



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Tuesday, September 5, 2023 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Dr. Sharad Creasman, Brevard College

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. Monday, August 7, 2023 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

1. Resolution-Awarding Badge & Sidearm to Police Captain Steve Woodson
2. Proclamation 2023-13 Constitution Week
3. Proclamation 2023-14 Childhood Cancer Awareness Month

I. Special Presentation(s)

J. Public Hearing(s)

1. Ordinance - Voluntary Contiguous Annexation - Greenfield, 345 Forest Hill Road

K. Consent and Information

1. Property Tax Releases - August, 2023
2. Rosenwald Community Advisory Board Minutes - May 18, 2023
3. Rosenwald Community Advisory Board Special Meeting Minutes - May 25, 2023
4. Council Public Safety Committee Minutes - June 26, 2023

5. Council Finance, Human Resources, and Citizen Appointment Committee Minutes
- August 1, 2023

L. Unfinished Business

1. Ordinance - Voluntary Contiguous Annexation - Nielsen, 31 York Circle -
Continued from April 17, 2023 Meeting
2. Proposed Amendment to City of Brevard Unified Development Ordinance
Chapters 6 and 13 - Staff Determinations
3. Proposed Amendments to City of Brevard Code of Ordinances Chapters 1, 6, 10,
14, 18, 38, 42, 43, 46, 58, 62, 66, 70, 77 and 78 - Consolidating Definitions

M. New Business

1. City-Sponsored Holiday Activities
2. Review of Mayor/Council Appointment Procedures

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

P. Adjourn

Agenda Posted, Website, Sunshine List (August 31, 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
Regular Meeting
August 7, 2023 – 5:30 PM

The Brevard City Council met in regular session on Monday, August 7, 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, Assistant to the City Manager Alex Shepherd, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Communications Coordinator Becky McCann, Police Chief Tom Jordan, and Fire Chief Bobby Cooper

Press – Jon Rich, Transylvania Times and Dan DeWitt, Brevard NewsBeat

Guests – Teresa Buckwalter, Traffic Planning and Design, Inc. and Kara Erickson, IONCON Engineering and Design

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

B. Invocation – Rev. Keith Thompson of Brevard-Davidson River Presbyterian Church 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. Hooper asked to replace the Closed Session regarding Economic Development with two Closed Sessions regarding Pending Litigation. Mr. Baker requested that Item K-6 King Street Waterline Project Closeout be pulled from the Consent Agenda and added to New Business as Item M-3. Ms. Dinkins moved, seconded by Mr. Morrow to approve the agenda as amended. The motion carried unanimously.

F. Approval of Minutes

F-1. April 3-4, 2023 Budget Workshop – Mr. Jones moved, seconded by Ms. Dinkins, to approve the minutes of the April 3-4, 2023 Budget Workshop. The motion carried unanimously.

F-2. June 19, 2023 Regular Meeting – Mr. Baker moved, seconded by Ms. Dinkins to approve the minutes of the June 19, 2023 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments

Carole Stone said I want to thank the Brevard Police for an action that was performed that I don't know a lot of people in town knew of. On April 18, 2023 WLOS News aired a story about the Transylvania County Sheriff's Office working with the North Carolina Department of Alcohol Law Enforcement (ALE) through nuisance abatement. A nuisance in the sense of drug users and drug selling. The Sheriff's Department was able to close this property down. The City of Brevard had its own nuisance house. Half a mile down S. Caldwell Street from downtown Brevard was a house providing a nest for drug users, drug sales, prostitutes and criminals. Prior to the

WLOS story, on April 4, 2023 the Brevard Police Department, working in concert with ALE, exterminated the nest and abated this nuisance house. In addition Code Enforcement, now under the command of the Brevard Police Department, is enforcing the code and getting this nuisance property cleaned up. There is a notable difference on Caldwell Street, both north and south. The businesses and residences in proximity have seen the results of this action by the Brevard Police Department. No longer are these drug dealers, meth heads, prostitutes and criminals wandering up and down Caldwell Street. The amount of litter, beer cans, alcohol bottles, and cigarette butts has greatly diminished. Needles and meth pipes haven't been seen. We now feel very safe walking our dogs, pushing our strollers, and walking and jogging on S. Caldwell Street. This story was not aired on WLOS and it was not in the local paper. Not many know about this Police action, but we would like to offer our thanks to the Brevard Police Department, to each officer, each Sergeant, each Lieutenant, each Captain, and all the Detectives that answered the seventy-plus calls to that house last year. Thank you. When thanked, the officers at every level very humbly nod and say "we are just doing our job". Police Department, job well-done. The City of Brevard, as a community, continues to be a safe place to call home. For that, I am grateful to Brevard's Finest.

Josh Fisher said I want to talk about a couple of things. This past week I requested some public records before the school year starts. Last year on September 15, 2022 at the intersection of Gallimore and Greenville Hwy at 2:33 pm there was not a crossing guard there. That same day a child was hit. I do have the CAD reports and Police reports from that. I recently asked City of Brevard for any dates that there was not a crossing guard at that intersection because my son crosses that intersection to go to school. They said you guys don't have any documents or anything where there wasn't a crossing guard there all year-long. So, either there is bad recordkeeping or there is a lack of transparency. If I have go out there myself and direct traffic, stopping other people from getting hit, I will. That is the first thing, I am trying to be polite. Our children's safety should be number one. The next thing I want to say is I have met with the Mayor in the past. I am a big law enforcement supporter, I do respect law enforcement. I have had some issues with the Brevard Police Department and I am a law abiding citizen. I did ask for public records of every time I have been stopped by a police officer and my tag has been ran in the last year to date. Some of them are not even on there. One night I was stopped by a police officer; I was staying in my lane, but I was left of center of my lane, but I was within my lane and not across the lane. I said "why was I stopped?" "To make sure you're not drunk" was the answer. If I'm in my lane, then why did you stop me? I do have that document as well. I am asking you guys, I have met with the Mayor before, the Chief knows who I am, what I am asking for right now is that if there is any harassment or anything with the Police Department at stops, everything will be recorded. Lt. Woodson with the Brevard Police Department is an upstanding person; he's probably the only one in that Department that I have met that really does a great job. Honestly the Chief of Police I don't think does and it shows going down the line. I just want to know when, I know you guys can't answer this question, are we going to have better transparency within the City, when are we going to have a crossing guard there all the time to ensure our children's safety, because that should be number one. As taxpayers, we pay for that service. Not having somebody there should be nonnegotiable. If you want to look it up 9/15/2022 I believe at 3:12 pm where a child was hit. They actually called the helicopter to come but they canceled it because it wasn't that bad. But had it been that bad, had the child been killed because we didn't have a crossing guard there, just keep that in your minds. I am a parent and I really hope that changes before the school year because I will be out there every day.

Tom Makowsky of the Munch Box announced the opening of the restaurant at 100 E. Main Street hopefully at the end of the month. He said we are still waiting on some licensing and completion of renovations. We completely renovated our building top to bottom. We are doing a gourmet sandwich shop and a cannabis infused mocktail bar. When I speak of the cannabis infused, we are not putting it in the drink for you, it is the option of the guest to do it themselves. Following the regulations of North Carolina, we can't infuse the cocktails for somebody; we give the option to the guest to put those in there. Inside we will have lounge chairs and outside we redid the whole patio and

put turf outside. It's going to be palm-themed and we will have TV's throughout. I just wanted to tell people what we're working on.

H. Certificates/Awards/Recognition – None.

I. Special Presentations

I-1. R-5800 Roundabout Final Landscaping Design Approval – Teresa Buckwalter, TPD – Paul Ray explained that R-5800 is an NCDOT access-management project consisting of three roundabouts on Asheville Highway from Caldwell Street to Fortune Cove Road. The project is expected to go out to bid in April, 2025. The City took measures to reduce the amount of concrete by requesting betterments to include landscaped splitter islands along with trees and shrubs in the center to lessen the negative impacts and soften and beautify the project. City Council authorized a contract with Traffic Planning & Design for designing these betterments. Council is asked to vote on the plans this evening under New Business. He then introduced Teresa Buckwalter of Traffic Planning & Design who gave a PowerPoint presentation (copy attached) of the concept landscape betterment plans for each of the three roundabouts. She explained that the purpose of these three roundabouts is in part beautification, to provide a sequence of arrival as you are coming downtown into the city, and to highlight Brevard's cultural character. The landscape would provide interest year-round and provide some tie-in to various other elements that you see around the city, but also to be a canvas for potential future sculpture. She noted that the sculptural elements are not part of these plans, but this is setting the City up for the future. The plant materials are there to support the canvas of the artwork and provide texture and year-round interest. The themes for the three roundabouts are:

- Music and Movement – Chestnut Road
- Cardinal Directions – Osborne Road
- Circle of Life – Pisgah Heights

Ms. Buckwalter explained that if Council approves the planting plan, it will then be sent to NCDOT with extra details. Ms. Buckwalter then introduced Kara Errickson of IONCON Engineering and Design to present the concept design for the Ecusta Road Roundabout.

I-2. Ecusta Roundabout Concept Landscaping Design Approval – Kara Errickson, IONCON Engineering and Design – Kara Errickson presented a PowerPoint presentation of the concept design for the Ecusta Roundabout (copy attached). She explained that the project parameters are:

- Existing site conditions – where it is located, the size, setbacks
- Regulatory pieces
- City of Brevard and what its plans as a community are – roundabout is already a part of the adopted Brevard Pedestrian and Bicycle Plan so it is already on a shared-use path.

The design research phase included the history of the Ecusta Mill. The City has already purchased gear remnants from the factory, however those gears are quite small given the actual scale of the roundabout. There is an additional available factory remnant, that being the digester, which is a much better scale to put in the roundabout. The proposed design is to install the digester in the center of the roundabout with Davidson River stone in concentric cascading circles around it. The design is to remember the Ecusta Mill and how pivotal it was to the growth and development of this town. Adjacent to the roundabout IONCON is proposing installing a historical site which would use interpretive signage and the gears as a display to talk about the history of the mill.

Paul Ray asked for feedback from Council on the Ecusta Roundabout. During discussion, Mr. Ray explained that because this roundabout is already done, 100% of the cost of this project would be the responsibility of the City. Ms. Errickson noted that

the design can be scaled to meet budget targets. Council feedback on the proposed design was all positive.

J. Public Hearing(s)

J-1. Proposed Amendment to Brevard Code of Ordinances Sections 42, 43, 46 and 66 – Social Districts – Emily Brewer presented a PowerPoint presentation explaining what a Social District is, the proposed Downtown Brevard Social District, commonly asked questions, and where we would go from here. A copy of her presentation is attached. Ms. Brewer explained that social districts have been discussed by many Council members and constituents – first as part of the Comprehensive Land Use Plan, then following a Main Street program conference earlier this spring, and finally at Public Safety Committee meetings in April, May and June. In June the Public Safety Committee unanimously recommended approval of the proposal. The proposed Social District Text Amendment and the proposed Management Plan are included in the Staff Report in the Council Packet.

Ms. Brewer noted that at least 40 North Carolina municipalities have adopted social districts. Many cities have reported economic growth and revitalization following the establishment of the social district, including new businesses opening, increased visitors and pedestrian activity, and new opportunities for events. The City of Raleigh recently conducted research to assess the impact of the social district adopted by them in August, 2022. The results show that there is strong support for social districts with stakeholders reporting increased sales, no increase in litter, and no increase in “bad behavior” in the area. Information from that survey is included in the Staff Report in the Council Packet.

The proposed Social District boundaries include six blocks of Downtown Brevard that are densely populated by restaurants, bars and retailers that could benefit from foot traffic and activity. The area is bound by Probart, Gaston, Jordan and England Streets and signs would be placed along the boundaries at all entrance and exit points that clearly delineate where the Social District ends or begins. The hours of operation are proposed to be from 11:00 am to 10 pm daily.

Mayor Copelof opened the public hearing at 6:32 PM.

Public Hearing Public Participation

Hank Moffitt – I am a native of Transylvania County. I grew up here and apart from my time in the military and another part of the state pastoring, I have been here. I love this community and everything about it. I remember my family and our love for this community. My father was a local merchant and was a County Commissioner for twelve years and at the end of those twelve years, the Democratic Party asked him to run for City Council. He was elected and was City Councilman for twelve additional years. Our family has invested into this community very much. I think about when Brevard first became wet and sell alcoholic beverages. Following that came package stores, bars, then breweries, and now distilleries; it goes on and on. I am currently volunteer Chaplain at the Brevard City Fire Department and paid Chaplain at the Transylvania County Sheriff's Department and Detention Center. I deal with people and alcohol, I am going to set aside the drug issues with people, and talk about alcohol tonight. I deal with them extensively, getting them into rehab, counseling with them, and seeing them, be it detox and all that goes along with that. I see the increase of people being brought in, whether it be drunk driving, domestic violence, or whatever it would be that is alcohol related. I deal with rehab centers extensively and drugs will kill you quicker than alcohol, but alcohol is harder to be set free from an addiction than drugs. My question is where does it stop? If we just throw in the towel and say anything goes, then we are going to change the dynamics of what Brevard has always been about. You hear the alcohol brewing companies saying drink responsibly, so as a word of encouragement to the Council, lead and legislate responsibly when you think about this. I have gone through alcohol myself and have been set free from it because I had a major problem with it and it caused a lot of problems in our family, so I know the

ill-effects of it personally. I think about our young people coming along now; what are we presenting to them? Illegal drugs are just what they say, they are illegal and they cannot go out and buy them legally. Alcohol is everywhere you turn, whether it be the ABC store, the local grocery store, the package store, and the eateries. The more you bring people in here to participate in this kind of thing, the more alcohol you're going to put out on the highways. Out of my love for this community I ask that you really think responsibly about what you are leading and legislating on in regard to the extent of the alcohol.

Jermois Morris – I am a project coordinator with the CARE Coalition of Transylvania County. The CARE Coalition is a grassroots community group with people from multiple sectors that work to reduce substance misuse and underage drinking in Transylvania County. We approach these issues from a public health perspective and focus on overall health, safety and well-being related to substance abuse for everyone in Transylvania County. Because the law that allows social districts in North Carolina is rather new, we don't yet have solid data on the long-term impacts of policies like these. At this point the public health, financial and social cost, benefits and risks are largely unknown. For instance Pilot Mountain has seen an increase in law enforcement cost for disruptive behaviors. In North Carolina ALE had received reports of people drinking alcohol out of trash cans after hours, but many other communities have not reported problems. We are seeing anecdotal reports showing increased access to alcohol in Surry County and Union County. Many communities report increase in business revenue and downtown foot traffic, but these increases may or may not offset enforcement costs and health impacts of expanding access to alcohol. Until we have better data, we must rely on what we do know about safe alcohol use. We know that additional alcohol outlets, increased hours and price discounts negatively impact health. We know that exposure to alcohol consumption increases youth drinking behavior and that people in recovery can be particularly sensitive to increased emotion and normal relational drinking, and we know that increased alcohol consumption has high social cost, totaling about \$10M per year for local communities across North Carolina in terms of lost productivity, healthcare costs, criminal justice expenses and motor vehicle crash costs. To address these concerns, the CARE Coalition continues to support protective factors like policies and practices that promote healthy social norms and reduce access to availability of alcohol. Specifically for minors, but also for people in recovery and those who struggle with alcohol consumption. My CARE Coalition colleague will share some recommendations based on best practices that we know to help address some of these health risks.

Celia Richmond – I am a project coordinator with the CARE Coalition of Transylvania County. We work to support protective factors that help limit underage drinking and promote healthy social norms related to alcohol consumption. If City Council determines to move forward with implementation of the Social District in downtown Brevard, the CARE Coalition would like to share some recommendations for consideration that can help mitigate opportunities for underage drinking, alleviate pressure on local law enforcement, and maintain a family-friendly environment. First, wristbands could help limit access to alcohol for minors. Secure wristbands worn by patrons with alcoholic beverages in the social district would signify that that person is over 21 years of age and has had their ID checked at a participating vendor. Only one wristband would be needed. All vendors would still be required to ID patrons within their establishment in accordance with state law, but wristbands would serve as a self-policing measure, reduce the likelihood that a minor obtains alcohol, and help law enforcement easily identify violations from a distance. Second, limited hours would reduce exposure to youth and other community members who prefer to avoid alcohol consumption. Daily hours from 5 to 10pm or only weekend hours would avoid afterschool hours when youth are most likely to be downtown without adult supervision, without limiting times when adults are most likely to want to participate. Limited hours would also reduce law enforcement costs, minimize the negative impact on retailers who are not in favor of the district, allow time for residents who don't want to be exposed to alcohol to shop and eat downtown, and aid in maintaining a family-friendly environment. Third, the Council may want to consider limiting alcohol sales for social district consumption to beer and wine, similar to the current rules for special

events. Mixed drinks containing liquor or spirits contain a higher percentage of alcohol by volume, which can contribute to an individual becoming intoxicated at a faster rate compared to beverages with a lower alcohol content such as malt beverages and unfortified wine. This could limit intoxication and unintentional overserving. Finally, we ask City Council to consider the impact of the social district on tobacco use. We know that some people tend to smoke when they drink because of how nicotine and alcohol interact with each other in our brain chemistry. If alcohol is not restricted to permitted establishments, we expect to see increased smoking throughout the social district along with increased exposure to second-hand smoke and increased litter. If social district implementation moves forward, we recommend that the City consider measures to alleviate tobacco exposure for downtown visitors. Thank you for your consideration of these recommendations. We hope that you consider CARE a partner working to improve health and wellbeing for our community.

JoAnne Houston – Twelve years ago I had the delight to discover Brevard and I longed for the time that I could live here. Three years ago I moved here in the springtime and my friends like to joke and say that within the first three days I met half the town and was invited to many peoples' homes for picnics and dinners. I love the warmth and the friendliness of this town. I love other things about the town too – the culture, the traditions, and white squirrels. Part of these traditions and cultures that I have come to love in this small town revolve around town - the joy of walking down Main Street, that was once tree-lined, the joy of being able to enter businesses whose doors are left open are very inviting and I have come to know many of the shop owners. I love the fact that I have free parking and spaces that are big enough to hold my Honda Pilot. I love being able to dine on the street alfresco, European-style where alcoholic drinks are welcomed. I love the fact that we had, and maybe have again, a 40's style malt shop reminding me of my late husbands who were soda jerks in Philadelphia at such a shop. I love being in a town that has the greatest toy store on the planet that sells toys that many of us probably enjoyed when we were young. And I love dancing in the street and that the first night I did, there was a double rainbow arching over the street. I feel like I live in a Hallmark movie and my friends and families who come to visit me confirm that. So, I implore you to please preserve this Hallmark-style town that I have come to know and love. I ask that you please not allow people to be drinking on the streets, to be under the influence - speaking under the influence, walking under the influence, shopping under the influence and ultimately getting in their cars under the influence. I pray that you would restore dancing to the streets and prevent drinkers to the street.

David Morrow – I am here representing the Veterans History Museum of the Carolinas at 21 East Main Street. I notice on your map that you have included our space and the County Courthouse. It is my understanding that the Transylvania County government does not allow the consumption or sale of alcohol on their property. I might suggest that you revise the map to take that part out. Veterans are probably a group of people who have partaken of alcohol over the years, but we try to keep any beverages out of the museum and I don't think asking our pathfinders, our docents to police people coming into the museum with alcohol, or just having had alcohol, would be a good thing for them. It is hard enough to keep soft drinks and candy bars out. I would suggest at least taking that County property out of your zone and good luck with the other part. I don't envy you your vote.

Jud Early – Eight years ago my wife and I moved to Brevard but I have a history that goes back thirty years when my son was brought here by BiLo Foods and I visited many times. This town went through some pretty difficult times. When we first came here the Ecusta and DuPont were contributing payroll to the wellbeing in this town. The employment there were hundreds of people that had good jobs, but when those went away, we saw a decline. But, through what I believe was good governance, we saw recovery. Main Street and Broad, that commercial district was preserved and that district now has become a magnet for tourists. We see families there all the time in spite of the parking problem and crowding in the restaurants. We want those families because they contribute to the economy; they also contribute to the reputation which builds more tourism. We don't want to lose that, but I predict that we will if this social

district proposal goes through. During my professional life I spent a lot of time in Atlanta. People that would come to Atlanta, that were there for the first time, always wanted to go see underground Atlanta. At the outset, it was an area where there were restaurants, bars, shops, and activity. There was also a police station with two guys in it and glass all around managing an area not near as large as our downtown. What I am fixing to tell you is not hyperbole, but I have seen it with my own eyes – public urination right against the walls of the building, fights that break out because you spilled my drink, the fists fly and somebody ends up on the ground. Do we want that for the kids that come here with their parents from so many states, to leave here with that impression of Brevard? No we don't. I implore you to reconsider that this proposal is not going to be good for Brevard. The negative impact and the additional cost of enforcement is not going to be outweighed by the revenue increase that a few extra drinks on the sidewalk will bring. I think about towns like Bangkok and Thailand or Amsterdam in the Netherlands, where entire areas have been ceded by the governments of those areas and people who want to live a decadent life can live there, but when the police whistle blows, half a dozen cops will come and converge on that. Where will they come from in Brevard? We don't have the police power to deal with something like that. Again, I do respectfully request that you not just table this for future discussion, but kill it altogether. It's bad for Brevard, it's bad for its citizens, and we will see nothing good come from it. There are plenty of places around where people can drink; we're not opposing that and everybody has their own choice; but what we do not want to see is public drunkenness on the sidewalks and I assure you that it will happen.

Vickie Van Antwerp – I am asking for some consideration to the following issues or possible repercussions of a district that allows drinking in public and shopping venues. According to the National Institute of Alcohol 140,000 people die from alcohol-related causes every year, making alcohol the fourth-leading preventable cause of death in the United States. Why is that statistic even important? Because it should not be taken lightly when considering increasing the availability of alcohol in our town. We already have five breweries, several businesses that sell alcoholic beverages in and out of the proposed district. If alcohol is going to become the attraction for Brevard, we are on a slippery slope. There should be restrictions on the number of drinks served to individuals at any one establishment since binge drinking is a real problem. It consists of five drinks for men and four for women. If someone is free to move about, the danger of binge drinking is a real problem. Improving our town is always important and it has been a wonderful town. There is so much culture here that has drawn a lot of people to move here and to visit. But, the top ten tourist attractions in this country are mostly natural wonders and museums so that should tell you what the public really wants.

Ray Brewster – Tonight I want to talk to you about where exactly Brevard is going. We have an idea of where Brevard has been and where it is at this moment in time, but what is important is exactly what are you going to be doing in pushing Brevard in any particular direction. My wife and I had a chance to attend one of the Heart of Brevard meetings. She owns Sew Fine by Design on Jordan Street. While we were there during that meeting, basically what was stated was that the reason for the social district was to promote foot traffic and revenue. The thing is you can't bring anything into my wife's shop because it is all fabric. That is something that she wouldn't be able to participate in. We found it very difficult to understand exactly how it was that there was going to be any type of additional foot traffic or any type of additional revenue that she would be able to enjoy, and when asked, there really wasn't much that was given back. We had a chance to look at the other issues that the City is going to have to be dealing with – the overtime for law enforcement, the trash receptacles, city workers for sanitation, public restrooms, we only have two locations for public restrooms and they're not very large. Have you given any thought to the cost of taking care of that? How about the parking shortage? You don't have the spaces for parking and even with the possible added insurance cost for the coverage for alcohol liability. At that meeting when asked if there was any verifiable information from North Carolina cities with social districts that showed increase in foot traffic or revenue, and any activity regarding alcohol-related incidents, accidents or arrests, whether up or down, there really was none. At best it was anecdotal. Had a chance to talk to one of

our State Senators and he said there are some that it's looking good, there are some it's not looking so good, and there are some that have just started. Everybody is putting much study in the beginning stage, and we don't know how good this idea really is. No programs have been running long enough to have this information available. Heart of Brevard said that. So, there is a long list of concerns and an unverifiable expectation of possible increased foot traffic which will hopefully translate into increased revenue for all business owners. I believe controlled growth for Brevard means we make the right changes in the right way at the right time. I do not believe social districts are what Brevard needs, not this way, not at this time. Let's allow other cities to be the guinea pigs, not our city. Let's wait and see if a workable model comes from the experiences of other cities our size, not Raleigh, a totally different scenario. In the meantime, while you wait to increase the foot traffic, if you want to increase the foot traffic and revenue for all businesses, create more parking.

Jayne Mallwitz – The children and youth are near and dear to my heart and are what my focus is. We say we care about our youth, but enacting an open drinking policy does not support this. For impressionable young adults and teens open drinking will begin to normalize drinking as acceptable and lead to an increase in underage drinking. There are numerous publications that support this view and I will cite a few. A 2015 Pediatrics Journal article reported the stronger alcohol policies, including those that do not target you specifically, are related to a reduced likelihood of youth alcoholic consumption. A CDC guide suggests regulate alcohol outlet density and maintain or limit days or hours of sale. This is in conflict with the proposed 11am to 10pm daily open drinking. In a 1996 Brookings commentary they say that no other social disorder is at once so disruptive in its own right and so conducive of other disorders and crime as public drinking. They also cite a study by Skogan where public drinking was ranked first among the disorders identified by residents across 40 neighborhoods. In 2007 the Surgeon General's call to action, he suggested to restrict drinking in public places including at community events to prevent and reduce underage drinking. In 2021 the Interagency Coordinating Committee on the Prevention of Underage Drinking had these findings – drinking by adults is strongly correlated with the drinking behavior of underage youth. Many of the most effective interventions for reducing drinking by those under 21 are universal interventions that also reduce drinking among adults. In many states alcohol can now be carried out of restaurants and bars. According to research by Schwann et al in 2015, this expansion in alcohol availability for adults typically results in expanded access for youth. To preserve our community and protect our youth, I am strongly opposed to open drinking being proposed for the City of Brevard and respectfully request that the City Council carefully consider the ramifications and not pass open drinking in Brevard.

~~ At 7:02PM Mayor Copelof called for a ten minute break ~~

David Chastain – I am an Adjunct Psychology Professor at Brevard College and I have lived here about two years. Before coming here, I have had about a 40-year career primarily focused on addiction treatment, counseling and education, and I have managed to put together 43 years of my own health away from my active addiction when I was much younger. A couple of things that struck me really strongly throughout my whole career and also in the proposal here, that have to do with messaging around what is responsible drinking. Typically there are two things that are used to define responsible drinking. One is don't drink unless you're 21 and the other is to have a designated driver. Well, having a designated driver just basically means somebody else is responsible for you so you can get as loaded as you want. I can tell you personally from my own experience that at 20 years old my life was a disaster and when I woke up on my 21st birthday, I was not miraculously responsible simply because I had turned 21. I think that these goals, these frameworks are extremely limited and they don't do anything to teach people about what actually is responsible use. If the City is going to go through with this proposal, I think it is both an opportunity and a responsibility to put some messaging out there about what does it actually mean to be a responsible drinker. Our country, for instance, identifies pretty much across the country, a .08 alcohol level in terms of drunk driving. There are many places in Europe where it is .02 or .03. Oftentimes people don't know, for example, that impairment starts at .04, so we

are already allowing people to be impaired significantly before we say that's too much. One thing we have to remember about statistics, particularly around arrest issues, is that those are only acknowledging the people who get caught. There are many consequences that come from heavy drinking that are never recognized publicly, but are punishing that person and their family and the people around them. In my own case I drove drunk, I drove high, I was involved in a head-on collision, and I stood this far from my girlfriend when she backed through a railing and died because she fell three stories and landed on her head, because she and I were both too drunk to stop it. I don't think either of us understood at all what responsible drinking was and neither of us were alcoholics. I think we have a very important responsibility here. Two pieces of information that may make a difference – the formula that I have always taught is 0-1-2-3; zero drinks if you're driving or pregnant; one drink per hour, which is either a 12-ounce can of beer, 6-ounces of wine or a shot of whisky, pretty similar amounts of alcohol in each one, that's two; and no more than three drinks each of those two times. For most people, unless they are on a medication or they are tiny, that is going to help prevent the impairment. If we don't have messaging around impairment, we are going to have public intoxication. We need to back that message up. And the other formula I use is the word SAFE. Whether it is drinking or any other kind of substance, are we doing it to keep things secret; is there anything about it that is causing abuse, and abuse is way more than whether I am smacking somebody. Abuse is whether I am not paying attention to my children or ignoring my job or my own healthcare. The "f" in the word SAFE is for feelings. Do I respond to the range of my feelings by using to either moderate or ignore or enhance those things? And the "e" is for empty. Even though I believe that this behavior I'm involved in helps me, I still wind up feeling empty day after day. There are a lot of details in the proposal about the barricades and how big they're supposed to be and the differences between them space to space. We can't just look at benefits and legal arrests and say there's no risks. It's not responsible to promote the regular use of alcohol starting at 11:00 in the morning without also having some arguments to define what responsible drinking is and to take a position on prevention as well.

Jeff Maynard – I am Pastor at First Baptist Church which falls just outside of the map, but Jordan Street runs directly beside my preschool entrance. My parents come to pick up their children at 12:00. Social drinking starts at 11:00 and I think everybody that has tried to convince me that people will stay within that blue line may have already drank too much. Because it's just not going to happen and you're not going to be able to enforce it, and it is going to be left to me to enforce it. I have a parking lot across the street from there that is already a nightmare to enforce and we know that people ignore it. That's where they're going to park and I'm going to be picking up the trash, the town's not going to be picking up the trash. I'm going to be dealing with the problems, and you're not going to be dealing with the problems. In this ruling, it creates issues, and I heard it was said through the grapevine that this didn't affect any churches; everything you do downtown affects my church. Removing 19 parking spaces truly affected my preschoolers' ability to park in my parking lots. It is affecting our culture. There has been a great spin placed on how we've seen this town do it and that town and all of these towns did it. I hope our government is not follow the leader or follow a town that doesn't have the same dynamics as this town. Maybe they needed that to revitalize their town, but I can tell you with absolute certainty Brevard does not need this to be a vibrant town. It already is. I deal with people every day and we deal with needs vs. wants. When I set up a budget in my church, what do we need to do what we're supposed to do, not what do we want. This is not a need, this is something a few people want. It's not what a lot of people need and that's the problem. Your survey – 31% were against and 44% were for it. Those were just stakeholders downtown, that's not the public survey and they're the ones spending the money. It's their town and it's not just the people inside the limits town. I live in Little River, this is my town; somebody that lives in Lake Toxaway, this is their town. You start changing the downtown business district away from the culture that people came here for, they are going to bypass your town. They're going to make a right turn out of DuPont and head toward Hendersonville, which seems to not think they need this, or Waynesville that voted it down. We're not hearing about the people that have rejected this, we're just hearing about the people that want it because there is an agenda. It is very evident that

there is an agenda to change the culture to town, but the people don't want that cultural change. You can make it as safe as you want, you still have to deal with what people want and what their culture is. I hope you do listen because the town is full. There is no town our size with that small a district drawn for the statistics you heard. They're just not apples to apples. That always worries me when people start spinning things to get us to agree with it. It lets me know that it's just a want of a few, rather than the best for many. I hope you see through that. It's a college town with a college three blocks from this district and if you don't think this will promote underage drinking from a college, I was a binge alcoholic in college and I could game your cup system so easily. I'm going to let the Pastor educate you, here's how it's going to increase drunkenness; at this point somebody can only order so much in a restaurant and they've got to be in that restaurant. But now I can order it and take it in a cup outside and when I'm finished with that cup, I throw it in the first receptacle that you're going to provide for me and I simply go down the street and I buy more and I drink it out on the street because I don't have stay in the restaurant. Rather than having those two glasses of wine or those two beers or that one mixed drink, I had three mixed drinks or six glasses of wine. If you think I'm going to be smart enough to have a driver, I drove drunk all the way through college. Drunk people don't make good decisions. The people that were in that survey started their businesses, invested in this town and moved here without that because they saw value in the town, so why do we need to add it now?

Jay Hinze – In August 2014 the County Commissioners approved a referendum to extend the sale of alcohol in Transylvania County. This referendum was placed on the November ballot and all the citizens of the County were allowed to vote. I recommend that the proposed Social District be placed on a referendum in the November election. Citizens of Transylvania County, including Brevard, have the right to vote on this important issue. Let me point out that the statistics that were pointed out earlier, the survey was a small fraction of the representatives of this County and City.

Martha Tinsley – I can ditto all the things that people have been saying about this social district. I do not think this thing will be any good for our city, for our people, because I don't drink, but I know a lot of people do. It's just like Jeff Maynard's been talking and all these other people have been talking against this, it's just not going to be good for our city. If I went into a place where a lot of drinking is, I wouldn't go there to shop or anything because I just don't believe in it. That's what's wrong with our country today. There are too many breweries in our town all around and that's just not good. I know there's drinking, I've seen people drunk, staggering by my house many times, but I don't approve of it.

Diane Brown – I am the WEE School Director at First Baptist Church in Brevard and I have some concerns that I would like to relay to you in that particular role. The traffic on Gaston Street is already bad. People ignore the crosswalk designated for our families to cross from the parking lot to the church. I know that parents have complained about this issue. There is poor driving; sometimes the stop sign alone on Gaston is ignored. I have even witnessed some of this from County drivers in public vehicles. It's already been pointed out that parking is going to be a nightmare, it is already increased in difficulty, especially during inclement weather. I believe if you move and affirm this action that it will cause a business in Brevard of over 55 years to suffer with reduced enrollment because our families will want to avoid Brevard. Right now schools have signs that say no firearms allowed - how many school shootings do you see? I don't think your signs are going to keep it in this area and if you think it will, just reflect on the school shootings that we have.

Leroy Walters – My wife and I own a business in downtown and also a property in downtown. I hear everybody talk about projections and what not, but a lot of the responsibility comes on us business owners being responsible. We currently serve alcohol and I have never had anyone come into my business who is drunk or belligerent; I'm not serving drunk or belligerent people; and I think at the end of the day it really comes on us business owners as being responsible and looking out for our youth. We have lots of youth that do come into our business, because we also have dogs

and it brings them in. They buy soft drinks, they buy treats and food so I don't think it's going to be an all-out party, I think it's just going to put a lot more responsibility onto us business owners.

Alan Mercaldo – I want to acknowledge Emily and the Planning Board for the amount of work that they have done. I know that it takes a lot to put something like this together and it is appreciated. However, I don't believe this is right for Brevard either. A lot has already been said if you keep saying it enough times, maybe it will actually happen that we don't do this. It is contrary to family-oriented small town charm principles that people want to come visit and live here for. We've had success in bringing these families and growth into downtown. Let's not damage it. I don't believe turning downtown into a drinking district really makes us more attractive. I call it a drinking district because that's really what this is. I've seen a lot of people drink and there's nothing social about it when they get that way. This type of behavior isn't what we need in the streets and definitely not what we want our police officers to have to enforce. I know somebody earlier mentioned the courthouse is there, but there is a bit of irony that the Police Department is also in this district right now. We've also mentioned surveys and statistics; I'm in business and I know that for the most part, statistics are used to support weak or bad ideas. They should be based on the merits themselves and I believe that in this case, with so many people speaking against it, there has to be a big selling job going on because I don't believe it has the appropriate merits to warrant it. Just because we can do something doesn't mean we should. Let's not do something because others are doing it, or it's permissible according to the State, or it's in a planning document. It should be based on merits and I believe this does nothing to add value to our unique strengths in Brevard of natural resources, arts and quality of life. This is personal to me, I lost my son due to alcohol. I know you have seen the yard signs that say "protect our children", well here we have a real opportunity to exercise common sense by rejecting this plan. Let's not expose children to adults drinking in the streets; let's show them that we care about them and as grownups we can make responsible mature decisions to protect them. Please do the right thing and just say no.

James Carli – I've got 8 points, I'll keep it brief. First, social districts are I think a good thing. They provide an economic boost as people have mentioned, increased foot traffic and time spent in and out of stores and also increases in sales from relaxed customers. Plus brewing is a key industry here and statewide. It is an ancient craft that is also an industry of the future and brewing supports local and statewide agriculture. There are a lot of farmers that produce agricultural grains that go into brewing. It is a key part of North Carolina agriculture. The social district may potentially actually increase safety because it can reduce the urge to binge drink in one place before you leave. If you can take the drink with you and walk down the street while you window shop, you are going to have less of an impulse to slam as many as you can before you hop in your car to drive somewhere. From what I learned living in Germany permitting open containers builds mature relationships with alcohol and destigmatizes a common human behavior. Actually I developed a healthy relationship with alcohol when my mother and father would teach me about what it means to drink when I was underage at 14, 15, 16 years old; "here try the wine" is a very common practice in Europe. It develops a consciousness of the effects of alcohol and how to engage it safely. Social districts can increase desirability; people will want to live and spend time in places where they have greater senses of freedom. This is a policy that is easy to regulate because the cups are designated, the times and areas are designated, and all of that can be changed pretty easily based on feedback and data. The liability concerns; I've talked to business owners who sell alcohol; first of all, 40 cities in North Carolina at least have pioneered this and the Police Department in Brevard has talked to the Police Departments there and they reported no issues of anything that the citizens had presented as concerns. Also local restaurants research, and I've talked to their business owners, they've told me that they've learned that their business's existing liability insurances cover any potential issues that could arise from social district drinking. This policy does attract the kind of people who are coming down here and being miscreants and cut loose, go wild and get drunk in public. First of all, public intoxication laws will still apply. You can't be black-out drunk and causing trouble in downtown because you are going to get pinched for public intoxication, but what this will do is actually increase

police attention on the district so there's going to be more eyes on the street in the first place. But it's going to let patrons feel free to relax and spend more time and money out walking around. This also helps reduce the feeling of morality police and opens up a society to help the town feel more relaxed and fun. The concerns about morality are an imposition of unconstitutional religious views on public space. Private businesses can opt out of this and they'll soon learn probably that they are also opting out of a bunch of revenues, but that is a choice they are free to make. Social districts are a good idea so I encourage you all to embrace opportunity and don't govern from fear.

Ann Hendricks – We know there always exists the potential for bad things to happen. Why create an additional environment that increases this potential in downtown. Our local children, often unaccompanied by their parents, travel through downtown, either on foot or on bikes, after school, during the summer, getting to friends' houses, OP Taylor's. Why have them exposed to a social district that increases interaction between those minors unaccompanied and adults consuming alcohol. I also want the Council to consider the safety risks for operating a social district when it comes to sections of two US highways. Another thing that bothers me is there is going to be a lot of single-use plastics. In my opinion we already have areas inside of restaurants and breweries that provide for socializing, so why does this need to be made public in open space downtown?

Deborah Betts – I live in Pisgah Forest and I moved here six years ago. The reason I moved here is because we wanted to get out of Atlanta, Georgia. That whole area has changed so dramatically; the crime rate has gone through the roof. So, we came here because this is small-town America and it represents something that America is slipping from in my eyes. I went into real estate six years ago and I'm on about my 80th transaction at this point, so I have seen a lot of people come here and I'm familiar with why they're moving here. They are moving here because you are getting the young families that are trying to recreate a simpler time in life. That is why they are moving downtown and they are walking to school with their children, something that we all did, but now it is unique and they are trying to capture that. The other reason they are moving here is they are trying to get away from what's going on in the big cities, like with me. When I mentioned the social district this weekend to two different families I was showing property to, they both said if this happens we want to know because it may change where we decide to move, and they are looking in Hendersonville as well. When you buy property it is one of the biggest investments that you will ever make in your life and do we really want to affect the real estate cost in our area? There's probably an advantage to tourism, but in the end those tourists go home and what is left is Brevard and the reasons why we moved here and the reasons why our children have thrived here. I got my children out of Atlanta and they have finished high school here. My 20-year old couldn't believe this was even being considered here and he did a search for his mother. He searched on showing results for the percentage of crimes that are committed by drunk people. Now, we're inferring that these people are not going to be drunk, right? How can we guarantee that? We can't guarantee that. You just talked about Caldwell Street being cleaned up, how do you tell the difference between someone who is strung out on drugs or someone who has had too much to drink? Are we really going to say that our law enforcement has that much time on their hands that they are going to be able to police those things? This is what it says, and by the way when he did this search, 2.6 million different links came up. It says offenses range from minor to serious, include property, public order offenses, driving while intoxicated, assault and homicide and on the average roughly 40% of the inmates who are incarcerated for violent offenses were under the influence of alcohol during the time of the crime. I ask you three questions: 1) how do you tell if somebody is on drugs or alcohol? 2) what will this require of law enforcement? I don't believe that someone who is going to walk into a store that has a little sign that says we don't accept alcohol is really going to be the business that the Police Department is going to want to get involved in at that particular time, or if they wander outside the social district. We don't have the manpower to police that; and 3) what will the negative impact be on Brevard? People are gravitating here because of the beauty, because it's small-town America, because of the values of the people that you hear discussing these things, and we're going to hurt that. I just pray that you really carefully consider what you're doing.

There's a lot of other places that you can go and drink openly, but I don't think Brevard should be one of them.

Doug Miller – I am a downtown resident and downtown business owner. Our business is within the social district. We pay city taxes on our property and we pay taxes through our business, so we have what we feel like is a pretty vested interest in what's going on. I want to say thanks to the Public Safety Committee for seemingly doing their job in vetting this and doing due diligence to make sure they looked into what is going on and it is clear through the proposal that that's happened. The Chief of Police being a part of that is a good thing. He's had a chance to look at this and he says it's good so I take that for what it is. I appreciate the statements earlier from the CARE Coalition. I think those were thoughtful and worth considering. Outside of that I've heard a lot of hyperbole and a lot of fearmongering about things that may or may not happen and there is really no evidence to prove a lot of that. On that note, it's worth reminding everyone this is an election year so I assume we are going to hear a lot more of that from the candidate who was up here speaking earlier. That's a good wedge issue for him. I applaud the efforts of the City to try to stay competitive in a very competitive market. The City of Brevard is not the only place that people can come move to or visit and it's good that we are doing what we can to try to stay an attractive desirable place to be. I moved here for the access to the outdoors and the nice town. I don't think that is going to change with this proposal. I am excited to continue to live here in a place with great access to the outdoors and a nice town to walk around in and I hope to be able to enjoy an adult beverage in the near future while doing that.

Jeff Brewer – I guess I am the 21st speaker, if my count is right, and for those of you who have been scoring, it would be 2 for, 2 neutral and 17 against. I'm old enough to remember the late comedian Foster Brooks. In the late 1970's he played a lovable drunk, but if he were alive today, his act would not be funny. It has taken us decades to curb irresponsible drinking and here we are considering something that flies in the complete face, goes in the total opposite direction. It shocks me to be honest. It does not fit a profile of this city as many people have said. I don't care if it's a good fit in Hickory and I certainly don't care if it's a good fit in Raleigh. It's not a good fit for us and I think many of us know that. 40 cities...I also was in the lobby so I'm sure when I was in the lobby there was a lot of data presented on the screen here that showed the rates of success, the increased revenue, the crime rates not being substantially higher; the supporting data to justify, right? I couldn't see it, was that presented? I had to believe the data when she presented was on here to support it. Increased expenses; we know there are going to be increased expenses. That's a given and increased expenses are going to generate increased taxes. On a good day, it can be difficult to get across Caldwell, Broad and I'm sure all of us do not cross until the little white crossing guy is in the light. We all at one time or another, have violated that. The truth of it is, as we imagine patrons, people downtown with open containers walking around that have had a couple, let's think about crossing Caldwell. The first person that gets hit, I wonder what would happen to social districts? It would be outlawed and done away with immediately, and we know that.

Emily Lowery – I am at the Haven at 240 S. Caldwell Street and according to your map, it's right outside the social district. Dream with me for a minute. Dream of yourself as a young adult who's battled addiction most of your life, who's had your children taken because you couldn't take care of them, you've lost your job because you're not reliable, you've lost your housing because you're not able to pay your bills, you gave up on life and you just decided to stay in your addiction. Finally, one day you miss your kids, you miss seeing your family, you miss having responsibility, and anything other than responsibility to your addiction. You want your own place and you're tired of couch surfing or sleeping in a tent. It's time for you to go to rehab. You go to rehab and you get dried out, you learn new skills to deal with life, and you're ready to face the world. You come to The Haven to get on your feet. The Haven is a safe place where no alcohol or drug use is. You get connected with a case manager, a mental health counselor and you start working on yourself, and finally you're in a better place to where you're able to start working again and gain some responsibility. You start working at Ingles but since you don't have a car yet, you have to walk. It's your first day

and it was hard, your feet hurt, you're tired, you're overwhelmed, and you just want to go home and unwind. Walking home you pass by Food Lion, you know that alcohol is there but you don't have to go inside, you don't even have to go to that corner, you can keep walking on by. You get downtown and you see someone with a cup and then the smell gets you. You see them and it looks like they're having a good time. You just keep walking past another person; why can't you just have one? You're almost back to The Haven and you decide to ditch it and just go and have one yourself. Well, one becomes two, becomes three, becomes who knows. That dream is a bad dream. I don't know if you have thought about that perspective yet but that could be a real story for the world that I live in on 240 S. Caldwell Street. This is why I'm against the social district, as the Director of The Haven and as the voice of those who still struggle with those choices with the influence and addiction. We expect our guests to remain clean and sober while they are staying there and making them have to walk all the way downtown right through it is not fair to them. We expect them to remain sober and to make good choices, but it's different when you have it right in your face and you have to walk right through it. It is much more different than walking by a store knowing that it's in there; you don't have to smell it or see it. When it's right in your face, your chances for success just plummet. The map district would cause someone that is working at Ingles to have to walk all the way behind Henry's and go around the library in order to miss the social district. For a single woman working second shift at Ingles, you'd be putting her in potentially precarious positions and for obvious reasons. So let me take off my professional hat. As a parent I have been very vigilant to teach my child that alcohol is not something that's normal and is not something that one does every day. Putting a social district would normalize drinking and make it look like it's okay and that everyone is doing it. I would prefer to have the choice to take my child into those places if I choose. I would also like to remain to have the choice of what environment that he's in. As a leader in the community, that is leading the community in a different direction, this is not the direction that I feel that our town should go.

Madeline Magin – I am a resident of Brevard, just recent and very exciting for me, and also an owner of the business 185 King Street and Noblebrau Brewing. King Street is not within the social district but something that I have looked into for our area for the future possibly. The City of Brevard put time and energy into revitalizing the downtown streetscape and with the social district hours being set from 11 am to 10 pm it will allow for people to use the new tables and alleyways and maximizing that social space to allow the restaurants to offer outdoor dining options, which are highly desirable to the people coming to this area for adventure-based educations. Restaurants are struggling right now. We have seen that over Covid and giving them reasons to have people come into their space and spend more money is going to help those restaurants a lot in staying open and keep their staff moving. A lot of people have been comparing to Hendersonville, which from my understanding, in Hendersonville I can go and eat outside on the sidewalk and have a glass of wine with dinner, which is a big distinction between here and there. This will allow those restaurants to use the sidewalks for dining. A lot of the major concerns that people are worried about – public urination, fighting – things like that in my experience as a bar owner happen past midnight; that's why we close at 11pm. There's no bar within this district that's open past then and the hours are also being restricted to 10pm so the major concerns of people getting debauchery and all of that, and public urination, I don't really see as a concern because the same restaurants are still places where people are bringing their families to. People aren't getting drunk in those places already so it's not going to change that within those hours. I commend everyone who put time and effort into developing this plan and I encourage it to be passed to increase the flow of commerce and entertainment throughout our town. If anyone has any questions about bar ownership and the responsibilities...there's a lot of concerns that have been brought up about giving alcohol to minors and things like that...all those businesses will still be responsible and if they break the laws and their name is on the cup, they are losing their liquor license. I think that a lot of the concern are things that already are being addressed and they are not going to suddenly appear just because people are going outside of their businesses to sit at a table and drink a beer. They are a lot of times going to be with their family anyway. The number of times people leave their families who are shopping to come get a beer and then they're separate from their families vs.

just being able to stay with them and flow with them, I think it would be fine for families and I don't see the big negative aspect that people are concerned for.

Kyle Williams – I own Brevard Brewing Co. and have been in business for 11½ years now. In that time I can count the number of negative instances in my bar on one hand. The simply don't happen. Public intoxication, bar fights, public urination, we simply don't tolerate it; we don't serve minors; we don't serve intoxicated people; and if this passes, which I hope it will, it's not going to change anything. I am speaking for myself and my business, but I also sell beer to all the local restaurants. I know every restaurant owner in town personally and as I go around making my sales rounds and dropping kegs off, I see what's going on in their bars and restaurants too and it's the same thing. The drinking culture in this town is very tame. I don't see anybody in any of these restaurants or bars get out of hand ever. A lot of the concerns I have heard about addiction and over consumption, I do feel bad for those people and I know we have a lot of community resources that can help those kind of people, but they simply do not come and drink and get loaded downtown. It just doesn't happen. The other thing is just pure demographics. There's two groups of people who come to my establishment: locals and tourists. We've got a strong local following and these guys show up several days a week at about 4:00 in the afternoon after they get off work, they have two beers, and they go home. Tourists, they are generally families. They are 30-somethings, they've got two kids with them, they come into my bar, they have two beers and then they go shopping. None of this is going to change if this social district gets passed. Chaos isn't going to just magically erupt downtown. People aren't going to start fighting in the street. They don't fight in my bar; they're not going to fight in the streets either. They don't publicly urinate in my bar; they're not going to do that in the streets either. We're not New Orleans and this is not Las Vegas. Somebody mentioned it's a college town; I can't remember the last time I had a Brevard College student in my bar. They don't come out; this is not a frat town; people aren't going to be tearing their shirts off and getting into fights; everything is very tame and as a business owner, I have a responsibility to keep it that way. Frankly, it's not going to change anything. If I can drink a beer here and keep my cool, I can step out the door and still keep my cool. The sky is not falling, I promise. I hope the Council considers this and I hope this passes. It will increase business downtown, not just for my establishment, but for all the retail establishments as well. If they are free to walk around, they will spend more money. It's good for every business downtown.

Skip Phillips – I feel that I am in the minority here. I have lived in Brevard for 35 years and raised family here. I have 13 grandchildren and now 4 great grandchildren that come visit all the time. I love Brevard, I love the fact that everybody can come out and have their say. We have two camps – the camp that says no way, it's going to cause chaos and doom and gloom; and we have the other camp that thinks that if it doesn't go through downtown is going to die. I'm not in either camp. I'm somewhere in the middle. There's got to be some sort of compromise and I for one want to thank Nicole and the Heart of Brevard for bringing this up. We're going to have to do something because when the Ecusta Trail is completed, it is going to end right at Pisgah Forest. What's going to bring people downtown from there? I am definitely for this, I love everybody, love the dissension, and love the conversation. Thoughtful dialogue is what we have to have and I feel that we've had it here, but again we need to do something for downtown Brevard. We need to bring the tourists, we need to bring more people downtown or everybody is going to end up at Pisgah Forest.

Carole Deddy – Thank you to each of you for your volunteer service as Council members, persons representing the residents, taxpayers and tourists of Brevard. Kudos for recently obtained generous and awesome grants targeting diverse activities, awarded due to the efforts of the elected officials. That said, reviewing the City's vision/mission statement in the proposal for establishing a social district downtown warrants comment. The published vision statement on the website for Brevard is as follows and I quote: "Brevard is a safe, friendly, family-oriented city with small town charm, outdoor recreation, arts, & culture that bring investment opportunities, environmental consciousness, and economic diversity." This vision statement appears to be contrary to the stated purpose of establishing a social district, which summarily

suggests people may carry open containers of alcohol around town with some restriction. Let me be specific – vision statement-Brevard is safe, friendly and family-oriented. How does this fit with proposed open containers of alcohol. Family-friendly is not usually associated with drinking alcohol in an itinerant fashion. Vision statement-Brevard exhibits environmental consciousness. Disposal of plastic is no longer just an inconvenience. How does the disposal of plastic cups with plastic covers and straws reflect Brevard's vision statement of environmental consciousness? Vision statement-Brevard promotes economic diversity. How does imposing higher taxes on taxpayers promote economic diversity? Discussions are currently taking place about the need to expand water, sewer and landfill infrastructure. These services are paid by the taxpayers. A social district will increase the need for garbage cans in the social district, bathrooms, staff to clean and clear the garbage, and to transport and store additional garbage. The cost for these services will be borne by the taxpayer. None of these indirect consequences align with the City's vision statement of promoting economic diversity. Other reflections on creating a social district for an itinerant public consumption of alcohol: 1) what do residents value and how do they benefit from public consumption of alcohol? 2) The City and County have been reluctant to spot-zone properties. Why would the City intentionally, deliberately and knowingly create a zoning restriction that appears to benefit no one and for the purpose that conflicts with the City's own vision statement? 3) Social district zoning is currently experimental, practiced by a few municipalities. Currently the benefits are untested and unmeasurable. What is more measurable is the indirect cost that would be borne by the taxpayers. These indirect costs have a way of creeping into government budgets with taxpayers bearing the burden. 4) Brevard already has quality and quantity businesses for socializing in breweries, dining diversity and public seating. How does creating itinerant public drinking or walking around town benefit those existing businesses; who benefits, who loses? Remaining faithful to the City's vision statement appears to be in conflict with the proposal to zone an itinerant alcohol consumption area. Government officials need to listen carefully to what residents want. Tonight I look forward to your debate on the subject of approving the social district for the purposes of itinerant public consumption of alcohol. That is, unless debate is canceled or postponed while the City vision statement is amended.

Harvey Sankey –I have heard a lot of comment before me about alcohol. These comments were great and I really applaud the people who talked about alcohol consumption within this social district. But I'm here to talk about the money. I am a taxpayer. How much is it going to cost Brevard to enforce this social district? Are we going to have to add an additional police officer to the Police Department or are we going to have to take somebody away from the Police Department to enforce this area? What is the cost going to be to take care of all the information we just talked about here tonight? I haven't heard that cost for the taxpayer. What part of the budget is it going to go into; who's going to be responsible for that budget line item. I haven't heard that. The other thing I haven't heard is a study that would indicate this is going to increase tourism. I think that's the purpose of what we're looking at here; to increase tourism. How do you know this is going to increase tourism in this town? Has a study been done for that, and also if this is done, are you going to be able to come up with a process or a plan for the first year, the second year and the third year to determine if this did increase tourism? Is there a process or a plan to say this increased tourism here? I haven't heard that. Finally, this is not about fear. This about common sense. We're not Europe, we're not Raleigh, we're a small town. Please consider keeping it a small town the way it is.

Steve Prichard – I don't have a store in Brevard. I work out of town but I do come in on Friday evenings and Saturdays and help out and hang out at the store. What I see is mostly locals or tourist people visiting who seem very respectful. A lot of these people leave the store from 1:00 to 6:00 to go to other stores. They have a beer and they are still on the same sidewalks. They are going to be on the sidewalks whether they're drinking in the store or go outside so I don't see the difference. Actually I do see the difference – if they're in the store drinking at the bar, they are going to drink two or three if they can't go outside, but if they actually go walk, I think it will actually help them as they are walking going to the next place. They are going to get more drunk

sitting at the bar, not being able to walk around is how I see that. I am from Atlanta and to compare a bar to Atlanta is really something. We check all the ID's of everybody, there is no minor people going to get any beer. They're moving around outside and they're not in a bar, they can't get a drink, they're going to be an hour, thirty minutes before they get the next drink instead of getting back-to-back drinks. I think it is really good and there's not going to be chaos and people fighting on the streets. Most of these people that I see in the bar look like people from here that drink here. They're probably friends that went to school with these people; they're not going to go out and go crazy and mess up the streets, so I think it would be a good thing.

Public Hearing Closed – Mayor Copelof closed the hearing at 8:14 PM

J-2. Proposed Amendments to City of Brevard Unified Development Ordinance – Short Term Rentals – Aaron Bland reviewed the City's current Short Term Rental Ordinance, an overview of the process that led to the proposed ordinance changes, and the timeline moving forward. A copy of his PowerPoint presentation is attached. The proposed changes include the following:

- Definition of what the Ordinance considers a short term rental will have a new exemption added. Any short term rental where a permanent resident lives on-site will not be defined as a short term rental and not subject to the new regulations
- Allowed in 5 of 7 zoning districts – addition of Commercial Mixed Use and Institutional Campus, but remove General Residential
- Grandfathering clause – existing short term rentals in General Residential can remain in operation and treated as any other pre-existing nonconforming use in the Ordinance, but would lose that status after use is abandoned for 6 months
- A typical zoning permit would be required which currently has a \$100 fee

Mayor Copelof opened the public hearing at 8:21 PM.

Public Hearing Public Participation

Matt Allen – I work for the Land of Sky Association of Realtors. We are based in Asheville but we cover Madison, Buncombe and Transylvania Counties. We have 2100 Realtor members across those three counties and we actually provided the economic impact and housing supply study for the Task Force's review. I want to start by acknowledging that I appreciate the way Brevard went about this. We don't agree that regulating short term rentals is the way to address the issues that I think you thought it might address, but at least you didn't ram through stuff like certain neighboring municipalities did. Props to everybody for being very intentional about taking some time to get some data and community input; we do appreciate that. That said, I want to speak to a couple of issues that came up at the Planning Board meeting and then more generally want to go back to why are we looking at adopting this proposed ordinance. Is it really going to address shortage of housing and housing crisis. First and foremost, this is something that came up at the Planning Board meeting, the contact person for the study that we provided the Task Force in a past life worked for some vacation rental platforms. The actual folks who did the studies, TXP is an economist, RCLCO is a real estate consulting firm, no connection at all and there can be no allegation of any bias on their part. I feel like it was so honed in on this contact person having previously worked for these vacation rental platforms that it was almost meant to discredit the report that we provided and I don't think that really gave a fair shake to the data that we gave the Task Force. Another comment that was made at the Planning Board meeting was about RCLCO, again the real estate consultant firm that provided the housing impact study, that they didn't provide data on how they arrived at their correlation matrix. TXP and RCLCO were always available, ready and willing to provide any additional information to defend their data, to flush it out, and they are still absolutely available to do so if City Council would like to question any of the findings from their report. About those findings – the main purpose, at least what I heard early on, of regulating short term rentals seemed to be because they impact housing; housing

prices, housing stock, affordable housing, but the data really did not show that. If that is not the main purpose for amending the STR ordinance, I guess I question why we would move forward with doing that. Lack of housing is of course an issue that we care about very much in the Realtor Association. We are here to help in any way we can on zoning reform, helping to see ways to add more missing middle housing, look at ways to incentivize developers to develop affordable housing, expediting permitting processes. These are all proven ways that we can address our lack of housing. Regulating short term rentals, really no data to back up that that is a meaningful way to address this issue. Some very good points were brought up at the Planning Board meeting on perhaps pausing on the ordinance as written, impacting properties in the ETJ. The 14-day exception where somebody is not permitted and not a legal non-conforming use, I think that should be longer. In the case of exigent circumstances, 14 days doesn't seem to provide enough time for a professor who goes on sabbatical for a few months or someone who has to move to take care of a family member out of state and want to recoup some of their mortgage payments while they are gone. I want to remind Council that our study showed not only a significant economic benefit of short term rentals, \$75M in one year, it also showed there is really no meaningful impact on housing stock or housing prices and I would submit that there are many ways that we can address our lack of housing, but taking away someone's legal right to rent their property should not be one of those ways.

