hereby reappoint Rodney Locks to the Brevard Housing Authority, for a term to be effective immediately and expiring in November 2027; and
- 7) The Brevard City Council does hereby appoint Jennifer Kerr to fill a vacant seat on the Brevard Housing Authority Board of Directors, for a term to be effective immediately and expiring in November 2023.

Adopted and approved this the 20th day of March, 2023.

M. Remarks/Future Agenda Considerations.

Mr. Baker provided an update on the Short Term Rental Task Force. He said there has been more attention as we draw closer to discussing actual policy and I am glad people are engaged. I want people to remember a couple of things: first, the state restricts a lot of what a city can do and there are a lot of policy prescriptions flying around out there that are easy to say no to because they are illegal and would put the city in legal jeopardy, including charging a fee, registration and a whole host of things the city cannot do. I would encourage people, if they are interested in this issue, to reach out and we can talk about it, or to study up on what we can actually do and what other cities are doing, as we have done. Secondly, this task force is a year and a half old and we have been doing a lot of work during those 18 months and studying the issue. We are coming close to the policy that I think this full Council is going to consider and I look forward to when that happens. There was some news in the last couple of weeks of the mill closing in Canton and I know a lot of people in Brevard probably had some pretty visceral reactions to that given what this community lived through 25 years ago. I was not here when it happened, but I think the ripples of that and the pain it has caused in Brevard and some of the things we're still dealing with are pretty easy to see. There is not much we can say or do for the people in Canton right now, but I hope they know we are thinking about them and that there are other communities that have dealt with something as traumatic as that. I would like to see us, if we haven't already, reach out to them in some official way to let them know that we are here to help however we can.

Mr. Daniel said as we are coming up to our budget workshop, I think Brevard is very lucky to be doing a lot of things; things that are fun, things that are meaningful, and things that are necessary for the ongoing health of our city, but these things all cost money and we are going to be making some hard decisions that will affect all of us that live here in this town. We appreciate your thoughts and any input you may have as well.

Mr. Morrow said I am excited about what the Year of the Trail is doing for the state and various communities are already having events and programs. It is another way to bring people together and recognize what a unique place we have in an outdoor world. Additionally, he said he would appreciate any follow up on the Senate bill which is bad news.

Ms. Dinkins said there has been public comment insinuating that the Short Term Rental Task Force was meeting in the middle of the day and that it was largely hidden from the public. I want to state on the record that we meet at 11:00 a.m. on the third Thursday of the month. We actually have public comment on the agenda and we welcome it. The reason we meet in the middle of the day is because we have nine members and that was the time that most of these people could commit to. It is great to have evening meetings, but we do have to make considerations for people that are appointed to boards and committees and make sure we can consistently have a quorum. The meetings are duly noticed and the agendas are published.

Mr. Jones said I want to thank all of the committees and staff for attention to detail and all their hard work, especially the Planning Department. I know you guys are overworked and I honestly don't know how you do what you do because you have so much on your plate and we are constantly giving you more stuff to look at while you are trying to do what your actual job is. We talked about our Comprehensive Land Use Plan and I would like to at some point have a little more discussion on the Heart of Brevard

MSD, see where we are on that. We were talking about if we were going to expand at all. Also following our Estatoe Trail, possibly looking at additional small area plans.

Attorney McKeller said that on Saturday he went to an event at the library for the Garden Club, followed by the Bread of Life's soup bowl, followed by the White Squirrel Artisans Market at the Lumberyard District and ended with the Film Festival at the College. I have been living here for 30 years and it just reminded me how blessed we are to live in this place and have all of these things to do and every one of those was a community activity with good people at every one of them.

Mr. Hooper said if his responsiveness is a little less than perfect this week, it is because Dean and I will be behind a closed door putting the information together for the budget workshops. I came up in this profession from a budgeting background and those are pretty important sessions for me so I will be devoting a lot of my time to that in the weeks to come.

Mayor Copelof said we really do have a lot of things going on in this town. I too had a full day on Saturday and started the day with the City Attorney, had two more events that day, but they were different than the ones he listed, and they too were community events that went on until 7:00 that night. Last week I went to the Main Street Conference with Main Street cities from all around the state and we are right up there with them. We compete with them with all of the events with how we're doing, not just with our Main Street, the Year of the Trail was part of the discussion there, and we are right up there with our small town, our 100-person staff. We are doing an incredible job and I have to commend the staff. Tonight we have two absolutely foundational and transformational documents that were approved. They will help transform the way we move forward with housing, with land, that's our Comprehensive Land Use Plan, and of course all of the modifications and expansion of opportunity that we put into the bylaws of our Housing Committee. Those are incredible and thank you to everybody who has been working on that. The City will be participating this coming Saturday in the Spelling Bee to try to raise money for the Augustine Literacy Project and I am happy to say that my expert spellers on the team with me are the City Manager, our Assistant City Manager/ Finance Director and our Communications Director. That is just another way that the City is participating in supporting the community. The next Meet the Mayor session is on Tuesday, March 28th from 10 a.m. to noon at the Mary C. Jenkins Community & Cultural Center. I will reiterate, please do come to the budget sessions and let us know what your priorities are, what your thoughts are and what is important to you because when we end up making these hard choices, we want it to be truly representative of what this community needs and wants.

N. Closed Session(s) – None.

O. Adjourn – There being no further business, at 8:17 p.m. Mr. Morrow moved, seconded by Ms. Dinkins, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: April 17, 2023



Proclamation No. 2023-05
Month of the Young Child &
Child Abuse Prevention Month

Whereas, the youth-serving agencies of Transylvania County come together to celebrate The Month of the Young Child during the month of April 2023 to focus public attention on the needs of young children and their families and to recognize the early childhood programs and services that meet those needs.

Whereas, children's cognitive, physical, social and emotional, and language and literacy development are built on a foundation of children's positive, safe, and nurturing interactions with adults, peers, and their environment.

Whereas, youth-serving agencies of Transylvania County are collaborating to establish a county-wide plan to prevent child abuse in our community and raise awareness about prevention measures.

Whereas, we work to improve opportunities for our children knowing they are vital to our state's future success, prosperity, and quality of life as well as being our most vulnerable assets;

Whereas, all children deserve to have the safe, stable, nurturing homes and communities they need to foster their healthy growth and development;

Whereas, child abuse and neglect is a community responsibility affecting both the current and future quality of life of a community;

Whereas, the youth-serving agencies of Transylvania County commit to investments that stabilize, sustain, and support child care and early learning so our community may continue to support children, families, and our economy through the ongoing pandemic crisis, recovery, and beyond.

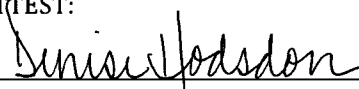
Whereas, communities that provide parents with the social support, knowledge of parenting and child development, and concrete resources they need to cope with stress and nurture their children ensure all children grow to their full potential;

Whereas, effective child abuse prevention strategies succeed because of partnerships created among citizens, human service agencies, schools, faith communities, health care providers, civic organizations, law enforcement agencies, and the business community;

Therefore, we proclaim April as The Month of the Young Child and Child Abuse Prevention Month and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders, and businesses to increase their participation in our efforts to support families, thereby supporting early childhood programs and preventing child abuse and strengthening the communities in which we live.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Brevard to be affixed on this 17th day of April, 2023.

ATTEST:


Denise Hodsdon, CMC
City Clerk




Maureen Copelof
Mayor



PROCLAMATION NO. 2023-06

HISTORIC PRESERVATION MONTH

WHEREAS, historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride, and maintaining community character while enhancing the livability of a community; and

WHEREAS, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life, and all ethnic backgrounds; and

WHEREAS, in the City of Brevard it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, the City of Brevard has two National Register Districts and 18 of 23 Locally Designated Local Landmarks for Transylvania County; and

WHEREAS, May has been celebrated as National Historic Preservation throughout the United States of America since 1973; and

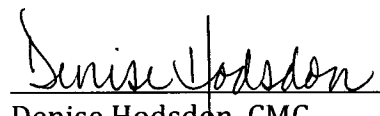
WHEREAS, This May there will be a host of events that have been prepared by local historical organizations and co-sponsored by Transylvania County Joint Historic Preservation Commission, whose mission is to help preserve the historic identity of the City of Brevard and Transylvania County;

NOW, THEREFORE, I, Mayor Maureen Copelof and the Brevard City Council do hereby proclaim and recognize the month of May 2023 as Historic Preservation Month.

Adopted and approved this the 17th day of April, 2023.


Maureen Copelof
Mayor

Attest:


Denise Hodsdon, CMC
City Clerk





Proclamation No. 2023-08

Sexual Assault Awareness Month April 2023

Whereas, nationally one in three women and one in four men will experience some form of sexual assault in their lifetime; and

Whereas, Sexual Assault Awareness Month draws attention to the fact that sexual violence is widespread and has implications for every community member; and

Whereas, there is compelling evidence that we can be successful in reducing sexual violence through prevention education, increased awareness, and holding perpetrators who commit acts of violence responsible for their actions; and

Whereas, we must work together to educate our community about what can be done to prevent sexual assault and how to support survivors; and

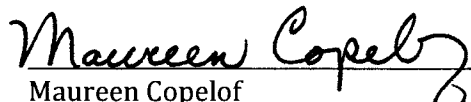
Whereas, anyone can be a leader in preventing and ending sexual violence. As employers, educators, parents, and friends, we all have an obligation to uphold the basic principle that every individual should be free from violence and fear; and

Whereas, sexual harassment, assault, and abuse can happen anywhere, including in online spaces. For too long harassment, cyberbullying, and sexual abuse and exploitation have come to be expected as typical and unavoidable behaviors online and

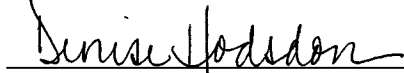
Whereas, the theme for **Sexual Assault Awareness Month** this year is “**Building Safe Online Spaces Together**,” we encourage every person to practice digital consent, intervene when we see harmful content and behaviors, and promote online communities that value respect, inclusion, and safety.

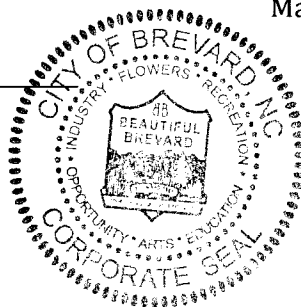
NOW, THEREFORE, IT IS PROCLAIMED by the Mayor and City Council of the City of Brevard, North Carolina, the month of April as **Sexual Assault Awareness Month** and urge the citizens of Brevard to work together to eliminate sexual assault from our community, to keep our community members safe from this crime and to stand with survivors and victims of sexual assault.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Brevard to be affixed on this 17th day of April, 2023.


Maureen Copelof
Mayor

ATTEST:


Denise Hodsdon, CMC
City Clerk





Proclamation No. 2023-07

ARBOR DAY

Brevard, North Carolina

WHEREAS, in 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas and beautify our community; and

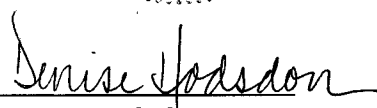
WHEREAS, this is the 44th year Brevard has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree planting ways.

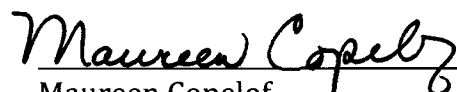
NOW, THEREFORE, I, Mayor Maureen Copelof and the Brevard City Council, do hereby proclaim **April 28, 2023**, as **Arbor Day in the City of Brevard** and we urge all citizens to support efforts to protect our trees and woodlands, to support our City's urban forestry program, and we urge all citizens to plant trees to promote the well being of our present and future.

Adopted and approved this the 17th day of April, 2023.



Attest:


Denise Hodsdon, CMC
City Clerk


Maureen Copelof
Mayor

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Heart of Brevard Activities Update and Budget Request

Speaker: Nicole Bentley, Heart of Brevard

Prepared by: Denise Hodsdon

Approved by: Wilson Hooper, City Manager

BACKGROUND

At the April 3-4, 2023 Budget Workshop, Council considered requests for funding from area non-profits. Heart of Brevard, with whom the City contracts to conduct downtown promotion, outreach, and development work within the municipal service district, requested \$20,000 more than it did in FY22/23.

City Council asked to hear a presentation from Heart of Brevard on their recent work supporting the Downtown Master Plan, and justifying their additional request for funds.

ACTION

No action requested. For information and discussion only. Council will be asked to approve/deny Heart of Brevard's funding request as part of the City's FY23/24 annual budget.

Attachments:

1. FY24 Heart of Brevard Funding Request

City of Brevard

Application for Funding

Funding Period: July 1, 2023 to June 30, 2024

PART I: AGENCY INFORMATION

Agency Name: Heart of Brevard

Director or Application Contact: Nicole Bentley

Address: 26 Times Arcade Alley

Telephone: 828-884-3278 Fax: N/A

Email: nicole@brevardnc.org

Legal Status: ☒ Private non-profit ☐ Community Association ☐ Other

(If other, please explain in the space below)

Agency 501 C-3 Number: _____ or Federal Tax ID Number: 561721004

Amount of City funds requested: \$50,000 for (check box below)

☐ Capital costs (construction or large specific purchase) 20K

☐ Operating costs \$30K

PART II: PROGRAM INFORMATION

- **Describe the overall public purpose your agency meets.** (If extra space is needed, please refer to item A)

Heart of Brevard (HOB) is an award-winning 501(c)(3) nonprofit founded in 1993 to manage one of the first Main Street® programs in the country. For almost 30 years, we have worked to revitalize the HOB district. Our work is guided by the proven Main Street Approach, a comprehensive framework described as the Four Points: Design, Promotion, Economic Vitality and Organization.

Our efforts reflect a wide variety of tactics including marketing, placemaking, business development, community partnerships,

events, and historic preservation, designed to propel downtown Brevard forward in a meaningful, lasting manner.

Our strategic and comprehensive approach has equipped us to respond effectively to the needs of our small business community, maintain quality of life and support the vitality of the HOB district. Heart of Brevard (HOB) has a professional staff and is guided by a board of directors made up of downtown business owners and civic leaders. It is funded by a balanced mix of public and private investment and is a program of the nonprofit National Main Street Center, a subsidiary of the National Trust for Historic Preservation.

HOB provides façade grants, grants for building improvements and historic preservation as well as assistance to existing and prospective property/business owners to pursue grants and tax credits. It is important for HOB to balance the emphasis on events with involvement in other important areas of downtown and economic development. We've distributed \$67K in grant awards to 29 downtown businesses for beautification projects and façade improvements in the district over the past two years.

Our belief in our community and shared strength of response created a model of resilience for our business community. Notably, we saw \$13M in public and private investment in the Heart of Brevard district with 24 new businesses opening last year and creating 82 net new jobs. We have over 125 business ambassadors proudly asking the community to "Think Local" through our support local program. We adapted our event lineup to provide safe, festive community celebrations and introduced new holiday events and lighting that received an overwhelmingly positive response from residents of Brevard, Transylvania County and visitors. We will continue to be a resource for businesses downtown and encourage business investment and redevelopment through our grant programs, historic preservation, advocacy, and promotion.

Heart of Brevard serves as the voice of downtown by communicating concerns, advocating for policies, maintaining relationships with city and county officials and staff, and addressing important social issues. We are committed to the preservation and improvement of the central business district through programming, civic support and annual objectives. Representing downtown merchants, workers and residents, we advocate for practices that encourage smart growth and preserve the quality of life in downtown.

Over the past three years we have shifted our priorities to supporting the evolving needs of businesses. Our strategic and comprehensive approach to problem solving allowed us to respond effectively to the needs of our small businesses, maintaining quality

of life and ultimately supporting the vitality of the Heart of Brevard district. Our Board and Committees meet annually to identify goals and set priorities to improve the business climate and overall vitality in the HOB district. The attached documents seek to outline those plans and include information on special projects and initiatives while highlighting the financial and staff resources required for annual events, operations, and additional business support.

Mission Statement: Heart of Brevard is creating a gathering place for the community, strengthening the economic vitality of the downtown Brevard district and preserving and sustaining our rich heritage.

Vision Statement: Historic Downtown Brevard, cradled by the Pisgah National Forest, is the safe, walkable center of our community. Lined with diverse independent businesses, downtown serves as the crossroads to exceptional outdoor recreation and is a thriving hub for the arts.

- Provide the following information about your clients based on your most recent date. Information current as of (date): March 2023

RESIDENCE OF CLIENTS SERVED

City of Brevard: 7,712

Transylvania County: 32,979

TOTAL: 32,979

- Provide a name and address listing of your agency's Board of Directors with their dates of appointment and length of term to be served as ATTACHMENT 1.
- Identify specifically what you seek to accomplish with the requested funds and how this will help you achieve your organizations goals. (If extra space is needed, please refer to item D)

In addition to following the Main Street model, HOB hosts events signature events and programs annually, including White Squirrel Weekend, Art is in the Air, Halloweenfest, Downtown Holiday Windows Competition, Light Up the Night, the official

Tree Lighting Ceremony, Downtown Clean Up Day and Support from the City of Brevard integral to the continued success of our events. Each year we are faced with rising costs to produce quality free community events while balancing our program of work with two staff members and managing volunteers. We are well known for our free, community events, however the scope of HOB reaches much farther and has historically been instrumental in supporting the downtown business economy. It is important that HOB to be a resource for businesses downtown and to encourage business investment and development. HOB provides façade grants, grants for building improvements and historic preservation as well as assistance to existing and prospective property/business owners to pursue grants and tax credits. It is important for HOB to balance the emphasis on events with involvement in other important areas of downtown and economic development.

In addition to operational support, we are seeking additional funding to help us with the following projects:

**1) Downtown Construction Support and Marketing
\$30K estimated cost for design, production and
implementation.**

The Heart of Brevard wants downtown business owners to know that we understand your concerns and worries as the upcoming downtown infrastructure project approaches. Our organization has proactively designed a strategy to encourage visitors and locals to continue visiting our vibrant downtown during this unusual but ultimately exciting time. These measures include one-on-one meetings with you, your staff, and ancillary vendors. Additionally, Heart of Brevard is committed to the following:

- For business owners who worry about the financial effects of the Brevard's Downtown Master Plan project, Heart of Brevard provides proactive leadership to drive locals and visitors downtown to support the local economy.
- Creating marketing initiatives that educate downtown visitors and locals of the project phases, timeline and how to continue to shop/visit the Heart of Brevard
- Provide marketing assets to Heart of Brevard businesses to help spread the word and inform locals and visitors about how this infrastructure project will ultimately benefit the Heart of Brevard area and create more opportunities for our area businesses.
- Develop business partnerships to help them with any issues that arise due to the infrastructure project disruption.
- Encourage locals to continue shopping in our Heart of Brevard businesses with marketing content, programs, and support.

2)Holiday Decorations and Lights Install \$30-50K

- New pole banners for 57 poles in the downtown district (multiyear use) to replace the 25+ year old banners that are in current rotation.
- For years HOB has coordinated and supported the hanging of the white lights that wrap the trees along Main Street and Broad Street. Our partner approached us to share the real cost of wrapping and unwrapping the trees and has asked for a significant financial contribution to cover their staff time at a minimum. Decorations in downtown are cherished by locals and visitors to the area and a tradition that we would like to maintain, but we cannot do so without additional support from our partners. This cost reflects fewer trees.
- DUKE coordination to install power on wooden poles on West Jordan Street/Gaston Street. The City of Brevard is currently using half of the star flakes that we purchased in 2021 because we have over 15 poles with no electrical outlet. We've been working with DUKE to get estimates to install power and the fees associated. This would be an easy way to add to the holiday ambiance of the district, particularly side streets that do have great foot traffic. During the holidays, retailers make anywhere from 20% - 40% of their entire yearly income. A successful holiday season lays the groundwork for the rest of the year and a bad season can set a very dark tone.

3)Downtown Employee Parking Program \$10k

- Describe the impact your organization has on the quality of life for the citizens of the City of Brevard and local Transylvania County residents. (If extra space is needed, please refer to item E)

Our focus is to maintain a vital downtown and we do this with event planning, increasing awareness for the arts, managing urban design programs, and contributing significantly to the Downtown Master Plan.

Downtown is the economic center of our town. Downtown is an

employment center. Downtown is the gathering place for our community. Downtown is a destination for visitors. For generations Brevard has been a highly desirable place to live and recreate for its commitment to supporting quality of life, prioritizing wellness and outdoor amenities. Brevard is home to diverse groups of full-time and part-time residents, including multigenerational natives, long-time transplants, new residents, young families, and retirees. Heart of Brevard supports optimizing the built environment to ensure downtown is a desirable place to live and work. With annual events and festivals, Heart of Brevard showcases downtown as a family-friendly destination year-round. Brevard's restaurants, shops, and galleries are enjoyed by locals and visitors alike, as well as those who work and live downtown.

Heart of Brevard supports local-centric efforts and preserves our small-town experience through retention, expansion and recruitment of local, independent businesses. Heart of Brevard is dedicated to welcoming diverse business owners and fostering connections within the business community.

An integral part of the City's downtown revitalization plan is enhancing the physical appearance of Downtown, so it is a vibrant, attractive and safe place to do business, live and visit. The Downtown Master Plan Committee and Heart of Brevard Design Committee merged in 2017 in an effort to implement the Downtown Master Plan (2012). Heart of Brevard works to improve downtown through grants, beautification programs and initiatives to enhance the physical appearance of downtown for all visitors to our historic downtown.

During the construction period, we want businesses to thrive and for locals and visitors to feel comfortable and excited about coming downtown.

Outside of the construction period, we want locals to embrace and celebrate their beloved downtown area and shop local to support their hometown businesses. For visitors, Brevard is a quaint downtown area full of shops, restaurants, and galleries that provide a Neighborhood Streets atmosphere to enjoy. Additionally, for both locals and visitors, events produced by Heart of Brevard provide a welcoming atmosphere for all to enjoy the scenic area and artistic expression through music, art, and makers.

For the local business owner and staff, we want them to rely on Heart of Brevard to be their most avid advocate and supporter. We want them to fully understand the diverse services available to them and be collaborative with Heart of Brevard on promoting the downtown district.

For shop owners operating in the downtown district, the

consistent promotional efforts to encourage customers to come shop, dine, and engage with their business is of the utmost importance. When revenue dollars decrease, they will engage with Heart of Brevard to help boost promotional efforts - whether that is because of construction efforts, recessions, or just low traffic.

Additionally, when downtown Brevard businesses need advocacy or economic support, they will reach out to resources they can depend on like Heart of Brevard to help them through low revenue months, building maintenance issues, or overall customer traffic concerns.

We value local community, regional character, and downtown revitalization.

We are forward-thinking and a catalyst for downtown Brevard development.

We embrace inclusivity and prioritize a friendly, diverse, and welcoming community.

We are authentic to our surroundings and treasure Brevard's downtown district as unique and culturally vibrant.

PART III: FINANCIAL INFORMATION

- **List your agency's principal sources of funding including corresponding percentages of Budget:**

Funding Source	Amount	% of Annual Budget
Grant Monies	40,000	13.4
HOB MSD Funds	165,000	57
Other Sources (please specify below)	63,000	21.6
Sponsorships		
Vendor Fees		
Application Fees		
Friends of Events		

- **Provide the following budget expense information in percentages for the current year:**

Notes: Staff salaries include payroll, dental/vision insurance (NO HEALTH INSURANCE)
Budget reflects higher personnel as that covers any contract staff (graphic design, service providers, entertainment and other 1099 employees)

SALARIES and FRINGE BENEFITS 41% of Annual Budget
OPERATING EXPENSES 97.8% of Annual Budget

- Include a copy of your agency's budget for the current year as ATTACHMENT 2.
- Include a copy of your agency's most recent independent audit report as ATTACHMENT 3.

PART IV. CERTIFICATION

As the chief executive officer of this agency, or his/her designee, I certify that the above information is true and complete to the best of my knowledge and belief; I further agree that any funds received in response to this grant application will be used for the purposes for which they were requested and that the done organization will comply with the procedures and requirements set forth in this application. *I further agree that any donated funds not used for their specified purpose must be returned to the City of Brevard, NC.*



Signature of Executive

3/17/23
Date

Return completed application and all attachments to:

City of Brevard
ATTN: Finance Director
95 West Main Street
Brevard, NC 28712

CHECKLIST:

Application and attachments must be received by _____.

Completed Application

Attachment 1 – List of Board Members: Include addresses, dates of appointment and length of term to be served

Attachment 2 – Current Budget

Attachment 3 – Most Recent independent audit

Date Received: _____

Date Reviewed: _____

Date of Approval: _____

Steven R. Harrell, Interim City Manager

Date

City of Brevard Policy on Funding for Non-Profit Agencies

Purpose:

Local Non-Profit Agencies who carry out a public purpose may apply to the City of Brevard for funding assistance. Decisions on funding lie within the discretion of the Board of Aldermen and within funds available.

Eligibility:

Agencies applying for funding shall be tax exempt 501(c)(3) organizations and must have been in operation for at least two (2) years prior to the request for the assistance. The organization must submit a completed application request for funding with supporting information as requested. Funds shall only be appropriated for public purposes.

Heart of Brevard
Proposed Budget 22/23

	PROPOSED Annual Budget 22/23	Annual Budget 21/22	YTD Actual 21/22	Notes
Income				
Operating Fund	100	100	396.38	
Private Investment	123,000	81,175.00	122,762.04	HOB Sales and Sponsorship
Public Investment	175,000	168,000	163,491.96	City Grant (\$19K), TCT Grant (\$7K) + MSD TAX (\$149K)
Total Income	298,100	249,275	286,650.68	
Gross Profit	298,100	249,275	286,650.68	
Expenses				
Meetings	3,500	3020	2,987.90	Slight increase for volunteers and annual meeting
Operating Costs	22,050	20,240	20,503.00	Accounts for increase in general liability insurance
Personnel Costs	142,380	126,449.00	119,777.00	Includes WAGES/TAXES/COMP for 2 FT Staff, Event Contract Labor and nonevent contract labor
Professional Services	15,890	13,400	15,801.71	based on 21/22 actuals
Programming Costs	97,325.00	83,825.00	91,888.08	higher estimate do to unknown rates for services in 2023
Reimbursements	10,350	8750	4,778.73	includes cell phone stipend, vision/dental and mileage
Total Expenses	291,495	249,275	269,146.76	
Net Operating Income	6,605			
Net Income	6,605		28,503.88	

Heart of Brevard

Budget vs. Actuals: MSD Tax Profit and Loss

July 2022 - February 2023

	Total			
	Actual	Budget	Over Budget	% of Budget
Income				
TAX COLLECTED				
MSD Tax	121,651.53	109,000.00	12,651.53	111.61%
Total TAX COLLECTED	\$ 121,651.53	\$ 109,000.00	\$ 12,651.53	111.61%
Gross Profit				
Expenses	\$ 121,651.53	\$ 109,000.00	\$ 12,651.53	111.61%
OPERATING COSTS				
RENT				
Facilities	4,200.00	4,800.00	-600.00	87.50%
Storage Bldg	1,260.00	1,080.00	180.00	116.67%
Total RENT	\$ 5,460.00	\$ 5,880.00	\$ -420.00	92.86%
SUPPLIES				
Computer Software	1,154.24	840.00	314.24	137.41%
Total SUPPLIES & EQUIPMENT	\$ 1,154.24	\$ 840.00	\$ 314.24	137.41%
Total OPERATING COSTS	\$ 6,614.24	\$ 6,720.00	\$ -105.76	98.43%
PERSONNEL COSTS				
PAYROLL EXPENSES				
Wages	84,931.83	92,000.00	-7,068.17	92.32%
Taxes	6,388.82	5,520.00	868.82	115.74%
Total PAYROLL EXPENSES	\$ 91,320.65	\$ 97,520.00	\$ -6,199.35	93.64%
Net Income	\$ 30,330.88	\$ 11,480.00	\$ 18,850.88	264.21%

Heart of Brevard February 2023

Totals						
	February 2023 Actual	February 2022 Actual	YTD Actual 22/23	YTD Budget 22/23	Annual Budget 22/23	YTD Actual vs YTD Budget
Income						
OPERATING FUND INCOME	24.86	3.54	1,041.08	66.68	100.00	974.40
PRIVATE INVESTMENT	3,885.00	5,615.00	70,093.69	61,420.00	125,175.00	8,673.69
PUBLIC INVESTMENT	1,083.23	0.00	131,033.35	125,500.00	175,000.00	5,533.35
Total Income	\$ 4,993.09	\$ 5,618.54	\$ 202,168.12	\$ 186,986.68	\$ 300,275.00	\$ 15,181.44
Gross Profit	\$ 4,993.09	\$ 5,618.54	\$ 202,168.12	\$ 186,986.68	\$ 300,275.00	\$ 15,181.44
Expenses						
MEETINGS	1,000.00	172.26	3,282.77	4,110.00	4,770.00	-827.23
OPERATING COSTS	1,493.88	1,760.97	16,072.81	15,150.00	22,950.00	922.81
PERSONNEL COSTS	10,149.62	8,894.24	93,820.65	100,720.00	148,490.00	-6,899.35
PROFESSIONAL SERVICES	1,849.35	409.17	11,215.13	12,510.00	16,390.00	-1,294.87
PROGRAMMING COSTS	5,150.27	831.06	39,010.57	41,631.68	97,375.00	-2,621.11
REIMBURSEMENTS	323.06	323.06	2,746.01	7,075.00	10,300.00	-4,328.99
Total Expenses	\$ 19,966.18	\$ 12,390.76	\$ 166,147.94	\$ 181,196.68	\$ 300,275.00	\$ 15,048.74
Net Operating Income	\$ 14,973.09	\$ 6,772.22	\$ 36,020.18	\$ 5,790.00	\$ 0.00	\$ 30,230.18
Other Expenses						
Reconciliation Discrepancies	0.01	-0.03	0.09			
Ask for Clarification	0.00	0.00	0.00	0.00	0.00	0.00
Total Other Expenses	\$ 0.01	\$ 0.03	\$ 0.09	\$ 0.00	\$ 0.00	\$ 0.00
Net Other Income	\$ 0.01	\$ 0.03	\$ 0.09	\$ 0.00	\$ 0.00	\$ 0.00
Net Income	\$ 14,973.10	\$ 6,772.19	\$ 36,020.09	\$ 5,790.00	\$ 0.00	\$ 30,230.18





NC MAIN STREET

Designated Community

First	Last	Month Elected	Year Appointed	Term Expires		Office Held if applicable	Note area represented such as Business owner, property owner, downtown resident, citizen of community	Email	Phone #
				per Bylaws/ Appointment	Term Limit				
Lucy	Clark	April	2020	2023	2026	Vice President	Business owner	lucy@lucyclarkgallery.com	828-577-2719
Curtis	Greenwood	February	2021	2024	2027		Business manager	curtis@platt.us	828-630-9487
Brittany	Marcum Cohn	July	2018	2024	2024		Business manager	brittany_marcum@ucbi.com	828-553-6919
Keavy	McAbee	March	2018	2023	2026	President	Business owner	kemcabee@gmail.com	720-393-0891
John	Nichols	January	2019	2022	2025		Business owner/Property owner	jnichols@thenicholscompany.com	704-578-4115
Billy	Parrish		2020	2023	2026	Past President	Downtown resident	parrishbp@gmail.com	770-262-1646
Maureen	Copelof	December	2021	2024	N/A	City Representative	City mayor, 2021-2025	maureen.copelof@cityofbrevard.com	828-885-5600
Emrie	Carlton Jackson	April	2022	2025	2028		Business owner	contact@levittorybrevard.com	828-577-0905
Adam	Perkins	April	2022	2025	2028	Vice President	Business owners	ahperks24@gmail.com	828-553-1905
Taylor	Singer	August	2022	2025	2028		Downtown resident	tallier@bluetidgenyc.com	706-768-3642
Carol	Clay	August	2022	2025	2028		Downtown employee	ncchayteam@gmail.com	828-551-6290
Jessica	Whitmire	August	2022	2025	2028	County	Business owner	jessica@headwatersoutfitters.com	828-577-8747
Nory	Lebrun	February	2023	2026	2029	Chamber	Resident	nory@mindspring.com	

Dean Luebbe

From: Nicole Bentley <nicole@brevardnc.org>
Sent: Tuesday, March 21, 2023 9:12 AM
To: Dean Luebbe
Subject: HOB City Funding Request
Attachments: Board Roster 2023 (1).pdf; HOB Feb 2023 (2) (1).pdf; HOB MSD Tax P&L thru Feb 2023 (1) (1).pdf; 2023 City Funding Request.pdf; Budget FY21_22.pdf

Hi Dean,

Attached are all the things. Please let me know if you have any questions.
Let me know if you have questions.

-jnb

J. Nicole Bentley
Executive Director

Heart of Brevard
26 Times Arcade
Brevard, NC 28712
office: 828-884-3278
mobile: 828-606-6198
brevardnc.org



As a Main Street America™ Accredited program, Heart of Brevard, is a recognized leading program among the national network of more than 1,200 neighborhoods and communities who share both a commitment to creating high-quality places and to building stronger communities through preservation-based economic development. All Main Street America™ Accredited programs meet a set of National Accreditation Standards of Performance as outlined by Main Street America.

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Ordinance - Voluntary Contiguous Annexation - Nielsen, 31 York Circle

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by:

Background

On January 24, 2023, David and Catherine Nielsen (“Applicant”) submitted a request for voluntary continuous annexation for their property at 31 York Circle. The subject property is located off of Osborne Road and is identified by PIN 8596-26-2338-000. See Attachment 1 for the petition materials, Attachment 2 for the preliminary annexation plat submitted, and Attachment 3 for a site map.