James Carli – I want to thank the Planning Department for coordinating a lot of this work. I want to thank the Short Term Rental Task Force for your work on developing the ordinance. I want to thank Mr. McKeller and his team for studying state laws and what's permissible, what cities can do under state laws. The study provided by the Association of Realtors, which is, by the way, the trade group that represents the people with the largest financial interest in selling single-family homes and converting them to short term rentals. They were the ones who produced this report that was used to inform the Short Term Rental Task Force calculations. There were questions about accessibility by the Task Force to their data. How I understood it was that the project manager was the former lobbyist with VRBO, not in fact the contact person. I may have my facts a little confused there, but with the independent analysts and economists creating a report that a manager would not sign off on. There were other issues with the report. The report used county housing totals to imply a smaller percentage of short term rental as a proportion of the housing stock. They didn't use any city totals so that data may be a little deceptive, but that is the report and that issue right there. I would also note that the Land of Sky Association of Realtors is a completely separate entity from the Land of Sky Regional Planning Organization who works on housing policy in Western North Carolina. The Association of Realtors is a trade group. I am a member of the Planning Board and on the issue of the ordinance itself, we heard this and vetted it and asked many good questions. State law has a lot of constraints about what municipalities can do. There was discussion in the Planning Board that people who own short term rentals are, on the face of it, operating an unlicensed inn. In many states there are innkeepers licenses that if you operate a house or a private facility that you lease out for less than certain time periods you have to get an innkeepers license. State law prohibits municipalities from imposing fees or licenses on people renting out parts of or their whole home for short term rentals. Within the confines of what state law allows municipalities to do, this proposal would actually both protect the rights of people who want to invest in properties, to do so in institutional campuses or build new places in CMX zones that's newly permitted, while also preserving existing short term rentals for people who are doing well operating them. Over the long term, I'd say 5 to 10 years, gradually preserving housing stock for people who want to live here fulltime, as some existing short term rentals may eventually, matriculate out of being allowed in that use with this proposal. This is a good proposal and I encourage the Council to support it and pass it. It will help us get some kind of control over preserving housing stock for fulltime permanent residents here and also help to counter the influence of outside investors who are scooping up housing stock as an investment opportunity to convert to basically inns.

Public Hearing Closed – Mayor Copelof closed the hearing at 8:30 PM.

J-3. Proposed Amendment to City of Brevard Traffic Schedule – Code of Ordinance Chapter 66 Section 5 – No Parking Areas – Mr. Hooper explained that this change would be to make the unlandscaped hillside across Mary C. Jenkins Community Center on Mills Avenue a “no parking” area for on street parking. Our consultant traffic engineer deemed that as you are going down Mills Avenue that section comes after a blind curve and with the increased pedestrians that the Mary C. Jenkins Center generates, it is not safe to have parking in that spot. This would add about a 300-foot section from the cross street of the newly configured parking lot to the top of that hill to the Traffic Schedule as a “no parking area”.

Mayor Copelof opened the public hearing at 8:31 PM.

Public Hearing Public Participation – None.

Public Hearing Closed – Mayor Copelof closed the hearing at 8:31 PM.

J-4. Proposed Amendment to Brevard Code of Ordinances Chapter 66 Section 90 – Unmuffled Engine Compression Brakes – Mr. Hooper explained that there have been a number of constituent complaints about the use of “Jake Brakes”, noisy compression brakes on heavy trucks, within city limits. The Public Safety Committee has recommended that we add to our Code of Ordinances a prohibition of the use of unmuffled engine brakes within the city limits. He noted that even when this ordinance is added, there are a number of other steps we have to take before it can be implemented, but the first step is to adopt an ordinance.

Mayor Copelof opened the public hearing at 8:32 PM.

Public Hearing Public Participation – None.

Public Hearing Closed – Mayor Copelof closed the hearing at 8:32 PM.

K. 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. Morrow so moved, seconded by Ms. Dinkins. The motion carried unanimously.

K-1. Tax Settlement Report – June, 2023

K-2. City of Brevard Annual Tax Collection Settlement Report

K-3. Resolution Approving Employees to Sign Checks and Disburse Funds

RESOLUTION NO. 2023-39

REVISION AND UPDATE OF THE CITY' S SIGNATORY AND DISBURSEMENT RESOLUTION APPROVING EMPLOYEES TO SIGN CHECKS AND DISBURSE FUNDS (Revision to Resolution No. 2022-32)

WHEREAS, the most recent revision and update of the City's Signatory and Disbursement Resolution was enacted by the Brevard City Council on October 3, 2022, with the adoption of Resolution No. 2022-32; and,

WHEREAS, it is now necessary, for a variety of reasons and just cause, to once again revise and update the authorizations of said resolution by designating specific City officials for the purpose of signing checks and disbursement of City funds;

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

Section 1. Resolution No. 2022-32 is hereby amended by rewriting same as set forth herein. The following named persons, whose signatures are shown, are approved for the signing of checks and the disbursement of monies from all funds of the City:

<u>NAME</u>	<u>SIGNATURE</u>
Wilson B. Hooper, City Manager	_____
Dean Luebbe, Finance Director	_____
Denise Hodsdon, City Clerk	_____
Kelley Craig, Human Resources Director	_____
Paul Ray, Planning Director	_____

Section 2. All checks for disbursement of City funds shall bear the signature of the City Manager and the Finance Director. In the event that either the City Manager or Finance Director are not able to be legal signatures, one of the other listed individuals shall perform such duties.

Section 3. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 7th day of August, 2023.

K-4. Resolution – Investigate Sufficiency of Petition for Annexation – Melinda Greenfield, Trustee of Melinda Greenfield Living Trust, 345 Forest Hill Road

RESOLUTION NO. 2023-40

A RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE SUFFICIENCY OF A PETITION FOR AN ANNEXATION PURSUANT TO NCGS 160A-31, AS AMENDED

WHEREAS, a petition was received on June 14, 2023, requesting the annexation of a contiguous area described in said Petition as the Melinda F. Greenfield, Trustee of the Melinda F. Greenfield Living Trust property, 345 Forest Hill Road, Brevard, NC 28712, consisting of 0.86 acres, more or less, be annexed into the City of Brevard. (Tax Property Identification Number: 8585-35-1388-000).

Property Description:

BEING all of 0.86 acres, more or less, as shown and described on a plat dated April 24, 2014 by E. Roger Raxter, PLS, and recorded in Plat File 16, Slide 61 of the Register of Deeds for Transylvania County, North Carolina.

Being the same property conveyed in a Deed from Uniformity Hub, LLC dated May 17, 2022 and recorded June 6, 2022 in Book 1040, Pages 127-128 in the Transylvania County, North Carolina Register of Deeds Office.

WHEREAS, said Petition has been received by the City Council of the City of Brevard, North Carolina; and

WHEREAS, NCGS 160A-31, as amended, provides that the sufficiency of the Petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Brevard deems it advisable to proceed in response to this request for annexation.

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

Section 1. The City Clerk is hereby directed to investigate the sufficiency of the above described Petition and to certify as soon as possible to the City Council the result of her investigation.

Section 2. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 7th day of August, 2023.

K-5. Ordinance Declaring Multiple Road Closures for Special Events: Art is in the Air and Halloweenfest

ORDINANCE NO. 2023-29

**AN ORDINANCE DECLARING MULTIPLE
ROAD CLOSURES FOR SPECIAL EVENTS**

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 closure during the day and time set forth below on the following described portion of a State Highway System route:

Art is in the Air

Date: September 16, 2023
Time: 10:00 AM – 5:00 PM
Route Description: Main Street (U.S. 276) from Broad Street to Caldwell Street.

SECTION 2. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

Halloweenfest

Date: October 28, 2023
Time: 9:00 AM – 5:00 PM
Route Description: Main Street (U.S. 276) from Caldwell Street to Johnson Street
Broad Street (U.S. 64) from Morgan Street to Probart Street

SECTION 3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 7th day of August 2023.

**K-7. Stormwater Improvements on Phase 1 of Estatoe Trail Project
Closeout**

ORDINANCE NO. 2023-31

**CAPITAL PROJECT ORDINANCE TO CLOSE ORDINANCE
NO. 2022-32, STORMWATER IMPROVEMENTS ON ESTATOE TRAIL 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 closed:

Section 1: The project involved the construction of 1,260 linear feet of new stormwater pipe. The City contracted with Brown Consultants for engineering services and Patton Construction Group for construction services on the project. The project was funded by \$420,000 federal ARPA funds and a \$100,000 transfer from the Utility Fund. Final project expenditures were \$56,437 under the project budget.

Section 2: The project will be closed with actual revenues and expenditures of \$463,563. Actual and budgeted revenues and expenditures will be reversed on the City financial software, and no further expenditures will be required on the project.

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

Account Number	Account Name	Budget Amount
31-8540-4700	Stormwater, Depot to Main	\$520,000
TOTAL PROJECT APPROPRIATION		\$520,000

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

Account Number	Account Name	Budget Amount
31-3760-1900	Transfer from ARPA	\$420,000
31-3760-1905	Transfer from Utility Fund	\$100,000
TOTAL PROJECT REVENUE		\$520,000

Section 5: The Finance Director will 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: The Finance Director will maintain a detailed analysis of all revenues and expenses associated with the project since its inception.

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

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 7th day of August, 2023.

K-8. Bracken Preserve Project – Budget Amendment and Establish Capital Project Ordinance

ORDINANCE NO. 2023-32

CAPITAL PROJECT ORDINANCE TO ESTABLISH PROJECT FOR BRACKEN PRESERVE ENHANCEMENT

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 adopted:

Section 1: The project will add 34 acres of moderate trails to the existing 395 acres at Bracken Preserve. The project is intended to make the Bracken Preserve more accessible to young families, seniors, beginning mountain bikers and offer better options to those with disabilities.

Section 2: This purchase price of the property is estimated to be \$330,000. Conserving Carolina and other donations will cover \$260,000 of this amount, and the City share will be \$70,000 of the property acquisition as originally formalized on Resolution 2022-39 on November 21, 2022.

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

Account Number	Account Name	Budget Amount
78-6200-4000	Bracken Preserve Enhancement	\$70,000
TOTAL PROJECT APPROPRIATION		\$70,000

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

Account Number	Account Name	Budget Amount
78-3750-0230	Transfer from GF - Bracken	\$70,000
TOTAL PROJECT REVENUE		\$70,000

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 7th day of August, 2023.

ORDINANCE NO. 2023-33
AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.
BUDGET AMENDMENT NUMBER 24-01

SUBJECT: Budget Amendment to transfer \$70,000 from the General Fund to the Bracken Preserve Expansion project for the City portion of the purchase of 34 additional acres.

AGENDA INFORMATION

Agenda Location: Consent
Department: Finance
Contact: Dean Luebbe, Assistant City Manager and Finance Director

BRIEF SUMMARY: The City and Conserving Carolina have been in negotiation to purchase 34 acres of land near the Bracken Preserve since May of 2022. City Council initially committed to a \$70,000 payment in November of 2022, but the actual purchase has been delayed, and the City currently wishes to account for the Bracken Preserve Enhancement in a Capital Project Fund.

MOTION FOR CONSIDERATION: To approve Budget Amendment 24-01 as submitted, increasing the budget in expenditure account:

10-6600-9264 (Transfer to Bracken Enhancement Project) \$70,000

And increasing the budget in the revenue account:

10-3990-0000 (Fund Balance Appropriated) \$70,000

ATTACHMENTS: None

MANAGER’S RECOMMENDATION: Adopt as presented

Approved and adopted this 7th day of August, 2023.

K-9. Council Parks, Trails & Recreation Committee Minutes – May 17, 2023

K-10. Council Downtown Master Plan Committee Minutes – May 8, 2023

K-11. Council Finance, Human Resources & Citizen Appointment Committee Minutes – May 22, 2023

K-12. Council Public Safety Committee Minutes – May 22, 2023

K-13. Council Housing Committee Minutes – February 14, 2023

K-14. Council Housing Committee Minutes – March 14, 2023

K-15. Council Finance, Human Resources and Citizen Appointment Committee Minutes – June 26, 2023

K-16. Council Parks, Trails & Recreation Committee Minutes – June 21, 2023

L. Unfinished Business

L-1. Proposed Amendments to City of Brevard Unified Development Ordinance Chapter 16 – Administrative Modifications – Aaron Bland explained that this a follow up of the public hearing held on June 19th. Currently the UDO has

processes in place for modifications to zoning decisions that have already been approved. These modifications have limits imposed on them by state law, which were changed during the 160D updates that we did several years ago. Currently we have three categories of modifications: minor, intermediate and major. Staff is proposing eliminating the intermediate modification category for conditional zoning districts, and simply having minor and major modifications for all development approval types. Minor modifications would be approved by Staff and all others would be deemed major and would have to go through the original approval process. The Planning Board discussed this at their May meeting and unanimously recommended approval. Mr. Daniel moved, seconded by Mr. Baker to approve the proposed amendment as presented. The motion carried unanimous.

ORDINANCE NO. 2023-34

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT
ORDINANCE: CHAPTER 16 – ADMINISTRATION,
SPECIFICALLY AMENDING ADMINISTRATIVE MODIFICATIONS**

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance, Chapter 16 – Administration be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following adopted plans and policies:

Building Brevard 2030 Comprehensive Land Use Plan

Action LUH-19: Enhance communication of land use planning efforts, policy development, approvals and processes.

and,

WHEREAS, a public hearing was conducted on Monday, June 19, 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 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 16 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 7th day of August 2023.

M. New Business.

M-1. R-5800 Roundabout Final Landscaping Design Approval – Paul Ray explained that the cost for implementing the landscaping betterments for R-5800 would likely fall within NCDOT’s landscaping budget. The ongoing maintenance of all landscaping betterments for all the roundabouts will be the City’s responsibility. Mr. Morrow moved, seconded by Ms. Dinkins to approve the landscaping design. During discussion Councilmembers expressed concern about staffing and funding for future maintenance of these roundabouts and noted that that will need to be addressed in future budgets. Following discussion the motion carried unanimously.

M-2. ABC Board Appointments – Board Members and Board Chair – Mr. Baker reported that the Finance, Human Resources and Citizen Appointment Committee reviewed applications for the ABC Board and recommended the

reappointment of Ron Brewer and appointment of Lisa Conner as Board members. The committee also recommended that Kevin Jones be designated as Board Chair for an additional year.

Mr. Morrow moved, seconded by Mr. Jones to designate Kevin Jones as ABC Board Chair to serve a one-year term from July 1, 2023 to June 30, 2024. Following discussion, the motion carried unanimously.

Mr. Morrow moved, seconded by Mr. Daniel to reappoint Ron Brewer to the ABC Board. The motion carried unanimously.

Mr. Baker moved, seconded by Mr. Morrow to appoint Lisa Conner to the ABC Board. The motion carried unanimously.

RESOLUTION NO. 2023-41

RESOLUTION APPOINTING MEMBERS TO BREVARD ABC BOARD AND DESIGNATING ABC BOARD CHAIR

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 appointments; 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, City staff conducted an open recruitment for citizens interested in serving on the Brevard ABC Board; and

WHEREAS, the Finance, Human Resources and Citizen Appointment Committee considered applications at their June 26, 2023 meeting and recommended appointments to the Brevard ABC Board to the full City Council; and

WHEREAS, pursuant to Section 6.3 of the City of Brevard Charter, the Mayor and City Council shall annually appoint one member of the ABC Board to serve as chairman; and

WHEREAS, at its meeting on June 22, 2023 the ABC Board nominated Kevin Jones to serve as ABC Board Chair from July 1, 2023 to June 30, 2024.

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

- 1) The Brevard City Council does hereby reappoint Ron Brewer to the Brevard ABC Board effective immediately and expiring on July 31, 2026; and
- 2) The Brevard City Council does hereby appoint Lisa Conner to the Brevard ABC Board effective immediately and expiring on July 31, 2026; and
- 3) The Brevard City Council does hereby designate Brevard ABC Board Member Kevin Jones to serve as Chair for the period of July 1, 2023 to June 30, 2024.

Adopted and approved this 7th day of August, 2023.

M-3. (K-6). King Street Waterline Project Closeout – Mr. Baker noted that there has been quite a lot of discussion about the King Street project and the state of the street after that project was completed. He said when we have an infrastructure project that impacts a city street that much, the cost of repaving that should be included in that capital project from the outset. He requested that Staff bring back some recommendations for a policy on how to handle this in the future. Mr. Daniel moved, seconded by Mr. Baker to approve the King Street Waterline Project Closeout. Following discussion the motion carried unanimously.

ORDINANCE NO. 2023-30

**CAPITAL PROJECT ORDINANCE TO CLOSE ORDINANCE
NO. 2021-36, KING STREET WATERLINE 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 closed:

Section 1: The project involved the replacement of approximately 2,700 linear feet of four inch waterline with six inch waterline on King, Salem and Whitmire streets. The City contracted with Brown Consultants for engineering services and Ledford and Parker Inc. for construction services on the project. The City received funding from NCDEQ with 75% of the funding being loan forgiveness and 25% a zero percent twenty year loan. The project was \$102,163 under the project budget.

Section 2: The project will be closed with actual revenues and expenditures of \$1,006,493. Actual and budgeted revenues and expenditures will be reversed on the City financial software, and no further expenditures will be required on the project.

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

Account Number	Account Name	Budget Amount
31-8540-2000	King Street Waterline	\$1,108,656
TOTAL PROJECT APPROPRIATION		\$1,108,656

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

Account Number	Account Name	Budget Amount
31-3970-0300	King Street Waterline grant/loan	\$1,086,918
31-3580-0110	Transfer from Utility Fund	\$21,738
TOTAL PROJECT REVENUE		\$1,108,656

Section 5: The Finance Director will 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: The Finance Director will maintain a detailed analysis of all revenues and expenses associated with the project since its inception.

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

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 7th day of August, 2023.

N. Remarks/Future Agenda Considerations.

Mr. Jones said I am excited to have put in an application for what’s called Legacy: The African American Journey in Transylvania County and Beyond. It is going to be held at the Mary C. Jenkins Community & Cultural Center. It is going to be a series that will start on August 24th and go through January. There will be classes led by both Black and white Transylvanians with an emphasis on local African American history. It will foster an understanding of the culture and accomplishments of our Black community and its members. We’re hoping to get a wide range of individuals from all cultures to be a part of this so that there can be some learning and discussion along the way. If you are interested, please stop by the Mary C. Jenkins Center or visit their website to read more about it. I believe the more people that are involved, the more we have open conversations about who we are, the more we’re going to learn, and the more we’re going to grow. I would like to see you there.

Ms. Dinkins said I thought it was interesting that a trio of people from the Land of Sky Realtor Association was here tonight. I think the very fact that Mr. Allen came up

to speak kind of opposed to what we are putting before this Board, speaks to where they fall and how we need to read the economic impact study that they supplied us with. I am really proud of what we've done. I think it is elegant, it is narrow, it is fair as fair can be. While we talk about housing and short term rentals all the time, but the more I have been thinking about it, it's not so much about housing for me, it is about the integrity of neighborhoods. I run and I have started timing runs on Sunday because Sunday I can see all the places where people are pulling out and the Merry Maids or somebody else is pulling in with a lot of cleaning supplies in the back of their car. I would challenge anybody in this room or at home that there is absolutely...I think I can think of one street that I believe does not have a short term rental on it, and it's a very short street. Other than that I believe that every neighborhood in this town has short term rentals dotted in and it's high time that we think about integrity of neighborhoods because that leads to the integrity of our community. If we don't want to be a resort, we need to have neighborhoods where neighbors know each other and where there is variety and not just house after house with out-of-state license plates parked in front of it from Friday through Sunday morning.

Mr. Morrow said I have a simple request and tonight we have had a lot of talk about roundabouts. Could we make a phone call to NCDOT and implore them to pick up their red barrels? I think they're done and they could use those somewhere else other than a completed project.

Mr. Daniel shared information from the School of Government DFI Brevard Housing Project Overview that the number of seasonal use rentals has tripled since 2011. He said I think that would be helpful for us as we look at our housing situation because this is very informative and it's dire. It is not pleasant reading, but it is very informative and well presented. One of the things that we've been working on is restructuring our committees and kind of changing up how they work. It occurs to me that at our last appointment of committee members from the Council that they were appointed by the Mayor, which is the way it was set up. But it seems like with this change and focus in our committees and boards, that this is something that should be approved by a vote of Council. I would like to propose that we look into that and I would like to suggest that we make that change. The reason I feel this is important is because it affects policy and as City Council, it's part of our responsibilities that we take care of policy.

Mr. Baker said in reading two of the public hearings we had tonight where there was a lot of public interest, it occurred to me that we did a lot of listening and not as much talking. I also did a lot of reading and the staff reports we got on both of those topics were incredibly well-written and detailed with a lot of real facts and data assigned to them. That's a credit to our Staff and to the committees that we were just talking about. I'm not on the Public Safety Committee so I don't know how the discussions went other than reading the minutes, but I can tell from the work put into the report that the Social District was thoroughly vetted and discussed. I have personal experience on the Short Term Rental Task Force, which we worked on for two years, had a lot of very sometimes difficult discussions with people of opposing views, worked our way through that, and arrived here at the end. It really shows, in not just the ordinance that's being provided for Council to approve, but also in all of the documentation that goes behind that, and the justification and the reasoning behind it. I'm proud of the work that went into those two things and we'll see how things shake out at the next meeting, but some of that work doesn't come across when we're up here talking about these things. I think if folks take the time to read the Council packets, which are provided to the public, they will see a lot of that backup information. If you have questions about how these things happen or how we got to this point, I know that myself and most, if not all the Councilmembers and our Mayor will be happy to talk to people about how the City does business and how these things get before City Council.

Attorney McKeller reminded Council of the need for two very brief closed sessions.

Mr. Hooper recalled that a year or so ago Council approved the plans for the Times Arcade Alley renovation. Since that time we have been looking at those to see if there are some economies we can find or ways we can make that project better. We think we found one and I approved it administratively last week. This change is to the surface material that will be used on the alleyway itself. I approved the change from asphalt to concrete because it will last longer, but also it can be installed in sections and will enable us to keep portions of the alley open during construction. That has been an important consideration for our constituents on that alley. The plans they are drawing up now will include concrete rather than asphalt as the surface for the new alleyway.

Mayor Copelof offered congratulations to Staff for the wonderful job putting in for the \$250,000 Golden Leaf Grant we just received that allows us to move forward with Times Arcade Alley. She said when you look at our budget and what we manage to accomplish as a small town, we do so much because we manage to leverage outside funding. This grant is going to allow us to upgrade Times Arcade Alley from an infrastructure and also from an aesthetic standpoint. The grants that we got last month for the Ecusta Trail is going to allow us to put a new piece of infrastructure in between us and Hendersonville. It is going to be a change for the entire region that is going to impact for generations. We do so much as a small town because we do look and we do creatively go out and that is because we have such a wonderful Staff that is out there working, seeing the opportunities, and then doing a world-class job of putting those packages together so that we are successful. I would say we are probably more successful than most towns of our size. I also want to point out that we have finally started the stream restoration work on Norton Creek so if you're down by Silversteen Park, and where you used to see that black plastic by Norton Creek, now you see equipment there and you see things happening. It took a while, but again it was the perseverance of our Staff going forward that is going to allow us to fix the erosion and put a pathway by the stream, which will really improve the entire use of that playground and park. We keep moving forward with a lot of different things by using the assets that we have, by using the Staff that we have, the money we have, but leveraging and bringing in partners and outside money. I think tonight was a wonderful example of what local government is all about. Local government is all about listening to people and that was what tonight was all about. It was a listening session for elected officials and staff to hear what our public has to say about things that are critical. We heard discussions about the future of Brevard; what does our City look like; what do we want it to look like? Those decisions are not made in a vacuum; they are made based on what we hear from the people that live here and what is best for our community by talking and listening to our community. Same thing with the short term rentals; same reason we have the compression brakes with the trucks coming on; that was because people brought those issues to us. I get a lot of questions from people as to how can I really impact city government. You impact city government by coming to these meetings and by standing up and making your voice heard. I am extremely happy that we had such great public dialogue and I thank everybody who took the time to come talk to us and let us know their thoughts. You also have the opportunity at the monthly Meet the Mayor meetings. I hold them every month and it's to interface and talk with people. The next one is August 17th from 5:00 to 7:00 pm at the Mary C. Jenkins Community Center.

N. Closed Sessions

Closed Session #1 – At 9:24 p.m. Mr. Morrow moved, seconded by Mr. Daniel to enter into closed session to discuss a pending litigation matter – City of Brevard vs. Boslaugh – Case No. 21-CVS-381 and to clear Council Chambers. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 9:28 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

Closed Session #2 - At 9:28 p.m. Mr. Morrow moved, seconded by Ms. Dinkins to enter into closed session to discuss a pending litigation matter – Lisa Smith vs. Brevard Police Department – Case No. 23-CVS-299. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 9:33 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

O. Adjourn – There being no further business, at 9:33 p.m. Ms. Dinkins moved, seconded by Mr. Daniel, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

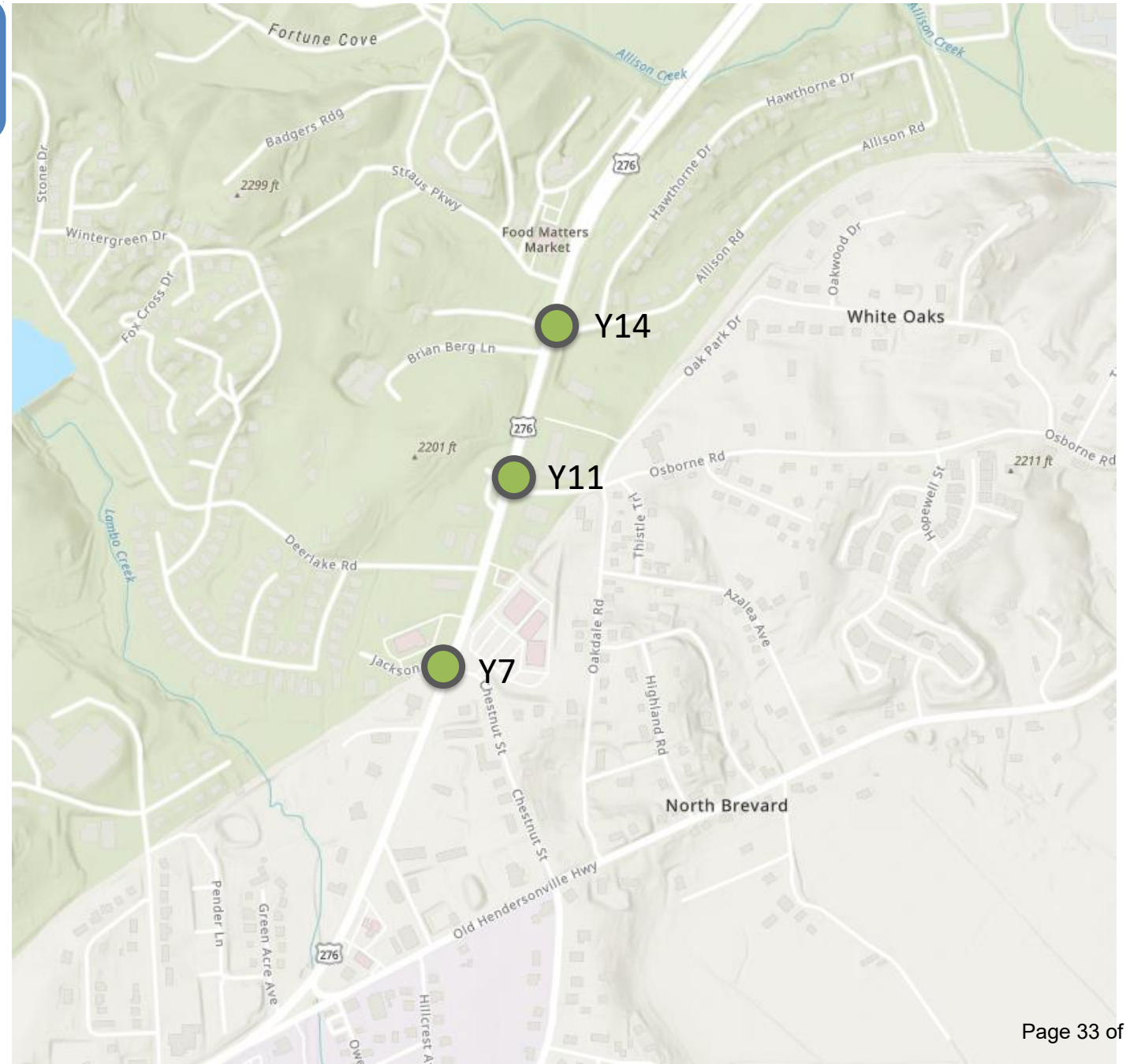
Minutes Approved: September 5, 2023

Roundabout Betterments



Asheville Highway RABs

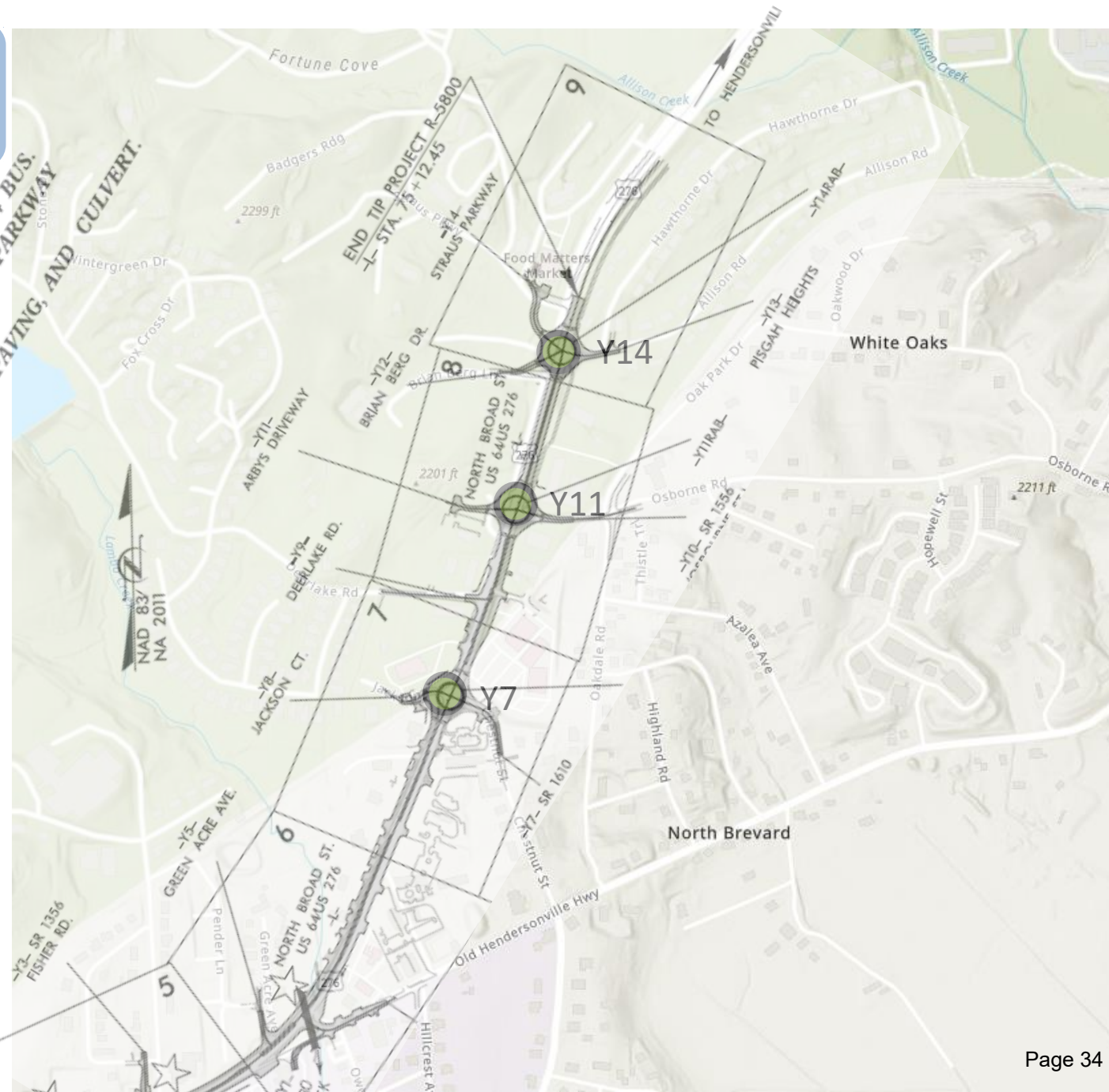
NCDOT Project: R-5800



Asheville Highway RABs

NCDOT Project: R-5800

TRANSYLVANIA COUNTY
LOCATION: US64 / US276 FROM (N. BROAD ST.) US 64 BUS.
(N. CALDWELL STREET) TO STRAUS PARKWAY
TYPE OF WORK: GRADING, DRAINAGE, PAVING, AND CULVERT.
ROW PLANS



Asheville Highway RABs

NCDOT Project: R-5800

- Provide a sequence of arrival to downtown
- Highlight Brevard's cultural character



Asheville Highway RABs

NCDOT Project: R-5800

- Provide a sequence of arrival to downtown
- Highlight Brevard's cultural character



Kyle Lusk, artist



Kyle Lusk, artist



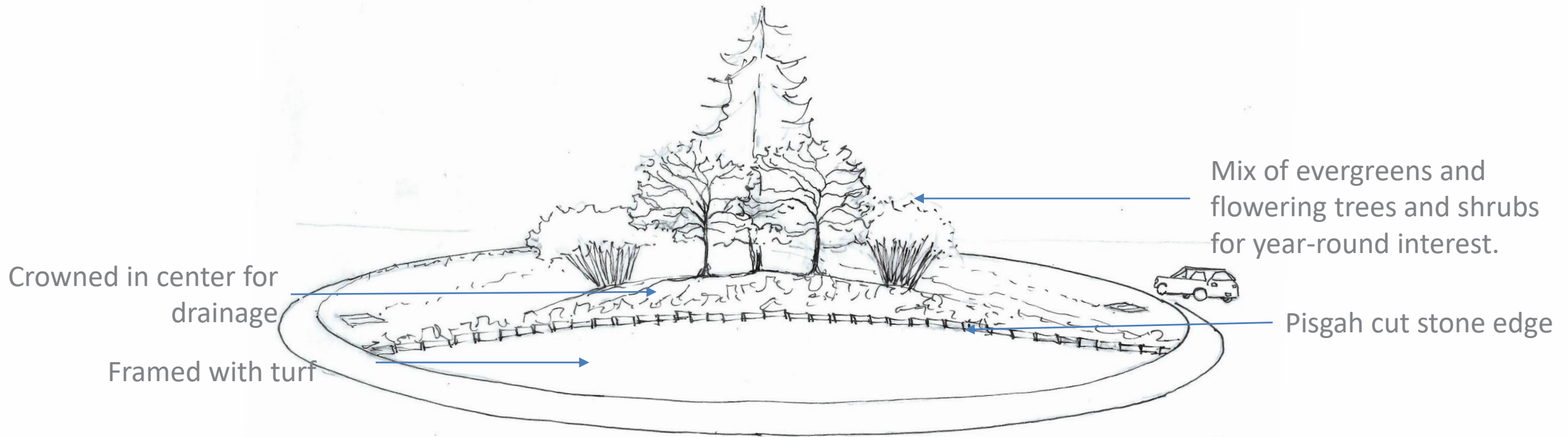
Aaron Alderman, artist

» Early concepts



Early Conceptual Shared
October 2022

» Asheville Highway RABs



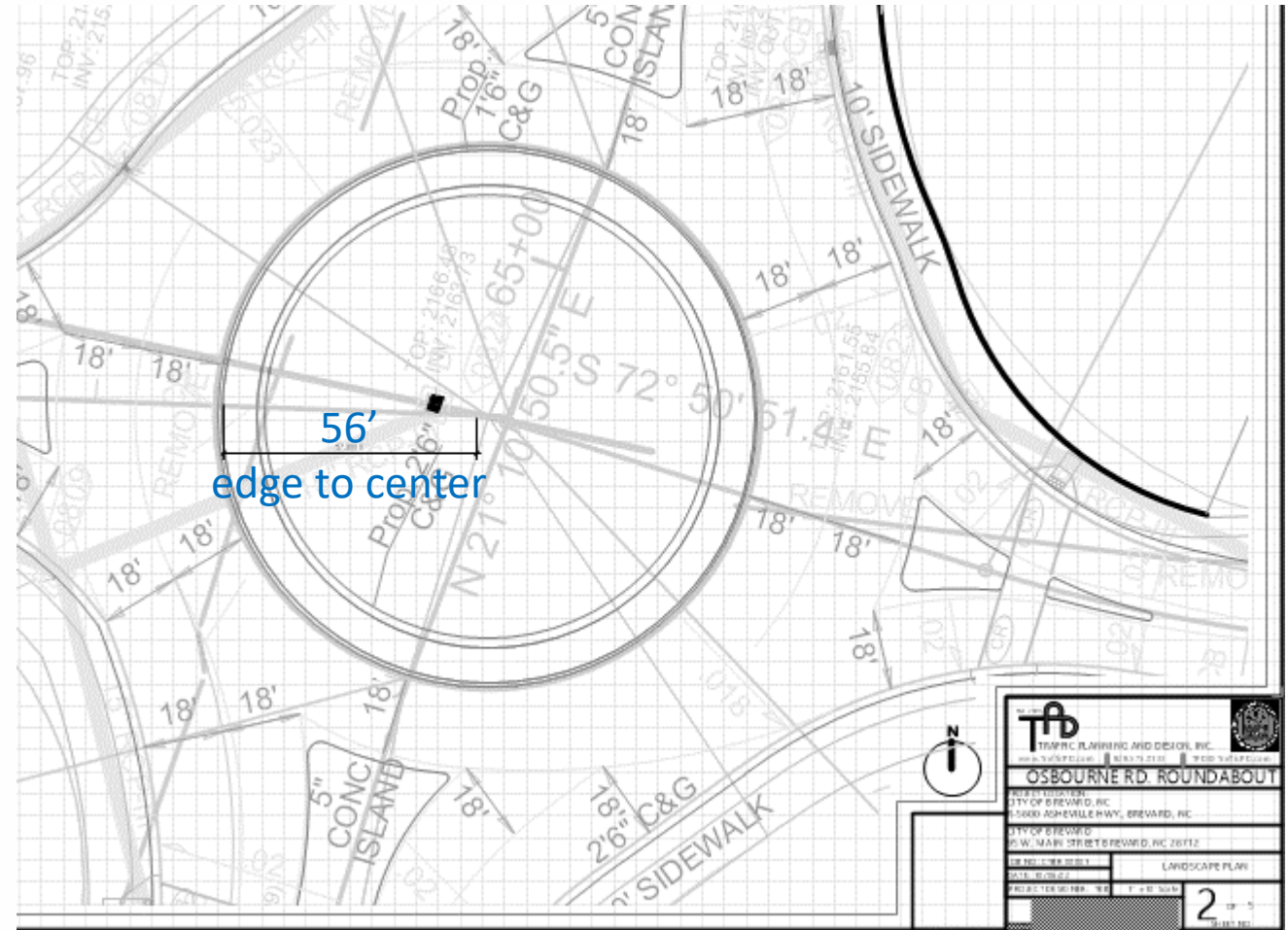
» Art in R.O.W.

- No clear guidance at state level (case-by-case basis)
- Right of Way committee reviews
- Encroachment agreement needed
- Must not be in the clear recovery zone (setback) or obscure sight distance
- City must provide an adopted local resolution before ROW committee reviews



» Art in R.O.W.

- Roundabout diameters range from 112' to 120' across
- Can show NCDOT that a sculpture would not interfere with sight distance or setback lines in center
- The City would procure artist and apply for encroachment



» Themes:

- Music and Movement
- Cardinal Directions
- Circle of Life

» Inspiration: music & movement



» Chestnut Rd. (Y7 RAB)



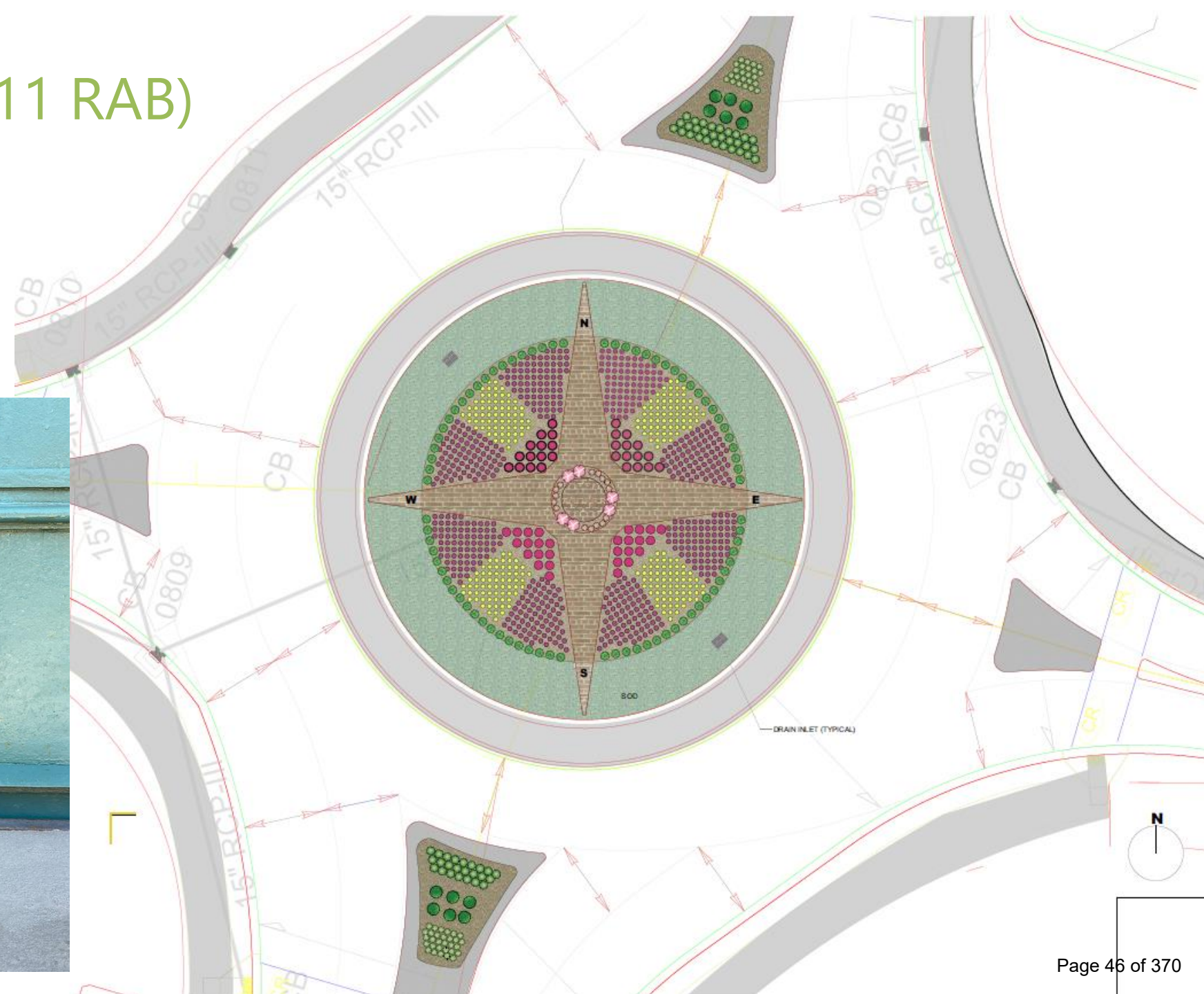
- » Inspiration: sense of adventure
 - Cardinal Directions/compass rose



» Expression: compass rose



» Osborne Rd. (Y11 RAB)



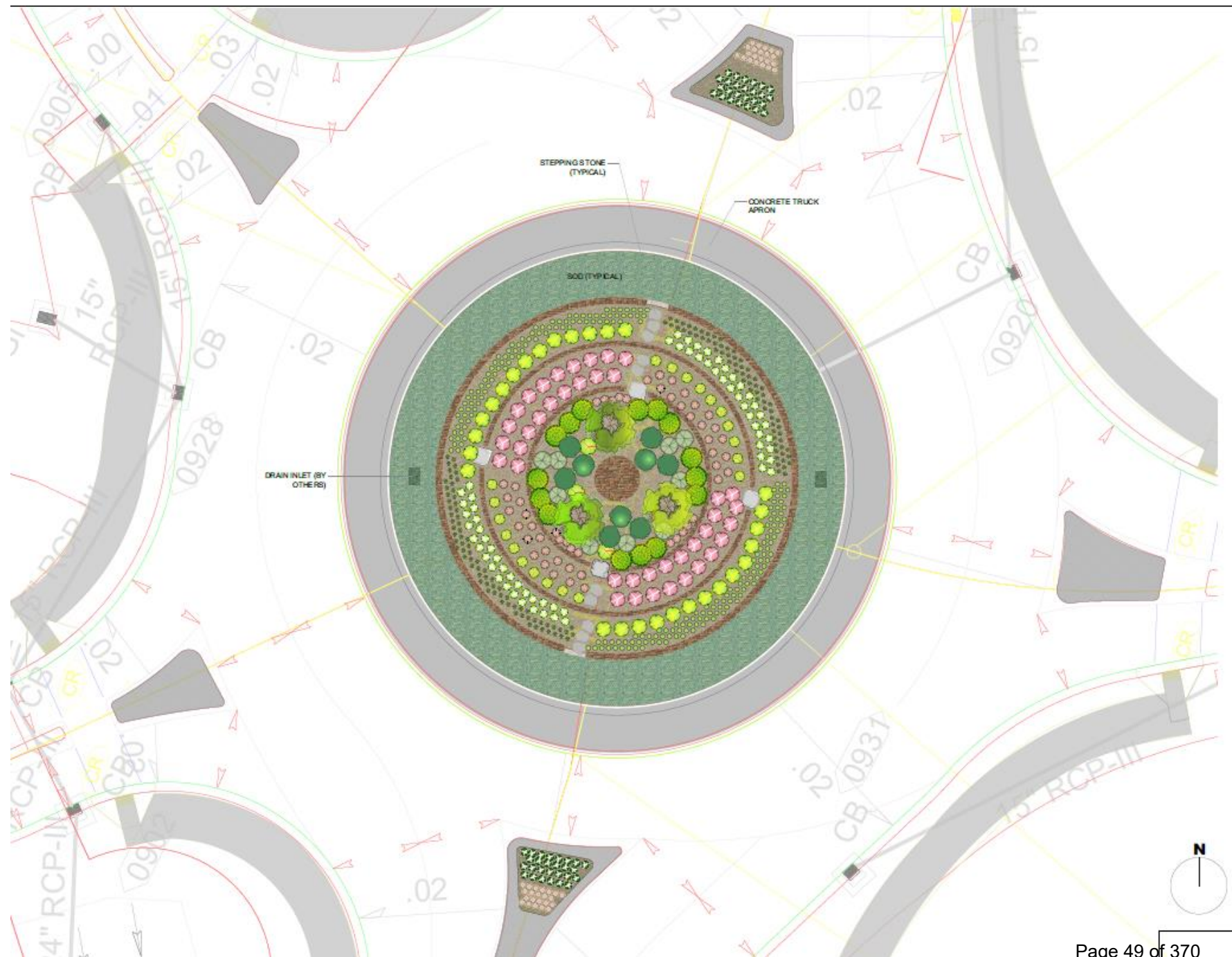
» Stonework



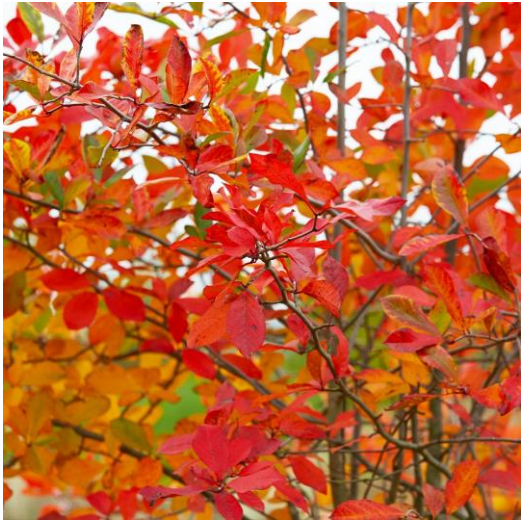
- » Inspiration: the circle of life
 - Prayer Garden/ Labyrinth



» Pisgah
Heights (Y14
RAB)



» Plants: support the canvas of artwork

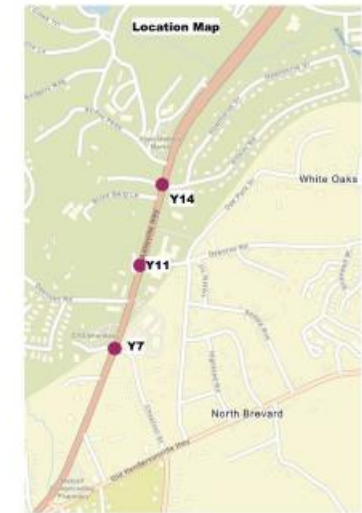


NOT FOR CONSTRUCTION

REVISION NUMBER	REVISIONS	DATE	BY

Plant List - All Roundabouts

ID	Qty	Common Name	Scheduled Size	Flower Color	Remarks
AM - LS	112	Low Scape™ Mound Chokeberry	2 GL	white	
CA-FP	15	Foster's Feather Reed Grass	3 GL	Red	
CH - GG	9	Garden Glow Dogwood	3 GL	Yellow	Long green foliage and red stem
HA-EL	200	Happy Returns Dwarf Daylily	3 GL	Yellow	Beautiful reblooming daylily
AC	3	Shadblow Seneberr	1 GL	White	Multi-stem, stand alone species
Acan	3	Shadblow Seneberr	1 GL	White	
AM - LS	24	Low Scape™ Mound Chokeberry	2 GL	white	
CA-FS	50	Creek Sedge	3.25"		
CC	3	Eastern Redbud	3.25"	Pink	
CF-BZ	44	Blue Zinger Sedge	3.25"	Blue	
DC-G	143	Golden Dew Tufted Hair Grass	1 GL	White	
HA-LD	68	Burnflower	1 GL	Yellow	
HA-W	81	Invincible Wee White	---	white	Dwarf Anemone
HS-TS	64	Tiny Tuff Stuff™ Mountain Hydrangea	2 GL	Blue	
HT-MJ	54	Dwarf Autumn Joy Sedum	1 GL	Yellow	
IV-JD	3	Jim Dandy Winterberry	7 GL	White	
IV-S	28	Red Spoke Winterberry	1 GL	White	
IV-S	122	Little Henry® Sweetgum	3 GL	white	
JS-SS	60	Blue Star Juniper	---	Blue	
MD-PP	844	Pardon my Purple Bas Balm	---	Purple	
R-WL	64	Walker's Low Cornus	1 GL	Blue	
PH - A	180	PAPARAZZI ANGELINA CREEPING PH	---	Pink, red, white	
PH-L	234	PAPARAZZI LEVINE CREEPING PH	---	Pink, red, white	
PM-S	32	Strombosund Mugo Pine	3 GL		
R-NE	9	Roseum Elegans Rhododendron	5-7 GL	lavender	English Roseum/ Roseum P
RR - CR	58	Flower Carpet® Pink Ground Cover Ro	---	Pink	
RR - AL	84	Autumn Lilac Encore Azalea	---	lavender	
Sag	15	Stonecrop	3 GL	Yellow	
SJ-Y	30	Double Play® Gold Spirea	3 GL	pink	
SN-C	51	Canadensis Meadow Sage	1 GL	Purple	





TRAFFIC PLANNING AND DESIGN, INC.
www.TrafficPD.com 828.575.0133 TPD@TrafficPD.com

Y 7 CHESTNUT RD. ROUNDABOUT

PROJECT LOCATION:
CITY OF BREVARD, NC
R-5800 ASHEVILLE HWY., BREVARD

CITY OF BREVARD
95 W. MAIN STREET BREVARD, NC 28712

JOB NO: CYBR 00001
DATE: 7/12/23

PROJECT DESIGNER: TKB 1" = 10' Scale

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LANDSCAPE PLANTING PLAN

3 OF 3
SHEET NO

NUMBER	REVISIONS	DATE	BY



ID	Qty	Common Name	Scheduled Size	Flower Color	Remarks
AM-L-5	112	Low Scape™ Mixed Chobotery	2 GL.	White	
CARF	10	Flamster® Feather Reed Grass	3 GL.	Red	
SH - GG	1	Golden Sage Dogwood	1 GL.	White	Line green foliage and red stem
in HR-1	284	Impatiens Returns Dwarf Begonia	1 GL.	Yellow	Beautiful color during the day
AC	3	Shadehouse Sansevieria		White	Multi stem, stand alone plant
ACor	3	Shadehouse Sansevieria		White	
AM-L-9	24	Low Scape™ Mixed Chobotery	2 GL.	White	
CAL-9	99	Crash Crab	1.25 GL.		
GC	3	Alcatraz Reebot		Pink	
CF-SZ	44	Blue Zinger Sedges	3.25"	Blue	
GB-6	142	Golden Dew Tucked Hair Grass	1 GL.	White	
HA-LD	68	Sea Flower	1 GL.	Yellow	
H-M	61	Hydrachae White White	—	White	Dwarf Anemone
HS-TB	54	Tiny Tuff Shrub™ Mountain Hydrangea	2 GL.	Blue	
HT-M	54	Shrub Redstart Zing Island	1 GL.	Yellow	
FE-0	3	an Candy Monstera	7 GL.		
FE-8	28	Red Spike Monstera		White	
FE-5	122	Little Henry® Senecioideae	3 GL.	White	
JE-88	60	Blue Star Anemone			
ME-PP	94	Impatiens Imp. Purple One Star	—	Purple	
NLM	54	Winkler Low Cabinet	1 GL.	Blue	
PI - A	162	PAPANAZO ANGELIA CRISPANG P	—	Pink, red, white	
PI - L	240	PAPANAZO L'ETRE CRISPANG P	—	Pink, red, white	
PI - B	3	Shadehouse Maple Pine	3 GL.		
N - RB	8	Roseaux Garden Rhododendron	5-7 GL.	lavender	Tough Roseaux® Roseaux P
BR - CR	8	Shrub Carpet® 21 Star Ground Cover		Pink	
PI - A	64	Autumn Leaf Eucalyptus	—	lavender	
SN - C	18	Shrub		Yellow	
SL-Y	284	Double Purple Dwarf Spines	3 GL.	pink	
SN-C	01	Caribbean Meadow Sage	1 GL.	Purple	

LIABILITY IS LIMITED TO THE ORIGINAL, UP TO AND INCLUDING THE LAST REVISIONS. SHEET NO. 10

NUMBER	REVISIONS	DATE	BY



Y14 PISGAH HEIGHTS ROUNDABOUT

CITY OF BREVARD
95 W. MAIN STREET BREVARD, NC 28712

PROJECT DESIGNER: TKB	1" = 10' Scale
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Index Ref: 171	Draw Ref: 171	
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Timeline

When will these get built?
Updated STIP (June 2023)

Forest Gateway	R-5799	REGION G	T	2022	\$5,890,000	2022	\$600,000	2024
ASHEVILLE HIGHWAY	R-5800	REGION G	T	2023	\$14,799,000	2023	\$3,900,000	2025

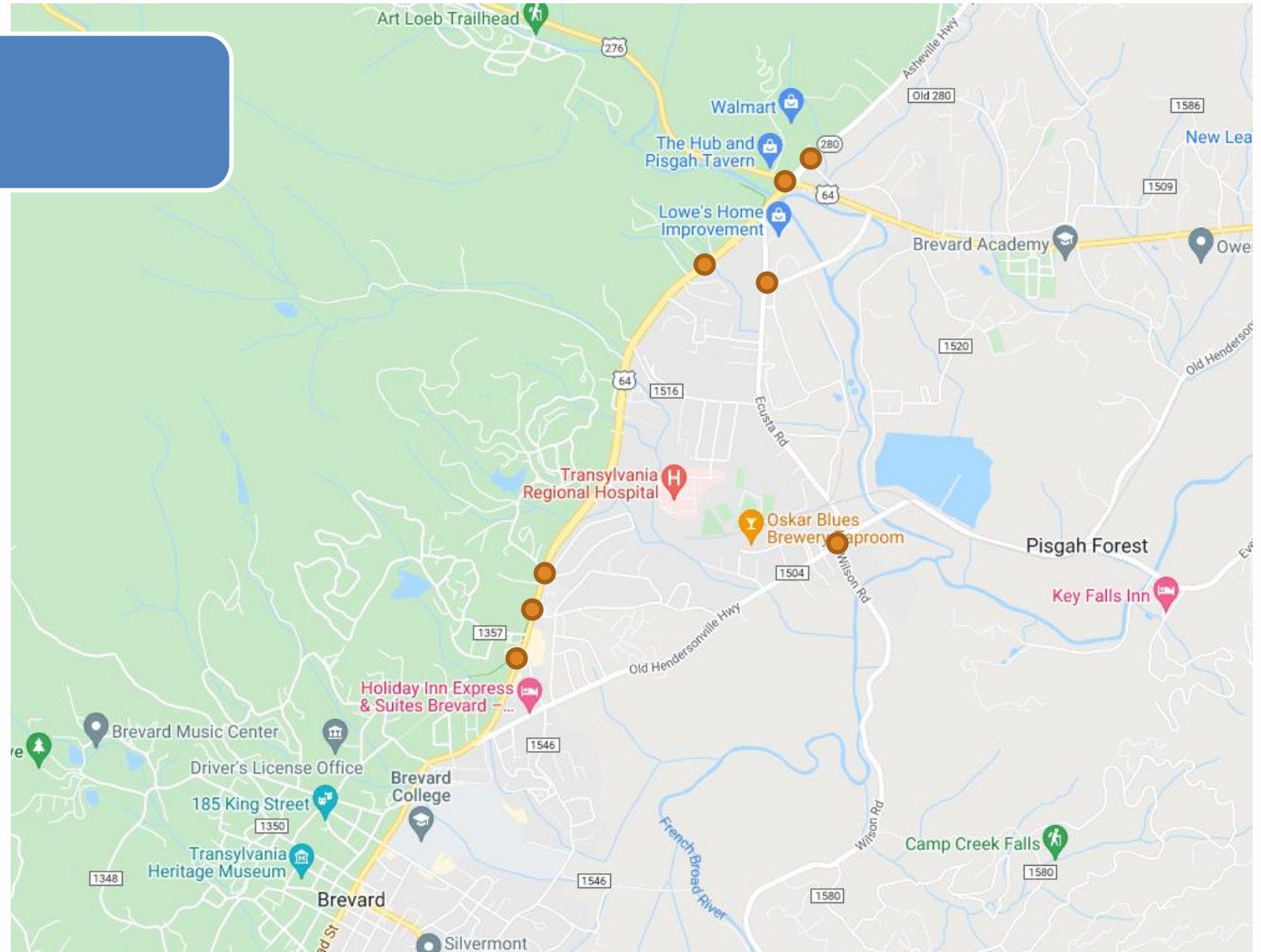


Thank you!

Current Designs

» Landscape Design for 5 Roundabouts

- Wilson Rd. Roundabout
- Ecusta Rd. Roundabout (at Davidson River Village Connector)
- Chestnut St. & Asheville Highway
- Osbourne St. & Asheville Highway
- Pisgah Heights & Asheville Highway



IONCON

ENGINEERING + DESIGN



Ecusta Road
Roundabout

Brevard Town
Council

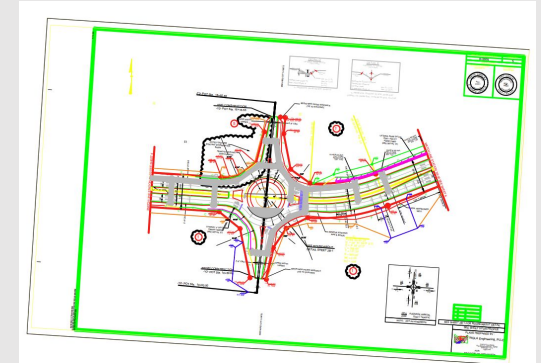
234086 - 08/07



PROJECT PARAMETERS



EXISTING SITE CONDITIONS



Chapter 6 Geometric Design

6.1 Introduction

Roundabout design involves trade-offs among safety, operations, and accommodating large vehicles.

Designing the geometry of a roundabout involves choosing between trade-offs of safety and capacity. Roundabouts operate most safely when their geometry forces traffic to enter and circulate at slow speeds. Horizontal curvature and narrow pavement widths are used to produce this reduced-speed environment. Conversely, the capacity of roundabouts is negatively affected by these low-speed design elements. As the widths and radii of entry and circulatory roadways are reduced, so also the capacity of the roundabout is reduced. Furthermore, many of the geometric parameters are governed by the maneuvering requirements of the largest vehicles expected to travel through the intersection. Thus, designing a roundabout is a process of determining the optimal balance between safety provisions, operational performance, and large vehicle accommodation.

Some roundabout features are uniform, while others vary depending on the location and size of the roundabout.

While the basic form and features of roundabouts are uniform regardless of their location, many of the design techniques and parameters are different, depending on the speed environment and desired capacity at individual sites. In rural environments where approach speeds are high and bicycle and pedestrian use may be minimal, the design objectives are significantly different from roundabouts in urban environments where bicycle and pedestrian safety are a primary concern. Additionally, many of the design techniques are substantially different for single-lane roundabouts than for roundabouts with multiple entry lanes.

This chapter is organized so that the fundamental design principles common among all roundabout types are presented first. More detailed design considerations specific to multilane roundabouts, rural roundabouts, and mini-roundabouts are given in subsequent sections of the chapter.

6.1.1 Geometric elements

Exhibit 6-1 provides a review of the basic geometric features and dimensions of a roundabout. Chapter 1 provided the definitions of these elements.

6.1.2 Design process

Roundabout design is an iterative process.

The process of designing roundabouts, more so than other forms of intersections, requires a considerable amount of iteration among geometric layout, operational analysis, and safety evaluation. As described in Chapters 4 and 5, minor adjustments in geometry can result in significant changes in the safety and/or operational performance. Thus, the designer often needs to revise and refine the initial layout attempt to enhance its capacity and safety. It is rare to produce an optimal geometric design on the first attempt. Exhibit 6-2 provides a graphical flowchart for the process of designing and evaluating a roundabout.

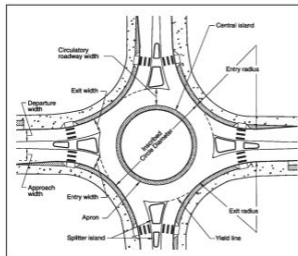


Exhibit 6-1. Basic geometric elements of a roundabout.

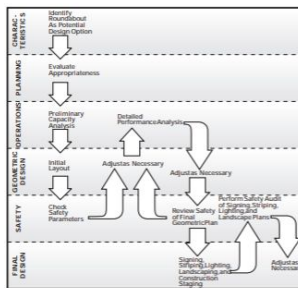


Exhibit 6-2. Roundabout design process.

Roundabout speed is determined by the fastest path allowed by the geometry.

6.2.1.3 Vehicle paths

To determine the speed of a roundabout, the fastest path allowed by the geometry is drawn. This is the smoothest, flattest path possible for a single vehicle, in the absence of other traffic and ignoring all lane markings, traversing through the entry, around the central island, and out the exit. Usually the fastest possible path is the through movement, but in some cases it may be a right turn movement.

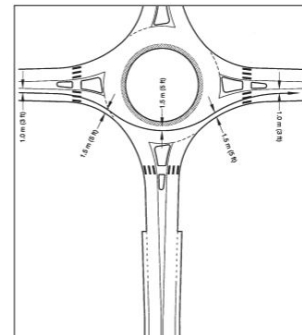
A vehicle is assumed to be 2 m (6 ft) wide and to maintain a minimum clearance of 0.5 m (2 ft) from a roadway centerline or concrete curb and flush with a painted edge line (2). Thus the centerline of the vehicle path is drawn with the following distances to the particular geometric features:

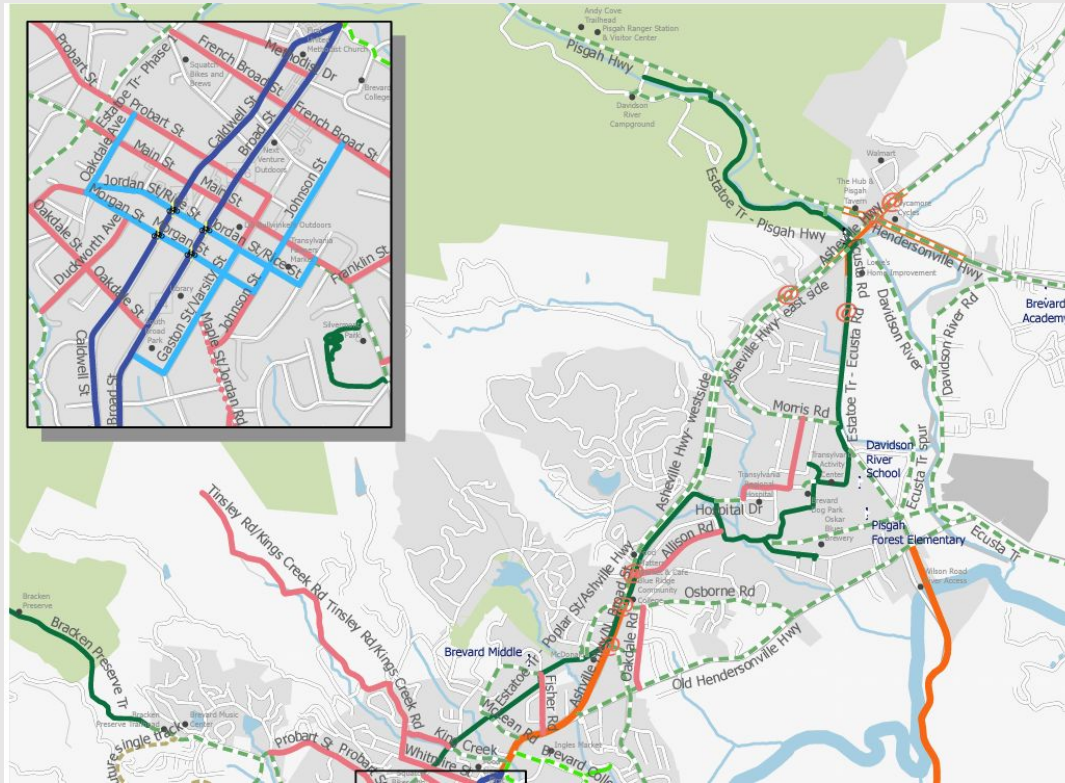
- 1.5 m (5 ft) from a concrete curb,
- 1.5 m (5 ft) from a roadway centerline, and
- 1.0 m (3 ft) from a painted edge line.

Through movements are usually the fastest path, but sometimes right turn paths are more critical.

Exhibits 6-5 and 6-6 illustrate the construction of the fastest vehicle paths at a single-lane roundabout and at a double-lane roundabout, respectively. Exhibit 6-7 provides an example of an approach at which the right turn path is more critical than the through movement.

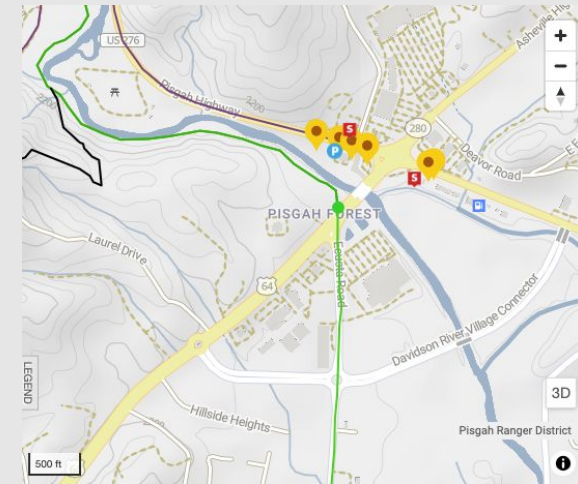
Exhibit 6-5. Fastest vehicle path through single-lane roundabout.





BREVARD

PEDESTRIAN and BICYCLE PLAN

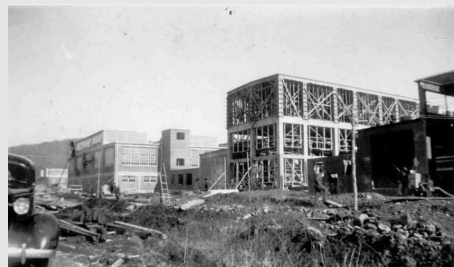




DESIGN
RESEARCH



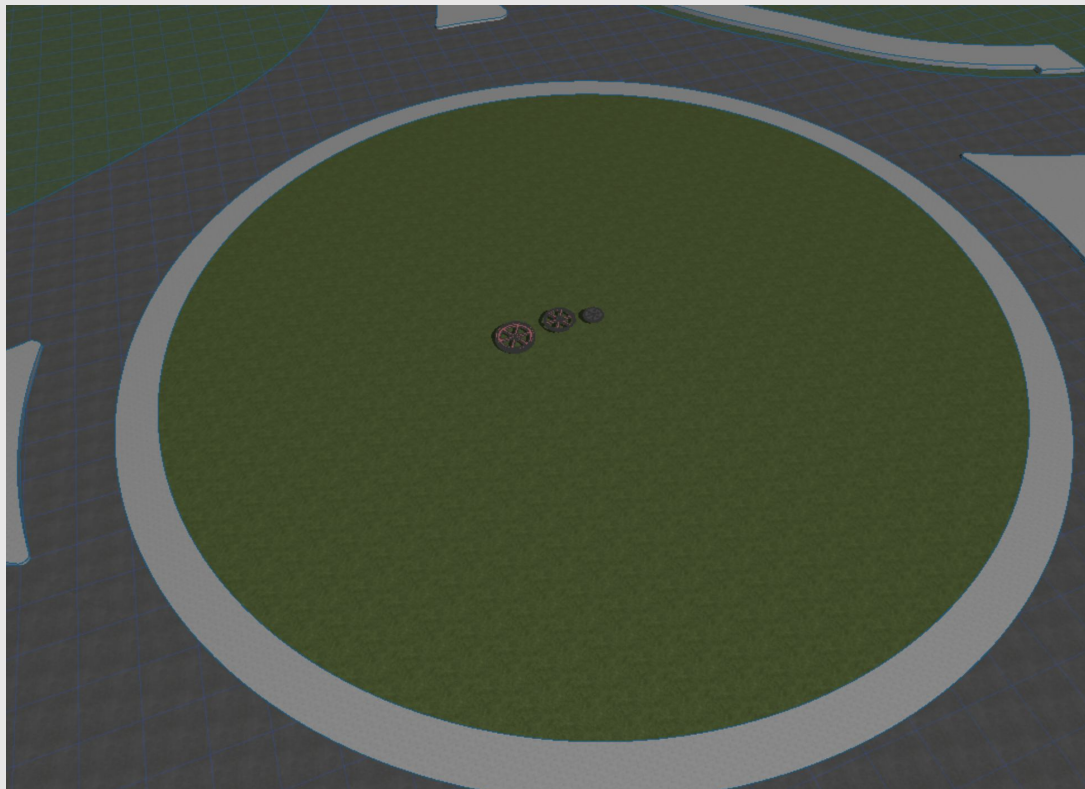
HISTORY OF ECUSTA MILL





FACTORY REMNANT: GEARS





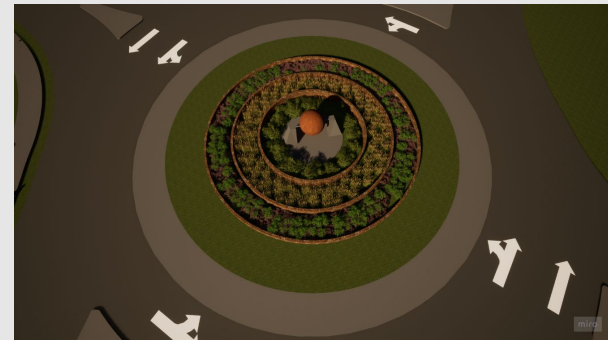


FACTORY REMNANT: DIGESTER





**PROPOSED
DESIGN**





- INTERPRETIVE SIGNAGE
- GEARS
- LANDSCAPING
- WATER STATION (PEOPLE & PETS)
- SEATING
- SHELTER
- BIKE REPAIR STATION

What makes a good interpretive sign?

A good interpretive sign **acts as an eye-opener, making visitors excited about something they hadn't noticed or thought about before.** It relates directly to the surrounding display and encourages visitors to look more closely.





NEXT STEPS

- **ROUNABOUT SURVEY**
- **LIGHTING DESIGN**
- **MATERIAL SELECTION**
- **STRUCTURAL ENGINEERING**
- **ELECTRICAL ENGINEERING**

IONCON

ENGINEERING + DESIGN



Kara Errickson
VP Design
kara@goioncon.com

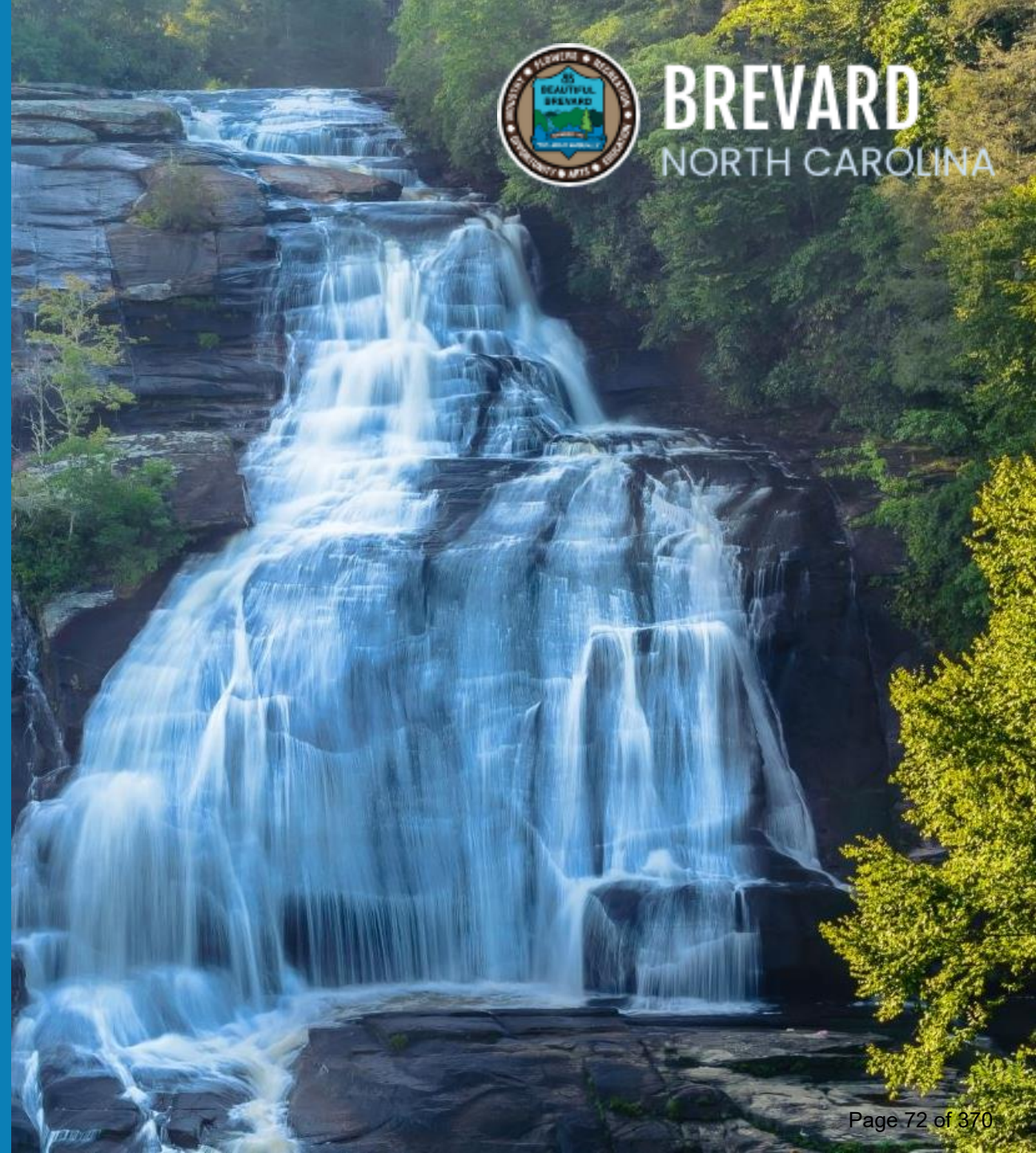
234086 - 08/07

Social Districts Discussion

Heart of Brevard Stakeholder Meetings



BREVARD
NORTH CAROLINA



Agenda

- What is a Social District?
- Proposed Downtown Brevard Social District
- Commonly Asked Questions
- Next Steps

Image Source: David Oppenheimer, via Pixels.com



What is a Social District?

A social district is an exception to NC's open container law in a designated area during certain times.

- This applies to privately-owned property, including those with and without an ABC permit, and public streets, crosswalks, and parking areas.
- The alcohol being consumed in the district must be sold by an ABC permittee located in the district and in a specific cup



Other Social Districts

40+ North Carolina municipalities have adopted social districts:

- Albemarle
- Asheboro
- Claremont
- Cornelius
- Cramerton
- Currituck Co.
- Davidson
- Durham
- Elkin
- Elon
- Garner
- Gastonia
- Greensboro
- Greenville
- Fayetteville
- Hickory
- High Point
- Huntersville
- Kannapolis
- Laurinburg
- Lenoir
- Madison
- Manteo
- Monroe
- Mooresville
- Newton
- Norwood
- North Wilkesboro
- Oxford
- Pilot Mountain
- Raleigh
- Salisbury
- Selma
- Statesville
- Sylva
- Washington
- Wendell
- Whiteville
- Wilson
- Youngsville

Social District Requirements

The Social District must have...

- Boundaries clearly defined with signs, noting:
 - Geographic area of the district (some cities use a QR Code with a link)
 - Days and hours allowed to consume alcohol
 - Contact information for the NC ALE Division and local law enforcement
 - Statement that all beverages must be consumed in the social district and needs to be disposed of before exiting the district
- Uniform signs indicating how/if the business is participating in the social district



Designated Cups

Alcohol sold to be consumed in the district must be in a cup that:

- Identifies the ABC-permittee from which the alcoholic beverage was purchased
- Displays the Social District logo
- Is not made of glass
- Displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21"
- Cannot hold more than 16 fluid ounces



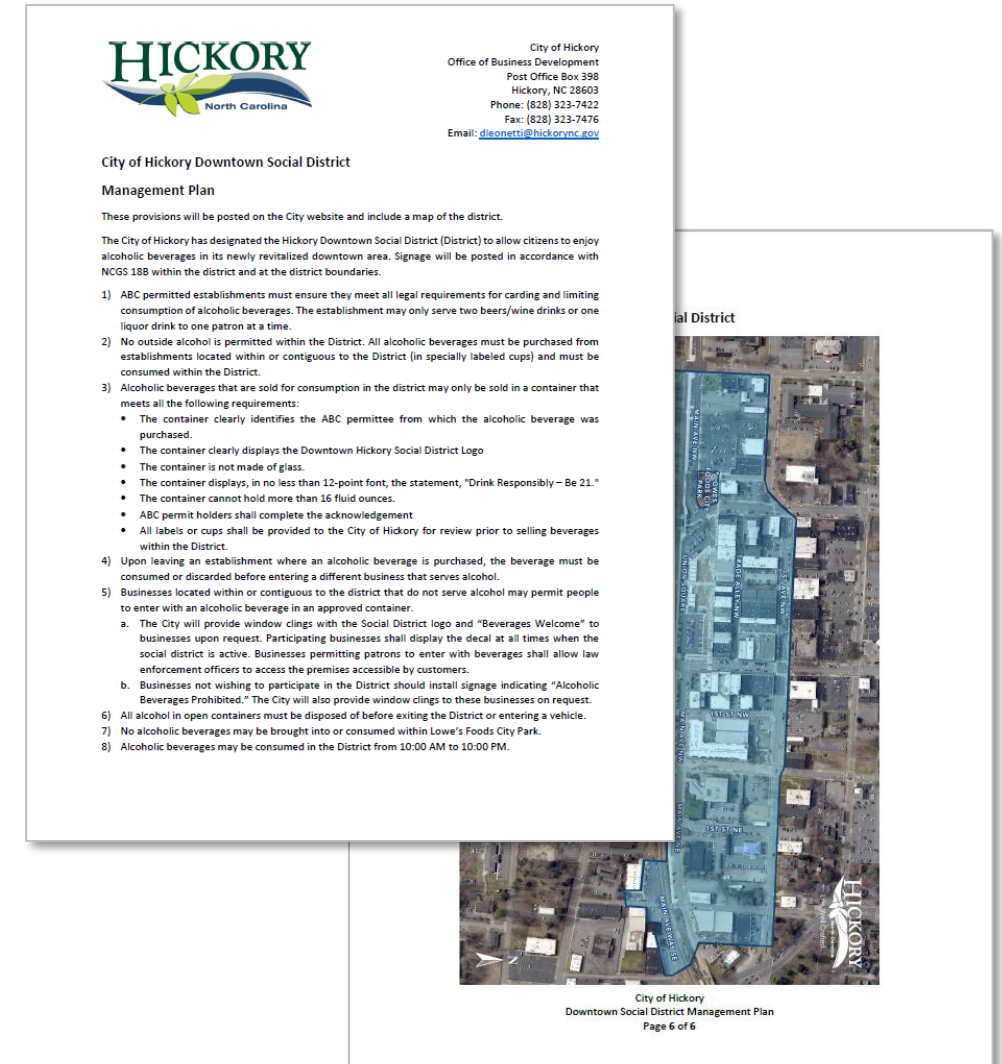
Operations

Management & Maintenance Plan

- Outlines the rules, boundaries, signage and cup requirements, etc. in a concise document
- Can delegate responsibilities to a private entity, such as a downtown organization, local chamber of commerce or owner of a shopping center.

Enforcement

- Local police officers will enforce the requirements of the Social District.
- Violations are reported to the local police and/or to the NC ALE



**Proposed Downtown
Brevard Social District**
11 am to 10 pm Daily

Management and Responsibilities

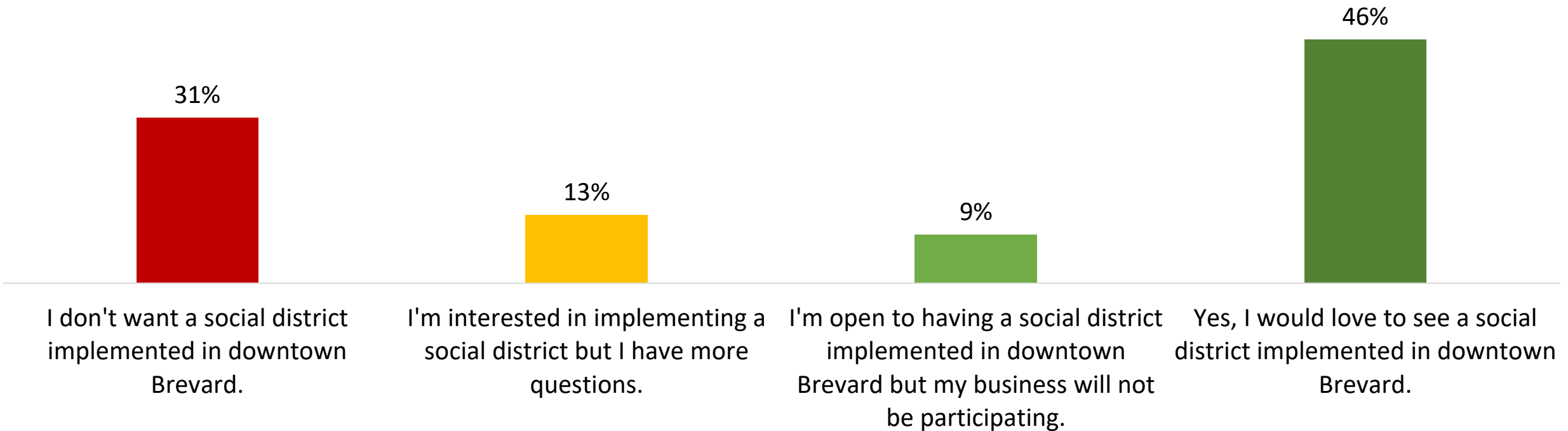
The City of Brevard will be the lead management entity, with Heart of Brevard serving as key project partner.

- City Planning Department – administer the Social District permits for ABC-permitted businesses choosing to participate.
- City Police Department – police and enforce the requirements of the Social District.
- City Public Works Department – provide sanitation and maintenance services.
- Heart of Brevard – serve as liaison with participating businesses and provide marketing and promotional services.

Heart of Brevard Stakeholder Survey Results

Are you interested in implementing a social district in Downtown Brevard?

Responses from 108 Heart of Brevard Stakeholders



**Note: This survey was sent to all HOB stakeholders. Much of the HOB MSD is not included in the proposed social district boundaries.*

Business “Opt-In” Participation

- There is no requirement to participate – **businesses must opt-in**
- To participate, a business must display the appropriate uniform signage.



Businesses selling alcohol in the social district must obtain a permit and put up a sign.



Businesses allowing alcohol into their store must put up a sign, and it will be provided by the City.



Businesses that aren't participating do not need a sign, but if they would like to have one it will be provided by the City.

ABC-Permittee Participation

- To participate, ABC-permitted establishments must:
 - Be located in the district boundaries
 - Be permitted for on-site consumption
 - Obtain a Social District Permit from the City Planning Department
- Permitting process will include written acknowledgement to abide by the rules and regulations of the Social District
- The permit fee will cover the cost of signage and the first round of cups or stickers



CITY OF LENOIR
PLANNING & COMMUNITY DEVELOPMENT
CITY HALL (3RD FLOOR) • 801 WEST AVENUE NW

APPLICATION & REGISTRATION AS A
PARTICIPATING BUSINESS:

ABC PERMIT HOLDER

GENERAL BUSINESS INFORMATION

Business Name	
Physical Address	
Mailing Address	
Primary Contact	
Primary Contact Number	Text Messages OK? ☐
Alternative Contact	
Alt. Contact Number	Text Messages OK? ☐
ABC Permittee Name	
ABC Permit Number	

ACKNOWLEDGEMENTS

By signing below, I, _____ (print name) attest that I am an authorized representative of the above listed business, I have received a copy of the Social District Management Plan, and I have read and understand the requirements for participating in the Downtown Lenoir Social District. Furthermore, I understand that failure to comply with said requirements may result in the revocation of this registration.

I understand that the City reserves the right to temporarily or permanently suspend the Social District.

As a condition of my participation as an ABC permittee selling alcoholic beverages for consumption within the Social District, I agree to only sell/serve alcoholic beverages in an approved social district container, with appropriate time/date stamps and meeting all state and local requirements for such containers.

I agree to indemnify, defend and hold the City of Lenoir and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims arising out of participation in the Social District.

Authorized Signature: _____ Date: _____

Witnessed by: _____ (signature)
_____ (print name)

How will this affect public safety?

- One of the biggest concerns is that implementing social districts would cause an uptick in alcohol-related crimes and public disturbances.
- Outreach and research conducted by Brevard Police Chief Tom Jordan, City Staff and Heart of Brevard
- Cities report ***negligible changes*** in alcohol-related crime and other incidents in cities with social districts.
- Brevard's Public Safety Committee reviewed the proposal multiple times and recommended approval on June 26th.



"It's not that people are showing up and just drinking and drinking and drinking. You're having a glass of wine or a beer outside at a table. It's not anything excessive."

How will the rules be enforced?

- Policing and enforcement of the social district rules are the responsibility of local law enforcement and the local NC Alcohol Law Enforcement (ALE) Division.
- In Brevard, the City's law enforcement is contracted by State to serve as the local ALE division.
- Social district ordinance establishes penalties for violating the rules of the district (e.g. improper signage, not using the approved cups, etc.)
- Does not effect enforcement of alcohol-related crimes under NC Criminal Code (e.g. public intoxication, disorderly conduct, under-age possession of alcohol, etc.)

Other Commonly Asked Questions

- Who can sell alcohol for consumption in the social district?
 - Alcoholic beverages must be sold by a permittee located within the social district
 - Participating locations must have an **ABC permit for on-site consumption**
 - No personal beer, wine, or liquor can be brought into the social district.
- What happens if I leave the social district boundaries?
 - Individuals who leave the district with alcohol can be **criminally charged**.
 - Cups should be **disposed of prior to exiting the district**.
 - Open containers of alcohol are still prohibited for people driving or riding in a vehicle/bicycle.
- How many alcoholic drinks can I purchase at one time in a social district?
 - The maximum amount of beverages that a patron can purchase at once is unchanged.
 - A single patron can't buy more than 2 alcoholic beverage drinks at one time of beer or wine and more than 1 alcoholic beverage at one time of a drink containing liquor.

Next Steps

- ✓ Public Safety Committee Review – *unanimously recommended approval June 26th*
- City Council Public Hearing – *Tonight*
- City Council Vote to adopt text amendment – *earliest possible date August 21st*
- Social District preparation
 - City registers Social District with NC ABC Commission
 - Businesses secure permits
 - Logo is designed
 - Cups are ordered and ready for use
 - Signs are ordered and installed
- Social District opens – *earliest possible opening in October*

How does this affect Sidewalk Dining Permits?

- A business will only be allowed to serve alcohol on the sidewalk as part of an approved sidewalk dining permit.
- If they have that permit and are located in the social district, the business may serve alcohol on the sidewalks without barricades / signage during the social district's approved days and hours of operation.
- No preparation of alcoholic beverages can occur on the sidewalk

The form is titled "PERMIT APPLICATION FOR PERMANENT AND SEMIPERMANENT SIDEWALK USAGE" and is from "The City of Brevard, North Carolina". It includes fields for "Date Received:", "Action Taken:", "Date:", and "Permit #:". The applicant agrees to comply with city rules and indemnify the city. The form requires the applicant's name, business name, signature, and date. It also includes contact information (mailing address, email, phone, city, state, ZIP) and the location of the business (property address and PIN). The permit type is selected as "Sidewalk Dining Area" with a \$100 application review fee. The form also lists required attachments: a site plan, descriptive images, proof of liability insurance, a hold harmless agreement, and the application review fee.

The City of Brevard
North Carolina

Date Received: _____
Action Taken: _____
Date: _____
Permit #: _____

**PERMIT APPLICATION FOR
PERMANENT AND SEMIPERMANENT SIDEWALK USAGE**

The applicant / permit holder agrees to:

- Comply with all applicable City rules, regulations, and permit conditions;
- Indemnify and hold harmless the City of Brevard, its employees and NCDOT, if applicable, in all respects, against any and all claims arising out of or related to the issuance of this Permit.

APPLICANT / PERMIT HOLDER: _____
(Business Name)

BY: _____ **Date:** _____
(Business Owner's Signature)

Contact Information:

Mailing Address: _____ City: _____ State: _____ ZIP: _____
Email: _____ Phone: _____

Location of Business (Property): _____
Property Identification Number (PIN): _____

Permit Type (Check only one) and Fee Schedule:

☒ Sidewalk Dining Area: \$100 application review fee

☐ Permanent or Semipermanent Object: \$50 application review fee

Following must be Included with All Applications:

☐ Site Plan showing the section of sidewalk or pedestrian way to be used for the object or sidewalk dining, the section to be kept clear for pedestrian and fire lane use, and the proposed dimensions and placement of all objects and furnishings. At least five feet of unobstructed space, excluding the curb, measured from any object must be kept clear for pedestrians.

☐ Description and images or other illustrative graphics of the objects and/or furnishings to be installed. Vertical dimensions should be included in these descriptions.

☐ Proof of Liability Insurance in the amount of \$2,000,000.00 (aggregate) naming the City and, if applicable, NCDOT as additional insured.

☐ Hold Harmless Agreement signed by the business owner and notarized.

☐ Application Review Fee

How does this affect Special Events?

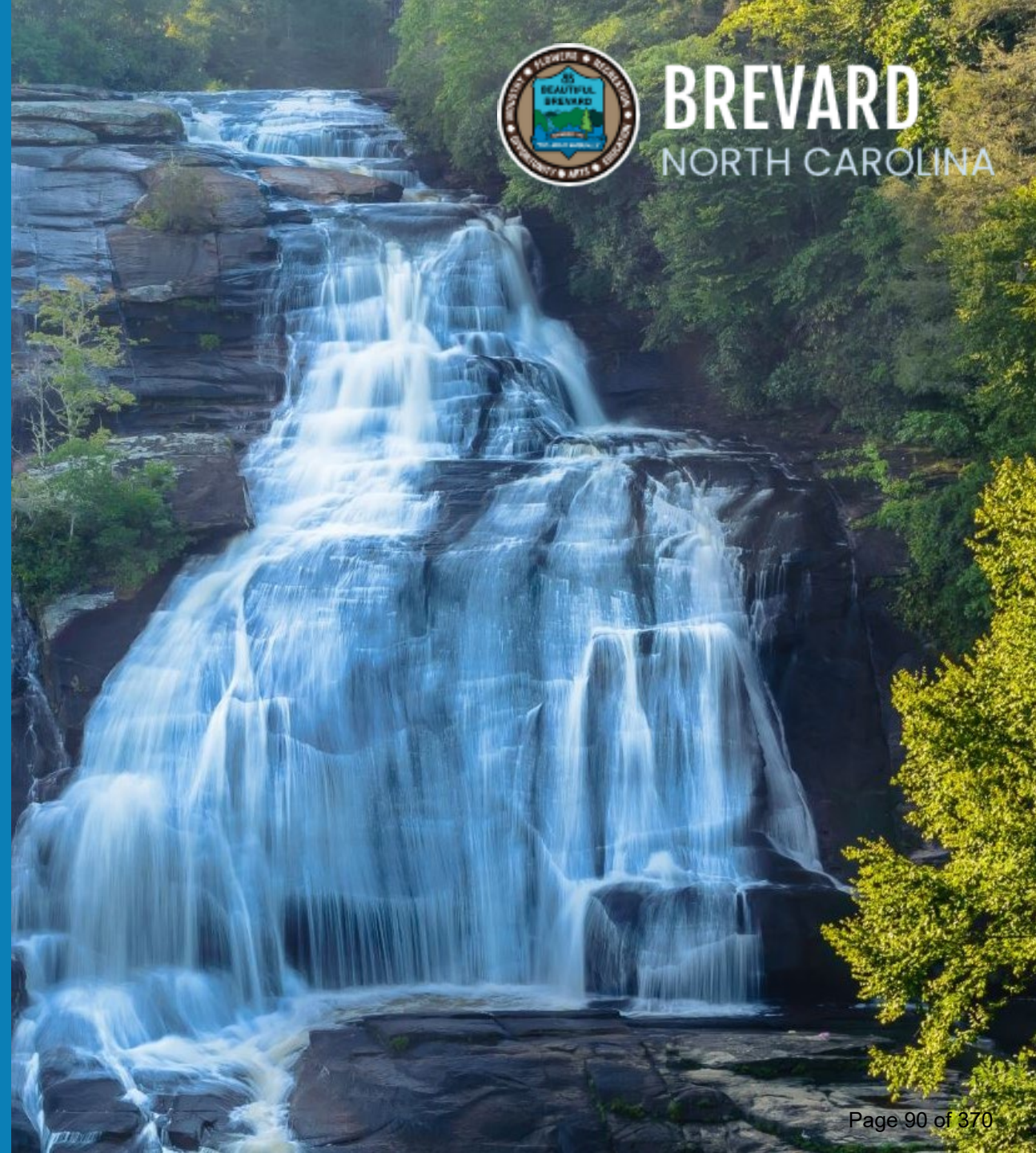
- A special event located within a social district can receive a permit for the sale of alcohol within their event area from the ABC Commission.
- A special event permittee may participate in a social district if they follow the rules
- This includes allowing beverages with social district cups to be carried from and into the special event area.
- Participation in the social district is at the special event holder's discretion.
- Event organizers will have the choice to allow social district beverages within their event footprint or not.

Short-Term Rental UDO Updates

City Council Public Hearing



BREVARD
NORTH CAROLINA



Agenda

- Current Ordinance
- Process
- Survey Results
- Proposed Ordinance Changes
- Next Steps

Image Source: David Oppenheimer, via Pixels.com



Current STR Regulations

- Defined as “a private residential property that is rented, either in whole, or part, for periods of less than 30 days for compensation.”
- Allowed in 4 of 7 zoning districts
 - General Residential
 - Residential Mixed Use
 - Neighborhood Mixed Use
 - Downtown Mixed Use
- No permit of any kind required
- Occupancy limited to 2 x Bedrooms + 2
- Must remain residential in appearance
 - No signs, no lighting, etc.



Process

- Task Force Established – September 20, 2021
 - City Council establishes the Short-Term Rental Task Force in order “to obtain data on short-term rentals in the City of Brevard, assess positive and negative impacts, and provide recommendations to City Council” via Resolution #2021-47.
- Economic Impact Analysis
 - Covered the whole county and the key findings of the study included: STRs account for 5-6% of total housing units in Transylvania County; new housing supply has not kept up with housing demand; and there is a positive but limited correlation between the STR market and local housing prices.
- Representative Survey
 - Conducted by Dr. Annelise Hagedorn of Blue Ridge Community College
 - Five hundred addresses within the city limits were randomly selected, and a three-step process of inviting participation from a household member of those residences was completed.
 - Participants were asked to complete a brief online survey with multiple-choice and short-answer questions about their experiences with short-term rentals in Brevard
- Open Survey
 - Following the representative survey, the survey was opened to the public at large.

Survey Results

Representative Survey

- 260 responses
- The results indicated that there is interest in the creation of policies about STRs in Brevard, and that the most common response was to enact policies that curtail STRs.
- Respondents clearly perceived a connection between STRs and housing affordability and availability in Brevard.

Open Survey

- 211 responses
- Public comment followed most of the patterns from the representative survey.
- Support for policies to curtail STRs was the most common response, but not as strong as the representative survey.
- Connections between housing affordability/availability and STRs was the most common pattern.
- There were more responses with singularly positive or singularly negative outlooks on STRs in Brevard.

Proposed Changes

- The Task Force discussed STRs, their impact, and possible regulatory changes at their monthly meetings for nearly 2 years.
- The Task Force's draft ordinance seeks to address the area's ongoing housing crisis and preserve the character of Brevard's residential neighborhoods.
- The new regulations still allow for many properties to operate as STRs while also taking into consideration the housing needs of local workers and area residents who have been particularly impacted by the shortage of available housing and long-term rental options.
- In their discussions, members of the Task Force emphasized the importance of ensuring new construction focuses on residential housing instead of contributing to increased STR stock, but also respected that existing STRs are an important source of income for residents, some of whom wouldn't be able to live in Brevard otherwise.

Proposed Changes

What is Changing:

- New definition exemption for a permanent resident living on-site on the property
- Allowed zoning districts (5 of 7)
 - Remove from GR
 - Add CMX & IC
- “Grandfathering” clause
 - Existing STRs in GR can remain in operation
 - Lose status after use is abandoned for 6 months
- Typical zoning permit required (\$100 fee)

What is Staying the Same:

- Incidental exceptions
- Occupancy limits
- Parking/signs/lighting requirements

Next Steps

- ✓ Task Force Recommendation – *recommended approval 5-1 on June 15, 2023*
- ✓ Planning Board Review – *recommended approval 6-1 on June 27, 2023*
- City Council Public Hearing – *Tonight*
- City Council Vote to adopt text amendment – *anticipated August 21st*
- Monitor changes to state statutes/caselaw and update UDO as necessary

RESOLUTION NO. 2023-45

**AWARDING BADGE AND SERVICE SIDEARM
TO RETIRED POLICE OFFICER
CAPTAIN STEVE WOODSON**

WHEREAS, NC GS 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality; and

WHEREAS, NC GS 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member; and

WHEREAS, Police Officer Steve Woodson has served the Brevard Police Department with 24 years of service and has retired at the rank of Captain; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of Brevard, North Carolina as follows:

The City Manager's designee, Police Chief C. Thomas Jordan, is hereby authorized, in accordance with the provisions of NC GS 20-187.2, to transfer to Police Officer Steve Woodson, the badge worn by him during his service with the Brevard Police Department and his service sidearm, a Glock Model G-23, Caliber .40, Serial Number BEDA 115.

Adopted and approved this the 5th day of September, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk



PROCLAMATION NO. 2023-13

CONSTITUTION WEEK

WHEREAS, September 17, 2023, marks the two 236th anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE I, Maureen Copelof by virtue of the authority vested in me as Mayor of the City of Brevard, North Carolina, do hereby proclaim the week of September 17 through 23 as

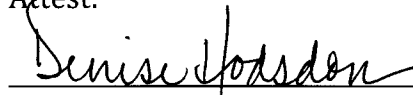
“CONSTITUTION WEEK”

in the City of Brevard, and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

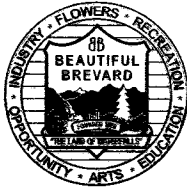
IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed this 5th day of September, 2023.


Maureen Copelof
Mayor

Attest:


Denise Hodsdon, CMC
City Clerk





PROCLAMATION NO. 2023-14

CHILDHOOD CANCER AWARENESS MONTH

WHEREAS, the month of September is designated as National Childhood Cancer Awareness Month and serves as an outlet to honor the young lives taken too soon, and as a means to increase public awareness of this disease affecting children across the United States; and

WHEREAS, childhood cancer is the leading cause of death by disease in children with 1 in 260 children in the United States being diagnosed by their 20th birthday; and

WHEREAS, the average age of diagnosis is 6 years old, compared to 66 years for adults' cancer, 80% of childhood cancer patients are diagnosed late and with metastatic disease; and

WHEREAS, in 2022, 47 children per day or 17,293 children (age 0- 19) were diagnosed with cancer in the U.S. More than 95% of childhood cancer survivors will have chronic health conditions as a result of their treatment toxicity, with one quarter being classified as severe to life-threatening; and

WHEREAS, approximately one half of childhood cancer families rate the associated financial toxicity due to out-of-pocket expenses as considerable to severe; and

WHEREAS, in the last 20 years only six (6) new drugs have been approved by the FDA to specifically treat childhood cancer; and

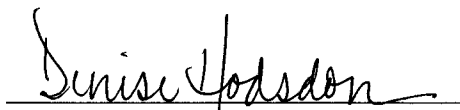
WHEREAS, recognizing the unique research needs of childhood cancer and the associated need for increased funding is critical to allow healthcare professionals to work diligently dedicating their expertise to treat and cure children with cancer; and

WHEREAS, many parents and family members feel terrified and are overwhelmed following a child's cancer diagnosis, therefore it is important to encourage additional non-profit organizations at the local and national level to assist children with cancer and their families in coping through educational, emotional and financial support.

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard hereby proclaim the month of September 2023 as "**Childhood Cancer Awareness Month**" in the City of Brevard and I encourage citizens, government agencies, private businesses, nonprofit organizations, the media, and other interested groups to increase awareness of what citizens can do to support the fight against childhood cancer.

Proclaimed this the 5th day of September, 2023.

Attest:


Denise Hodsdon, CMC
City Clerk




Maureen Copelof, Mayor

STAFF REPORT

City Council, Tuesday, September 5, 2023

Title: Ordinance - Voluntary Contiguous Annexation -
Greenfield, 345 Forest Hill Road

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

On June 7, 2023, Melinda Greenfield ("Applicant") submitted a request for voluntary continuous annexation for property located at 345 Forest Hill Drive, further identified by PIN 8585-35-1388-000.

Discussion

The subject property is located within the City's Extra-Territorial Jurisdiction (ETJ) adjacent to the corporate limits and is zoned General Residential – 4 (GR4). The Applicant wishes to annex the entirety of the property. There are currently two structures on the property, one single-family house and a detached garage. The home is already connected to City water, upon annexation it is assumed it will also be connected to City sewer. The cost of connecting to the sewer system will be borne by the property owner.

Policy Analysis

Voluntary, contiguous annexations are governed by North Carolina General Statute §160A31 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.

Fiscal Impact

The financial and service delivery impacts are estimated to be minimal. See Attachment 2 for full financial impact details.

Recommendation

Staff recommends approval of the proposed annexation. The Planning Board considered this request at their August 22nd meeting and unanimously recommended approval.

Attachments:

1. Petition and Plat
2. Financial Impact Estimator
3. Ordinance Extending Corporate Limits - Greenfield

RECEIVED
6/14/2023

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA
CITY OF BREVARD



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

Date: 06/07/2023

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): 8585-35-1388-000

Street Address: 345 Forest Hill Road 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 X 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 Melinda Greenfield
Address 218 Grand Palm Ct Ponte Vedra Beach, FL 32082 *< mailing address*
Telephone 229-809-0504 Email melsag@aol.com
Signature 

b. Name _____
Address _____
Telephone _____ Email _____
Signature _____

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

**2022003650**

TRANSYLVANIA CO, NC FEE \$28.00

NO TAXABLE CONSIDERATIONPRESENTED & RECORDED:
06-06-2022 10:39:39 AM

BETH C LANDRETH

REGISTER OF DEEDS
BY: DELIA MCCALL
DEPUTY REGISTER OF DEEDS**BK: DOC 1040****PG: 127-128****NORTH CAROLINA QUIT CLAIM DEED**

Mail after recording to: Sherman Willis at 1115 W. Third Avenue, Albany, GA 31707

This instrument prepared by: Sherman Willis

Brief description for the index: 345 Forest Hill Rd. Brevard NC 28712

THIS QUITCLAIM DEED made this the 17th day of May, in the year 2022, by and between**GRANTOR****GRANTEE**Uniformity Hub, LLC
A Georgia limited liability company
218 Grand Palm Court
Ponte Vedra Beach, FL 32082Melinda F. Greenfield, Trustee of the
Melinda F. Greenfield Living Trust
218 Grand Palm Court
Ponte Vedra Beach, FL 32082

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as may be required by context. WITNESSETH, that said Grantor, for and in consideration of the sum of ten dollars and other consideration to it in hand paid, the receipt of which is hereby acknowledged, has remised and released and by these presents do remise, release, and forever quitclaim into the Grantee and its heirs and assigns all right, title, claim, and interest of the said Grantor in and to all that certain parcel of land situated in the City of Brevard, Brevard Township, Transylvania County, North Carolina and more particularly described as follows:

BEING all of 0.86 acres, more or less, as shown and described on a plat dated April 24, 2014 by E. Rogers Raxter, PLS, and recorded in Plat File 16, Slide 61 of the Register of Deeds for Transylvania County, North Carolina.

The property hereinabove described was acquired by Grantor by instrument recorded in Document Book 959, Page 84.

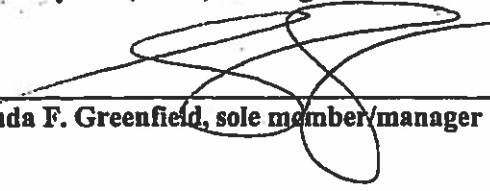
A map showing the above-described property is recorded in Plat File 16, Slide 61.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges thereunto belonging to the said Grantee and its heirs and assigns free and discharged from all right, title, claim or interest of the said Grantor or anyone claiming by, and through or under it. Title to the property hereinabove described is subject to the following exceptions if any:

ANY AND ALL OF PUBLIC RECORD

IN WITNESS WHEREOF, said Grantor has hereunto set its hand and seal the day and year first above written.

Uniformity Hub, LLC, a Georgia limited liability company

By:  (Seal)
Melinda F. Greenfield, sole member/manager

STATE OF GEORGIA
COUNTY OF DOUGHERTY

I, Kevin Dybalski, a Notary Public, of said State and County aforesaid, do hereby certify that Melinda F. Greenfield, sole member/manager of Uniformity Hub, LLC, Grantor(s), personally appeared before me this day, and (i) I have personal knowledge of the identity of the Grantor(s), or (ii) I have seen satisfactory evidence of the grantor(s) identity, by current state or federal identification with the Grantor(s) photograph in the form of a driver's license, and that she voluntarily signed the foregoing document for the purpose stated herein and in the capacity indicated.

Witness my hand and official seal or stamp, this 17th day of May, in the year 2022.

KEVIN DYBALSKI

Notary Public, State of Florida

My Comm. Expires 03/06/2023 (Seal)

Notary Public Commission No. GG308484

My commission Expires: _____

NCGS MONUMENT "GEORGE"
N : 556,738.13'
E : 882,107.13'
NAD 83 (2001)

COMBINED FACTOR
USED : 0.99977522

NTS TIE -
N 49°33'23" E
2,574.81' (GRID)

NCGS MONUMENT "TRIANGLE"
N : 558,408.41'
E : 884,066.68'
NAD 83 (2001)

NTS TIE -
N 34°50'06" W
1522.04' (GRID)

"HAFLER"
5/8" IRF

FOREST HILL DRIVE
SR NO. 1123, 18' +/-
PUBLIC ASPHALT ROAD

1/2" IRF AT THE NORTHEAST CORNER
OF LOT 12 OF BLOCK 4 OF LAKEVIEW
SECTION OF LAWRENCE LAND COMPANY
PER P.B. 1, PAGE 5.

NCGS NORTH
ROGER RAXTER
SURVEYING
NAD 83 (2001)

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 _____.

City Clerk

OWNER CERTIFICATION - ANNEXATION

I (WE) HEREBY CERTIFY THAT I (WE ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON, AND THAT I (WE) HEREBY ADOPT THIS PLAT OF ANNEXATION WITH MY (OUR) FREE CONSENT

DATE

OWNER(S)

DATE

OWNER(S)

LILLIAN JEAN BYERS
D.B. 996, PAGES 670-672
P.F. 19, SLIDE 328 &
P.F. 21, SLIDE 81
8585-35-1540-000

STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA

I, Kevin D. Balski, a Notary Public
of said State and County, do hereby certify that

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

Witness my hand and Notarial Seal, this the 4th
day of June, 2023.

My Commission Expires 3/22/27

KEVIN D. BALSKI
NOTARY PUBLIC
STATE OF NORTH CAROLINA
NO. HH 377223
MY COMMISSION EXPIRES MAR. 22, 2027

**Melinda F. Greenfield, Trustee of the
Melinda F. Greenfield Living Trust**

PROPERTY LOCATED IN :
BREVARD TOWNSHIP
TRANSYLVANIA COUNTY
NORTH CAROLINA

DEED REFERENCE : D.B. 1040, PAGE 127-128.

PLAT REFERENCE : P.F. 16, SLIDE 61.

DATE : MAY, 2023.

NOTES

- 1) This property is located in Zone X, and Zone AE, areas determined to be outside the 500-year floodplain per F.I.R.M. of this area dated October 02, 2009, except as noted.
- 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 a plat of an existing parcel or parcels of land and does not create a new street or change an existing street.
- 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 building ties are to the structural walls, unless otherwise noted.
- 7) The owner is : Melinda F. Greenfield, Trustee at 218 Grand Palm Court, Ponte Verda Beach, FL, 32082.
- 8) The Tax Pin is : 8585-35-1388-000.
- 9) The location of the floodway and flood areas is approximate only, being scaled from the Transylvania County Tax Map.
- 10) This property is zoned GR 4.
- 11) This plat was prepared from the recorded plat referred to above. No actual survey was done in 2023.
- 12) This plat 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.

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

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

May 24, 2023

DATE

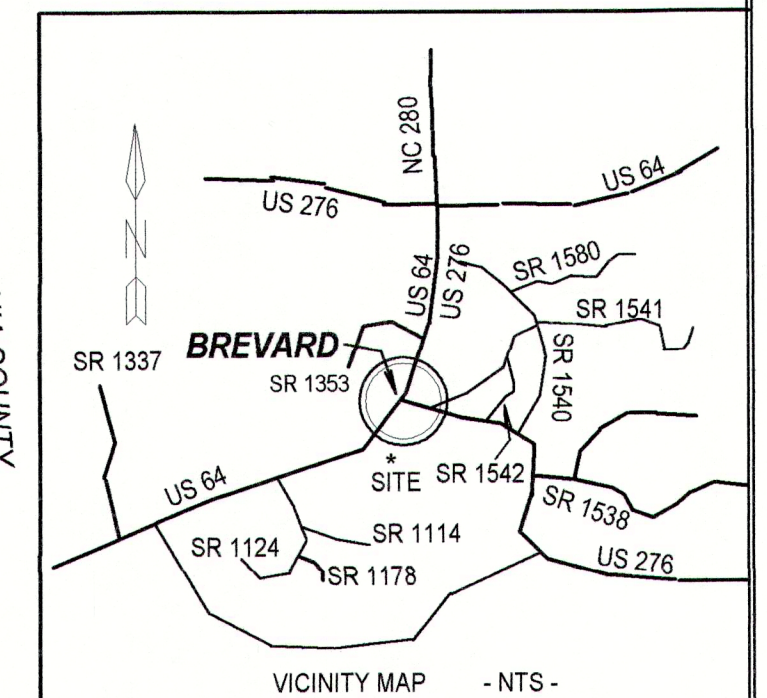
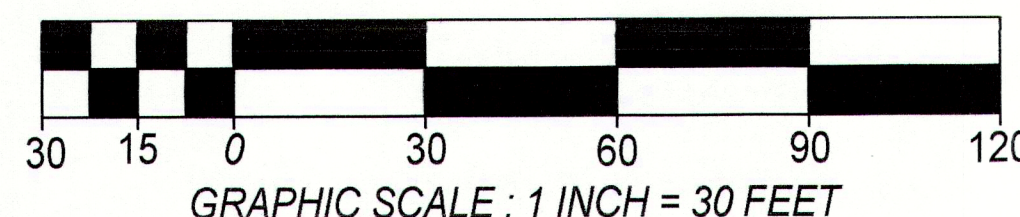
I, E. ROGER RAXTER, PROFESSIONAL LAND SURVEYOR,
CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPER-
VISION FROM RECORDED DOCUMENTS AND/OR OTHER
INFORMATION AND DOES NOT REPRESENT AN ACTUAL
FIELD SURVEY. THAT THIS PLAT WAS PREPARED
IN ACCORDANCE WITH GS 47-30 AS AMENDED.

E. ROGER RAXTER
NC PLS L-2938

May 24, 2023
DATE

LEGEND

CMF CONCRETE MONUMENT FOUND
IRF IRON ROD FOUND
UP UNMARKED POINT
IRS 5/8" IRON ROD SET
IPF IRON PIPE FOUND
OUL OVERHEAD UTILITY LINES
N/A NOT APPLICABLE
R/W RIGHT OF WAY
TR TRANSFORMER
T/P TELEPHONE PEDSTAL
WM WATER METER
SR STATE ROAD
CULVERT +/-
STREAM +/-
WV WATER VALVE
MH MAN HOLE
FENCE +/-
D.B. DEED OR DOCUMENT BOOK
P.B. PLAT BOOK
P.F. PLAT FILE
NTS NOT TO SCALE
UB UTILITY BOXES



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@gmail.com

DATE MAY 24, 2023 DRAWING NUMBER 14019B

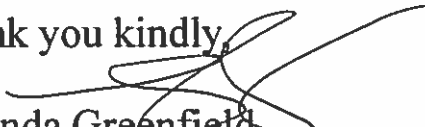
Denise Hodsdon
City Clerk
City of Brevard
95 W. Main Street
Brevard, NC 28712

Dear Denise,

I am submitting my application for a petition to annex my property to the City of Brevard. As you may recall, my drain field has failed and the septic system of the home is no longer functioning properly. We have managed a temporary fix for the functioning of the system but it will not last for long. Repairing the drain field is not an option.

I appreciate your help in reviewing my application and expediting the process.