This request was presented to Council as part of its February 20, 2023 meeting package, and again on March 20, 2023 where Council set April 17, 2023 as the date for the statutorily required Public Hearing.

Discussion

The subject property is located within the City’s Extra-Territorial Jurisdiction (ETJ) adjacent to the corporate limits and is zoned General Residential – 8 (GR8). The Applicant wishes to annex the entirety of the property. The financial and service delivery impacts are estimated to be minimal; see Attachment 4 for full financial impact details.

There are currently two structures on the property, one historic cabin built in 1905, approximately 600 square feet in size, and a larger barn/woodworking shop space. The Applicant has indicated their intention to build a new primary single-family house and convert the cabin to an accessory dwelling unit (ADU). Per Brevard’s Unified Development Ordinance, properties in General Residential are limited to one principal structure (i.e., the single-family home) and up to two accessory structures, one of which may be an accessory dwelling unit, thus the Applicant’s stated plans for the property are allowed by the UDO.

The existing cabin structure is already connected to City water, upon annexation it is assumed it will also be connected to City sewer. Additionally, the new principal house will require new connections as well. The cost of determining the appropriate connection method and physical connections will be borne by the property owner.

Policy Analysis

Voluntary, contiguous annexations are governed by North Carolina General Statute §160A-31 which authorizes cities to annex any area contiguous to its borders on receipt of a petition signed by all the owners of real property within the area proposed for annexation. The subject property qualifies for annexation under this statute.

Recommendation

Staff recommends approval of the proposed annexation. The Planning Board discussed this request at their March 28, 2023 meeting and unanimously recommended approval.

Action

No action is requested at this time. For information and public hearing only. Staff requests that Council take one of the following actions at the next regular meeting:

1. Adopt the amendments as written;
2. Revise and adopt the amendments as revised;
3. Reject the amendments; or
4. Table the amendments for further public hearings and/or consideration.

Fiscal Impact

See Attachment 4.

Attachments:

1. Petition Materials
2. Preliminary Plat
3. Site Map
4. Financial Impact Assessment



STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA
CITY OF BREVARD



PETITION REQUESTING A CONTIGUOUS
ANNEXATION
(G.S. 160A-31)

Date: 1-24-2023

To the City Council of the City of Brevard:

1. We the undersigned owners of real property respectfully request that the area described in paragraph 2 below be annexed to the City of Brevard.
2. The area to be annexed is contiguous to the City of Brevard and the boundaries of such territory are as follows:

Transylvania County Property Identification Number(s): 8596-26-2338-000

Street Address: 31 York Circle Brevard, NC 28712

**(ATTACH A METES AND BOUNDS PROPERTY
DESCRIPTION AS "ATTACHMENT A")**

3. A map is attached showing the area proposed for annexation in relation to the primary corporate limits of the City of Brevard. (ATTACH MAP AS "ATTACHMENT B", including the Tax Map PIN)
4. We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate below and attach proof.)

Property Owner(s): Do you declare vested rights? Yes ☐ No ☒
(Vested rights are rights belonging completely and unconditionally to a person which cannot be impaired or taken away by another party.)

Property Owners Contact Information (If there are more than three property owners, provide their names, contact information and signatures upon a separate and attached sheet.)

a. Name Catherine Nielsen
 Address 31 York Circle Brevard, NC 28712
 Telephone 828 289 6831 Email catalexandernielsen@gmail.com
 Signature Catherine Nielsen

b. Name David Nielsen
 Address 31 York Circle Brevard, NC 28712
 Telephone 828 755 5701 Email nielsen/c223@gmail.com
 Signature David Nielsen

c. Name _____
 Address _____
 Telephone _____ Email _____
 Signature _____

Property Ownership by Corporation or LLC: (If there are more than three principals or managing members then provide their names, contact information and signatures upon a separate and attached sheet.)

a. Name _____
 Address _____
 Telephone _____ Email _____

By: _____
 Type or Print Name and Title (President / Managing Member)

Signature _____

b. Name _____
 Address _____

Telephone _____ Email _____

By: _____
 Type or Print Name and Title (President / Managing Member)

Signature _____

c. Name _____
 Address _____

Telephone _____ Email _____

By: _____
 Type or Print Name and Title (President / Managing Member)

Signature _____

AGENT:

Name: _____

Address: _____

Telephone: _____ Email _____

Petition along with a copy of the property Deed, Metes and Bounds description (Attachment A), Map / Survey (Attachment B) and cash/credit or check in the amount of \$500 made payable to the City of Brevard is to be returned to:

Denise Hodsdon, City Clerk
 City of Brevard
 95 West Main St., Brevard, NC 28712

2021007887TRANSYLVANIA COUNTY NC FEE \$26.00
STATE OF NC REAL ESTATE EXT**\$400.00**

PRESENTED & RECORDED

10/18/2021 02:18:42 PM

CINDY M OWNBEY

REGISTER OF DEEDS

BY: KARIN SMITH

DEPUTY REGISTER OF DEEDS

BK: DOC 1006**PG: 499 - 506****NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$400.00

Return after recording to: Edmonds & Matthews, PLLC

Brief description for the Index: Lot 2-A, Osborne Road

This Deed was prepared by: Donald E. Jordan, Attorney at Law

This property does not include the primary residence of Grantor

This DEED is made this 5th day of October, 2021, by and between:

GRANTOR: **JAMES H. WOLFE, individually and as Executor of the Estate of Carolyn Osborne Howie, Transylvania 21-E-16**
joined by his wife, Ellen Wolfe;
ELIZABETH H. ALEXANDER (the same as Barbara H. Alexander),
joined by her husband, Donald Max Alexander;
MARTHA JEANNE HOWIE, unmarried;
REBECCA H. BEARD, unmarried (the same as Rebecca Howie Beard);
PARKS HUNTER HOWIE, JR. (the same as Parks H. Howie, Jr.),
joined by his wife, Robin Howie; and
TRACY FRANCES HOWIE, unmarried (middle name Francis in Will)

Grantor's Address: 17 Tiverton Lane, Asheville, NC 28803

GRANTEE: **CATHERINE ALEXANDER NIELSEN and**
DAVID C. NIELSEN,
Wife and Husband

Grantee's Address: 31 York Circle, Brevard, NC 28712

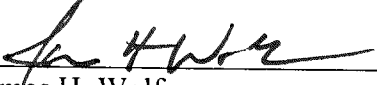
The designation Grantor and Grantee in this Deed shall include the parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

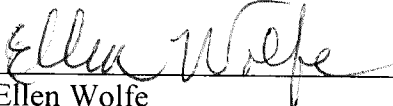
The Grantor, for a valuable consideration paid by the Grantee (the receipt of which is acknowledged) grants, bargains, sells and conveys to the Grantee in fee simple, all of the lot or parcel of land located in Brevard Township, North Carolina, and as is described in the attached Exhibit A. This is a portion of the same property described in the Deed recorded in Document Book 169, Page 531, Transylvania County Registry. This conveyance is made subject to real property taxes for the current year.

THIS CONVEYANCE IS MADE FOR THE GRANTEE TO HAVE AND TO HOLD the Property and all privileges and appurtenances belonging to the Property in fee simple.

The Grantor covenants with the Grantee that Grantor is seized of the Property in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons, subject only to the stated exceptions.

Grantor is signing this Deed as of the date specified above.


James H. Wolfe
Individually and as Executor


Ellen Wolfe

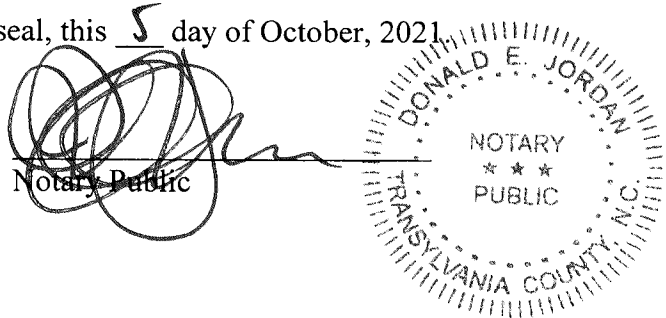
(See attached signature pages for additional Grantors)

STATE OF NORTH CAROLINA
COUNTY OF Transylvania

I, Donald E. Jordan, a Notary Public of the specified County and State, certify that James H. Wolfe personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 5 day of October, 2021.

My commission expires: Aug 30, 2024

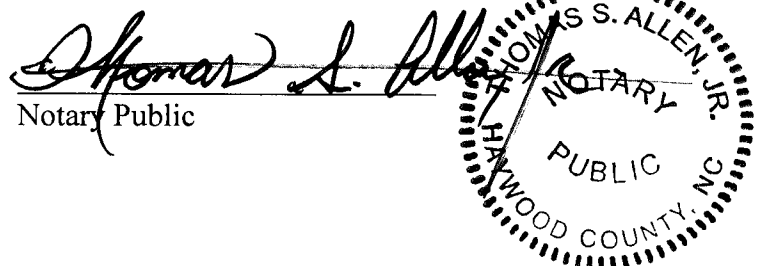


STATE OF NORTH CAROLINA
COUNTY OF Buncombe

Thomas S. Allen, Jr., a Notary Public of the specified County and State, certify that Ellen Wolfe personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 5th day of October, 2021.

My commission expires: 05/21/25



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

Tracy F Howie
Tracy Frances Howie

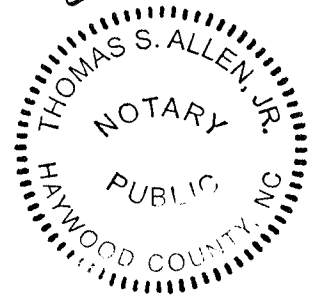
North
STATE OF SOUTH CAROLINA
COUNTY OF Galveston

I, Thomas S. Allen Jr., a Notary Public of the specified County and State, certify that Tracy Frances Howie personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025

Thomas S. Allen, Jr.
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

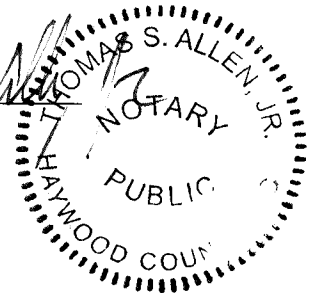
Rebecca H. Beard
Rebecca H. Beard

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

I, Thomas S. Allen Jr. a Notary Public of the specified County and State, certify that Rebecca H. Beard personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025 - Thomas S. Allen Jr.
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

Parks Hunter Howie, Jr.
Parks Hunter Howie, Jr.

Robin Howie
Robin Howie

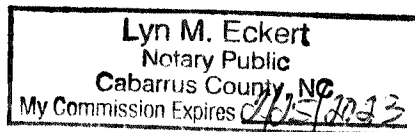
STATE OF NORTH CAROLINA
COUNTY OF Cabarrus

I, Lyn M Eckert, a Notary Public of the specified County and State, certify that Parks Hunter Howie, Jr. and Robin Howie personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 5th day of October, 2021.

My commission expires: 2/25/2023

Lyn M Eckert
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

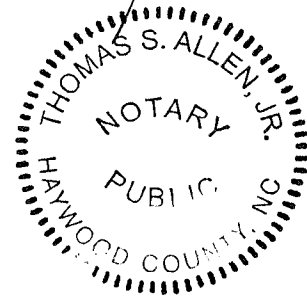
Martha Jeanne Howie
Martha Jeanne Howie

STATE OF NORTH CAROLINA
COUNTY OF Cabarrus

Thomas S. Allen Jr. a Notary Public of the specified County and State, certify that Martha Jeanne Howie personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025 Thomas S. Allen Jr.
Notary Public



SIGNATURE PAGE TO DEED - HOWIE ESTATE DEVISEES

Signed as of October 5, 2021:

Elizabeth H. Alexander
Elizabeth H. Alexander

Donald Max Alexander
Donald Max Alexander

STATE OF NORTH CAROLINA
COUNTY OF Buncombe

I, Thomas S. Allen, Jr. a Notary Public of the specified County and State, certify that Elizabeth H. Alexander and Donald Max Alexander personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my signature and official stamp or seal, this 6th day of October, 2021.

My commission expires: 05/21/2025 Thomas S. Allen, Jr.
Notary Public

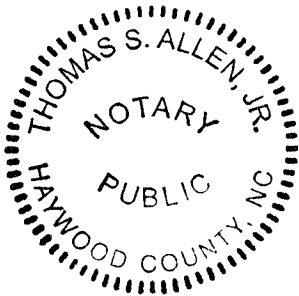
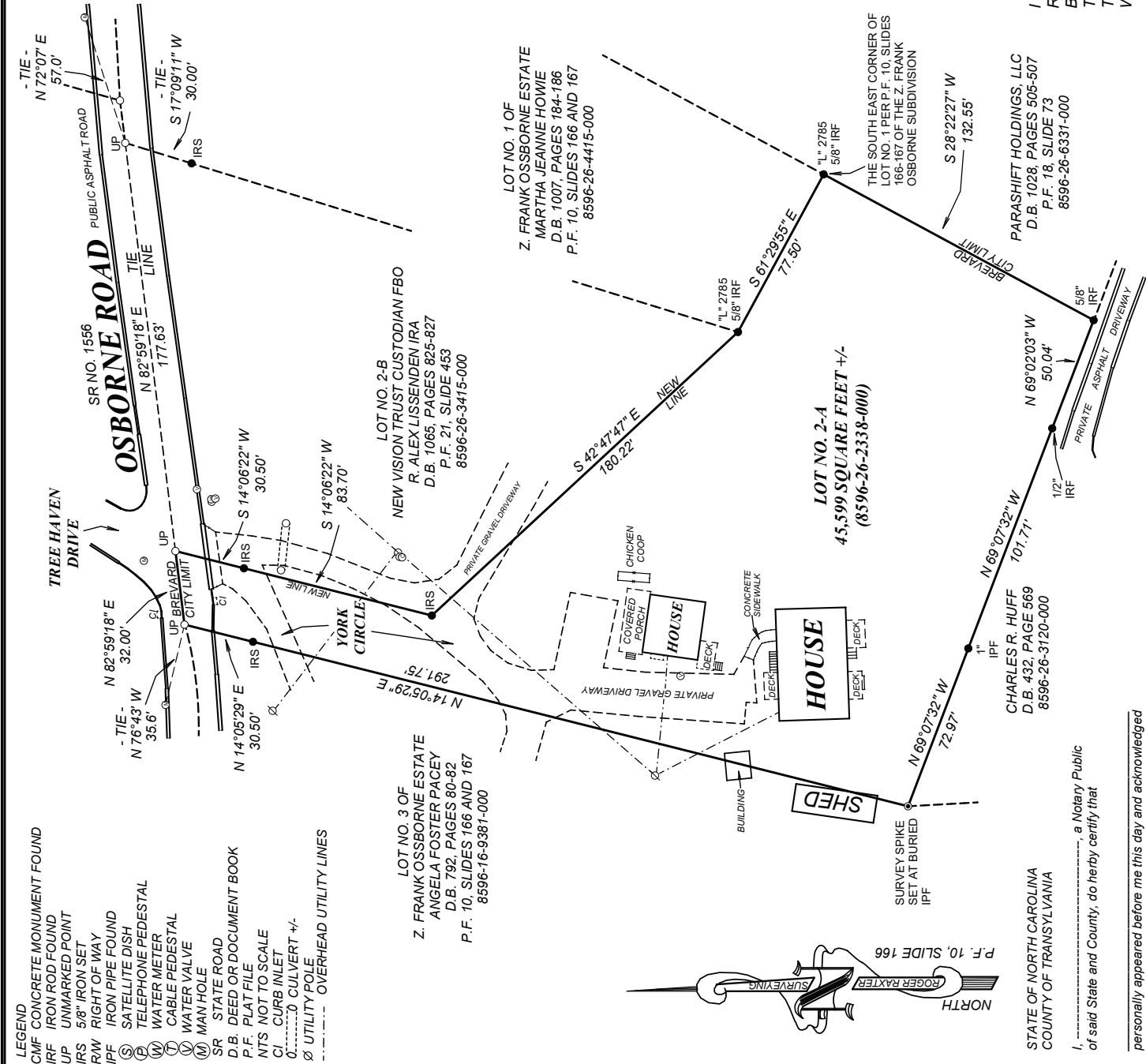


EXHIBIT A - LEGAL DESCRIPTION

All of Lot 2-A, containing 45,599 square feet, as shown on the plat of a survey dated August 18, 2021, prepared by E. Roger Raxter, PLS, for Carolyn Osborne Howie and Parks Hunter Howie, recorded in Plat File 21, Slide 453, Records of Plats for Transylvania County, in the office of the Register of Deeds, Transylvania County, North Carolina.

This conveyance is made together with a right to use the shared driveway shown on the referenced Plat located partially on the adjoining Lot 2-B, and this conveyance is also subject to the rights of owners adjoining on both sides of Lot 2-A for the joint use of the driveways shown on the Plat.



- LEGEND
- CMF CONCRETE MONUMENT FOUND
 - IRF IRON ROD FOUND
 - UP UNMARKED POINT
 - IRS 5/8" IRON SET
 - R/W RIGHT OF WAY
 - IPF IRON PIPE FOUND
 - Ⓢ SATELLITE DISH
 - Ⓟ TELEPHONE PEDESTAL
 - Ⓜ WATER METER
 - Ⓢ CABLE PEDESTAL
 - Ⓢ WATER VALVE
 - Ⓜ MAN HOLE
 - SR STATE ROAD
 - D.B. DEED OR DOCUMENT BOOK
 - P.F. PLAT FILE
 - NTS NOT TO SCALE
 - CI CURB INLET
 - Ø CULVERT 4'-
 - Ø UTILITY POLE
 - OVERHEAD UTILITY LINES

ANNEXATION PLAT-ORDINANCE NO. _____

OF PROPERTY OWNED BY :

CATHERINE ALEXANDER NIELSEN
and husband, DAVID C. NIELSEN

PROPERTY LOCATED IN :
CITY OF BREVARD
BREVARD TOWNSHIP
TRANSYLVANIA COUNTY
NORTH CAROLINA

BEING ALL OF LOT NO. 2-A OF THE HOWIE SURVEY
AS DESCRIBED AND RECORDED IN P.F. 21, SLIDE
453 AND D.B. 1006, PAGES 499-506, OF THE
TRANSYLVANIA COUNTY REGISTRY.

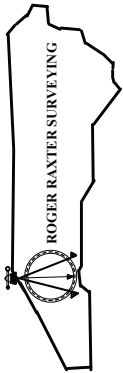
DEED REFERENCE : D.B. 1006, PAGES 499-506.

PLAT REFERENCE : P.F. 21, SLIDE 453.

DATE : JANUARY 13, 2023.

NOTES

- 1) This property is located in Zone X, areas determined to be outside the 500-year floodplain per F.I.R.M. of this area dated October 02, 2009.
- 2) This property is subject to matters found by a title examination and also subject to all restrictions, setback lines, roadways, zoning ordinances and right of ways appearing on this property and/or of record.
- 3) Area computed by coordinate method, including all right of ways.
- 4) This is of another category, such as the recombination of existing parcels, a court ordered survey or other exception to the definition of subdivision. (GS 47-30)(11) d.
- 5) This map is not transferable, and may not be used by any person or entity without written authorization from E. Roger Raxter, PLS. This plat is provided for the use of the parties named hereon.
- 6) The corners found and set are one inch to twelve inches above the ground, unless otherwise noted.
- 7) This survey does not certify legal title to the land itself or to the boundaries shown. Users of this plat should obtain an accurate legal opinion as to the ownership within the boundaries of this plat.
- 8) The Tax Pin is : 8596-26-2338-000.
- 9) York Circle is an existing private gravel roadbed with an existing deeded right of way per D.B. 169, Page 531.
- 10) This property is zoned GR 8.
- 11) The owners address is : 31 York Circle, Brevard, NC, 28712.
- 12) This plat was prepared from the recorded plat referred to above. No actual field survey was done in 2023.



CITY OF BREVARD-ANNEXATION

I HEREBY CERTIFY THAT THIS PLAT FOR ANNEXATION HAS FOLLOWED ALL REQUIREMENTS AND PROCEDURES AND A PUBLIC HEARING WAS HELD BY THE CITY OF BREVARD TO ANNEX THE PROPERTY HEREIN DESCRIBED. THE CITY OF BREVARD ADOPTED ORDINANCE NUMBER _____ TO ANNEX THE PROPERTY DESCRIBED HEREIN ON _____ WITH THE EFFECTIVE DATE OF ANNEXATION ON _____.

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, _____, a Notary Public
of said State and County, do hereby certify that

personally appeared before me this day and acknowledged
the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the _____
day of _____, 2012.

Notary Public

My Commission Expires _____

Review Officer Certification.

State of North Carolina, County of Transylvania

I, _____, Review Officer of Transylvania County,
certify that the map or plat to which this certification is affixed meets all
the statutory requirements for recording.

Date _____ Review Officer _____

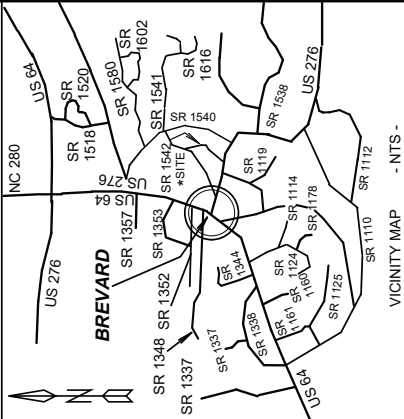
PRELIMINARY PLAT ONLY, NOT TO BE USED FOR SALES, CONVEYANCES OR RECORDING.

I, E. Roger Raxter, N.C. PLS certify that this a plat of an existing parcel or
parcels of land and does not create a new street or change an existing street.

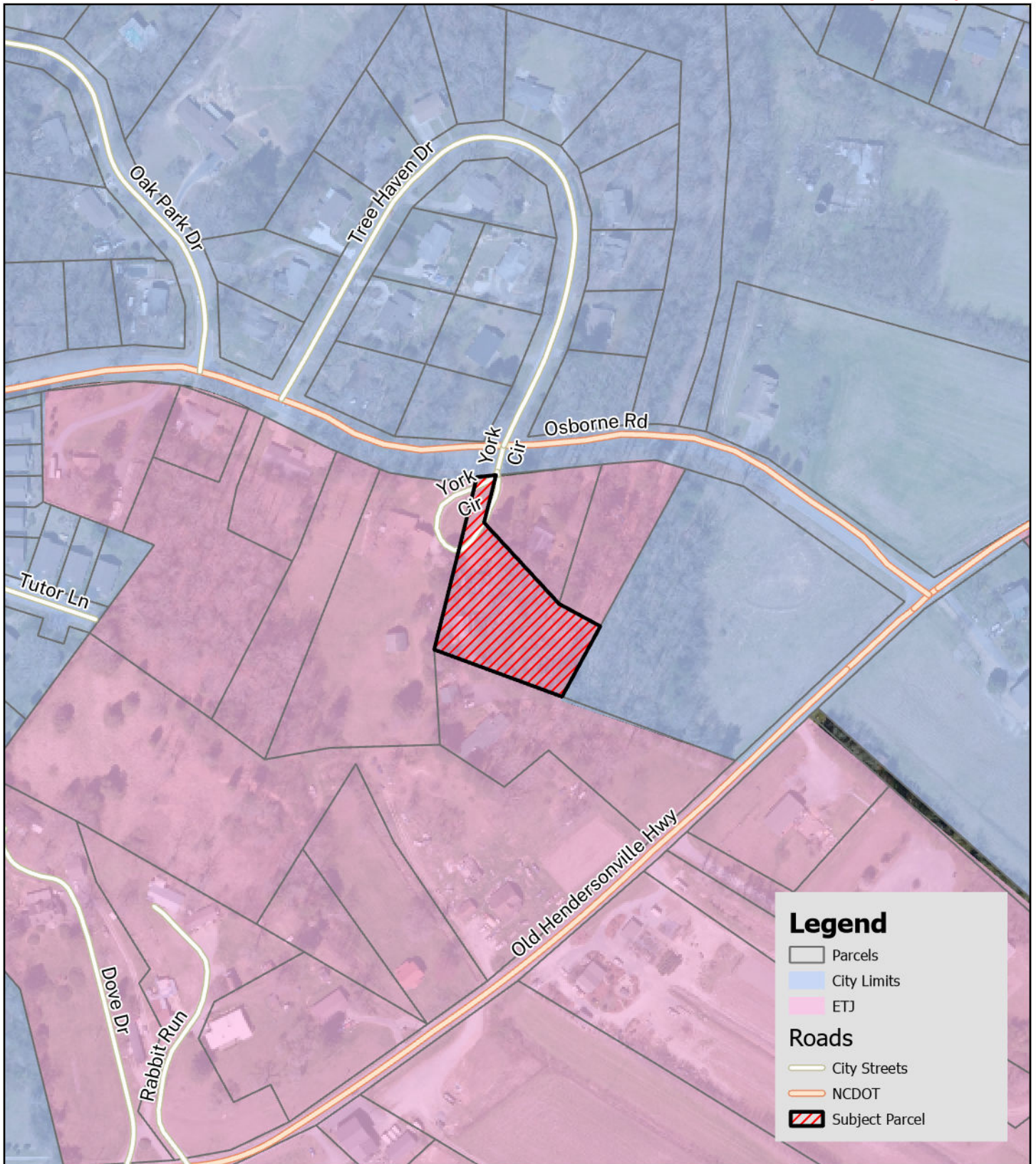
E. ROGER RAXTER, NC PLS _____ DATE _____
(@Copyright E. Roger Raxter 2023)



GRAPHIC SCALE : 1 INCH = 40 FEET



Plat Prepared By :
E. ROGER RAXTER, N.C. PLS L-2938
1101 SILVERSTEEN ROAD
LAKE TOXAWAY, N.C. 28747
PHONE : (828) 966-4399 OR
CELL : (828) 226-0251
E-MAIL : erraxter@hotmail.com
DATE _____ DRAWING NUMBER
JANUARY 13, 2023 21064B



ANN-23-001 Site Map

Esri, NASA, NGA, USGS, NC CGIA, Maxar, Microsoft, Esri, HERE, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS

2023

Coordinate System: NAD 1983 StatePlane North Carolina FIPS 3200 Feet



0 125 250 Feet

ANNEXATION #ANN-23-001

FINANCIAL SUMMARY

1 SINGLE FAMILY HOME + ADU

REVENUE	GENERAL FUND	WATER AND SEWER FUND	FIRE DEPT SPECIAL REVENUE FUND	TOTAL ALL FUNDS
ESTIMATED PROPERTY TAXES	2,698.55		273.42	2,971.97
TRASH AND RECYCLING FEES	-	480.00	-	480.00
WATER & SEWER UTILITY CHARGES		3,544.80		3,544.80
POWELL BILL	-			-
TOTAL REVENUE	2,698.55	4,024.80	273.42	6,996.77
EXPENDITURES				
ADMINISTRATION/FINANCE/HR	583.20			583.20
POLICE DEPT	1,069.20			1,069.20
FIRE DEPT			273.42	273.42
TRASH AND RECYCLING	-	480.00		480.00
STREET DEPT	529.16			529.16
PARKS & PROPERTY MANAGEMENT	250.00		-	250.00
PLANNING & ZONING	291.60			291.60
WATER DISTRIBUTION		386.38		386.38
WATER TREATMENT PLANT		549.44		549.44
SEWER COLLECTIONS		531.72		531.72
WASTERWATER TREATMENT PLANT		978.36		978.36
WATER & SEWER FUND DEBT		1,098.89		1,098.89
TOTAL EXPENDITURES	2,723.16	4,024.80	273.42	7,021.38
NET GAIN OR (LOSS)	(24.61)	-	-	(24.61)

ASSUMPTIONS: BUILDING OF ADDITIONAL SINGLE FAMILY HOME AND CONVERSION OF EXISTING HOUSE TO ADU; 5,000 GALLONS/MONTH/HOME; PER CAPITA CHARGE FOR PUBLIC SERVICES

TAX VALUE OF EXISTING HOME	\$182,740
TOTAL TAX VALUE ADDED WITH NEW HOME	\$582,740

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Proposed Amendments to City of Brevard Code of Ordinances Chapter 42 (re: Encampments)

Speaker: Wilson Hooper, City Manager
Tom Jordan, Chief of Police
Mack McKellar, City Attorney

Prepared by: Tom Jordan, Police Chief

Approved by: Wilson Hooper, City Manager

BACKGROUND:

At its February 27, 2023 meeting, Council's Public Safety Committee heard an updated version of the proposed "camping ordinance". Their meeting followed a public meeting held earlier in January where representatives from the homeless services community -The Cove, The Haven, Sharing House, Blue Ridge Community Health, THRIVE, and NC Coalition to End Homelessness- offered suggestions on how the City could sensitively yet effectively manage the presence of homeless encampments on publicly-owned property. The January meeting was the result of Council feedback on staff's original proposal in November 2022.

The Committee recommended some enhancements, which have been incorporated here, and directed staff to send the new proposal to the full Council for consideration. The full Council was briefed on the proposal at its March 20, 2023 meeting, and sent it forward for public hearing this evening.

DISCUSSION:

The new proposal includes adding new language to the Code of Ordinances establishing hours of operation for all city properties, with existing trespassing provisions as the enforcement mechanism. However, the proposed code language requires that enforcement be governed by an administrative policy that "connect(s) residents of encampments who may be experiencing homelessness with housing and other resources."

The administrative policy contains the following provisions that protect the rights of persons experiencing homelessness:

- Hours of operation shall be publicly posted on all city-owned properties.
- Campers must be given a two-week notification before enforcement action may be taken.
- City staff who issue notifications must be trained on appropriate ways to interact with persons experiencing homelessness.

- Within one business day of issuing the two-week notification to campers, city staff must notify Continuum of Care (CoC) service providers of the presence of the encampment
- Within one business day, CoC service providers must make contact with residents of encampments to try and connect them with appropriate services.

ACTION:

No action requested. For public hearing and discussion only. The Council will be asked to consider passing the item at its May 1, 2023 meeting.

Attachments:

1. Encampment Policy (Ordinance)
2. Encampment Policy (Admin Policy)

ATTACHMENT 1

Proposed Addition to Brevard Code of Ordinances Chapter 42 – Offenses and Miscellaneous Provisions Section 17 – Hours of Operation

“(a) All city-owned property shall be open only from 6 AM to 10 PM unless otherwise posted.”

Section 18 – Enforcement and Administration

“(a) The city manager may appoint agents who may enact such administrative rules and procedures, and issue such orders as are necessary to effectuate the purpose of this article and to protect the general health, safety, and welfare of the public. (b) Designated agents and sworn law enforcement may enforce this article. (c) An administrative encampment policy which aims to connect residents of encampments who may be experiencing homelessness with housing and other resources shall govern City interaction with such campers. At the expiration of the notification period as defined in the encampment policy, campers shall be subject to the remaining provisions of this ordinance (d) Failure to vacate city-owned property at the expiration of the notice period defined in subsection (c) may be enforced as a misdemeanor per G.S. 14-4.”

ATTACHMENT 2

Proposed Administrative “Encampment Policy” Accompanying Chapter 42 – Offenses and Miscellaneous Provisions Section 17 – Hours of Operation Section 18 – Enforcement and Administration

- Update trespassing/hours of operation notices shall be posted on all city-owned properties
- City field employees follow camp protocol
 - Initial contact
 - A City employee who has undergone appropriate training provides notice to camper(s). *Two-week clock starts.*
 - Brevard Police Department officers with Crisis Intervention Training (CIT) are considered appropriately trained
 - Other front line city employees who have received training such as “Motivational Interviewing” or “Mental Health First Aide” from a professional facilitator are considered appropriately trained.
 - City employee collects information on the number of campers and the location, size, and hazards (if any) of the encampment.
 - City employee refers camper to emergency shelter (The Cove, The Haven, etc.)
 - Within one business day, employee shall initiate email with information on the campers/encampment and date notice was provided, copying Chief of Police, Public Works Director and contacts from The Haven* and Blue Ridge Health*. Email shall be sent even if campers voluntarily relocate to emergency shelter.
 - Introduction to continuum of care (CoC)
 - City employee’s email will trigger contact from Blue Ridge Health or The Haven field outreach workers.
 - BRH/The Haven outreach workers shall stop by site within one business day and offer services to campers. This shall include referral/rides to emergency housing, assistance relocating personal property, and as assessment of vulnerabilities and referrals to the appropriate services. If not already registered in HMIS, BRH/The Haven staff will do so. They will clarify with campers that campers have two weeks from the date they received notice from the city employee to vacate the site. After two weeks the site will be cleared, personal items will be discarded, and officers will be permitted to use their police authority to physically remove individuals from the site.
 - Process for removal (CoC)
 - At first contact, city staff shall post a sign/notification (laminated card) in Spanish and English that states all items will be removed in two weeks from date of initial city contact. Police Chief and Public Works Director will establish a time to perform the removal. At the expiration of the two weeks

and the commencement of the removal, police shall accompany public works for the entirety of the removal process.

- If bio-hazard material are present, Public Works may engage a specialized waste removal firm. He will provide to the CoC agencies, Police Chief, and City Manager a copy of the invoice for the work

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Proposed Text Amendment to the Brevard Unified Development Ordinance, Chapters 2, 3, and 19-Land Use Matrix Revisions

Speaker: Emily Brewer, AICP

Prepared by: Emily Brewer, Senior Planner

Approved by: Paul Ray, Planning Director, Wilson Hooper, City Manager

Background

On December 5, 2022, City Council adopted Ordinance 2022-76 amending the land use matrix, standards and definitions. This amendment clarified, consolidated, and added new use definitions and standards in logical groupings to improve the usability and efficiency of the UDO. Since then, Staff has been using the ordinance and found some items that can be refined. City ordinances are not meant to be static, but living documents that change as the City does. These revisions, included in Attachment A, will continue clarifying the land uses and regulations.