Thank you kindly,



Melinda Greenfield

345 Forest Hill Road
Brevard, NC 28712

Mailing Address:
218 Grand Palm Ct
Ponte Vedra Beach, FL 32082

229-809-0504

GREENFIELD ANNEXATION, ANN-23-002

FINANCIAL SUMMARY

ONE (1) SINGLE FAMILY HOME

	GENERAL FUND	WATER & SEWER FUND	FIRE DEPT SPECIAL REVENUE FUND	TOTAL ALL FUNDS
REVENUE				
ESTIMATED PROPERTY TAXES	\$1,510		\$153	\$1,663
TRASH AND RECYCLING FEES	\$240			\$240
WATER & SEWER UTILITY CHARGES		\$1,333		\$1,333
POWELL BILL	\$0			\$0
TOTAL REVENUE	\$1,750	\$1,333	\$153	\$3,236
EXPENDITURES				
ADMINISTRATION/FINANCE/HR	\$71			\$71
POLICE DEPT	\$160			\$160
FIRE DEPT			\$153	\$153
TRASH AND RECYCLING	\$240			\$240
STREET DEPT	\$186			\$186
PARKS & PROPERTY MANAGEMENT	\$125			\$125
PLANNING & ZONING	\$71			\$71
WATER DISTRIBUTION		\$145		\$145
WATER TREATMENT PLANT		\$207		\$207
SEWER COLLECTIONS		\$200		\$200
WASTERWATER TREATMENT PLANT		\$368		\$368
WATER & SEWER FUND DEBT		\$413		\$413
TOTAL EXPENDITURES	\$854	\$1,333	\$153	\$2,340
NET GAIN OR (LOSS)	\$896	\$0	\$0	\$896
ASSUMPTIONS: ONE (1) SINGLE FAMILY HOME; 5,000 GALLONS/MONTH; PER CAPITA CHARGE FOR PUBLIC SERVICES				
TAX VALUE OF HOME	\$326,050			

ORDINANCE NO. 2023-XX
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF BREVARD, NORTH CAROLINA

WHEREAS, the Brevard City Council has been petitioned under G.S. 160A-31, as amended, to annex the contiguous area described herein, and,

WHEREAS, the City Council has by Resolution No. 2023-40 directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the Brevard Planning Board reviewed the Petition at their meeting held on August 22, 2023 and recommended approval of the voluntary contiguous annexation; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition (relying on the opinion of the City Attorney) and the City Council adopted Resolution No. 2023-42 fixing a date of public hearing. By authority granted by G.S. 160A-31, a public hearing on the question of this annexation was held at the City Council Chambers at 5:30 P.M. on the 5th day of September, 2023, after due notice by publication on the 24th day of August, 2023; and

WHEREAS, the City Council does hereby find as a fact that the petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, all of that property lying in Transylvania County, owned by Melinda F. Greenfield, Trustee of the Melinda F. Greenfield Living Trust, as shown and all of that property described in the deed recorded in Document Book 1040, Pages 127–128, in the Transylvania County Register of Deeds and that certain plat provided by the Petitioners to be duly recorded upon annexation is hereby annexed and made a part of the City of Brevard as of the ____ day of _____, 2023.

Said property is more fully described as follows:

BEING all of 0.86 acres, more or less, as shown and described on a plat dated April 24, 2014 by E. Roger Raxter, PLS, and recorded in Plat File 16, Slide 61 of the Register of Deeds for Transylvania County, North Carolina.

Being the same property conveyed in a Deed from Uniformity Hub, LLC, dated May 17, 2022 and recorded June 6, 2022 in Book 1040, Pages 127-128 in the Transylvania County, North Carolina Register of Deeds Office.

Section 2. Upon and after the ____ day of _____, 2023 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Brevard and shall be entitled to the same privileges and benefits as other parts of the City of Brevard. Said territory shall be subject to the municipal taxes according to G.S. 160A-31.

Also being all of that property described in a plat prepared by E. Roger Raxter, PLS for Melinda F. Greenfield, Trustee of the Melinda F. Greenfield Living Trust, dated May 24, 2023 and recorded in Plat File _____, Slide _____, of the Transylvania County Registry.

Section 3. Pursuant to 160A-29 it shall be the duty of the Mayor of the City of Brevard to cause an accurate map of the annexed territory as described in Section 1 hereof, together with a duly certified copy of this Ordinance, to be recorded in the office of the Register of Deeds of Transylvania County, North Carolina, and in the office of the Secretary of State at Raleigh, North Carolina. Such a map shall also be delivered to the Transylvania County Board of Elections as required by G.S. 163.288.1.

Section 4. Notice of adoption of this Ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Brevard.

Adopted and approved the _____ day of _____, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Tuesday, September 5, 2023

Title: Property Tax Releases - August, 2023

Speaker: Tina Tanner, Tax Collector

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

Approved by: Wilson Hooper, City Manager

DATE: September 4, 2023

The City of Brevard has been notified by the Transylvania County Tax Administration of the following releases from the tax scroll of the City of Brevard.

The governing body of the City of Brevard is required by General Statute to approve these releases and instruct the Tax Collector to remove these properties values from the city tax records.

General Statute 105-381

(b) Action of Governing Body.--Upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the taxing unit shall within 90 days after receipt of such request determine whether the taxpayer has a valid defense to the tax imposed or any part thereof and shall either release or refund that portion of the amount that is determined to be in excess of the correct tax liability or notify the taxpayer in writing that no release or refund will be made.

A finance officer, manager, or attorney to whom this authority is delegated shall report monthly to the governing body the actions taken by him on requests for release or refund. All actions taken by the governing body or finance officer, manager, or attorney on requests for release or refund shall be recorded in the minutes of the governing body. If a release is granted or refund made, the tax collector shall be credited with the amount released or refunded in his annual settlement.

Release Amount for August 2023: \$1,086.79

-

Recommendation: Approve resolution to release values from the tax scroll.

Attachments:

1. 08 Resolution Tax Releases August 2023

RESOLUTION 2023-XX

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 August 2023 property values from the tax scroll in the amount of:

2023: \$ 1086.79

Adopted this the 4th day of September, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

MINUTES

Rosenwald Community Advisory Board

Thursday, May 18, 2023 - 6:00 PM

Mary C. Jenkins Community & Cultural Center

Members Present: Maurice Jones, Co-Chair, Council Member
Gary Daniel, Council Member
Victor Foster, Citizen Member
Edith Darity, Citizen Member
Karen Darity, Citizen Member (arrived at 6:10 pm)

Members Absent: Randy Lytle, Co-Chair, President MCJCC Board
Susan Threlkel, Citizen Member

Staff Present: 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 6:04 PM.

B. Invocation

Mr. Foster offered an invocation.

C. Certification of Quorum

Quorum was certified by City Clerk Denise Hodsdon.

D. Approval of Agenda

Because all Board members were not present Mr. Jones requested to remove Item I. Committee Member Applications Review and Recommendation from this agenda. This item will be discussed at a future special meeting. Motion by Mr. Daniel, seconded by Mr. Foster to approve the agenda as amended. The motion carried unanimously.

E. Approval of Minutes

1. February 16, 2023

Motion by Mr. Foster, seconded by Mr. Daniel to approve the minutes of the February 16, 2023 meeting as presented. The motion carried unanimously.

2. March 16, 2023

Motion by Mr. Daniel, seconded by Ms. Edith Darity to approve the minutes of the March 16, 2023 meeting as presented. The motion carried unanimously.

F. Juneteenth

Mr. Griffin reviewed the activities scheduled for Juneteenth Weekend.

- The Mary C. Jenkins Community Center Board will hold a Juneteenth Community Celebration at MCJCCC on Saturday, June 17th from 11:00 AM to 12:00 PM with Keynote speaker Minister Jonalyn Crite. Mayor Copelof will read the proclamation. The emphasis of this celebration is to bring awareness to the history of what Juneteenth is about. There will be a gospel selection and refreshments will be served.
- The City will hold the annual Juneteenth Block Party at Silversteen Playground on Sunday, June 18th from 12:00 to 5:00 PM. Activities will include a basketball tournament, Spades tournament, Dominoes tournament, and a horse shoe tournament. Food will be catered by Papa L.E.W., ice cream provided by Brain Freeze, and music provided by Sound Extreme.

G. Update re Moms Mabley Statue

Mr. Griffin updated the Committee on the Moms Mabley historical marker and proposed statue. The marker will be located at Clemson Plaza with unveiling in early September. Mr. Griffin has talked with sculptor Stephen Rapp about the statue that will be placed at MCJCCC in the circle by the parking lot. Mr. Rapp needs to raise \$15,000 to make two bronze maquettes, which will be miniatures of the statue used to show investors and City Council what the final product will look like in terms of expressions and artistic quality. The maquettes are usually collectibles and worth around \$8,000 each. Mr. Rapp has indicated that he plans to send one to the State Capital and is proposing to house the other here. Some of the profits will go to the Arts Council and some to the MCJCCC Board for future programming and events. The Arts Council is going to apply for a \$15,000 grant from the Transylvania County Tourism Board. Proposed timeline is for the maquettes to be done by the end of this summer and for the large statue to begin in the fall. It will take about 6 to 8 months to complete with an unveiling proposed for early fall 2024. Mr. Rapp is working the TC Arts Council and Heart of Brevard to make it a festival type event.

H. MCJCC Checklist Progress

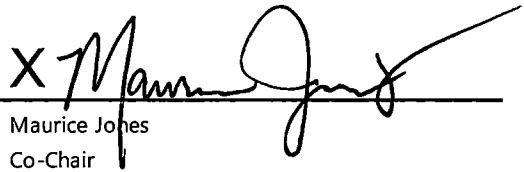
Mr. Griffin reported that he met with the contractor Travis Fowler of First Victory and architect Jim Alderman and walked around the building to see what was needed. First Victory has slowly begun to work on some of the items on the punch list. They will be at the Center tomorrow to work on the front door issue and look into the crack in the men's restroom. Mr. Daniel advised that the crack may require evaluation by an engineer.

I. Set Date for Next Meeting

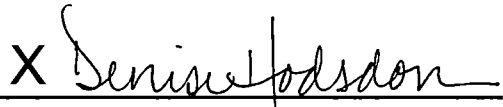
A special meeting was scheduled for Thursday, May 25, 2023 at 6:00 PM at the Mary C. Jenkins Community & Cultural Center for the purpose of reviewing committee member applications.

J. Adjourn

There being no further business, the meeting was adjourned at 6:40 PM.

X 
Maurice Jones
Co-Chair

Minutes Approved: August 17, 2023

X 
Denise Hodsdon,
City Clerk

MINUTES

Rosenwald Community Advisory Board Special Meeting

Thursday, May 25, 2023 - 6:00 PM

Mary C. Jenkins Community & Cultural Center

Members Present: Maurice Jones, Co-Chair, Council Member
Gary Daniel, Council Member
Susan Threlkel, Citizen Member
Victor Foster, Citizen Member
Edith Darity, Citizen Member
Karen Darity (Arrived at 6:33 PM)

Members Absent: Randy Lytle, Co-Chair, President MCJCC Board
Karen Darity, Citizen Member

Staff Present: Wilson Hooper, City Manager
Tyree Griffin, Community Center Director
Denise Hodsdon, City Clerk

Guest: Mayor Maureen Copelof

A. Welcome & Call to Order

Co-Chair Maurice Jones welcomed everyone and called the meeting to order at 6:15 PM.

Mr. Daniel asked to make a statement before the start of the meeting. He said I think it is highly inappropriate that the Mayor is here for this discussion considering her connection with Ursula Wynn. I asked her to not be here and she has decided to be here. I feel like there is a certain amount of intimidation by her presence here. She doesn't usually come to this, but she decides to come to this meeting. I just want that on the record and I will repeat it later if needed.

Mayor Copelof responded by saying I often go to committee meetings and sit in when there is a topic that I want to hear the discussion on. I do want to hear the discussion today. I know Ursula and I also know Rebecca Wynn quite well and served for years on boards with her. I know Royce quite well and in fact I know every applicant quite well. I don't view the fact that I am sitting here to hear a discussion that I care about as intimidation. I just want to be informed and know what people are thinking and I would like to hear it firsthand, not second and thirdhand. That's why I am here and it is an open meeting.

B. Invocation

Mr. Foster offered an invocation.

C. Certification of Quorum

Quorum was certified by City Clerk Denise Hodsdon.

D. Committee Member Applications

The Mary C. Jenkins Community Center Board has appointed the following four members to the Rosenwald Community Advisory Board:

Randy Lytle
Victor Foster
Edith Darity
Susan Threlkel

The Committee reviewed and discussed applications for at-large membership received from the following community members:

Ursula Wynn	Application received 3/21/2023
Royce Jenkins	Application received 3/30/2023
Ella Jones	Application received 5/20/2023
Rebecca Wynn	Application received 5/23/2023

Maurice Jones began the discussion and said this is a strong list of applicants and all would qualify in a sense of being members of the Rosenwald Community. I do have ill concerns about two of the applicants just for character reasons. These two individuals socially harassed me over what was going on in this community for a long time with very ill words. I would want somebody who would rather seek ways to move forward than to put another member of that committee down in front of people on social media. Ursula Wynn does have a voice and it could be powerful and very positive and it is going to be her choice if she wants to lead in a positive and powerful way to help her community. I would support her on another board, but I don't want her on this board. If she gets on this board, I will give my resignation from the Rosenwald Community Advisory Board. I will not be recommending Ursula Wynn or Royce Jenkins.

Mr. Foster said I have worked a lot with Rebecca Wynn and I know how strong she is, we've even had disagreements with each other in love, because she is strong in what she believes in. I admire her tenacity and wanting to always do what is right. I do recommend her and Ella Jones is like my sister. My personal vote is for Ella Jones and Rebecca Wynn.

Gary Daniel said I would agree with those two.

Susan Threlkel said I only saw parts of the social media video referenced earlier and had never met her at that point. I was petrified that Jim Fatland would see that video and it would end what we had been working on for so long. If she had realized that there was a committee desperately working on this and that it was actually going to happen, I don't think she would have done that. It all turned out okay, but it was still disturbing.

Ms. Edith Darity said I know the two young people that made the outrageous statements. It was so insulting when she mentioned Bethel "A" Baptist Church and the people who had been trustees over that property for forty years. They were getting ready to give us the land so that we would be able to build this building and have proper parking. I agree, they are not the two that should be on this board representing this community and speaking out on behalf of all that we have tried to do in a very decent and intelligent and respectful way. Not yet. I think Rebecca Wynn and Ella Jones would make good board members of this Advisory Board. They have wisdom and understanding of the community, they work with many organizations, both of them are loved and members of our church and they would look at things with a very wise eye.

Karen Darity said we have a lot of sweat in this game. We do not take any actions or movements on behalf of the community lightly. My primary concern with Ms. Ursula – she is a female Black business owner and I am proud of that because that is the first time that we have had somebody represented uptown. My fear is...on her application where it asks why do want to be on the advisory committee, she said that the community trusts her. I am very concerned about that because if you are in a position of leadership, you have to get your facts right. We are trying to bridge the relationship between Rosenwald and Transylvania County and I just feel that one particular person may not have our best interest at heart. I do not say that in a disrespectful way because she is a business owner and that takes a lot. Given time, I feel she would be a great asset to the community because she does draw the young people. But I am just not okay with people that promote us in a negative way. For Mr. Jenkins, I don't know him that well and have only seen him once or twice. I am not really sure what his opinion would be of the community center or of the board. Neither one of them have approached any of the board members to my knowledge to ask to get involved or offer their service or anything beyond wanting to be in charge of the kitchen, but we already had somebody slated for that. So, I am not sure about what he anticipates on doing, but again, once they get something under their belt, they will be great assets to the community.

Mr. Jones said I think they all can bring something good to the table, but what we're looking at is not just something, we need the whole person to be able to bring positivity and forward movement. Again, I think those would be Ella and Rebecca. It sounds like our recommendations are the exact opposite of the Finance, Human Resources and Citizen Appointment Committee.

Ms. Karen Darity said no matter who is appointed, we are going to go with it and we are

going to welcome them. But at the same time, we have to think about who is coming behind us and what legacy we are leaving behind.

Mr. Jones moved, seconded by Mr. Foster to nominate Ella Jones and Rebecca Wynn for the two at-large seats for the Rosenwald Community Advisory Board. The motion carried unanimously.

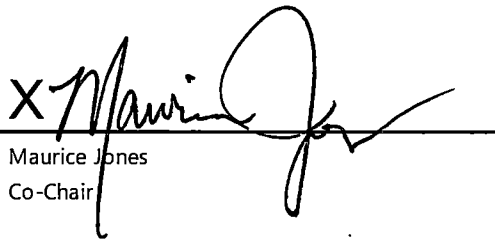
Mr. Hooper noted that the substance of the Board's feedback and official referral will be shared with the full Council in their packet alongside the Finance, Human Resources & Citizen Appointment Committee.

Mr. Jones inquired about whether he would need to recuse himself from the Council vote on the appointments, since nominee Ella Jones is his mother. Mr. Hooper said he didn't think recusal was legally necessary because there are no financial implications to the appointment but that he would consult with the City Attorney and have a more definitive answer before the Council vote. Mr. Hooper said Mr. Jones might consider a voluntary recusal to avoid a perceived conflict of interest.

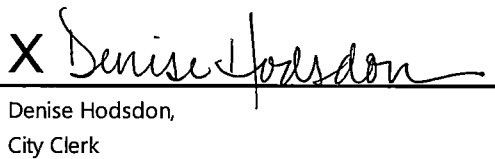
Before adjourning, Ms. Karen Darity noted that this is her last official meeting. She said she has enjoyed serving on the Board and she wished the Board much success because there is a lot of work to do in the community. She will continue to serve as a member of the MCJCC Board. Members of the Board thanked her for your input and commitment.

E. Adjourn

There being no further business, the meeting was adjourned at 6:58 PM.

X 
Maurice Jones
Co-Chair

Minutes Approved: August 17, 2023

X 
Denise Hodsdon,
City Clerk

MINUTES
City Council Public Safety Committee

Monday, June 26, 2023 – 3:30 PM
City Hall Council Chambers

Members Present: Mac Morrow, Chair, Council Member
Maurice Jones, Vice-Chair, Council Member
Kevin Gallo, Citizen Member

Staff Present Wilson Hooper, City Manager
Tom Jordan, Police Chief
Bobby Cooper, Fire Chief
Denise Hodsdon, City Clerk
Becky McCann, Communications Coordinator
Paul Ray, Planning Director
Emily Brewer, Senior Planner

Guests: Mayor Maureen Copelof
Nicole Bentley, Heart of Brevard Executive Director
Residents Linda Gallo, Jermois Morris, Beth Hyatt, and Celia Richmond

Media: Jon Rich, Transylvania Times

A. Welcome & Call to Order

Committee Chair Mac Morrow welcomed everyone and called the meeting to order at 3:31 PM.

B. Certification of Quorum

City Clerk Denise Hodsdon certified that a quorum was present.

C. Approval of Agenda

Mr. Morrow noted that Mayor Copelof has requested that two items be added to the agenda regarding 1) Parkview Avenue/French Broad Intersection; and 2) Wilson Drive/East Main Street/Greenville Highway Intersection. Mr. Gallo requested to add an Update on the May 24th Traffic Group meeting regarding Probart Street. Motion by Mr. Jones, seconded by Mr. Gallo to approve the agenda as amended. The motion carried unanimously.

D. Minutes from May 22, 2023 Meeting

Motion by Mr. Jones, seconded by Mr. Gallo to approve the minutes of the May 22, 2023 meeting as presented. The motion carried unanimously.

E. Continued Discussion re Social Districts

Emily Brewer presented the updated draft Downtown Social District Plan (copy attached). She noted that the biggest changes from the previous version are as follows:

- Social District Boundaries - the boundaries have been significantly reduced to focus on the heart of downtown, bound by Probart, Gaston, Jordan and England Streets around Main Street.
- Hours of operation - hours are proposed as daily from 11:00 am to 10:00 pm.
- Policing and Enforcement - Ms. Brewer said it was important to note that enforcement measures added under the Policing and Enforcement section are strictly enforcing the rules of the Social District, such as signage, using the right cups, and getting a permit. It does not include any of the other enforcement mechanisms and penalties outlined in North Carolina State law for alcohol-related crimes, such as public intoxication, disorderly conduct, and under-age possession of alcohol.
- Sidewalk Dining Areas – businesses will need a sidewalk dining permit to have dining and service on the sidewalk, but won't need a barricade or signage that says alcohol can't be taken away from the premises. Language has been added to clarify that.

Ms. Brewer pointed out that City Council will need to hold a public hearing and because of the additional next steps, Staff estimates that the Social District would not be operational for approximately six to eight weeks following the adoption of an ordinance by City Council.

Mr. Hooper added that there have been some questions about a permit fee and he recommends establishing a minimal fee to help cover most of the costs.

Mr. Hooper noted that if the Committee recommends this proposal today, Nicole Bentley will take it to Downtown Stakeholders on July 10th for their input. As long as there are no substantive issues, hopefully we can take this proposal to the full Council in August. Motion by Mr. Morrow, seconded by Mr. Jones to refer the proposal to Council in August with recommendation to approve, unless we hear something from the stakeholders. The motion carried unanimously.

F. Mills Avenue Speed Study

Mr. Hooper reported on the results of the Mills Avenue speed study. The purpose of the study was to do an analysis of a request for no on-street parking signs on Mills Avenue. Speed data has been collected and our consultant from Transportation Planning and Design has recommended that the only change necessary on Mills Avenue is put “no on-street parking” signs across from the Mary C. Jenkins Community Center around the curve after Georgia Hill Street. The consultant has said that the on-street parking adjacent to Georgia Hill actually makes sense as it acts as a traffic calming device. The speed limit on Mills Avenue is 15 mph and the speed data indicates that the average speed of vehicles traveling down the hill is 20 mph, but if it weren’t for that on-street parking perhaps we would see faster speeds. Motion by Mr. Jones, seconded by Mr. Morrow to recommend to Council to add no parking on Mills Avenue to the City’s Traffic Schedule. The motion carried unanimously.

G. “Jake Brake” Options

Mr. Hooper provided a copy of NC Department of Transportation’s Standard Practice for installing signs prohibiting use of unmuffled engine compression brakes. He noted it requires the adoption of a local ordinance and a series of steps we would need to go through with NCDOT to get those signs installed. He asked for consensus from the committee whether this is something they want to pursue. There was consensus to go ahead.

H. Parkview/French Broad Intersection

Mayor Copelof explained that this intersection is very difficult and if you are trying to make a right turn, you can’t do it without swinging into the other lane. This has been brought up by people that live in that area and they are asking if it could be a 3-way stop at that intersection to make it easier to make that turn safely. There have also been complaints about speeding and it would also be a traffic calming measure. This is an NCDOT street, so it would have to go to them. She requested that the Committee give her permission to bring this up with the District 14 Engineer when she meets with her next to see if this is something that NCDOT would support. There was consensus for Mayor Copelof to bring this to NCDOT.

I. Wilson Drive/E. Main Street/Greenville Highway

Mayor Copelof explained that the pedestrian crossing at this intersection has been brought up as a safety issue and there has been a request to put a flashing pedestrian light there, which would be more visible to traffic. Again, this is a DOT road so we would have to make that request of them. Mr. Hooper noted that this is a weirdly-configured intersection and suggested looking at this at a complementary angle as two of those roads are ours. He asked for permission to work on that with

our traffic consultant to see if there is some minor physical reconfiguration we could do there to make it safer and easier to navigate. There was consensus to move forward with working with the traffic consultant and for Mayor Copelof to bring it to NCDOT.

J. Update re Probart Street

Mr. Hooper reported that after reviewing some preliminary traffic data and consulting with the traffic consultant on some of the grades and sight lines, we have deemed Probart to be a candidate for some additional traffic calming. Chief Jordan will post two speed signs on Probart Street again to get some summertime traffic data and we will continue to work with our traffic consultant and working group to find a possible traffic calming measure that will bring those speeds down and make that street a little safer.

K. Set Date for Next Meeting

The next meeting of the Public Safety Committee will be on Monday, August 28, 2023 at 3:30 pm at City Hall.

L. Adjourn

There being no further business, the meeting was adjourned at 4:22 PM.

Minutes Approved: August 28, 2023

X Mac Morrow

Mac Morrow,
Chair, Council Member

X Denise Hodsdon

Denise Hodsdon,
City Clerk

STAFF REPORT

Public Safety Committee, Monday, June, 26, 2023

Title: **TXT-23-006: Social Districts**

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, AICP, Senior Planner

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

Background

On September 8, 2021, North Carolina Session Law 2021-150 was ratified, allowing governments to establish “Social Districts” within their jurisdictions. A social district is an exception to North Carolina’s open container law in a designated area during certain times. These social districts allow for common areas where licensed establishments (e.g., bars, breweries, restaurants) may sell alcoholic beverages in designated containers to be taken into common areas for consumption. This applies to privately-owned property, including those with and without an ABC permit, and public streets, crosswalks, and parking areas. The act was subsequently amended with Session Law 2022-49, which refined the initial legislation and provides additional details on the operation of social districts.

At least 36 North Carolina municipalities have adopted social districts. These range from the large municipalities like Raleigh to small towns like Sylva. Many cities have reported economic growth and revitalization following the establishment of social districts, including new businesses opening up, increased visitors and pedestrian activity, and new opportunities for events like

Social districts have been discussed by many Council members and constituents – first as part of the Comprehensive Land Use Plan, then following a Main Street program conference earlier this spring, and finally at Public Safety Committee meetings. On April 24th and May 22nd, the Public Safety Committee discussed social districts and instructed Staff to continue researching and prepare a proposal for review. The feedback received at each of those meetings informed the attached proposal. The following are included as Attachments for the Committee’s review and recommendation:

- Attachment 1: Proposed social district boundaries
- Attachment 2: Proposed text amendment establishing the social district
- Attachment 3: Proposed social district management and maintenance plan

Discussion

As previously stated, the newly amended North Carolina General Statutes §18B-300.1 authorizes cities to establish these social districts and outlines the rules and regulations required. In order for a City to establish a social district, the following must occur:

1. The City must adopt an ordinance designating the social district, along with the boundaries, days and hours of operation, and rules.

2. The City must establish a management and maintenance plan.

Staff has been developing the required documentation and developing the relevant plans for review by the Committee, and ultimately City Council. Some key topics and elements of these materials are discussed below.

Social District Boundaries

In order for a city to establish a social district, the Council must adopt an ordinance designating a social district with the days and hours of operation. The proposed social district boundaries include six blocks of Downtown Brevard that are densely populated by restaurants, bars, and retailers that could benefit from increased foot-traffic and activity. The area is bound by Probart Street, Gaston Street, Jordan Street, and England Street. Many of the businesses with an ABC-permit in this area have already expressed an interest in participating in the social district.

Social District Hours of Operation

Staff is proposing that the social district be operational from 11am to 10pm daily. Consideration included the following:

- Many municipalities with social districts have similar days and hours of operation.
- The hours of 11am to 10pm are consistent with most businesses in the area.
- The activity from the social district may encourage/allow businesses to stay open later and/or be open more frequently.
- Consistent times that are in effect daily will be easier for business owners to comply with the regulations and patrons to understand the hours of operation.
- There are no schools, religious institutions, or places of worship located within the proposed boundaries of the social district.

Social District Management and Responsibilities

Because the City is responsible for establishing the social district and ensuring compliance with state law, the City of Brevard will be the lead management entity for the Downtown Brevard Social District, with Heart of Brevard serving as a project partner. More specifically, the responsibilities of various groups are below:

- The City's Communications Director will ensure the City's website is maintained with all of the relevant information and regulations regarding the social district.
- The City's Planning Department will administer the Social District permits for ABC-permitted businesses choosing to participate.
- The City's Police Department will enforce the requirements of the Social District.
- The City's Public Works Department will provide sanitation and maintenance services.
- Heart of Brevard will serve as liaison with participating businesses and provide marketing and promotional services.

Public Safety Considerations

One of the biggest concerns heard by cities across the State is that implementing social districts would cause an uptick in alcohol-related crimes and public disturbances. A

representative from Kannapolis, the first City in NC to adopt social districts in October 2021, stated, “I meet regularly with our police department’s patrol staff, we have an officer stationed downtown, and we haven’t had any issues with security. All of the feedback has been great.” Kannapolis’ Communications Director concurred, “It’s not that people are showing up and just drinking and drinking and drinking. You’re having a glass of wine or a beer outside at a table. It’s not anything excessive.”¹

The Town of Sylva also had the same conclusion after their own study. According to Sylva Police Chief Chris Hatton, “We compiled statistics for what is now the social district for the past three years to create a baseline. The department then compared all service calls in the designated social district area to calls during the trial period. We have not experienced any significant increase or decrease in these types of calls.”²

Brevard Police Chief Tom Jordan surveyed other municipalities about the impact of social districts on policing. All of the respondents that have active social districts in their jurisdiction reported negligible changes in alcoholic-related crime and other incidents. In fact, some municipalities reported that a positive impact of social districts was that there is a central place to monitor alcohol use. Chief Jordan’s findings are included as Attachment 4.

City Liability

One question posed by the Committee was if the City would be exposed to greater liability with the adoption of a social district. Staff contacted Amy Whisnant, Risk Control Consultant with the NC League of Municipalities, who confirmed that there is no additional liability for the City. Therefore, no additional or special insurance underwriting is required.

Policing and Enforcement

Policing and enforcement of the social district rules are the responsibility of local law enforcement and the local NC Alcohol Law Enforcement (ALE) Division. In Brevard, the City’s law enforcement is contracted by State to serve as the local ALE division.

Staff worked with Chief of Police Tom Jordan and City Attorney Mack McKeller to develop the enforcement section of the proposed ordinance (Section 43-11), which establishes that violators may be subject to a civil penalty; permit revocation, suspension, or ban; and/or equitable remedy by the courts. It is important to note that this section only applies to violations of Chapter 43, which covers the establishment and operation of the social district. *It does not include enforcement of alcohol-related crimes*, such as public intoxication, disorderly conduct, under-age possession of alcohol, etc., as those are crimes with penalties outlined by North Carolina State law.

Sidewalk Dining Areas

¹ Pressler, A. (2023, February 1). NC trend: Social districts rev the state’s downtowns. *Business North Carolina*. <https://businessnc.com/nc-trend-social-districts-rev-the-states-downtowns/>

² Connor, S. (2023, March 31). Social districts slow to catch on in WNC. *Mountain Xpress*. <https://mountainx.com/news/social-districts-slow-to-catch-on-in-wnc/>

Questions arose about how the social district interacts with sidewalk dining permits. Section 42-3 and Section 46-35 of the City Code authorize the City to issue a sidewalk dining permit that would allow for the sale and consumption of alcohol on public sidewalks. Amongst other things, this may only be allowed if:

- Barricades and signage are placed along the perimeter of the sidewalk dining area.
- No preparation of alcoholic beverages occurs on the sidewalk (e.g., there cannot be an outdoor bar, but a waiter may bring alcohol outside to a patron in the approved sidewalk dining area)

The proposed text amendment allows businesses *with* a sidewalk dining permit located in a social district to serve alcohol on the sidewalks *without* the barricades / signage *during* the social district's approved days and hours of operation. The stipulation that no preparation can occur on the sidewalk remains.

Again, it is important to note that a business will only be allowed to serve alcohol on the sidewalk as part of an approved sidewalk dining permit.

Social District Permit Process

In order to participate, ABC-permitted establishments must be located in the Downtown Brevard Social District boundaries and obtain a Social District Permit from the City of Brevard Planning Department. Permitting allows the City to ensure that those businesses selling alcoholic beverages within the Social District are aware of and in compliance with the requirements of the Management Plan and City Code. As part of the permitting process, the business owner must provide written acknowledgment to abide by the rules, regulations and requirements of the social district. Many other cities use a similar permitting process (a sample permit from the City of Lenoir is included as Attachment 5).

Operationalizing the Social District

Once the City has established the social district, in accordance with the procedures outlined above, the social district cannot be operational until the following occurs:

1. All rules and information, including the management and maintenance plan, is readily available to the public and posted on the City's website.
2. The social district is registered with NC ABC Commission.
3. A logo is designed for the district to be placed on all signage, cups, etc.
4. Uniform signage is designed, ordered, and installed.
5. Cups are designed, ordered, and ready for use.
6. Businesses review rules and secure Social District Permits, if applicable.

Because of those steps, Staff anticipates that the Social District would not be operational for approximately six to eight weeks following the adoption of an ordinance by City Council.

Policy Analysis

The *Building Brevard 2030* Comprehensive Land Use Plan explicitly calls out social districts as a tool for economic development that should be explored by the City:

- ***Goal 7:*** Support economic vitality and grow the tax base, cultivate local businesses, and attract sustainable industry.
- ***Economic Development, Infrastructure & Resiliency - 13:*** Consider designation of one or more social districts to encourage the food and beverage cluster.

Recommendation & Next Steps

The Committee's role is to make a recommendation to City Council. The Committee has the following options in this role:

1. Recommend adoption of the amendment as written;
2. Recommend adoption of the amendment as revised by the Committee; or
3. Recommend rejection of the amendment.
4. Table the amendment for further consideration.

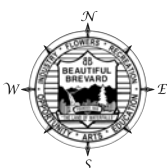
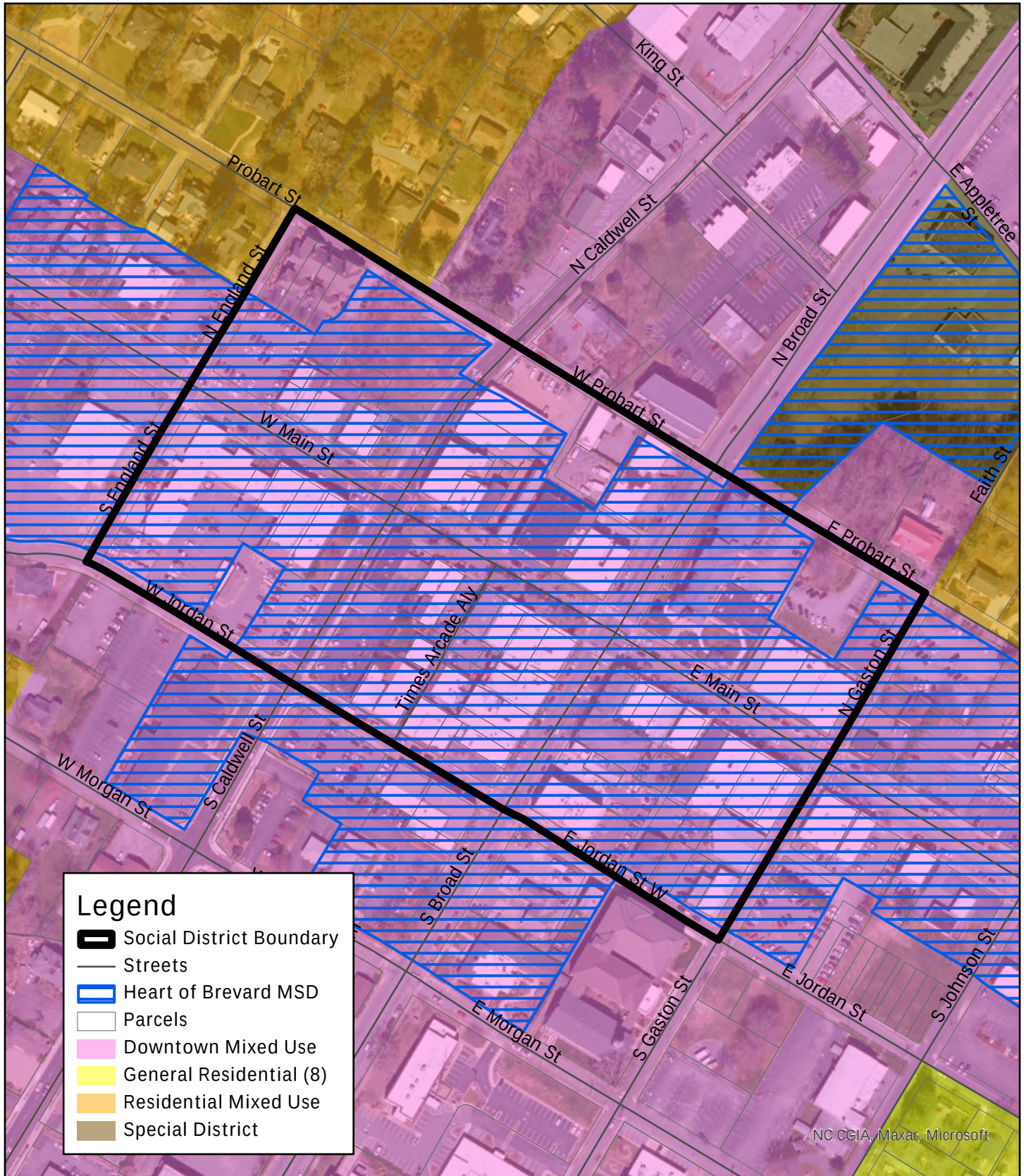
With the Committee's recommendation, Staff, in coordination with the Heart of Brevard, will conduct additional outreach and community engagement in July in advance of a public hearing in August.

Attachments

1. Proposed Social District Boundaries
2. Proposed Social District Text Amendment
3. Proposed Social District Management and Maintenance Plan
4. Chief Jordan's Survey Results
5. City of Lenoir Social District Permit

Proposed Boundaries for Downtown Brevard Social District

JUNE 2023 - DRAFT FOR DISCUSSION ONLY



1 inch = 213 feet

This map was prepared by the City of Brevard Planning Department, June 2023.
Disclaimer: The information contained on this page is NOT to be construed or used as a survey or legal description. Map information is believed to be accurate, but accuracy is not guaranteed.

Sec. 42-3. Consumption or possession of alcoholic beverages in public place.

A. It shall be unlawful for any person to consume, sell, serve or drink alcoholic beverages of any kind, or to publicly display alcoholic beverages if the container has been opened or the seal broken, on any property owned, leased or controlled by the city, and any public street, alley, sidewalk or parking lot within the city limits, whether the area is open to vehicular traffic or has been closed to vehicular traffic in connection with a parade or other special event, unless a valid permit is obtained, pursuant to the subsections (1) and (2), below:

(1) The city manager (or designee thereof, hereafter, "the administrator") is hereby authorized to issue a special permit that would allow to permit the sale and consumption of alcoholic beverages during special events, which have been permitted pursuant to Chapter 66 of Brevard City Code, and City of Brevard Unified Development Ordinance ~~Chapter 3, Additional Use Standards~~.

(2) The city manager or the administrator is hereby authorized to issue a social district participation permit that would allow the sale of alcoholic beverages for consumption in a designation Social District pursuant to Chapter 43 of Brevard City Code.

~~(3)~~ The city manager or the administrator is hereby authorized to issue a sidewalk dining permit that would allow the sale and consumption of alcohol on public sidewalks pursuant to Chapter 46 Article II of the Brevard City Code.

~~(4)~~ This permit shall only be valid for a designated area.

~~(4) For special events, the sales and consumption of malt beverages and unfortified wine, but no other alcoholic beverages, shall be as authorized on the permit; provided, however, that no such sales shall be allowed earlier or later than during the city permitted timeframe of the festival. [Moved to Ch. 66]~~

(5) The permit holder shall be solely responsible for assuring compliance with all applicable laws of the City of Brevard and the State of North Carolina pertaining to the sales and consumption of alcoholic beverages. Permit holders who demonstrate failure to assure compliance with such laws shall be subject to immediate permit revocation, and may be subject to such civil and criminal penalties as are set forth in Brevard City Code and the North Carolina General Statutes. ~~The administrator shall have the discretion to withhold approval of permits for the sales and consumption of alcohol associated with future special events, when the permit holder has failed to demonstrate compliance with such law in the operation of previous events. [Moved to Ch. 66]~~

~~(6) Special event permit holders shall submit an operational plan demonstrating the procedures and practices that will be employed to assure such compliance with all applicable regulations as set forth in Brevard City Code and the North Carolina General Statutes. Such plan shall specifically address the prevention of the sales of alcohol to minors, and the methods that will be employed to contain the consumption of alcohol within the designated area. [Moved to Ch. 66]~~

~~(6)~~ In the issuance of a permit, the administrator shall have the authority to impose reasonable conditions to protect the public health, safety welfare.

(78) Chief of police, police department event commander on-duty, and the administrator shall have authority to immediately cause alcohol sales and consumption activities to cease and desist upon a determination that the permit holder has failed to maintain compliance with the terms and conditions of the permit or the requirements of Brevard City Code, or that continuation of alcohol sales and consumption at the event would pose an immediate threat to the public health, safety and welfare.

Chapter 43: SOCIAL DISTRICTS.

ARTICLE I. - IN GENERAL

Sec. 43-1 – Purpose and Intent

- A. Pursuant to the provisions of N.C.G.S § 160A-205.4, et seq, a municipality may, by ordinance, designate one or more social districts within the City for use in accordance with N.C.G.S. § 18B300.1. The social district(s) established by the City are described herein, along with the days and hours of operation.
- B. The Social Districts shall be created, designated, and managed in accordance with the requirements contained in N.C.G.S. § 160A-205.4 and Chapter 18B.
- C. To the extent required by applicable State law, any portion of a social district described within this Article that overlaps with a premises subject to a permit for on-premises consumption of alcohol issued by the North Carolina Alcoholic Beverage Control Commission for a special event shall be suspended during the event to the extent the social district and the permitted premises are in conflict.
- D. The City shall establish and approve a management and maintenance plan for each established and designated social district. The plans are to be maintained and posted, along with a rendering of the boundaries of the social district and days and hours during which alcoholic beverages may be consumed in the social district on the City's website.

Sec. 43-2 – Definitions

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

- A. *Customer* means a person who purchases an alcoholic beverage from a permittee that is in a social district.
- B. *Multi-tenant establishment* means a building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.
- C. *Non-Permittee Business* means a business located in a social district and does not hold any North Carolina Alcoholic Beverage Control Commission (ABC) permit.

D. *Open Container* means a container that has a broken seal or a container other than the manufacturer's unopened original container.

E. *Permittee* means a person holding any of the following ABC permits:

1. An on-premises malt beverage permit issued pursuant to N.C.G.S. §18B-1001(1).

2. An on-premises unfortified wine permit issued pursuant to N.C.G.S. §18B-1001(3).

3. An on-premises fortified wine permit issued pursuant to N.C.G.S. §18B-1001(5).

4. A mixed beverages permit issued pursuant to N.C.G.S. §18B-1001(10).

5. A wine shop permit issued pursuant to N.C.G.S. §18B-1001(16).

6. A distillery permit issued pursuant to N.C.G.S. §18B-1100(5).

F. *Public Street* means any highway, road, street, avenue, boulevard, or another way within and under the control of the City or State and open to public use, including the sidewalks of any such street.

G. *Person* means an individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.

H. *Premises* means a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed, or other legal processes.

I. *Social District* means a defined area in which a person may consume alcoholic beverages sold by a permittee, pursuant to N.C.G.S. 18B-300.1 or other applicable state law. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the local government by ordinance. A social district may include privately owned property, including permittees and non-permittee businesses, and multi-tenant establishments, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.

Sec. 43-3 – Application

A. The social districts shall operate during the hours and days provided within this article. At all other times, the provisions and terms contained in this article are not in effect and all provisions of state and local laws concerning the possession and consumption of alcohol shall be in full force and effect.

B. Any alcoholic beverage purchased for consumption in the Social District shall:

1. only be consumed in the Social District and

2. be disposed of before the person in possession of the alcoholic beverage exits the Social District unless the person is reentering the licensed premises where the alcoholic beverage was purchased.

Sec. 43-4 – Severability

A. If any section, phrase, sentence or portion of this Chapter is held void, invalid, unconstitutional or unenforceable for any reason by any court of competent jurisdiction,

such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions thereof.

ARTICLE II. - DISTRICTS

Sec. 43-5 – Downtown Brevard Social District

A. The social district established by the City Council pursuant to G.S. §18B-904.1 is described herein, along with the days and hours of operation. To the extent required by applicable State law, any portion of a social district described within this Section that overlaps with premises subject to a permit for on-premises consumption of alcohol issued by the North Carolina Alcoholic Beverage Control Commission for a special event shall be suspended during the event to the extent the social district and the permitted premises are in conflict.

1. *Boundary.* The Downtown Brevard Social District is hereby established as shown on the “Official Downtown Brevard Social District Map,” as adopted by the Brevard City Council and certified by the city clerk.

2. *Days and Hours.* The days and hours of operation for this social district shall be Monday to Sunday, from 11 a.m. to 10 p.m. At all other times, the provisions and terms contained in this article are not in effect and all provisions of state and local laws concerning the possession and consumption of alcohol shall be in full force and effect.

ARTICLE III. – PARTICIPATION

Sec. 43-6 – Participation.

A. Each permittee and non-permittee located within an established and designated social district and voluntarily wishes to participate shall display a uniform sign, provided by the City or its designee, indicating its inclusion in the Social District, and allows alcoholic beverages on its premises when the social district is active.

B. No business shall be required to participate or be included in the Social District or to allow customers to bring alcohol onto its premises.

C. Permittees and non-permittee businesses in a multi-tenant establishment located within the Social District may participate in the Social District regardless of whether the multi-tenant establishment has a common area entertainment permit, in accordance with N.C.G.S Chapter 18B.

Sec. 43-7 – Requirements for Permittee Participation in Social Districts.

A. A permittee located in or contiguous to the Social District may sell alcoholic beverages for consumption within the Social District it is located in accordance with the following requirements:

1. The permittee shall obtain a permit from the City of Brevard;

-
- 163 2. The permittee shall only sell and serve alcoholic beverages on its licensed premises;
- 164 3. The permittee shall only sell alcoholic beverages for consumption in the social
- 165 district for which they are located, in a container that meets the following
- 166 requirements:
- 167 a. The container clearly identifies the permittee from which the alcoholic
- 168 beverage was purchased.
- 169 b. The container clearly displays a logo or some other mark that is unique to
- 170 the social district in which it will be consumed.
- 171 c. The container is not comprised of glass.
- 172 d. The container displays, in no less than 12-point font, the statement, "Drink
- 173 Responsibly – Be 21."
- 174 e. The container shall not hold more than 16 fluid ounces.
- 175 B. Nothing in this section shall be construed to authorize the sale and delivery of alcoholic
- 176 beverage drinks in excess of the limitation set forth in N.C.G.S. § 18B- 1010.
- 177 C. Nothing in this section shall be construed to authorize the sale and delivery of alcoholic
- 178 beverages without proper license to be obtained by the permittee from the North Carolina
- 179 Alcoholic Beverage Control Commission.
- 180

181 **Sec. 43-8 – Requirements for Non-Permittee Participation in Social Districts.**

- 182 A. A non-permittee business that is part of the Social District and allows customers to
- 183 bring alcoholic beverages onto its premises is not responsible for enforcement of
- 184 N.C.G.S. §18B but must comply with the following requirements:
- 185 1. The non-permittee business shall post the uniform signage established by the
- 186 Social District indicating that customers may bring alcoholic beverages onto
- 187 the premises of the non-permittee business during the days and hours that
- 188 the social district is active.
- 189 2. Clearly, post signage at any exits that do not open to the social district
- 190 indicating that alcoholic beverages may not be taken past that point.
- 191 3. Allow law enforcement officers access to the areas of the premises accessible
- 192 by customers during the days and hours the social district is active.
- 193

194 **Sec. 43-9 – Requirements for Possession and Consumption of Alcoholic Beverages**

195 **within a Social District.**

- 196 A. The possession and consumption of an alcoholic beverage in an established and designated
- 197 social district is subject to all of the following requirements:
- 198 1. Only alcoholic beverages purchased from a permittee located in the social district
- 199 may be possessed and consumed in the social district.

-
- 200 2. Open container alcoholic beverages purchased in the social district shall only be in
201 the containers meeting the requirements set in Sec. 43-7 of this article. Except for
202 open containers sold by a permittee for consumption on the permittee's premises.
- 203 3. Open container alcoholic beverages shall only be possessed and consumed during
204 the days and hours set for in Article II of this Chapter for the social district in which
205 the beverage was purchased from the participating permittee.
- 206 4. Nothing in this subsection shall be construed as authorizing the sale and delivery of
207 alcoholic beverage drinks in excess of the limitation set for in N.C.G.S § 18B-1010.
- 208 5. All open container alcoholic beverages purchased within the social district shall be
209 disposed prior to a person exiting the social district boundaries, unless the person is
210 reentering the licensed premises where the alcoholic beverage was purchased.
- 211 B. As authorized by and subject to the limitations of N.C.G.S. § 18B-300.1 (f), a permittee or
212 non-permittee business may allow a person to possess and consume on the business's
213 premises alcoholic beverages purchased from a permittee in the social district.
- 214 C. A person, including a customer who is in possession of an open container of an alcoholic
215 beverage authorized under this Chapter, may possess alcoholic beverages in closed
216 containers in a social district to the extent allowed by law.
- 217

218 **Sec. 43-10 – Exceptions**

- 219 A. When a special event held pursuant to the issuance of a special event permit, issued by the
220 City, the terms of the special event permit supersede the provisions of this article within the
221 boundaries of the special event.
- 222 B. Any alcoholic beverages purchased within the boundaries of the special event may not be
223 taken outside the special event boundary, even if the alcoholic beverage is to be taken from
224 the boundary of the special event into the boundary of a social district.
- 225

226 **Sec. 43-11 – Enforcement**

- 227 A. Infraction. A permittee, non-permittee business or person who violates or fails to comply
228 with the provisions of this Chapter shall be subject to one or a combination of the
229 following methods:
- 230 1. Permit revocation, suspension, or permanent ban. Any permittee, non-permittee
231 business or person who violates any provision of this article may be subject to its
232 Social District Permit being revoked or suspended, or permanently banned from
233 participating in City of Brevard Social Districts. Any permit revocation or permanent
234 ban shall be reported to the North Carolina ABC Commission.
- 235 2. Civil penalty. Any permittee, non-permittee business, or person who violates any
236 provision of this article may be fined by a civil penalty of \$100.00 per occurrence
237 which may be recovered by the City in a civil action in the nature of a debt if the
238 violation does not pay the penalty within 30 days from the date the violator is
239 notified of the penalty. Any other service charges imposed by this article may be
240 collected by the City as a civil penalty in a civil action.
-

3. *Equitable remedy.* The City may apply to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

B. *Notice.* The City of Brevard Police Department shall serve written notice of any violation of this Chapter to the offender.

C. *Appeal.* Any offender so assessed a violation under this Article shall have the right to appeal upon serving written notice of appeal on the Police Chief within 10 days of issuance of the notice of violation.

CHAPTER 46, ARTICLE II. SIDEWALK DINING AREAS

Sec. 46-31. In general.

Notwithstanding any other provisions of this code to the contrary, sidewalk dining shall be subject to such regulations as are set forth in this section.

Sec. 46-32. Permit required.

No restaurant owner may operate sidewalk dining without first obtaining a permit from the city manager in accordance with the requirements of this article. As used in this section, the term city manager includes his or her authorized designee.

Sec. 46-33. Application.

Any restaurant owner desiring to operate a sidewalk dining area shall prepare and file an application with the city manager which shall contain the following information:

- (a) The name, addresses, and telephone number of the restaurant desiring to operate a sidewalk dining area.
- (b) The name, address, and telephone number of the restaurant operator.
- (c) The type of food and beverage, or food product, to be sold and served for the sidewalk dining.
- (d) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk dining area.
- (e) A drawing or site plan showing the section of sidewalk or pedestrian way to be used for sidewalk dining, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed dimensions and placement of tables, chairs, barricades, umbrellas, trash receptacles, and other furnishing on the sidewalk or pedestrian way.
- (f) A description and images, drawings or other illustrative graphics of the barricades to be used (if any) around the sidewalk dining area and of the furniture to be used, i.e. tables, chairs, umbrellas, etc.
- (g) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee, the city, and NCDOT, if applicable, from all claims for damages to the property and bodily injury, including death, which may arise from operation under or in connection with the permit. Such insurance shall name the city and, if applicable, NCDOT as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without advance written notice to the city. Such insurance shall afford minimum limits of \$2,000,000.00 aggregate annually.

- (h) A copy of all permits and licenses issued by the state, county or city, including health and ABC permits, if any, necessary for the operation of the restaurant, or a copy of the application for the permit if no permit has been issued. This requirement includes permits or certificates issued by the city or other governmental authority for exterior alterations or improvements to the restaurant.
- (i) The restaurant operator shall provide an agreement to indemnify and hold harmless the city and, if applicable, NCDOT from any claim resulting from the operation of sidewalk dining activities.
- (j) Additional information may be requested by the city manager or his designee in order to determine compliance with this section.
- (k) At the time the application is filed, the applicant shall pay the city a fee as set forth in the schedule of taxes, fees and charges.

Sec. 46-34. Standards for sidewalk dining areas.

No permit for the operation of a sidewalk dining area may be issued unless the application is complete and the following standards are met:

- (a) The sidewalk dining area must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The sidewalk dining must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.
- (b) The operation of the sidewalk dining area must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk dining area may not be more than 50 percent of the interior seating capacity of the associated restaurant.
- (c) The restaurant seeking to operate the sidewalk dining area must abut, front on, and open onto the sidewalk or pedestrian way. Tables, chairs, and other furnishings may be placed on the sidewalk which fronts the business and on the sidewalk on the side of the business if located on a street corner. Furnishings and barricades may extend up to eight feet onto adjacent property frontage in either or both directions with the written permission (provided at the time of application) of the occupant of the adjacent property.
- (d) Tables, chairs and other furnishings shall be placed a minimum of six feet from any travel lane.
- (e) The placement of tables, chairs and other furnishings as shown in the drawing submitted with the site plan must be done in such a manner that at least five feet of unobstructed space, excluding the curb, measured from any permanent or semi-permanent object, remains on the sidewalk or pedestrian way for the passage of pedestrians. In accordance with North Carolina Fire Code, no fire exits or lanes may be blocked and must remain clear at all times. The pedestrian passage way may not be used for the display of merchandise or for signs.
- (f) Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.
- (g) The tables, chairs and other furnishings used in the sidewalk dining area shall not be anchored and shall be made of a type of street furniture that is easily movable. Furnishings must be constructed of metal (aluminum, steel, wrought iron, etc.) Commercial umbrellas must be made with outdoor fabric and a metal or commercial grade plastic stand. Advertising messages may not be displayed from tables, chairs, umbrellas, or other furnishings.
- (h) Tables, chairs, and other furnishings that remain on the sidewalk at times when the business is not in operation shall be secured in a manner that allows clear access from the street, and umbrellas shall be taken inside.

- (i) Merchants with sidewalks dining are responsible for cleanliness and are subject to all applicable health department regulations.
- (j) Umbrellas over tables are permissible but must provide a clearance of a minimum of 78 inches from the lowest point of their canopy.
- (k) The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.
- (l) The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the city, its agents or employees, or by any other governmental entity or public entity.

Sec. 46-35. Alcoholic beverages.

Notwithstanding any other provisions of this Code, alcoholic beverages may be served in approved sidewalk dining areas provided that the following requirements are met:

- (a) The sidewalk dining area shall be a part of a restaurant and shall otherwise be authorized permitted, or licensed under the state law and this Code to serve and sell alcoholic beverages for on-premises consumption.
- (b) The sidewalk dining area must be included as part of the premises for which an ABC permit is issued pursuant to state law, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
- (c) Signs shall be posted, visible at all exit point from the sidewalk dining area, that it is unlawful to remove alcoholic beverages from the premises, unless the area is located within a social district during the days and hours of operation pursuant to Chapter 43 of this Code. If the sidewalk dining area is in operation within a social district's boundaries but outside of the social district's days and hours of operation established in Chapter 43, the signs shall be required.
- (d) No outdoor bar is allowed within the sidewalk dining area, nor shall outdoor preparation of alcoholic beverages be permitted except that unfortified wine may be decanted or beer poured at a table as part of a meal.
- (e) Barricades shall be placed along the perimeter of the sidewalk dining area, unless the area is located within a social district during the days and hours of operation pursuant to Chapter 43 of this Code. If the sidewalk dining area is in operation within a social district's boundaries but outside of the social district's days and hours of operation established in Chapter 43, barricades shall be required.
 - (1) Barricades shall be a minimum height of 3' and maximum height of 4'2".
 - (2) The barrier must be detectable by the visually impaired.
 - (3) Sidewalk dining barricade stanchions/posts must not be a tripping hazard.
 - (4) If a stanchion or other vertical element is attached to a base, that base must be flat and must measure no more than 1" above the sidewalk surface.
 - (5) Sidewalk dining stanchions/posts must be constructed of metal (aluminum, steel, wrought iron, etc.), wood (wood must be painted or stained) or commercial grade planters.
 - (6) Commercial planters used as vertical support posts may not exceed 3' in height and vegetation within the planter may not exceed 6' from ground level.

(7) Sidewalk dining railings must be steel chain coated with black plastic, heavy duty black plastic chain, heavy duty black rope, or black velour rope.

Sec. 46-36. Permit denial.

A permit may be denied if it is found that the application does not demonstrate compliance with this section and/or that the granting of the permit would not be in the public interest or would jeopardize public safety. Any applicant denied a permit to operate a sidewalk dining area shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the board of adjustment (BOA) within 15 days after the certified receipt of the written denial, and the BOA may take such action as it shall find necessary.

Sec. 46-37. Terms and transfer.

Permits for a sidewalk dining area issued in accordance with the provisions of this article shall be issued for the period beginning February 1 or thereafter and expiring January 31 of each year. If a permittee discontinues the restaurant operation or the sidewalk dining area, no refund of the permit fee shall be made. Permits issued pursuant to this section shall not be transferable or assignable. Permits may prohibit operation of sidewalk dining areas during special events and contain other conditions and restrictions as may be necessary to protect the public health, safety and welfare.

Sec. 46-38. Permit revocation.

In the event the city manager, or his or her designee, determines good grounds exist for the revocation of a permit issued under this section, he or she shall provide the restaurant operator written notice stating the violation. The city manager, or his or her designee, shall give written notice to the restaurant operator regarding a permit issued pursuant to this section if he or she finds that the restaurant operator has:

- (a) Deliberately misrepresented or provide false information in the permit application.
- (b) Violated any provision of the county health department regulations or of this section.
- (c) Violated any law, regulation, or ordinance regarding the possession, sale, transportation, or consumption of intoxicating beverages or controlled substances.
- (d) Operated the sidewalk dining area in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the café area clean and free of refuse.
- (e) Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business.
- (f) Fails to consistently maintain the sidewalk dining area in a neat and trash free manner.
- (g) Operated the restaurant or sidewalk dining area in violation of any city, county or state law, ordinance, or regulation.

Such notice shall direct that all violations existing thereupon be resolved within 15 days from the certified receipt of the such written notice. If the violation is not resolved within 15 days of receipt of the written warning, the city manager shall revoke the sidewalk dining permit. The restaurant operator may appeal any such order by filing a written notice of appeal with the city clerk within 15 days of receipt thereof. The board of adjustment (BOA) shall conduct a hearing on the appeal and render its decision thereon. Such notice of appeal shall stay the revocation of the permit by the city until a final determination by the BOA.

Sec. 66-13. Special events.

- (a) *Application of regulations.* This section shall apply to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of or that substantially hinders or prevents the normal flow of vehicular or pedestrian traffic on all or a portion of any city owned property, street, or other public right-of-way. Any such activity covered by this chapter shall hereafter be referred to as a "special event".
- (b) *Permit required.* No "special event" is permitted on any city owned property, street or other public right-of-way of the city unless a permit has been issued by the city manager; however, nothing in this section shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.
- (1) No parade of vehicles or march of pedestrians or animals or combination thereof upon the streets or sidewalks of the city shall be allowed except as approved by the city manager. All holders of permits granted and approved by the city manager pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the issuance of a special event permit.
- (2) Any person denied a special event permit under this section may appeal to the city council at the next regularly scheduled meeting.
- (c) *Permit application.* Applications for a "special event" permit authorized by this section that require the closure of a public street, sidewalk, or other city facility shall be submitted to the city manager no less than 60 days before the parade or event is proposed to commence, excluding recognized holidays, on a form provided by the office of the city manager and shall contain the following information:
- (1) Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event.
- (2) Name, address, and telephone number of the individual contact person in charge of the event.
- (3) The proposed date and time period when the event will be conducted.
- (4) The estimated number of people expected to attend the event.
- (5) Sufficient proof of liability insurance in accordance with the city's standard requirements.
- (6) Any other information determined by the city manager to be necessary to insure compliance with these provisions.
- (7) A sketch map showing;
- a. The area where the event is to take place.
- b. Names of any streets to be closed or obstructed.
- c. Location of any barriers or traffic control devices that will be erected.
- d. Location of any concession stand, booth, or other temporary structures or facilities.
- e. Location of any proposed fences, stands, platforms, benches or bleachers.
- (8) The number and type of animals included as part of the event, if applicable. Approval of animals involved in any special event is subject to subsection (m) below, and the animals' location must be specified on the sketch map.