Planning Board considered the text amendment at their March 28, 2023, meeting and unanimously recommended approval. In accordance with North Carolina General Statutes, the Planning Board also submits a statement analyzing the consistency and reasonableness of this proposal with regards to existing policies or plans of the City of Brevard.

Discussion

The proposed text amendments along with Staff's reasoning for the changes is as follows:

- Shelters: Despite being considered a residential use in our ordinance, shelters are not permitted in residential districts. However, there are existing shelters that are in residential settings, such as the Haven located in the Residential Mixed-Use (RMX) zoning district, that are compatible with the surrounding areas. This amendment makes shelters allowed with a Special Use Permit in General Residential (GR) and permitted with standards in RMX.
- Live-Work Units and Mixed-Use Residential Unit: The definition of live-work units was refined in last year's text amendment to say: "*a residential building type that consists of both a residential use and a non-residential use...*" Since then, Staff has determined that another land use is required to account for non-residential building types (e.g., mixed-use buildings). Staff has added a definition and standards for "Mixed-Use Residential Unit" that mirrors that of the live-work unit. The permissions for this new household living type aligns with the zoning districts where "Mixed-Use Buildings" under Section 5.6 of the UDO. Planning Board's

recommendation includes the stipulation that the residential unit must be located above the non-residential use. Since then, Staff prepared an alternative for Council's consideration. This option states that the ground floor shall be primarily non-residential with residential units encouraged to be above or behind the non-residential use. Staff seeks Council's guidance on which option they would prefer.

- ***Mobile Food Vendor Site:*** Mobile food vendors (or food trucks) are currently in our UDO as a temporary use that would only be permitted for 90 days at a time, after which they would be required to vacate and not be established for a period of 45 days. However, the City does not regulate food trucks (they have to secure permits from the Transylvania County Health Department), but it does regulate the food truck *site*. The site has requirements for setbacks and separation distances. The site is permanently established, but according to our use standards the vendor would need to vacate. The solution proposed by Staff is to remove “Mobile Food Vendors” from the temporary uses section and incorporate the standards as a new non-residential accessory use: *Mobile Food Vendor Site*.

Policy Analysis

Effective land use is an essential function of city planning and zoning. The proposed text amendment is consistent with the following elements of *Building Brevard 2030 Comprehensive Land Use Plan*:

Goals

GOAL 1: Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.

GOAL 2: Encourage a development pattern that respects Brevard's sense of place and prioritizes livable communities.

GOAL 7: Support economic vitality and grow the tax base, cultivate local businesses, and attract sustainable industry.

Recommendations

LUH-4: Identify areas across the City that are best positioned to accommodate future growth.

LUH-9: Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.

EDIR-3: Encourage building and site upgrades Downtown and in other key commercial areas.

Recommendation

No action is requested at this time. For information and public hearing only. Staff requests that Council take one of the following actions at the next regular meeting:

1. Adopt the amendments as written;

2. Revise and adopt the amendments as revised;
3. Reject the amendments; or
4. Table the amendments for further public hearings and/or consideration.

Attachments:

1. Proposed Text Amendment
2. Consistency Statement
3. Draft Ordinance

2.2. Use categories and tables of permitted uses.

C. *Use matrix.* The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "P" denotes those uses that are permitted "by right."
2. "—" denotes those uses that are not permitted within the given district.
3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in Chapter 16. Additional standards for certain uses requiring a special use permit are set forth in Chapters 3 and 5 of this ordinance.
4. "PS" denotes those uses that are permitted with additional standards, which are set forth in Chapter 3.
5. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
<i>Residential</i>			GR	RMX	NMX	DMX	CMX	IC	GI
Household Living	3.5.1	Dwelling—Single-Family	P	P	—	—	—	P	—
		Dwelling—Duplex	P	P	P	—	—	P	—
		Dwelling—Multifamily 3—4 units/bldg.	P	P	P	P	P	P	—
		Dwelling—Multifamily more than 4 units/bldg.	—	P	P	P	P	P	—
		Dwelling—Townhome	P	P	P	P	P	P	—
		Manufactured Home (single unit)	MHD	MHD	MHD	MHD	MHD	MHD	—
		Manufactured Home Park	MHD	MHD	MHD	MHD	MHD	MHD	—
		Live-Work Units	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	—	<u>PS</u>	—
		<u>Mixed-Use Residential Unit</u>	<u>=</u>	<u>=</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>=</u>
Group Living	3.5.2	Family Care Home (Less than 6 residents)	P	P	P	P	P	P	—
		Housing Services for the Elderly	SUP	P	P	P	P	P	—
		Rooming or Boarding House	P	P	P	P	P	P	—
Social Services	3.5.3	Group Care Facility (6 or more residents)	P	P	P	P	P	P	—
		Shelter	<u>—</u> <u>SUP</u>	<u>—</u> <u>P</u>	P	P	P	P	—
<i>Lodging</i>			GR	RMX	NMX	DMX	CMX	IC	GI
Overnight Accommoda tions	3.6.1	All overnight accommodations, except as listed below	—	—	—	P	P	P	—
		Bed and Breakfast	PS	PS	PS	PS	PS	PS	—
		Short-Term Rental	PS	PS	PS	PS	—	—	—

Camping	3.6.2	Campground/Recreational Vehicle Park	SUP	SUP	SUP	—	—	SUP	—
		Rental Cottage/Cabins	PS	PS	PS	—	—	—	—
		Seasonal Camp	PS	—	—	—	—	PS	—
Commercial			GR	RMX	NMX	DMX	CMX	IC	GI
Eating and Drinking Establishments	3.7.1	All restaurants and other eating and drinking establishments except as listed below	—	—	P	P	P	P	—
		Bar/Night Club	—	—	PS	P	P	—	—
Personal Services	3.7.2	All personal services, except as listed below	—	P	P	P	P	P	—
		Day Care Center	PS	PS	PS	PS	PS	PS	PS
Professional Services	3.7.3	All professional services, except as listed below	SUP	P	P	P	P	P	P
		Adult Establishment	—	—	—	—	—	—	SUP
		Banks, Credit Unions, Financial Services, and ATMs	—	—	P	P	P	P	P
		Funeral Homes and Services	—	—	P	P	P	P	—
		Human Crematories and Crematoriums	—	—	PS	PS	PS	PS	PS
		Indoor Animal Services	—	—	P	P	P	P	P
		Kennels and Outdoor Animal Services	—	—	SUP	—	PS	—	PS
		Landscaping and Contractor Services	SUP	SUP	SUP	—	—	—	P
		Vehicle Services—Major Repair/Body Work	—	—	—	—	PS	—	PS
		Vehicle Services—Minor Maintenance/Repair	—	—	SUP	SUP	PS	PS	PS
Retail	3.7.4	All retail and sales establishments except as listed below	—	—	P	P	P	P	—
		Alcoholic Beverage Sales Store	—	—	SUP	P	P	—	—
		Auto/Mechanical Parts Sales	—	—	—	P	P	—	P
		Gas Station	—	—	SUP	SUP	PS	—	PS
		Gunsmiths and Weapon Sales	—	—	SUP	PS	PS	—	PS
Shopping Centers	3.7.5	All shopping centers	—	—	PS	PS	PS	—	—
Civic/Institutional			GR	RMX	NMX	DMX	CMX	IC	GI

Educational	3.8.1	All educational uses except as listed below	SUP	P	P	P	P	P	—
		Colleges/Universities	—	—	SUP	P	P	P	—
		Schools—Vocational/Technical	—	SUP	P	P	P	P	P
Government	3.8.2	All government uses, except as listed below	—	P	P	P	P	P	P
		Correctional Facilities	—	—	SUP	SUP	P	P	P
		Public Safety Station	SUP	SUP	P	P	P	P	P
Medical	3.8.3	All medical offices and facilities except as listed below	—	P	P	P	P	P	—
		Hospital	—	—	—	—	P	P	—
Places of Worship	3.8.4	All religious institutions or places of worship	SUP	P	P	P	P	P	—
		Cemeteries	PS	PS	PS	PS	PS	PS	—
Entertainment/Recreation			GR	RMX	NMX	DMX	CMX	IC	GI
Indoor Recreation	3.9.1	All indoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P
		Cultural or Community Facility	SUP	P	P	P	P	P	—
		Indoor Amusements	—	—	SUP	P	P	SUP	P
		Indoor Firing Range	—	—	—	—	SUP	SUP	SUP
		Live Performance Theater	—	SUP	SUP	P	P	P	—
		Movie Theater	—	—	—	P	P	—	—
		Special Event Venue	SUP	SUP	PS	PS	PS	PS	—
		Studios, Galleries and Workshops - High Impact	—		SUP	SUP	P	P	P
		Studios, Galleries and Workshops - Low Impact	—	P	P	P	P	P	—
Outdoor Recreation	3.9.2	All outdoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P
		Non-Residential Swimming Pool or Pond	—	SUP	SUP	PS	PS	PS	—
		Outdoor Amusements	—	—	SUP	SUP	P	—	P
		Outdoor Firing Range	—	—	—	—	—	—	SUP
		Parks, Open Space, and Greenways	P	P	P	P	P	P	P
Agriculture			GR	RMX	NMX	DMX	CMX	IC	GI
Agriculture	3.10.1	All agricultural uses	PS	—	—	—	PS	PS	PS
Manufacturing/Wholesale/Storage			GR	RMX	NMX	DMX	CMX	IC	GI

Light Industrial and Manufacturing	3.11.1	All light industrial and manufacturing activities, except as listed below	—	—	—	—	SUP	—	P
		Brewery, Distillery, Winery, Cidery - High Impact	—	—	—	—	P	—	P
		Brewery, Distillery, Winery, Cidery - Low Impact	—	—	SUP	PS	PS	—	PS
		Laboratory	—	—	—	—	P	P	P
		Laundry, Dry Cleaning Plant	—	—	—	—	SUP	P	P
		Manufacturing Research and Development	—	—	—	—	P	P	P
		Media Production	—	—	P	P	P	P	P
Heavy Manufacturing	3.11.2	All heavy manufacturing activities, except as listed below	—	—	—	—	—	—	SUP
		Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	P	—	P
Storage and Disposal	3.11.3	All storage and disposal uses, except as listed below	—	—	—	—	SUP	—	P
		Chemical Storage Facility	—	—	—	—	—	—	P
		Solid Waste Storage or Disposal Facilities	—	—	—	—	—	—	PS
		Junkyard / Salvage Yard	—	—	—	—	—	—	SUP
Wholesaling and Distribution	3.11.4	All wholesaling and distribution activities, except as listed below	—	—	—	—	P	—	P
		Equipment Rental	—	—	—	—	P	—	P
		Indoor Vehicle/Heavy Equipment Sales	—	—	PS	PS	PS	—	PS
		Outdoor Vehicle/Heavy Equipment Sales	—	—	—	—	PS	—	PS
Infrastructure			GR	RMX	NMX	DMX	CMX	IC	GI
Utilities	3.12.1	Utilities—Class 1	P	P	P	P	P	P	P
		Utilities—Class 2	P	P	P	P	P	P	P
		Utilities—Class 3	—	—	—	—	—	—	P
Telecommunications	3.12.2	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Transportation	3.12.3	Parking Lot	PS	PS	PS	PS	PS	PS	PS
		Passenger Vehicle Terminals	—	—	P	P	P	—	P
Accessory			GR	RMX	NMX	DMX	CMX	IC	GI

Residential Accessory	3.13.1	All residential accessory uses, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Day Care Home	PS	PS	PS	PS	PS	PS	—
		Dwelling—Accessory Unit (ADU)	PS	PS	PS	PS	PS	PS	—
		Home Occupation	PS	PS	P	P	P	P	—
		Keeping Bees	PS	PS	PS	PS	PS	PS	PS
		Keeping Domestic Fowl (Chickens)	PS	PS	PS	PS	PS	PS	PS
		Swimming Pool or Pond	PS	PS	PS	PS	PS	PS	—
Non-Residential Accessory	3.13.2	All non-residential accessory uses, except as listed below	—	PS	PS	PS	PS	PS	PS
		Accessory Retail	—	—	PS	PS	PS	PS	PS
		Drive-Thrus	—	—	SUP	—	PS	—	—
		Mobile Food Vendor Site	=	SUP	PS	PS	PS	PS	PS
		Recycling - Small Collection	—	—	—	—	SUP	SUP	P
		Rooftop Amenity Space	—	—	SUP	PS	PS	PS	PS
		Taproom / Tasting Room	—	—	SUP	P	P	—	P
Temporary			GR	RMX	NMX	DMX	CMX	IC	GI
Events and Structures	3.14.1	All temporary events and structures, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Carnivals or Circus	—	—	—	—	PS	PS	PS
		Farmers Market	—	—	PS	PS	PS	PS	—
Vendors	3.14.2	All temporary vendors, except as listed below	—	—	PS	PS	PS	—	—
		Mobile Food Vendors	—	—	PS	PS	PS	PS	PS
		Vending Pushcarts	—	—	—	PS	—	—	—

^(a) This column refers to the section of this ordinance that contains the use definition and additional standards.

3.5 Residential Uses

1. Household Living Use Category

A. Household Living

1. Definition: Residential occupancy of a dwelling unit by a household. Household living includes the following uses:

- i. Dwelling – Single-family;
- ii. Dwelling – Duplex;
- iii. Dwelling – Multifamily 3-4 units/building;

- iv. Dwelling – Multifamily more than 4 units/building;
- v. Dwelling – Townhome;
- vi. Manufactured Home (single unit);
- vii. Manufactured Home Park; and
- viii. Live-Work Units

~~2. —Additional Standards:~~

- ~~i. —Within NMX, DMX, and CMX districts, residential uses are permitted only on the second or higher floor of any structure where the ground floor is used for non-residential purposes; or as part of a group development, or conditional district, in which event they shall not be subject to the foregoing limitation.~~

B. *Dwelling—Single-family*

1. Definition: A free-standing building designed for and/or occupied by one household. These residences may be individually owned as residences or owned by rental or management companies. Single-family dwellings are typically site-built structures that comply with the North Carolina Residential Building Code, current edition, but also include factory-built, modular home units.

C. *Dwelling—Duplex:*

1. Definition: A building containing two residential dwelling units that is typically divided horizontally, each unit having a separate entrance from the outside or through a common vestibule.

D. *Dwelling—Multi-family (three or four units/building)*

1. Also known as a Triplex or Quadraplex
2. Definition: A building containing three or four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. Multi-family dwellings may include triplexes or fourplexes (buildings under one ownership with three or four dwelling units in the same structure),

E. *Dwelling—Multi-family (more than four units/building):*

1. Definition: A building containing more than four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. These structures may include apartments (five or more units under one ownership in a single building)

F. *Dwelling – Townhome*

1. Definition: A building that contains three or more separate dwellings divided vertically and connected by shared walls. Each unit has a separate entrance to a front and/or rear yard. This definition includes subdivisions where townhomes are located on zero-lot line properties where common walls are situated on one or more lot lines.

G. *Manufactured home*

1. Definition: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:
 - i. It is at least eight feet in width and 32 feet in length;
 - ii. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;
 - iii. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and

iv. It does not have any wheels or axles permanently attached to its body or frame.

2. Additional Standards:

i. This definition does not include recreational vehicles.

ii. Manufactured homes are permitted with standards in the Manufactured Home Overlay District.

iii. Dwelling units built to, or utilizing any of, the following as primary construction standards are NOT considered manufactured homes suitable for use as permanent dwelling units: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5.

H. *Manufactured home park:*

1. Definition: The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.

2. Additional Standards:

i. Manufactured home parks are permitted with standards in the Manufactured Home Overlay District.

ii. Preexisting manufactured home parks.

1. Any manufactured home park, as defined by this chapter, existing on the effective date of this chapter or any subsequent amendment thereto may continue to operate without being subject to the requirements of this chapter except where explicitly set forth below.

2. Expansions to a pre-existing manufactured home park shall occur in a manner that fully conforms to the requirements of this ordinance. Expansions shall not occur in districts within which manufactured home parks are not permitted.

iii. A manufactured home park space shall be considered preexisting if, on the effective date of this chapter, the space:

1. Is defined on the ground by the presence of all of the following:

a. A water supply system service connection;

b. A connection to a septic system or sanitary sewer; and

c. Electric service equipment.

2. Or, contains an occupied manufactured home connected to each of the preceding utilities.

iv. Permitting.

1. Each application for a manufactured home park shall be accompanied by development plans as required by Chapter 17, including contoured site plans (five-foot intervals) using true elevations. Development plans shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements. Development plans shall also show that all improvements would meet the following standards.

2. Prior to the placement, replacement, modification, or setup of a manufactured home within any manufactured home park or on an individual lot of record within the regulatory jurisdiction of the City of Brevard, the manufactured home or agent thereof shall procure a land development permit from the City of Brevard and a manufactured home setup permit from the Transylvania County Building Inspections Department.

v. Dimensional specifications.

1. *Lot standards:*

Minimum Development Size	3 acres
Maximum Development Size	40 acres
Maximum Development Density	6 units/acre
Lot Width at Right-of-Way	50 ft.
Minimum Lot Depth	150 ft.

2. *Principal structure standards:*

Development setback on all boundaries	50 ft.
Unit setback from internal street centerline	25 ft.
Distance between homes-short side to short side	20 ft.
Distance between homes-long side to short side	20 ft.
Distance between homes-long side to long side	30 ft.
Setback from public right-of-way	50 ft.
Maximum Height	35 ft.

vi. General requirements (new and pre-existing).

1. All manufactured home park roads, spaces, and the manufactured homes therein shall fully comply with the road naming and property addressing ordinances of the City of Brevard or Transylvania County, as applicable.
2. The owner and/or operator of a manufactured home or manufactured home park shall not sell manufactured homes on or within a manufactured home park unless the manufactured home unit for sale is placed individually and separately upon an existing manufactured home space where all design standards and utilities have been completed as specified by this ordinance. This does not prohibit the manufactured home park owner and/or operator from owning or operating a retail sales business on adjoining property if such use is permitted within the underlying district.
3. All manufactured homes placed upon an individual lot of record or within a manufactured home park shall be built according to Housing and Urban Development standards, and shall bear a label or seal indicating compliance with this requirement. Any manufactured home unit that does not bear a label or seal of compliance of a recognized testing laboratory, such as Underwriters Laboratories or similar testing service, shall be subject to inspection by the building inspector.
4. Recreational vehicles (RV), park model RV's, and other structures that are not constructed to the United States Department of Housing and Urban Development Standards or to North Carolina Building Code shall not be permitted with any manufactured home park, nor shall such structures become occupied within any other property within the

- 147 jurisdiction of the City of Brevard, except as otherwise provided for in
148 this ordinance.
- 149 5. At least ten percent of the total area of any manufactured home park
150 containing 35 or more spaces and situated one-quarter of a mile or
151 more from a public recreational facility shall be set aside for
152 recreational purposes, except that open space as required in Chapters 6
153 and 7 of this ordinance may be applied to no more than 75 percent of
154 such recreation space.
- 155 vii. Manufactured home park streets.
- 156 1. Convenient access to each manufactured home space shall be provided
157 by streets or drives that are properly graded, drained, and paved with a
158 durable dustless surface, for automobile circulation.
- 159 2. Manufactured home parks containing ten or more units shall be
160 serviced by a central drive that is constructed in accordance with the
161 requirements for a new neighborhood street as set forth in Chapter 13.
162 Streets entering branching from the central drive shall also be built
163 according to neighborhood street dimensions. However, a sidewalk and
164 curb/gutter shall not be required.
- 165 3. Any tract of land to be developed as a manufactured home park must
166 either have frontage on a public (state or city-maintained) road or have
167 a private right-of-way corridor to the property. The minimum required
168 length of the public road frontage or width of the private right-of-way
169 corridor (at its narrowest point) shall be 50 feet.
- 170 4. Off-site access shall have a minimum 20-foot cleared, unobstructed
171 corridor, with a vertical clearance of at least 14 feet to allow passage of
172 emergency vehicles.
- 173 5. The grade of any road, existing or proposed, within an off-site private
174 right-of-way corridor used to access a manufactured home park shall
175 not exceed 15 percent.
- 176 6. Publicly dedicated rights of way shall not be required, and maintenance
177 of such streets shall be provided for by the owner and/or operator of
178 the manufactured home park.
- 179 7. Culs-de-sac shall not exceed 250 feet in length and shall be provided
180 with a turnaround of at least 60 feet in diameter. Streets or drives
181 within the manufactured home park shall intersect as nearly as
182 possible at right angles, and no street shall intersect at less than 60
183 degrees. Where a street intersects a public street or road, the design
184 standards of the North Carolina Department of Transportation shall
185 apply.
- 186 8. Proposed streets shall be named, and addresses for manufactured
187 home spaces along such streets assigned, by the Transylvania County
188 Property Addressing Coordinator in accordance with the provisions set
189 forth in the City of Brevard Property Addressing Ordinance or the
190 Transylvania County Property Addressing Ordinance, as applicable.
- 191 9. A minimum of two automobile parking spaces (paved with a durable,
192 dustless surface) shall be provided adjacent to each manufactured
193 home space, but shall not be located within any public right-of-way or
194 within any street in the park.

- 195 10. All spaces within a manufactured home park shall be serially numbered
196 for mailing address purposes. These numbers shall be displayed on
197 each manufactured home space.
- 198 viii. Manufactured home space.
- 199 1. Each manufactured home space shall be clearly defined by means of
200 concrete or iron pipe markers placed at all corners.
- 201 2. Each manufactured home space shall be located on ground not
202 susceptible to flooding and graded so as to prevent any water from
203 ponding or accumulating on the premises.
- 204 3. The manufactured home space shall be provided with anchors and tie-
205 downs such as cast-in-place concrete "dead men" eyelets embedded in
206 concrete foundations or runways, screen augers, arrowhead anchors,
207 or other devices securing the stability of the manufactured home. Each
208 manufactured home unit shall comply with the above standards or
209 similar standards whichever are higher. Each manufactured home
210 owner shall be responsible for securing his individual manufactured
211 home to anchors provided by the manufactured home park operator.
- 212 ix. Utility requirements.
- 213 1. An accessible, adequate, and potable supply of water shall be provided
214 in each manufactured home park. All manufactured home parks within
215 300 feet of city water or sewer shall connect thereto. When a municipal
216 or public water supply is not available, a community water supply shall
217 be developed, and its supply used exclusively in accordance with the
218 standards of the Sanitary Engineering Division of the North Carolina
219 Division of Health Services and the Transylvania County Health
220 Department. Evidence of the issuance of necessary county or state
221 permits shall be a condition of approval of any ~~special-use~~
222 ~~permit~~ permit for a manufactured home park.
- 223 2. Adequate and safe sewage disposal facilities shall be provided in all
224 manufactured home parks. Where a public sewage collection system is
225 available, connection shall be made thereto, and the system and sewage
226 treatment plants complying with the requirements of the North
227 Carolina Department of Environmental Quality shall be provided. Plans
228 for sewage collection systems and treatment facilities shall be
229 submitted to the North Carolina Department of Environmental Quality.
230 Individual septic tank systems can be considered, if soil, topography,
231 and groundwater conditions are favorable. If septic tanks are used, they
232 will be subject to approval by the Transylvania County Health
233 Department.
- 234 3. All utilities within the proposed manufactured home park shall be
235 located underground.
- 236 4. Failure to maintain an operational sewage disposal system shall
237 constitute grounds for the revocation of a category III land
238 development permit and the application of all applicable penalties as
239 set forth in this ordinance.
- 240 x. Solid waste.
- 241 1. The storage, collection, and disposal of solid waste in the manufactured
242 home park shall be so conducted as to create no health hazards, rodent
243 harborage, insect breeding areas, accident or fire hazards or pollution.

- 244 2. All solid waste containing garbage shall be stored in standard fly-tight,
245 watertight, rodent-proof containers, with a capacity of not more than
246 32 gallons, which shall be located not more than 150 feet from any
247 manufactured home space. Containers shall be provided in sufficient
248 number and capacity to properly store all solid waste containing
249 garbage. The manufactured home park owner and/or operator shall be
250 responsible for the proper storage, collection, and disposal of solid
251 waste as specified by the Transylvania County Health Department.
- 252 3. Containers shall be installed in the ground or provided with stands.
253 Such container stands shall be so designed as to prevent containers
254 from being tipped, to minimize spillage and container deterioration,
255 and to facilitate cleaning around them.
- 256 4. All solid waste garbage shall be collected at least once weekly. Where
257 suitable collection service is not available from municipal or private
258 agencies, the manufactured home park owner and/or operator shall
259 dispose of the solid waste by collecting and transporting it in
260 conformance with requirements and guidelines set forth by the North
261 Carolina State Board of Health and the Transylvania County Health
262 Department.
- 263 xi. Grounds, buildings, and structures.
- 264 1. Grounds, buildings, and structures shall be maintained free of insect
265 and rodent harborage and infestation. Extermination and control
266 methods shall conform to the requirements of the County Health
267 Department and/or North Carolina Department of Agriculture.
- 268 2. Parks shall be maintained free of accumulation of garbage, litter, or
269 other debris which may provide rodent harborage or breeding places
270 for flies, mosquitoes, and other pests, or which may pose other health
271 or sanitation hazards, or which may contribute to an otherwise
272 unsightly or unpleasant environment.
- 273 3. Storage areas shall be so maintained as to prevent rodent harborage
274 and shall not pose a safety hazard to manufactured home park
275 residents or guests. Lumber, pipe, and other building material shall be
276 stored at least one foot above ground.
- 277 4. All manufactured homes shall be properly skirted with non-opaque
278 wood, aluminum, vinyl, or other appropriate material. Plastic, plywood,
279 particle board, carpet, or other atypical skirting material shall not be
280 used.
- 281 5. Where the potential for insect and rodent infestation exists, all exterior
282 openings in or beneath any structure shall be screened with wire mesh
283 or other suitable materials.
- 284 6. Landscaping and vegetation in and around the manufactured home
285 park shall at all times be maintained, and landscaping provisions of the
286 park plan shall at all times be adhered to. The growth of bushes, weeds,
287 and grass shall be controlled so as to prevent the harborage of ticks,
288 chiggers, and other noxious insects. Parks shall be so maintained as to
289 prevent the growth of ragweed, poison ivy, poison oak, poison sumac,
290 and other noxious weeds considered detrimental to health. Open
291 spaces and recreation areas shall be maintained free of heavy
292 undergrowth of any description.

- 293 7. No inoperable vehicle shall remain in a manufactured home park for a
294 period longer than 60 days unless the vehicle is stored under a carport
295 or within a garage.
- 296 8. Manufactured and mobile homes shall not be abandoned or stored
297 within the regulatory jurisdiction of the City of Brevard. Manufactured
298 homes that have been disconnected from active electricity, water, and
299 sewage for a period exceeding 90 days shall be removed and properly
300 disposed of. Manufactured homes located outside of a manufactured
301 home space for a period to exceed 45 days shall be removed and
302 properly disposed of.
- 303 9. Manufactured homes shall not be utilized for storage or other non-
304 residential uses of any type.

305 xii. Registration of occupant.

- 306 1. Every manufactured home park owner or operator shall maintain an
307 accurate register. The register shall be available for inspection at all
308 times by authorized city representatives. The register shall contain the
309 following information on forms provided by the planning department:
310 (1) Name of owner and/or occupant; (2) manufactured home space
311 number; (3) make, model, registration number of manufactured home;
312 and (4) date of arrival and departure of the occupants. Records shall be
313 maintained for a period of three years.

314 xiii. Inspection and enforcement.

- 315 1. The park owner and/or operator shall notify park occupants of all
316 applicable provisions of the ordinance and inform them of their duties
317 and responsibilities under this ordinance.
- 318 2. The owner and/or operator shall operate the park in compliance with
319 this ordinance, Brevard City Code, Transylvania County Code (as
320 applicable), and state and federal law, and shall provide adequate
321 supervision to maintain the park, its facilities and equipment in good
322 repair and in a clean and sanitary condition.
- 323 3. The City of Brevard Planning Department, the Transylvania County
324 Health Department and the Transylvania County Building and
325 Inspections Department are hereby authorized and directed to make
326 such inspections as are necessary to determine satisfactory compliance
327 with this ordinance. It shall be the duty of the owners and/or operators
328 or occupants of manufactured home parks to give these agencies free
329 access to such premises at reasonable times for the purpose of
330 inspection.
- 331 4. So long as a violation exists the administrator shall not issue permits
332 that would authorize the placement, replacement, setup, or
333 modification of a new or existing manufactured home within the
334 subject park.

335 I. *Live-work unit:*

- 336 1. Definition: A residential building type that consists of both a residential use and a non-
337 residential use that is allowed in the applicable zoning district. ~~Typically, the enterprise~~
338 ~~or non-residential use is located on the ground floor and the residential unit is above or~~
339 ~~behind.~~
- 340 2. Additional Standards:

i. Typically, the enterprise or non-residential use is located on the ground floor and the residential unit is above or behind.

ii. Non-residential uses within a live-work unit must be listed within Section 2.2.C as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.

iii. In districts where residential building types are not permitted live-work units may be permitted within pre-existing non-conforming residential structures.

J. Mixed-use residential unit:

1. Definition: A non-residential building type that consists of both a residential use and a non-residential use that is allowed in the applicable zoning district.

2. Additional Standards:

i. OPTION 1: The enterprise or non-residential use shall be located on the ground floor and the residential unit is above.

ii. OPTION 2: The ground floor shall be primarily non-residential. The residential unit or units are encouraged to be above or behind the non-residential use.

iii. Non-residential uses within a mixed-use residential unit must be listed within Section 2.2.C as a permissible use within the district in which the mixed-use residential unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.

3.7 Commercial Uses

1. Eating and Drinking Establishments Use Category

A. Restaurants and Other Eating and Drinking Establishments

a. Definition: A retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. Customers may be served from an ordering counter (i.e., cafeteria or limited-service restaurant), at their tables (full-service restaurant), and at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter (snack and/or nonalcoholic bars). This definition shall not include any mobile food vendors or other operations serving food and/or beverages from a vehicle. Eating and drink establishments include, without limitation, the following uses:

i. Bars and nightclubs; and

ii. Restaurants.

3.13 Accessory

2. Non-Residential Accessory Uses

A. Non-Residential Accessory Use:

a. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a non-residential principal use on the same lot.

b. Additional Standards:

i. Accessory uses shall adhere to the standards outlined in Section 4.8 and all other applicable sections.

B. Accessory retail:

- 382 a. Definition: The on-premises, retail sale of products directly to customers, where the retail
383 use is incidental to a primary use conducted upon the same premises. Examples include but
384 are not limited to the following: a furniture manufacturer who operates a show floor for the
385 display and sales of furniture produced by the manufacturer or a bicycle manufacturer who
386 operates a floor for the display and sales of bicycles produced by the manufacturer.
- 387 b. Additional Standards:
- 388 i. Accessory retail uses shall be directly related to and accessory to a conforming,
389 principal use.
- 390 ii. Products offered for sale within accessory retail uses shall be products which are
391 produced or processed by the associated principal use, or which are directly
392 related to, and offered in support of, products which are produced or processed by
393 the associated principal use. For example, a manufacturer of bicycles may operate
394 an accessory retail use wherein bicycles, which were manufactured within the
395 principal use, are offered for direct, on-premises retail sale. Bicycle accessories
396 (such as tires, helmets), which were not produced by the manufacturer but which
397 clearly relate to and support products which are produced or processed by the
398 principal use, may also be offered for sale. However, products that do not clearly
399 relate to and support products which are produced or processed by the principal
400 use (such as backpacking or rock-climbing gear in the case of the bicycle
401 manufacturer) cannot be offered for retail sale.
- 402 iii. Accessory retail uses shall comply with all applicable standards of federal, state or
403 local law that would otherwise apply to retail oriented principal uses. For example,
404 parking areas serving accessory retail uses within a General Industrial zoning
405 district shall comply with the surfacing requirements of the City of Brevard Unified
406 Development Ordinance, Chapter 10, Parking Standards, Subsection 10.6.A.1.
- 407 iv. Accessory retail uses are limited to an area that is equivalent to 20 percent of the
408 gross floor area of the structure(s) containing the principal use.
- 409 v. Accessory retail uses shall be indoors, and shall not include the outdoor display of
410 products or merchandise.

411 C. *Drive-thru:*

- 412 a. Definition: A facility where food and other products or services may be purchased or
413 obtained by motorists without leaving their vehicles. Examples include drive-through fast-
414 food restaurants, coffee, photo stores, pharmacies, bank teller windows, convenience
415 stores, and dry-cleaning pick-up stores without dry cleaning equipment. This term does not
416 include gas stations or other vehicle services, which are separately defined.
- 417
- 418 b. Additional Standards:
- 419 i. Drive-through stacking lanes, windows, and associated equipment shall not be
420 permitted within 50 feet of a residential district or residential use.
- 421 ii. Drive-through windows and services shall be located and accessed only at the rear
422 or side of the building and shall not be located between the principal structure and
423 a public street. Service lanes shall not be located between the building and the
424 street.
- 425 iii. When situated at the side of the building, windows and services shall be located at
426 least 20 feet back from the front facade of the building.
- 427 iv. Vehicle storage for drive-through uses shall be located outside of, and physically
428 separated from, the right-of-way of any street. This area shall not interfere with

the efficient internal circulation of the site, adjacent property, or adjacent street right-of-way.