Applications for a "special event" permit as authorized by this section not requiring the closure of a public street or sidewalk shall be submitted to the city manager not less than two working days before the parade or event is proposed to commence, excluding recognized holidays, on a form provided by the office of the city manager and shall contain the items listed above, excluding subsections (5), (7)b. through e., and (8).

Applications must be accompanied by an application fee, shall be set forth in the schedule of taxes, fees and charges of the annually adopted Budget Ordinance for the City of Brevard, before being reviewed and considered.

The City of Brevard Code of Ordinances, Chapter 66, Traffic, Article I, In General, section 66-13, Special events, subsection (f), Insurance requirement, is hereby amended to read as follows.

- (d) *Permit revocation.* Upon violation of the terms of a permit issued under this section by the applicant or participants the city manager and/or the chief of police or his designee is authorized to revoke the permit and direct those participating to disperse.
- (e) *Staff review.* Upon receipt of the permit application, it shall be circulated to the chief of police, fire chief, public works director, and other appropriate persons for their comment. The city manager may require a conference on the application between the applicant and one or more department heads.
- (f) *Insurance requirement.* The city manager shall require as a condition precedent or subsequent to the issuance of the permit that the applicant obtain a comprehensive general liability insurance policy providing coverage that includes the entire area described in the permit for events requiring the closure of a public street, sidewalk or city facility. If such a policy is required, under the provisions of this section, the city shall be named as an additional insured on the policy. A certificate of insurance shall be provided to the city as proof of coverage. Such policy shall conform to the minimum coverage requirements as set forth by the city manager.
- (g) *Fees; costs incurred by the city.* If the city is requested to provide extraordinary services or equipment or the city manager determines that extraordinary services or equipment for reasons related to protection of the public health and safety, he/she may require the applicant to pay to the city a fee sufficient to reimburse it for the costs of any extraordinary services or equipment provided to the event unless sufficient funding has been included in the city budget as adopted by city council.
- (h) *Standards for issuance of permit.*
 - (1) The city manager shall issue the permit authorizing the "special event" unless it is found that:
 - a. Insufficient funding and/or resources necessary to provide extraordinary services or equipment for the event are not available; or
 - b. The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the city; or
 - c. The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege license; or
 - d. The applicant is in violation of any city ordinance; or
 - e. The applicant fails to obtain liability coverage and show proof of said insurance as required by the city; [or]

- 495 f. The event will create a severe hardship on persons occupying property adjacent to
496 the site, location, or route of the event as a result of the denial of access to property;
497 or
- 498 g. The event, if held at the time or at the location or along the route proposed will
499 cause an unreasonable and unwarranted disruption to vehicular or pedestrian
500 traffic; or
- 501 h. The applicant has failed to comply with any of the provisions of the special events
502 ordinance, including but not limited to payment of any required fees and costs; or
- 503 i. A special events permit has previously been applied for or issued for substantially
504 the same location and time requested in the application.
- 505 (2) In considering the matters listed above and the question of whether or not to issue the
506 permit, the public safety and health shall be given paramount importance.
- 507 (i) *Conditions upon issuance of permit.* If a permit is issued the city manager may attach any
508 reasonable conditions that serve to promote the protection of the public safety and health. Any
509 event held pursuant to a permit issued under this section shall be conducted within the
510 applicable terms including any attached conditions.
- 511 (j) *Right of appeal.* If the city manager denies or revokes a special event permit this action shall be
512 final unless the applicant or permit holder files, within three working days, a written appeal
513 with the city clerk. Such written appeal will be placed for consideration by city council at its
514 next regularly scheduled meeting. The city council shall review the matter and its decision
515 shall be final.
- 516 (k) *Street closing.*
- 517 (1) The city manager is authorized to permit the temporary closing of a street or other public
518 right-of-way except as otherwise provided for in subsection (l) below if the provisions of
519 the section are adequately complied with. Any temporary closing of a street or part
520 thereof owned and/or maintained by the State of North Carolina shall require
521 concurrence by the N.C. Department of Transportation.
- 522 The city manager may only permit the temporary closing of any portion of U.S. Highway
523 64, US Highway 64 Business, U.S. Highway 276, SR 1349 (West Main Street) for city
524 recognized special events. An event shall be considered to be city recognized upon the
525 adoption of a resolution by city council making such designation. In order to qualify for
526 recognition an event must have received a commitment of funding and/or resources from
527 the city for any necessary public safety and traffic control measures prescribed by the city
528 manager for the special event.
- 529 (2) The city clerk shall, by any adequate means, notify persons occupying property abutting
530 the street where the event is to take place as soon as possible once a permit is issued.
- 531 (l) *Temporary parking restrictions.* The chief of police, or his duly appointed representative, is
532 authorized to prohibit, on a temporary basis, the parking of vehicles under the following
533 circumstances:
- 534 Along permitted parade routes or on streets closed pursuant to the issuance of a special events
535 permit for a period of two hours before any special event begins, during the entire event and
536 up to one hour after the completion of the event.
- 537 (m) *Permit for special events involving animals.* No special event in which animals are involved shall
538 be conducted without a special permit from the city manager. The city manager shall require a

bond in the amount of \$50.00 (where five or less animals are involved) or \$100.00 (where more than five animals are involved), which will provide that the person obtaining the special permit will be responsible for cleaning the city streets or property after the parade, exhibition, demonstration or experiment. All holders of special permits granted and approved by the city manager pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the behavior of such animals or issuance of such a special permit.

- (n) *Animals prohibited.* It shall be unlawful for any person to have or keep any animal at any event requiring the issuance of a special event permit except as otherwise provided within this section.

(o) Permit for special event involving the sale and consumption of alcoholic beverages. No special event in which the sale and consumption of alcoholic beverages shall be conducted without a special permit from the city manager, pursuant to Chapter 42 Article I of the Brevard City Code.

1) Special event permit holders shall submit an operational plan demonstrating the procedures and practices that will be employed to assure such compliance with all applicable regulations as set forth in Brevard City Code and the North Carolina General Statutes. Such plan shall specifically address the prevention of the sales of alcohol to minors, and the methods that will be employed to contain the consumption of alcohol within the designated area. [Moved from Ch. 42]

2) For special events, the sales and consumption of malt beverages and unfortified wine, but no other alcoholic beverages, shall be as authorized on the permit; provided, however, that no such sales shall be allowed earlier or later than during the city permitted timeframe of the festival. [Moved from Ch. 42]

4)3) The administrator shall have the discretion to withhold approval of permits for the sales and consumption of alcohol associated with future special events, when the permit holder has failed to demonstrate compliance with all applicable laws of the City of Brevard and the State of North Carolina pertaining to the sales and consumption of alcoholic beverages in the operation of previous events. [Moved from Ch. 42]



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.

City of Brevard Downtown Social District Plan

Introduction

On September 8, 2021, North Carolina Session Law 2021-150 was ratified, allowing governments to establish "Social Districts" within their jurisdictions. These Social Districts allow for common areas where licensed establishments (e.g., bars, breweries, restaurants) may sell alcoholic beverages in designated containers to be taken into common areas for consumption. The act was subsequently amended with Session Law 2022-49, which refined the initial legislation and provides additional details on the operation of social districts.

The City of Brevard adopted **ORDINANCE NUMBER** on **DATE** establishing the **Downtown Brevard Social District**. In accordance with N.C.G.S Chapter 18B, this Plan outlines how the social district will be management, maintained and operated. This Plan will be submitted to the North Carolina ABC Commission and placed on the City's website (cityofbrevard.com/**/socialdistrict**) and the Heart of Brevard website (brevardnc.org/**XXXX**).

Management & Responsibilities

The Downtown Brevard Social District will be managed and maintained by the **City of Brevard** with support from the Heart of Brevard. Specific responsibilities are outlined herein.

District Boundaries

Boundaries of the Social District will be clearly marked with signs affixed to all entrance and exit points.

INSERT MAP

Days and Hours of Operation

The Downtown Brevard Social District will operate **11 a.m. to 10 p.m.** daily. At all other times, open containers of alcohol cannot leave the premises of the ABC-permitted business where it was purchased.

General Rules

- Only alcoholic beverages purchased from a participating business with an ABC permit may be consumed in the Downtown Brevard Social District. No outside alcohol is permitted.

- Alcoholic beverages may not be brought into a business that does not display the Downtown Brevard Social District signage (see below).
- Any alcoholic beverage purchased for consumption in the Downtown Brevard Social District must also be in a specifically labeled cup (see below).
- All open-container alcoholic beverages must be disposed of prior exiting the Social District boundaries or entering a vehicle (including a bicycle).
- Businesses can choose to be included in the Downtown Brevard Social District, or can opt out if they desire. No business is required to participate or to allow customers to bring alcohol onto its premises.
- The sale and delivery of alcoholic in a social district is subject o the same limitations for sales and deliveries of alcoholic in North Carolina (e.g., no more than two malt beverage or wine drinks at one time to a single patron; no more than one mixed beverage or spirituous liquor drink at one time to a single patron).

Participating Businesses with an ABC Permit

In order to participate, ABC-permitted establishments must be located in the Downtown Brevard Social District boundaries and obtain a Social District Permit from the City of Brevard Planning Department.

Permitting allows the City to ensure that those businesses selling alcoholic beverages within the Social District are aware of and in compliance with the requirements of this Plan and Chapter 43 of the Brevard City Code. As part of the permitting process, the business owner must provide written acknowledgment to abide by the rules, regulations and requirements of this Plan and Chapter 43 of the Brevard City Code.

Alcoholic beverages that are sold for consumption in the Social District must be in a container that meets all the following requirements:

- The container clearly identifies the ABC permittee from which the alcoholic beverage was purchased.
- The container clearly displays the Downtown Brevard Social District Logo.
- The container is not made of glass.
- The container displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21."
- The container cannot hold more than 16 fluid ounces.

An example contain is depicted below.

INSERT CUP RENDERING

Participating Businesses without an ABC Permit

Businesses without an ABC permit may participate in the Social District by allowing alcoholic beverages purchased and possessed in accordance with this Plan and Chapter 43 of the Brevard City

Code to be consumed in their businesses. Participating businesses that are not selling alcoholic beverages are not required to register with the City.

The City and Heart of Brevard will provide information and materials to participating businesses to ensure that the businesses understand their obligations under this Plan and the Social District Ordinance and communicate their participation or non-participation to the public.

During the days and hours when the social district is active, participating businesses must allow law enforcement officers access to all areas of the premises accessible by customers.

Non-Participating Businesses

Nothing in this Plan or Chapter 43 of Brevard City Code shall be construed as requiring any business, regardless of whether or not it holds a valid ABC permit, to participate in the Downtown Brevard Social District.

District Logo and Required Signage

The Downtown Brevard Social District will use a newly created logo (depicted below).

INSERT LOGO

The uniform signage below must be displayed in businesses participating in the Downtown Brevard Social District to inform visitors that they are allowed to bring alcoholic beverages inside. Businesses electing to not participate in the Social District are not required to display signage, but the signage is available upon request.

INSERT SIGNAGE (SEE EXAMPLE BELOW)



Enforcement

City of Brevard Police will enforce the requirements of the Downtown Brevard Social District. The City of Brevard reserves the right to prohibit a permit holder from participating in the district due to violations of this Plan or Chapter 43 of Brevard City Code.

ABC permit holders accept liability for patrons they serve the same as they do now and will enforce the same rules and regulations as they currently do.

To report potential violations please call the Brevard Police Department at 828-883-2212 or the N.C. Alcohol Law Enforcement Division (1-877-ALE-AGENT).

Sanitation and Maintenance

The City's Public Works Department provides sanitation services within the Downtown Brevard Social District boundaries, including trash removal and litter pick up. This will continue with the operation of the Social District. Trash/recycling receptacles are located within the boundaries of the Social District to encourage patrons to properly dispose of their used cups and unconsumed alcohol. ABC-permitted establishments and other participating businesses within the boundary will have trash/recycling receptacles available to patrons at the door.

Marketing and Promotion

Marketing and promotion of the Social District will be provided by the Heart of Brevard in collaboration with the City of Brevard and participating businesses included in the Social District.



Brevard Police Department



C. Thomas Jordan

Chief of Police

e-mail: Tom.Jordan@CityofBrevard.com

Social Districts Survey Findings 2023

Overall Responses: 22

Q1: Has your jurisdiction considered creating any social districts?

We have not considered creating social districts:	9	40.91%
We have considered social districts but decided against it:	4	18.18%
We are in the process of creating social districts:	2	9.09%
We currently have social districts	7	31.82%

Q2: If you considered creating social districts but decided against it, what were the main concerns shaping that decision?

- Concerns regarding being able to police the social districts
 - Public opposition and the cost of implementation
 - Achieving compliance with existing regulations
 - Streets being closed
-

Q3: If your jurisdiction is implementing or has already created social districts, what were the positive factors and considerations that led to the approval of forming the social district?

- Boosting the local economy
 - Increasing business opportunities downtown & event hosting
 - Central place to monitor alcohol use, decreases driving with alcohol
 - Support local business
 - Initial concerns of public intoxication that never manifested to date
 - Tourism draw
-

Brevard Police Department
114 W. Jordan Street • Brevard, NC 28712
Main: 828-883-2212 • FAX: 828-883-3067

Q4: If your jurisdiction created social districts, what challenges have you encountered in relation to enforcement, ABC compliance, underage drinking, and over-service incidents?

- None to speak of, we are a college town
 - Trash placement and potential littering incidents
 - No new incidents
 - No major incidents, voluntary compliance when approached by police
-

Q5: If your jurisdiction has social districts, what impacts have you seen?

Property crimes have increased	0	
Alcohol related incidents increased	0	
Persons crimes have increased	0	
Negligible increases/decreases in alcohol relate or crime incidents	7	100%

Q6: If you have social districts, have they impacted your personnel requirement and overtime budgets?

- We expect them to at some point, but businesses have been doing a good job of policing themselves
 - We have voluntary OT sign-up resulting in some slight additional overtime costs
 - We expect at the downtown develops more, it will impact personnel and the budget
-

Q7: Additional comments

- I had our local ALE agent meet with our Manager and Attorney to explain and discuss the regulations. He cleared up any misconceptions and gave accurate information they used to make their decision.
- Franklinton, NC social District has been active since 2021 and no major problems to this day.



CITY OF LENOIR
PLANNING & COMMUNITY DEVELOPMENT
CITY HALL (3RD FLOOR) • 801 WEST AVENUE NW

APPLICATION & REGISTRATION AS A
PARTICIPATING BUSINESS:

ABC PERMIT HOLDER

GENERAL BUSINESS INFORMATION

Business Name

Physical Address

Mailing Address

Primary Contact

Primary Contact Number

Text Messages OK? ☐

Alternative Contact

Alt. Contact Number

Text Messages OK? ☐

ABC Permittee Name

ABC Permit Number

ACKNOWLEDGEMENTS

By signing below, I, _____ (print name) attest that I am an authorized representative of the above listed business, I have received a copy of the Social District Management Plan, and I have read and understand the requirements for participating in the Downtown Lenoir Social District. Furthermore, I understand that failure to comply with said requirements may result in the revocation of this registration.

I understand that the City reserves the right to temporarily or permanently suspend the Social District.

As a condition of my participation as an ABC permittee selling alcoholic beverages for consumption within the Social District, I agree to only sell/serve alcoholic beverages in an approved social district container, with appropriate time/date stamps and meeting all state and local requirements for such containers.

I agree to indemnify, defend and hold the City of Lenoir and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims arising out of participation in the Social District.

Authorized Signature: _____ Date: _____

Witnessed by: _____ (signature)
_____ (print name)

RULES FOR PARTICIPATION



GENERAL RULES FOR ALL SOCIAL DISTRICT PARTICIPANTS

- ☒ Alcoholic beverages may only be consumed in the Social District Wednesday – Saturday from 12:00 PM to 10:00 PM.
- ☒ No outside alcohol is permitted within the district. All alcoholic beverages must be purchased from establishments located within or contiguous to the district and must be consumed within the District.
- ☒ Participating businesses only — beverages may not be brought into a business that does not display the Downtown Lenoir Social District decal.
- ☒ Any alcoholic beverages consumed in the social district must be served and consumed from the required social district container.
- ☒ Upon leaving an establishment where an alcoholic beverage is purchased, the beverage must be consumed or discarded before entering a different business that serves alcohol.
- ☒ All alcohol in open containers must be disposed of before exiting the District or entering a vehicle.
- ☒ The sale and delivery of alcohol in a social district is subject to the same limitations for sales and deliveries of alcohol in North Carolina:
 - No more than two malt beverage or wine drinks at one time to a single patron
 - No more than one mixed beverage or spiritous liquor drink at one time to a single patron

ADDITIONAL RULES FOR PARTICIPATING ABC PERMIT HOLDERS

- ☒ An ABC Permittee may only sell and serve alcoholic beverages on its licensed premises.
- ☒ The ABC Permittee must display the blue Downtown Lenoir Social District “Beverages Sold Here” decal during all hours that social district beverages are sold.
- ☒ Alcoholic beverages that are being sold to be consumed within the social district must be sold in a container that meets all of the rules for social district containers (see page 5 of the Management Plan).
- ☒ ABC Permittees are responsible for supplying their own social district containers.
- ☒ Each social district container must have the date and time of sale clearly marked.
- ☒ ABC Permittees must uphold all of the laws of the Social District, including ensuring that patrons do not enter or re-enter their establishments with alcohol purchased elsewhere.
- ☒ Participation in the Social District does not create any special relationship between the ABC permittee and the City. The City shall not be held liable for any claim arising out of participation in the Social District.

ADDITIONAL RULES FOR PARTICIPATING BUSINESSES (WITHOUT ABC PERMITS)

- ☒ The non-permittee participating business must display the green Downtown Lenoir Social District “Participating Business” decal during all hours that social district is active and the business is allowing alcohol on their premises.
- ☒ The participating business must clearly post signage on any exits that do not open to the social district footprint indicating that alcoholic beverages may not be taken past that point.
- ☒ During the days and hours when the social district is active, participating businesses must allow law enforcement officers access to all areas of the premises accessible by customers.

MINUTES

COUNCIL FINANCE, HUMAN RESOURCES and CITIZEN APPOINTMENT COMMITTEE

Tuesday, August 1, 2023 – 3:30 PM
City Hall Planning Department Conference Room

Members Present: Aaron Baker, Chair, Council Member
Mac Morrow, Vice Chair, Council Member
Susan Miller, Citizen Member

Staff Present: Wilson Hooper, City Manager
Dean Luebbe, Finance Director
Kelley Craig, Human Resources Director
Becky McCann, Communications Coordinator
Alex Shepherd, Assistant to the City Manager

Media: Jon Rich, Transylvania Times

A. Welcome & Call to Order

Committee Chair Aaron Baker welcomed everyone and called the meeting to order at 3:30 PM.

B. Certification of Quorum

Quorum was certified by Assistant to the City Manager Alex Shepherd.

C. Approval of Agenda

Motion by Mr. Morrow, seconded by Ms. Miller to approve the agenda as presented.
The motion carried unanimously.

D. Approval of Minutes of June 26, 2023 Meeting

Motion by Ms. Miller, seconded by Mr. Morrow to approve the minutes of the June 26, 2023 meeting as presented. The motion carried unanimously.

E. City Manager Evaluation Process

Mr. Hooper informed the Committee that his employment agreement with the City calls for a performance evaluation to be conducted around October and November. He

mentioned that this is one of the more challenging tasks that a City Council will undertake and expressed his desire to provide the Council with ample time to thoroughly conduct the City Manager's performance evaluation, given that it can be a time-consuming process.

Mr. Morrow inquired whether Mr. Hooper has performed self-evaluations in the past, and Mr. Hooper confirmed that he has.

Ms. Craig discussed the process of conducting a performance evaluation using examples from the ICMA Core Principles for Effective Management and Leadership, as well as instances from other local governments including Durham County, NC, City of Lexington, NC, City of Lakeland, and City of Steamboat Springs. She noted that these examples are listed on the ICMA website. Ms. Craig recommended that the Council identify key areas and competencies they are seeking, along with the criteria for rating them. She suggested that the manager undertake a self-evaluation and present it to the Council for review, along with their goals for the upcoming year. She also highlighted that there should be a format for the Council to review, and this coordination has been done through the City Attorney in the past.

Ms. Miller asked whether Mr. Hooper was provided with goals and objectives as part of his initial employment. Mr. Hooper explained that he considered the responsibilities listed in his employment agreement as goals that guided him when he first started. However, he further explained that after attending the priority-setting retreat in February, those priorities have continued to guide his goals ever since.

Ms. Craig recommended that it would be best to conduct an evaluation that includes a rating, followed by a written response from each Council member on what they liked or didn't like, or what changes they would like to see.

Mr. Hooper proposed that by the next meeting, Ms. Craig could gather information that incorporates the job description and a draft of the performance evaluation. He outlined a timeline, suggesting that this information could be presented to the Council in September, followed by discussions in October, with the aim of completing the evaluation process by November.

F. Public Works Director Position Update

Mr. Hooper explained that the City initiated recruitment for the Public Works Director position as it was originally posted in the latter part of the previous calendar year and early this year. The selection process began promisingly, yielding five strong candidates. However, before the interview phase, two of them accepted other positions, and one withdrew their application. Ultimately, we interviewed two candidates. Subsequently, one of them accepted another job, leaving us with only one candidate. Mr. Hooper conveyed that he had a vision for this position based on the organization's needs, and he was unsure if this particular candidate was the right fit.

Mr. Hooper proposed the transition of the Public Works Director position into a City Engineer role. This position would resemble an Assistant City Manager in terms of scope and responsibility, and its pay grade would align with level 31. The City Engineer would be equipped to provide expertise and knowledge as we embark on projects such as the Ecusta Trail, the wastewater plant project, and other capital improvement endeavors.

Mr. Baker inquired whether the City Engineer would oversee departments including public works, wastewater plant, and water treatment plant. Mr. Hooper responded that he would consult the search firm to determine if this arrangement would suffice while also supervising the capital improvement projects.

G. Additional Comments

Mr. Hooper commented that he has scheduled the comprehensive briefing of the Ecusta Trail Project to City Council for September 18th.

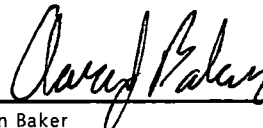
Ms. Miller asked if there were any updates from the County about the Employee Wellness Contract, given its impact on employees. Ms. Craig responded that she has not received any contract or proposed MOU from the County. Mr. Baker asked when this becomes a problem for the city. Ms. Craig responded that it will be an issue starting from September 1st, 2023, because employees would no longer have a Wellness Center if the contract is not signed.

H. Set Date for Next Meeting

The next meeting of the Finance & Human Resources Committee will be on Monday, August 28, 2023, at 11:00 a.m.

I. Adjourn

There being no further business, the meeting was adjourned at 4:13 p.m.

X 

Aaron Baker
Chair, Council Member

Minutes Approved: August 28th, 2023

X 

Alex Shepherd
Assistant to the City Manager

STAFF REPORT

City Council, Tuesday, September 5, 2023

Title: Ordinance - Voluntary Contiguous Annexation - Nielsen, 31 York Circle - Continued from April 17, 2023 Meeting

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Wilson Hooper, City Manager

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. The hearing was recessed for several months at the request of the Applicant, and was held at the August 21st Council meeting.

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.

Action

Staff recommends approval of the proposed annexation. The Planning Board discussed this request at their March 28, 2023 meeting and unanimously recommended approval. Council's options are to either grant or deny the petition for annexation.

Fiscal Impact

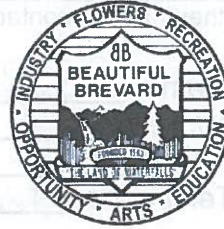
See Attachment 4.

Attachments:

1. Petition Materials
2. Preliminary Plat
3. Site Map
4. Financial Impact Assessment
5. Ordinance Extending Corporate Limits



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

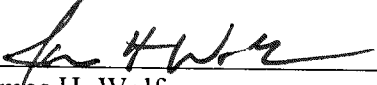
The designation Grantor and Grantee in this Deed shall include the parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

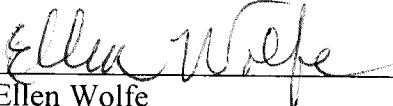
The Grantor, for a valuable consideration paid by the Grantee (the receipt of which is acknowledged) grants, bargains, sells and conveys to the Grantee in fee simple, all of the lot or parcel of land located in Brevard Township, North Carolina, and as is described in the attached Exhibit A. This is a 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

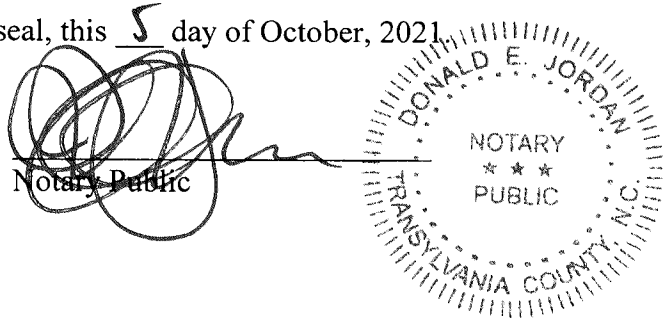
(See attached signature pages for additional Grantors)

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

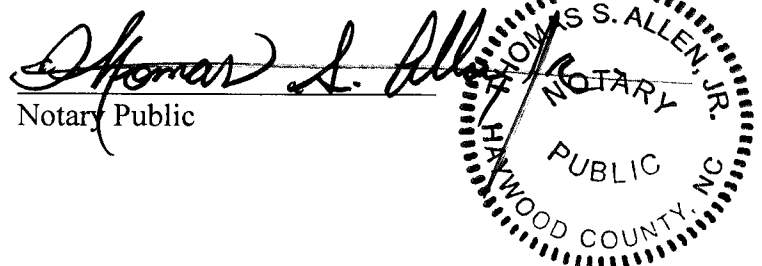


STATE OF NORTH CAROLINA
COUNTY OF Buncombe

I, 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

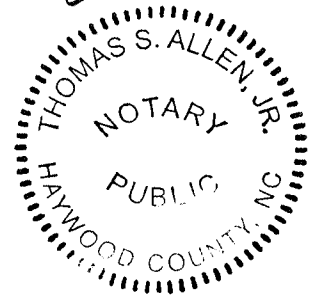
North
STATE OF SOUTH CAROLINA
COUNTY OF Galveston

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

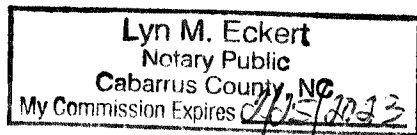
STATE OF NORTH CAROLINA
COUNTY OF Cabarrus

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:

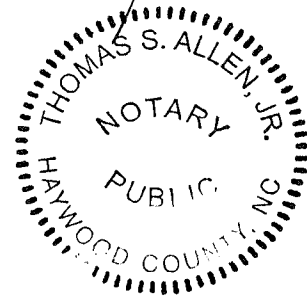
Martha Jeanne Howie
Martha Jeanne Howie

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

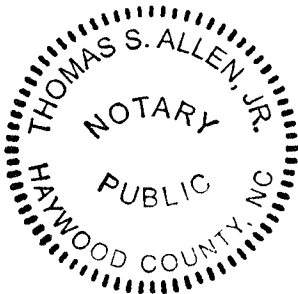
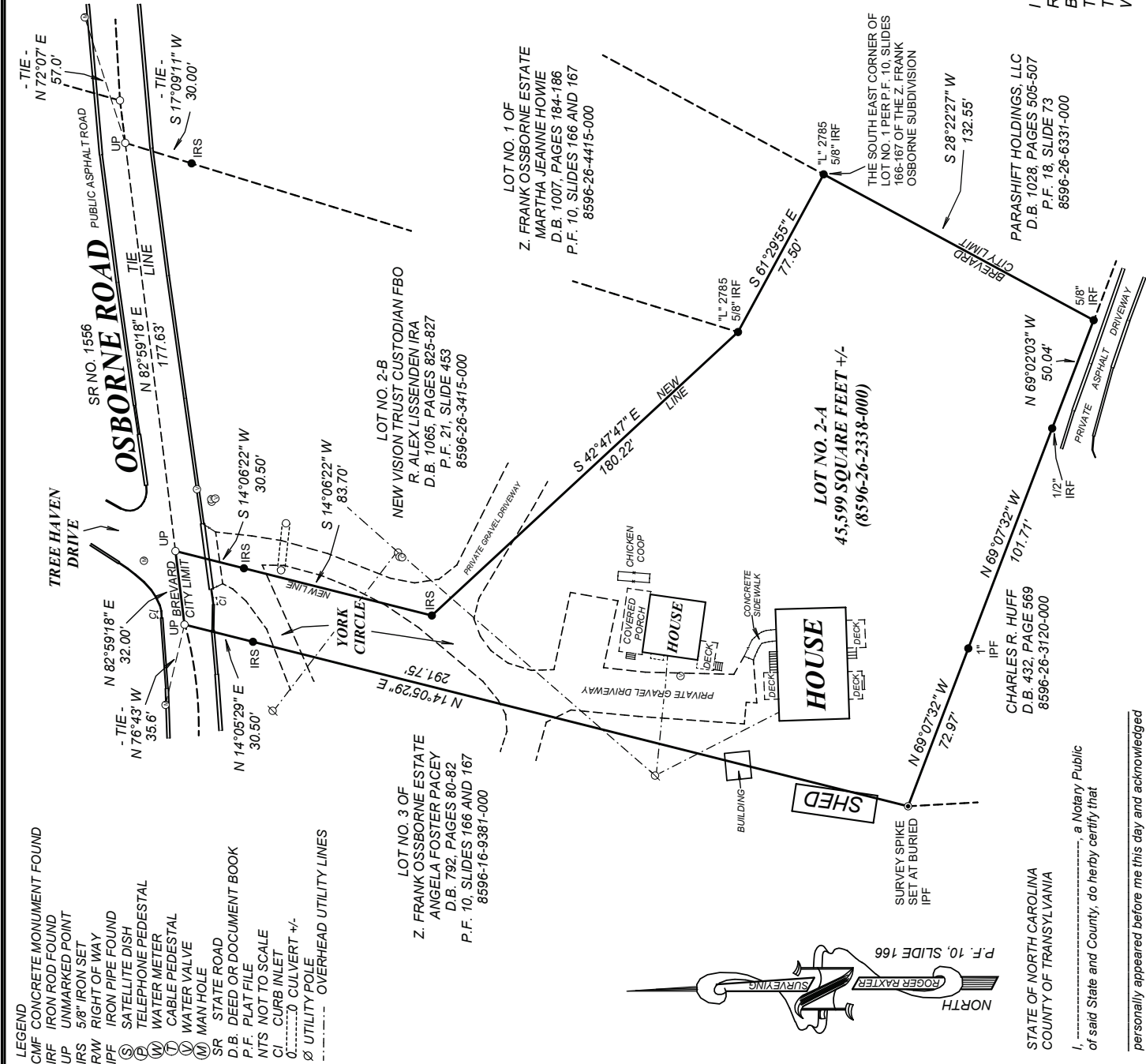


EXHIBIT A - LEGAL DESCRIPTION

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.

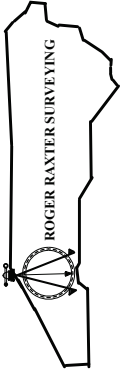
DEED REFERENCE : D.B. 1006, PAGES 499-506.

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

DATE : JANUARY 13, 2023.

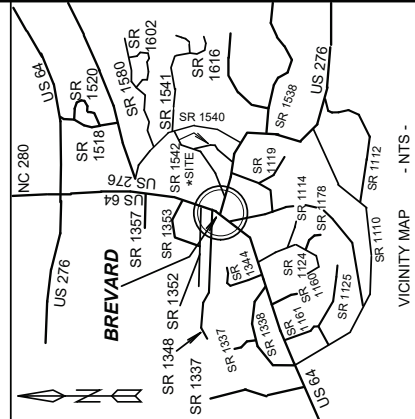
NOTES

- 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 _____.



Owner Certificate- Annexation : I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plat of annexation with my (our) free consent.

Date _____ Owner _____

Date _____ Owner _____

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



GRAPHIC SCALE : 1 INCH = 40 FEET

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 _____

I, E. ROGER RAXTER, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM RECORDED DOCUMENTS AND/OR OTHER INFORMATION AND DOES NOT REPRESENT AN ACTUAL FIELD SURVEY. THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED.

E. ROGER RAXTER January 13, 2023 DATE

NC PLS L-2938

My Commission Expires _____

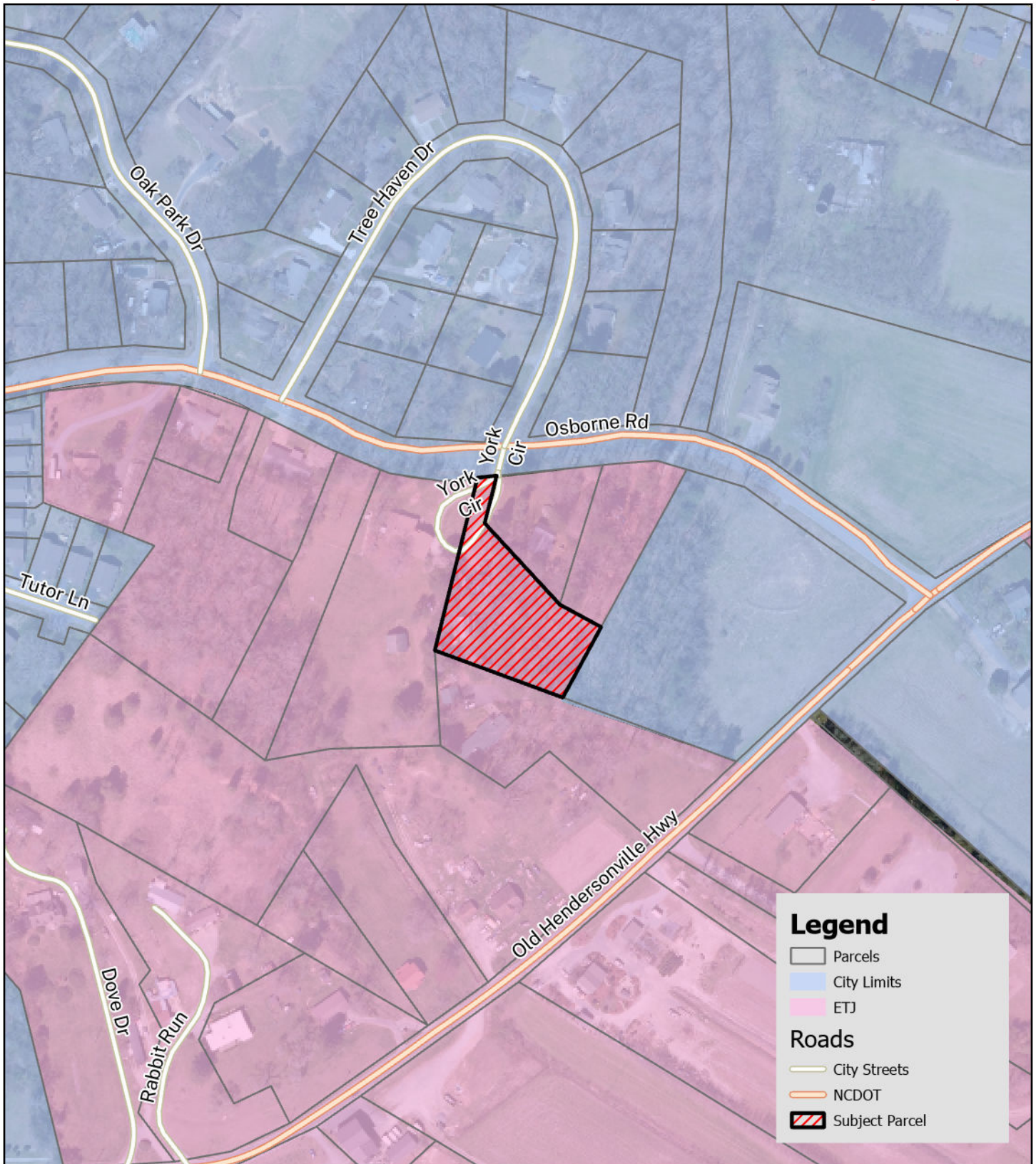
Notary Public _____

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.



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

ORDINANCE NO. 2023-XX
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF BREVARD, NORTH CAROLINA

WHEREAS, the Brevard City Council has been petitioned under G.S. 160A-31, as amended, to annex the contiguous area described herein, and,

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

WHEREAS, the Brevard Planning Board reviewed the Petition at their meeting held on March 28, 2023 and recommended approval of the voluntary contiguous annexation; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition (relying on the opinion of the City Attorney) and the City Council adopted Resolution No. 2023-14 fixing a date of public hearing. By authority granted by G.S. 160A-31, a public hearing on the question of this annexation was held at the City Council Chambers at 5:30 P.M. on the 17th day of April, 2023, after due notice by publication on the 3rd day of April, 2023; and

WHEREAS, at the request of the petitioner the April 17, 2023 public hearing was opened and recessed until June 19, 2023. The petitioner requested a second recess until August 21, 2023; and

WHEREAS, the City Council does hereby find as a fact that the petition meets the requirements of G.S. 160A-31, as amended.

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

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, all of that property lying in Transylvania County, owned by Catherine and David Nielsen, as shown and all of that property described in the deed recorded in Document Book 1006, Pages 499 - 506, in the Transylvania County Register of Deeds and that certain plat provided by the Petitioners to be duly recorded upon annexation is hereby annexed and made a part of the City of Brevard as of the ____ day of _____, 2023.

Said property is more fully described as follows:

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.

Section 2. Upon and after the ____ day of _____, 2023 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Brevard and shall be entitled to the same privileges and benefits as other parts of the City of Brevard. Said territory shall be subject to the municipal taxes according to G.S. 160A-31.

Also being all of that property described in a plat prepared by E. Roger Raxter, PLS for Catherine Alexander Nielsen and David C. Nielsen dated January 13, 2023 and recorded in Plat File _____, Slide _____, of the Transylvania County Registry.

Section 3. Pursuant to 160A-29 it shall be the duty of the Mayor of the City of Brevard to cause an accurate map of the annexed territory as described in Section 1 hereof, together with a duly certified copy of this Ordinance, to be recorded in the office of the

Register of Deeds of Transylvania County, North Carolina, and in the office of the Secretary of State at Raleigh, North Carolina. Such a map shall also be delivered to the Transylvania County Board of Elections as required by G.S. 163.288.1.

Section 4. Notice of adoption of this Ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Brevard.

Adopted and approved the _____ day of _____, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Tuesday, September 5, 2023

Title: Proposed Amendment to City of Brevard Unified Development Ordinance Chapters 6 and 13 - Staff Determinations

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Wilson Hooper, City Manager

Background

Daily administration of the City's Unified Development Ordinance (UDO) often requires the zoning administrators to use their professional judgement to make determinations. It has always been good practice for the UDO to include some degree of guidance or factors that the administrator can rely on when making these determinations, but since the passage of G.S. 160D, and the case law that has followed, this has become more and more of a requirement. This is a staff-initiated text amendment that looks to build on others that have been done in the past several years that have added such guidance for administrative decisions into the UDO. This amendment seeks to clarify two areas of ambiguity when making these sorts of determinations that come up regularly in the Planning Department's day-to-day operations.

A public hearing was held for this text amendment at the August 21st meeting.

Discussion

As discussed previously, this amendment: 1) provides the administrator clear, objective standards to apply when determining which street is of higher or lower classification, and 2) proposes using DEQ's Surface Water Classifications Schedule and associated webmap for determining what qualifies as a "stream" for the purposes of the 30-foot surface water protection area.

Policy Analysis

Recommendation LUH-19 of the Building Brevard Comprehensive Land Use Plan speaks to ensuring clarity of the regulations found within the UDO, stating "Strive to make planning documents and UDO more approachable and user friendly to empower citizens to understand and advocate for their neighborhoods."

The Plan also specifically calls for the continuation of the stream buffer in PNR-10 which includes "continue to enforce steep slope and stream buffer requirements for new development."

Recommendation

The Planning Board discussed this matter at their June 27, 2023 meeting and, after a brief discussion, unanimously recommended in favor. In accordance with North Carolina General Statutes, the Planning Board also submits the attached statement analyzing the

consistency and reasonableness of this proposal with regards to existing policies or plans of the City of Brevard.

Fiscal Impact

None.

Action

Council's options are:

- Adoption of the amendment as written;
- Adoption of the amendment as revised by Council;
- Rejection of the amendment;
- Send the application back to the Planning Board for further study and consideration; or
- Call for additional public hearings.

Attachments:

1. Draft Amendments
2. Consistency Statement
3. Draft Enacting Ordinance

6.7. Surface water protection requirements.

- A. *Purpose and intent:* The purpose of this section is to provide a network of protected stream corridors thereby helping to maintain water quality, provide wildlife habitats, filter pollutants, store floodwaters, and contribute to the "green infrastructure" of the City of Brevard and lands within its jurisdiction. Stream systems are comprised of each stream and its respective drainage basin. Streams have the primary natural functions of conveying storm, ground, and surface waters, storing flood waters, and supporting aquatic life. Vegetated lands adjacent to the stream channel serve to protect the stream's ability to fulfill its natural functions. Surface water protection areas have the primary natural functions of protecting water quality by (1) filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons, (2) providing intermittent storage for flood waters, (3) allowing channels to meander naturally, and (4) providing suitable habitat for wildlife.
- B. *Applicability:* This section shall apply to all surface waters (as defined by this ordinance) and all non-encroachment areas and regulatory floodways (as delineated upon the most recently published Flood Boundary and Floodway Map (FBFM) and/or Flood Insurance Rate Map (FIRM), within the planning jurisdiction of the City of Brevard.
- C. *Relationship to previously approved development plans, structures, and uses:* Uses and structures approved and constructed in a protection area prior to the enactment of this ordinance may remain as nonconformities, subject to any legal requirements attributed to that status. All development plans, development projects and uses permitted subsequent to the enactment of this ordinance, including expansions to previously approved and constructed uses and structures, shall comply with the surface water protection requirements of this ordinance.
- D. *Surface water protection area delineation:* Surface water protection area requirements apply to the regulatory floodway and non-encroachment areas, as well as lands within 30 feet from the top of each bank of a stream or other surface water body.
1. For streams and other surface waters with defined channels, protection area widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the channel.
 2. "Top of bank" shall be determined by the administrator by considering factors such as the break in slope for a watercourse and the presence of streamside vegetation.
 3. For rivers, streams, creeks, brooks, and any other continuous body of surface water flowing within the bed and banks of a channel, the determination of applicability of this section shall be based on the water body's inclusion on the NC Surface Water Classifications Schedule and Map, as maintained by the Division of Water Resources of the North Carolina Department of Environmental Quality.
 4. For wetlands, as defined in this ordinance, protection area widths are measured horizontally, landward from the outermost point at which wetland conditions can be identified.
 45. For ponds, lakes, and other impounded surface waters, protection areas widths are measured horizontally, landward from the ordinary high water line. Protection areas requirements do not apply to wet ponds used as structural stormwater control and treatment measures for stormwater.
 56. For other surface waters, the protection area shall be determined by the administrator in consideration of the purposes of this section.
 67. When a combination of floodway/non-encroachment area and/or surface water types exist, the most restrictive measurement of surface water protection area shall apply.
- E. *Surface water protection area requirements:*

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1. Protection areas shall be left in a naturally vegetated state, unless reforestation of disturbed protection areas is required as part of any site plan approval. When reforestation of a disturbed protection area is required, it shall be done in accordance with a planting plan approved by the administrator.
 2. Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the protection area.
 3. Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to avoid the formation of erosion gullies.
 4. Diffuse flow of runoff shall be maintained in the protection area by dispersing concentrated flow and reestablishing vegetation.
 5. Surface water protection areas shall be delineated upon any development plan and shall be noted as protection areas within which no disturbance or development shall be permitted.
 6. The following impacts are expressly forbidden in surface water protection areas (including floodways, non-encroachment areas) and associated water bodies:
 - a. The placement of fill or the deposition of any natural or manmade material or substance;
 - b. New development, substantial improvements, new construction, new impervious surfaces, the placement of structures or any other form of development or encroachment, except those associated with public utilities;
 - c. Grading, excavation, the removal of vegetation, or any disturbance of any kind; except excavation and fill required to plant any new trees or vegetation;
 - d. The ditching, dredging, channelization, straightening, relocation, diking, levying, or any other alteration or modification of any kind, to surface waters, except dredging necessary to maintain pre-existing, human-made water impoundments such as ponds and lakes;
 - e. The routing underground (by culvert or other means) of any surface water, except to facilitate crossings by approved roads, streets, driveways, greenways, sidewalks, and other transportation facilities;
 - f. The impoundment of water bodies (this shall not prohibit the maintenance of existing ponds, lakes, and other impoundments); and
 - g. Any other type of encroachment, disturbance, or modification to floodways, non-encroachment areas, or other surface water protection areas or associated surface waters.
 7. The following protection area impacts are permitted; however, design and construction shall comply with applicable city standards for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.
 - a. Road crossings for connectivity or transportation links and required utilities including public and private streets, driveways, and bridges, where the City of Brevard has granted site plan approval.
 - b. Parallel water and sewer utility installation as approved by City of Brevard.
 - c. Approved public or common area open space, paths and trails. Pathways should use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall be "on-grade" and shall preserve existing drainage patterns and avoid drainage structures that concentrate stormwater.
 - d. Incidental drainage improvements/repairs for maintenance provided that such maintenance does not result in channelization, straightening, or modification of the natural course of a stream channel or the deforestation of the regulatory floodway or protection areas.

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- e. Mitigation approved by a local, state, or federal agency acting pursuant to Sections 401 or 404 of the Federal Clean Water Act.
 - f. Stream bank or stream channel restoration or soil stabilization activities of the North Carolina Cooperative Extension Service, Transylvania County Soil and Water Conservation Service, USDA Natural Resources Conservation Service, Transylvania County, the City of Brevard, the North Carolina Forest Service, or a cooperating organization or entity. This exception does not include the straightening or channelization of any watercourse.
 - g. The removal of invasive exotic plant and tree species or trees posing a hazard to life or property.
- 8. Uses permitted in the protection area shall be coordinated to ensure minimal disturbance of the protection area system. For example, if it is necessary to install utilities within the protection area and if greenway trails are then to be built, they should follow these cleared areas instead of necessitating additional clearing.
 - 9. The approving authority may reduce the required front, rear, or side setbacks by up to 20 percent of the required distance in order to facilitate compliance with this section. Additional setback deviations shall be considered as variances by the BOA in accordance with the procedures set forth in Section 16.8.

(Ord. No. 2021-16 , § 1(Exh. A), 4-19-21)

13.7. ReservedStreet classifications.

A. Determining streets of higher classification

1. Ownership. When making a determination, the administrator shall first consider the ownership of each of the roads. State roads are always considered higher classification than local roads. Local roads are always considered a higher classification than private roads. If any portion of the roadway is a State road, regardless of if property in question is adjacent to a section maintained by the City, the road shall be considered a higher classification than local roads. This applies to French Broad Street, Main Street, Whitmire Street, Elm Bend Road, and other streets that change ownership within the City's jurisdiction. This does not apply to roads that change ownership at the edge of the City's corporate limits, such as Carolina Avenue.
2. Other factors. If that does not establish the higher classification, the administrator shall consider the following factors in making a determination:
 - a. The speed limits on the roads, according to the adopted traffic schedule in Section 66 of the City Code;
 - b. The estimated traffic volumes on the roads;
 - c. The length of the roads (e.g., a road that is 2 miles long in total verses a road that only extends ¼ mile); and
 - d. The width of the rights-of-way on the roads.

**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:

Building Brevard Comprehensive Land Use Plan:

LUH- 19: Enhance communication of land use planning efforts, policy development, approvals and processes. Create online public information portal to provide updates on proposed and in-progress development projects. Strive to make planning documents and UDO more approachable and user friendly to empower citizens to understand and advocate for their neighborhoods.

PNRC- 10: Preserve steep slopes and natural areas adjacent to Pisgah Forest. Continue to enforce steep slope and stream buffer requirements for new development. Coordinate with landowners and land trust to conserve strategic lands.

ORDINANCE NO. 2023-____

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 6 – ENVIRONMENTAL PROTECTION AND
CHAPTER 13 – INFRASTRUCTURE IMPROVEMENT REQUIREMENTS**

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance Chapter 6 – Environmental Protection and 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:

Building Brevard 2030

- ***LUH- 19:** Enhance communication of land use planning efforts, policy development, approvals and processes. Create online public information portal to provide updates on proposed and in-progress development projects. Strive to make planning documents and UDO more approachable and user friendly to empower citizens to understand and advocate for their neighborhoods.*
- ***PNRC- 10:** Preserve steep slopes and natural areas adjacent to Pisgah Forest. Continue to enforce steep slope and stream buffer requirements for new development. Coordinate with landowners and land trust to conserve strategic lands.*

and,

WHEREAS, a public hearing was conducted on Monday, August 21, 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 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 5th day of September 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

EXHIBIT A

6.7. Surface water protection requirements.

- A. *Purpose and intent:* The purpose of this section is to provide a network of protected stream corridors thereby helping to maintain water quality, provide wildlife habitats, filter pollutants, store floodgates, and contribute to the "green infrastructure" of the City of Brevard and lands within its jurisdiction. Stream systems are comprised of each stream and its respective drainage basin. Streams have the primary natural functions of conveying storm, ground, and surface waters, storing flood waters, and supporting aquatic life. Vegetated lands adjacent to the stream channel serve to protect the stream's ability to fulfill its natural functions. Surface water protection areas have the primary natural functions of protecting water quality by (1) filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons, (2) providing intermittent storage for flood waters, (3) allowing channels to meander naturally, and (4) providing suitable habitat for wildlife.
- B. *Applicability:* This section shall apply to all surface waters (as defined by this ordinance) and all non-encroachment areas and regulatory floodways (as delineated upon the most recently published Flood Boundary and Floodway Map (FBFM) and/or Flood Insurance Rate Map (FIRM), within the planning jurisdiction of the City of Brevard.
- C. *Relationship to previously approved development plans, structures, and uses:* Uses and structures approved and constructed in a protection area prior to the enactment of this ordinance may remain as nonconformities, subject to any legal requirements attributed to that status. All development plans, development projects and uses permitted subsequent to the enactment of this ordinance, including expansions to previously approved and constructed uses and structures, shall comply with the surface water protection requirements of this ordinance.
- D. *Surface water protection area delineation:* Surface water protection area requirements apply to the regulatory floodway and non-encroachment areas, as well as lands within 30 feet from the top of each bank of a stream or other surface water body.
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 4. For wetlands, as defined in this ordinance, protection area widths are measured horizontally, landward from the outermost point at which wetland conditions can be identified.
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 6. For other surface waters, the protection area shall be determined by the administrator in consideration of the purposes of this section.
 7. When a combination of floodway/non-encroachment area and/or surface water types exist, the most restrictive measurement of surface water protection area shall apply.
- E. *Surface water protection area requirements:*

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2. Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the protection area.
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 - b. New development, substantial improvements, new construction, new impervious surfaces, the placement of structures or any other form of development or encroachment, except those associated with public utilities;
 - c. Grading, excavation, the removal of vegetation, or any disturbance of any kind; except excavation and fill required to plant any new trees or vegetation;
 - d. The ditching, dredging, channelization, straightening, relocation, diking, levying, or any other alteration or modification of any kind, to surface waters, except dredging necessary to maintain pre-existing, human-made water impoundments such as ponds and lakes;
 - e. The routing underground (by culvert or other means) of any surface water, except to facilitate crossings by approved roads, streets, driveways, greenways, sidewalks, and other transportation facilities;
 - f. The impoundment of water bodies (this shall not prohibit the maintenance of existing ponds, lakes, and other impoundments); and
 - g. Any other type of encroachment, disturbance, or modification to floodways, non-encroachment areas, or other surface water protection areas or associated surface waters.
7. The following protection area impacts are permitted; however, design and construction shall comply with applicable city standards for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.
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 - b. Parallel water and sewer utility installation as approved by City of Brevard.
 - c. Approved public or common area open space, paths and trails. Pathways should use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall be "on-grade" and shall preserve existing drainage patterns and avoid drainage structures that concentrate stormwater.
 - d. Incidental drainage improvements/repairs for maintenance provided that such maintenance does not result in channelization, straightening, or modification of the natural course of a stream channel or the deforestation of the regulatory floodway or protection areas.
 - e. Mitigation approved by a local, state, or federal agency acting pursuant to Sections 401 or 404 of the Federal Clean Water Act.
 - f. Stream bank or stream channel restoration or soil stabilization activities of the North Carolina Cooperative Extension Service, Transylvania County Soil and Water Conservation Service, USDA Natural Resources Conservation Service, Transylvania County, the City of Brevard, the North Carolina Forest Service, or a

- cooperating organization or entity. This exception does not include the straightening or channelization of any watercourse.
- g. The removal of invasive exotic plant and tree species or trees posing a hazard to life or property.
8. Uses permitted in the protection area shall be coordinated to ensure minimal disturbance of the protection area system. For example, if it is necessary to install utilities within the protection area and if greenway trails are then to be built, they should follow these cleared areas instead of necessitating additional clearing.
9. The approving authority may reduce the required front, rear, or side setbacks by up to 20 percent of the required distance in order to facilitate compliance with this section. Additional setback deviations shall be considered as variances by the BOA in accordance with the procedures set forth in Section 16.8.

13.7. Street classifications.

A. *Determining streets of higher classification*

1. *Ownership.* When making a determination, the administrator shall first consider the ownership of each of the roads. State roads are always considered higher classification than local roads. Local roads are always considered a higher classification than private roads. If any portion of the roadway is a State road, regardless of if property in question is adjacent to a section maintained by the City, the road shall be considered a higher classification than local roads. This applies to French Broad Street, Main Street, Whitmire Street, Elm Bend Road, and other streets that change ownership within the City's jurisdiction. This does not apply to roads that change ownership at the edge of the City's corporate limits, such as Carolina Avenue.
2. *Other factors.* If that does not establish the higher classification, the administrator shall consider the following factors in making a determination:
 - a. The speed limits on the roads, according to the adopted traffic schedule in Section 66 of the City Code;
 - b. The estimated traffic volumes on the roads;
 - c. The length of the roads (e.g., a road that is 2 miles long in total verses a road that only extends $\frac{1}{4}$ mile); and
 - d. The width of the rights-of-way on the roads.

STAFF REPORT

City Council, Tuesday, September 5, 2023

Title: Proposed Amendments to City of Brevard Code of Ordinances Chapters 1, 6, 10, 14, 18, 38, 42, 43, 46, 58, 62, 66, 70, 77 and 78 - Consolidating Definitions

Speaker: Emily Brewer, AICP, Senior Planner

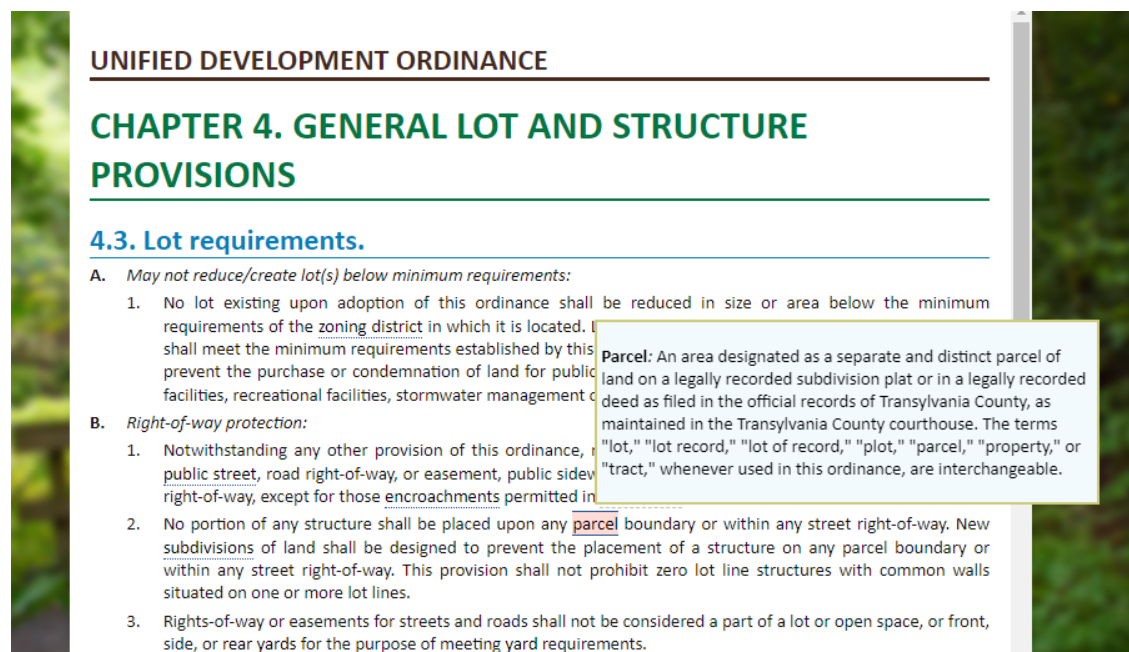
Prepared by: Emily Brewer, Senior Planner

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

Background & Discussion

The City hosts the Code of Ordinances and Unified Development Ordinance online to be readily available to members of the public. These web-based documents enable citizens to navigate important information at their convenience. In July 2023, the City transitioned to a new web portal, EnCodePlus (to view the new Code Portal please visit www.cityofbrevard.com/ordinances).

EnCodePlus is a unique web-based content management software that allows next-day publishing of adopted text amendments and offers a suite of citizen-friendly features. The new interactive website hosts the City Code, UDO, and other critical planning documents, like the Pedestrian and Bicycle Plan and the Comprehensive Land Use Plan. The platform has enhanced features including pop-up definitions for key terms, hyperlinking within and between documents, and page layouts to better accommodate tables and graphics, among others. An illustration of the pop-up definitions can be found below:



During the transition, Staff found it challenging to fully utilize the pop-up definitions function in the Code of Ordinances. This is in part because the definitions are spread throughout the document and are often nested within sections.