- v. Service lanes shall be a minimum of 80 feet long for a single stacking lane or 80 feet per lane when there is more than one service lane. A service lane is measured from the curb cut to the service area or the order area if an outdoor order area precedes the service area. Service lanes do not have to be linear. Stand-alone automatic teller machines shall provide stacking distance for four vehicles outside of any right-of-way, parking area, or travel lane.
- vi. Drive-through service lanes shall provide a minimum of ten stacking spaces on site for restaurant and food sale uses with drive-through facilities and a minimum of six stacking spaces on site for banking, pharmacies and similar non-food-related uses with drive-through facilities. Each stacking space shall be a minimum of nine feet by 18 feet.
- vii. A service lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations. A service lane is required for full-service drive-through automobile cleaning establishments.
- viii. Service lanes shall be designed so that they do not interfere with parking, parking access and vehicle circulation. Crossings shall be situated so as to minimize conflicts between pedestrians and vehicles. Where service lanes are traversed by pedestrian crossing areas, such crossings shall be clearly marked. Warning signage may be required at the discretion of the administrator in the interest of pedestrian safety.
- ix. All service lanes shall be clearly identified by means of striping, landscaping, curbing, and the like.
- x. Site access and egress shall be shared by the drive-through and inside customer service functions.
- xi. The drive-through service lane shall first exit into other circulation lanes within the same project, and then onto a public street via the same exit curb cut as the other circulation lanes within the same project.
- xii. Service lanes shall be designed for a one-way traffic pattern only.
- xiii. The drive-through shall be limited to a maximum of two service lanes and one additional lane for an automated teller machine (ATM).
- xiv. Drive-through facilities shall be screened from off-site view from adjacent properties by a Type A buffer with a minimum width of ten feet.
- xv. Speaker box sounds from the drive-through lane shall not unreasonably disturb the peace and quiet of abutting residential property.
- xvi. A traffic impact study may be required by the approving authority.

D. Mobile Food Vendor Site

a. Definition: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale and consumption.

b. Additional Standards:

i. Mobile food vendors shall only vend at permanent locations permitted under this section.

473 ii. The owner, or authorized agent thereof, of any property upon which a mobile food
474 vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile
475 food vendor site.

476 iii. Mobile food vendors using the designated site shall secure all necessary permits
477 required by the Transylvania County Health Department.

478 1. Mobile food vendors must follow all applicable rules and requirements of the
479 Transylvania County Health Department and any other relevant agencies of
480 Transylvania County or the State of North Carolina.

481 2. In the issuance of permits for mobile food vendor sites and mobile food
482 vendors, the administrator shall have broad discretion to assign such conditions
483 as may be necessary to protect the health, safety, and welfare of the public.

484 iv. Number of mobile food vendor sites:

485 1. In NMX and DMX zoning districts, only 1 mobile food vendor site shall be
486 permitted per parcel.

487 2. In CMX, IC, and GI zoning districts, each parcel is permitted up to 3 mobile food
488 vendor sites, so long as all other separation and site requirements as set forth in
489 this section are met.

490 3. Additional mobile food vendor sites may be permitted with the issuance of a
491 special use permit in accordance with Chapter 16.

492 v. Separation requirements:

493 1. Mobile food vendors shall be situated at least 10 feet from all property lines and
494 any road right-of-way, shall not encroach onto any street, sidewalk, or travel
495 way, and shall not obstruct any loading zone or handicapped parking space.

496 a. This requirement shall not apply to special events approved by the city
497 for placement upon public streets.

498 2. Mobile food vendors shall be situated at least 20 feet from one another.

499 3. Mobile food vendors shall be situated at least 25 feet from any permanent
500 structures.

501 a. The administrator may, upon recommendation of the fire marshal,
502 approve the placement of mobile food vendors within 25 feet or less of
503 a permanent structure. Such approval shall be based upon building
504 type, building materials, existing fire breaks, and other pertinent
505 information. Such reductions shall be reviewed on a case-by-case basis,
506 at the discretion of the administrator.

507 b. There shall be no reduction in separation between mobile food vendors
508 and permanent structures within the downtown fire district.

509 4. Mobile food vendors shall be situated at least 200 feet from any residential
510 structure that is located within GR zoning district.

511 5. Mobile food vendors must be set back a minimum of ten feet in all directions
512 from fire hydrants.

513 vi. Power.

514 1. Outside of the Heart of Brevard district, generators may be used to power the
515 vending unit. Within the Heart of Brevard only dedicated power supplies shall
516 be used.

2. For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicles needs while in operation.

vii. Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m., except during an approved special event, when other operating hours may be established as part of the event.

viii. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.

ix. Each food truck shall supply at least one waste receptacle which must be removed at the end of each day. All waste receptacles must be emptied at the end of each day and as necessary during the day. City trash receptacles shall not be used for the food truck operator's waste.

x. Mobile food vendor signage shall be limited to the following:

1. Mobile food vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.

2. Nothing in this Ordinance shall be construed to mean that mobile food vendor vehicles cannot be painted or decorated, or display menus affixed to the side(s) of the vendor vehicle.

~~D~~E. *Recycling—Small collection:*

- a. Definition: A location where the public may donate, redeem or sell recyclable materials, which occupies an area of 350 square feet or less. Such facility may include the following: a mobile unit; bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet; and kiosk-type units that may include permanent structures.

~~E~~F. *Rooftop amenity space:*

- a. Definition: A covered or uncovered space on a building rooftop that is intended to be an accessory use for residents of a building or mixed-use building type or for the patrons of a commercial building.
- b. Additional Standards:
- i. Any structure on a rooftop amenity space shall not exceed 12 feet in height.
 - ii. The rooftop amenity space shall not be enclosed.
 - iii. No sign affixed to any structure in a rooftop amenity space shall be visible from the street.

~~F~~G. *Taproom or Tasting Room:*

- a. Definition: An area that is ancillary to the production of beer or other types of alcohol at a brewery, distillery, winery, cidery, etc. where the public can purchase and/or consume the alcoholic beverage produced on site.

3.14 Temporary

1. *Temporary Events and Structures Category*

1. *Temporary events and structures:*

- a. Definition: An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event. Examples of these activities include, without limitation, the following:

- i. carnivals or circuses;
 - ii. contractor's office and equipment sheds
 - iii. farmers markets;
 - iv. outdoor meetings;
 - v. satellite real estate sales office;
 - vi. seasonal structures; and
 - vii. special events
- b. Additional Standards:
- i. In the consideration of any temporary use, structure or special event, the administrator shall have broad discretion to impose such conditions as may be necessary to protect the health, safety and welfare of the public.
 - ii. The use shall clearly be of a temporary nature.
 - iii. The use shall be limited to a period not to exceed 90 days except as otherwise provided.
 - iv. The use shall not obstruct any public travel way except by specific approval by the city and will cause no traffic congestion;
 - v. The use shall not create a nuisance to surrounding uses.
 - vi. The use shall not create hazards or adverse impacts related to parking, drainage, fire protection, or other adverse impacts.
 - vii. The operator shall provide a plan for the management of waste generated by the use, and sanitary facilities if the administrator or health department deems it is necessary.
 - viii. The operator shall satisfy all other requirements of the director of public health, the building inspector or the fire marshal.
 - ix. The operator shall secure a business license, street closure permit, sidewalk closure permit, or parade permit if required.
 - x. The applicant and/or operator shall promote the temporary use or special event as tobacco and nicotine free (including, but not limited to smoking, vaping, dipping, and chewing).
 - xi. A minimum of five parking spaces shall be designated for use by patrons of the temporary use, structure or special event. In all cases, the applicant shall demonstrate that there will be adequate parking for the existing uses as well as the temporary use, structure or special event.
 - xii. Temporary use, structures, and special event may be permitted within developed parking lots that serve a principal structure(s), the hours of operation of which are the same as the use, structure or event, only when the number of existing parking spaces exceeds the minimum number of spaces that are required for the principal structure(s) by a minimum of five parking spaces, plus the number of parking spaces to be rendered unusable within the area of the use, structure, or event.
 - xiii. The total area of a temporary use or special event, including tents, display areas, and other appurtenances of the use, shall not exceed 2,000 square feet. This requirement shall not apply to the following categories of temporary uses or special events:
 - 1. Special events, upon approval by the administrator.
 - 2. Farmers markets.

- 605 3. Carnivals and circuses.
- 606 ~~4. Temporary vendors on undeveloped, vacant lots.~~
- 607 ~~5. Temporary vendors on developed properties containing principal~~
- 608 ~~structures, where the hours of operation of the principal structure does not~~
- 609 ~~conflict or overlap with the hours of operation of the temporary use, and~~
- 610 ~~when the property is wholly owned or leased by the operator of the~~
- 611 ~~temporary use.~~
- 612 xiv. Tents and structures:
- 613 1. Applicants shall provide flame retardancy certifications for all tents.
- 614 2. Temporary structures shall not exceed 120 square feet. Tents, shipping
- 615 containers, satellite offices and classrooms, and equipment sheds shall not
- 616 be subject to this requirement.
- 617 3. Seasonal greenhouses, tents, and other temporary structures may be
- 618 permitted for a period not to exceed 90 days. These structures must be
- 619 removed on the expiration date of the permit.
- 620 4. A satellite office and equipment shed may be permitted in any district for a
- 621 period covering the construction phase of a project, not to exceed one year,
- 622 provided that such office be placed on the property on which the project is
- 623 situated.
- 624 5. The administrator may approve the temporary set-up and occupancy of
- 625 recreational vehicles (or other temporary dwellings in consultation with
- 626 the building inspector) when the principal residence of the occupant has
- 627 been destroyed by wind, fire, movement of earth, or other manmade or
- 628 natural disaster, and subsequent to such event having been declared a
- 629 disaster by the Mayor of the City of Brevard, the County Manager of the
- 630 County of Transylvania, the Governor of the State of North Carolina, or the
- 631 President of the United States. In no case shall such a vehicle or temporary
- 632 dwelling be set up or occupied for a period exceeding 180 days. The setup
- 633 or occupancy of a recreational vehicle shall not be permitted within the City
- 634 of Brevard for any other reason whatsoever, except as otherwise provided
- 635 for in this ordinance.
- 636 6. Shipping containers shall only be permitted to be used for [temporary](#)
- 637 storage and must be in conjunction with a non-residential use.
- 638 xv. Site layout:
- 639 1. Temporary uses, structures and special events shall be arranged so as to
- 640 maximize public safety, to minimize conflicts among vehicles and
- 641 pedestrians, to minimize conflicts with existing, permanent uses.
- 642 2. Temporary uses, structures and special events shall be situated at least ten
- 643 feet from all property lines and any road right-of-way, shall not encroach
- 644 onto any street, sidewalk, or travel way, and shall not obstruct any loading
- 645 zone or handicapped parking space. This requirement shall not apply to
- 646 special events approved by the city for placement upon public streets.
- 647 3. Temporary uses, structures and events may obstruct travel ways within
- 648 parking lots only upon determination by the administrator that such
- 649 obstruction will not impede commerce, hinder the flow of traffic or
- 650 endanger the safety of motorists or pedestrians. Uses, structures or events
- 651 shall be clearly delineated and separated from areas of active vehicle

- operation by means of traffic safety cones, signage, flagging, or other approved means.
4. Temporary uses, structures and special events shall be situated at least ten feet from points of ingress and egress, and shall not obstruct the sight triangle at any intersection. Ingresses and egresses to the temporary uses, structures and special events shall be designated.
- xvi. The administrator shall require an operations and site plan for each temporary use, structure, or special event, and shall require written permission for the operation of the temporary use, structure or special event by the owner(s) of the subject property.
- xvii. The administrator may require that the operator provide a performance bond in the amount of 125 percent of the cost of removal of the use and restoration of the site, as authorized by G.S. 160D-702.
- xviii. The temporary use, structure or special event shall comply with all other applicable provisions of City Code.
2. *Carnival or Circus*
- a. Definition: A business providing temporary outdoor commercial entertainment, which may consist of sideshows, concessions, rides, games of chance, and other amusements.
- b. Additional Standards:
- i. Carnivals and circuses may be permitted for a period not to exceed 21 days.
- ii. Carnivals and circuses shall only be permitted within undeveloped, vacant lots, or within developed parking lots that serve a principal structure, which structure is unoccupied for the duration of the carnival or circus.
- iii. Carnivals and circuses shall not employ registered sex offenders.
3. *Farmers markets*:
- a. Definition: Venues wherein multiple vendors sell or offer for sale, seasonal products directly to consumers on a non-wholesale basis. Farmers markets shall be accessible to the general public and managed by public or non-profit entities. Farmers markets are a form of temporary use.
- b. Additional Standards:
- i. Vendors may offer seasonal horticultural, agricultural, aquacultural or forest products, including but not limited to raw fruits, vegetables, perennials, annuals bulbs, dried flowers, Christmas trees, and similar products.
- ii. Vendors may offer value-added horticultural, agricultural, aquacultural or forest products which were produced by the vendor, including but not limited to baked goods, meat, dairy, honey, cider, preserves, relishes, jams, jellies and similar products.
- iii. Vendors may offer hand-made crafts and works of art which were produced by the vendor; provided, however, that such products shall not exceed 25 percent of all products sold within the venue on any given day of operation.
- iv. Vendors may offer food items prepared by the vendor; provided, however, that such products shall not exceed 25 percent of all products sold within the venue on any given day of operation, and provided that the vendor shall comply with all applicable requirements of the director of public health and the North Carolina Department of Agriculture.
- v. The sale of live animals is prohibited.

- 698 vi. All vendors, including vendors utilizing vending push carts, shall situate products
699 for sale, as well as associated vehicles, push carts, tents, tables or other materials
700 within a designated vending space as delineated upon a site plan provided to the
701 administrator in accordance with paragraph C.3., below.
- 702 vii. The operator shall provide the administrator an operations plan, operating rules,
703 and a list of the names of the vendors (persons, firms or corporations) who shall
704 provide merchandise for sale as part of the market. The list shall generally describe
705 the type of item to be sold by each said vendor.

706 2. **Temporary Vendors Use Category**

707 A. *Temporary Vendors:*

- 708 a. Definition: Any vendor who sets up a temporary location to sell food, goods, or services.
709 Vendors may be permitted individually or as part of a temporary event (Section 3.14.1).
710 Temporary vendors include, but are not limited to:

- 711 i. Agricultural and non-agricultural roadside vendors and
712 ii. vending pushcarts.

713 b. Additional Standards:

- 714 i. Temporary vendors, excluding those listed below, may be permitted one tent,
715 which shall not exceed 1,500 square feet in area. Temporary vendors shall employ
716 no other temporary structure.
- 717 ii. Temporary vendors shall be allowed signage only as described in Chapter 12 of
718 this Ordinance.
- 719 iii. No temporary vendor shall:
- 720 1. Sell, barter, exchange or attempt to sell any goods, wares or merchandise
721 from any city street or from any passenger vehicle or trailer. This
722 prohibition shall not apply to vending carts ~~or mobile food vendors~~ as set
723 forth below. This prohibition may be waived by the administrator for
724 special events recognized by the city, provided that the applicant satisfies
725 all permit requirements of section 66-7 and complies with article I of
726 chapter 66 and other applicable provisions of Brevard City Code.
 - 727 2. Vend on any street or sidewalk where vending is otherwise prohibited.
 - 728 3. Vend between 9:00 p.m. and 7:00 a.m. of the following day, except during
729 city-approved festivals and events.
 - 730 4. Sell food or beverages for immediate consumption unless the operator has
731 available for public use his own or a public litter receptacle which is
732 available for ~~his~~ patrons' use and no more than ten feet distant from ~~his~~
733 the pushcart or mobile food unit vending location.
 - 734 5. Leave the designated location without first picking up, removing and
735 disposing of all trash or refuse remaining from sales made.
 - 736 6. Solicit or conduct business with persons in motor vehicles.
 - 737 7. Sell anything other than that which the operator is licensed to vend.
 - 738 8. Sound or permit the sounding of any device which produces noise, or use
739 or operate any sound system, radio, sound amplifier or speaker to attract
740 the attention of the public.
 - 741 9. Vend within 50 feet of any driveway entrance to a police or fire station, or
742 within ten feet of any other driveway or of any alley.

- 743 10. Vend within ten feet of the crosswalk at any intersection.
- 744 11. Vend within ten feet of any fire hydrant or fire escape.
- 745 12. Allow any item relating to the operation of the vending business to lean
746 against or hang from any building or other structure lawfully placed on
747 public property, without the owner's permission.
- 748 13. Vend within ten feet of any building.
- 749 iv. The application for a temporary vending permit shall include:
- 750 1. The name and address of the applicant, and the name and address of the
751 owner of the vending business or of the cart to be used in the operation of
752 the vending business.
- 753 2. A description of the type of food, beverage or merchandise to be sold.
- 754 3. A description (including the size) and a photograph of any pushcart to be
755 used in the operation of the business, including the license and
756 registration number of any motor vehicle used in the operation of the
757 business.
- 758 4. A copy of any approval required by the county health department,
759 building inspector, or fire marshal.
- 760 5. Proof of an insurance policy, issued by an insurance company licensed to
761 do business in the state, protecting the permittee and the property owner
762 (including the city in the case of pushcart operators) from all claims for
763 damages to property and bodily injury, including death, which may arise
764 from operations under or in connection with the permit. Such insurance
765 shall name the property owner as additional insured and shall provide
766 that the policy shall not terminate or be canceled prior to the expiration
767 date without 30 days' advance written notice to the city. Policies covering
768 pushcart operators shall conform to the minimum coverage requirements
769 as set forth by the city manager.
- 770 6. The federal and state tax identification numbers of the owner of the
771 business, and copies of the owner's pre-printed North Carolina sales and
772 use tax forms for the months of proposed operation.
- 773 v. All permits issued under this section shall be displayed in a prominent location at
774 all times during the operation of the vending business.
- 775 vi. Any temporary vendor's permit may be denied, suspended or revoked by the
776 administrator for fraud or misrepresentation in the application for the permit or in
777 the conduct of the business, for conduct of the business in such a manner as to
778 create a public nuisance or constitute a danger to the public health, safety, welfare
779 or morals, or for conduct which is contrary to the provisions of this chapter or any
780 condition of permit approval.
- 781 vii. Non-agricultural roadside vendors:
- 782 1. Non-agricultural vendors may be permitted to operate for a period not to
783 exceed 90 days, after which such vendors shall vacate the premises and
784 shall not be reestablished for a period of 45 days.
- 785 viii. Agricultural roadside vendors:
- 786 1. Agricultural vendors may be permitted to operate for a period not to
787 exceed 180 days, after which such vendors shall vacate the premises and
788 shall not be reestablished for a period of 45 days.

- 789 2. Agricultural vendors shall only offer seasonal horticultural, agricultural,
790 aquacultural or forest products, including but not limited to raw fruits,
791 vegetable, perennials, annuals bulbs, dried flowers, Christmas trees, and
792 similar products.

793 ~~B. Mobile Food Vendors~~

794 a. ~~Definition:~~ Mobile food vendors (or "food trucks") are licensed motor vehicles or mobile
795 food units which offer for sale and consumption food and beverages (excluding alcohol).

796 b. ~~Additional Standards:~~

797 i. ~~Permits required:~~

798 1. ~~The owner, or authorized agent thereof, of any property upon which a~~
799 ~~mobile food vendor(s) proposes to operate, shall secure a permit for the~~
800 ~~establishment of a mobile food vendor site. Applicants shall provide such~~
801 ~~information as is deemed necessary by the administrator to demonstrate~~
802 ~~compliance with this ordinance; such information shall include, but shall~~
803 ~~not be limited to, a listing of the mobile food vendors authorized to~~
804 ~~operate upon the subject property.~~

805 2. ~~Mobile food vendors shall secure all necessary permits required by the~~
806 ~~Transylvania County Health Department. Mobile food vendors must follow~~
807 ~~all applicable rules and requirements of the Transylvania County Health~~
808 ~~Department and any other relevant agencies of Transylvania County or~~
809 ~~the State of North Carolina.~~

810 3. ~~In the issuance of permits for mobile food vendor sites and mobile food~~
811 ~~vendors, the administrator shall have broad discretion to assign such~~
812 ~~conditions as may be necessary to protect the health, safety, and welfare of~~
813 ~~the public.~~

814 ii. ~~There shall be no limit to the number of mobile food vendors per parcel so long as~~
815 ~~all other separation and site requirements as set forth in this section are met.~~

816 iii. ~~Mobile food vendors shall be situated at least ten feet from all property lines and~~
817 ~~any road right-of-way, shall not encroach onto any street, sidewalk, or travel way,~~
818 ~~and shall not obstruct any loading zone or handicapped parking space. This~~
819 ~~requirement shall not apply to special events approved by the city for placement~~
820 ~~upon public streets.~~

821 iv. ~~Mobile food vendors shall be situated at least 20 feet from one another.~~

822 v. ~~Separation between mobile food vendors and permanent structures:~~

823 1. ~~Mobile food vendors shall be situated at least 25 feet from any permanent~~
824 ~~structures.~~

825 2. ~~The administrator may, upon recommendation of the fire marshal,~~
826 ~~approve the placement of mobile food vendors within 25 feet or less of a~~
827 ~~permanent structure. Such approval shall be based upon building type,~~
828 ~~building materials, existing fire breaks, and other pertinent information.~~
829 ~~Such reductions shall be reviewed on a case-by-case basis, at the~~
830 ~~discretion of the administrator.~~

831 3. ~~There shall be no reduction in separation between mobile food vendors~~
832 ~~and permanent structures within the downtown fire district.~~

833 4. ~~Mobile food vendors shall be situated at least 200 feet from any residential~~
834 ~~structure that is located within a general residential (GR) zoning district.~~

835 ~~5.—Mobile food vendors must be set back a minimum of ten feet in all~~
836 ~~directions from fire hydrants.~~

837 ~~vi.—The application for a mobile food vendor site shall include a site plan detailing all~~
838 ~~of the above separation and setbacks requirements. If seeking approval for~~
839 ~~multiple mobile food vendors, spaces for each desired vendor shall be denoted on~~
840 ~~the site plan with appropriate setbacks shown from each vendor space.~~

841 ~~vii.—Power:~~

842 ~~1.—Outside of the Heart of Brevard district, generators may be used to power~~
843 ~~the vending unit. Within the Heart of Brevard only dedicated power~~
844 ~~supplies shall be used.~~

845 ~~2.—For dedicated power supplies the applicant must present documentation~~
846 ~~that power load supplied to the vehicle is sufficient to meet the vehicles~~
847 ~~needs while in operation.~~

848 ~~viii.—Vendors are subject to the requirements of the City of Brevard Noise Ordinance,~~
849 ~~North Carolina Health Code, and North Carolina Building Code.~~

850 ~~ix.—Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00~~
851 ~~p.m., except during an approved special event, when other operating hours may be~~
852 ~~established as part of the event.~~

853 ~~x.—Mobile food vendor operators or their designee must be present at all times during~~
854 ~~operation, except in the event of an emergency.~~

855 ~~xi.—Each food truck shall supply at least one waste receptacle which must be removed~~
856 ~~and emptied at the end of each day, city trash receptacles shall not be used for food~~
857 ~~truck waste.~~

858 ~~xii.—Mobile food vendor signage shall be limited to the following:~~

859 ~~1.—Mobile food vendors shall be allowed signage only as described in Chapter~~
860 ~~12 of this Ordinance.~~

861 ~~2.—Nothing in this Ordinance shall be construed to mean that mobile food~~
862 ~~vendor vehicles cannot be painted or decorated, or display menus affixed~~
863 ~~to the side(s) of the vendor vehicle.~~

864 G.B. Vending pushcart:

865 a. Definition: Any self-contained, wheeled vehicle used for displaying, keeping or storing any
866 article by a vendor or peddler (other than a motor vehicle, bicycle or trailer) which may be
867 moved without the assistance of a motor and does not require registration by the state
868 department of motor vehicles.

869 b. Additional Standards:

870 i. To relieve any potential for traffic hazard or pedestrian congestion, or any safety
871 hazard resulting therefrom, the number of vending carts with active permits
872 within the central business district at any given time shall not exceed four.

873 ii. No vendor selling from a pushcart on the sidewalk shall:

874 1. Leave any pushcart unattended.

875 2. Store, park or leave any pushcart overnight on any street or sidewalk.

876 3. Vend within 75 feet of any other vending cart.

877 4. Set up, maintain or permit the use of any table, crate, carton, rack or other
878 device to increase the selling or display capacity of his pushcart or where
879 such items have not been described in his application.

- 880 5. Allow any items relating to the operation of the vending business to be
881 placed anywhere other than in, on or under the pushcart.
- 882 6. Maintain any pushcart upon any street or sidewalk which impedes,
883 endangers or interferes with the travel upon or use of the street or
884 sidewalk.
- 885 7. Set up a pushcart so as to block or impede ingress and egress to any
886 structure.
- 887 iii. If it becomes necessary for the regulation of traffic or the safety or convenience of
888 pedestrians, any law officer of the city may direct vendors to move to another
889 location. No person may refuse to comply with a law enforcement officer when the
890 order is given under the authority of this section.
- 891 iv. Size of pushcarts:
- 892 1. No pushcart shall exceed 48 inches in width or 72 inches in length.
- 893 2. No pushcart shall exceed 60 inches in height, nor shall any canopy be less
894 than 78 inches in height at its lowest point.
- 895 3. The administrator shall have the right to require smaller dimensions
896 based upon such factors as, but not limited to, pedestrian and vehicular
897 safety and adequate sight distances.
- 898 v. The pushcart shall be set up so that a minimum of five feet of pedestrian passage is
899 maintained along the sidewalk at all times.
- 900 vi. Vendor permits will be invalid during special festivals and events within the
901 central business district. However, vendors may apply for permits from the
902 sponsoring organization or committee to operate within the area of the special
903 event.
- 904

905 **19.3. Definitions.**

906 *Eating and drinking establishment uses:* A retail business selling ready-to-eat food and/or beverages for
907 on or off-premise consumption. Customers may be served from an ordering counter (i.e. cafeteria or limited
908 service restaurant), at their tables (full-service restaurant), and at exclusively pedestrian-oriented facilities
909 that serve from a walk-up ordering counter (snack and/or nonalcoholic bars). This definition shall not
910 include any mobile food vendors or other operations serving food and/or beverages from a vehicle. Eating
911 and drinking establishments include, without limitation, the following uses: bars/nightclubs and restaurants.

912 Mixed-use residential unit: A non-residential building type that consists of both a residential use and a
913 non-residential use that is allowed in the applicable zoning district.

914 *Mobile food vendors (or food trucks):* Licensed motor vehicles or mobile food units which offer for sale
915 and consumption food and beverages (excluding alcohol).

916 Mobile food vendor site: A permanent location for licensed mobile food vendors or food trucks to offer
917 food and beverages for sale and consumption.

918 *Temporary vendors:* Any vendor who sets up a temporary location to sell food, goods, or services.
919 Vendors may be permitted individually or as part of a temporary event (Section 3.14.1). Temporary vendors
920 include, but are not limited to agricultural and non-agricultural roadside vendors and vending pushcarts.

COMMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN AND ANY OTHER OFFICIALLY ADOPTED APPLICABLE PLANS

NCGS 160D-604 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning text amendment is **consistent** with the following elements of the City's adopted plans and policies:

Building Brevard 2030 Comprehensive Land Use Plan Goals

GOAL 1: *Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.*

GOAL 2: *Encourage a development pattern that respects Brevard's sense of place and prioritizes livable communities.*

GOAL 7: *Support economic vitality and grow the tax base, cultivate local businesses, and attract sustainable industry.*

Building Brevard 2030 Comprehensive Land Use Plan Actions

LUH-4: *Identify areas across the City that are best positioned to accommodate future growth.*

LUH-9: *Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.*

EDIR-3: *Encourage building and site upgrades Downtown and in other key commercial areas.*

ORDINANCE NO. 2023-____

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 2 – DISTRICT REVISIONS, CHAPTER 3 – USE DEFINITIONS AND STANDARDS,
AND CHAPTER 19 – DEFINITIONS**

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance, Chapter 2 – District Revisions, Chapter 3 – Use Definitions and Standards, and Chapter 19 – Definitions; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard Comprehensive Plans:

Building Brevard 2030 Goals

GOAL 1: *Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.*

GOAL 2: *Encourage a development pattern that respects Brevard’s sense of place and prioritizes livable communities.*

GOAL 7: *Support economic vitality and grow the tax base, cultivate local businesses, and attract sustainable industry.*

Building Brevard 2030 Recommendations

LUH-4: *Identify areas across the City that are best positioned to accommodate future growth.*

LUH-9: *Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.*

EDIR-3: *Encourage building and site upgrades Downtown and in other key commercial areas.*

and,

WHEREAS, a public hearing was conducted on Monday, April 17, 2023, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Unified Development Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. Brevard City Code, Unified Development Ordinance Chapter 2, Chapter 3, and Chapter 19 are hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 1st day of May 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

EXHIBIT A

2.2. Use categories and tables of permitted uses.

C. *Use matrix.* The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "P" denotes those uses that are permitted "by right."
2. "—" denotes those uses that are not permitted within the given district.
3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in Chapter 16. Additional standards for certain uses requiring a special use permit are set forth in Chapters 3 and 5 of this ordinance.
4. "PS" denotes those uses that are permitted with additional standards, which are set forth in Chapter 3.
5. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
<i>Residential</i>			GR	RMX	NMX	DMX	CMX	IC	GI
Household Living	3.5.1	Dwelling—Single-Family	P	P	—	—	—	P	—
		Dwelling—Duplex	P	P	P	—	—	P	—
		Dwelling—Multifamily 3—4 units/bldg.	P	P	P	P	P	P	—
		Dwelling—Multifamily more than 4 units/bldg.	—	P	P	P	P	P	—
		Dwelling—Townhome	P	P	P	P	P	P	—
		Manufactured Home (single unit)	MHD	MHD	MHD	MHD	MHD	MHD	—
		Manufactured Home Park	MHD	MHD	MHD	MHD	MHD	MHD	—
		Live-Work Units	PS	PS	PS	PS	—	PS	—
		Mixed-Use Residential Unit	—	—	PS	PS	PS	PS	—
Group Living	3.5.2	Family Care Home	P	P	P	P	P	P	—
		Housing Services for the Elderly	SUP	P	P	P	P	P	—
		Rooming or Boarding House	P	P	P	P	P	P	—
Social Services	3.5.3	Group Care Facility	P	P	P	P	P	P	—
		Shelter	SUP	P	P	P	P	P	—
<i>Lodging</i>			GR	RMX	NMX	DMX	CMX	IC	GI
Overnight Accommodations	3.6.1	All overnight accommodations, except as listed below	—	—	—	P	P	P	—
		Bed and Breakfast	PS	PS	PS	PS	PS	PS	—
		Short-Term Rental	PS	PS	PS	PS	—	—	—
Camping	3.6.2	Campground/Recreational Vehicle Park	SUP	SUP	SUP	—	—	SUP	—
		Rental Cottage/Cabins	PS	PS	PS	—	—	—	—
		Seasonal Camp	PS	—	—	—	—	PS	—
<i>Commercial</i>			GR	RMX	NMX	DMX	CMX	IC	GI

Eating and Drinking Establishments	3.7.1	All restaurants and other eating and drinking establishments except as listed below	—	—	P	P	P	P	—
		Bar/Night Club	—	—	PS	P	P	—	—
Personal Services	3.7.2	All personal services, except as listed below	—	P	P	P	P	P	—
		Day Care Center	PS	PS	PS	PS	PS	PS	PS
Professional Services	3.7.3	All professional services, except as listed below	SUP	P	P	P	P	P	P
		Adult Establishment	—	—	—	—	—	—	SUP
		Banks, Credit Unions, Financial Services, and ATMs	—	—	P	P	P	P	P
		Funeral Homes and Services	—	—	P	P	P	P	—
		Human Crematories and Crematoriums	—	—	PS	PS	PS	PS	PS
		Indoor Animal Services	—	—	P	P	P	P	P
		Kennels and Outdoor Animal Services	—	—	SUP	—	PS	—	PS
		Landscaping and Contractor Services	SUP	SUP	SUP	—	—	—	P
		Vehicle Services—Major Repair/Body Work	—	—	—	—	PS	—	PS
		Vehicle Services—Minor Maintenance/Repair	—	—	SUP	SUP	PS	PS	PS
Retail	3.7.4	All retail and sales establishments except as listed below	—	—	P	P	P	P	—
		Alcoholic Beverage Sales Store	—	—	SUP	P	P	—	—
		Auto/Mechanical Parts Sales	—	—	—	P	P	—	P
		Gas Station	—	—	SUP	SUP	PS	—	PS
		Gunsmiths and Weapon Sales	—	—	SUP	PS	PS	—	PS
Shopping Centers	3.7.5	All shopping centers	—	—	PS	PS	PS	—	—
Civic/Institutional			GR	RMX	NMX	DMX	CMX	IC	GI
Educational	3.8.1	All educational uses except as listed below	SUP	P	P	P	P	P	—
		Colleges/Universities	—	—	SUP	P	P	P	—
		Schools—Vocational/Technical	—	SUP	P	P	P	P	P
Government	3.8.2	All government uses, except as listed below	—	P	P	P	P	P	P
		Correctional Facilities	—	—	SUP	SUP	P	P	P
		Public Safety Station	SUP	SUP	P	P	P	P	P
Medical	3.8.3	All medical offices and facilities except as listed below	—	P	P	P	P	P	—
		Hospital	—	—	—	—	P	P	—
Places of Worship	3.8.4	All religious institutions or places of worship	SUP	P	P	P	P	P	—
		Cemeteries	PS	PS	PS	PS	PS	PS	—
Entertainment/Recreation			GR	RMX	NMX	DMX	CMX	IC	GI
Indoor Recreation	3.9.1	All indoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P

		Cultural or Community Facility	SUP	P	P	P	P	P	—
		Indoor Amusements	—	—	SUP	P	P	SUP	P
		Indoor Firing Range	—	—	—	—	SUP	SUP	SUP
		Live Performance Theater	—	SUP	SUP	P	P	P	—
		Movie Theater	—	—	—	P	P	—	—
		Special Event Venue	SUP	SUP	PS	PS	PS	PS	—
		Studios, Galleries and Workshops - High Impact	—		SUP	SUP	P	P	P
		Studios, Galleries and Workshops - Low Impact	—	P	P	P	P	P	—
Outdoor Recreation	3.9.2	All outdoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P
		Non-Residential Swimming Pool or Pond	—	SUP	SUP	PS	PS	PS	—
		Outdoor Amusements	—	—	SUP	SUP	P	—	P
		Outdoor Firing Range	—	—	—	—	—	—	SUP
		Parks, Open Space, and Greenways	P	P	P	P	P	P	P
Agriculture			GR	RMX	NMX	DMX	CMX	IC	GI
Agriculture	3.10.1	All agricultural uses	PS	—	—	—	PS	PS	PS
Manufacturing/Wholesale/Storage			GR	RMX	NMX	DMX	CMX	IC	GI
Light Industrial and Manufacturing	3.11.1	All light industrial and manufacturing activities, except as listed below	—	—	—	—	SUP	—	P
		Brewery, Distillery, Winery, Cidery - High Impact	—	—	—	—	P	—	P
		Brewery, Distillery, Winery, Cidery - Low Impact	—	—	SUP	PS	PS	—	PS
		Laboratory	—	—	—	—	P	P	P
		Laundry, Dry Cleaning Plant	—	—	—	—	SUP	P	P
		Manufacturing Research and Development	—	—	—	—	P	P	P
		Media Production	—	—	P	P	P	P	P
Heavy Manufacturing	3.11.2	All heavy manufacturing activities, except as listed below	—	—	—	—	—	—	SUP
		Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	P	—	P
Storage and Disposal	3.11.3	All storage and disposal uses, except as listed below	—	—	—	—	SUP	—	P
		Chemical Storage Facility	—	—	—	—	—	—	P
		Solid Waste Storage or Disposal Facilities	—	—	—	—	—	—	PS
		Junkyard / Salvage Yard	—	—	—	—	—	—	SUP
Wholesaling and Distribution	3.11.4	All wholesaling and distribution activities, except as listed below	—	—	—	—	P	—	P
		Equipment Rental	—	—	—	—	P	—	P
		Indoor Vehicle/Heavy Equipment Sales	—	—	PS	PS	PS	—	PS
		Outdoor Vehicle/Heavy Equipment Sales	—	—	—	—	PS	—	PS

Infrastructure			GR	RMX	NMX	DMX	CMX	IC	GI
Utilities	3.12.1	Utilities—Class 1	P	P	P	P	P	P	P
		Utilities—Class 2	P	P	P	P	P	P	P
		Utilities—Class 3	—	—	—	—	—	—	P
Telecommunications	3.12.2	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Transportation	3.12.3	Parking Lot	PS	PS	PS	PS	PS	PS	PS
		Passenger Vehicle Terminals	—	—	P	P	P	—	P
Accessory			GR	RMX	NMX	DMX	CMX	IC	GI
Residential Accessory	3.13.1	All residential accessory uses, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Day Care Home	PS	PS	PS	PS	PS	PS	—
		Dwelling—Accessory Unit (ADU)	PS	PS	PS	PS	PS	PS	—
		Home Occupation	PS	PS	P	P	P	P	—
		Keeping Bees	PS	PS	PS	PS	PS	PS	PS
		Keeping Domestic Fowl (Chickens)	PS	PS	PS	PS	PS	PS	PS
		Swimming Pool or Pond	PS	PS	PS	PS	PS	PS	—
Non-Residential Accessory	3.13.2	All non-residential accessory uses, except as listed below	—	PS	PS	PS	PS	PS	PS
		Accessory Retail	—	—	PS	PS	PS	PS	PS
		Drive-Thrus	—	—	SUP	—	PS	—	—
		Mobile Food Vendor Site	—	SUP	PS	PS	PS	PS	PS
		Recycling - Small Collection	—	—	—	—	SUP	SUP	P
		Rooftop Amenity Space	—	—	SUP	PS	PS	PS	PS
		Taproom / Tasting Room	—	—	SUP	P	P	—	P
Temporary			GR	RMX	NMX	DMX	CMX	IC	GI
Events and Structures	3.14.1	All temporary events and structures, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Carnivals or Circus	—	—	—	—	PS	PS	PS
		Farmers Market	—	—	PS	PS	PS	PS	—
Vendors	3.14.2	All temporary vendors, except as listed below	—	—	PS	PS	PS	—	—
		Vending Pushcarts	—	—	—	PS	—	—	—

^(a) This column refers to the section of this ordinance that contains the use definition and additional standards.