The proposed text amendment consolidates all of the definitions in the Code of Ordinances into one section (Code Section 1-2: Definitions), similar to that of the Unified Development Ordinance (UDO Section 19.3). This text amendment also makes changes within other sections of the Code that reference the definitions. For example, the changes to Section 70-143.B.3 replace “the control authority as defined in subsection 70-140.B.1.C” with “the control authority as defined in Section 1-2.” City Council held a public hearing at the August 21st regular meeting.

Notes for Reviewing the Text Amendment

Both a strikethrough version and a clean version of the proposed text amendments are provided. When reviewing the strikethrough text amendment, blue text is added language and ~~red text~~ is removed language. Green text refers to language that moved from one portion of the Code of Ordinances to another. The green text can be found with a strikethrough in the initial location (the section where it currently is in the code) and without a strikethrough in the new location where it is being incorporated (Section 1-2).

Please note there is an additional change from the text amendment presented at the public hearing. The newly added Section 66-90 (Ordinance No. 2023-39) is amended to move the definition of "unmuffled engine compression brake" to Section 1-2: Definitions.

Policy Analysis

Posting the codes is critical in ensuring the materials are readily available for constituents, but it needs to be usable so members of the public can quickly and easily navigate this necessary information. EnCodePlus is an approachable platform that improves the transparency of city administration, law enforcement directives, planning processes, development regulations, and other important ordinances.

The proposed text amendments will further improve the functionality and accessibility of these important documents. The *Building Brevard 2030* Comprehensive Land Use Plan identifies engaging and empowering neighborhoods as a priority, specifically:

- ***Land Use and Housing – 19: Enhance communication of land use planning efforts, policy development, approvals and processes.***

Action

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 - Strikethrough Version
2. Proposed Text Amendment - Clean Version
3. Draft Ordinance



PART II: CODE OF ORDINANCES

CHAPTER 1. GENERAL PROVISIONS

1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the council or the context clearly requires otherwise:

ABC Permittee: means a A person holding any of the following ABC permits:

- A. An on-premises malt beverage permit issued pursuant to N.C.G.S. §18B-1001(1).
- B. An on-premises unfortified wine permit issued pursuant to N.C.G.S. §18B-1001(3).
- C. An on-premises fortified wine permit issued pursuant to N.C.G.S. §18B-1001(5).
- D. A mixed beverages permit issued pursuant to N.C.G.S. §18B-1001(10).
- E. A wine shop permit issued pursuant to N.C.G.S. §18B-1001(16).
- F. A distillery permit issued pursuant to N.C.G.S. §18B-1100(5).

Agricultural operation: ~~has the~~ Any operation as defined ~~definition given in G.S. 106-701(b)~~ (or any successor thereto), and includes, without limitation, any facility for the production for commercial purposes of crops, livestock, poultry, livestock products or poultry products.

Alarm system: means A ~~any~~ electronic or mechanical device transmitting an electronic alarm signal or recorded message to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building.

Ambient noise level: means a An average A-weighted sound level based on at least three readings made and recorded over a period of no less than ten minutes, made at the location where a complainant claims to be disturbed by an alleged violation but at a time when no noise is then being alleged to violate this ordinance, and made at a point no closer than outside the property line of the property from where the noise is generated.

Animal: means a A living creature, domestic or nondomestic, but does not include humans.

Animal control: means a Any authority designated by the city manager to discharge the requirements of this chapter.

Animal shelter: means a Any premises designated by the health director for the purpose of impounding and caring for animals.

ANSI: ~~refers to~~ t ~~The American National Standards Institute or any successor to such organization.~~

Approval authority: ~~When referring to sewer usage,~~ the ~~the~~ director of the division of water quality of the North Carolina Department of Environment and Natural Resources or his designee.

Ashes: means ~~t~~ The residue from the burning of wood, coal, coke or other combustible materials.

At large animal: means a An animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.



Authorized emergency vehicle: Vehicles of the Fire Department, Police Department, vehicles owned by the Transylvania County Emergency Medical Service and vehicles owned by the various rescue squad units operating within Transylvania County.

Authorized representative of the industrial user:

A. If the industrial user is a corporation, authorized representative shall mean:

1. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
2. The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

B. If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

C. If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

D. The individuals described in paragraphs 1—3. A - C, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

E. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to director prior to or together with any reports to be signed by an authorized representative.

Authorizing official: means ~~When referring to the removal of motor vehicles,~~ the supervisory employee of the police department designated to authorize the removal of vehicles under the provisions of this division.

Available to the public: means ~~When referring to obscene materials,~~ that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance.

A-weighted sound level: means ~~t~~ The sound pressure level in decibels as measured on a sound level meter using the A-weighting network measured by a sound level meter, following the criteria approved by ANSI.

Basement: shall mean a A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Basic structural elements: means ~~t~~ The parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to plates, studs, joists, rafters, stringers, stairs, subflooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.



Bedroom: ~~shall mean a~~ A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Bicycle: A non-motorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

Bicycle route: Those bikeways on existing street rights of way where bicycles share the roadway with motor vehicles. Bicycle routes are designated by signs placed on vertical posts or stenciled on the pavement.

Bicycle lane: Those bikeways on existing street rights of way where a portion of the roadway is set aside for exclusive bicycle use and designated by signs on vertical posts or stenciled on the pavement and by a painted line marking the bicycle lane on the pavement. Through travel by motor vehicles or pedestrians is prohibited. Cross flows by motor vehicles and pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

Bicycle path: Those bikeways on existing street rights of way or on a completely separated right-of-way or easement. Use by pedestrians may or may not be permitted. The parking of any through traffic by motor vehicles is prohibited. Cross flows by motor vehicles and pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

Bike trail: ~~means a~~ Any road or trail maintained for bicycles.

Bikeways: All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.

Bite: ~~means a~~ Any penetration of the skin by teeth constitutes a bite exposure.

Board of commissioners: Transylvania County Board of Commissioners.

BOD (~~denoting~~ biochemical oxygen demand): ~~means~~ t The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at 20 degrees Celsius, expressed in milligrams per liter.

Bond: ~~When a bond is required, an undertaking in writing shall be sufficient.~~

Building: A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or equipment and requiring a separate power meter to be installed for the building to have electrical service, or a separate water meter to be installed for the building to have water service. This will also include mobile homes or manufactured homes.

A. The term "building" shall be construed as if followed by the words "or parts thereof".

B. Each portion of a building separated by division wall from the ground up without openings shall be considered a separate building irrespective of the presence of a separate power or water meter.

C. The term "building" may also include other manmade structures or spaces that could be reasonably construed to be a building within the spirit and intent of this definition.

Building drain: ~~means~~ t That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to a sewer service line, beginning five feet (1.5 meters) outside the inner face of the building wall.

Bypass: ~~When referring to sewer usage,~~ The intentional diversion of waste streams from any portion of a user's treatment facility.



Cat: ~~means c~~Cats, both male and female, more than six months old.

Categorical standards: ~~N~~When referring to sewer usage, national categorical pretreatment standards or pretreatment standard.

Cellar: ~~shall mean a~~ A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Certificate of public convenience and necessity: ~~means a certificate of public convenience and necessity A~~ certificate issued by the city, authorizing the holder thereof to conduct a taxicab business within the city.

Certificate of public convenience and necessity Hholder: ~~means A~~ a person to whom a certificate of public convenience and necessity has been issued.

Charter: ~~The term "Charter" or "the Charter" means and refers to the Charter of the City of Brevard, North Carolina, as printed in~~ PART I of this volume.

Chicken coop: ~~means a~~ A weather and predator proof structure or container employed in the keeping of chickens.

Chicken run: ~~means an~~ An outdoor enclosure employed in the keeping of chickens.

Chronic violations of wastewater discharge limits: ~~defined here as those~~ Significant noncompliance of wastewater discharge limits in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);

City or, municipality: ~~The words "city" and "municipality" mean the City of Brevard in the County of Transylvania and State of North Carolina. Where the context admits, it shall mean the particular department or officer of the city charged with a specific function.~~

Close familial relationship: ~~shall mean a~~ A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Code: ~~Reference to "the Code" or "this Code" means the Code of Ordinances, City of Brevard, North Carolina, as designated in Section~~ 1-1.

Code enforcement officer: The official of the City of Brevard charged with enforcing or supporting the enforcement of this article, and with overseeing and/or supporting the administration and enforcement of other ordinances of the city.

Commercial animal establishment: ~~means a~~ Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, animal exhibition or kennel.

Component: Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.

Computation of time: ~~The time within which an act is to be done shall be computed by excluding the day of the act, event, default or publication after which the designated period of time begins to run and including the last day; unless the last day is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.~~

State law reference(s)—Computation of time, G.S. 1A-1, rule 6(a).



Conjunctions: Conjunctions, such as "and" and "or," shall each be deemed to include the other as the context shall admit.

Conservation easement: ~~means a~~ An easement, held by the State of North Carolina under the administration of the North Carolina Clean Water Management Trust Fund, which binds the City of Brevard to certain terms and conditions governing uses of and activities upon the Bracken Preserve.

Control authority: ~~Refers to~~ When referring to sewer usage, to the POTW organization, if the POTW organization's pretreatment program approval has not been withdrawn, the City of Brevard.

Council or city council: The terms "council" and "city council" mean the Mayor and Council of the City of Brevard.

County: The word "county" means the County of Transylvania in the State of North Carolina.

Customer: ~~means~~ In reference to social districts, a person who purchases an alcoholic beverage from an ABC permittee that is in a social district.

Decibel: ~~is a~~ A unit of measuring the amplitude of sound equal to 20 times the logarithm to the base ten of the ratio between the pressure of sound measured to the reference pressure, which is 20 micronewtons per square meter, as approved by ANSI.

Dense smoke: Smoke shall be considered dense when it is of a density equal to or greater than no. 2 on the Ringelmann Smoke Chart approved and adopted as provided in this division.

Deteriorated: ~~shall mean~~ When referring to a dwelling, it shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by ~~this article~~ Chapter 18, Article V at a cost not in excess of 50 percent of its value, as determined by finding of the inspections.

Dilapidated: ~~shall~~ When referring to a dwelling, it shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by ~~this article~~ Chapter 18, Article V at a cost not in excess of 50 percent of its value, as determined by finding of the inspector.

Display: ~~means to~~ To put or spread before the view of those passing within sight distance of the matter displayed, in an ostentatious manner designed to attract attention to or show off the matter displayed. Magazines that meet the definition of sexually explicit materials shall be considered displayed if they are placed in a location (e.g., a magazine rack or shelf) accessible to minors and arranged in a manner calculated to encourage minors to view or read such materials. Sexually explicit materials located within any business or commercial establishment shall not be considered displayed if they are placed in a location that is only accessible to adults or if they are located such that they are only available to customers upon request made to a person in charge of or employed by such business or commercial establishment.

Disseminate: ~~means~~ When referring to obscene materials, to the transfer possession of, with or without consideration.

Dog: ~~means a~~ Dogs, both male and female, more than six months old.

Dog park: The Brevard Dog Park is the designated area located within the City's Sports Complex where dog owners may allow their dog to run off-leash inside the designated fenced area.

Driver's license: ~~means~~ When referring to taxicab drivers, the permission granted by the city to a person to drive a taxicab upon the streets of the city.



Driveway: A private road, private easement, or private right-of-way, giving access from a public street or road, private road, or private right-of-way, leading to a building. A driveway does not serve more than two buildings that have or require separate power or water meters to be installed for electrical service.

Duly authorized person, administrator, or official: ~~means~~ The code enforcement officer, officers of the Brevard Police Department, or any other individual or person duly authorized by the city manager or, in the case of the Chapter 14 and Chapter 77, -local health director to act on behalf of the city for purposes of this chapter.

Dwelling: ~~shall mean a~~ A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling unit: ~~shall mean a~~ A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Multiple Dwelling, multiple: ~~shall mean a~~ Any dwelling containing more than two dwelling units.

E-bike -s Class I and III: Electric assisted bicycles, with no throttle and no self-propulsion, which are not categorized as a motor vehicle as defined in this chapter.

E-bike -s Class II: Throttle assisted bicycles, characterized by self-propulsion, which are considered motor vehicles as defined in this chapter.

Electric personal assistive mobility device: A self-balancing non tandem two wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Element: A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system.

Emergency communications center: ~~means~~ The city's communication center receiving telephonic requests or signal requests for police, fire, ambulance, rescue or other emergency service within the city.

Enforcement response plan or ERP: An administrative procedure, promulgated by the city manager or designee thereof. The ERP is a guidance document that is intended to provide for fair and equitable treatment of all users for anticipated enforcement situations. Generally, enforcement actions will be taken in accordance with the ERP; however, additional legal actions are available (SUO subsection 70-147.D). Therefore, a combination of enforcement actions may be taken against a user in noncompliance.

Environmental Protection Agency or EPA: The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Exposed to rabies: An animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.

Extermination: ~~shall mean~~ The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

False alarm: ~~means~~ An alarm signal or recorded message transmitted to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building, when in fact no evidence exists upon inspection of the building upon response to such alarm that a fire occurred or that an unauthorized entry was committed or attempted or that a crime was committed or attempted in or about the building.

Following: The word "following" means next after.



Forest management plan: ~~is~~ A a general management plan prepared by the City of Brevard and a forest management plan prepared by a forester licensed to practice forestry within the State of North Carolina.

Frontage unit: A frontage unit is a standard interval in feet used to assign consecutive property numbers on a street or road. The standard frontage unit adopted for use throughout Transylvania County is 5.28 feet.

Game room: ~~means a~~ Any place of business that operates mechanical and electronic games or other devices for which charge is made, either directly or indirectly. Examples of such games, by way of illustration and not limitation, are pinball machines, electronic video games, automatic amusement devices and the like.

Garbage: ~~means~~ Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food and from the handling, storage and sale of produce.

Gender: ~~Words importing one gender shall include the other genders.~~

Governing board: ~~shall have the ordinary meaning~~ The appropriate board and shall also be read to include city council.

Grab sample: A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Grooming shop: ~~means a~~ Any establishment, whether operated separately or in connection with another business enterprise, which provides hair and nail clipping, bathing and other cosmetic services for animals.

Group: ~~means a~~ A number of individuals related by a common factor, having structured organization, defined leadership, and activities directed by a charter or written bylaws.

Grossly reckless: A reckless activity that is inherently dangerous and results in injury or presents a high risk of grave injury to self or others with disregard for self-preservation or the preservation of the safety of others. Operation of an e-bike while under the influence of alcohol or drugs is hereby declared to be grossly reckless. Any operation of an e-bike with the intent of doing harm to any person or property is hereby declared to be grossly reckless.

Habitable room: ~~shall mean a~~ A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

Habitually or repeatedly and on a regular basis: ~~When referring to dog barking or other sounds, shall mean barking or other sounds which occur on at least five occasions during a 60-day period or on at least three occasions during a 30-day period.~~

Harmful to minors: ~~means that~~ The quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

- D. Predominantly appeals to the prurient, shameful or morbid interest of minors;
- E. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- F. Taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

Hazardous recreational activity: ~~means~~ Skateboarding, inline skating, or freestyle bicycling, and, or, any other type(s) not listed.

Head of household: ~~means~~ The person who maintains the household, or, if no one person maintains the household, the head of the household shall be the eldest person residing in the household.



Hiking trail: means a Any road or trail maintained for pedestrians.

Holding tank waste: Any waste from holding tanks, including, but not limited to, such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

House number: The number assigned by the property address coordinator to any building for the purpose of identification of the location.

Humane Society: means ~~the~~ The Transylvania County Humane Society and its representatives.

Hunting: means ~~the~~ The lawful hunting of game animals as defined by the N.C. Wildlife Resources Commission.

Impoundment: means a Any animal in custody of a person or animal shelter duly authorized by the local health director.

~~Vacant~~ Industrial warehouse, vacant: means a Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Indirect discharge or discharge: The discharge or the introduction from any nondomestic source regulated under Section 307(b), (c), or (d) of the Federal Water Pollution Control Act, (33 U.S.C. 1317), into the POTW including holding tank waste discharged into the sewage system.

Industrial user or user: A source of indirect discharge.

~~Significant~~ Industrial user, significant or (SIU): An industrial user that discharges wastewater into a POTW and that:

- A. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewaters; or
- B. Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge; or
- C. Is subject to categorical pretreatment standards under 40 CFR Part 403.6 and 40 CFR Chapter I, Subchapter N, Parts 405-471; or
- D. Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.

Infestation shall mean the presence, within or around a dwelling, or any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

Inherent risk means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding.

Inspector shall mean a building inspector of the city or any agent of the inspector who is authorized by the inspector.

Interference: The inhibition or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the control authority's NPDES, collection system, or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Federal Water Pollution Control Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid



Waste Disposal Act (SWDA)(42 U.S.C. § 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Joint authority—: All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper: ~~means a~~ A person having custody of an animal, or who keeps or harbors an animal, or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

Kennel: ~~means a~~ Any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five dogs per year are sold by such owner.

Knowing: means When referring to obscene materials, having a general knowledge of, or reason to know, or a belief or ground for belief that warrants further inspection or inquiry of the character and content of any of the materials described in Section 42-42.B of this section that are reasonably susceptible of examination by the person charged with such knowledge.

Knowingly: ~~means~~ When referring to obscene materials, being aware of the character and the content of the material.

"Known unlawful drug user, possessor or seller": ~~defined. For purposes of this section, the term "known unlawful drug user, possessor or seller" means a~~ A person who has, within the knowledge of the arresting officer or complaining witness, been convicted in any court within this state of any violation involving the use, possession or sale of any of the controlled substances or drug paraphernalia referred to in the North Carolina Controlled Substances Act, G.S. 90-89 et seq., or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or of any other state, or of federal law.

Livestock:

A. Domestic animals, such as cows, bulls, calves, hogs, pigs, horses, mules, ponies, goats or sheep.

B. Any animal raised or kept for profit, excepting:

1. Dogs and cats kept for show competition;
2. Single litters of rabbits, puppies or kittens, per household; and
3. Tropical aquarium fishes.

Local board of health or and board of health: ~~mean t~~ The county board of health.

Local government: ~~shall have the ordinary meaning and shall also be read to include~~ The City of Brevard.

Local health department or and health department: ~~mean t~~ The county health department.

Local health director or and health director: ~~mean t~~ The health director of the county health department, or his designee.

Mailing address: The address assigned by the property address coordinator and used by the United States Postal Service for the purpose of delivery of the United States mail. The property address and mailing address will be the same for all buildings unless the property owners utilize a post office box for delivery of their mail.



Manifest: ~~means a~~ A daily record prepared by a taxicab driver of all trips made by the driver, showing time and place of origin, destination and number of passengers.

Vacant mManufacturing facility, vacant: ~~means a~~ Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

Material: ~~means a~~ Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines not otherwise subject to and governed by Section 42-41.

May: When "may" is used, the action is permissive.

Medical waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Minor: ~~means a~~ Any person under the age of 18.

Month-: ~~The word "month" means a~~ A calendar month.

Motor vehicle and-or vehicle: ~~mean a~~ All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle, such as a camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. -A self-propelled vehicle shall include, but is not limited to passenger automobiles, mopeds, off-road vehicles (ORV), golf carts, motorcycles, all-terrain vehicles, Segways, and go-carts. This term does not include bicycles or electric personal assistive mobility devices.

This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of 15 miles per hour when the device is being operated by a person with a mobility impairment.

Motor vehicle, aAbandoned vehicle: As authorized and defined in G.S. 160A-303, an abandoned motor vehicle is one that:

- A. Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- B. Is left on a public street or highway for longer than seven days;
- C. Is left on property owned or operated by the city for longer than 24 hours; or
- D. Is left on private property, without the consent of the owner, occupant or lessee thereof, for longer than two hours.

Motor vehicle, jJunked motor vehicle: As authorized and defined in G.S. 160A-303.2, the term "junked motor vehicle" means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- A. Is partially dismantled or wrecked;
- B. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- C. Is more than five years old and appears to be worth less than \$100.00.

Motor vehicle, Nnuisance: vehicle ~~means a~~ A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- A. A breeding ground or harbor for mosquitoes, other insects, rats or other pests;



- B. A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- C. A point of collection of pools or ponds of water;
- D. A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- E. One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
- F. So situated or located that there is a danger of it falling or turning over;
- G. One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- H. One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
- I. It is a vehicle no longer commonly being used for personal or commercial transportation or conveyance of goods, but is stationary, either temporarily or permanently, and being utilized as an advertising platform, storage facility, dwelling, animal shelter or other use not of its original primary design; or
- J. Any other vehicle specifically declared a health and safety hazard and a public nuisance by the city council.

Motorized travel: All modes of travel or transport upon a motorized vehicle as defined in this chapter over land or water by self-propulsion.

Multi-tenant establishment: means a A building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.

Multi-use trail: means a Any trail maintained for use by any of the following: bicycle or pedestrian.

National categorical pretreatment standard or categorical standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Federal Water Pollution Control Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

National prohibitive discharge standard or prohibitive discharge standard: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 70-141.A of this ordinance and are developed under the authority of Section 307(b) of the Federal Water Pollution Control Act and 40 CFR, section 403.5.

National Pollution Discharge Elimination System, or NPDES, permit: A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. § 1342), or pursuant to G.S. 143-215.1 by the state under delegation from EPA.

Negligence: Any breach of the duty of due care, resulting in or reasonably likely to result in proximate harm to persons or property. Violating a posted speed limit or posted rule of conduct is hereby declared to be negligence in every instance, but may also be grossly reckless when circumstances so warrant.

New source.

- A. Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307(e) of the Federal Water Pollution Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307(e), provided that:



1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of sections s.1.iiA.2. or s.1.iiiA.3. above but otherwise alters, replaces, or adds to existing process or production equipment.

C. For purposes of this definition, construction of a new source has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:
 - a. Any placement, assembly, or installation of facilities or equipment; or
 - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Non-discharge permit or permit: means a A permit issued by the state pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the state or for a wastewater treatment works which does not discharge directly to surface waters of the state.

Non-Permittee Business: means a In reference to social districts, a business located in a social district and does not hold any North Carolina Alcoholic Beverage Control Commission (ABC) permit.

Nonresidential: means a Any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.

Nudity: means ~~t~~ The showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Number: Words used in the singular include the plural and the plural includes the singular number.

Nuisance: An animal or group of animals shall be considered a nuisance if it:

- A. Damages, soils or defiles private or public property;
- B. Interferes with, molests or attacks persons or other animals;



- C. Is repeatedly at large;
- D. Causes unsanitary and offensive conditions, including interrupting the tranquility of the community;
- E. Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles; or
- F. Is diseased.

Oath ~~:-~~: The word “oath” includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

Obscene ~~means~~ :- That, to the average person applying contemporary community standards:

- A. The predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in sexual conduct, nudity or excretion;
- B. The matter depicts or describes, in a patently offensive manner, sexual conduct regulated by the General Statutes of the state; and
- C. The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Obstruction (permanent or semipermanent): An object that is kept out on public streets, sidewalks, and alleyways after business hours. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, vending machines, and seating. Also referred to as a semipermanent or permanent object.

Occupant ~~shall mean~~ :- Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Official road name: The road name list and the road name map on file with the Transylvania County 911 Emergency Operations shall be the official road names and map for Transylvania County roads, including those located within the jurisdiction of the City of Brevard, unless changed by action of the board of commissioners or city council within their respective jurisdictions.

Officials ~~or~~ officers ~~:-~~: Reference to a particular official or officer of the city includes duly authorized deputies, assistants and representatives of such official or officer. Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words “of the City of Brevard, North Carolina.”

Open Container ~~means~~ :- A container that has a broken seal or a container other than the manufacturer's unopened original container.

Operator ~~means~~ :- Any person who has charge, care, or control of a nonresidential building or structure, or part thereof.

Owner ~~:-~~:

- A. The word "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.
- A.B. The word “owner,” applied to an animal, includes any person or legal entity having a possessory property right in an animal. The head of a household shall be deemed to be the owner in respect to any dogs owned, kept or harbored on the premises by any person residing in the household. While using the dog park, the owner is the person with immediate custody of the dog.

Park manager ~~means~~ :- An employee or employees of the City of Brevard, designated by the city manager, who coordinates management of a specific park or recreation facility, such as the Bracken Preserve or the Skate Park.



Parties in interest: ~~shall mean a~~ All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

Pass-through: A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the control authority's (and/or POTW's, if different from the control authority) NPDES, collection system, or non-discharge permit or a downstream water quality standard even if not included in the permit.

Patrol dog: ~~means a~~ A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

Performance: ~~means a~~ Any preview, play, show, skit, film, dance or other exhibition performed before an audience.

Permit: ~~means a~~ Any written license issued by or under the authority of the City of Brevard permitting the performance of a specified act or acts.

Permittee: ~~means a~~ Any person, corporation, company or association in possession of a valid permit.

Person: ~~The word "person" includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.~~ Any individual, group acting as a unit, such as a partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

Personal property: ~~The term "personal property" includes every species of property except real property.~~

Pet: ~~means~~ Any animal kept for pleasure rather than utility.

Pet shop: ~~means a~~ Any commercial establishment, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

pH: ~~means~~ A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Plumbing: ~~shall mean and include all of the following:~~ Supplied facilities and equipment, including: Gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Pollutant: ~~Any "waste" as defined in G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).~~

POTW director or director: The city administrator designated with the responsibility for the pretreatment program and enforcement of this sewer use ordinance.

POTW treatment plant: That portion of the POTW designed to provide treatment to wastewater.

Preceding, following: ~~The words "preceding" and "following" means~~ next before and next after, respectively.

Premises: ~~means~~ In reference to social districts, a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the ABC permittee has control through a lease, deed, or other legal processes.



Pretreatment or treatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants or as otherwise prohibited by 40 CFR Part 403.6(d).

Pretreatment program: The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the city in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment requirements: Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standard: Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.

Private road: Any road servicing more than two buildings or structures containing separate power or water meters, that is not otherwise defined as a street or driveway by this article, and which is not maintained for public use by the United States Government, the North Carolina Department of Transportation, or the City of Brevard through the use of public funds.

Promote: means to cause, permit, procure, counsel or assist.

Property: The word "property" includes real and personal property.

Property address coordinator: The official of Transylvania County, and any authorized agent or delegate thereof, charged with the administration of this article.

Public authority: shall mean a Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

Public nudity: means a A person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola, nudity, as defined herein, while in a public place.

Public officer: shall mean to The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by G.S. 160D, art. 12.

Public park: means a Any publicly-owned or maintained land which is designated by the City of Brevard as a park or recreation facility.

"Public place:" defined. For purposes of this section, the term "public place" means a Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the city or by any public agency or public authority and located within the city.

Public Street: means a Any highway, road, street, avenue, boulevard, or another way within and under the control of the City or State and open to public use, including the sidewalks of any such street.

Publicly owned treatment works (POTW) or municipal wastewater system: A treatment works as defined by Section 212 of the Federal Water Pollution Control Act, (33 U.S.C. § 1292) which is owned in this instance by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other



conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, or in any other way, users of the POTW of the city.

Rate card: ~~means a~~ A card issued by the city for display in each taxicab, which card contains the rates of fares then enforced.

Real property: ~~The term "real property" includes lands, tenements and hereditaments.~~

Refuse: ~~means a~~ All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

Registered sex offender: ~~[means] a~~ An individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including, but not limited to the sex offender registry established in Article 27A of G.S. ch. 14.

Restaurant: 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).

Restraint: Any animal shall be considered under restraint if it is within the real property limits of its owner, or secured by a leash or lead, or confined.

Riding school or ~~or~~ stable: ~~means a~~ Any place which has available for hire, boarding and/or riding instruction any horse, pony, donkey or burro.

Road: A public or private one-way or two-way street or road for ingress and/or egress. Such roads may be of various types including frontage roads, rear access roads, roads with culs-de-sac and dead-end roads. This definition does not include driveways.

Road sign: A metal blade and necessary hardware used to convey a street name, public or private road name, or driveway name, and, where applicable, the state road number.

Rock climbing: ~~means~~ Traversing a rock face that is steep enough to require the use of hands and feet to get up or down.

Rooming house: ~~shall mean a~~ Any short or long-term accommodations that serve a specific group or membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and breakfasts, and short-term rentals.

Rubbish: ~~means a~~ Nonputrescible solid wastes (including ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, rubble, crockery and similar materials.

Sadomasochistic abuse: ~~means~~ Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Security dog: ~~means a~~ Any dog used, kept or maintained in the county for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog or watch dog.



Sentry dog: means a A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

Septage: means ~~t~~ The solid and liquid contents of privies, septic tanks or cesspools, industrial wastes, chemical compounds and sludges which are hauled by truck or other mobile conveyance.

Service permit: means a A permit, issued by the city manager or designee thereof, authorizing a connection to the city sewer system and setting forth any necessary conditions associated with such connection, including, but not limited to, pretreatment requirements and the assessment of any surcharges.

Service to patrons: means ~~t~~ The provision of services to paying guests in establishments providing food and beverages, including but not limited to hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertaining.

Severe property damage: Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sexual conduct: means a Acts of masturbation, ~~homosexuality~~, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

Sexually explicit materials: means ~~M~~ materials consisting of:

- A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or
- B. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in the definitions of nudity, sadomasochistic abuse, sexual conduct and subsection (A) of this definition, or any explicit and detailed verbal description or narrative account of sexual excitement, sexual conduct or sadomasochistic abuse, which, taken as a whole, is harmful to minors.

Sewer: means a A pipe or conduit for carrying sewage.

Sewer, Bbuilding-sewer: A sewer conveying wastewater from the premises of a user to the POTW.

Sewer, Ppublic-sewer: means a A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

Sewer, Ssanitary-sewer: means a A sewer which carries wastewater or sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Sewer service line: means ~~t~~ The extension from a building drain to the public sewer or other place of disposal; also, a lateral connection.

Sewer system: means a All facilities for collecting, pumping, treating and disposing of wastewater.

Shall, ~~may~~: ~~The term~~ When "shall" is used, the action is ~~means mandatory, and the term "may" means permissive.~~

Sidewalk: ~~The word "sidewalk" means a~~ Any portion of a street between the curblin ~~e and the adjacent property line intended for the use of pedestrians.~~

Signature ~~or~~, subscription: The terms "signature" and "subscription" include a mark when the person cannot write.



Significant noncompliance or SNC. The status of noncompliance of a significant industrial user when one or more of the following criteria are met. ~~Additionally, any industrial user which meets the criteria in subsections 70-140.B.1.jj.iii., 70-140.B.1.jj.iv., or 70-140.B.1.jj.viii., below, shall also be SNC.~~

- A. Chronic violations of wastewater discharge limits, as defined herein.**
- B. Technical review criteria violations, as defined herein.**
- C. Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);**
- D. Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the control authority's POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and subsection 70-147.A.4 of this SUO to halt or prevent such a discharge;**
- E. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.**
- F. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.**
- G. Failure to accurately report noncompliance.**
- H. Any other violation or group of violations that the control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.**

Skate park: ~~means a~~ Any city-owned facility specifically designed, constructed, and designated by on-site signage as an area in which a person may engage in skateboarding.

Sleeping unit: ~~shall mean a~~ A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Slug load or discharge: Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits, or industrial user permit conditions. This can include, but is not limited to, spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in subsection 70-141.A of this ordinance.

Smoking: ~~means~~ The inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

Social District: ~~means a~~ A defined area in which a person may consume alcoholic beverages sold by an ABC permittee, pursuant to N.C.G.S. 18B-300.1 or other applicable state law. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the local government by ordinance. A social district may include privately owned property, including ABC permittees and non-permittee businesses, and multi-tenant establishments, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.



Sound level meter: ~~means a~~ An instrument which measures sound levels in decibels, which either meets the standard of ASAS 1.4-1983 or other ANSI approved minimum requirements, and provided further that such instrument shall be serviced, calibrated and operated as recommended by the manufacturer, operated by a person or persons trained to operate the same, as approved by the chief of police or his designee.

Standard industrial classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

State: The word "state" means the State of North Carolina.

State law: Reference to a section or other subdivision of the General Statutes (G.S.) refers to such section or subdivision as amended or to any other section or subdivision to which the section or other subdivision has been transferred or by which the section or other subdivision has been superseded.

State road number: A number assigned by the North Carolina Department of Transportation, also known as the.

Storm drain and storm sewer: ~~mean a~~ A sewer which carries stormwater and surface water and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

Stormwater: Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Stray: ~~means a~~ Any unregistered or unlicensed dog or cat deemed to be at large.

Street: ~~The word "street" means and includes any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct and bridge and the approaches thereto.~~

Street: Any alley, avenue, circle, highway, lane, road, street, drive, or other public way situated within a dedicated public right-of-way which has been accepted by the appropriate governmental agency for continuing maintenance and upkeep; and/or any alley, avenue, circle, highway, lane, road, street, drive, or other public way maintained for public use by the United States Government, the North Carolina Department of Transportation, or the City of Brevard through the use of public funds.

Subscriber: ~~means a~~ Any person, corporation, partnership, or governmental or educational entity owning or leasing an alarm system.

Supplied: ~~shall mean~~ Paid for, furnished, or provided by, or under the control of, the owner or operator.

Suspected of having rabies: ~~means a~~ An animal which does not have a current vaccination against rabies in accordance with section 14-41 or has bitten a person, or any animal bitten or scratched by a wild carnivorous mammal (including a bat) not available for testing.

Suspended solids: ~~means~~ Solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Taxicab: ~~means a~~ A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than six persons and not operated on a fixed route.

Technical review criteria (TRC)-violations (TRC): ~~defined here as those~~ Significant noncompliance of wastewater discharge limits in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; [TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH)];



Temporary housing: ~~shall mean a~~ Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Tenant, or occupant: The words "tenant" and "occupant," applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense: Words used in the past, present or future tense each include the other tenses.

Unfit for human habitation: ~~shall mean~~ When referring to a dwelling, it shall mean that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.

Unmuffled engine compression brake: A motor vehicle brake which is activated or worked by the compression of the engine of a motor vehicle, and which is not effectively muffled to prevent excessive noise.

Unregistered dog or ~~or~~ unlicensed dog: means a dog which has not been listed on the owner's tax listing form for the then-current year or registered for a vaccination tag and certification, and/or a dog which does not have affixed to it a rabies vaccination tag.

Upset: When referring to sewer usage, An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User: ~~means~~ When referring to sewage, any person using the services of the city for conveyance or treatment of wastewater.

User permit: ~~means the~~ permit issued by the chief of police in response to a written application from a subscriber authorizing connection to and use of the alarm system in the emergency communications center.

Vehicle for hire: ~~means a~~ Any vehicle providing public passenger transportation for a fee, from a point originating or terminating within the city's jurisdiction, including limousine and passenger van services but excluding taxicabs, which are regulated in article ii. (See G.S. 20-87, 160A-579(12)).

Vehicles of the fire department: Shall include the personal vehicles of members of the fire department responding to a fire call and using a red light to indicate an emergency whether they be at the location of a fire, parked in the immediate vicinity of the fire station or in route to either location.

Vendor, /contractor: ~~means t~~ The security company designated by the city to operate and maintain the alarm system of the city along with all incoming apparatus connecting to the city's city's system.

Veterinary hospital: means Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal: ~~means a~~ Any animal which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

Vicious dog: ~~means a~~ Any dog which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.



Waiting time: means ~~t~~ The time when a taxicab is not in motion from the time of acceptance of a passenger to the time of discharge, but it does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger.

Wastewater: means ~~t~~ The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, institutions and treatment facilities, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the sewer system. Also *sewage*.

Wastewater, ~~C~~ompatible wastewater: means ~~w~~ Wastewaters with only those polluting constituents which are susceptible to adequate treatment in the treatment system works, without harm to the sewerage system. The term "compatible constituents" has like meaning with reference to individual wastewater parameters.

Wastewater, ~~i~~ncompatible wastewater: means ~~w~~ Wastewater containing constituents or characteristics which render it unsuitable for transport or treatment in the sewerage system. The terms "incompatible constituents" and "incompatible characteristics" have like meaning with reference to individual wastewater parameters. Incompatible constituents and characteristics include water parameters. Incompatible constituents and characteristics include the elements listed in prohibitions and may include other elements so identified by the manager and specified in the user's service permit.

Wastewater permit. As set forth in subsection 70-143.B of this ordinance.

Wastewater treatment plant: means ~~t~~ The arrangement of infrastructure including, but not limited to, piping, pumps, equipment, devices and structures used for treating wastewater and discharging effluent meeting the requirements.

Watch dog:- means ~~a~~ A dog that barks and threatens to bite any intruder and that has not been specifically trained or conditioned for that purpose.

Watercourse: means ~~a~~ A channel in which a flow of water occurs, either continuously or intermittently.

Waters of the State:- All streams, rivers, brooks, creeks, swamps, lakes, waterways, reservoirs, ponds, marshes, wells, springs, aquifers, irrigation systems, drainage systems, bays, sounds, tidal estuaries and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Writing or, written:- The words "writing" and "written" include printing and any other mode of representing words and letters.

Year:- The word "year" means a calendar year.



CHAPTER 6. ALARM SYSTEMS

ARTICLE II. EMERGENCY COMMUNICATIONS CENTER ALARM SYSTEM POLICY

6-32. ~~Definitions~~Reserved.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Cross-reference(s)—Definitions generally, § 1-2.~~

~~**Alarm system** means any electronic or mechanical device transmitting an electronic alarm signal or recorded message to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building.~~

~~**Emergency communications center** means the city's communication center receiving telephonic requests or signal requests for police, fire, ambulance, rescue or other emergency service within the city.~~

~~**False alarm** means an alarm signal or recorded message transmitted to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building, when in fact no evidence exists upon inspection of the building upon response to such alarm that a fire occurred or that an unauthorized entry was committed or attempted or that a crime was committed or attempted in or about the building.~~

~~**Subscriber** means any person, corporation, partnership, or governmental or educational entity owning or leasing an alarm system.~~

~~**User permit** means the permit issued by the chief of police in response to a written application from a subscriber authorizing connection to and use of the alarm system in the emergency communications center.~~

~~**Vendor/contractor** means the security company designated by the city to operate and maintain the alarm system of the city along with all incoming apparatus connecting to the city's system.~~

CHAPTER 10. AMUSEMENTS

ARTICLE III. GAME ROOMS

10-81. ~~Definitions~~Reserved.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Cross-reference(s)—Definitions generally, § 1-2.~~

~~**Game room** means any place of business that operates mechanical and electronic games or other devices for which charge is made, either directly or indirectly. Examples of such games, by way of illustration and not limitation, are pinball machines, electronic video games, automatic amusement devices and the like.~~



CHAPTER 14. ANIMALS AND FOWL

ARTICLE I. IN GENERAL

14-1. ~~Definitions.~~Reserved.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~**Agricultural operation** has the definition given in G.S. 106-701(b), and includes, without limitation, any facility for the production for commercial purposes of crops, livestock, poultry, livestock products or poultry products.~~

~~**Animal** means a living creature, domestic or nondomestic, but does not include humans.~~

~~**Animal control** means any authority designated by the city manager to discharge the requirements of this chapter.~~

~~**Animal shelter** means any premises designated by the health director for the purpose of impounding and caring for animals.~~

~~**At large** means an animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.~~

~~**Bite** means any penetration of the skin by teeth constitutes a bite exposure.~~

~~**Cat** means cats, both male and female, more than six months old.~~

~~**Commercial animal establishment** means any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, animal exhibition or kennel.~~

~~**Chicken coop** means a weather and predator proof structure or container employed in the keeping of chickens.~~

~~**Chicken run** means an outdoor enclosure employed in the keeping of chickens.~~

~~**Dog** means dogs, both male and female, more than six months old.~~

~~**Duly authorized person, administrator, or official** means the code enforcement officer, officers of the Brevard Police Department, or any other individual or person duly authorized by the city manager or local health director to act on behalf of the city for purposes of this chapter.~~

~~**Exposed to rabies.** An animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.~~

~~**Grooming shop** means any establishment, whether operated separately or in connection with another business enterprise, which provides hair and nail clipping, bathing and other cosmetic services for animals.~~

~~**Habitually, repeatedly and on a regular basis**, when referring to dog barking or other sounds, shall mean barking or other sounds which occur on at least five occasions during a 60-day period or on at least three occasions during a 30-day period.~~

~~**Head of household** means the person who maintains the household, or, if no one person maintains the household, the head of the household shall be the eldest person residing in the household.~~



Humane Society means the Transylvania County Humane Society and its representatives.

Impoundment means any animal in custody of a person or animal shelter duly authorized by the local health director.

Keeper means a person having custody of an animal, or who keeps or harbors an animal, or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

Kennel means any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five dogs per year are sold by such owner.

Livestock

A. Domestic animals, such as cows, bulls, calves, hogs, pigs, horses, mules, ponies, goats or sheep.

B. A. Any animal raised or kept for profit, excepting:

1. Dogs and cats kept for show competition;
2. Single litters of rabbits, puppies or kittens, per household; and
3. Tropical aquarium fishes.

Local board of health and board of health mean the county board of health.

Local health department and health department mean the county health department.

Local health director and health director mean the health director of the county health department, or his designee.

Nuisance An animal or group of animals shall be considered a nuisance if it:

A. Damages, soils or defiles private or public property;

B. A. Interferes with, molests or attacks persons or other animals;

C. A. Is repeatedly at large;

D. A. Causes unsanitary and offensive conditions, including interrupting the tranquility of the community;

E. A. Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles; or

F. A. Is diseased.

Owner means any person or legal entity having a possessory property right in an animal. The head of a household shall be deemed to be the owner in respect to any dogs owned, kept or harbored on the premises by any person residing in the household.

Pet means any animal kept for pleasure rather than utility.

Pet shop means any commercial establishment, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

Restraint Any animal shall be considered under restraint if it is within the real property limits of its owner, or secured by a leash or lead, or confined.

Riding school or stable means any place which has available for hire, boarding and/or riding instruction any horse, pony, donkey or burro.



~~**Security dog** means any dog used, kept or maintained in the county for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog or watch dog.~~

~~**A. Patrol dog** means a dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.~~

~~**B. A. Sentry dog** means a dog that is trained or conditioned to attack or otherwise respond aggressively without command.~~

~~**C. A. Watch dog** means a dog that barks and threatens to bite any intruder and that has not been specifically trained or conditioned for that purpose.~~

~~**Stray** means any unregistered or unlicensed dog or cat deemed to be at large.~~

~~**Suspected of having rabies** means an animal which does not have a current vaccination against rabies in accordance with section 14-41 or has bitten a person, or any animal bitten or scratched by a wild carnivorous mammal (including a bat) not available for testing.~~

~~**Unregistered dog or unlicensed dog** means a dog which has not been listed on the owner's tax listing form for the then current year or registered for a vaccination tag and certification, and/or a dog which does not have affixed to it a rabies vaccination tag.~~

~~**Veterinary hospital** means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.~~

~~**Vicious animal** means any animal which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.~~

ARTICLE II. DOGS AND OTHER ANIMALS

14-37. Animals creating nuisance.

- A. Prohibited.** It shall be unlawful for an owner or keeper to permit an animal to create a nuisance, or to maintain a nuisance created by an animal. An agricultural operation or any of its appurtenances shall not constitute a nuisance when operated in accordance with the conditions and provisions set forth in G.S. 106-701.
- B. Abatement procedure.** Compliance shall be required as follows:
1. When an animal control officer, law enforcement officer or duly authorized person observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from the time of notification to abate the nuisance.
 2. Upon receipt of a written, detailed and signed complaint being made to the city manager, or the local health director, where the county is contracted to provide animal control services for the city or by any person that any other person is maintaining a nuisance as defined in Section ~~14-41-2~~, the city manager, or local health director, shall cause the owner or keeper of the animal in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.
 3. If the written findings indicate that the complaint is justified, then the city manager, the local health director or a duly authorized person shall cause the owner or keeper of the animal in question to be so notified in writing, and ordered to abate such nuisance within 48 hours by whatever means may be necessary. If the owner or keeper of the animal is unknown and cannot be ascertained, the notice and



order, along with a general description of the animal, shall be posted for 48 hours at the animal shelter, city hall and county courthouse. If after 48 hours the owner or keeper of the animal remains unknown, the animal may be impounded or humanely destroyed.

- C. *Violations.* It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this section. Violation is punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

CHAPTER 18. BUILDINGS AND BUILDING REGULATIONS

ARTICLE III. PERMITS AND INSPECTIONS

18-69. Inspection procedure.

- A. *Generally.* In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code. In accordance with G.S. 160D-1113, the inspection department must perform (or contract for) inspections for building permits. The inspection department shall inspect all buildings and structures and real property and work therein or thereon for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes.
- B. *Off-site inspection.* When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the reports are in writing and certified by a responsible officer of such organization.
- C. *Inspection stages.* All holders of permits, or their agencies, shall notify the inspection department and the appropriate inspector at each of the following stages of construction so that approval may be given before work is continued:
1. *Foundation inspection.* To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.
 2. *Framing inspection.* To be made after all structural framing is in place and all roughing-in of plumbing and electrical and heating has been installed, and after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured-in-place concrete structural elements shall be inspected before each pour of any structural member.
 3. *Fireproofing inspection.* To be made after all areas required to be protected by fireproofing are lathed, but before plastering or other fireproofing is applied.
 4. *Final inspection.* To be made after the building or structure has all doors hung and fixtures set and is ready for occupancy, but before the building is occupied. Before the local power utility company is contacted to install permanent power, the building or structure must have passed the building, electrical and plumbing final inspection.



- D. *Calls for inspection.* Requests for inspections may be made to the office of the inspection department or to the appropriate inspector. The inspection department shall make inspections as soon as practicable after request is made therefor, provided such work is ready for inspection at the time the request is made. To ensure that work is ready for inspection and to permit adequate scheduling by the inspection department, the licensed contractor, or where no licensed contractor is used the permit holder, must place the call for inspection at least one working day prior to the time requested for inspection.
- E. *Reinspections.* Reinspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition, ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this Code. A reinspection fee shall be charged to the individual or company that calls for an inspection which is not ready or does not pass inspection. The fee shall be as provided for in Section 18-68.
- F. *Survey of street or alley lines.* Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley or other public place, he shall secure a survey of the line of such street, alley or other public place, adjacent to the property upon which such building or structure is to be erected, before proceeding with construction of such building or structure. It shall be the duty of the building inspector to see that the building does not encroach upon such street, alley or other public place.
- G. *Alternate inspection method.* Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under G.S. ch. 83A or professional engineer licensed under G.S. ch. 89C provided all of the following apply:
1. The submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.
 2. Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.
 3. The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means.
- ~~4. As used in this section, the following definitions apply:~~
- ~~a. Component. Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.~~
 - ~~b. Element. A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system.~~



Upon the acceptance and approval receipt of a signed written document by the city as required under subsection G of this section, notwithstanding the issuance of a certificate of occupancy, the city, its inspection department, and the inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed by this article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

- H. *Inspections of work in progress.* As the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable state and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to G.S. ch. 83A.
- I. *Periodic inspections.* The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with state fire prevention code or as otherwise required by state law.

ARTICLE V. MINIMUM HOUSING STANDARDS

18-132. ~~Definitions~~ Meaning of certain words.

~~The following definitions shall apply in the interpretation and enforcement of this article.~~

~~**Basement** shall mean a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.~~

~~**Bedroom** shall mean a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.~~

~~**Building** shall mean any structure used or intended for supporting or sheltering any use or occupancy.~~

~~**Cellar** shall mean a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.~~

~~**Close familial relationship** shall mean a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.~~

~~**Deteriorated** shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value, as determined by finding of the inspections.~~



Dilapidated shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value, as determined by finding of the inspector.

Dwelling shall mean a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling unit shall mean a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

Infestation shall mean the presence, within or around a dwelling, or any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

Inspector shall mean a building inspector of the city or any agent of the inspector who is authorized by the inspector.

Multiple dwelling shall mean any dwelling containing more than two dwelling units.

Occupant shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner shall mean the holder of the title in fee simple and every mortgagee of record.

Parties in interest shall mean all individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

Plumbing shall mean and include all of the following supplied facilities and equipment: Gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public authority shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

Public officer shall mean the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by G.S. 160D, art. 12.

Rooming house shall mean any short or long term accommodations that serve a specific group or membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and breakfasts, and short term rentals.



Rubbish shall mean combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

Sleeping unit shall mean a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Supplied shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

Temporary housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Unfit for human habitation shall mean that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.

18-132. Definitions. (Continued)

Meaning of certain words. Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof".

ARTICLE VI. NONRESIDENTIAL BUILDING OR STRUCTURE CODE

18-155. Definitions Reserved.

The following definitions shall apply in the interpretation and enforcement of this article:

Basic structural elements means the parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to plates, studs, joists, rafters, stringers, stairs, subflooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.

Building or buildings shall have their ordinary meaning and shall also be read to include other structures.

Governing board shall have the ordinary meaning and shall also be read to include city council.

Local government shall have the ordinary meaning and shall also be read to include the City of Brevard.

Nonresidential means any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.

Operator means any person who has charge, care, or control of a nonresidential building or structure, or part thereof.

Parties in interest means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

Public officer shall have the ordinary meaning and shall also be read to include the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this chapter.



~~Vacant industrial warehouse means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.~~

~~Vacant manufacturing facility means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.~~

18-163. Regulation authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.

- A. *Authority.* The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulation shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Such regulation shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts or municipal service districts.
- B. *Investigation.* Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.
- C. *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than ten days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.
- D. *Order.* If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.
- E. *Limitations on orders.*
 - 1. An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.



2. An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed 50 percent of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing board determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.
3. An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

F. *Action by governing board upon failure to comply with order.*

1. If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.
2. If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

G. *Action by governing board upon abandonment of intent to repair.* If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to



children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

1. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50 percent of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.
2. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50 percent of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

H. *Service of complaints and orders.* Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

I. *Liens.*

1. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. ch. 160A, art. 10.
2. If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
3. If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board



to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

- J. *Ejectment.*** If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.
- K. *Civil penalty.*** The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.
- L. *Supplemental powers.*** The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:
1. To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.
 2. To administer oaths, affirmations, examine witnesses, and receive evidence.
 3. To enter upon premises pursuant to Subsection B of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
 4. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.
 5. To delegate any of his or her functions and powers under the ordinance to other officers and agents.
- M. *Appeals.*** The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160D-1208.



- N. *Funding.* The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.
- O. *No effect on just compensation for taking by eminent domain.* Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

~~P. *Definitions.* As used in this section, the following definitions apply:~~

- ~~1. **Parties in interest.** All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.~~
- ~~2. **Vacant industrial warehouse.** Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.~~
- ~~3. **Vacant manufacturing facility.** Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.~~

CHAPTER 38. HEALTH AND SANITATION

ARTICLE II. NUISANCES

DIVISION 2. NOISE

38-72.1. ~~Definitions;~~ **Violations;** exceptions.

Notwithstanding the enumeration of prohibited noises as listed in section 38-72, whenever it is practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the following ~~definitions and~~ procedure shall be used to determine whether any specific noise alleged to be a violation of this noise ordinance is, in fact, a violation, at any certain time and for any given location from which a complaint arises.

Definitions.

~~**Ambient noise level** means an average A-weighted sound level based on at least three readings made and recorded over a period of no less than ten minutes, made at the location where a complainant claims to be disturbed by an alleged violation but at a time when no noise is then being alleged to violate this ordinance, and made at a point no closer than outside the property line of the property from where the noise is generated.~~

~~**ANSI** refers to the American National Standards Institute or any successor to such organization.~~

~~**A-weighted sound level** means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network measured by a sound level meter, following the criteria approved by ANSI.~~

~~**Decibel** is a unit of measuring the amplitude of sound equal to 20 times the logarithm to the base ten of the ratio between the pressure of sound measured to the reference pressure, which is 20 micronewtons per square meter, as approved by ANSI.~~



~~Sound level meter means an instrument which measures sound levels in decibels, which either meets the standard of ASAS 1.4 1983 or other ANSI approved minimum requirements, and provided further that such instrument shall be serviced, calibrated and operated as recommended by the manufacturer, operated by a person or persons trained to operate the same, as approved by the chief of police or his designee.~~

A. Violations. In order to document and prove a prima facie violation of this noise ordinance:

1. The ambient noise level shall be determined, if it is reasonably practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint. Then, the alleged violation noise level shall be determined at the same location, both determinations to be made by the use of the same sound level meter, and using the same procedure. A violation shall have occurred if the alleged violation noise level exceeds the ambient noise level:
 - a. By ten decibels, between the hours of 9:00 p.m. and 7:00 a.m.; or
 - b. By 20 decibels, between the hours of 7:00 a.m. and 9:00 p.m.
2. If, due to the nature of the alleged violation noise level, no determination of an ambient noise level is practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, then a violation shall have occurred if the alleged violation noise level exceeds:
 - a. 60 decibels between the hours of 9:00 p.m. and 7:00 a.m.; or
 - b. 70 decibels between the hours of 7:00 a.m. and 9:00 p.m.
3. If no decibel readings or comparison between ambient noise levels and alleged violation noise levels are practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the alleged violation is listed in section 38-72, and the violator does not voluntarily and promptly reduce the noise level when requested to do so by a law enforcement officer or code enforcement officer, so as to comply with the definitions in section 38-71, or if, having reduced the noise level to comply therewith but then within a 24-hour period again produces or allows to be produced noise at a level not in compliance with the definitions in section 38-71, the noise shall be a violation of the ordinance.

B. Exceptions. The following are excepted from this noise ordinance:

1. Any noise generated by an emergency vehicle, such as a fire truck, police car, an EMS vehicle or their sirens, or other noises generated by or at the behest of a governmental entity which is intended to immediately promote the public health, safety or welfare.
2. Any sporting event sanctioned by a school, any other government agency, or any civic group or club provided that in the latter instance, such event is properly permitted.
3. Noises caused by:
 - a. Lawn care equipment, agricultural equipment or construction equipment operated for intended and legitimate purposes between the hours of 7:00 a.m. and 9:00 p.m.;
 - b. Properly permitted events such as parades, fairs, circuses and other entertainment events;
 - c. Bells, chimes and similar devices which operate from a stationary location, which were in operation before the complainant's residency was established, and which operate for no longer than five minutes in any hour;
 - d. Emergency work reasonably necessary to safeguard the public safety to person or property;
 - e. Duly permitted electrical transformers and utility substations;



- f. Traffic noises other than the unnecessary use of horns, radios or other sound amplifying or receiving equipment, intentional screeching of tires, intentional revving of motors, provided that such traffic noises emanate from a public street or right-of-way; and
 - g. Noises permitted pursuant to section [38-73](#).
- C. *Regulations and measurement standards promulgated by the chief of police.* The chief of police may promulgate any regulations and sound level measurement standards consistent with this noise ordinance which, in his professional opinion, will aid in the enforcement hereof.
- D. *Noises are public nuisances.* Nothing in this noise ordinance shall be construed in such manner as to prohibit the code enforcement officer, the city manager and/or the city council from following the procedure for abatement of a nuisance, enumerated in division 1 of this article, as an alternative or in addition to the prosecution of a violation of the noise ordinance as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

DIVISION 4. SMOKE CONTROL

38-122. ~~"Dense smoke" defined.~~ [Reserved.](#)

~~Smoke shall be considered dense when it is of a density equal to or greater than no. 2 on the Ringelmann Smoke Chart approved and adopted as provided in this division.~~

DIVISION 5. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

38-152. ~~Definitions~~ [Reserved.](#)

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~**Abandoned vehicle.** As authorized and defined in G.S. 160A-303, an abandoned motor vehicle is one that:~~

~~**A.** Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;~~

~~**B-A.** Is left on a public street or highway for longer than seven days;~~

~~**C-A.** Is left on property owned or operated by the city for longer than 24 hours; or~~

~~**D-A.** Is left on private property, without the consent of the owner, occupant or lessee thereof, for longer than two hours.~~

~~**Authorizing official** means the supervisory employee of the police department designated to authorize the removal of vehicles under the provisions of this division.~~

~~**Junked motor vehicle.** As authorized and defined in G.S. 160A-303.2, the term "junked motor vehicle" means a vehicle that does not display a current license plate lawfully upon that vehicle and that:~~

~~**A.** Is partially dismantled or wrecked;~~

~~**B-A.** Cannot be self-propelled or moved in the manner in which it originally was intended to move; or~~

~~**C-A.** Is more than five years old and appears to be worth less than \$100.00.~~

~~**Motor vehicle and vehicle** mean all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.~~



~~**Nuisance vehicle** means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:~~

- ~~**A.** A breeding ground or harbor for mosquitoes, other insects, rats or other pests;~~
- ~~**B.A.** A point of heavy growth of weeds or other noxious vegetation over eight inches in height;~~
- ~~**C.A.** A point of collection of pools or ponds of water;~~
- ~~**D.A.** A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;~~
- ~~**E.A.** One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;~~
- ~~**F.A.** So situated or located that there is a danger of it falling or turning over;~~
- ~~**G.A.** One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;~~
- ~~**H.A.** One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or~~
- ~~**I.A.** Any other vehicle specifically declared a health and safety hazard and a public nuisance by the city council.~~

ARTICLE III. SMOKING IN MUNICIPAL BUILDINGS

38-191. ~~Definitions.~~Reserved.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~**Smoking** means the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.~~

CHAPTER 42. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

42-6. Loitering for purpose of engaging in drug-related activity.

- ~~**A.** "Public place" defined. For purposes of this section, the term "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the city or by any public agency or public authority and located within the city.~~
- ~~**B.A.** "Known unlawful drug user, possessor or seller" defined. For purposes of this section, the term "known unlawful drug user, possessor or seller" means a person who has, within the knowledge of the arresting officer or complaining witness, been convicted in any court within this state of any violation involving the use, possession or sale of any of the controlled substances or drug paraphernalia referred to in the North Carolina Controlled Substances Act, G.S. 90-89 et seq., or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or of any other state, or of federal law.~~



C.A. Violations. It shall be unlawful for a person to loiter, remain or wander about in a public place in a manner and under circumstances manifesting the purpose of engaging in a violation of any subdivision of the North Carolina Controlled Substances Act, G.S. 90-89 et seq. A prima facie showing of a violation of this section is made by proof that a person, while in a public place, loiters and commits any of the following acts or courses of conduct:

1. Repeatedly beckons to, stops or attempts to stop passersby, or repeatedly attempts to engage passersby in conversation;
2. Repeatedly stops or attempts to stop motor vehicles;
3. Repeatedly interferes with the free passage of motor vehicles or other persons;
4. Associates at such location with one or more persons who are known unlawful drug users, possessors and sellers;
5. Behaves in such a manner as to raise a reasonable suspicion that he is about to engage in, or is engaged in, an unlawful drug-related activity;
6. Repeatedly passes to or receives from passersby, whether on foot or in a vehicle, money or objects;
7. Takes flight upon the approach or appearance of a police officer;
8. Is at a location frequented by persons who use, possess or sell drugs; or
9. Uses or associates with the user of any vehicle which is registered to a known unlawful drug user, possessor or seller, or is known to be or have been involved in drug-related activities.