3.5. Residential Uses.

1. Household Living Use Category

A. Household Living

1. **Definition:** Residential occupancy of a dwelling unit by a household. Household living includes the following uses:

- i. Dwelling – Single-family;
- ii. Dwelling – Duplex;
- iii. Dwelling – Multifamily 3-4 units/building;
- iv. Dwelling – Multifamily more than 4 units/building;
- v. Dwelling – Townhome;
- vi. Manufactured Home (single unit);
- vii. Manufactured Home Park; and
- viii. Live-Work Units

B. *Dwelling—Single-family*

1. Definition: A free-standing building designed for and/or occupied by one household. These residences may be individually owned as residences or owned by rental or management companies. Single-family dwellings are typically site-built structures that comply with the North Carolina Residential Building Code, current edition, but also include factory-built, modular home units.

C. *Dwelling—Duplex*:

1. Definition: A building containing two residential dwelling units that is typically divided horizontally, each unit having a separate entrance from the outside or through a common vestibule.

D. *Dwelling—Multi-family (three or four units/building)*

1. Also known as a Triplex or Quadraplex
2. Definition: A building containing three or four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. Multi-family dwellings may include triplexes or fourplexes (buildings under one ownership with three or four dwelling units in the same structure),

E. *Dwelling—Multi-family (more than four units/building)*:

1. Definition: A building containing more than four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. These structures may include apartments (five or more units under one ownership in a single building)

F. *Dwelling – Townhome*

1. Definition: A building that contains three or more separate dwellings divided vertically and connected by shared walls. Each unit has a separate entrance to a front and/or rear yard. This definition includes subdivisions where townhomes are located on zero-lot line properties where common walls are situated on one or more lot lines.

G. *Manufactured home*

1. Definition: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:
 - i. It is at least eight feet in width and 32 feet in length;
 - ii. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;
 - iii. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and

iv. It does not have any wheels or axles permanently attached to its body or frame.

2. Additional Standards:

i. This definition does not include recreational vehicles.

ii. Manufactured homes are permitted with standards in the Manufactured Home Overlay District.

iii. Dwelling units built to, or utilizing any of, the following as primary construction standards are NOT considered manufactured homes suitable for use as permanent dwelling units: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5.

H. *Manufactured home park:*

1. Definition: The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.

2. Additional Standards:

i. Manufactured home parks are permitted with standards in the Manufactured Home Overlay District.

ii. Preexisting manufactured home parks.

1. Any manufactured home park, as defined by this chapter, existing on the effective date of this chapter or any subsequent amendment thereto may continue to operate without being subject to the requirements of this chapter except where explicitly set forth below.

2. Expansions to a pre-existing manufactured home park shall occur in a manner that fully conforms to the requirements of this ordinance. Expansions shall not occur in districts within which manufactured home parks are not permitted.

iii. A manufactured home park space shall be considered preexisting if, on the effective date of this chapter, the space:

1. Is defined on the ground by the presence of all of the following:

a. A water supply system service connection;

b. A connection to a septic system or sanitary sewer; and

c. Electric service equipment.

2. Or, contains an occupied manufactured home connected to each of the preceding utilities.

iv. Permitting.

1. Each application for a manufactured home park shall be accompanied by development plans as required by Chapter 17, including contoured site plans (five-foot intervals) using true elevations. Development plans shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements. Development plans shall also show that all improvements would meet the following standards.

2. Prior to the placement, replacement, modification, or setup of a manufactured home within any manufactured home park or on an individual lot of record within the regulatory jurisdiction of the City of Brevard, the manufactured home or agent thereof shall procure a land development permit from the City of Brevard and a manufactured home setup permit from the Transylvania County Building Inspections Department.

v. Dimensional specifications.

1. *Lot standards:*

Minimum Development Size	3 acres
Maximum Development Size	40 acres
Maximum Development Density	6 units/acre
Lot Width at Right-of-Way	50 ft.
Minimum Lot Depth	150 ft.

2. *Principal structure standards:*

Development setback on all boundaries	50 ft.
Unit setback from internal street centerline	25 ft.
Distance between homes-short side to short side	20 ft.
Distance between homes-long side to short side	20 ft.
Distance between homes-long side to long side	30 ft.
Setback from public right-of-way	50 ft.
Maximum Height	35 ft.

vi. General requirements (new and pre-existing).

1. All manufactured home park roads, spaces, and the manufactured homes therein shall fully comply with the road naming and property addressing ordinances of the City of Brevard or Transylvania County, as applicable.
2. The owner and/or operator of a manufactured home or manufactured home park shall not sell manufactured homes on or within a manufactured home park unless the manufactured home unit for sale is placed individually and separately upon an existing manufactured home space where all design standards and utilities have been completed as specified by this ordinance. This does not prohibit the manufactured home park owner and/or operator from owning or operating a retail sales business on adjoining property if such use is permitted within the underlying district.
3. All manufactured homes placed upon an individual lot of record or within a manufactured home park shall be built according to Housing and Urban Development standards, and shall bear a label or seal indicating compliance with this requirement. Any manufactured home unit that does not bear a label or seal of compliance of a recognized testing laboratory, such as Underwriters Laboratories or similar testing service, shall be subject to inspection by the building inspector.
4. Recreational vehicles (RV), park model RV's, and other structures that are not constructed to the United States Department of Housing and Urban Development Standards or to North Carolina Building Code shall not be permitted with any manufactured home park, nor shall such

structures become occupied within any other property within the jurisdiction of the City of Brevard, except as otherwise provided for in this ordinance.

5. At least ten percent of the total area of any manufactured home park containing 35 or more spaces and situated one-quarter of a mile or more from a public recreational facility shall be set aside for recreational purposes, except that open space as required in Chapters 6 and 7 of this ordinance may be applied to no more than 75 percent of such recreation space.

vii. Manufactured home park streets.

1. Convenient access to each manufactured home space shall be provided by streets or drives that are properly graded, drained, and paved with a durable dustless surface, for automobile circulation.
2. Manufactured home parks containing ten or more units shall be serviced by a central drive that is constructed in accordance with the requirements for a new neighborhood street as set forth in Chapter 13. Streets entering branching from the central drive shall also be built according to neighborhood street dimensions. However, a sidewalk and curb/gutter shall not be required.
3. Any tract of land to be developed as a manufactured home park must either have frontage on a public (state or city-maintained) road or have a private right-of-way corridor to the property. The minimum required length of the public road frontage or width of the private right-of-way corridor (at its narrowest point) shall be 50 feet.
4. Off-site access shall have a minimum 20-foot cleared, unobstructed corridor, with a vertical clearance of at least 14 feet to allow passage of emergency vehicles.
5. The grade of any road, existing or proposed, within an off-site private right-of-way corridor used to access a manufactured home park shall not exceed 15 percent.
6. Publicly dedicated rights of way shall not be required, and maintenance of such streets shall be provided for by the owner and/or operator of the manufactured home park.
7. Culs-de-sac shall not exceed 250 feet in length and shall be provided with a turnaround of at least 60 feet in diameter. Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Department of Transportation shall apply.
8. Proposed streets shall be named, and addresses for manufactured home spaces along such streets assigned, by the Transylvania County Property Addressing Coordinator in accordance with the provisions set forth in the City of Brevard Property Addressing Ordinance or the Transylvania County Property Addressing Ordinance, as applicable.
9. A minimum of two automobile parking spaces (paved with a durable, dustless surface) shall be provided adjacent to each manufactured

home space, but shall not be located within any public right-of-way or within any street in the park.

10. All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed on each manufactured home space.

viii. Manufactured home space.

1. Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners.
2. Each manufactured home space shall be located on ground not susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises.
3. The manufactured home space shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men" eyelets embedded in concrete foundations or runways, screen augers, arrowhead anchors, or other devices securing the stability of the manufactured home. Each manufactured home unit shall comply with the above standards or similar standards whichever are higher. Each manufactured home owner shall be responsible for securing his individual manufactured home to anchors provided by the manufactured home park operator.

ix. Utility requirements.

1. An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. All manufactured home parks within 300 feet of city water or sewer shall connect thereto. When a municipal or public water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the Transylvania County Health Department. Evidence of the issuance of necessary county or state permits shall be a condition of approval of any permit for a manufactured home park.
2. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Where a public sewage collection system is available, connection shall be made thereto, and the system and sewage treatment plants complying with the requirements of the North Carolina Department of Environmental Quality shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the North Carolina Department of Environmental Quality. Individual septic tank systems can be considered, if soil, topography, and groundwater conditions are favorable. If septic tanks are used, they will be subject to approval by the Transylvania County Health Department.
3. All utilities within the proposed manufactured home park shall be located underground.
4. Failure to maintain an operational sewage disposal system shall constitute grounds for the revocation of a category III land development permit and the application of all applicable penalties as set forth in this ordinance.

x. Solid waste.

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1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or pollution.
 2. All solid waste containing garbage shall be stored in standard fly-tight, watertight, rodent-proof containers, with a capacity of not more than 32 gallons, which shall be located not more than 150 feet from any manufactured home space. Containers shall be provided in sufficient number and capacity to properly store all solid waste containing garbage. The manufactured home park owner and/or operator shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the Transylvania County Health Department.
 3. Containers shall be installed in the ground or provided with stands. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
 4. All solid waste garbage shall be collected at least once weekly. Where suitable collection service is not available from municipal or private agencies, the manufactured home park owner and/or operator shall dispose of the solid waste by collecting and transporting it in conformance with requirements and guidelines set forth by the North Carolina State Board of Health and the Transylvania County Health Department.
- xi. Grounds, buildings, and structures.
1. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination and control methods shall conform to the requirements of the County Health Department and/or North Carolina Department of Agriculture.
 2. Parks shall be maintained free of accumulation of garbage, litter, or other debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests, or which may pose other health or sanitation hazards, or which may contribute to an otherwise unsightly or unpleasant environment.
 3. Storage areas shall be so maintained as to prevent rodent harborage and shall not pose a safety hazard to manufactured home park residents or guests. Lumber, pipe, and other building material shall be stored at least one foot above ground.
 4. All manufactured homes shall be properly skirted with non-opaque wood, aluminum, vinyl, or other appropriate material. Plastic, plywood, particle board, carpet, or other atypical skirting material shall not be used.
 5. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be screened with wire mesh or other suitable materials.
 6. Landscaping and vegetation in and around the manufactured home park shall at all times be maintained, and landscaping provisions of the park plan shall at all times be adhered to. The growth of bushes, weeds, and grass shall be controlled so as to prevent the harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac,

- 285 and other noxious weeds considered detrimental to health. Open
286 spaces and recreation areas shall be maintained free of heavy
287 undergrowth of any description.
- 288 7. No inoperable vehicle shall remain in a manufactured home park for a
289 period longer than 60 days unless the vehicle is stored under a carport
290 or within a garage.
- 291 8. Manufactured and mobile homes shall not be abandoned or stored
292 within the regulatory jurisdiction of the City of Brevard. Manufactured
293 homes that have been disconnected from active electricity, water, and
294 sewage for a period exceeding 90 days shall be removed and properly
295 disposed of. Manufactured homes located outside of a manufactured
296 home space for a period to exceed 45 days shall be removed and
297 properly disposed of.
- 298 9. Manufactured homes shall not be utilized for storage or other non-
299 residential uses of any type.
- 300 xii. Registration of occupant.
- 301 1. Every manufactured home park owner or operator shall maintain an
302 accurate register. The register shall be available for inspection at all
303 times by authorized city representatives. The register shall contain the
304 following information on forms provided by the planning department:
305 (1) Name of owner and/or occupant; (2) manufactured home space
306 number; (3) make, model, registration number of manufactured home;
307 and (4) date of arrival and departure of the occupants. Records shall be
308 maintained for a period of three years.
- 309 xiii. Inspection and enforcement.
- 310 1. The park owner and/or operator shall notify park occupants of all
311 applicable provisions of the ordinance and inform them of their duties
312 and responsibilities under this ordinance.
- 313 2. The owner and/or operator shall operate the park in compliance with
314 this ordinance, Brevard City Code, Transylvania County Code (as
315 applicable), and state and federal law, and shall provide adequate
316 supervision to maintain the park, its facilities and equipment in good
317 repair and in a clean and sanitary condition.
- 318 3. The City of Brevard Planning Department, the Transylvania County
319 Health Department and the Transylvania County Building and
320 Inspections Department are hereby authorized and directed to make
321 such inspections as are necessary to determine satisfactory compliance
322 with this ordinance. It shall be the duty of the owners and/or operators
323 or occupants of manufactured home parks to give these agencies free
324 access to such premises at reasonable times for the purpose of
325 inspection.
- 326 4. So long as a violation exists the administrator shall not issue permits
327 that would authorize the placement, replacement, setup, or
328 modification of a new or existing manufactured home within the
329 subject park.

I. *Live-work unit:*

- 1. Definition: A residential building type that consists of both a residential use and a non-residential use that is allowed in the applicable zoning district.
- 2. Additional Standards:
 - i. Typically, the enterprise or non-residential use is located on the ground floor and the residential unit is above or behind.
 - ii. Non-residential uses within a live-work unit must be listed within Section 2.2.C as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.
 - iii. In districts where residential building types are not permitted live-work units may be permitted within pre-existing non-conforming residential structures.

J. *Mixed-use residential unit:*

- 1. Definition: A non-residential building type that consists of both a residential use and a non-residential use that is allowed in the applicable zoning district.
- 2. Additional Standards:
 - i. The enterprise or non-residential use shall be located on the ground floor and the residential unit is above.
 - ii. Non-residential uses within a mixed-use residential unit must be listed within Section 2.2.C as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.

3.7. Commercial Uses.

1. *Eating and Drinking Establishments Use Category*

A. *Restaurants and Other Eating and Drinking Establishments*

- a. Definition: A retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. Customers may be served from an ordering counter (i.e., cafeteria or limited-service restaurant), at their tables (full-service restaurant), and at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter (snack and/or nonalcoholic bars). This definition shall not include any mobile food vendors or other operations serving food and/or beverages from a vehicle. Eating and drink establishments include, without limitation, the following uses:
 - i. Bars and nightclubs; and
 - ii. Restaurants.

3.13. Accessory Uses.

2. *Non-Residential Accessory Uses*

A. *Mobile Food Vendor Site*

- a. Definition: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale and consumption.
- b. Additional Standards:
 - i. Mobile food vendors shall only vend at permanent locations permitted under this section.
 - ii. The owner, or authorized agent thereof, of any property upon which a mobile food vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile food vendor site.
 - iii. Mobile food vendors using the designated site shall secure all necessary permits required by the Transylvania County Health Department.
 - 1. Mobile food vendors must follow all applicable rules and requirements of the Transylvania County Health Department and any other relevant agencies of Transylvania County or the State of North Carolina.
 - 2. In the issuance of permits for mobile food vendor sites and mobile food vendors, the administrator shall have broad discretion to assign such conditions as may be necessary to protect the health, safety, and welfare of the public.

iv. *Number of mobile food vendor sites:*

1. In NMX and DMX zoning districts, only 1 mobile food vendor site shall be permitted per parcel.
2. In CMX, IC, and GI zoning districts, each parcel is permitted up to 3 mobile food vendor sites, so long as all other separation and site requirements as set forth in this section are met.
3. Additional mobile food vendor sites may be permitted with the issuance of a special use permit in accordance with Chapter 16.

v. *Separation requirements:*

1. Mobile food vendors shall be situated at least 10 feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space.
 - a. This requirement shall not apply to special events approved by the city for placement upon public streets.
2. Mobile food vendors shall be situated at least 20 feet from one another.
3. Mobile food vendors shall be situated at least 25 feet from any permanent structures.
 - a. The administrator may, upon recommendation of the fire marshal, approve the placement of mobile food vendors within 25 feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and other pertinent information. Such reductions shall be reviewed on a case-by-case basis, at the discretion of the administrator.
 - b. There shall be no reduction in separation between mobile food vendors and permanent structures within the downtown fire district.
4. Mobile food vendors shall be situated at least 200 feet from any residential structure that is located within GR zoning district.
5. Mobile food vendors must be set back a minimum of ten feet in all directions from fire hydrants.

vi. *Power.*

1. Outside of the Heart of Brevard district, generators may be used to power the vending unit. Within the Heart of Brevard only dedicated power supplies shall be used.
2. For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicles needs while in operation.

vii. Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m., except during an approved special event, when other operating hours may be established as part of the event.

viii. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.

ix. Each food truck shall supply at least one waste receptacle which must be removed at the end of each day. All waste receptacles must be emptied at the end of each day and as necessary during the day. City trash receptacles shall not be used for the food truck operator's waste.

x. Mobile food vendor signage shall be limited to the following:

1. Mobile food vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.
2. Nothing in this Ordinance shall be construed to mean that mobile food vendor vehicles cannot be painted or decorated, or display menus affixed to the side(s) of the vendor vehicle.

3.14. Accessory Uses.

1. Temporary Events and Structures Category

A. Temporary events and structures:

- a. Definition: An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize "temporary

structures" for the duration of the event. Examples of these activities include, without limitation, the following:

- i. carnivals or circuses;
- ii. contractor's office and equipment sheds
- iii. farmers markets;
- iv. outdoor meetings;
- v. satellite real estate sales office;
- vi. seasonal structures; and
- vii. special events

b. Additional Standards:

- i. In the consideration of any temporary use, structure or special event, the administrator shall have broad discretion to impose such conditions as may be necessary to protect the health, safety and welfare of the public.
- ii. The use shall clearly be of a temporary nature.
- iii. The use shall be limited to a period not to exceed 90 days except as otherwise provided.
- iv. The use shall not obstruct any public travel way except by specific approval by the city and will cause no traffic congestion;
- v. The use shall not create a nuisance to surrounding uses.
- vi. The use shall not create hazards or adverse impacts related to parking, drainage, fire protection, or other adverse impacts.
- vii. The operator shall provide a plan for the management of waste generated by the use, and sanitary facilities if the administrator or health department deems it is necessary.
- viii. The operator shall satisfy all other requirements of the director of public health, the building inspector or the fire marshal.
- ix. The operator shall secure a business license, street closure permit, sidewalk closure permit, or parade permit if required.
- x. The applicant and/or operator shall promote the temporary use or special event as tobacco and nicotine free (including, but not limited to smoking, vaping, dipping, and chewing).
- xi. A minimum of five parking spaces shall be designated for use by patrons of the temporary use, structure or special event. In all cases, the applicant shall demonstrate that there will be adequate parking for the existing uses as well as the temporary use, structure or special event.
- xii. Temporary use, structures, and special event may be permitted within developed parking lots that serve a principal structure(s), the hours of operation of which are the same as the use, structure or event, only when the number of existing parking spaces exceeds the minimum number of spaces that are required for the principal structure(s) by a minimum of five parking spaces, plus the number of parking spaces to be rendered unusable within the area of the use, structure, or event.
- xiii. The total area of a temporary use or special event, including tents, display areas, and other appurtenances of the use, shall not exceed 2,000 square feet. This requirement shall not apply to the following categories of temporary uses or special events:
 - 1. Special events, upon approval by the administrator.
 - 2. Farmers markets.
 - 3. Carnivals and circuses.
- xiv. Tents and structures:
 - 1. Applicants shall provide flame retardancy certifications for all tents.
 - 2. Temporary structures shall not exceed 120 square feet. Tents, shipping containers, satellite offices and classrooms, and equipment sheds shall not be subject to this requirement.
 - 3. Seasonal greenhouses, tents, and other temporary structures may be permitted for a period not to exceed 90 days. These structures must be removed on the expiration date of the permit.
 - 4. A satellite office and equipment shed may be permitted in any district for a period covering the construction phase of a project, not to exceed one year,

provided that such office be placed on the property on which the project is situated.

5. The administrator may approve the temporary set-up and occupancy of recreational vehicles (or other temporary dwellings in consultation with the building inspector) when the principal residence of the occupant has been destroyed by wind, fire, movement of earth, or other manmade or natural disaster, and subsequent to such event having been declared a disaster by the Mayor of the City of Brevard, the County Manager of the County of Transylvania, the Governor of the State of North Carolina, or the President of the United States. In no case shall such a vehicle or temporary dwelling be set up or occupied for a period exceeding 180 days. The setup or occupancy of a recreational vehicle shall not be permitted within the City of Brevard for any other reason whatsoever, except as otherwise provided for in this ordinance.
6. Shipping containers shall only be permitted to be used for temporary storage and must be in conjunction with a non-residential use.

xv. Site layout:

1. Temporary uses, structures and special events shall be arranged so as to maximize public safety, to minimize conflicts among vehicles and pedestrians, to minimize conflicts with existing, permanent uses.
2. Temporary uses, structures and special events shall be situated at least ten feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space. This requirement shall not apply to special events approved by the city for placement upon public streets.
3. Temporary uses, structures and events may obstruct travel ways within parking lots only upon determination by the administrator that such obstruction will not impede commerce, hinder the flow of traffic or endanger the safety of motorists or pedestrians. Uses, structures or events shall be clearly delineated and separated from areas of active vehicle operation by means of traffic safety cones, signage, flagging, or other approved means.
4. Temporary uses, structures and special events shall be situated at least ten feet from points of ingress and egress, and shall not obstruct the sight triangle at any intersection. Ingresses and egresses to the temporary uses, structures and special events shall be designated.

xvi. The administrator shall require an operations and site plan for each temporary use, structure, or special event, and shall require written permission for the operation of the temporary use, structure or special event by the owner(s) of the subject property.

xvii. The administrator may require that the operator provide a performance bond in the amount of 125 percent of the cost of removal of the use and restoration of the site, as authorized by G.S. 160D-702.

xviii. The temporary use, structure or special event shall comply with all other applicable provisions of City Code.

B. Carnival or Circus

a. Definition: A business providing temporary outdoor commercial entertainment, which may consist of sideshows, concessions, rides, games of chance, and other amusements.

b. Additional Standards:

- i. Carnivals and circuses may be permitted for a period not to exceed 21 days.
- ii. Carnivals and circuses shall only be permitted within undeveloped, vacant lots, or within developed parking lots that serve a principal structure, which structure is unoccupied for the duration of the carnival or circus.
- iii. Carnivals and circuses shall not employ registered sex offenders.

C. Farmers markets:

a. Definition: Venues wherein multiple vendors sell or offer for sale, seasonal products directly to consumers on a non-wholesale basis. Farmers markets shall be accessible to the general public and managed by public or non-profit entities. Farmers markets are a form of temporary use.

b. Additional Standards:

- i. Vendors may offer seasonal horticultural, agricultural, aquacultural or forest products, including but not limited to raw fruits, vegetables, perennials, annuals bulbs, dried flowers, Christmas trees, and similar products.
- ii. Vendors may offer value-added horticultural, agricultural, aquacultural or forest products which were produced by the vendor, including but not limited to baked goods, meat, dairy, honey, cider, preserves, relishes, jams, jellies and similar products.
- iii. Vendors may offer hand-made crafts and works of art which were produced by the vendor; provided, however, that such products shall not exceed 25 percent of all products sold within the venue on any given day of operation.
- iv. Vendors may offer food items prepared by the vendor; provided, however, that such products shall not exceed 25 percent of all products sold within the venue on any given day of operation, and provided that the vendor shall comply with all applicable requirements of the director of public health and the North Carolina Department of Agriculture.
- v. The sale of live animals is prohibited.
- vi. All vendors, including vendors utilizing vending push carts, shall situate products for sale, as well as associated vehicles, push carts, tents, tables or other materials within a designated vending space as delineated upon a site plan provided to the administrator in accordance with paragraph C.3., below.
- vii. The operator shall provide the administrator an operations plan, operating rules, and a list of the names of the vendors (persons, firms or corporations) who shall provide merchandise for sale as part of the market. The list shall generally describe the type of item to be sold by each said vendor.

2. Temporary Vendors Use Category

A. Temporary Vendors:

- a. Definition: Any vendor who sets up a temporary location to sell food, goods, or services. Vendors may be permitted individually or as part of a temporary event (Section 3.14.1). Temporary vendors include, but are not limited to:
 - i. Agricultural and non-agricultural roadside vendors and
 - ii. vending pushcarts.
- b. Additional Standards:
 - i. Temporary vendors, excluding those listed below, may be permitted one tent, which shall not exceed 1,500 square feet in area. Temporary vendors shall employ no other temporary structure.
 - ii. Temporary vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.
 - iii. No temporary vendor shall:
 - 1. Sell, barter, exchange or attempt to sell any goods, wares or merchandise from any city street or from any passenger vehicle or trailer. This prohibition shall not apply to vending carts as set forth below. This prohibition may be waived by the administrator for special events recognized by the city, provided that the applicant satisfies all permit requirements of section 66-7 and complies with article I of chapter 66 and other applicable provisions of Brevard City Code.
 - 2. Vend on any street or sidewalk where vending is otherwise prohibited.
 - 3. Vend between 9:00 p.m. and 7:00 a.m. of the following day, except during city-approved festivals and events.
 - 4. Sell food or beverages for immediate consumption unless the operator has available for public use his own or a public litter receptacle which is available for patrons' use and no more than ten feet distant from the vending location.
 - 5. Leave the designated location without first picking up, removing and disposing of all trash or refuse remaining from sales made.
 - 6. Solicit or conduct business with persons in motor vehicles.
 - 7. Sell anything other than that which the operator is licensed to vend.
 - 8. Sound or permit the sounding of any device which produces noise, or use or operate any sound system, radio, sound amplifier or speaker to attract the attention of the public.

9. Vend within 50 feet of any driveway entrance to a police or fire station, or within ten feet of any other driveway or of any alley.
 10. Vend within ten feet of the crosswalk at any intersection.
 11. Vend within ten feet of any fire hydrant or fire escape.
 12. Allow any item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.
 13. Vend within ten feet of any building.
- iv. The application for a temporary vending permit shall include:
1. The name and address of the applicant, and the name and address of the owner of the vending business or of the cart to be used in the operation of the vending business.
 2. A description of the type of food, beverage or merchandise to be sold.
 3. A description (including the size) and a photograph of any pushcart to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
 4. A copy of any approval required by the county health department, building inspector, or fire marshal.
 5. Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee and the property owner (including the city in the case of pushcart operators) from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the property owner as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the city. Policies covering pushcart operators shall conform to the minimum coverage requirements as set forth by the city manager.
 6. The federal and state tax identification numbers of the owner of the business, and copies of the owner's pre-printed North Carolina sales and use tax forms for the months of proposed operation.
- v. All permits issued under this section shall be displayed in a prominent location at all times during the operation of the vending business.
- vi. Any temporary vendor's permit may be denied, suspended or revoked by the administrator for fraud or misrepresentation in the application for the permit or in the conduct of the business, for conduct of the business in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals, or for conduct which is contrary to the provisions of this chapter or any condition of permit approval.
- vii. Non-agricultural roadside vendors:
1. Non-agricultural vendors may be permitted to operate for a period not to exceed 90 days, after which such vendors shall vacate the premises and shall not be reestablished for a period of 45 days.
- viii. Agricultural roadside vendors:
1. Agricultural vendors may be permitted to operate for a period not to exceed 180 days, after which such vendors shall vacate the premises and shall not be reestablished for a period of 45 days.
 2. Agricultural vendors shall only offer seasonal horticultural, agricultural, aquacultural or forest products, including but not limited to raw fruits, vegetable, perennials, annuals bulbs, dried flowers, Christmas trees, and similar products.
- B. *Vending pushcart:*
- a. Definition: Any self-contained, wheeled vehicle used for displaying, keeping or storing any article by a vendor or peddler (other than a motor vehicle, bicycle or trailer) which may be moved without the assistance of a motor and does not require registration by the state department of motor vehicles.
 - b. Additional Standards:
 - i. To relieve any potential for traffic hazard or pedestrian congestion, or any safety hazard resulting therefrom, the number of vending carts with active permits within the central business district at any given time shall not exceed four.

- 679 ii. No vendor selling from a pushcart on the sidewalk shall:
 - 680 1. Leave any pushcart unattended.
 - 681 2. Store, park or leave any pushcart overnight on any street or sidewalk.
 - 682 3. Vend within 75 feet of any other vending cart.
 - 683 4. Set up, maintain or permit the use of any table, crate, carton, rack or other
 - 684 device to increase the selling or display capacity of his pushcart or where
 - 685 such items have not been described in his application.
 - 686 5. Allow any items relating to the operation of the vending business to be
 - 687 placed anywhere other than in, on or under the pushcart.
 - 688 6. Maintain any pushcart upon any street or sidewalk which impedes,
 - 689 endangers or interferes with the travel upon or use of the street or
 - 690 sidewalk.
 - 691 7. Set up a pushcart so as to block or impede ingress and egress to any
 - 692 structure.
- 693 iii. If it becomes necessary for the regulation of traffic or the safety or convenience of
- 694 pedestrians, any law officer of the city may direct vendors to move to another
- 695 location. No person may refuse to comply with a law enforcement officer when the
- 696 order is given under the authority of this section.
- 697 iv. Size of pushcarts:
 - 698 1. No pushcart shall exceed 48 inches in width or 72 inches in length.
 - 699 2. No pushcart shall exceed 60 inches in height, nor shall any canopy be less
 - 700 than 78 inches in height at its lowest point.
 - 701 3. The administrator shall have the right to require smaller dimensions
 - 702 based upon such factors as, but not limited to, pedestrian and vehicular
 - 703 safety and adequate sight distances.
- 704 v. The pushcart shall be set up so that a minimum of five feet of pedestrian passage is
- 705 maintained along the sidewalk at all times.
- 706 vi. Vendor permits will be invalid during special festivals and events within the
- 707 central business district. However, vendors may apply for permits from the
- 708 sponsoring organization or committee to operate within the area of the special
- 709 event.

710 **19.3. Definitions.**

- 711 *Eating and drinking establishment uses:* A retail business selling ready-to-eat food and/or beverages for
- 712 on or off-premise consumption. Customers may be served from an ordering counter (i.e. cafeteria or limited
- 713 service restaurant), at their tables (full-service restaurant), and at exclusively pedestrian-oriented facilities
- 714 that serve from a walk-up ordering counter (snack and/or nonalcoholic bars). This definition shall not
- 715 include any mobile food vendors or other operations serving food and/or beverages from a vehicle. Eating
- 716 and drinking establishments include, without limitation, the following uses: bars/nightclubs and restaurants.
- 717 *Mixed-use residential unit:* A non-residential building type that consists of both a residential use and a
- 718 non-residential use that is allowed in the applicable zoning district.
- 719 *Mobile food vendors (or food trucks):* Licensed motor vehicles or mobile food units which offer for sale
- 720 and consumption food and beverages (excluding alcohol).
- 721 *Mobile food vendor site:* A permanent location for licensed mobile food vendors or food trucks to offer
- 722 food and beverages for sale and consumption.
- 723 *Temporary vendors:* Any vendor who sets up a temporary location to sell food, goods, or services.
- 724 Vendors may be permitted individually or as part of a temporary event (Section 3.14.1). Temporary vendors
- 725 include, but are not limited to agricultural and non-agricultural roadside vendors and vending pushcarts.

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Tax Settlement Report - March, 2023

Speaker:

Prepared by: Tina Tanner, Tax Collector/Water/Finance

Approved by: Dean Luebbe, Finance Director

Attachments:

1. TAX COLLECTOR REPORT 2022 MARCH



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

TAX SETTLEMENT REPORT FOR MONTH ENDED MARCH 31, 2023

Tina Tanner, Tax Collector

CITY OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING MARCH 31, 2023

UPDATED: 04.06.2023

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
2022	\$ 39,439.51	\$ 3,782,522.45	\$ 447,238.21	\$ 139,011.26	\$ 145,361.00	\$ 490,097.56	
2021-2011	\$ 12,223.32	\$ 13,357.82	\$ 5,517.48	\$ 3,889.22	\$ 2,791.16	\$ 3,950.65	
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL:	\$ 51,662.83	\$ 3,795,880.27	\$ 452,755.69	\$ 142,900.48	\$ 148,152.16	\$ 494,048.21	
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2022	\$ 331,033.06	\$ 75,567.09	\$ 32,964.81			\$ 5,483,234.95	
2021-2011	\$ 6,364.39	\$ 4,352.72	\$ 1,277.83			\$ 53,724.59	
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL:	\$ 337,397.45	\$ 79,919.81	\$ 34,242.64	\$ -	\$ -	\$ -	\$ 5,536,959.54

HEART OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING, MARCH 31, 2023

UPDATED: 04.06.2023

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2022	\$ 582.83	\$ 69,020.13	\$ 17,026.88	\$ 5,036.34	\$ 5,594.11	\$ 21,956.08
2021-2011	\$ 106.50	\$ 316.06	\$ 1,447.91			
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ 689.33	\$ 69,336.19	\$ 18,474.79	\$ 5,036.34	\$ 5,594.11	\$ 21,956.08
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
2022	\$ 13,200.10	\$ 952.53	\$ 398.12			\$ 133,767.12
2021-2011	\$ 1,187.92	\$ 91.38				\$ 3,149.77
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ 14,388.02	\$ 1,043.91	\$ 398.12	\$ -	\$ -	\$ 136,916.89

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Audit Contract for Year Ending June 30, 2023

Speaker: Dean Luebbe

Prepared by: Dean Luebbe, Finance Director

Approved by: Wilson Hooper, City Manager

BACKGROUND: After several years of effective service, staff recommends that the City continue to contract with Gould, Killian CPA Group for audit services. The FY23 proposed audit contract is \$48,050. This reflects an increase of \$4,250 over the prior fiscal year. A copy of the audit contract and the agreement to provide services are attached.

In North Carolina, the annual audit contract is signed by the Audit Firm, City of Brevard and the Local Government Commission.

ACTION: Staff requests Council approve Audit Contract with Gould Killian CPA Group, P.A. for Year Ended June 30, 2023 in the amount of \$48,050.

Attachments:

1. Contract to Audit Accounts
2. Agreement to Provide Services

The	Governing Board City Council
of	Primary Government Unit City of Brevard
and	Discretely Presented Component Unit (DPCU) (if applicable) N/A

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name Gould Killian CPA Group, P.A.
	Auditor Address 100 Coxe Avenue, Asheville, NC 28801

Hereinafter referred to as Auditor

for	Fiscal Year Ending 06/30/23	Date Audit Will Be Submitted to LGC 10/31/23
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Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types). The basic financial statements shall include budgetary comparison information in a budgetary comparison statement, rather than as RSI, for the General Fund and any annually budgeted Special Revenue funds.

2. At a minimum, the Auditor shall conduct the audit and render the report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards (GAGAS)* if the Governmental Unit expended \$100,000 or more in combined Federal and State financial assistance during the reporting period. The auditor shall perform a Single Audit if required by Title 2 US Code of Federal Regulations Part 200 *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F* (Uniform Guidance) or the State Single Audit Implementation Act. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit in accordance with the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

Effective for audits of fiscal years beginning after June 30, 2023, the LGC will allow auditors to consider whether a unit qualifies as a State low-risk auditee based upon federal criteria in the Uniform Guidance §200.520(a), and (b) through (e) as it applies to State awards. In addition to the federal criteria in the Uniform Guidance, audits must have been submitted timely to the LGC. If in the reporting year, or in either of the two previous years, the unit reported a Financial Performance Indicator of Concern that the audit was late, then

the report was not submitted timely for State low-risk auditee status. Please refer to "Discussion of Single Audits in North Carolina" on the LGC's website for more information.

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Auditing Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend the audit fee or the date that the audit report will be submitted to the LGC, an amended contract along with a written explanation of the change shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

For GAAS or *Government Auditing Standards* audits, if an auditor issues an AU-C §260 report, commonly referred to as "Governance Letter," LGC staff does not require the report to be submitted unless the auditor cites significant findings or issues from the audit, as defined in AU-C §260.12 - .14. This would include issues such as difficulties encountered during the audit, significant or unusual transactions, uncorrected misstatements, matters that are difficult or contentious reviewed with those charged with governance, and other significant matters.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is also required for the Alternative Compliance Examination Engagement for auditing the Coronavirus State and Local Fiscal Recovery Funds expenditures as allowed by US Treasury. Approval is not required on audit contracts and invoices for system improvements and similar services of a non-auditing nature.
9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. This also includes any progress billings [G.S. 159-34 and 115C-447]. All invoices for audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.
10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).
11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.
12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.
13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC. These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements and/or the compliance section, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 30 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Government Auditing Standards, 2018 Revision* (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern. See 20 NCAC 03 .0502(c)(6).

30. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 17 for clarification).

31. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

32. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

33. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Government Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will be not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:

Title and Unit / Company:

Email Address:

Dean Luebbe

Finance Director/City of Brevard

dean.luebbe@cityofbrevard.com

OR Not Applicable ☐ (Identification of SKE Individual on the LGC-205 Contract is not applicable for GAAS-only audits or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. The audit fee information included in the table below for both the Primary Government Fees and the DPCU Fees (if applicable) should be reported as a specific dollar amount of audit fees for the year under this contract. If any language other than an amount is included here, the contract will be returned to the audit form for correction.

4. Prior to the submission of the completed audited financial report and applicable compliance reports subject to this contract, or to an amendment to this contract (if required) the Auditor may submit interim invoices for approval for services rendered under this contract to the Secretary of the LGC, not to exceed 75% of the billings for the unit's last annual audit that was submitted to the Secretary of the LGC. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

PRIMARY GOVERNMENT FEES

Primary Government Unit	City of Brevard
Audit Fee	\$ 36,650
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$ 3,900
Writing Financial Statements	\$ 7,500
All Other Non-Attest Services	\$

DPCU FEES (if applicable)

Discretely Presented Component Unit	N/A
Audit Fee	\$
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm* Gould Killian CPA Group, P.A.	
Authorized Firm Representative (typed or printed)* Daniel R. Mullinix	Signature* 
Date* 03/23/23	Email Address* dmullinix@gk-cpa.com

GOVERNMENTAL UNIT

Governmental Unit* City of Brevard	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)*	Signature*
Date	Email Address

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
Date of Pre-Audit Certificate*	Email Address*

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU*	
N/A	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all
required signatures prior to submission.

PRINT



**GOULD KILLIAN
CPA GROUP, P.A.**

CERTIFIED PUBLIC ACCOUNTANTS

Charles E. Killian
G. Edward Towson, II
Harvey W. Jenkins
Shon P. Norris
Eric W. Michael
Daniel R. Mullinix

March 23, 2023

To the City Council and
Members of Management
City of Brevard
95 West Main St.
Brevard, NC 28712

Agreement to Provide Services

This agreement to provide services (the "Agreement") is intended to describe the nature and scope of our services.

Objectives and Scope of the Audit

As agreed, Gould Killian CPA Group, P.A. ("GK" or "we") will audit the financial statements of the governmental activities, business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of City of Brevard as of and for the year ended June 30, 2023. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement City of Brevard's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to City of Brevard's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Required schedules for Law Enforcement Officers' Special Separation Allowance

3. Required schedules for the Local Government Employees' Retirement System
4. Required schedules for Other Postemployment Benefits

We have also been engaged to report on supplementary information other than RSI that accompanies City of Brevard's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. We will provide an opinion on it in relation to the financial statements as a whole, in a separate written report accompanying our auditor's report on the financial statements:

1. Combining and individual fund statements, budgetary schedules, other schedules
2. Schedule of expenditures of federal and state awards (when applicable)

The introductory and statistical sections will not be subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we will not express an opinion or provide any assurance on them.

Audit Objectives

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually-or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on —

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- (Only if a single audit is determined to be required) – internal control over compliance related to major programs and an opinion on compliance with federal statutes, regulations, and the terms and conditions of federal and state awards that could have a direct and material effect on each major program in accordance with Single Audit Act Amendments of 1996 and *Title 2 U.S. Code of Federal Regulations (CFR) part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*.

Auditor's Responsibilities for the Audit of Financial Statements and Single Audit (if applicable)

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we will exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will bring these misstatements to your attention as proposed adjustments. At the conclusion of our audit we will communicate to those charged with governance (as defined below) all uncorrected misstatements. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit, if applicable. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

We have identified the following significant risk of material misstatement as part of our audit planning:

1. Management's override of internal controls

Audit Procedures—Internal Control

We will obtain an understanding of the City and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and to obtain evidence sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than one resulting from error, as fraud may involve collusion, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by Uniform Guidance (if a Single Audit is required), we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal and state award program, as required by the Uniform Guidance. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City of Brevard's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

If a Single Audit is required, the Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal and state awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City of Brevard's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to an audit. The purpose of these procedures will be to express an opinion on the City of Brevard's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Management Responsibilities for the Financial Statements and Single Audit (if applicable)

Our audit will be conducted on the basis that you (management) acknowledge and understand that you are responsible for (1) establishing and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that City programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal and state awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under *Government Audit Standards* and under Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the City from whom we determine it necessary to obtain audit evidence.

Management's responsibilities also include identifying and informing us of significant contractor relationships in which the contractor is responsible for program compliance and for the accuracy and completeness of that information.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the City involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the City received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the City complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal and state awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

If a Single Audit is required, you are responsible for identifying all federal and state awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal and state awards (including notes and noncash assistance received, and COVID-19

related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal and state awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal and state awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal and state awards that includes our report thereon OR make the audited financial statements readily available to intended users of the schedule of expenditures of federal and state awards no later than the date the schedule of expenditures of federal and state awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal and state awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal and state awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal and state awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal and state awards, and related notes, and any other non-audit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal and state awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal and state awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the non-audit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Reproduction of Audit Report

If the City plans any reproduction or publication of a document that includes our report, or any portion of it, and that is assembled differently from any paper or electronic version that we have previously reviewed (e.g., by the addition of financial statements and/or accompanying information that you have produced), a copy of the entire document in its final form should be submitted to us in sufficient time for our review and written approval before printing. You also agree to provide us with a copy of the final reproduced material for our written approval before it is distributed. If, in our professional judgment, the circumstances require, we may withhold our written approval.

Posting of Audit Report and Financial Statements on Your Website

You agree that, if you plan to post an electronic version of the financial statements and audit report on your website, you will ensure that there are no differences in content between the electronic version of the financial statements and audit report on your website and the signed version of the financial statements and audit report provided to management by GK. You also agree to indemnify the GK from any and all claims that may arise from any differences between the electronic and signed versions.

Review of Documents In Connection With Offering of Sale of Debt

The audited financial statements and our report thereon should not be provided or otherwise made available to lenders, other financial institutions or sources of financing, or others (including advisors to such parties) in connection with any document to be used in the process of obtaining capital, including, without limitation, by means of the sale of securities (including securities offerings on the Internet) without first submitting copies of the document to us in sufficient time for our review and written approval. If, in our professional judgment, the circumstances require, we may withhold or condition our written approval.

Availability of Records and Personnel

You agree that all records, documentation, and information we request in connection with our audit will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us, and that we will have the full cooperation of, and unrestricted access to, your personnel during the course of the engagement.

You also agree to ensure that any third-party valuation reports that you provide to us to support amounts or disclosures in the financial statements (a) indicate the purpose for which they were intended, which is consistent with your actual use of such reports; and (b) do not contain any restrictive language that would preclude us from using such reports as audit evidence.

Assistance by Your Personnel

We also ask that your personnel prepare various schedules and analyses for our staff. However, except as otherwise noted by us, no personal information other than names related to City employees and/or customers should be provided to us. In addition, we ask that you provide high-speed Internet access to our engagement team, if practicable, while working on the City's premises. This assistance will serve to facilitate the progress of our work.

Peer Review Reports

Government Auditing Standards requires that we provide you with a copy of our most recent quality control review report. Our latest peer review report accompanies this letter.

Other Services

We are always available to meet with you and members of City Council at various times throughout the year to discuss current business, operational, accounting, and auditing matters affecting the City. Whenever you feel such meetings are desirable, please let us know. We are also prepared to provide services to assist you in any of these areas. We will also be pleased, at your request, to attend governing board meetings.

We will also assist in preparing the financial statements, schedule of expenditures of federal and state awards (if applicable), and related notes of City of Brevard in conformity with U.S. generally accepted accounting principles based on information provided by you. These non-audit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings (if applicable). It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal and state awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

Independence

Professional and certain regulatory standards require us to be independent, in both fact and appearance, with respect to the City in the performance of our services. Any discussions that you have with personnel of GK regarding employment could pose a threat to our independence. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence.

In order for us to remain independent, professional standards require us to maintain certain respective roles and relationships with you with respect to the non-attest services described above. Prior to performing such services in conjunction with our audit, management must acknowledge its acceptance of certain responsibilities.

We will not perform management functions or make management decisions on behalf of the City. However, we will provide advice and recommendations to assist management of the City in performing its functions and fulfilling its responsibilities.

The City agrees to perform the following functions in connection with our performance of the financial statement services:

- a. Make all management decisions and perform all management functions with respect to the financial statement services provided by us.
- b. Assign Dean Luebke to oversee the financial statement services and evaluate the adequacy and results of the services.
- c. Accept responsibility for the results of the financial statement services.

The services are limited to those outlined above. We, in our professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as making management decisions or performing management functions. The City must make all decisions with regard to our recommendations. By signing this Agreement, you acknowledge your acceptance of these responsibilities.

Engagement Administration, Fees, and Other

We will provide copies of our reports to the members of City Council of the City of Brevard; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

Many banks have engaged a third party to electronically process cash or debt audit confirmation requests, and certain of those banks have mandated the use of this service. Further, such third party confirmation processors also provide for the electronic (and manual) processing of other confirmation types (e.g., legal, accounts receivable, and accounts payable). To the extent applicable, the City hereby authorizes GK to participate in such confirmation processes, including through the third party's website (e.g., by entering the City's bank account information to initiate the process and then accessing the bank's confirmation response), and agrees that GK shall have no liability in connection therewith.

The audit documentation for this engagement is the property of Gould Killian CPA Group, P.A. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the North Carolina Local Government Commission or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Gould Killian CPA Group, P.A. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the federal or state oversight agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in June 2023 and to issue our reports no later than October 31, 2023. Daniel R. Mullinix is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fixed charges to the City for the services described above of \$44,150 are expected to be \$36,650 for the financial statement audit and \$7,500 for financial statement preparation. An additional variable fee of \$3,900 per major program will be charged should a federal and/or state single audit be necessary.

The fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. We anticipate the time necessary to complete your audit will approximately 375 hours in total. If significant additional time is necessary (over 375 hours), we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation.

This fee structure does not take into consideration effects that any future standards promulgated by the Governmental Accounting Standards Board and/or other professional bodies will have on our audit procedures. As we become aware of additional audit procedures resulting from these circumstances, we will notify you of the situation and the estimated additional cost.

As a result of future services to you, we might be requested or required to provide information or documents to you or a third party in a legal, administrative, arbitration, or similar proceeding in which we are not a party. If this occurs, our efforts in complying with such requests will be deemed billable to you as a separate engagement. We shall be entitled to compensation for our time and reasonable reimbursement for our expenses (including legal fees) in complying with the request. For all requests we will observe the confidentiality requirements of our profession and will notify you promptly of the request.

Reporting

We will issue written reports upon our completion of the audit. Our reports will be address to the members of the City Council for the City of Brevard, North Carolina. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs to our auditor's report, or if necessary, withdraw from this engagement. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue reports, or may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. If applicable, the Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

We believe the foregoing letter accurately summarized the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please acknowledge this by signing and returning to us a copy of this Agreement and retaining a copy for your files. We will forward the signed engagement letter and LGC contract to the Local Government Commission.

Very truly yours,



Daniel R. Mullinix
Certified Public Accountant

RESPONSE:

This letter correctly sets forth the understanding of City of Brevard.

Management signature: _____

Title: _____

Date: _____

Governance signature: _____

Title: _____

Date: _____

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Ordinance Declaring Road Closures for Special Event - White Squirrel Weekend

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Wilson Hooper, City Manager

Background

The North Carolina Department of Transportation (NCDOT) requires local approval for City-sponsored special events that involve the closing or repurposing of state-owned highways and roads.

Discussion

The NCDOT guidelines state the municipality must pass an ordinance for street closures of City-sponsored events. NCDOT will not approve or deny such closures, but will recommend alternative routes should they have a project scheduled for the same day as a special event. The attached ordinance includes this year's White Squirrel Festival.

Policy Analysis

The City has been sponsoring and permitting special events for years. The passing of an ordinance only applies to City-sponsored special events on state roads. Permits sponsored by individuals or non-profits are permitted differently and do not require an ordinance. Council has passed these ordinances for City-sponsored festivals since 2015.

Action

Approve the attached ordinance closing NCDOT streets necessary for the White Squirrel Festival.

Attachments:

1. ORD_2023-XX White Squirrel Festival Street Closure Ordinances

ORDINANCE NO. 2023-XX

**AN ORDINANCE DECLARING STREET CLOSURES
FOR THE 2023 WHITE SQUIRREL FESTIVAL**

WHEREAS, Brevard City Council acknowledges a tradition of providing for festivals and special events downtown for the pleasure and enjoyment of citizens and visitors alike; and,

WHEREAS, Brevard City Council acknowledges that festivals and special events provide an opportunity for family-oriented activities that celebrate our small-town charm; and,

WHEREAS, Brevard City Council acknowledges these events require NCDOT system roads to be closed for setup, activities, and cleanup; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 1. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closures on the following described portions of the State Highway System:

Beginning Friday, May 26th at 6:00 AM, Main Street (US 276) shall be closed between Rice Street and Broad Street. This closure will be extended to include Main Street between Rice Street and Caldwell Street, as well as Broad Street (US 64) between Probart Street and Oakdale Street, beginning at 6:00 AM on Saturday, May 27th and remaining closed until the conclusion of the event on Sunday, May 28th at 6:00 PM. The Main Street block between Broad Street and Gaston Street will remain closed until 1:00 PM on Monday, May 29th.

SECTION 2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 1st day of May 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Resolution Authorizing City Manager to Partially Relinquish Claim for Abandoned NCDOT Right of Way and Assert Claim Over Portion of NCDOT Right of Way

Speaker: Paul C. Ray; Planning Director

Prepared by: Paul Ray, Planning Director

Approved by: Wilson Hooper, City Manager

Background

Staff received a letter from CANarchy Craft Brewery Collective LLC, owning property off Mountain Industrial Drive, parcel 8596-37-5808 and leasing property at Oskar Blues. CANarchy requested a Resolution from the City Council disclaiming any interest in NCDOT's right-of-way slated for abandonment.

Discussion

Mountain Industrial Drive is a state road which currently ends in a cul-de-sac. The road is planned to be extended by NCDOT this August, project B-5550. The length of the road will increase by approximately 600 feet and will terminate in a new cul-de-sac.

CANarchy is interested in claiming the northern side of the existing cul-de-sac "bulb" which is a portion of right-of-way no longer need by NCDOT after the road is extended. State law gives cities first claim of abandoned state roadways, or portions thereof. Staff believes that no public interest would be served by claiming the northern edge of the cul-de-sac bulb.

After conversations with Garrett Higdon, Engineer II with Division 14, NCDOT it appears there are currently no plans to abandon the remaining portion of the cul-de-sac on the southern edge of the bulb, only the northern portion at the request of CANarchy. Nevertheless, the proposed Resolution, drafted by the City Attorney, clarifies the city's interest in claiming the southern portion but relinquishing interest in the northern side.

Policy Analysis

The City of Brevard cannot ascertain public interest on the northern side of the existing cul-de-sac which is not adjacent to city owned property or infrastructure.

Action

Staff requests City Council approve the Resolution.

Fiscal Impact

None

Attachments:

1. Resolution

2. CANarchy Request

RESOLUTION NO. 2023-XX

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO
PARTIALLY RELINQUISH CLAIM FOR ABANDONED NCDOT
RIGHT OF WAY AND ASSERT CLAIM OVER PORTION OF NCDOT
RIGHT OF WAY**

WHEREAS, The City of Brevard owns a trail known as the Cherry Street Greenway located adjacent to Mountain Industrial Drive (State Road 1651), a fifty foot right of way held by the State of North Carolina which ends in a cul-de-sac adjacent to certain real property owned by Canarchy Craft Brewery Collective, LLC and 342 Mountain Industrial Drive, LLC; and

WHEREAS, The City has been made aware that the North Carolina Department of Transportation intends to abandon a portion of the said cul-de-sac in order to extend Mountain Industrial Drive (S.R. 1651) west alongside the Cherry Street Greenway; and

WHEREAS, pursuant to North Carolina General Statute Section 136-63, the City is entitled to assert ownership over any right of way abandoned by the North Carolina Department of Transportation which is connected to the City street system; and

WHEREAS, Canarchy Craft Brewery Collective, LLC has requested the City relinquish its right to claim the northern portion of the current right of way which the North Carolina Department of Transportation is abandoning; and

WHEREAS, the City has need of retaining and claiming possession of the abandoned portion of the current right of way which will lie to the south of the new right of way in order to afford better public access to the Cherry Street Greenway, and

WHEREAS, the City of Brevard has no need to assert ownership or possession over the abandoned right of way located north of the current right of way as it is not adjacent to City of Brevard property;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 1. The City Manager is hereby authorized to execute and pursue those actions necessary for the City of Brevard to lawfully assert possession over the southern portion of the right of way/cul-de-sac abandoned by the North Carolina Department of Transportation when it extends Mountain Industrial Drive (SR 1651) and to further execute any documents relinquishing a potential claim over the northern portion of the said right-of-way cul-de-sac for the benefit of Canarchy Craft Brewery Collective LLC, their heir, successor or assign.

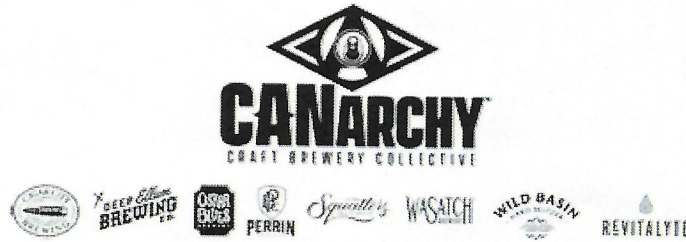
SECTION 2. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of April 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk



March 2, 2023

VIA FED EX

District Engineer
Right of Way Division 14
North Carolina Department of Transportation
1594 East Main Street
Sylva, NC 28779

City Manager
City of Brevard
95 West Main Street
Brevard, NC 28712

Re: HA 0002, MTN Industrial
Street Abandonment

To Whom it may concern:

CANarchy Craft Brewery Collective LLC, a Colorado limited liability company ("CANarchy") is the owner of that certain real property ("Property"), being a portion of assessor parcel number 8596-37-5808 (now also known as assessor parcel number 8596-37-1876), and as further described in **Exhibit A** attached hereto. CANarchy is also the lessee of the adjacent property located at 342 Mountain Industrial Drive, Brevard, NC 28712 with assessor parcel number 8596-37-7910 (the "Leased Land"). In accordance with NC GS § 136-63, CANarchy, as owner of the Property and lessee of the Leased Land, requests that the State of North Carolina ("State") abandon all right-of-way which is north of the new right-of-way line that crosses the existing mountain industrial drive cul-de-sac along the frontage of the Property and the Leased Land ("Old Right-of-Way"), as further depicted in **Exhibit B** attached hereto.

Additionally, CANarchy hereby requests that the City Council of the City of Brevard ("City") adopt a resolution disclaiming any interest in the Old Right-of-Way.

Assuming that the Old Right-of-Way is held as an easement over a portion of the Property and the Leased Land, after abandonment by the State, and adoption of the appropriate resolution by

March 2, 2023

Page 2

the City, we understand the easement for the Old Right-of-Way will be extinguished and all rights relating to the easement will revert to CANarchy and the owner of the Leased Land in accordance with the law. However, in the event that it is determined that the Old Right-of-Way is held in fee by the State, in addition to abandoning the rights of the public in the Old Right-of-Way, CANarchy hereby requests the execution and delivery of deeds to CANarchy and the owner of the Leased Land, respectively, conveying the Old Right-of-Way in fee. Please confirm via email to Mark Ostoich at mark@ostoichlawoffice.com whether the Old Right-of-Way is held in fee or as an easement.

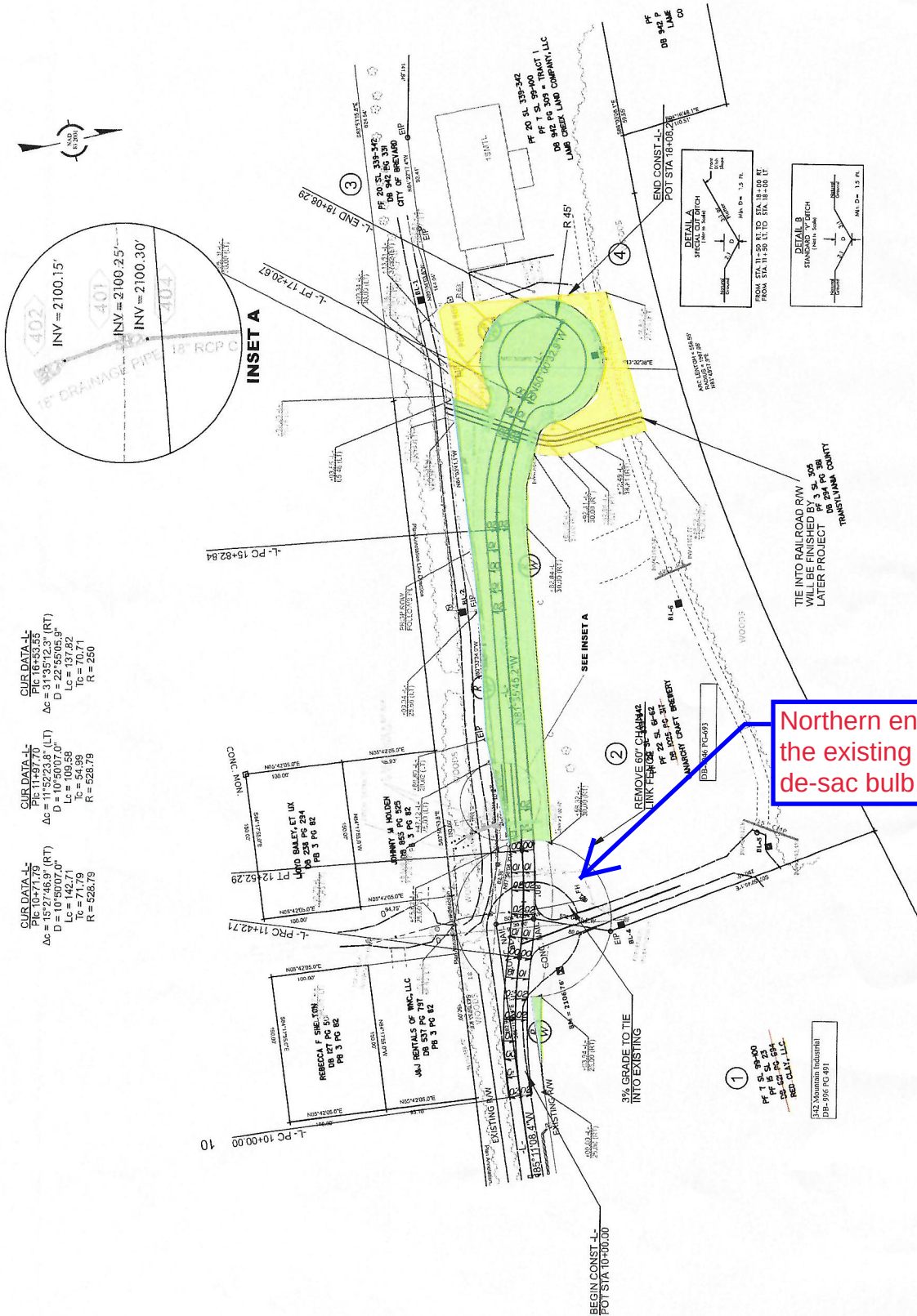
We appreciate your attention to this matter. Should you have any questions or concerns, please contact Mark Ostoich at the email address above.

Sincerely,

Matt Fraser

Matt Fraser

CANarchy Craft Brewery Collective LLC,
a Colorado limited liability company



Northern end of the existing cul-de-sac bulb.

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Times Arcade Alley Stormwater

Speaker: Paul C. Ray; Planning Director

Prepared by: Paul Ray, Planning Director

Approved by: Wilson Hooper, City Manager

Background

The State of North Carolina provided funds to the Golden LEAF Foundation to award funds to units of local government for public infrastructure projects for flood mitigation. Up to \$250,000 may be awarded per project with a limit of two projects per local government. Local governments from all 100 counties in North Carolina are eligible and the cities within them.

Eligible projects include construction of publicly owned stormwater infrastructure or upgrades to existing stormwater devices, natural drainage areas, or flood control equipment. It also includes engineering expenses related to planning and development of flood mitigation solutions.

Discussion

Last year, the City received \$700,000 in federal funds (ARPA) for stormwater improvements. Times Arcade Alley is subject to significant flooding during moderate to heavy rain events. Improving Times Arcade Alley was approved by Council as part of a larger downtown project, but due to cost overruns and time constraints Times Arcade Alley was postponed in favor of improving Main Street.

Times Arcade Alley Stormwater project is fully designed and ready for bid, but additional funding will be necessary. If successful, the Golden LEAF grant may provide the gap funding necessary to begin the project early this winter.

Policy Analysis

In the Economic Development, Infrastructure and Resiliency section of the 2030 Comprehensive Land Use Plan, EDIR-11 recommends continuing investment in upgrades to stormwater infrastructure downtown and in strategic growth areas.

Action

Staff requests that Council approve a Resolution directing the City Manager to apply for and accept the Golden LEAF grant, if awarded.

Fiscal Impact

There is no local match requirement, however a local match can increase the competitiveness of the application.