D.B. Penalty. A violation of any provision of this section is a misdemeanor and shall subject the offender to punishment in accordance with Section 1-8.

ARTICLE II. OBSCENE MATERIALS

42-42. Display of sexually explicit materials.

~~**A. Definitions.** The words and phrases defined in this subsection shall have the meaning indicated when used in this section:~~

~~1. **Display** means to put or spread before the view of those passing within sight distance of the matter displayed, in an ostentatious manner designed to attract attention to or show off the matter displayed. Magazines that meet the definition of sexually explicit materials shall be considered displayed if they are placed in a location (e.g., a magazine rack or shelf) accessible to minors and arranged in a manner calculated to encourage minors to view or read such materials. Sexually explicit materials located within any business or commercial establishment shall not be considered displayed if they are placed in a location that is only accessible to adults or if they are located such that they are only available to customers upon request made to a person in charge of or employed by such business or commercial establishment.~~

~~2.1. **Harmful to minors** means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:~~

~~A. Predominantly appeals to the prurient, shameful or morbid interest of minors;~~

~~B. A. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and~~

~~C. A. Taken as a whole, lacks serious literary, artistic, political or scientific value for minors.~~



~~3.1. **Knowing** means having a general knowledge of, or reason to know, or a belief or ground for belief that warrants further inspection or inquiry of the character and content of any of the materials described in 42-42.B of this section that are reasonably susceptible of examination by the person charged with such knowledge.~~

~~4.1. **Minor** means any person under the age of 18.~~

~~5.1. **Nudity** means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.~~

~~6.1. **Sadomasochistic abuse** means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.~~

~~7.1. **Sexual conduct** means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.~~

~~8.1. **Sexually explicit materials** means materials consisting of:~~

~~A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or~~

~~B. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in the definitions of nudity, sadomasochistic abuse, sexual conduct and subsection (A) of this definition, or any explicit and detailed verbal description or narrative account of sexual excitement, sexual conduct or sadomasochistic abuse, which, taken as a whole, is harmful to minors.~~

A. *Display.* ~~Subject to 42-42.C, n~~**No** person, knowing the character of the materials involved, may display or cause or permit the display of any sexually explicit materials in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk or other public right-of-way, or in any business or commercial establishment where minors, as a part of the general public or otherwise, are or will probably be exposed to view all or any part of such materials. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

B. *Exception.* Nothing in this section shall apply to any recognized historical society or museum accorded charitable status by the federal government or any library operated by any unit of state or local government.

ARTICLE III. OBSCENITY

42-71. ~~Definitions.~~**Reserved.**

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~**Available to the public** means that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance.~~

~~**Disseminate** means to transfer possession of, with or without consideration.~~



Knowingly means being aware of the character and the content of the material.

Material means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines not otherwise subject to and governed by Section 42-41.

Nudity means the showing of the human male or female genitals, female breasts or pubic area with less than a fully opaque covering, or the depiction of covered male genitals in a discernible turgid state.

Obscene means that, to the average person applying contemporary community standards:

A. The predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in sexual conduct, nudity or excretion;

B. The matter depicts or describes, in a patently offensive manner, sexual conduct regulated by the General Statutes of the state; and

C. The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Performance means any preview, play, show, skit, film, dance or other exhibition performed before an audience.

Person means any individual, partnership, firm, association, corporation or other legal entity.

Promote means to cause, permit, procure, counsel or assist.

Public park means any publicly owned or maintained land which is designated by the City of Brevard as a park or recreation facility.

Registered sex offender [means] an individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including, but not limited to the sex offender registry established in Article 27A of G.S. ch. 14.

Service to patrons means the provision of services to paying guests in establishments providing food and beverages, including but not limited to hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertaining.

CHAPTER 43. SOCIAL DISTRICTS

ARTICLE I. IN GENERAL

43-2. ~~Definitions.~~ Reserved.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

A. ~~ABC Permittee~~ means a person holding any of the following ABC permits:

1. ~~An on-premises malt beverage permit issued pursuant to N.C.G.S. §18B-1001(1).~~

2. ~~1. An on-premises unfortified wine permit issued pursuant to N.C.G.S. §18B-1001(3).~~

3. ~~1. An on-premises fortified wine permit issued pursuant to N.C.G.S. §18B-1001(5).~~

4. ~~1. A mixed beverages permit issued pursuant to N.C.G.S. §18B-1001(10).~~



~~5.1. A wine shop permit issued pursuant to N.C.G.S. §18B-1001(16).~~

~~6.1. A distillery permit issued pursuant to N.C.G.S. §18B-1100(5).~~

~~B.A. Customer~~ means a person who purchases an alcoholic beverage from an ABC permittee that is in a social district.

~~C.A. Multi-tenant establishment~~ means a building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.

~~D.A. Non-Permittee Business~~ means a business located in a social district and does not hold any North Carolina Alcoholic Beverage Control Commission (ABC) permit.

~~E.A. Open Container~~ means a container that has a broken seal or a container other than the manufacturer's unopened original container.

~~F.A. Public Street~~ means any highway, road, street, avenue, boulevard, or another way within and under the control of the City or State and open to public use, including the sidewalks of any such street.

~~G. Person~~ means an individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.

~~H.A. Premises~~ means a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the ABC permittee has control through a lease, deed, or other legal processes.

~~I.A. Social District~~ means a defined area in which a person may consume alcoholic beverages sold by an ABC permittee, pursuant to N.C.G.S. 18B-300.1 or other applicable state law. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the local government by ordinance. A social district may include privately owned property, including ABC permittees and non-permittee businesses, and multi-tenant establishments, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.

CHAPTER 46. PEDDLERS AND SOLICITORS

ARTICLE I. IN GENERAL

46-7. ~~Definitions.~~Reserved.

~~As used in this ordinance the words and expressions defined in this section shall be held to have the meanings herein given to them:~~

~~**Obstruction (permanent or semipermanent).** An object that is kept out on public streets, sidewalks, and alleyways after business hours. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, vending machines, and seating. Also referred to as a semipermanent or permanent object.~~



~~**Restaurant:** 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).~~

CHAPTER 58. SOLID WASTE MANAGEMENT

58-1. ~~Definitions.~~ Reserved.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~**Ashes** means the residue from the burning of wood, coal, coke or other combustible materials.~~

~~**Director** means the public works director.~~

~~**Garbage** means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.~~

~~**Refuse** means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.~~

~~**Rubbish** means nonputrescible solid wastes (including ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, rubble, crockery and similar materials.~~

58-2. Management and control of collection services; appeals.

- A. All garbage and other refuse accumulated in the city shall be collected, conveyed and disposed of by the city under the control of the city manager, and under the supervision of the director of public works. The director shall have the authority to make regulations concerning the days of collection, type and location of waste containers, and such other matters pertaining to the collection, conveyance and disposal as he shall find necessary, and to change and modify the regulations after due notice as required by law, provided such regulations are not contrary to the provisions of law.
- B. Any person aggrieved by a regulation of, or fee charged by, the public works director shall have the right of appeal to the city manager, who shall have the authority to confirm, modify or revoke any such regulations or fee.

58-5. Containers.

- A. *Required; maintenance; specifications.* Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises served and shall be of a type approved by the public works director. Containers shall be maintained in good condition and shall be kept in a clean, neat and sanitary condition at all times. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice. The public works director shall have the authority to refuse collection services for failure to comply herewith. City collection personnel shall exercise due care in the handling of containers and the city shall not be liable for any damage to containers resulting from handling the containers unless it can be shown



that the personnel were negligent or careless in the handling thereof, and in such cases the liability of the city shall extend only to replacement of the container with one in good condition of like material and capacity. The following types and numbers of containers are prescribed for use in the collection of waste material:

1. *Residential containers.* The standard small container, normally used at residences, shall be made of metal or substantial plastic equipped with suitable handles and tight-fitting covers, shall be watertight and shall have a capacity of not more than 32 gallons. These containers may be used for any waste material. Care shall be taken to ensure that the weight of the contents shall be such that the container, with contents, can readily be handled by one adult person.
 2. *Dumpsters.* Commercial dumpster containers shall be of steel construction, of up to four-cubic-yard capacity and of such design and construction as to facilitate mechanical unloading by collection equipment operated by the city. Sub-grade dumpsters may be installed of steel or polyethylene construction for private hauler service and maintenance; the public works director may require the customer use a private hauler to collect the waste in such dumpsters due to city collection capabilities. Dumpsters may be used for garbage, refuse or rubbish.
 3. *Disposable containers.* Disposable containers shall be made of either metal, plastic, wood, cardboard or paper, all of which shall be removed with the contents thereof. These containers together with the contents thereof shall be of such weight that they can readily be handled by one adult person and shall be of sufficient strength to withstand failure when being picked up and placed in the collection vehicle.
 4. *Number of containers.* Residential and noncommercial business customers shall be limited to two standard small containers per dwelling unit or business per collection. If more than two containers are used on a regular basis, the collection fee shall be doubled. For multifamily residential buildings having more than four units, a commercial dumpster container shall be provided in lieu of the standard small containers. Commercial customers requiring more than four standard small containers on a regular basis shall be required to use a commercial dumpster container.
- B. *Use.* No person shall place any refuse in any street, alley or other public place, or upon any private property, whether or not owned by such person, within the city except in proper containers for collection or under express approval granted by the [public works](#) director; nor shall any person throw or deposit any refuse in any stream or other body of water.
- C. *Placement.* Refuse containers shall be placed for collection at ground level and directly accessible from the street or alley from which collection is made. Residential refuse containers shall be placed at curbside prior to collection, no later than 7:30 AM and shall be removed within reasonable time thereafter. A suitable permanent location, satisfactory to the [public works](#) director, may be established for containers of commercial customers.

58-6. Frequency of collection.

- A. Refuse shall be collected once each week under normal circumstances.
- B. Hotels, restaurants and such other businesses and institutions as deem it necessary may enter into an agreement for a greater frequency of collection.
- C. Where necessary to protect the public health, the [public works](#) director shall have the authority to require that more frequent collection be made. If necessary, an extra city-wide collection shall not affect fees. Individual collections made according to this section shall be charged on a pro-rata basis to the affected fee payer.

58-7. Refuse quantity.



- A. The [public works](#) director shall collect a reasonable accumulation of refuse of each patron during each collection period for the standard charge. The [public works](#) director shall have the authority to refuse to collect unreasonable amounts, or to make additional charges for such amounts.
- B. Only material placed in approved containers shall be picked up. Refuse placed on the ground or scattered about in the immediate vicinity of the container shall not be picked up unless, in the opinion of the public works director, pickup by city personnel is warranted due to delays in the service or other factors which are strictly the responsibility of the city.

58-8. Special refuse problems.

- A. *Contagious disease refuse.* The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the county health department. Such refuse shall not be placed in containers for regular collection.
- B. *Construction debris; tree limbs, trunks, etc.* Rubbish resulting from any construction, remodeling, wrecking or repair of any building or other real estate improvement shall be removed by the producer of such rubbish, or by the owner of the premises upon which rubbish has accumulated, at his own expense, subject to the provisions of section 58-9. These restrictions shall apply to the removal of limbs, trunks, stumps, etc., of any trees or shrubs removed or trimmed by landscape gardeners, tree surgeons or other parties engaged to carry on such work.
- C. *Inflammable or explosive refuse.* Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the [public works](#) director at the expense of the owner or possessor thereof.
- D. *Free curbside pickup service.* Rubble, wood, tree trimmings, hedge clippings and debris resulting from cleaning of property may be placed at curbside for collection. The [public works](#) director shall collect a reasonable amount of such rubbish at no charge, but he shall have the authority to refuse to collect heavy or bulky items that cannot be handled readily by two adult persons. It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery trimmings on any street or sidewalk so as to obstruct the free passage of vehicles or pedestrians.
- E. *Parking of pickup vehicles at private residences.* The city manager or his designee may authorize city vehicles to be parked at private residences to facilitate the collection of brush and other refuse that would otherwise be collected under other provisions of this section. The city manager is directed to develop a written policy to provide for the implementation of this subsection. The policy is to be kept on file in the office of the city clerk and at the public works department. The fee for this service shall be adopted in the city's annual schedule of fees.

58-9. Collection by actual producers and outside collectors.

- A. *Vehicles.* The actual producers of refuse or the owners of premises upon which refuse is accumulated who desire personally to collect and dispose of such refuse, persons who desire to dispose of waste material not included in the definition of refuse and collectors of refuse from outside of the city who desire to haul over the streets of the city shall use a watertight vehicle provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled.
- B. *Additional rules and regulations.* The [public works](#) director shall have the authority to make such other reasonable regulations concerning individual collection and disposal, and relating to the hauling of refuse over



city streets by outside collectors, as such director may find necessary, subject to the right of appeal as set forth in Section 58-2.

58-11. Fees; delinquent accounts.

- A. *Establishment of fees for the collection and disposal of refuse.* Fees for the collection and disposal of refuse shall be set forth within the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of such fees shall be established by the city manager.
- B. *Applicability of fee.* The appropriate fee for collection and disposal of refuse shall be charged each occupied single, duplex or multifamily dwelling. Businesses which have a contract for refuse collection by a private contractor shall not be required to pay the city fee.
- C. *Single and duplex family dwellings.* The fee for collection and disposal of refuse placed for collection adjacent to the side of the street or alley from which collection is made shall be as set forth in the schedule of taxes, fees and charges, and shall include the free pickup service provided for in Section 58-8.D.
- D. *Multifamily dwellings.* For each dwelling unit in a multifamily dwelling, i.e., three or more family dwelling units per building, the fee shall be as set forth in the schedule of taxes, fees and charges, provided, however, that this fee shall not include the free pickup service provided for in Section 58-8.D. The regular fee provided for in Subsection 58-11.F shall be charged for pickup of rubble, wood, tree trimmings, hedge clippings and debris resulting from cleaning of property at multifamily dwellings. Owners of multifamily dwelling buildings shall have the option of using a dumpster container at the regular commercial rate in lieu of individual unit garbage containers.
- E. *Fee for commercial premises.* The fee for collection and disposal of refuse from nonresidential premises shall be as set forth in the schedule of taxes, fees and charges.
- F. *Fee for special loads.* The fee for the collection and disposal of special loads of refuse shall be as set forth in the schedule of taxes, fees and charges.
- G. *Delinquent accounts.* All accounts shall be considered delinquent if not paid by the 20th of the month following the month in which service is rendered. All delinquent accounts are subject to stoppage of service without notice. If the delinquent account is not paid within 30 days, the [public works](#) director shall cease all refuse collection for that account unless otherwise directed by the city manager. Service shall be resumed thereafter only upon payment of the accumulated fees for the period of collection and the period of noncollection unless the city manager specifically directs otherwise. The stoppage of services for nonpayment of collection charges shall be in addition to the right of the city to proceed for the collection of such unpaid charges in any manner provided by law for the collection of a claim of the city.

CHAPTER 62. STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

ARTICLE VI. PEDESTRIAN/BICYCLE PATHWAY

62-141. ~~Definitions.~~ [Reserved.](#)



As used in this article the words and expressions defined in this section shall be held to have the meanings herein given to them:

Bicycle: A non-motorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

Bikeways: All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.

A. Bicycle route: Those bikeways on existing street rights of way where bicycles share the roadway with motor vehicles. Bicycle routes are designated by signs placed on vertical posts or stenciled on the pavement.

B. Bicycle lane: Those bikeways on existing street rights of way where a portion of the roadway is set aside for exclusive bicycle use and designated by signs on vertical posts or stenciled on the pavement and by a painted line marking the bicycle lane on the pavement. Through travel by motor vehicles or pedestrians is prohibited. Cross flows by motor vehicles and pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

C. Bicycle path: Those bikeways on existing street rights of way or on a completely separated right of way or easement. Use by pedestrians may or may not be permitted. The parking of any through traffic by motor vehicles is prohibited. Cross flows by motor vehicles and pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

Electric personal assistive mobility device: A self-balancing non-tandem two-wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Motor vehicle: Every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a highway, with the exception of bicycles and electric personal assistive mobility device as defined herein. This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of 15 miles per hour when the device is being operated by a person with a mobility impairment.

ARTICLE VII. PROPERTY ADDRESSING AND ROAD NAMING

62-164. **Definitions.** Reserved.

For the purpose of this article, the following terms are defined below. Unless specifically defined, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article the most reasonable application.

Board of commissioners: Transylvania County Board of Commissioners.



Building: A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or equipment and requiring a separate power meter to be installed for the building to have electrical service, or a separate water meter to be installed for the building to have water service. This will also include mobile homes or manufactured homes. The term "building" shall be construed as if followed by the words "or parts thereof". Each portion of a building separated by division wall from the ground up without openings shall be considered a separate building irrespective of the presence of a separate power or water meter. The term "building" may also include other manmade structures or spaces that could be reasonably construed to be a building within the spirit and intent of this definition.

City: The City of Brevard, North Carolina.

City council: The City Council of the City of Brevard.

Code enforcement officer: The official of the City of Brevard charged with enforcing or supporting the enforcement of this article, and with overseeing and/or supporting the administration and enforcement of other ordinances of the city.

Driveway: A private road, private easement, or private right of way, giving access from a public street or road, private road, or private right of way, leading to a building. A driveway does not serve more than two buildings that have or require separate power or water meters to be installed for electrical service.

Frontage unit: A frontage unit is a standard interval in feet used to assign consecutive property numbers on a street or road. The standard frontage unit adopted for use throughout Transylvania County is 5.28 feet.

House number: The number assigned by the property address coordinator to any building for the purpose of identification of the location.

Mailing address: The address assigned by the property address coordinator and used by the United States Postal Service for the purpose of delivery of the United States mail. The property address and mailing address will be the same for all buildings unless the property owners utilize a post office box for delivery of their mail.

Official road name: The road name list and the road name map on file with the Transylvania County 911 Emergency Operations shall be the official road names and map for Transylvania County roads, including those located within the jurisdiction of the City of Brevard, unless changed by action of the board of commissioners or city council within their respective jurisdictions.

Private road: Any road servicing more than two buildings or structures containing separate power or water meters, that is not otherwise defined as a street or driveway by this article, and which is not maintained for public use by the United States Government, the North Carolina Department of Transportation, or the City of Brevard through the use of public funds.

Property address coordinator: The official of Transylvania County, and any authorized agent or delegate thereof, charged with the administration of this article.

Road: A public or private one-way or two-way street or road for ingress and/or egress. Such roads may be of various types including frontage roads, rear access roads, roads with culs-de-sac and dead-end roads. This definition does not include driveways.

Road sign: A metal blade and necessary hardware used to convey a street name, public or private road name, or driveway name, and, where applicable, the state road number.



~~**Street:** Any alley, avenue, circle, highway, lane, road, street, drive, or other public way situated within a dedicated public right of way which has been accepted by the appropriate governmental agency for continuing maintenance and upkeep; and/or any alley, avenue, circle, highway, lane, road, street, drive, or other public way maintained for public use by the United States Government, the North Carolina Department of Transportation, or the City of Brevard through the use of public funds.~~

~~**State road number:** A number assigned by the North Carolina Department of Transportation, also known as the~~

CHAPTER 66. TRAFFIC

ARTICLE I. IN GENERAL

66-1. Adoption of state law.

A. For the purpose of regulating traffic on the streets of the city, and in addition to the provisions of this chapter, there are hereby adopted by reference by the city the following provisions of G.S. ch. 20: G.S. 20-4.01 (Definitions), G.S. 20-115 et seq. (The Size, Weight, Construction and Equipment of Vehicles), G.S. 20-138.1 et seq. (Operation of Vehicles and Rules of the Road), G.S. 20-171.1 et seq. (Operation of Bicycles), G.S. 20-172 et seq. (Pedestrians) and G.S. 20-216 et seq. (Miscellaneous Provisions Relating to Motor Vehicles).

~~B. The definition of the term "authorized emergency vehicle" is hereby amended as follows:~~

~~**Authorized emergency vehicle:** Vehicles of the Fire Department, Police Department, vehicles owned by the Transylvania County Emergency Medical Service and vehicles owned by the various rescue squad units operating within Transylvania County.~~

~~**Vehicles of the fire department:** Shall include the personal vehicles of members of the fire department responding to a fire call and using a red light to indicate an emergency whether they be at the location of a fire, parked in the immediate vicinity of the fire station or in route to either location.~~

~~C.B.~~ The violation of any such provision shall be deemed a violation of this Code, and punishable as such.

ARTICLE III. OPERATION OF VEHICLES

66-90. Unmuffled engine compression brake.

~~A. Definitions. For the purposes of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.~~

~~1. **Unmuffled engine compression brake:** A motor vehicle brake which is activated or worked by the compression of the engine of a motor vehicle, and which is not effectively muffled to prevent excessive noise.~~

~~B.A.~~ Prohibition.

1. No person shall use an engine braking system within the corporate limits of the City of Brevard which is in any way activated or operated by the compression of the engine of any such motor vehicle or any such unit or part



thereof, except in cases of emergency or necessary for the protection of persons and/or property. Such braking is commonly referred to as compression braking or a "fake brake."

2. The City of Brevard will identify areas in which engine braking is prohibited and signs shall be conspicuously posted in such areas stating: "No engine braking" or its equivalent.

C.B. *Emergency vehicle exemption.* All emergency vehicles are exempt from this order.

CHAPTER 70. UTILITIES

ARTICLE III. SEWER SYSTEM

70-83. ~~Definitions.~~ Reserved.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~**BOD (denoting biochemical oxygen demand)** means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at 20 degrees Celsius, expressed in milligrams per liter.~~

~~**Building drain** means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to a sewer service line, beginning five feet (1.5 meters) outside the inner face of the building wall.~~

~~**Compatible wastewater** means wastewaters with only those polluting constituents which are susceptible to adequate treatment in the treatment system works, without harm to the sewerage system. The term "compatible constituents" has like meaning with reference to individual wastewater parameters.~~

~~**Garbage** means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.~~

~~**Incompatible wastewater** means wastewater containing constituents or characteristics which render it unsuitable for transport or treatment in the sewerage system. The terms "incompatible constituents" and "incompatible characteristics" have like meaning with reference to individual wastewater parameters. Incompatible constituents and characteristics include water parameters. Incompatible constituents and characteristics include the elements listed in prohibitions and may include other elements so identified by the manager and specified in the user's service permit.~~

~~**Non-discharge permit or permit** means a permit issued by the state pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the state or for a wastewater treatment works which does not discharge directly to surface waters of the state.~~

~~**pH** means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.~~

~~**Public sewer** means a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.~~

~~**Sanitary sewer** means a sewer which carries wastewater or sewage and to which stormwater, surface water and groundwater are not intentionally admitted.~~



~~**Septage** means the solid and liquid contents of privies, septic tanks or cesspools, industrial wastes, chemical compounds and sludges which are hauled by truck or other mobile conveyance.~~

~~**Service permit** means a permit, issued by the city manager or designee thereof, authorizing a connection to the city sewer system and setting forth any necessary conditions associated with such connection, including, but not limited to, pretreatment requirements and the assessment of any surcharges.~~

~~**Sewer** means a pipe or conduit for carrying sewage.~~

~~**Sewer service line** means the extension from a building drain to the public sewer or other place of disposal; also, a lateral connection.~~

~~**Sewer system** means all facilities for collecting, pumping, treating and disposing of wastewater.~~

~~**Storm drain and storm sewer** mean a sewer which carries stormwater and surface water and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.~~

~~**Suspended solids** means solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.~~

~~**System** means the sewerage system of the city.~~

~~**User** means any person using the services of the city for conveyance or treatment of wastewater.~~

~~**Wastewater** means the liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, institutions and treatment facilities, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the sewer system. Also sewage.~~

~~**Wastewater treatment plant** means the arrangement of infrastructure including, but not limited to, piping, pumps, equipment, devices and structures used for treating wastewater and discharging effluent meeting the requirements.~~

~~**Watercourse** means a channel in which a flow of water occurs, either continuously or intermittently.~~

ARTICLE V. SEWER USE ORDINANCE

70-140. General provisions.

- A. *Purpose and policy.* This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Brevard, hereafter referred to as the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.



This ordinance shall apply to all users of the municipal wastewater system, as authorized by G.S. 160A-312 and/or 153A-275. The city shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW director or director. Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the director may be delegated by the director to other city personnel.

By discharging wastewater into the city wastewater system, industrial users located within or outside the city limits agree to comply with the terms and conditions established in this ordinance, as well as any permits, enforcement actions, or orders issued hereunder. Users subject to this ordinance are also subject to the City of Brevard Code of Ordinances, [CHAPTER 70](#) - utilities.

1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the [wastewater](#) system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

B. ~~Definitions and~~ [Abbreviations](#).

- ~~1. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:~~

~~a. **Act or the Act.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.~~

~~b.a. **Approval authority.** The director of the division of water quality of the North Carolina Department of Environment and Natural Resources or his designee.~~

~~c.a. **Authorized representative of the industrial user.**~~

~~i. If the industrial user is a corporation, authorized representative shall mean:~~

~~(A) The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or~~

~~(B)(A) The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and~~



~~where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~

~~ii.i. If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.~~

~~iii.i. If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.~~

~~iv.i. The individuals described in paragraphs 1-3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.~~

~~v.i. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to director prior to or together with any reports to be signed by an authorized representative.~~

~~d. **Biochemical oxygen demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° Centigrade, usually expressed as a concentration (e.g., mg/l).~~

~~e.a. **Building sewer.** A sewer conveying wastewater from the premises of a user to the POTW.~~

~~f.a. **Bypass.** The intentional diversion of waste streams from any portion of a user's treatment facility.~~

~~g.a. **Categorical standards.** National categorical pretreatment standards or pretreatment standard.~~

~~h.a. **Control authority.** Refers to the POTW organization, if the POTW organization's pretreatment program approval has not been withdrawn, the City of Brevard.~~

~~i.a. **Enforcement response plan or ERP.** An administrative procedure, promulgated by the city manager or designee thereof. The ERP is a guidance document that is intended to provide for fair and equitable treatment of all users for anticipated enforcement situations. Generally, enforcement actions will be taken in accordance with the ERP; however, additional legal actions are available (SUO subsection 70-147.D). Therefore, a combination of enforcement actions may be taken against a user in noncompliance.~~

~~j.a. **Environmental Protection Agency or EPA.** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.~~

~~k.a. **Grab sample.** A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.~~

~~l.a. **Holding tank waste.** Any waste from holding tanks, including, but not limited to, such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.~~

~~m.a. **Indirect discharge or discharge.** The discharge or the introduction from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW including holding tank waste discharged into the system.~~

~~n.a. **Industrial user or user.** A source of indirect discharge.~~



- ~~o.a. **Interference.** The inhibition or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the control authority's NPDES, collection system, or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. § 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.~~
- ~~p.a. **Medical waste.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.~~
- ~~q.a. **National categorical pretreatment standard or categorical standard.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.~~
- ~~r.a. **National prohibitive discharge standard or prohibitive discharge standard.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 70-141.A of this ordinance and are developed under the authority of Section 307(b) of the Act and 40 CFR, section 403.5.~~
- ~~s.a. **New source:**~~
- ~~i. Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307(c), provided that:~~
- ~~(A) The building, structure, facility, or installation is constructed at a site at which no other source is located; or~~
- ~~(B)(A) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or~~
- ~~(C)(A) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.~~
- ~~ii.i. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of sections s.1.ii. or s.1.iii. above but otherwise alters, replaces, or adds to existing process or production equipment.~~
- ~~iii.i. For purposes of this definition, construction of a new source has commenced if the owner or operator has:~~



~~(A) Begun, or caused to begin, as part of a continuous on-site construction program;~~

~~(1) Any placement, assembly, or installation of facilities or equipment; or~~

~~(2)(1) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or~~

~~(B)(A) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.~~

~~t.a. **Noncontact cooling water.** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.~~

~~u.a. **National Pollution Discharge Elimination System, or NPDES, permit.** A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342), or pursuant to G.S. 143-215.1 by the state under delegation from EPA.~~

~~v. **Non-discharge permit.** A permit issued by the state pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the state or for a wastewater treatment works which does not discharge directly to surface waters of the state.~~

~~w.a. **Pass-through.** A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the control authority's (and/or POTW's, if different from the control authority) NPDES, collection system, or non-discharge permit or a downstream water quality standard even if not included in the permit.~~

~~x. **Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.~~

~~y. **pH.** A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.~~

~~z.a. **Pollutant.** Any "waste" as defined in G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).~~

~~aa.a. **POTW director or director.** The city administrator designated with the responsibility for the pretreatment program and enforcement of this sewer use ordinance.~~

~~bb.a. **POTW treatment plant.** That portion of the POTW designed to provide treatment to wastewater.~~

~~cc.a. **Pretreatment or treatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants or as otherwise prohibited by 40 CFR Part 403.6(d).~~



- ~~dd.a. **Pretreatment program.** The program for the control of pollutants introduced into the POTW from non domestic sources which was developed by the city in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.~~
- ~~ee.a. **Pretreatment requirements.** Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.~~
- ~~ff.a. **Pretreatment standard.** Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.~~
- ~~gg.a. **Publicly owned treatment works (POTW) or municipal wastewater system.** A treatment works as defined by Section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, or in any other way, users of the POTW of the city.~~
- ~~hh.a. **Severe property damage.** Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.~~
- ~~ii.a. **Significant industrial user or SIU.** An industrial user that discharges wastewater into a POTW and that:~~
- ~~i. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewaters; or~~
 - ~~ii.i. Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge; or~~
 - ~~iii.i. Is subject to categorical pretreatment standards under 40 CFR Part 403.6 and 40 CFR Chapter I, Subchapter N, Parts 405-471; or~~
 - ~~iv.i. Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non discharge permit, or for limiting the POTW's sludge disposal options.~~
- ~~jj.a. **Significant noncompliance or SNC.** The status of noncompliance of a significant industrial user when one or more of the following criteria are met. Additionally, any industrial user which meets the criteria in subsections 70-140.B.1-jj.iii., 70-140.B.1-jj.iv., or 70-140.B.1-jj.viii., below, shall also be SNC.~~
- ~~i. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);~~
 - ~~ii.i. Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including~~



- instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; [TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH)];
- ~~iii.i. Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long term average, instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);~~
- ~~iv.i. Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the control authority's POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and subsection 70-147.A.4 of this SUO to halt or prevent such a discharge;~~
- ~~v.i. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.~~
- ~~vi.i. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90 day compliance reports, and periodic compliance reports within 30 days from the due date.~~
- ~~vii.i. Failure to accurately report noncompliance.~~
- ~~viii.i. Any other violation or group of violations that the control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.~~
- ~~kk.a. **Slug load or discharge.** Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass through, or in any other way violates the POTW's regulations, local limits, or industrial user permit conditions. This can include, but is not limited to, spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in subsection 70-141.A of this ordinance.~~
- ~~ll.a. **Standard industrial classification (SIC).** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.~~
- ~~mm.a. **Stormwater.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.~~
- ~~nn. **Suspended solids.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.~~
- ~~oo.a. **Upset.** An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.~~
- ~~pp. **Wastewater.** The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.~~
- ~~qq.a. **Wastewater permit.** As set forth in subsection 70-143.B of this ordinance.~~



~~rr. a. **Waters of the State.** All streams, rivers, brooks, creeks, swamps, lakes, waterways, reservoirs, ponds, marshes, wells, springs, aquifers, irrigation systems, drainage systems, bays, sounds, tidal estuaries and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.~~

~~2. This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.~~

~~3. Shall is mandatory; may is permissive or discretionary.~~

~~4. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.~~

~~5.~~1. The following abbreviations, when used in this ordinance, shall have the designated meanings:

- a. BOD: Biochemical oxygen demand;
- b. CFR: Code of Federal Regulations;
- c. COD: Chemical oxygen demand;
- d. EPA: Environmental Protection Agency;
- e. gpd: Gallons per day;
- f. l: Liter;
- g. mg: Milligrams;
- h. mg/l: Milligrams per liter;
- i. G.S.: North Carolina General Statutes;
- j. NPDES: National Pollution Discharge Elimination System;
- k. O&M: Operation and maintenance;
- l. POTW: Publicly owned treatment works;
- m. RCRA: Resource Conservation and Recovery Act;
- n. SIC: Standard industrial classification;
- o. SWDA: Solid Waste Disposal Act;
- p. TSS: Total suspended solids;
- q. TKN: Total Kjeldahl nitrogen; and
- r. U.S.C.: United States Code.

70-141. General sewer use requirements.

A. Prohibited discharge standards.

1. *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.
2. *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.



- b. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.
- c. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
- d. Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
- e. Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
- f. Any wastewater having a temperature greater than 139° F (59.4° C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
- g. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- h. Any trucked or hauled pollutants, except at discharge points designated by the director in accordance with subsection 70-141.I of this ordinance.
- i. Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- j. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- k. Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
- l. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations.
- m. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the director.
- n. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the director.
- o. Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- p. Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.
- q. Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.



- r. Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the director.
- s. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.
- t. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- u. Recognizable portions of the human or animal anatomy.
- v. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- w. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the [wastewater](#) system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

3. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

When the director determines that a user is contributing to the POTW, any of the above-enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the director shall:

- a. Advise the user(s) of the potential impact of the contribution on the POTW in accordance with subsection [70-147.B](#); and
- b. Take appropriate actions in accordance with section [70-143](#) for such user(s) to protect the POTW from interference or pass-through.

- B. *National categorical pretreatment standards.*** Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

- C. *Local limits.*** An industrial waste survey is required prior to a user discharging wastewater (containing in excess of the following average discharge limits):

TABLE 70-141A: LOCAL LIMITS TO WASTEWATER DISCHARGE

BOD	220	mg/l
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TSS	220	mg/l
NH ₃	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Chromium	0.05	mg/l (total chromium)
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l
Nickel	0.021	mg/l
Silver	0.005	mg/l
Zinc	0.175	mg/l

- C. Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for pollutants of concern. User-specific local limits for pollutants of concern shall be included in wastewater permits. The director may impose mass based limits in addition to, or in place of, concentration based limits.
- D. *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.
- E. *Right of revision.* The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in subsection 70-140.A of this ordinance or the general and specific prohibitions in subsection 70-141.A of this ordinance, as is allowed by 40 CFR 403.4.
- F. *Dilution.* No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.
- G. *Pretreatment of wastewater.*
1. *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under subsection 70-143.B of this ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in subsection 70-141.A of this ordinance within the time limitations as specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.
 2. *Additional pretreatment measures.*



- a. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- b. The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- c. Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- d. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

H. *Accidental discharge/slug control plans.*

1. The director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in ~~subsection 70-140.B.1.kk~~ [Section 1-2](#). All SIUs must be evaluated within one year of being designated an SIU. The director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the director may develop such a plan for any user.
2. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see subsections [70-144.E](#) and [70-144.F](#).
3. An accidental discharge/slug control plan shall address, at a minimum, the following:
 - a. Description of discharge practices, including non-routine batch discharges;
 - b. Description of stored chemicals;
 - c. Procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection [70-144.F](#) of this ordinance; and
 - d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

I. *Hauled wastewater.*

1. Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate section 70-141 of this ordinance or any other requirements established by the city. The director may require septic tank waste haulers to obtain wastewater discharge permits.
2. The director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may require generators of hauled industrial waste to obtain wastewater discharge permits. The director



also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

3. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

70-143. Wastewater discharge permit application and issuance.

- A. *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.
- B. *Wastewater permits.* All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the director be required to obtain a wastewater discharge permit for non-significant industrial users.
 1. *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the director a significant industrial user determination. If the director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.
 2. *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the city, an application in the form prescribed by the director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in subsection 70-143.B.1 above. The application shall include at a minimum:
 - a. Name of industrial user;
 - b. Address of industrial user;
 - c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
 - d. Wastewater flow;
 - e. Types and concentrations (or mass) of pollutants contained in the discharge;
 - f. Major products manufactured or services supplied;
 - g. Description of existing on-site pretreatment facilities and practices;



- h. Locations of discharge points;
 - i. Raw materials used or stored at the site;
 - j. Flow diagram or sewer map for the industrial user;
 - k. Number of employees;
 - l. Operation and production schedules; and
 - m. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
3. *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority as defined in ~~subsection~~[Section 1-2-70-140.B.1.c.](#) and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
4. *Application review and evaluation.* The director will evaluate the data furnished by the user and may require additional information.
 - a. The director is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
 - b. The director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
5. *Tentative determination and draft permit.*
 - a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
 - b. If the staff's tentative determination in subsection 70-143(b)(5)a. above is to issue the permit, the following additional determinations shall be made in writing:
 - i. Proposed discharge limitations for those pollutants proposed to be limited;
 - ii. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - iii. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - c. Subsections 70-143.B.5.a. and 70-143.B.5.b. above and the general permit conditions of the city into a significant industrial user permit.
6. *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits.
 - a. An allocation table (AT) listing permit information for all significant industrial users, including, but not limited to, permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division-approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits

are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

- b. The basis, or rationale, for the pretreatment limitations, including the following:
 - i. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - ii. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
7. *Final action on significant industrial user permit applications.*
 - a. The director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - b. The director is authorized to:
 - i. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and G.S. 143-215.1;
 - ii. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - iii. Modify any permit upon not less than 60 days' notice and pursuant to subsection 70-143.B.9;
 - iv. Revoke any permit pursuant to subsection 70-147.A;
 - v. Suspend a permit pursuant to subsection 70-147.A;
 - vi. Deny a permit application when in the opinion of the director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
8. *Permit modification.*
 - a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
 - i. Changes in the ownership of the discharge when no other change in the permit is indicated,
 - ii. A single modification of any compliance schedule not in excess of four months,
 - iii. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
 - b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection 70-143(b)(2), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.
 - c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.
9. *Permit conditions.*



- a. The director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - i. A statement of duration (in no case more than five years);
 - ii. A statement of non-transferability;
 - iii. Applicable effluent limits based on categorical standards or local limits or both;
 - iv. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
 - v. Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in ~~subsection 70-140~~ [Section 1-2](#);
 - vi. Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads ~~as defined in subsection 70-140~~, if determined by the director to be necessary for the user and,
 - vii. Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load ~~as defined in subsection 70-140~~. Also see subsections [70-144.E](#) and [70-144.F](#); and
 - viii. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- b. In addition, permits may contain, but are not limited to, the following:
 - i. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - ii. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - iii. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - iv. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - v. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - vi. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - vii. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - viii. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).
 - ix. Compliance schedules for meeting pretreatment standards and requirements.
 - x. Requirements for submission of periodic self-monitoring or special notification reports.



- xv. Other conditions as deemed appropriate by the director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.
10. *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
11. *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
12. *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection 70-143.B a minimum of 90 days prior to the expiration of the existing permit.

70-144. Reporting requirements.

A. Baseline monitoring reports (BMRs).

1. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in subsection 70-144.A.2, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection 70-144.A.2, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
2. Users described above shall submit the information set forth below:
 - a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.



- d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - e. *Measurement of pollutants.*
 - i. The categorical pretreatment standards applicable to each regulated process.
 - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 70-144.J of this ordinance.
 - iii. Sampling must be performed in accordance with procedures set out in subsection 70-144.K of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
 - f. *Certification.* A statement, reviewed by the user's current authorized representative [of the industrial user](#) as defined in ~~subsection 70-140~~[Section 1-2](#) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection 70-144.B of this ordinance.
 - h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection [70-143.B.3](#) of this ordinance.
- B. *Compliance schedule progress reports.*** The following conditions shall apply to the compliance schedule required by subsection 70-144.A.2.g. of this ordinance:
- 1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - 2. No increment referred to above shall exceed nine months;
 - 3. The user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 - 4. In no event shall more than nine months elapse between such progress reports to the director.
- C. *Reports on compliance with categorical pretreatment standard, deadline.*** Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such



pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 70-144.A.2.d. through 70-144.A.2.f. of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.

D. *Periodic compliance reports.* The control authority may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

1. All significant industrial users shall, at a frequency determined by the director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in subsections 70-144.J and 70-144.K of this ordinance. All periodic compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.
2. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsections 70-144.J and 70-144.K of this ordinance, the results of this monitoring shall be included in the report.

E. *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the control authority. See subsection 70-144.F.4 for other reporting requirements.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 70-143.B of this ordinance.
2. The director may issue a wastewater discharge permit under subsection 70-143.B of this ordinance or modify an existing wastewater discharge permit under subsection 70-143.B of this ordinance in response to changed conditions or anticipated changed conditions.
3. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 15 percent or greater, or the discharge of any previously unreported pollutants.

F. *Reports of potential problems.*

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load ~~as defined in Section 70-140~~, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
2. Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.



3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection 70-144.F.1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
 4. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load ~~as defined in subsection 70-140.~~
- G. Reports from unpermitted users.** All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.
- H. Notice of violation/repeat sampling and reporting.**
1. If sampling performed by a user indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. If allowed by the director, the user is not required to resample:
 - a. If the director monitors at the user's facility at least once a month; or
 - b. If the director samples between the user's initial sampling and when the user receives the results of this sampling.
 2. If the director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:
 - a. The director monitors at the user's facility at least once a month; or
 - b. The director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - c. The director requires the user to perform sampling and submit the results to the director within the 30-day deadline of the POTW becoming aware of the violation.
- I. Notification of the discharge of hazardous waste.** The city prohibits the discharge of any hazardous wastes without notification to and approval by the director.
1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 90 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the city. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection 70-144.E. The notification requirement in this section does not apply to pollutants already reported by users



subject to categorical pretreatment standards under the self-monitoring requirements of subsections 70-144.A, subsection 70-144.C, and subsection 70-144.D.

2. Dischargers are exempt from the requirements of subsection 70-144.I.1, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 3. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
 4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.
- J. *Analytical requirements.*** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and city. Analyses must be performed by a state certified lab for each parameter analyzed, if such certification exists for that parameter.
- K. *Grab and composite sample collection.***
1. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be operated in accordance with best management practices, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in this manner shall not be grounds for the user to claim that sample results are unrepresentative of its discharge and may be in violation of its wastewater discharge permit.
 2. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for baseline monitoring reports and 90-day compliance reports. Additionally, the director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.
 3. Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.



- L. *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- M. *Record keeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.
- N. *Electronic reporting.* The director may develop procedures for receipt of electronic reports for any reporting requirements of this ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under section 70-147.
- O. *Special reporting requirements for IUs in satellite POTWs.* In the case of industrial user located in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by the section shall also be reported to the POTW treatment plant organization.

CHAPTER 77. PARKS AND RECREATION

ARTICLE I. BRACKEN PRESERVE MANAGEMENT RULES

77-2. ~~Definitions of terms.~~ Reserved.

~~As used in this rule the following terms have the following meanings: **Bike trail** means any road or trail maintained for bicycles.~~

~~**Conservation easement** means an easement, held by the State of North Carolina under the administration of the North Carolina Clean Water Management Trust Fund, which binds the City of Brevard to certain terms and conditions governing uses of and activities upon the Bracken Preserve.~~

~~**Forest management plan** is a general management plan prepared by the City of Brevard and a forest management plan prepared by a forester licensed to practice forestry within the State of North Carolina.~~

~~**Group** means a number of individuals related by a common factor, having structured organization, defined leadership, and activities directed by a charter or written bylaws.~~

~~**Hiking trail** means any road or trail maintained for pedestrians.~~

~~**Hunting** means the lawful hunting of game animals as defined by the N.C. Wildlife Resources Commission.~~

~~**Motorized vehicle** means every vehicle which is self-propelled or which is pulled by a self-propelled vehicle (such as a camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper). A self-propelled vehicle shall include, but is not limited to passenger automobiles, mopeds, off-road vehicles (ORV), golf carts, motorcycles, mini bikes, all terrain vehicles, Segways, and go-carts. This does not include motorized wheel chairs or other similar vehicles designed for and used by persons with disabilities.~~



~~**Multi-use trail** means any trail maintained for use by any of the following: bicycle or pedestrian.~~

~~**Park manager** means an employee or employees of the City of Brevard, designated by the city manager, who coordinates management of the Bracken Preserve.~~

~~**Permit** means any written license issued by or under the authority of the City of Brevard permitting the performance of a specified act or acts.~~

~~**Permittee** means any person, corporation, company or association in possession of a valid permit.~~

~~**Person** means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.~~

~~**Public nudity** means a person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place.~~

~~**Rock climbing** means traversing a rock face that is steep enough to require the use of hands and feet to get up or down.~~

ARTICLE II. SKATE PARK

77-41. ~~Definitions of terms.~~ Reserved.

~~As used in this rule the following terms have the following meanings:~~

~~**Bike trail** means any road or trail maintained for bicycles.~~

~~**Group** means a number of individuals related by a common factor, having structured organization, defined leadership, and activities directed by a charter or written bylaws.~~

~~**Hazardous recreational activity** means skateboarding, inline skating, or freestyle bicycling, and, or, any other type(s) not listed.~~

~~**Hiking trail** means any road or trail maintained for pedestrians.~~

~~**Hunting** means the lawful hunting of game animals as defined by the North Carolina Wildlife Resources Commission.~~

~~**Inherent risk** means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding.~~

~~**Motorized vehicle** means any vehicle which is self-propelled or which is pulled by a self-propelled vehicle (such as a camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper). A self-propelled vehicle shall include, but is not limited to passenger automobiles, mopeds, off-road vehicles (ORV), golf carts, motorcycles, mini-bikes, all-terrain vehicles, Segways, and go-carts. This does not include motorized wheel chairs or other similar vehicles designed for and used by persons with disabilities.~~

~~**Multi-use trail** means any trail maintained for use by any of the following: bicycle or pedestrian.~~

~~**Park manager** means an employee or employees of the City of Brevard, designated by the city manager, who coordinates management of the skate park.~~

~~**Permit** means any written license issued by or under the authority of the City of Brevard permitting the performance of a specified act or acts.~~

~~**Permittee** means any person, corporation, company or association in possession of a valid permit.~~



Person means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.

Skate park means any city-owned facility specifically designed, constructed, and designated by on-site signage as an area in which a person may engage in skateboarding.

ARTICLE III. ELECTRIC BICYCLES AND MULTIUSE PATH

77-48. **Definitions of terms.** Reserved.

E-bikes class I and III Electric assisted bicycles, with no throttle and no self-propulsion, which are not categorized as a motor vehicle as defined in this chapter.

E-bikes class II Throttle-assisted bicycles, characterized by self-propulsion, which are considered motor vehicles as defined in this chapter.

Grossly reckless A reckless activity that is inherently dangerous and results in injury or presents a high risk of grave injury to self or others with disregard for self-preservation or the preservation of the safety of others. Operation of an e-bike while under the influence of alcohol or drugs is hereby declared to be grossly reckless. Any operation of an e-bike with the intent of doing harm to any person or property is hereby declared to be grossly reckless.

Motor or motorized vehicle All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Motorized travel All modes of travel or transport upon a motorized vehicle as defined in this chapter over land or water by self-propulsion.

Negligence Any breach of the duty of due care, resulting in or reasonably likely to result in proximate harm to persons or property. Violating a posted speed limit is hereby declared to be negligence in every instance, but may also be grossly reckless when circumstances so warrant.

ARTICLE IV. BREVARD DOG PARK RULES AND CONDUCT

77-52. **Definitions of terms.** Reserved.

Bite means any penetration of the skin by teeth constitutes a bite exposure.

Dog park The Brevard Dog Park is the designated area located within the City's Sports Complex where dog owners may allow their dog to run off-leash inside the designated fenced area.

Duly authorized person, administrator, or official means the code enforcement officer, officers of the Brevard Police Department, or any other individual or person duly authorized by the city manager or local health director to act on behalf of the city for purposes of this chapter.

Grossly reckless A reckless activity that is inherently dangerous and results in injury or presents a high risk of grave injury to self or others with disregard for self-preservation or the preservation of the safety of others. Willful disregard of rules or knowingly bringing a vicious dog with the intent of doing harm to any person or property is hereby declared to be grossly reckless.

Keeper means a person having custody of an animal.



Negligence. Any breach of the duty of due care, resulting in or reasonably likely to result in proximate harm to persons or property. Violating a posted dog park rule of conduct is hereby declared to be negligence in every instance, but may also be grossly reckless when circumstances so warrant.

Owner means any person or legal entity having a possessory property right in an animal. While using the dog park, the owner is the person with immediate custody of the dog.

Unregistered dog or **unlicensed dog** means a dog which has not been listed on the owner's tax listing form for the then current year or registered for a vaccination tag and certification, and/or a dog which does not have affixed to it a rabies vaccination tag.

Vicious dog means any dog which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

CHAPTER 78. VEHICLES FOR HIRE

ARTICLE I. IN GENERAL

78-2. Vehicles other than taxicabs.

A. Purpose. The purpose of this section is to ensure the public safety through the minimal regulation of public vehicles for hire.

~~**B. Definition.** The following definition shall apply with respect to vehicles regulated pursuant to this section:~~

~~**Vehicle for hire** means any vehicle providing public passenger transportation for a fee, from a point originating or terminating within the city's jurisdiction, including limousine and passenger van services but excluding taxicabs, which are regulated in article ii. (See G.S. 20-87, 160A-579(12)).~~

C.B. Requirements. The owners of all vehicles for hire shall apply to the city clerk annually for certification to operate their vehicle for hire within the city's jurisdiction. Such application shall contain their full names and addresses, the number, make, model of all vehicles for hire in operation, and shall state that:

1. All such vehicles have met all state inspection requirements and are in good working order;
2. All such vehicles have met all of the city's rules and regulations regarding cleanliness and sanitation, as referred to (with respect to taxicabs) in section 78-33;
3. All drivers are duly licensed to operate such vehicles;
4. All such vehicles are fully insured with regard to liability for personal injury and property damage, to the extent required by state law;
5. To the extent that it may be applicable, all such vehicles have been approved by the state utilities commission or such other regulatory agency as may have jurisdiction over the matter.

Upon the completion of such application, the city clerk shall certify the applicant to operate such vehicle for hire.

D.C. Inspections. Every vehicle operating under this section may be periodically inspected by the police department at such intervals as may be established by the chief of the Department to ensure the continuing maintenance of the vehicle in a safe operating condition.



E.D. Violation. Any violation of this section shall be punishable as a Misdemeanor or Infraction with fine up to \$500.00 per G.S. 14-4. In addition, any violation shall be grounds for refusal to issue or renew the owner's certificate to operate vehicles for hire within the city's jurisdiction. Upon a failure to submit to the inspection required by ~~subsection 78-2.D~~ [this section](#) or upon a failure to pass such inspection, the owner's certificate to operate the vehicle shall be immediately revoked.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

78-31. ~~Definitions.~~ [Reserved.](#)

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~**Certificate** means a certificate of public convenience and necessity issued by the city, authorizing the holder thereof to conduct a taxicab business within the city.~~

~~**Cruising** means the driving of a taxicab on the streets, alleys or other public places of the city in search of or soliciting prospective passengers for hire.~~

~~**Driver's license** means the permission granted by the city to a person to drive a taxicab upon the streets of the city.~~

~~**Holder** means a person to whom a certificate of public convenience and necessity has been issued.~~

~~**Manifest** means a daily record prepared by a taxicab driver of all trips made by the driver, showing time and place of origin, destination and number of passengers.~~

~~**Rate card** means a card issued by the city for display in each taxicab, which card contains the rates of fares then enforced.~~

~~**Taxicab** means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than six persons and not operated on a fixed route.~~

~~**Waiting time** means the time when a taxicab is not in motion from the time of acceptance of a passenger to the time of discharge, but it does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger.~~



PART II: CODE OF ORDINANCES

CHAPTER 1. GENERAL PROVISIONS

1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the council or the context clearly requires otherwise:

ABC Permittee: A person holding any of the following ABC permits:

- A. An on-premises malt beverage permit issued pursuant to N.C.G.S. §18B-1001(1).
- B. An on-premises unfortified wine permit issued pursuant to N.C.G.S. §18B-1001(3).
- C. An on-premises fortified wine permit issued pursuant to N.C.G.S. §18B-1001(5).
- D. A mixed beverages permit issued pursuant to N.C.G.S. §18B-1001(10).
- E. A wine shop permit issued pursuant to N.C.G.S. §18B-1001(16).
- F. A distillery permit issued pursuant to N.C.G.S. §18B-1100(5).

Agricultural operation: the Any operation as defined in G.S. 106-701(b) (or any successor thereto), and includes, without limitation, any facility for the production for commercial purposes of crops, livestock, poultry, livestock products or poultry products.

Alarm system: Any electronic or mechanical device transmitting an electronic alarm signal or recorded message to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building.

Ambient noise level: An average A-weighted sound level based on at least three readings made and recorded over a period of no less than ten minutes, made at the location where a complainant claims to be disturbed by an alleged violation but at a time when no noise is then being alleged to violate this ordinance, and made at a point no closer than outside the property line of the property from where the noise is generated.

Animal: A living creature, domestic or nondomestic, but does not include humans.

Animal control: Any authority designated by the city manager to discharge the requirements of this chapter.

Animal shelter: Any premises designated by the health director for the purpose of impounding and caring for animals.

ANSI: The American National Standards Institute or any successor to such organization.

Approval authority: When referring to sewer usage, the director of the division of water quality of the North Carolina Department of Environment and Natural Resources or his designee.

Ashes: The residue from the burning of wood, coal, coke or other combustible materials.

At large animal: An animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.



Authorized emergency vehicle: Vehicles of the Fire Department, Police Department, vehicles owned by the Transylvania County Emergency Medical Service and vehicles owned by the various rescue squad units operating within Transylvania County.

Authorized representative of the industrial user:

- A. If the industrial user is a corporation, authorized representative shall mean:
1. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 2. The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
- C. If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- D. The individuals described in paragraphs. A - C, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.
- E. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to director prior to or together with any reports to be signed by an authorized representative.

Authorizing official: When referring to the removal of motor vehicles, the supervisory employee of the police department designated to authorize the removal of vehicles under the provisions of this division.

Available to the public: When referring to obscene materials, that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance.

A-weighted sound level: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network measured by a sound level meter, following the criteria approved by ANSI.

Basement: A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Basic structural elements: The parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to plates, studs, joists, rafters, stringers, stairs, subflooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.



Bedroom: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Bicycle: A non-motorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

Bicycle route: Those bikeways on existing street rights of way where bicycles share the roadway with motor vehicles. Bicycle routes are designated by signs placed on vertical posts or stenciled on the pavement.

Bicycle lane: Those bikeways on existing street rights of way where a portion of the roadway is set aside for exclusive bicycle use and designated by signs on vertical posts or stenciled on the pavement and by a painted line marking the bicycle lane on the pavement. Through travel by motor vehicles or pedestrians is prohibited. Cross flows by motor vehicles and pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

Bicycle path: Those bikeways on existing street rights of way or on a completely separated right-of-way or easement. Use by pedestrians may or may not be permitted. The parking of any through traffic by motor vehicles is prohibited. Cross flows by motor vehicles and pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

Bike trail; Any road or trail maintained for bicycles.

Bikeways: All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.

Bite: Any penetration of the skin by teeth constitutes a bite exposure.

Board of commissioners: Transylvania County Board of Commissioners.

BOD or biochemical oxygen demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at 20 degrees Celsius, expressed in milligrams per liter.

Bond: When a bond is required, an undertaking in writing shall be sufficient.

Building: A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or equipment and requiring a separate power meter to be installed for the building to have electrical service, or a separate water meter to be installed for the building to have water service. This will also include mobile homes or manufactured homes.

- A. The term "building" shall be construed as if followed by the words "or parts thereof".
- B. Each portion of a building separated by division wall from the ground up without openings shall be considered a separate building irrespective of the presence of a separate power or water meter.
- C. The term "building" may also include other manmade structures or spaces that could be reasonably construed to be a building within the spirit and intent of this definition.

Building drain: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to a sewer service line, beginning five feet (1.5 meters) outside the inner face of the building wall.

Bypass: When referring to sewer usage, the intentional diversion of waste streams from any portion of a user's treatment facility.

Cat: Cats, both male and female, more than six months old.



Categorical standards: When referring to sewer usage, national categorical pretreatment standards or pretreatment standard.

Cellar: A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Certificate of public convenience and necessity: A certificate issued by the city, authorizing the holder thereof to conduct a taxicab business within the city.

Certificate of public convenience and necessity holder: A person to whom a certificate of public convenience and necessity has been issued.

Charter: The term "Charter" or "the Charter" means and refers to the Charter of the City of Brevard, North Carolina, as printed in [PART I](#) of this volume.

Chicken coop: A weather and predator proof structure or container employed in the keeping of chickens.

Chicken run: An outdoor enclosure employed in the keeping of chickens.

Chronic violations of wastewater discharge limits: Significant noncompliance of wastewater discharge limits in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);

City or municipality: The words "city" and "municipality" mean the City of Brevard in the County of Transylvania and State of North Carolina. Where the context admits, it shall mean the particular department or officer of the city charged with a specific function.

Close familial relationship: A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Code: Reference to "the Code" or "this Code" means the Code of Ordinances, City of Brevard, North Carolina, as designated in Section [1-1](#).

Code enforcement officer: The official of the City of Brevard charged with enforcing or supporting the enforcement of this article, and with overseeing and/or supporting the administration and enforcement of other ordinances of the city.

Commercial animal establishment: Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, animal exhibition or kennel.

Component: Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.

Computation of time: The time within which an act is to be done shall be computed by excluding the day of the act, event, default or publication after which the designated period of time begins to run and including the last day; unless the last day is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

State law reference(s)—Computation of time, G.S. 1A-1, rule 6(a).



Conjunctions: Conjunctions, such as "and" and "or," shall each be deemed to include the other as the context shall admit.

Conservation easement: An easement, held by the State of North Carolina under the administration of the North Carolina Clean Water Management Trust Fund, which binds the City of Brevard to certain terms and conditions governing uses of and activities.

Control authority: When referring to sewer usage, the POTW organization, if the POTW organization's pretreatment program approval has not been withdrawn, the City of Brevard.

Council or city council: The terms "council" and "city council" mean the Mayor and Council of the City of Brevard.

County: The word "county" means the County of Transylvania in the State of North Carolina.

Customer: In reference to social districts, a person who purchases an alcoholic beverage from an ABC permittee that is in a social district.

Decibel: A unit of measuring the amplitude of sound equal to 20 times the logarithm to the base ten of the ratio between the pressure of sound measured to the reference pressure, which is 20 micronewtons per square meter, as approved by ANSI.

Dense smoke: Smoke shall be considered dense when it is of a density equal to or greater than no. 2 on the Ringelmann Smoke Chart approved and adopted as provided in this division.

Deteriorated: When referring to a dwelling, it shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by Chapter 18, Article V at a cost not in excess of 50 percent of its value, as determined by finding of the inspections.