Attachments:

1. Resolution

RESOLUTION NO. 2023-XX

**A RESOLUTION OF SUPPORT FOR AN APPLICATION
TO THE GOLDEN LEAF FLOOD MITIGATION GRANT PROGRAM**

WHEREAS, the State of North Carolina provided funds to the Golden LEAF Foundation to award funds to units of local government for public infrastructure projects for flood mitigation; and

WHEREAS, under state legislation, Golden LEAF funds must be encumbered by June 30, 2023, with a goal of funding projects that are ready for implementation; and

WHEREAS, the maximum funding request per project is \$250,000; and

WHEREAS, the City of Brevard has a fully engineered project for improving stormwater management along a city owned right-of-way, Times Arcade Alley, where several business and property owners adjacent to this alley are impacted by heavy flooding during moderate and heavy rain events; and

WHEREAS, time is of the essence for the City to receive additional funding and begin construction this winter so that project completion is prior to heavier tourist activity, effectively minimizing the disruption and economic impact to businesses along the alley and mitigating repetitive flooding throughout the year; and

WHEREAS, the City's 2030 Comprehensive Land Use Plan incorporates climate resiliency considerations focusing on reducing vulnerability to flooding.

NOW THEREFORE, BE IT RESOLVED that the Brevard City Council supports the application to the Golden LEAF Flood Mitigation Program and authorizes the City Manager to submit all the required application documents and accept funding if awarded.

Adopted and approved this the 17rd day of April, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Citywide Stormwater Evaluation and Mapping System

Speaker: Paul C. Ray; Planning Director

Prepared by: Paul Ray, Planning Director

Approved by: Wilson Hooper, City Manager

Background

The State of North Carolina provided funds to the Golden LEAF Foundation to award funds to units of local government for public infrastructure projects for flood mitigation. Up to \$250,000 may be awarded per project with a limit of two projects per local government. Local governments from all 100 counties in North Carolina are eligible and the cities within them.

Eligible projects include construction of publicly owned stormwater infrastructure or upgrades to existing stormwater devices, natural drainage areas, or flood control equipment. It also includes engineering expenses related to planning and development of flood mitigation solutions. With assistance from Mary Roderick, PhD with Land of Sky, Staff is seeking grant funding to update the City's 2007 stormwater masterplan and GIS layer.

Discussion

The City's Stormwater Master Plan from McGill and Associates is 16 years old and should be updated and modernized. If funded, the project would be a comprehensive update that would account for new growth and development, current performance and flooding issues, and any relevant capital improvements that have been implemented since then.

Additionally, the study would have the following objectives:

- Map and assess the condition of the town's stormwater infrastructure,
- Assess existing stormwater infrastructure performance from a water quantity and quality standpoint,
- Identify key Capital Improvement Projects (CIP), particularly in flood prone areas,
- Provide a project prioritization framework, and
- Identify funding sources that may not have been available during the initial development of the SWMP

Policy Analysis

In the Economic Development, Infrastructure and Resiliency section of the 2030 Comprehensive Land Use Plan, EDIR-7 recommends updating the 2007 Stormwater Master Plan. EDIR 9 recommends considering long-term ways to fund stormwater infrastructure and maintenance.

Action

Staff requests that Council approve a Resolution directing the City Manager to apply for

and accept the Golden LEAF grant, if awarded

Fiscal Impact

There is no local match requirement, however a local match can increase the competitiveness of the application.

Attachments:

1. Resolution

RESOLUTION NO. 2023-XX

**A RESOLUTION OF SUPPORT FOR AN APPLICATION
TO THE GOLDEN LEAF FLOOD MITIGATION GRANT PROGRAM**

WHEREAS, the State of North Carolina provided funds to the Golden LEAF Foundation to award funds to units of local government for public infrastructure projects for flood mitigation; and

WHEREAS, the maximum funding request per project is \$250,000; and

WHEREAS, under state legislation, Golden LEAF funds must be encumbered by June 30, 2023, with a goal of funding projects that are ready for implementation; and

WHEREAS, the City has a 2007 Stormwater Master Plan which needs updating to identify current conditions of existing stormwater infrastructure and areas for expansion and improvement to mitigate urban stormwater runoff for increased volumes of runoff during storm events; and

WHEREAS, the 2030 Comprehensive Land Use Plan emphasizes updating this document and using it to improve stormwater management.

NOW THEREFORE, BE IT RESOLVED that the Brevard City Council supports the application to the Golden LEAF Flood Mitigation Program and authorizes the City Manager to submit all the required application documents and materials and accept funding if awarded.

Adopted and approved this the 17rd day of April, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Resolution Supporting PARTF Grant Application (TYSA)

Speaker: Paul C. Ray; Planning Director

Prepared by: Paul Ray, Planning Director

Approved by: Wilson Hooper, City Manager

Background

The Parks and Recreation Trust Fund (PARTF) provides dollar-for-dollar matching grants to local governments for the acquisition and/or development of park and recreational projects to serve the general public. A local government can request a maximum of \$500,000 with each application. The application deadline is May 1, 2023.

Discussion

Last year, the City leased “Ecusta Field” in the Sports Complex to Transylvania Youth Soccer Association, Inc. (TYSA) to make various improvements to the field, including artificial turf, bleachers, lighting poles and fixtures, fencing or ancillary items at TYSA’s discretion. The estimated value of these improvements is 1.5 million dollars.

The City of Brevard has an interest in making improvements to its 20-acre Sports Complex, such as adding a new building off the parking lot for accessible, public restrooms, closer to the soccer field, skatepark and bike path.

The PARTF grant program primarily funds land acquisition and “recreational facilities,” including things like playgrounds, campgrounds, or sports fields to name a few. Ineligible projects are exclusively “support facilities” which includes parking lots, restrooms, sidewalks, and similar accessories. These support facilities can be shown as part of a larger, recreational project but not the focus of the application.

Staff is interested in partnering with TYSA by applying for PARTF funds for a better all-around project. This partnership would combine the City’s interest in improving the support facilities, such as accessible public restrooms, with TYSA’s interest in offsetting costs of the recreational project, remodeling the soccer field. In return, TYSA has agreed to provide the entire local match.

Policy Analysis

In the Parks, Natural Resources & Cultural Resources section of the 2030 Comprehensive Land Use Plan, PNRC 1 recommends that we “Maintain and improve existing parks.”

Action

Staff requests that City Council approve a Resolution directing the City Manager to apply for and accept, if awarded, PARTF funds for improvements to the Sports Complex.

Fiscal Impact

The 50% local match will be covered by TYSA.

Attachments:

1. Resolution

RESOLUTION NO. 2023-XX

**A RESOLUTION OF SUPPORT FOR AN APPLICATION
TO THE PARTF GRANT PROGRAM**

WHEREAS, the North Carolina Parks and Recreation Trust Fund (PARTF) provides matching grants to local governments to assist with public park and recreation projects; and

WHEREAS, the maximum request for this grant shall not exceed \$500,000 with a fifty percent local match; and

WHEREAS, Transylvania Youth Soccer Association, Inc. (TYSA) shall be responsible for providing the entire local match, and grant funding shall be used to improve the City's Sports Complex, specifically to support constructing an artificial turf soccer field; and

WHEREAS, TYSA has agreed to revise their scope of work to include constructing a public restroom building, for the general public, and owned and maintained by the City; and

WHEREAS, the public restroom building shall be of the City's choosing; and

WHEREAS, the City's 2030 Comprehensive Land Use Plan recommends maintaining and improving existing parks.

NOW THEREFORE, BE IT RESOLVED that the Brevard City Council supports an application to PARTF and authorizes the City Manager to submit all the required application documents and materials and accept funding if awarded.

Adopted and approved this the 17rd day of April, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

MINUTES

Rosenwald Community Advisory Board

Thursday, January 19, 2022 - 6:00 PM

Mary C. Jenkins Community & Cultural Center

Members Present: Maurice Jones, Co-Chair, Council Member
Randy Lytle, Co-Chair, President MCJCC Board (Left at 7:05 pm)
Gary Daniel, Council Member
Susan Threlkel, Citizen Member
Victor Foster, Citizen Member
Karen Darity, Citizen Member
Edith Darity, Citizen Member

Staff Present: Wilson Hooper, City Manager
Tyree Griffin, Community Center Director
Denise Hodsdon, City Clerk

A. Welcome & Call to Order

Co-Chair Maurice Jones welcomed everyone and called the meeting to order at 6:00 PM.

B. Invocation

Mr. Foster offered an invocation.

C. Certification of Quorum

Quorum was certified by City Clerk Denise Hodsdon.

D. Approval of Agenda

Mr. Lytle requested to add an item regarding Community Center Punch List and Mr. Daniel requested to add an item regarding Clemson Plaza/Moms Mabley Statue. Motion by Mr. Daniel, seconded by Mr. Foster to approve the agenda as amended. The motion carried unanimously.

E. Approval of Minutes of November 14, 2022 Meeting

Motion by Ms. Threlkel, seconded by Mr. Daniel to approve the minutes of the November 14, 2022 meeting as presented. The motion carried unanimously.

F. Tracking Attendance Analytics

G. Partnerships (Zumba, Music Class, Brevard Housing Authority)

H. Upcoming Events/Programs

Tyree Griffin reviewed the attendance and usage figures for past events and activities at the Center. He then shared some upcoming events and predicted that attendance at events is growing and will continue to grow. Ms. Threlkel shared that volunteers are coming forward and we are working on a volunteer management system.

Mr. Jones mentioned that the City may plan to hold more meetings and events at MCJCCC and suggested that he had talked with the Planning Department about possibly having a public session to review the Unified Development Ordinance. Mr. Foster added that we need to have a meeting to let people know that we are closing the section of Mills Avenue between the parking lot and MCJCCC and building a new road on the other side of the parking lot.

I. Committee Membership

Mr. Hooper updated the Committee about the Council's new guidelines regarding membership for advisory committees. One notable change to the composition of this committee is that two seats that are currently designated to the MCJCC Board will convert to at-large membership at the end of the MCJCC Board members' terms in May. Those seats will be open for anyone who lives in the Rosenwald Community. Four seats will still be designated for MCJCC Board members. There was some brief discussion about possibly staggering membership terms, but further discussion was postponed until the next meeting.

Committee members then discussed their thoughts on the role and goals of this committee. There was agreement that the committee's role is to be a conduit through which the voice of the community would be transmitted to the City. As part of regular programming at the MCJCCC, committee members envision hosting monthly listening sessions with community members in order for them to express any concerns or needs they may have. The committee's vision, mission and goals will be discussed further at the next meeting.

J. Community Center Punch List

Mr. Lytle presented a punch list of items that the contractor needs to complete or correct at the MCJCCC. Most of the items do not affect the functionality of the center, and most items have already been completed. Staff will review the remaining outstanding items with the contractor.

K. Clemson Plaza/Moms Mabley Statue

Mr. Daniel informed the committee that the Downtown Master Plan Committee

received an application from an artist who has proposed putting a sculpture of Moms Mabley at Clemson Plaza. That committee decided to table the application and to convene a subcommittee to curate public art for downtown. Mr. Daniel noted that there is intention to honor the African American history of the theater that was there and it was thought that the Moms Mabley statue would fulfill that intention. It was suggested that the public art subcommittee should include members of the Rosenwald Community. Mr. Daniel has since had conversations with Ms. Edith Darity and Ms. Threlkel and they discussed that the Moms Mabley statue may be more appropriate at the MCJCCC instead of in Clemson Plaza. He suggested that the Rosenwald Community Advisory Board suggest to the newly formed public art subcommittee that this community have a voice in the decision about the location of the statue. Mr. Jones added that there will be a State Historical marker honoring Moms Mabley at Clemson Plaza that will say where she lived. Mr. Daniel suggested we could add a city sign by the marker that would direct people to the statue at MCJCCC. The committee will continue discussion of the statue at a future meeting.

L. Set Date for Next Meeting

The committee agreed to establish the third Thursday of each month at 6:00 pm as its regular meeting time. The next meeting will be held on Thursday, February 16, 2023 at 6:00 PM at the Community Center.

M. Adjourn

There being no further business, the meeting was adjourned at 7:20 PM.

X

Maurice Jones
Co-Chair/Council Member

X

Denise Hodsdon,
City Clerk

Minutes Approved: March 16, 2023

MINUTES

City Council Public Works & Utilities Committee

Wednesday, February 1, 2023 – 3:30 PM
City Council Chambers

Members Present: Maurice Jones, Chair, Council Member
Mac Morrow, Vice-Chair, Council Member

Staff Present: Dean Luebbe, Asst. City Manager/Finance Director
Wesley Shook, Acting Public Works Director
Dennis Richardson, WTP Director
Emory Owen, WWTP Director
Aaron Winans, WWTP
Denise Hodsdon, City Clerk

A. Welcome and Call to Order

Committee Chair Maurice Jones called the meeting to order at 3:29 pm.

B. Certification of Quorum

City Clerk Denise Hodsdon certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Morrow, seconded by Mr. Jones to approve the agenda as presented.
The motion carried unanimously.

D. Approval of Minutes from December 7, 2022 Meeting

Motion by Mr. Morrow, seconded by Mr. Jones to approve the minutes of the December 7, 2022 meeting as presented. The motion carried unanimously.

E. Stormwater Infrastructure Inventory

Dean Luebbe informed the committee that we have signed a contract with Land of Sky for \$12,500 to conduct an inventory of our stormwater system. He explained that they do this in two phases. This contract is for Phase 1 in which they do the inventory and will take approximately three months to complete. Phase 2 would consist of them recommending what we need to spend to do a more complete assessment. If we want to move on to Phase 2, that would be part of the upcoming budget discussions and could possibly lead to the idea of establishing a stormwater fund.

Mr. Morrow asked if we have hit the targets for removal on the Gallimore Road sewer rehab project. Mr. Luebbe noted that the project is 99% complete and Mr. Shook said he was pleased with the work. He reported that there was no spill with the last heavy rain and the last time we had that amount of rain, we spilled quite a bit. He estimates that at least 45% of it is gone, but Alvin Fuller will be able to get more accurate numbers for us. Mr. Morrow noted that this tells a good story and requested that once we have more data, that staff provide the information to City Council and the public showing the effectiveness of the project.

Mr. Morrow also asked about the timetable of the Fish Camp, Wilson and Gallimore Sewer Pump stations rehab project and requested information about the scope of work and plans from CDM Smith at the next meeting if possible.

F. Update re WWTP Upgrade

Mr. Owen said City Manager Hooper wanted the committee to talk about our fee schedule. He said we will have to do something to combat the chemical costs and we need to look at places that discharge high strength waste. Aaron Winans added that we need to start sampling the other breweries for their BOD and TSS. He noted that the sewer use ordinance will need to be amended to address enforcement of high strength waste discharge. Mr. Winans said getting the breweries and the restaurant fats, oil and grease (FOG) program under control will reduce the BOD to the plant. He is also looking at rates that other places are charging for septage and he would like to get a flow meter so we know how many gallons we are taking. Next steps will include a review of the current fee schedule and Mr. Winans will provide some recommended amendments to the sewer use ordinance for the committee's consideration.

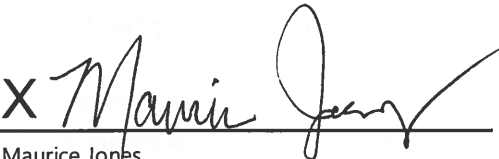
G. Set Date for Next Meeting

Because the Council's Strategic Planning Retreat is scheduled for March 1st, the next regular meeting of the Public Works & Utilities Committee was rescheduled for Thursday, March 9, 2023.

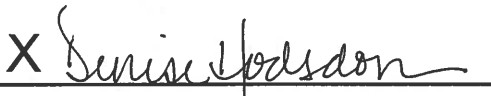
H. Adjourn

There being no further business, the meeting was adjourned at 4:20 pm.

Minutes Approved: April 5, 2023

X 
Maurice Jones

Chair, Council Member

X 
Denise Hodsdon

City Clerk

MINUTES

COUNCIL FINANCE, HUMAN RESOURCES and CITIZEN APPOINTMENT COMMITTEE

Monday, February 27, 2023 – 11:00 AM
City Hall Council Chambers

Members Present: Aaron Baker, Chair, Council Member
Mac Morrow, Vice Chair, Council Member

Staff Present: Wilson Hooper, City Manager
Dean Luebbe, Finance Director
Kelley Craig, Human Resources Director
Becky McCann, Communications Coordinator
Denise Hodsdon, City Clerk

A. Welcome & Call to Order

Committee Chair Aaron Baker welcomed everyone and called the meeting to order at 11:00 AM.

B. Certification of Quorum

Quorum was certified by City Clerk Denise Hodsdon.

C. Approval of Agenda

Motion by Mr. Morrow, seconded by Mr. Baker to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes of January 23, 2023 Meeting

Motion by Mr. Morrow, seconded by Mr. Baker to approve the minutes of the January 23, 2023 meeting as presented. The motion carried unanimously.

E. Update re Classification & Compensation Study

Mr. Hooper updated the committee on the classification and compensation study conducted by David Hill of Piedmont Triad Consultants. The study compared Brevard to municipalities of similar size in our region as well as to larger municipalities nearby with whom Brevard might compete for employees. The preliminary report indicates that, by and large, Brevard is pretty competitive. There are some classifications that

need to be adjusted to make them more competitive, but some are competitive right where they are. Mr. Hooper noted that when Mr. Hill compared Brevard to the other municipalities, he was comparing us to what their compensation is right now plus 3%. Based on Transylvania's recent COLA, we already know that 3% is probably not what other agencies are going to use to adjust their compensation. There is still some calculating to do on our end to figure what the price tag of our adjustment is going to be. If we adjust the positions that need to be adjusted to be competitive with surrounding agencies at their current compensation plus 3%, he thinks it is a very reasonable price tag and that we can make it work. Mr. Hooper said that for the upcoming strategic planning retreat, he plans to package the most expensive adjustment option plus an across-the-board adjustment for all employees, to give Council a target number.

F. Audit Response

Mr. Baker and Mr. Morrow reviewed and signed the audit response letter to the Local Government Commission regarding the three areas indicated in the FY 2022 audit that would be considered as a "Financial Performance Indicator of Concern". The letter must be signed by all Councilmembers and delivered to the LGC by March 15th.

G. Update re Committee Applications

The committee reviewed all membership applications received to date for the following boards and committees:

Statutory/Code Committees:

- Planning Board – 1 City-appointed Vacancy – 4 Applications Received
- Transylvania Economic Alliance – 1 City-appointed Vacancy – 4 Applications Received
- Brevard Housing Authority – 1 Application for Reappointment & 1 Application for an Upcoming Resignation

Policy Committees:

- Public Safety Committee – 1 Citizen Vacancy – 1 Application Received
- Public Works Committee – 1 Citizen Vacancy – 2 Applications Received
- Housing Committee – 1 Citizen Vacancy – 3 Applications Received
- Finance, Human Resources & Citizen Appointment Committee – 1 Citizen Vacancy – No Applications Received

Advisory Committees:

- Parks, Trails & Recreation Committee - 5 Citizen Vacancies as of May, 2023 – 3 Applications Received
- Downtown Master Plan Committee – 2 Citizen Vacancies as of May, 2023 – 1 Application Received

The committee decided to extend the application deadline for the Parks, Trails & Recreation Committee and the Downtown Master Plan Committee and for staff to reach out to current members whose terms are expiring. The application deadline was also extended for the Finance, Human Resources and Citizen Appointment Committee.

The committee reviewed and discussed applications for the statutory and policy committees. Mr. Baker noted that Al Platt had vacated his seat on the Transylvania Economic Alliance when he ran for office, and he recommended that Mr. Platt be reappointed to serve out his term. Committee members thought there is value in having experienced members on the Planning and agreed to recommend Molly Jenkins for reappointment. After review of applications for the Public Works and Utilities Committee, it was decided to interview the two applicants before making a recommendation. It was noted that there was an impressive slate of applicants for the Housing Committee. Mr. Morrow said, not to discredit the other applicants, but he felt that Doug Harris has a lot of knowledge and experience in all facets of housing and has been instrumental in working with the Presbyterian Church group on what options they could do with their land, so he would recommend him for the Housing Committee.

Motion by Mr. Morrow, seconded by Mr. Baker to recommend appointment of Molly Jenkins to the Planning Board, Al Platt to the Transylvania Economic Alliance, Rodney Locks and Jennifer Kerr to the Brevard Housing Authority, Kevin Gallo to the Public Safety Committee and Doug Harris to the Housing Committee. The motion carried unanimously. The applications will go to City Council for appointment at its March 20th meeting.

H. Set Date for Next Meeting

The next meeting of the Finance & Human Resources Committee will be on Monday, March 27, 2023, at 11:00 am.

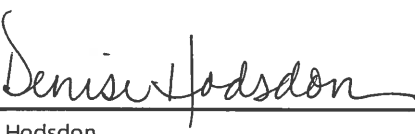
I. Adjourn

There being no further business, the meeting was adjourned at 11:52 AM.

X 

Aaron Baker
Chair, Council Member

Minutes Approved: March 27, 2023

X 

Denise Hodsdon
City Clerk

MINUTES

City Council Public Works & Utilities Committee

Thursday, March 9, 2023 – 3:30 PM
City Council Chambers

Members Present: Maurice Jones, Chair, Council Member
Mac Morrow, Vice-Chair, Council Member

Staff Present: Wilson Hooper, City Manager
Dean Luebbe, Assistant City Manager/Finance Director
Wesley Shook, Acting Public Works Director
Dennis Richardson, WTP Director
Emory Owen, WWTP Director
Aaron Winans, WWTP
Denise Hodsdon, City Clerk
Aaron Bland, Assistant Planning Director
Becky McCann, Communications Coordinator

A. Welcome and Call to Order

Committee Chair Maurice Jones called the meeting to order at 3:40 pm.

B. Certification of Quorum

City Clerk Denise Hodsdon certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Morrow, seconded by Mr. Jones to approve the agenda as presented.
The motion carried unanimously.

D. Project Status Updates

Dean Luebbe updated the committee on the status of the following infrastructure projects.

- Estatoe Trail from Whitmire to Main Street - Work on this section is complete except for pedestrian crossing lights at McLean, Probart, and Whitmire; the lights should arrive in two months.
- Burrell Mountain Water Tank - Demolition is slated to begin in April, and the replacement project should be complete by the end of 2023.

- Water Treatment Plant Improvements - Permits are being prepared and are due by November 2023. This project will likely take 3 to 4 years once it begins.
- King Street Waterline Replacement Project is currently under budget and should be finished in 2 weeks.
- Asset Inventory and Assessment - Alvin Fuller with Summit Engineering is conducting a manhole assessment in the Lamb Creek Basin for the GIS database. The AIA should be finished in June 2024.
- Main Street water and sewer work is running on schedule and should be completed before pavement work begins on Main Street.
- Whitmire waterline improvements, which extend to Hampton, Kings Mill, and other nearby streets, are on schedule and should be complete by mid-May.
- Gallimore Road Sewer Rehab Project - Aside from 2 remaining manholes, the project is "99 percent done" and is under budget. (The remaining funds may be used to complete line work on Caldwell.)
- Cashiers Valley Road (MCJCCC) Parking Lot - The parking lot has been striped and the rest of the project should be complete by mid-April.
- Norton Creek Streambank Restoration Project still needs to be performed by Silversteen Park, and the current plan is to ask for an extension from the state.
- Wilson Road, Fish Camp and Gallimore Sewer Pump Station Upgrades - CDM Smith has just started on this project and there is no contractor yet. Mr. Hooper said this project presents a conflict with the state over the Wilson Road realignment because the abutments for the planned bridge would infringe on the pipe right of way where they eventually want to replace one of the pipes leading into the plant. There is no pipe there now, but when they replace the current pipe, it would be located right where they want to put the bridge. CDM Smith is trying to negotiate with the state to find an alternative or to see if the state would be willing to compensate us for the extra cost to move the pipe off that alignment. In the meantime, he is holding off signing the deed to the state transferring ownership of a sliver of land for the road until we get some resolution on that matter.

E. Pedestrian & Bicycle Plan Governance Recommendations

Mr. Hooper informed the committee that we need to establish a Bicycle and Pedestrian Advisory Committee to oversee implementation of the Pedestrian & Bicycle Plan and its recommendations. Aaron Bland will serve as Staff Lead for implementation of the plan. Mr. Bland reviewed the tasks and role of the advisory committee and noted that we have already existing committees that might fill that role, such as the Parks, Trails & Recreation Committee, which also served as the steering committee for the plan; or the Public Works & Utilities Committee, since this is an infrastructure-heavy plan. Following discussion, there was consensus that

the Parks, Trails & Recreation Committee take the lead while leaving space for some “cross pollination” among other committees.

F. Set Date for Next Meeting

The next regular meeting of the Public Works & Utilities Committee was scheduled for Wednesday, April 5, 2023.

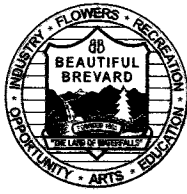
G. Adjourn

There being no further business, the meeting was adjourned at 4:18 pm.

Minutes Approved: April 5, 2023

X Maurice Jones
Maurice Jones
Chair, Council Member

X Denise Hodsdon
Denise Hodsdon
City Clerk



Proclamation No. 2023-04
100th Anniversary of
American Legion Monroe Wilson Post 88

WHEREAS, The American Legion was founded in 1919, in the wake of World War I, on the principles of patriotism, justice, freedom, democracy, peace, and goodwill; and

WHEREAS, Post 88 of the American Legion was named in honor of Transylvania Veteran Monroe Wilson, who died in World War I; and

WHEREAS, The American Legion Post 88 has faithfully contributed to the organization's legacy of service and advocacy for veterans, military personnel, and our nation's youth; and

WHEREAS, The American Legion Post 88 has maintained a facility that fosters a strong veteran community in Transylvania County; and

WHEREAS, The American Legion Post 88 performs acts of service on local, state, and national levels to assist veterans and civilians alike; and

WHEREAS, The American Legion Post 88 recognizes and supports local youth through the ROTC Military Excellence and ROTC Scholastic Excellence Medals and the sponsorship of participants in North Carolina's Boys State Program; and

WHEREAS, The American Legion Post 88 contributes to local and national charities that honor and improve the lives of veterans and military personnel; and

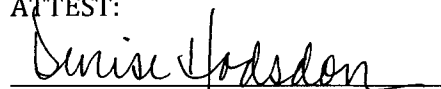
WHEREAS, The American Legion Post 88 continually demonstrates its steadfast patriotism in Memorial Day, Flag Day, Fourth of July, Labor Day, and Veterans Day events and in myriad other ceremonies that celebrate our nation; and

WHEREAS, The American Legion Monroe Wilson Post 88 will celebrate the 100th anniversary of receiving its Charter on March 23, 2023;

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, hereby honor the 100th Anniversary of the American Legion Monroe Wilson Post 88 and ask our citizens to extend their appreciation for the exemplary work the American Legion Post 88 continues to do in our community.

IN WITNESS WHEREOF, I have set my hand and executed the Great Seal of the City of Brevard on this the 25th day of March, 2023.

ATTEST:



Denise Hodsdon, CMC
City Clerk


Maureen Copelof
Mayor





Transylvania County Building Department

City 03/01/2023 thru 03/31/2023

	Permits Issued	Construction Value	Permit Fees	Misc. Sales Fees	Credit Card Fees	Total of All Fees
Residential						
New House	4	1,211,400	1,694.00	0.00	500.00	2,194.00
Additions/Alterations	18	443,300	3,776.00	0.00	600.00	4,376.00
Elec/Plumb/Mech	23		150.00	0.00	1,625.00	1,775.00
Mobile Home						
Commercial						
New Commercial						
Additions/Alterations	6	482,210	1,750.00	0.00	1,688.00	3,438.00
Elec/Plumb/Mech	10		75.00	0.00	675.00	750.00
Miscellaneous						
Signs	2		0.00	0.00	150.00	150.00
HRF/County			0.00	6.00	1.00	7.00
HRF/State			0.00	54.00	9.00	63.00
Other			150.00	0.00	878.00	1,028.00
Totals:	63	2,136,910	7,595.00	60.00	6,126.00	13,781.00
Less HRF Refundable to State:						(63.00)
Less Cancelled Permits:						0.00
Total Fees Collected:						13,718.00

Mike Owen - Building Director



Transylvania County Building Department

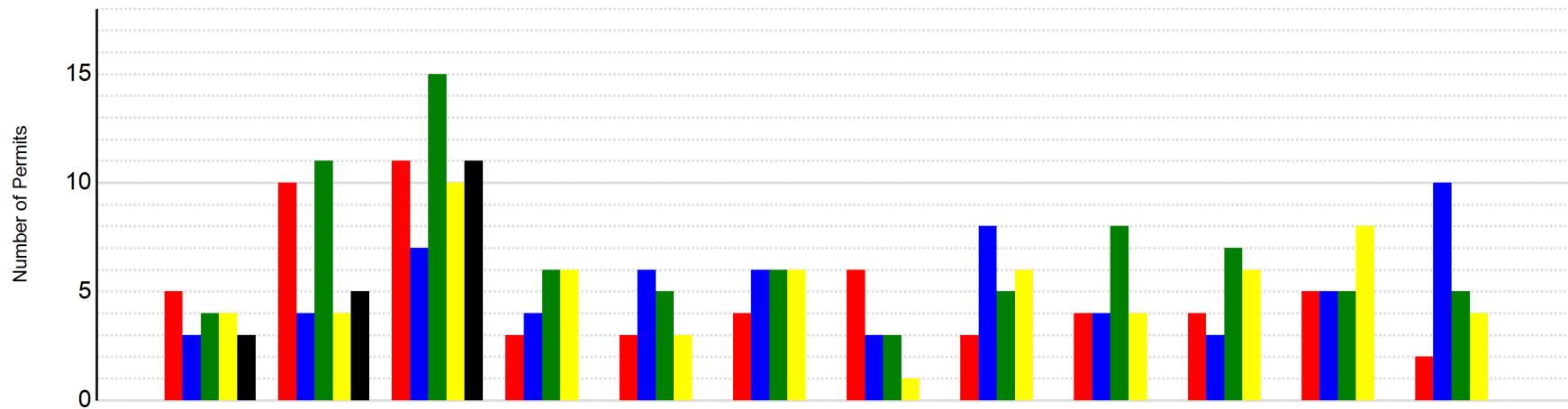
County 03/01/2023 thru 03/31/2023

	Permits Issued	Construction Value	Permit Fees	Misc. Sales Fees	Credit Card Fees	Total of All Fees
Residential						
New House	17	9,497,600	6,280.00	0.00	9,129.00	15,409.00
Additions/Alterations	35	3,515,369	6,973.00	0.00	4,927.00	11,900.00
Elec/Plumb/Mech	74		750.00	0.00	5,325.00	6,075.00
Mobile Home	2	249,992	0.00	0.00	450.00	450.00
Commercial						
New Commercial	1	3,500,000	26,250.00	0.00	0.00	26,250.00
Additions/Alterations	5	131,500	1,850.00	0.00	250.00	2,100.00
Elec/Plumb/Mech	10		225.00	0.00	600.00	825.00
Miscellaneous						
Signs						
HRF/County			0.00	16.00	15.00	31.00
HRF/State			0.00	144.00	135.00	279.00
Other			1,145.00	0.00	1,993.00	3,138.00
Totals:	144	16,894,461	43,473.00	160.00	22,824.00	66,457.00
Less HRF Refundable to State:						(279.00)
Less Cancelled Permits:						0.00
Total Fees Collected:						66,178.00

Mike Owen - Building Director

Commercial Additions and Alterations

1/1/2019 - 3/31/2023

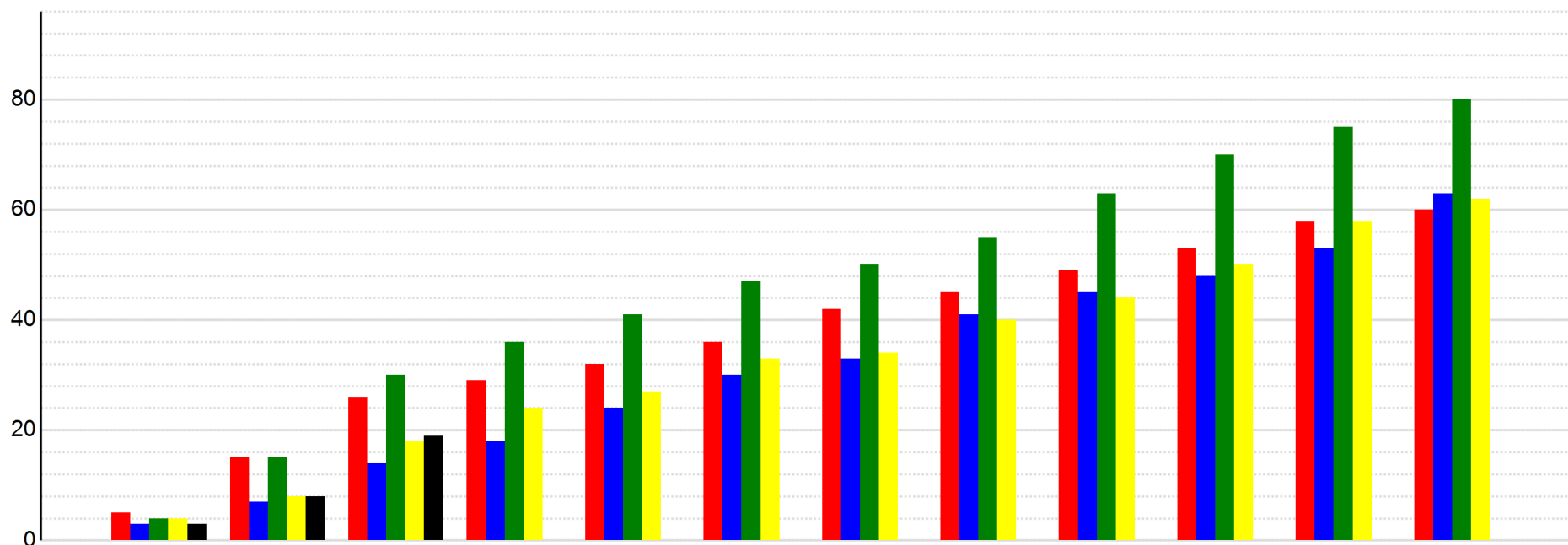


		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	5	10	11	3	3	4	6	3	4	4	5	2
	2020	3	4	7	4	6	6	3	8	4	3	5	10
	2021	4	11	15	6	5	6	3	5	8	7	5	5
	2022	4	4	10	6	3	6	1	6	4	6	8	4
	2023	3	5	11									

Jan \$	\$74,000	Apr \$	\$0	Jul \$	\$0	Oct \$	\$0	Year End Totals	
Feb \$	\$244,131	May \$	\$0	Aug \$	\$0	Nov \$	\$0	2019	\$9,763,577
Mar \$	\$613,710	Jun \$	\$0	Sep \$	\$0	Dec \$	\$0	2020	\$7,333,887
								2021	\$12,671,175
								2022	\$9,923,468
								2023	\$931,841

Commercial Additions and Alterations (Cumulative)

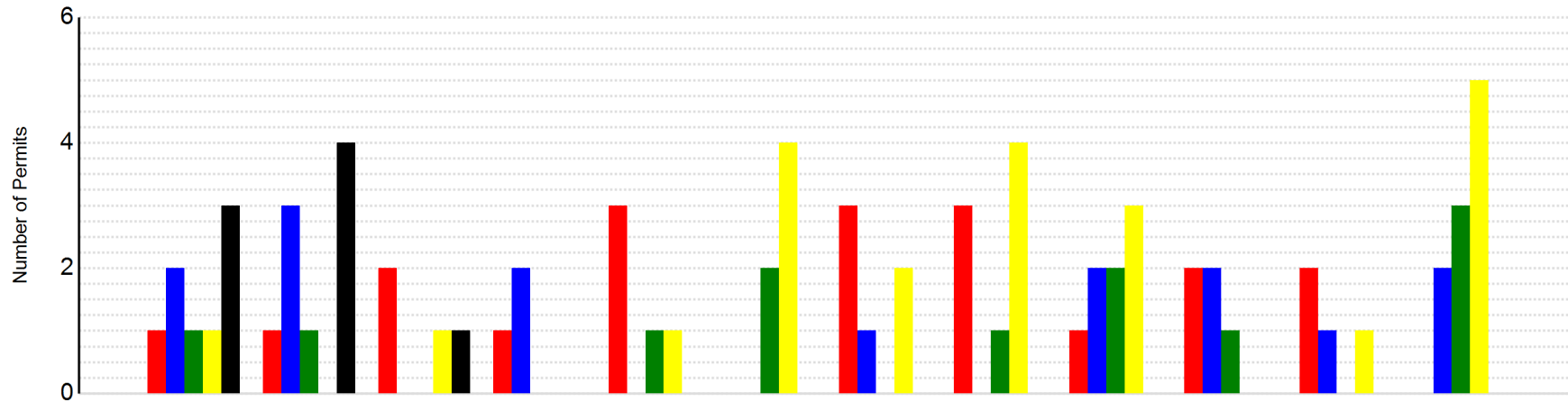
1/1/2019 - 3/31/2023



		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	5	15	26	29	32	36	42	45	49	53	58	60
	2020	3	7	14	18	24	30	33	41	45	48	53	63
	2021	4	15	30	36	41	47	50	55	63	70	75	80
	2022	4	8	18	24	27	33	34	40	44	50	58	62
	2023	3	8	19									

New Commercial Permits

1/1/2019 - 3/31/2023

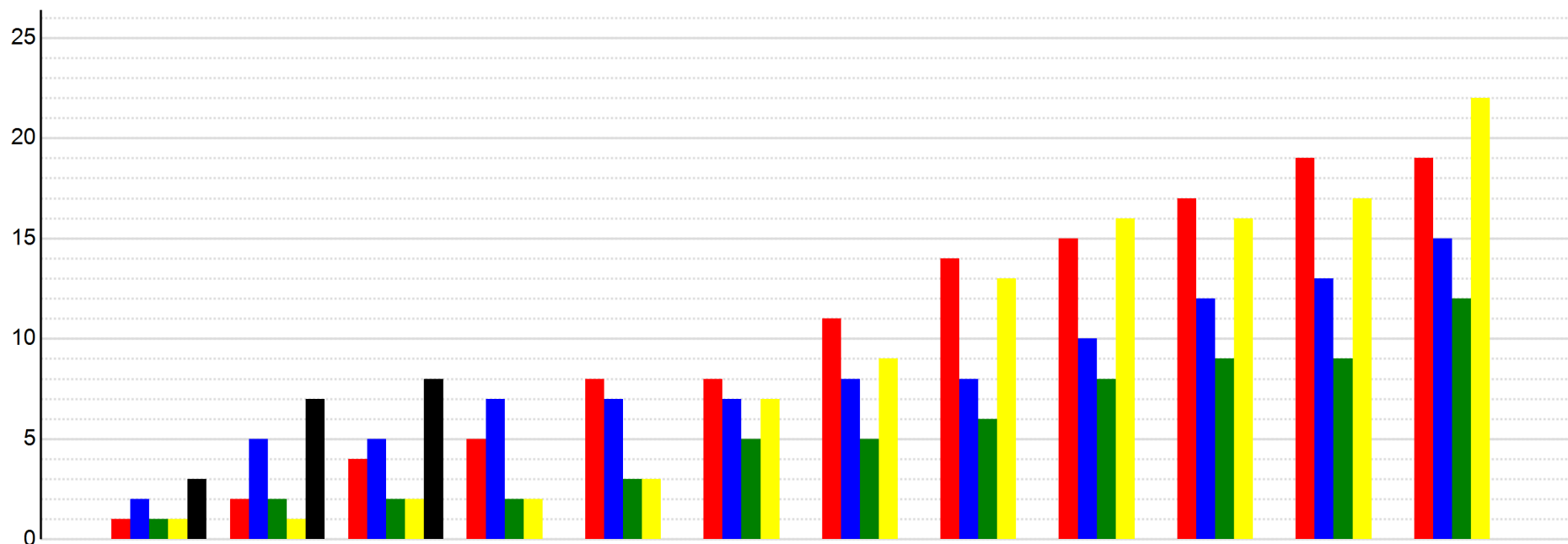


		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	1	1	2	1	3	0	3	3	1	2	2	0
	2020	2	3	0	2	0	0	1	0	2	2	1	2
	2021	1	1	0	0	1	2	0	1	2	1	0	3
	2022	1	0	1	0	1	4	2	4	3	0	1	5
	2023	3	4	1									

Jan \$	\$7,091,711	Apr \$	\$0	Jul \$	\$0	Oct \$	\$0	Year End Totals	
Feb \$	\$821,992	May \$	\$0	Aug \$	\$0	Nov \$	\$0	2019	\$18,194,886
Mar \$	\$3,500,000	Jun \$	\$0	Sep \$	\$0	Dec \$	\$0	2020	\$10,620,303
								2021	\$12,518,701
								2022	\$16,242,128
								2023	\$11,413,703

New Commercial Permits (Cumulative)

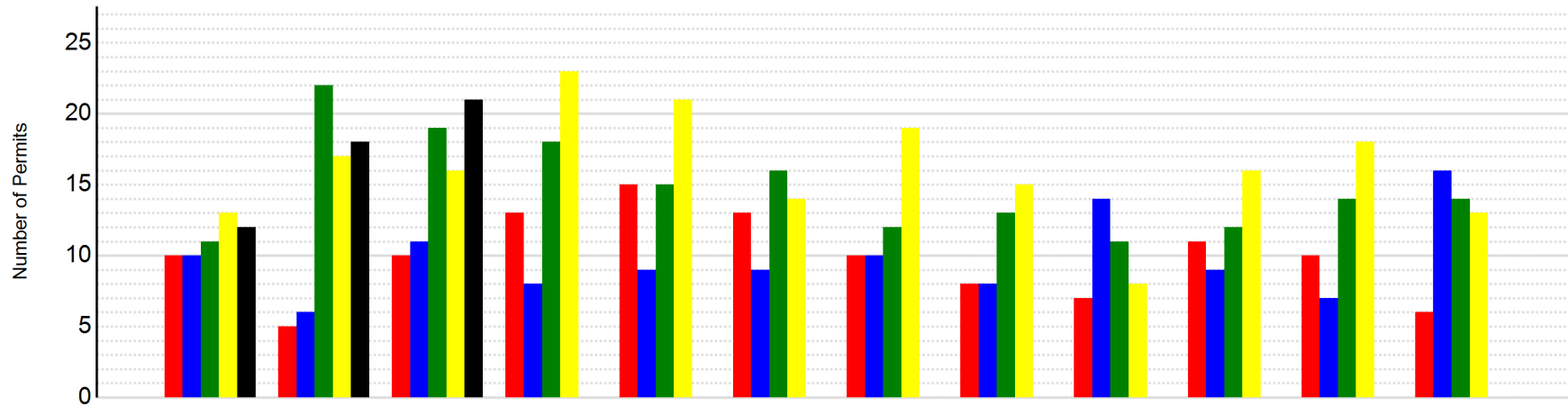
1/1/2019 - 3/31/2023



		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	1	2	4	5	8	8	11	14	15	17	19	19
	2020	2	5	5	7	7	7	8	8	10	12	13	15
	2021	1	2	2	2	3	5	5	6	8	9	9	12
	2022	1	1	2	2	3	7	9	13	16	16	17	22
	2023	3	7	8									

Single Family Residential Permits

1/1/2019 - 3/31/2023

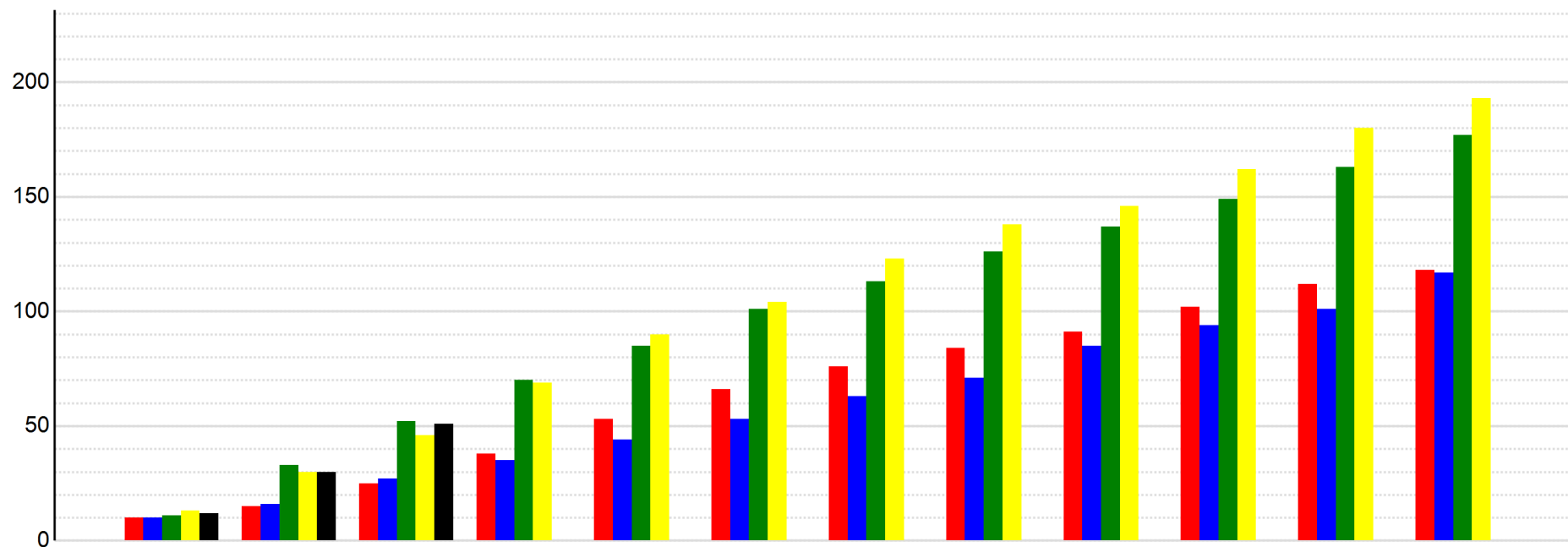


		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	10	5	10	13	15	13	10	8	7	11	10	6
	2020	10	6	11	8	9	9	10	8	14	9	7	16
	2021	11	22	19	18	15	16	12	13	11	12	14	14
	2022	13	17	16	23	21	14	19	15	8	16	18	13
	2023	12	18	21									

Jan \$	\$7,878,217	Apr \$	\$0	Jul \$	\$0	Oct \$	\$0	Year End Totals	
Feb \$	\$8,813,574	May \$	\$0	Aug \$	\$0	Nov \$	\$0	2019	\$55,246,587
Mar \$	\$10,709,000	Jun \$	\$0	Sep \$	\$0	Dec \$	\$0	2020	\$45,814,854
								2021	\$98,878,772
								2022	\$108,991,347
								2023	\$27,400,791

Single Family Residential Permits (Cumulative)

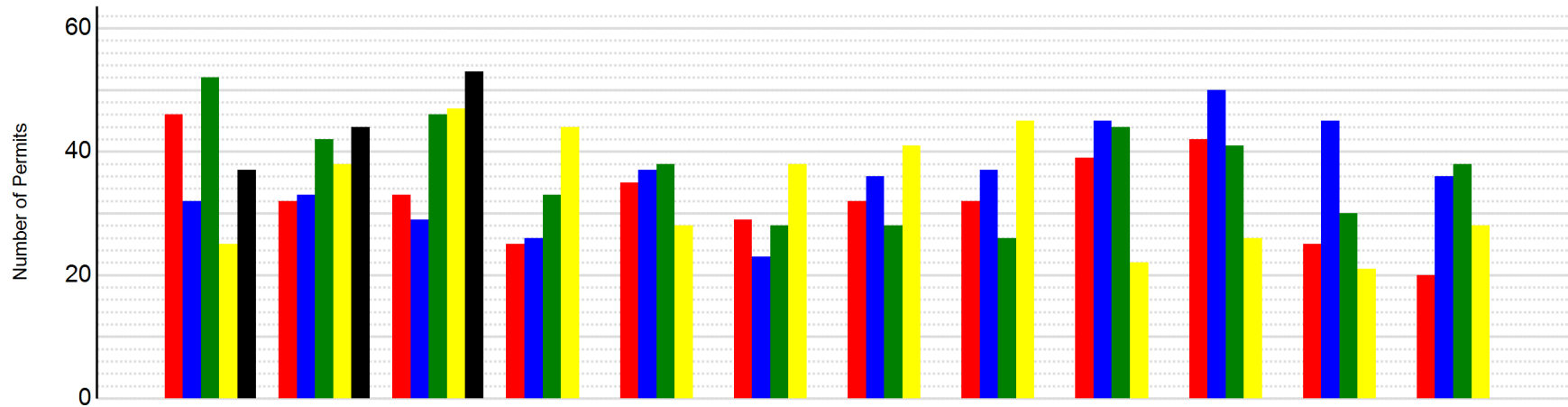
1/1/2019 - 3/31/2023



		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	10	15	25	38	53	66	76	84	91	102	112	118
	2020	10	16	27	35	44	53	63	71	85	94	101	117
	2021	11	33	52	70	85	101	113	126	137	149	163	177
	2022	13	30	46	69	90	104	123	138	146	162	180	193
	2023	12	30	51									

Residential Additions and Alterations

1/1/2019 - 3/31/2023

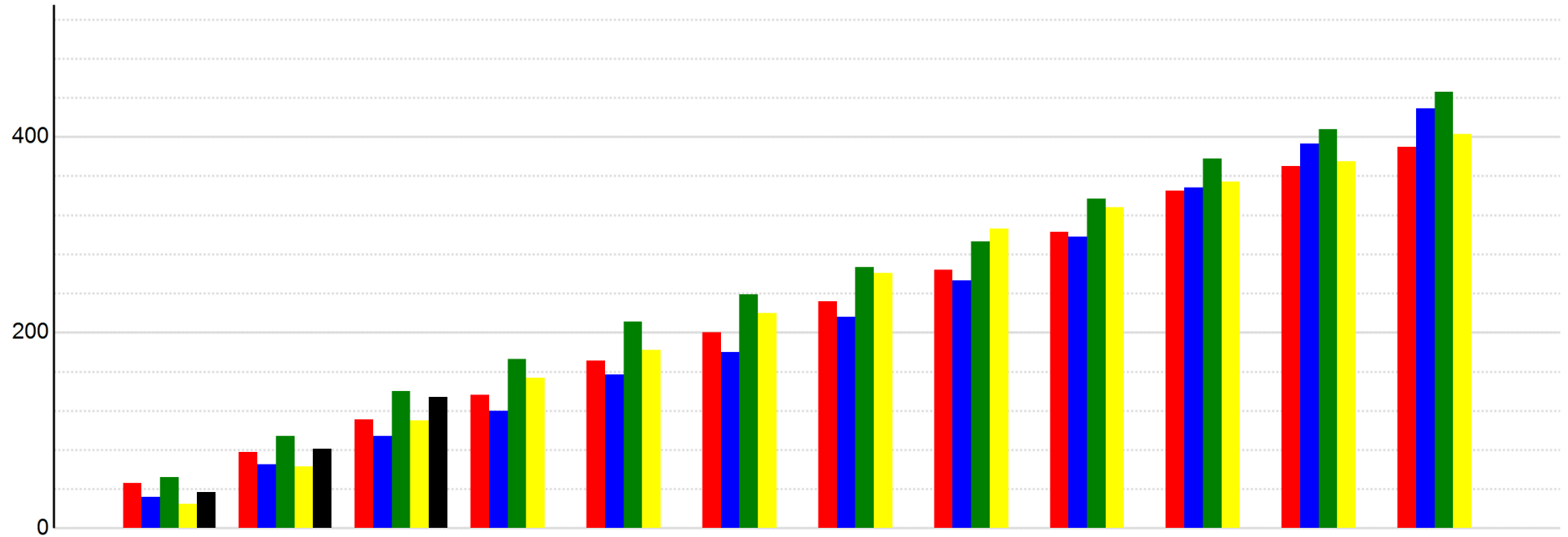


		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	46	32	33	25	35	29	32	32	39	42	25	20
	2020	32	33	29	26	37	23	36	37	45	50	45	36
	2021	52	42	46	33	38	28	28	26	44	41	30	38
	2022	25	38	47	44	28	38	41	45	22	26	21	28
	2023	37	44	53									

Jan \$	\$3,512,708	Apr \$	\$0	Jul \$	\$0	Oct \$	\$0	Year End Totals	
Feb \$	\$5,475,316	May \$	\$0	Aug \$	\$0	Nov \$	\$0	2019	\$21,875,250
Mar \$	\$3,958,669	Jun \$	\$0	Sep \$	\$0	Dec \$	\$0	2020	\$31,993,167
								2021	\$40,188,093
								2022	\$34,964,685
								2023	\$12,946,693

Residential Additions and Alterations (Cumulative)

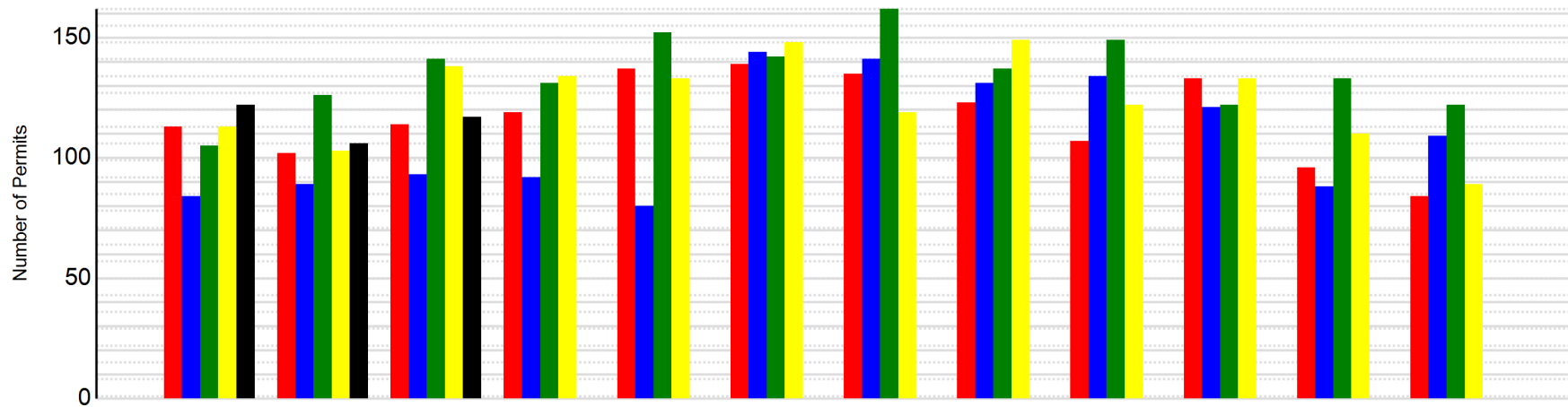
1/1/2019 - 3/31/2023



		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	46	78	111	136	171	200	232	264	303	345	370	390
	2020	32	65	94	120	157	180	216	253	298	348	393	429
	2021	52	94	140	173	211	239	267	293	337	378	408	446
	2022	25	63	110	154	182	220	261	306	328	354	375	403
	2023	37	81	134									

Single Trade Permits

1/1/2019 - 3/31/2023



		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	2019	113	102	114	119	137	139	135	123	107	133	96	84
	2020	84	89	93	92	80	144	141	131	134	121	88	109
	2021	105	126	141	131	152	142	164	137	149	122	133	122
	2022	113	103	138	134	133	148	119	149	122	133	110	89
	2023	122	106	117									

STAFF REPORT

City Council, Monday, April 17, 2023

Title: Proposed Amendments to the City of Brevard Unified Development Ordinance, Chapter 13 - Waiver of Tap Fees

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, Senior Planner

Approved by: Paul Ray, Planning Director, Wilson Hooper, City Manager

Background & Discussion

North Carolina General Statutes §160D-1316 allows for local governments to expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income.

On May 16, 2022, City Council adopted Ordinance 2022-25 amending Chapters 13 and 19 of the Unified Development Ordinance authorizing the City to issue water and sewer tap fee waivers for eligible affordable rental housing projects. The ordinance states that projects are eligible for the waiver if the developer agrees to provide housing for persons of low-income for a minimum of five years.

Since then, the UNC School of Government has determined that fee waivers for affordable housing projects are not permissible. Under NC law, a municipality may assign different rates for consumers if it is “based upon such factors as the cost of service, the purpose for which the service or the product is received, the quantity or the amount received, the different character of the service furnished, the time of its use or any other matter which presents a substantial difference as a ground of distinction” (*Wall v. City of Durham*, 41 N.C. App. 649, [N.C. Ct. App. 1979]). In other words, there must be a defensible, utility-based reason for assigning different rates or fees.

At the Housing Committee meeting on February 14, 2023, Planning Director Paul Ray and City Manager Wilson Hooper discussed the possibility of changing the existing tap fee waivers to an eligible expense for reimbursement with Housing Trust Fund resources. Over the past year, Staff has been working closely with the Housing Committee (formerly the “Housing Trust Fund Selection Committee”) to revise the Housing Trust Fund bylaws and programs to support privately-created affordable housing within the City’s jurisdiction. After having received favorable recommendations by the Housing Committee, these documents will also be presented to City Council at the March 20, 2023, meeting. With this new process, developers of eligible affordable housing projects can apply during a regular funding cycle to be reimbursed for the cost of the water and sewer tap fees.

The Housing Committee recommended adoption of the text amendment and folding this initiative into the Housing Trust Fund programs. The Committee also recommends that City Council consider using the General Fund to provide funds to the Housing Trust Fund annually for this purpose, so as not to diminish the limited funds currently available. This

recommendation will be brought to Council for consideration during the FY24 budget development process.

The proposed text amendment, which removes Section 13.4.F from the UDO, is included as Attachment 1. Planning Board considered the text amendment at their February 28, 2023, meeting and unanimously recommended approval. In accordance with North Carolina General Statutes, the Planning Board also submits a statement analyzing the consistency and reasonableness of this proposal with regards to existing policies or plans of the City of Brevard. Full Council's statutorily required Public Hearing was held at the March 20, 2023 meeting.

Policy Analysis

The 2015 Comprehensive Plan's Economic Health Element references ways to promote affordable housing in Brevard, including Policy 2.2.H: *"Provide financial incentives to encourage additional affordable and workforce housing development."*

Fiscal Impact

With the ordinance adopted in May 2022, the City's total cost for waiving the water tap fees and sewer tap fees would be evaluated annually as part of the yearly budgeting process. There will be no additional fiscal impact.

Action

Staff requests that Council take one of the following actions:

1. Adopt the amendments as written;
2. Revise and adopt the amendments as revised;
3. Reject the amendments; or
4. Table the amendments for further public hearings and/or consideration.

Attachments:

1. Proposed Text Amendment
2. Consistency Statement
3. Draft Ordinance

13.4. General infrastructure design requirements.

A. Connection to city sewer system required.

1. All developed property within the city limits and located within 300 feet of a city sewer line shall be connected therewith, and the property owner shall be charged the prescribed tap fee and system development fee for all such connections. Such connection shall be made in accordance with the provisions of this article within 90 days after the date of official notice to connect.
2. Improved property served by wells and annexed by the city shall be connected to the city sewer systems within five years of the effective date of annexation; provided, however, that no connection to the sewer system shall be permitted without also connecting to the city's water system.
3. New development within the city limits shall, in all cases, connect to a city sewer line. Sewer line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City sewer is not required but may be permitted for new development within the city's extraterritorial jurisdiction. The owner of any property within the city's extraterritorial jurisdiction who requests connection to the city sewer system shall request voluntary annexation into the City of Brevard. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the county health officer.
5. Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

B. Connection to city water system required.

1. All developed property within the city limits shall be connected therewith and the property owner shall be charged the prescribed tap fee and system development fee for all such connections.
2. Improved property served by wells and annexed by the city shall be connected to the city water system, if within 300 feet, within five years of the effective date of annexation.
3. New development within the city limits shall, in all cases, connect to a city water line. Water line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City water is not required but may be permitted for new development within the city's extraterritorial jurisdiction. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved wells and must be approved in writing by the county health officer.
5. Any development served by the city water system shall install fire hydrants in accordance with city standards. Fire hydrant spacing and placement shall be determined by the public works director in consultation with the fire marshall. For any development within the city's ETJ without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install

- a dry fire hydrant system, the type and the location of which is to be determined by the fire marshal. A road and easement to the water source providing permanent all-weather access to the water source that is adequate for fire-fighting equipment shall be constructed and dedicated to the city, if applicable.
- C. *Sewer and water connections and infrastructure.* Sewer and water connections and infrastructure shall occur in accordance with Chapter 70 of Brevard City Code and the City of Brevard *Standard Design and Specifications Manual for Public Improvements*, and any necessary conditions of the public works director.
- D. Utility easements.
1. Sewer, water, storm water, and other utility easements shall be required within all new development (including developments within the ETJ for which no public sewer or water is proposed), and may be required within existing developments undergoing improvements at the discretion of the administrator.
 2. The precise location and width of easements shall be determined by the administrator. However, unless otherwise specified, underground utilities should be located in alleys and lanes. If no alley or lane is provided, then a five-foot (minimum) utility easement shall be provided behind the sidewalk located within either the right-of-way or a public utility easement. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the approving authority and shall be at least 30 feet in width.
 3. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as may be adequate for the purpose of drainage.
 4. Lakes, ponds, creeks, and similar areas within a subdivision will not be accepted for maintenance by the city except as provided for in Chapter 6.
 5. Easements shall be accurately depicted upon all plats and plans, and dedicated to the city by means of a plat of dedication in accordance with procedures established by the administrator.
 6. No structure shall be placed upon any easement. Fences and other impermanent obstructions may be permitted by the administrator in consultation with the public works director.
- E. *Sewer and water.* Sewer and water shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat or development plan unless a performance guarantee is provided to the administrator in accordance with city Code, this ordinance, and procedures established by the administrator. Sewer and water infrastructure shall be installed by the developer and dedicated to the city prior to the issuance of any Certificates of Occupancy for any building within that phase or along that line, as applicable to the particular development.
- ~~F. — Tap fee waivers for eligible affordable and workforce housing projects. The city is allowed to issue tap fee waivers for eligible affordable rental housing and workforce rental housing projects within the city to facilitate the construction of dwellings units at these income levels. Projects are eligible if the developer agrees to provide housing exclusively for persons of low-income or moderate to middle income, respectively, for a minimum of five years beginning from the date of issuance of the certificate of occupancy.~~
- ~~1. — System development fees shall not be eligible for the waiver.~~

- 89 ~~2. The waiver must be signed by the city manager, at the recommendation of the zoning~~
90 ~~administrator, and the developer with written agreement to these conditions. The~~
91 ~~dwelling shall be fully constructed within 18 months of the date of waiver of the fees.~~
- 92 ~~3. In the event the guarantee is violated, the developer shall reimburse the city of the full~~
93 ~~amount waived plus interest at 18 percent per annum plus costs of recovering this sum.~~
- 94 ~~4. The total available waiver amount is established each fiscal year as part of the city's~~
95 ~~annual budgeting process. The funds for this amount shall not come from the utility~~
96 ~~budget. Eligible properties are able to have 100 percent of their tap fees waived, unless~~
97 ~~the total cost is greater than the remaining annual budget.~~
- 98

**COMMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
AND ANY OTHER OFFICIALLY ADOPTED APPLICABLE PLANS**

NCGS 160D-605 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

2015 Comprehensive Plan:

POLICY 2.2.H: Provide financial incentives to encourage additional affordable and workforce housing development.

POLICY 4.2.E: Collaborate with partners to increase the amount of available affordable and workforce housing, and to combat homelessness.

2002 Land Use Plan:

Goal 6.1: Provide adequate and appropriate rental housing for the various socio-economic groups.

Goal 6.2: Provide safe, adequate, and affordable housing for families within the City limits.

Focus 2020 Community Report:

Housing & Neighborhoods Rental Goal: To provide adequate and appropriate rental housing for the various socio-economic groups.

Housing & Neighborhoods Homeownership Goal: To provide safe, adequate, and affordable housing for families within the City limits.

ORDINANCE NO. 2023-____

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 13 – INFRASTRUCTURE IMPROVEMENT REQUIREMENTS**

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance, Ordinance Chapter 13 – Infrastructure Improvement Requirements; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard Comprehensive Plans:

2015 Comprehensive Plan:

- **POLICY 2.2.H:** Provide financial incentives to encourage additional affordable and workforce housing development.
- **POLICY 4.2.E:** Collaborate with partners to increase the amount of available affordable and workforce housing, and to combat homelessness.

and,

WHEREAS, the Brevard City Council concurs with the recommendation of the Brevard Housing Committee to include utility connections for qualifying affordable housing projects as an expense eligible for reimbursement through the Housing Trust Fund; and,

WHEREAS, a public hearing was conducted on Tuesday, March 20, 2023, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Unified Development Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. Brevard City Code, Unified Development Ordinance Chapter 13 is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 3rd day of April 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

EXHIBIT A

13.4. General infrastructure design requirements.

A. Connection to city sewer system required.

1. All developed property within the city limits and located within 300 feet of a city sewer line shall be connected therewith, and the property owner shall be charged the prescribed tap fee and system development fee for all such connections. Such connection shall be made in accordance with the provisions of this article within 90 days after the date of official notice to connect.
2. Improved property served by wells and annexed by the city shall be connected to the city sewer systems within five years of the effective date of annexation; provided, however, that no connection to the sewer system shall be permitted without also connecting to the city's water system.
3. New development within the city limits shall, in all cases, connect to a city sewer line. Sewer line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City sewer is not required but may be permitted for new development within the city's extraterritorial jurisdiction. The owner of any property within the city's extraterritorial jurisdiction who requests connection to the city sewer system shall request voluntary annexation into the City of Brevard. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the county health officer.
5. Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

B. Connection to city water system required.

1. All developed property within the city limits shall be connected therewith and the property owner shall be charged the prescribed tap fee and system development fee for all such connections.
2. Improved property served by wells and annexed by the city shall be connected to the city water system, if within 300 feet, within five years of the effective date of annexation.
3. New development within the city limits shall, in all cases, connect to a city water line. Water line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City water is not required but may be permitted for new development within the city's extraterritorial jurisdiction. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved wells and must be approved in writing by the county health officer.
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C. *Sewer and water connections and infrastructure.* Sewer and water connections and infrastructure shall occur in accordance with Chapter 70 of Brevard City Code and the City of Brevard *Standard Design and Specifications Manual for Public Improvements*, and any necessary conditions of the public works director.

D. Utility easements.

1. Sewer, water, storm water, and other utility easements shall be required within all new development (including developments within the ETJ for which no public sewer or water is proposed), and may be required within existing developments undergoing improvements at the discretion of the administrator.
2. The precise location and width of easements shall be determined by the administrator. However, unless otherwise specified, underground utilities should be located in alleys and lanes. If no alley or lane is provided, then a five-foot (minimum) utility easement shall be provided behind the sidewalk located within either the right-of-way or a public utility easement. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the approving authority and shall be at least 30 feet in width.
3. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as may be adequate for the purpose of drainage.
4. Lakes, ponds, creeks, and similar areas within a subdivision will not be accepted for maintenance by the city except as provided for in Chapter 6.
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