Dilapidated: When referring to a dwelling, it shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by Chapter 18, Article V at a cost not in excess of 50 percent of its value, as determined by finding of the inspector.

Display: To put or spread before the view of those passing within sight distance of the matter displayed, in an ostentatious manner designed to attract attention to or show off the matter displayed. Magazines that meet the definition of sexually explicit materials shall be considered displayed if they are placed in a location (e.g., a magazine rack or shelf) accessible to minors and arranged in a manner calculated to encourage minors to view or read such materials. Sexually explicit materials located within any business or commercial establishment shall not be considered displayed if they are placed in a location that is only accessible to adults or if they are located such that they are only available to customers upon request made to a person in charge of or employed by such business or commercial establishment.

Disseminate: When referring to obscene materials, the transfer possession of, with or without consideration.

Dog: Dogs, both male and female, more than six months old.

Dog park: The Brevard Dog Park is the designated area located within the City's Sports Complex where dog owners may allow their dog to run off-leash inside the designated fenced area.

Driver's license: When referring to taxicab drivers, the permission granted by the city to a person to drive a taxicab upon the streets of the city.

Driveway: A private road, private easement, or private right-of-way, giving access from a public street or road, private road, or private right-of-way, leading to a building. A driveway does not serve more than two buildings that have or require separate power or water meters to be installed for electrical service.



Duly authorized person, administrator, or official: The code enforcement officer, officers of the Brevard Police Department, or any other individual or person duly authorized by the city manager or, in the case of the Chapter 14 and Chapter 77, local health director to act on behalf of the city for purposes of this chapter.

Dwelling: A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, multiple: Any dwelling containing more than two dwelling units.

E-bike - Class I and III: Electric assisted bicycles, with no throttle and no self-propulsion, which are not categorized as a motor vehicle as defined in this chapter.

E-bike - Class II: Throttle assisted bicycles, characterized by self-propulsion, which are considered motor vehicles as defined in this chapter.

Electric personal assistive mobility device: A self-balancing non tandem two wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Element: A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system.

Emergency communications center: The city's communication center receiving telephonic requests or signal requests for police, fire, ambulance, rescue or other emergency service within the city.

Enforcement response plan or ERP: An administrative procedure, promulgated by the city manager or designee thereof. The ERP is a guidance document that is intended to provide for fair and equitable treatment of all users for anticipated enforcement situations. Generally, enforcement actions will be taken in accordance with the ERP; however, additional legal actions are available (SUO subsection [70-147.D](#)). Therefore, a combination of enforcement actions may be taken against a user in noncompliance.

Environmental Protection Agency or EPA: The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Exposed to rabies: An animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

False alarm: An alarm signal or recorded message transmitted to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building, when in fact no evidence exists upon inspection of the building upon response to such alarm that a fire occurred or that an unauthorized entry was committed or attempted or that a crime was committed or attempted in or about the building.

Following: The word "following" means next after.

Forest management plan: A general management plan prepared by the City of Brevard and a forest management plan prepared by a forester licensed to practice forestry within the State of North Carolina.



Frontage unit: A frontage unit is a standard interval in feet used to assign consecutive property numbers on a street or road. The standard frontage unit adopted for use throughout Transylvania County is 5.28 feet.

Game room: Any place of business that operates mechanical and electronic games or other devices for which charge is made, either directly or indirectly. Examples of such games, by way of illustration and not limitation, are pinball machines, electronic video games, automatic amusement devices and the like.

Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food and from the handling, storage and sale of produce.

Gender: Words importing one gender shall include the other genders.

Governing board: The appropriate board and shall also be read to include city council.

Grab sample: A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Grooming shop: Any establishment, whether operated separately or in connection with another business enterprise, which provides hair and nail clipping, bathing and other cosmetic services for animals.

Group: A number of individuals related by a common factor, having structured organization, defined leadership, and activities directed by a charter or written bylaws.

Grossly reckless: A reckless activity that is inherently dangerous and results in injury or presents a high risk of grave injury to self or others with disregard for self-preservation or the preservation of the safety of others. Operation of an e-bike while under the influence of alcohol or drugs is hereby declared to be grossly reckless. Any operation of an e-bike with the intent of doing harm to any person or property is hereby declared to be grossly reckless.

Habitable room: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

Habitually or repeatedly and on a regular basis: When referring to dog barking or other sounds, shall mean barking or other sounds which occur on at least five occasions during a 60-day period or on at least three occasions during a 30-day period.

Harmful to minors: The quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

- A. Predominantly appeals to the prurient, shameful or morbid interest of minors;
- B. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- C. Taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

Hazardous recreational activity: Skateboarding, inline skating, or freestyle bicycling, and, or, any other type(s) not listed.

Head of household: The person who maintains the household, or, if no one person maintains the household, the head of the household shall be the eldest person residing in the household.

Hiking trail: Any road or trail maintained for pedestrians.

Holding tank waste: Any waste from holding tanks, including, but not limited to, such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.



House number: The number assigned by the property address coordinator to any building for the purpose of identification of the location.

Humane Society: The Transylvania County Humane Society and its representatives.

Hunting: The lawful hunting of game animals as defined by the N.C. Wildlife Resources Commission.

Impoundment: Any animal in custody of a person or animal shelter duly authorized by the local health director.

Industrial warehouse, vacant: Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Indirect discharge: The discharge or the introduction from any nondomestic source regulated under Section 307(b), (c), or (d) of the Federal Water Pollution Control Act, (33 U.S.C. 1317), into the POTW including holding tank waste discharged into the sewage system.

Industrial user: A source of indirect discharge.

Industrial user, significant (SIU). An industrial user that discharges wastewater into a POTW and that:

- A. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewaters; or
- B. Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge; or
- C. Is subject to categorical pretreatment standards under 40 CFR Part 403.6 and 40 CFR Chapter I, Subchapter N, Parts 405-471; or
- D. Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.

Infestation shall mean the presence, within or around a dwelling, or any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

Inherent risk means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding.

Inspector shall mean a building inspector of the city or any agent of the inspector who is authorized by the inspector.

Interference: The inhibition or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the control authority's NPDES, collection system, or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Federal Water Pollution Control Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. § 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Joint authority: All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.



Keeper: A person having custody of an animal, or who keeps or harbors an animal, or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

Kennel: Any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five dogs per year are sold by such owner.

Knowing: means When referring to obscene materials, having a general knowledge of, or reason to know, or a belief or ground for belief that warrants further inspection or inquiry of the character and content of any of the materials described in Section 42-42 that are reasonably susceptible of examination by the person charged with such knowledge.

Knowingly: When referring to obscene materials, being aware of the character and the content of the material.

Known unlawful drug user, possessor or seller: A person who has, within the knowledge of the arresting officer or complaining witness, been convicted in any court within this state of any violation involving the use, possession or sale of any of the controlled substances or drug paraphernalia referred to in the North Carolina Controlled Substances Act, G.S. 90-89 et seq., or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or of any other state, or of federal law.

Livestock:

- A. Domestic animals, such as cows, bulls, calves, hogs, pigs, horses, mules, ponies, goats or sheep.
- B. Any animal raised or kept for profit, excepting:
 - 1. Dogs and cats kept for show competition;
 - 2. Single litters of rabbits, puppies or kittens, per household; and
 - 3. Tropical aquarium fishes.

Local board of health or board of health: The county board of health.

Local government: The City of Brevard.

Local health department or health department: The county health department.

Local health director or health director: The health director of the county health department, or his designee.

Mailing address: The address assigned by the property address coordinator and used by the United States Postal Service for the purpose of delivery of the United States mail. The property address and mailing address will be the same for all buildings unless the property owners utilize a post office box for delivery of their mail.

Manifest: A daily record prepared by a taxicab driver of all trips made by the driver, showing time and place of origin, destination and number of passengers.

Manufacturing facility, vacant: Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

Material: Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines not otherwise subject to and governed by Section [42-41](#).



May: When “may” is used, the action is permissive.

Medical waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Minor: Any person under the age of 18.

Month: A calendar month.

Motor vehicle or vehicle: All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle, such as a camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. A self-propelled vehicle shall include, but is not limited to passenger automobiles, mopeds, off-road vehicles (ORV), golf carts, motorcycles, all-terrain vehicles, Segways, and go-carts. This term does not include bicycles or electric personal assistive mobility devices. This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of 15 miles per hour when the device is being operated by a person with a mobility impairment.

Motor vehicle, abandoned: As authorized and defined in G.S. 160A-303, an abandoned motor vehicle is one that:

- A. Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- B. Is left on a public street or highway for longer than seven days;
- C. Is left on property owned or operated by the city for longer than 24 hours; or
- D. Is left on private property, without the consent of the owner, occupant or lessee thereof, for longer than two hours.

Motor vehicle, junked: As authorized and defined in G.S. 160A-303.2, the term “junked motor vehicle” means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- A. Is partially dismantled or wrecked;
- B. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- C. Is more than five years old and appears to be worth less than \$100.00.

Motor vehicle, nuisance: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- A. A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- B. A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- C. A point of collection of pools or ponds of water;
- D. A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- E. One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
- F. So situated or located that there is a danger of it falling or turning over;
- G. One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- H. One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;



- I. It is a vehicle no longer commonly being used for personal or commercial transportation or conveyance of goods, but is stationary, either temporarily or permanently, and being utilized as an advertising platform, storage facility, dwelling, animal shelter or other use not of its original primary design; or
- J. Any other vehicle specifically declared a health and safety hazard and a public nuisance by the city council.

Motorized travel: All modes of travel or transport upon a motorized vehicle as defined in this chapter over land or water by self-propulsion.

Multi-tenant establishment: A building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.

Multi-use trail: Any trail maintained for use by any of the following: bicycle or pedestrian.

National categorical pretreatment standard or categorical standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Federal Water Pollution Control Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

National prohibitive discharge standard or prohibitive discharge standard: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 70-141.A of this ordinance and are developed under the authority of Section 307(b) of the Federal Water Pollution Control Act and 40 CFR, section 403.5.

National Pollution Discharge Elimination System, or NPDES, permit: A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. § 1342), or pursuant to G.S. 143-215.1 by the state under delegation from EPA.

Negligence: Any breach of the duty of due care, resulting in or reasonably likely to result in proximate harm to persons or property. Violating a posted speed limit or posted rule of conduct is hereby declared to be negligence in every instance, but may also be grossly reckless when circumstances so warrant.

New source.

- A. Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307I of the Federal Water Pollution Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307I, provided that:
 - 1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - 2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - 3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.



- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of sections A.2. or A.3. above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - 1. Begun, or caused to begin, as part of a continuous on-site construction program:
 - a. Any placement, assembly, or installation of facilities or equipment; or
 - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - 2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Non-discharge permit: A permit issued by the state pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the state or for a wastewater treatment works which does not discharge directly to surface waters of the state.

Non-Permittee Business: In reference to social districts, a business located in a social district and does not hold any North Carolina Alcoholic Beverage Control Commission (ABC) permit.

Nonresidential: Any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.

Nudity: The showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Number: Words used in the singular include the plural and the plural includes the singular number.

Nuisance: An animal or group of animals shall be considered a nuisance if it:

- A. Damages, soils or defiles private or public property;
- B. Interferes with, molests or attacks persons or other animals;
- C. Is repeatedly at large;
- D. Causes unsanitary and offensive conditions, including interrupting the tranquility of the community;
- E. Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles; or
- F. Is diseased.

Oath: The word "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Obscene: That, to the average person applying contemporary community standards:

- A. The predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in sexual conduct, nudity or excretion;



- B. The matter depicts or describes, in a patently offensive manner, sexual conduct regulated by the General Statutes of the state; and
- C. The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Obstruction (permanent or semipermanent): An object that is kept out on public streets, sidewalks, and alleyways after business hours. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, vending machines, and seating. Also referred to as a semipermanent or permanent object.

Occupant: Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Official road name: The road name list and the road name map on file with the Transylvania County 911 Emergency Operations shall be the official road names and map for Transylvania County roads, including those located within the jurisdiction of the City of Brevard, unless changed by action of the board of commissioners or city council within their respective jurisdictions.

Officials or officers: Reference to a particular official or officer of the city includes duly authorized deputies, assistants and representatives of such official or officer. Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Brevard, North Carolina."

Open Container: A container that has a broken seal or a container other than the manufacturer's unopened original container.

Operator: Any person who has charge, care, or control of a nonresidential building or structure, or part thereof.

Owner:

- A. The word "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.
- B. The word "owner," applied to an animal, includes any person or legal entity having a possessory property right in an animal. The head of a household shall be deemed to be the owner in respect to any dogs owned, kept or harbored on the premises by any person residing in the household. While using the dog park, the owner is the person with immediate custody of the dog.

Park manager: An employee or employees of the City of Brevard, designated by the city manager, who coordinates management of a specific park or recreation facility, such as the Bracken Preserve or the Skate Park.

Parties in interest: All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

Pass-through: A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the control authority's (and/or POTW's, if different from the control authority) NPDES, collection system, or non-discharge permit or a downstream water quality standard even if not included in the permit.

Patrol dog: A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

Performance: Any preview, play, show, skit, film, dance or other exhibition performed before an audience.

Permit: Any written license issued by or under the authority of the City of Brevard permitting the performance of a specified act or acts.



Permittee: Any person, corporation, company or association in possession of a valid permit.

Person: Any individual, group acting as a unit, such as a partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

Personal property: The term "personal property" includes every species of property except real property.

Pet: Any animal kept for pleasure rather than utility.

Pet shop: Any commercial establishment, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

pH: A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Plumbing: Supplied facilities and equipment, including: Gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Pollutant: Any "waste" as defined in G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).

POTW director: The city administrator designated with the responsibility for the pretreatment program and enforcement of this sewer use ordinance.

POTW treatment plant: That portion of the POTW designed to provide treatment to wastewater.

Preceding: The word "preceding" means next before.

Premises: In reference to social districts, a fixed permanent establishment, including all areas inside or outside the licensed establishment, where the ABC permittee has control through a lease, deed, or other legal processes.

Pretreatment or treatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants or as otherwise prohibited by 40 CFR Part 403.6(d).

Pretreatment program: The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the city in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment requirements: Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standard: Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.



Private road: Any road servicing more than two buildings or structures containing separate power or water meters, that is not otherwise defined as a street or driveway by this article, and which is not maintained for public use by the United States Government, the North Carolina Department of Transportation, or the City of Brevard through the use of public funds.

Promote: To cause, permit, procure, counsel or assist.

Property: The word "property" includes real and personal property.

Property address coordinator: The official of Transylvania County, and any authorized agent or delegate thereof, charged with the administration of this article.

Public authority: Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

Public nudity: A person's intentional nudity, as defined herein, while in a public place.

Public officer: The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by G.S. 160D, art. 12.

Public park: Any publicly-owned or maintained land which is designated by the City of Brevard as a park or recreation facility.

Public place: Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the city or by any public agency or public authority and located within the city.

Public Street: Any highway, road, street, avenue, boulevard, or another way within and under the control of the City or State and open to public use, including the sidewalks of any such street.

Publicly owned treatment works (POTW) or municipal wastewater system: A treatment works as defined by Section 212 of the Federal Water Pollution Control Act, (33 U.S.C. § 1292) which is owned in this instance by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, or in any other way, users of the POTW of the city.

Rate card: A card issued by the city for display in each taxicab, which card contains the rates of fares then enforced.

Real property: The term "real property" includes lands, tenements and hereditaments.

Refuse: All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

Registered sex offender: An individual who is registered by any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including, but not limited to the sex offender registry established in Article 27A of G.S. ch. 14.



Restaurant: 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).

Restraint: Any animal shall be considered under restraint if it is within the real property limits of its owner, or secured by a leash or lead, or confined.

Riding school or stable: Any place which has available for hire, boarding and/or riding instruction any horse, pony, donkey or burro.

Road: A public or private one-way or two-way street or road for ingress and/or egress. Such roads may be of various types including frontage roads, rear access roads, roads with culs-de-sac and dead-end roads. This definition does not include driveways.

Road sign: A metal blade and necessary hardware used to convey a street name, public or private road name, or driveway name, and, where applicable, the state road number.

Rock climbing: Traversing a rock face that is steep enough to require the use of hands and feet to get up or down.

Rooming house: Any short or long-term accommodations that serve a specific group or membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and breakfasts, and short-term rentals.

Rubbish: Nonputrescible solid wastes (including ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, rubble, crockery and similar materials.

Sadomasochistic abuse: Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Security dog: Any dog used, kept or maintained in the county for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog or watch dog.

Sentry dog: A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

Septage: The solid and liquid contents of privies, septic tanks or cesspools, industrial wastes, chemical compounds and sludges which are hauled by truck or other mobile conveyance.

Service permit: A permit, issued by the city manager or designee thereof, authorizing a connection to the city sewer system and setting forth any necessary conditions associated with such connection, including, but not limited to, pretreatment requirements and the assessment of any surcharges.

Service to patrons: The provision of services to paying guests in establishments providing food and beverages, including but not limited to hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertaining.

Severe property damage: Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sexual conduct: Acts of masturbation, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.



Sexually explicit materials: Materials consisting of:

- A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or
- B. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in the definitions of nudity, sadomasochistic abuse, sexual conduct and subsection (A) of this definition, or any explicit and detailed verbal description or narrative account of sexual excitement, sexual conduct or sadomasochistic abuse, which, taken as a whole, is harmful to minors.

Sewer: A pipe or conduit for carrying sewage.

Sewer, building: A sewer conveying wastewater from the premises of a user to the POTW.

Sewer, public: A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

Sewer, sanitary: A sewer which carries wastewater or sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Sewer service line: The extension from a building drain to the public sewer or other place of disposal; also, a lateral connection.

Sewer system: All facilities for collecting, pumping, treating and disposing of wastewater.

Shall: When "shall" is used, the action is mandatory

Sidewalk: Any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

Signature or subscription: The terms "signature" and "subscription" include a mark when the person cannot write.

- A. **Significant noncompliance or SNC.** The status of noncompliance of a significant industrial user when one or more of the following criteria are met. Chronic violations of wastewater discharge limits, as defined herein.
- B. Technical review criteria violations, as defined herein.
- C. Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- D. Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the control authority's POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and subsection 70-147.A.4 of this SUO to halt or prevent such a discharge;
- E. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- F. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
- G. Failure to accurately report noncompliance.
- H. Any other violation or group of violations that the control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.



Skate park: Any city-owned facility specifically designed, constructed, and designated by on-site signage as an area in which a person may engage in skateboarding.

Sleeping unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Slug load or discharge: Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the P'TW's regulations, local limits, or industrial user permit conditions. This can include, but is not limited to, spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in subsection 70-141.A of this ordinance.

Smoking: The inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

Social District: A defined area in which a person may consume alcoholic beverages sold by an ABC permittee, pursuant to N.C.G.S. 18B-300.1 or other applicable state law. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the local government by ordinance. A social district may include privately owned property, including ABC permittees and non-permittee businesses, and multi-tenant establishments, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.

Sound level meter: An instrument which measures sound levels in decibels, which either meets the standard of ASAS 1.4-1983 or other ANSI approved minimum requirements, and provided further that such instrument shall be serviced, calibrated and operated as recommended by the manufacturer, operated by a person or persons trained to operate the same, as approved by the chief of police or his designee.

Standard industrial classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

State: The word "state" means the State of North Carolina.

State law: Reference to a section or other subdivision of the General Statutes (G.S.) refers to such section or subdivision as amended or to any other section or subdivision to which the section or other subdivision has been transferred or by which the section or other subdivision has been superseded.

State road number: A number assigned by the North Carolina Department of Transportation.

Storm drain and storm sewer: A sewer which carries stormwater and surface water and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

Stormwater: Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Stray: Any unregistered or unlicensed dog or cat deemed to be at large.

Street: Any alley, avenue, circle, highway, lane, road, street, drive, or other public way situated within a dedicated public right-of-way which has been accepted by the appropriate governmental agency for continuing maintenance and upkeep; and/or any alley, avenue, circle, highway, lane, road, street, drive, or other public way maintained for public use by the United States Government, the North Carolina Department of Transportation, or the City of Brevard through the use of public funds.



Subscriber: Any person, corporation, partnership, or governmental or educational entity owning or leasing an alarm system.

Supplied: Paid for, furnished, or provided by, or under the control of, the owner or operator.

Suspected of having rabies: An animal which does not have a current vaccination against rabies in accordance with section 14-41 or has bitten a person, or any animal bitten or scratched by a wild carnivorous mammal (including a bat) not available for testing.

Suspended solids: Solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Taxicab: A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than six persons and not operated on a fixed route.

Technical review criteria violations (TRC): Significant noncompliance of wastewater discharge limits in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; [TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH)];

Temporary housing: Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Tenant or occupant: The words "tenant" and "occupant," applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense: Words used in the past, present or future tense each include the other tenses.

Unfit for human habitation: When referring to a dwelling, it shall mean that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.

Unmuffled engine compression brake: A motor vehicle brake which is activated or worked by the compression of the engine of a motor vehicle, and which is not effectively muffled to prevent excessive noise.

Unregistered dog or unlicensed dog: A dog which has not been listed on the owner's tax listing form for the then-current year or registered for a vaccination tag and certification, and/or a dog which does not have affixed to it a rabies vaccination tag.

Upset: When referring to sewer usage, an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User: When referring to sewage, any person using the services of the city for conveyance or treatment of wastewater.

User permit: I permit issued by the chief of police in response to a written application from a subscriber authorizing connection to and use of the alarm system in the emergency communications center.



Vehicle for hire: Any vehicle providing public passenger transportation for a fee, from a point originating or terminating within the city's jurisdiction, including limousine and passenger van services but excluding taxicabs, which are regulated in article ii. (See G.S. 20-87, 160A-579(12).

Vehicle of the fire department: Shall include the personal vehicles of members of the fire department responding to a fire call and using a red light to indicate an emergency whether they be at the location of a fire, parked in the immediate vicinity of the fire station or in route to either location.

Vendor, contractor: The security company designated by the city to operate and maintain the alarm system of the city along with all incoming apparatus connecting to the 'city's system.

Veterinary hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal: Any animal which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

Vicious dog: Any dog which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

Waiting time: The time when a taxicab is not in motion from the time of acceptance of a passenger to the time of discharge, but it does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger.

Wastewater: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, institutions and treatment facilities, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the sewer system. Also *sewage*.

Wastewater, compatible: Wastewaters with only those polluting constituents which are susceptible to adequate treatment in the treatment system works, without harm to the sewerage system. The term "compatible constituents" has like meaning with reference to individual wastewater parameters.

Wastewater, incompatible: Wastewater containing constituents or characteristics which render it unsuitable for transport or treatment in the sewerage system. The terms "incompatible constituents" and "incompatible characteristics" have like meaning with reference to individual wastewater parameters. Incompatible constituents and characteristics include water parameters. Incompatible constituents and characteristics include the elements listed in prohibitions and may include other elements so identified by the manager and specified in the user's service permit.

Wastewater permit. As set forth in subsection [70-143.B](#) of this ordinance.

Wastewater treatment plant: The arrangement of infrastructure including, but not limited to, piping, pumps, equipment, devices and structures used for treating wastewater and discharging effluent meeting the requirements.

Watch dog: A dog that barks and threatens to bite any intruder and that has not been specifically trained or conditioned for that purpose.

Watercourse: A channel in which a flow of water occurs, either continuously or intermittently.

Waters of the State: All streams, rivers, brooks, creeks, swamps, lakes, waterways, reservoirs, ponds, marshes, wells, springs, aquifers, irrigation systems, drainage systems, bays, sounds, tidal estuaries and all other bodies or



accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Writing or written: The words "writing" and "written" include printing and any other mode of representing words and letters.

Year: The word "year" means a calendar year.



CHAPTER 6. ALARM SYSTEMS

ARTICLE II. EMERGENCY COMMUNICATIONS CENTER ALARM SYSTEM POLICY

6-32. Reserved.

CHAPTER 10. AMUSEMENTS

ARTICLE III. GAME ROOMS

10-81. Reserved.

CHAPTER 14. ANIMALS AND FOWL

ARTICLE I. IN GENERAL

14-1. Reserved.

ARTICLE II. DOGS AND OTHER ANIMALS

14-37. Animals creating nuisance.

- A. *Prohibited.*** It shall be unlawful for an owner or keeper to permit an animal to create a nuisance, or to maintain a nuisance created by an animal. An agricultural operation or any of its appurtenances shall not constitute a nuisance when operated in accordance with the conditions and provisions set forth in G.S. 106-701.
- B. *Abatement procedure.*** Compliance shall be required as follows:
1. When an animal control officer, law enforcement officer or duly authorized person observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from the time of notification to abate the nuisance.
 2. Upon receipt of a written, detailed and signed complaint being made to the city manager, or the local health director, where the county is contracted to provide animal control services for the city or by any person that any other person is maintaining a nuisance as defined in Section 1-2, the city manager, or local health director, shall cause the owner or keeper of the animal in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.
 3. If the written findings indicate that the complaint is justified, then the city manager, the local health director or a duly authorized person shall cause the owner or keeper of the animal in question to be so notified in writing, and ordered to abate such nuisance within 48 hours by whatever means may be necessary. If the owner or keeper of the animal is unknown and cannot be ascertained, the notice and



order, along with a general description of the animal, shall be posted for 48 hours at the animal shelter, city hall and county courthouse. If after 48 hours the owner or keeper of the animal remains unknown, the animal may be impounded or humanely destroyed.

- C. *Violations.* It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this section. Violation is punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

CHAPTER 18. BUILDINGS AND BUILDING REGULATIONS

ARTICLE III. PERMITS AND INSPECTIONS

18-69. Inspection procedure.

- A. *Generally.* In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code. In accordance with G.S. 160D-1113, the inspection department must perform (or contract for) inspections for building permits. The inspection department shall inspect all buildings and structures and real property and work therein or thereon for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes.
- B. *Off-site inspection.* When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the reports are in writing and certified by a responsible officer of such organization.
- C. *Inspection stages.* All holders of permits, or their agencies, shall notify the inspection department and the appropriate inspector at each of the following stages of construction so that approval may be given before work is continued:
1. *Foundation inspection.* To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.
 2. *Framing inspection.* To be made after all structural framing is in place and all roughing-in of plumbing and electrical and heating has been installed, and after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured-in-place concrete structural elements shall be inspected before each pour of any structural member.
 3. *Fireproofing inspection.* To be made after all areas required to be protected by fireproofing are lathed, but before plastering or other fireproofing is applied.
 4. *Final inspection.* To be made after the building or structure has all doors hung and fixtures set and is ready for occupancy, but before the building is occupied. Before the local power utility company is contacted to install permanent power, the building or structure must have passed the building, electrical and plumbing final inspection.



- D. *Calls for inspection.*** Requests for inspections may be made to the office of the inspection department or to the appropriate inspector. The inspection department shall make inspections as soon as practicable after request is made therefor, provided such work is ready for inspection at the time the request is made. To ensure that work is ready for inspection and to permit adequate scheduling by the inspection department, the licensed contractor, or where no licensed contractor is used the permit holder, must place the call for inspection at least one working day prior to the time requested for inspection.
- E. *Reinspections.*** Reinspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition, ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this Code. A reinspection fee shall be charged to the individual or company that calls for an inspection which is not ready or does not pass inspection. The fee shall be as provided for in Section 18-68.
- F. *Survey of street or alley lines.*** Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley or other public place, he shall secure a survey of the line of such street, alley or other public place, adjacent to the property upon which such building or structure is to be erected, before proceeding with construction of such building or structure. It shall be the duty of the building inspector to see that the building does not encroach upon such street, alley or other public place.
- G. *Alternate inspection method.*** Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under G.S. ch. 83A or professional engineer licensed under G.S. ch. 89C provided all of the following apply:
1. The submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.
 2. Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.
 3. The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means.

Upon the acceptance and approval receipt of a signed written document by the city as required under subsection G of this section, notwithstanding the issuance of a certificate of occupancy, the city, its inspection department, and the inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed by this article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

- H. *Inspections of work in progress.*** As the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable state and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of



the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to G.S. ch. 83A.

- I. *Periodic inspections.* The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with state fire prevention code or as otherwise required by state law.

ARTICLE V. MINIMUM HOUSING STANDARDS

18-132. Meaning of certain words.

Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof".

ARTICLE VI. NONRESIDENTIAL BUILDING OR STRUCTURE CODE

18-155. Reserved.

18-163. Regulation authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.

- A. *Authority.* The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulation shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Such regulation shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts or municipal service districts.
- B. *Investigation.* Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.



- C. *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than ten days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.
- D. *Order.* If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.
- E. *Limitations on orders.*
1. An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.
 2. An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed 50 percent of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing board determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.
 3. An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.
- F. *Action by governing board upon failure to comply with order.*
1. If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this



building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

2. If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

G. *Action by governing board upon abandonment of intent to repair.* If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

1. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50 percent of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.
2. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50 percent of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

H. *Service of complaints and orders.* Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in



a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

I. *Liens.*

1. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. ch. 160A, art. 10.
2. If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
3. If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

J. *Ejectment.* If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

K. *Civil penalty.* The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.



- L. Supplemental powers.** The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:
1. To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.
 2. To administer oaths, affirmations, examine witnesses, and receive evidence.
 3. To enter upon premises pursuant to Subsection B of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
 4. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.
 5. To delegate any of his or her functions and powers under the ordinance to other officers and agents.
- M. Appeals.** The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160D-1208.
- N. Funding.** The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.
- O. No effect on just compensation for taking by eminent domain.** Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

CHAPTER 38. HEALTH AND SANITATION

ARTICLE II. NUISANCES

DIVISION 2. NOISE

38-72.1. Violations; exceptions.

Notwithstanding the enumeration of prohibited noises as listed in section 38-72, whenever it is practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the following procedure shall be used to determine whether any specific noise alleged to be a violation of this noise ordinance is, in fact, a violation, at any certain time and for any given location from which a complaint arises.

- A. Violations.** In order to document and prove a prima facie violation of this noise ordinance:
1. The ambient noise level shall be determined, if it is reasonably practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint. Then, the alleged violation noise level shall be determined at the same location, both



determinations to be made by the use of the same sound level meter, and using the same procedure. A violation shall have occurred if the alleged violation noise level exceeds the ambient noise level:

- a. By ten decibels, between the hours of 9:00 p.m. and 7:00 a.m.; or
 - b. By 20 decibels, between the hours of 7:00 a.m. and 9:00 p.m.
2. If, due to the nature of the alleged violation noise level, no determination of an ambient noise level is practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, then a violation shall have occurred if the alleged violation noise level exceeds:
- a. 60 decibels between the hours of 9:00 p.m. and 7:00 a.m.; or
 - b. 70 decibels between the hours of 7:00 a.m. and 9:00 p.m.
3. If no decibel readings or comparison between ambient noise levels and alleged violation noise levels are practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the alleged violation is listed in section 38-72, and the violator does not voluntarily and promptly reduce the noise level when requested to do so by a law enforcement officer or code enforcement officer, so as to comply with the definitions in section 38-71, or if, having reduced the noise level to comply therewith but then within a 24-hour period again produces or allows to be produced noise at a level not in compliance with the definitions in section 38-71, the noise shall be a violation of the ordinance.

B. Exceptions. The following are excepted from this noise ordinance:

1. Any noise generated by an emergency vehicle, such as a fire truck, police car, an EMS vehicle or their sirens, or other noises generated by or at the behest of a governmental entity which is intended to immediately promote the public health, safety or welfare.
2. Any sporting event sanctioned by a school, any other government agency, or any civic group or club provided that in the latter instance, such event is properly permitted.
3. Noises caused by:
 - a. Lawn care equipment, agricultural equipment or construction equipment operated for intended and legitimate purposes between the hours of 7:00 a.m. and 9:00 p.m.;
 - b. Properly permitted events such as parades, fairs, circuses and other entertainment events;
 - c. Bells, chimes and similar devices which operate from a stationary location, which were in operation before the complainant's residency was established, and which operate for no longer than five minutes in any hour;
 - d. Emergency work reasonably necessary to safeguard the public safety to person or property;
 - e. Duly permitted electrical transformers and utility substations;
 - f. Traffic noises other than the unnecessary use of horns, radios or other sound amplifying or receiving equipment, intentional screeching of tires, intentional revving of motors, provided that such traffic noises emanate from a public street or right-of-way; and
 - g. Noises permitted pursuant to section 38-73.

C. Regulations and measurement standards promulgated by the chief of police. The chief of police may promulgate any regulations and sound level measurement standards consistent with this noise ordinance which, in his professional opinion, will aid in the enforcement hereof.

D. Noises are public nuisances. Nothing in this noise ordinance shall be construed in such manner as to prohibit the code enforcement officer, the city manager and/or the city council from following the procedure for



abatement of a nuisance, enumerated in division 1 of this article, as an alternative or in addition to the prosecution of a violation of the noise ordinance as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

DIVISION 4. SMOKE CONTROL

38-122. Reserved.

DIVISION 5. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

38-152. Reserved.

ARTICLE III. SMOKING IN MUNICIPAL BUILDINGS

38-191. Reserved.

CHAPTER 42. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

42-6. Loitering for purpose of engaging in drug-related activity.

- A. *Violations.*** It shall be unlawful for a person to loiter, remain or wander about in a public place in a manner and under circumstances manifesting the purpose of engaging in a violation of any subdivision of the North Carolina Controlled Substances Act, G.S. 90-89 et seq. A prima facie showing of a violation of this section is made by proof that a person, while in a public place, loiters and commits any of the following acts or courses of conduct:
1. Repeatedly beckons to, stops or attempts to stop passersby, or repeatedly attempts to engage passersby in conversation;
 2. Repeatedly stops or attempts to stop motor vehicles;
 3. Repeatedly interferes with the free passage of motor vehicles or other persons;
 4. Associates at such location with one or more persons who are known unlawful drug users, possessors and sellers;
 5. Behaves in such a manner as to raise a reasonable suspicion that he is about to engage in, or is engaged in, an unlawful drug-related activity;
 6. Repeatedly passes to or receives from passersby, whether on foot or in a vehicle, money or objects;
 7. Takes flight upon the approach or appearance of a police officer;
 8. Is at a location frequented by persons who use, possess or sell drugs; or
 9. Uses or associates with the user of any vehicle which is registered to a known unlawful drug user, possessor or seller, or is known to be or have been involved in drug-related activities.
- B. *Penalty.*** A violation of any provision of this section is a misdemeanor and shall subject the offender to punishment in accordance with Section 1-8.



ARTICLE II. OBSCENE MATERIALS

42-42. Display of sexually explicit materials.

- A. *Display.* No person, knowing the character of the materials involved, may display or cause or permit the display of any sexually explicit materials in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk or other public right-of-way, or in any business or commercial establishment where minors, as a part of the general public or otherwise, are or will probably be exposed to view all or any part of such materials. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).
- B. *Exception.* Nothing in this section shall apply to any recognized historical society or museum accorded charitable status by the federal government or any library operated by any unit of state or local government.

ARTICLE III. OBSCENITY

42-71. Reserved.

CHAPTER 43. SOCIAL DISTRICTS

ARTICLE I. IN GENERAL

43-2. Reserved.

CHAPTER 46. PEDDLERS AND SOLICITORS

ARTICLE I. IN GENERAL

46-7. Reserved.

CHAPTER 58. SOLID WASTE MANAGEMENT

58-1. Reserved.



58-2. Management and control of collection services; appeals.

- A. All garbage and other refuse accumulated in the city shall be collected, conveyed and disposed of by the city under the control of the city manager, and under the supervision of the director of public works. The director shall have the authority to make regulations concerning the days of collection, type and location of waste containers, and such other matters pertaining to the collection, conveyance and disposal as he shall find necessary, and to change and modify the regulations after due notice as required by law, provided such regulations are not contrary to the provisions of law.
- B. Any person aggrieved by a regulation of, or fee charged by, the public works director shall have the right of appeal to the city manager, who shall have the authority to confirm, modify or revoke any such regulations or fee.

58-5. Containers.

- A. *Required; maintenance; specifications.* Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises served and shall be of a type approved by the public works director. Containers shall be maintained in good condition and shall be kept in a clean, neat and sanitary condition at all times. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice. The public works director shall have the authority to refuse collection services for failure to comply herewith. City collection personnel shall exercise due care in the handling of containers and the city shall not be liable for any damage to containers resulting from handling the containers unless it can be shown that the personnel were negligent or careless in the handling thereof, and in such cases the liability of the city shall extend only to replacement of the container with one in good condition of like material and capacity. The following types and numbers of containers are prescribed for use in the collection of waste material:
 - 1. *Residential containers.* The standard small container, normally used at residences, shall be made of metal or substantial plastic equipped with suitable handles and tight-fitting covers, shall be watertight and shall have a capacity of not more than 32 gallons. These containers may be used for any waste material. Care shall be taken to ensure that the weight of the contents shall be such that the container, with contents, can readily be handled by one adult person.
 - 2. *Dumpsters.* Commercial dumpster containers shall be of steel construction, of up to four-cubic-yard capacity and of such design and construction as to facilitate mechanical unloading by collection equipment operated by the city. Sub-grade dumpsters may be installed of steel or polyethylene construction for private hauler service and maintenance; the public works director may require the customer use a private hauler to collect the waste in such dumpsters due to city collection capabilities. Dumpsters may be used for garbage, refuse or rubbish.
 - 3. *Disposable containers.* Disposable containers shall be made of either metal, plastic, wood, cardboard or paper, all of which shall be removed with the contents thereof. These containers together with the contents thereof shall be of such weight that they can readily be handled by one adult person and shall be of sufficient strength to withstand failure when being picked up and placed in the collection vehicle.
 - 4. *Number of containers.* Residential and noncommercial business customers shall be limited to two standard small containers per dwelling unit or business per collection. If more than two containers are used on a regular basis, the collection fee shall be doubled. For multifamily residential buildings having more than four units, a commercial dumpster container shall be provided in lieu of the standard small containers. Commercial customers requiring more than four standard small containers on a regular basis shall be required to use a commercial dumpster container.



- B. *Use.* No person shall place any refuse in any street, alley or other public place, or upon any private property, whether or not owned by such person, within the city except in proper containers for collection or under express approval granted by the public works director; nor shall any person throw or deposit any refuse in any stream or other body of water.
- C. *Placement.* Refuse containers shall be placed for collection at ground level and directly accessible from the street or alley from which collection is made. Residential refuse containers shall be placed at curbside prior to collection, no later than 7:30 AM and shall be removed within reasonable time thereafter. A suitable permanent location, satisfactory to the public works director, may be established for containers of commercial customers.

58-6. Frequency of collection.

- A. Refuse shall be collected once each week under normal circumstances.
- B. Hotels, restaurants and such other businesses and institutions as deem it necessary may enter into an agreement for a greater frequency of collection.
- C. Where necessary to protect the public health, the public works director shall have the authority to require that more frequent collection be made. If necessary, an extra city-wide collection shall not affect fees. Individual collections made according to this section shall be charged on a pro-rata basis to the affected fee payer.

58-7. Refuse quantity.

- A. The public works director shall collect a reasonable accumulation of refuse of each patron during each collection period for the standard charge. The public works director shall have the authority to refuse to collect unreasonable amounts, or to make additional charges for such amounts.
- B. Only material placed in approved containers shall be picked up. Refuse placed on the ground or scattered about in the immediate vicinity of the container shall not be picked up unless, in the opinion of the public works director, pickup by city personnel is warranted due to delays in the service or other factors which are strictly the responsibility of the city.

58-8. Special refuse problems.

- A. *Contagious disease refuse.* The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the county health department. Such refuse shall not be placed in containers for regular collection.
- B. *Construction debris; tree limbs, trunks, etc.* Rubbish resulting from any construction, remodeling, wrecking or repair of any building or other real estate improvement shall be removed by the producer of such rubbish, or by the owner of the premises upon which rubbish has accumulated, at his own expense, subject to the provisions of section 58-9. These restrictions shall apply to the removal of limbs, trunks, stumps, etc., of any trees or shrubs removed or trimmed by landscape gardeners, tree surgeons or other parties engaged to carry on such work.
- C. *Inflammable or explosive refuse.* Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the public works director at the expense of the owner or possessor thereof.
- D. *Free curbside pickup service.* Rubble, wood, tree trimmings, hedge clippings and debris resulting from cleaning of property may be placed at curbside for collection. The public works director shall collect a reasonable



amount of such rubbish at no charge, but he shall have the authority to refuse to collect heavy or bulky items that cannot be handled readily by two adult persons. It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery trimmings on any street or sidewalk so as to obstruct the free passage of vehicles or pedestrians.

- E. *Parking of pickup vehicles at private residences.* The city manager or his designee may authorize city vehicles to be parked at private residences to facilitate the collection of brush and other refuse that would otherwise be collected under other provisions of this section. The city manager is directed to develop a written policy to provide for the implementation of this subsection. The policy is to be kept on file in the office of the city clerk and at the public works department. The fee for this service shall be adopted in the city's annual schedule of fees.

58-9. Collection by actual producers and outside collectors.

- A. *Vehicles.* The actual producers of refuse or the owners of premises upon which refuse is accumulated who desire personally to collect and dispose of such refuse, persons who desire to dispose of waste material not included in the definition of refuse and collectors of refuse from outside of the city who desire to haul over the streets of the city shall use a watertight vehicle provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled.
- B. *Additional rules and regulations.* The public works director shall have the authority to make such other reasonable regulations concerning individual collection and disposal, and relating to the hauling of refuse over city streets by outside collectors, as such director may find necessary, subject to the right of appeal as set forth in Section 58-2.

58-11. Fees; delinquent accounts.

- A. *Establishment of fees for the collection and disposal of refuse.* Fees for the collection and disposal of refuse shall be set forth within the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of such fees shall be established by the city manager.
- B. *Applicability of fee.* The appropriate fee for collection and disposal of refuse shall be charged each occupied single, duplex or multifamily dwelling. Businesses which have a contract for refuse collection by a private contractor shall not be required to pay the city fee.
- C. *Single and duplex family dwellings.* The fee for collection and disposal of refuse placed for collection adjacent to the side of the street or alley from which collection is made shall be as set forth in the schedule of taxes, fees and charges, and shall include the free pickup service provided for in Section 58-8.D.
- D. *Multifamily dwellings.* For each dwelling unit in a multifamily dwelling, i.e., three or more family dwelling units per building, the fee shall be as set forth in the schedule of taxes, fees and charges, provided, however, that this fee shall not include the free pickup service provided for in Section 58-8.D. The regular fee provided for in Subsection 58-11.F shall be charged for pickup of rubble, wood, tree trimmings, hedge clippings and debris resulting from cleaning of property at multifamily dwellings. Owners of multifamily dwelling buildings shall have the option of using a dumpster container at the regular commercial rate in lieu of individual unit garbage containers.
- E. *Fee for commercial premises.* The fee for collection and disposal of refuse from nonresidential premises shall be as set forth in the schedule of taxes, fees and charges.



- F. *Fee for special loads.* The fee for the collection and disposal of special loads of refuse shall be as set forth in the schedule of taxes, fees and charges.
- G. *Delinquent accounts.* All accounts shall be considered delinquent if not paid by the 20th of the month following the month in which service is rendered. All delinquent accounts are subject to stoppage of service without notice. If the delinquent account is not paid within 30 days, the public works director shall cease all refuse collection for that account unless otherwise directed by the city manager. Service shall be resumed thereafter only upon payment of the accumulated fees for the period of collection and the period of noncollection unless the city manager specifically directs otherwise. The stoppage of services for nonpayment of collection charges shall be in addition to the right of the city to proceed for the collection of such unpaid charges in any manner provided by law for the collection of a claim of the city.

CHAPTER 62. STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

ARTICLE VI. PEDESTRIAN/BICYCLE PATHWAY

62-141. Reserved.

ARTICLE VII. PROPERTY ADDRESSING AND ROAD NAMING

62-164. Reserved.

CHAPTER 66. TRAFFIC

ARTICLE I. IN GENERAL

66-1. Adoption of state law.

- A. For the purpose of regulating traffic on the streets of the city, and in addition to the provisions of this chapter, there are hereby adopted by reference by the city the following provisions of G.S. ch. 20: G.S. 20-4.01 (Definitions), G.S. 20-115 et seq. (The Size, Weight, Construction and Equipment of Vehicles), G.S. 20-138.1 et seq. (Operation of Vehicles and Rules of the Road), G.S. 20-171.1 et seq. (Operation of Bicycles), G.S. 20-172 et seq. (Pedestrians) and G.S. 20-216 et seq. (Miscellaneous Provisions Relating to Motor Vehicles).
- B. The violation of any such provision shall be deemed a violation of this Code, and punishable as such.

ARTICLE III. OPERATION OF VEHICLES

66-90. Unmuffled engine compression brake.

- A. *Prohibition.*
 - 1. No person shall use an engine braking system within the corporate limits of the City of Brevard which is in any way activated or operated by the compression of the engine of any such motor vehicle or any such



unit or part

thereof, except in cases of emergency or necessary for the protection of persons and/or property. Such braking is commonly referred to as compression braking or a " fake brake."

2. The City of Brevard will identify areas in which engine braking is prohibited and signs shall be conspicuously posted in such areas stating: "No engine braking" or its equivalent.

B. *Emergency vehicle exemption.* All emergency vehicles are exempt from this order.

CHAPTER 70. UTILITIES

ARTICLE III. SEWER SYSTEM

70-83. Reserved.

ARTICLE V. SEWER USE ORDINANCE

70-140. General provisions.

- A. *Purpose and policy.* This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Brevard, hereafter referred to as the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by G.S. 160A-312 and/or 153A-275. The city shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW director or director. Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the director may be delegated by the director to other city personnel.

By discharging wastewater into the city wastewater system, industrial users located within or outside the city limits agree to comply with the terms and conditions established in this ordinance, as well as any permits, enforcement actions, or orders issued hereunder. Users subject to this ordinance are also subject to the City of Brevard Code of Ordinances, [CHAPTER 70](#) - utilities.

1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the wastewater system or contaminate the resulting sludge;



2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

B. Abbreviations.

1. The following abbreviations, when used in this ordinance, shall have the designated meanings:
 - a. BOD: Biochemical oxygen demand;
 - b. CFR: Code of Federal Regulations;
 - c. COD: Chemical oxygen demand;
 - d. EPA: Environmental Protection Agency;
 - e. gpd: Gallons per day;
 - f. l: Liter;
 - g. mg: Milligrams;
 - h. mg/l: Milligrams per liter;
 - i. G.S.: North Carolina General Statutes;
 - j. NPDES: National Pollution Discharge Elimination System;
 - k. O&M: Operation and maintenance;
 - l. POTW: Publicly owned treatment works;
 - m. RCRA: Resource Conservation and Recovery Act;
 - n. SIC: Standard industrial classification;
 - o. SWDA: Solid Waste Disposal Act;
 - p. TSS: Total suspended solids;
 - q. TKN: Total Kjeldahl nitrogen; and
 - r. U.S.C.: United States Code.

70-141. General sewer use requirements.

A. Prohibited discharge standards.

1. *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.



2. *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
- a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
 - b. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.
 - c. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
 - d. Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - e. Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - f. Any wastewater having a temperature greater than 139° F (59.4° C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
 - g. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - h. Any trucked or hauled pollutants, except at discharge points designated by the director in accordance with subsection 70-141.I of this ordinance.
 - i. Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
 - j. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
 - k. Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
 - l. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations.
 - m. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the director.
 - n. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the director.



- o. Any sludges, screenings or other residues from the pretreatment of industrial wastes.
 - p. Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.
 - q. Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
 - r. Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the director.
 - s. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.
 - t. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 - u. Recognizable portions of the human or animal anatomy.
 - v. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
 - w. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the wastewater system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
3. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

When the director determines that a user is contributing to the POTW, any of the above-enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the director shall:

- a. Advise the user(s) of the potential impact of the contribution on the POTW in accordance with subsection 70-147.B; and
- b. Take appropriate actions in accordance with section 70-143 for such user(s) to protect the POTW from interference or pass-through.

B. *National categorical pretreatment standards.* Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.



- C. *Local limits.* An industrial waste survey is required prior to a user discharging wastewater (containing in excess of the following average discharge limits):

TABLE 70-141A: LOCAL LIMITS TO WASTEWATER DISCHARGE

BOD	220	mg/l
TSS	220	mg/l
NH ₃	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Chromium	0.05	mg/l (total chromium)
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l
Nickel	0.021	mg/l
Silver	0.005	mg/l
Zinc	0.175	mg/l

- D. Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for pollutants of concern. User-specific local limits for pollutants of concern shall be included in wastewater permits. The director may impose mass based limits in addition to, or in place of, concentration based limits.
- E. *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.
- F. *Right of revision.* The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in subsection 70-140.A of this ordinance or the general and specific prohibitions in subsection 70-141.A of this ordinance, as is allowed by 40 CFR 403.4.
- G. *Dilution.* No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.
- H. *Pretreatment of wastewater.*
1. *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under subsection 70-143.B of this ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in subsection 70-141.A of this ordinance within the time limitations as specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to



the city under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.

2. *Additional pretreatment measures.*

- a. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- b. The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- c. Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- d. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

I. *Accidental discharge/slug control plans.*

1. The director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 1-2. All SIUs must be evaluated within one year of being designated an SIU. The director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the director may develop such a plan for any user.
2. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see subsections 70-144.E and 70-144.F.
3. An accidental discharge/slug control plan shall address, at a minimum, the following:
 - a. Description of discharge practices, including non-routine batch discharges;
 - b. Description of stored chemicals;
 - c. Procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection 70-144.F of this ordinance; and
 - d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

J. *Hauled wastewater.*

1. Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate section 70-141 of this ordinance



or any other requirements established by the city. The director may require septic tank waste haulers to obtain wastewater discharge permits.

2. The director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may require generators of hauled industrial waste to obtain wastewater discharge permits. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
3. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

70-143. Wastewater discharge permit application and issuance.

- A. *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.
- B. *Wastewater permits.* All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the director be required to obtain a wastewater discharge permit for non-significant industrial users.
 1. *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the director a significant industrial user determination. If the director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.
 2. *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the city, an application in the form prescribed by the director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in subsection 70-143.B.1 above. The application shall include at a minimum:
 - a. Name of industrial user;
 - b. Address of industrial user;
 - c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
 - d. Wastewater flow;



- e. Types and concentrations (or mass) of pollutants contained in the discharge;
 - f. Major products manufactured or services supplied;
 - g. Description of existing on-site pretreatment facilities and practices;
 - h. Locations of discharge points;
 - i. Raw materials used or stored at the site;
 - j. Flow diagram or sewer map for the industrial user;
 - k. Number of employees;
 - l. Operation and production schedules; and
 - m. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
3. *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority as defined in Section 1-2. and contain the following certification statement:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
4. *Application review and evaluation.* The director will evaluate the data furnished by the user and may require additional information.
- a. The director is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
 - b. The director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
5. *Tentative determination and draft permit.*
- a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
 - b. If the staff's tentative determination in subsection 70-143(b)(5)a. above is to issue the permit, the following additional determinations shall be made in writing:
 - i. Proposed discharge limitations for those pollutants proposed to be limited;
 - ii. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - iii. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - c. Subsections 70-143.B.5.a. and 70-143.B.5.b. above and the general permit conditions of the city into a significant industrial user permit.
6. *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits.



- a. An allocation table (AT) listing permit information for all significant industrial users, including, but not limited to, permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division-approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
 - b. The basis, or rationale, for the pretreatment limitations, including the following:
 - i. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - ii. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
7. *Final action on significant industrial user permit applications.*
 - a. The director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - b. The director is authorized to:
 - i. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and G.S. 143-215.1;
 - ii. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - iii. Modify any permit upon not less than 60 days' notice and pursuant to subsection 70-143.B.9;
 - iv. Revoke any permit pursuant to subsection 70-147.A;
 - v. Suspend a permit pursuant to subsection 70-147.A;
 - vi. Deny a permit application when in the opinion of the director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
8. *Permit modification.*
 - a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
 - i. Changes in the ownership of the discharge when no other change in the permit is indicated,
 - ii. A single modification of any compliance schedule not in excess of four months,
 - iii. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
 - b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection 70-143(b)(2), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.
 - c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.



9. *Permit conditions.*

- a. The director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - i. A statement of duration (in no case more than five years);
 - ii. A statement of non-transferability;
 - iii. Applicable effluent limits based on categorical standards or local limits or both;
 - iv. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
 - v. Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in [Section 1-2](#);
 - vi. Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads, if determined by the director to be necessary for the user and,
 - vii. Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load. Also see subsections [70-144.E](#) and [70-144.F](#); and
 - viii. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- b. In addition, permits may contain, but are not limited to, the following:
 - i. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - ii. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - iii. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - iv. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - v. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - vi. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - vii. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - viii. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).
 - ix. Compliance schedules for meeting pretreatment standards and requirements.
 - x. Requirements for submission of periodic self-monitoring or special notification reports.



- xv. Other conditions as deemed appropriate by the director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.
10. *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
11. *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
12. *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection 70-143.B a minimum of 90 days prior to the expiration of the existing permit.

70-144. Reporting requirements.

A. Baseline monitoring reports (BMRs).

1. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in subsection 70-144.A.2, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection 70-144.A.2, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
2. Users described above shall submit the information set forth below:
 - a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.



- d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - e. *Measurement of pollutants.*
 - i. The categorical pretreatment standards applicable to each regulated process.
 - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 70-144.J of this ordinance.
 - iii. Sampling must be performed in accordance with procedures set out in subsection 70-144.K of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
 - f. *Certification.* A statement, reviewed by the user's current authorized representative of the industrial user as defined in Section 1-2 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection 70-144.B of this ordinance.
 - h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.
- B. *Compliance schedule progress reports.*** The following conditions shall apply to the compliance schedule required by subsection 70-144.A.2.g. of this ordinance:
- 1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - 2. No increment referred to above shall exceed nine months;
 - 3. The user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 - 4. In no event shall more than nine months elapse between such progress reports to the director.
- C. *Reports on compliance with categorical pretreatment standard, deadline.*** Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such



pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 70-144.A.2.d. through 70-144.A.2.f. of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.

- D. *Periodic compliance reports.*** The control authority may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.
1. All significant industrial users shall, at a frequency determined by the director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in subsections 70-144.J and 70-144.K of this ordinance. All periodic compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.
 2. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsections 70-144.J and 70-144.K of this ordinance, the results of this monitoring shall be included in the report.
- E. *Reports of changed conditions.*** Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the control authority. See subsection 70-144.F.4 for other reporting requirements.
1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 70-143.B of this ordinance.
 2. The director may issue a wastewater discharge permit under subsection 70-143.B of this ordinance or modify an existing wastewater discharge permit under subsection 70-143.B of this ordinance in response to changed conditions or anticipated changed conditions.
 3. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 15 percent or greater, or the discharge of any previously unreported pollutants.
- F. *Reports of potential problems.***
1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
 2. Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.



3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection 70-144.F.1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
 4. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load.
- G. *Reports from unpermitted users.*** All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.
- H. *Notice of violation/repeat sampling and reporting.***
1. If sampling performed by a user indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. If allowed by the director, the user is not required to resample:
 - a. If the director monitors at the user's facility at least once a month; or
 - b. If the director samples between the user's initial sampling and when the user receives the results of this sampling.
 2. If the director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:
 - a. The director monitors at the user's facility at least once a month; or
 - b. The director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - c. The director requires the user to perform sampling and submit the results to the director within the 30-day deadline of the POTW becoming aware of the violation.
- I. *Notification of the discharge of hazardous waste.*** The city prohibits the discharge of any hazardous wastes without notification to and approval by the director.
1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 90 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the city. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection 70-144.E. The notification requirement in this section does not apply to pollutants already reported by users



subject to categorical pretreatment standards under the self-monitoring requirements of subsections 70-144.A, subsection 70-144.C, and subsection 70-144.D.

2. Dischargers are exempt from the requirements of subsection 70-144.I.1, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 3. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
 4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.
- J. *Analytical requirements.*** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and city. Analyses must be performed by a state certified lab for each parameter analyzed, if such certification exists for that parameter.
- K. *Grab and composite sample collection.***
1. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be operated in accordance with best management practices, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in this manner shall not be grounds for the user to claim that sample results are unrepresentative of its discharge and may be in violation of its wastewater discharge permit.
 2. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for baseline monitoring reports and 90-day compliance reports. Additionally, the director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.
 3. Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.



- L. *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- M. *Record keeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.
- N. *Electronic reporting.* The director may develop procedures for receipt of electronic reports for any reporting requirements of this ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under section 70-147.
- O. *Special reporting requirements for IUs in satellite POTWs.* In the case of industrial user located in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by the section shall also be reported to the POTW treatment plant organization.

CHAPTER 77. PARKS AND RECREATION

ARTICLE I. BRACKEN PRESERVE MANAGEMENT RULES

77-2. Reserved.

ARTICLE II. SKATE PARK

77-41. Reserved.

ARTICLE III. ELECTRIC BICYCLES AND MULTIUSE PATH

77-48. Reserved.

ARTICLE IV. BREVARD DOG PARK RULES AND CONDUCT

77-52. Reserved.

CHAPTER 78. VEHICLES FOR HIRE



ARTICLE I. IN GENERAL

78-2. Vehicles other than taxicabs.

- A. Purpose.** The purpose of this section is to ensure the public safety through the minimal regulation of public vehicles for hire.
- B. Requirements.** The owners of all vehicles for hire shall apply to the city clerk annually for certification to operate their vehicle for hire within the city's jurisdiction. Such application shall contain their full names and addresses, the number, make, model of all vehicles for hire in operation, and shall state that:
1. All such vehicles have met all state inspection requirements and are in good working order;
 2. All such vehicles have met all of the city's rules and regulations regarding cleanliness and sanitation, as referred to (with respect to taxicabs) in section 78-33;
 3. All drivers are duly licensed to operate such vehicles;
 4. All such vehicles are fully insured with regard to liability for personal injury and property damage, to the extent required by state law;
 5. To the extent that it may be applicable, all such vehicles have been approved by the state utilities commission or such other regulatory agency as may have jurisdiction over the matter.

Upon the completion of such application, the city clerk shall certify the applicant to operate such vehicle for hire.

- C. Inspections.** Every vehicle operating under this section may be periodically inspected by the police department at such intervals as may be established by the chief of the Department to ensure the continuing maintenance of the vehicle in a safe operating condition.
- D. Violation.** Any violation of this section shall be punishable as a Misdemeanor or Infraction with fine up to \$500.00 per G.S. 14-4. In addition, any violation shall be grounds for refusal to issue or renew the owner's certificate to operate vehicles for hire within the city's jurisdiction. Upon a failure to submit to the inspection required by this section or upon a failure to pass such inspection, the owner's certificate to operate the vehicle shall be immediately revoked.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

78-31. Reserved.

ORDINANCE NO. 2023-

**AN ORDINANCE AMENDING CHAPTERS 1, 6, 10, 14, 18, 38, 42, 43,
46, 58, 62, 66, 70, 77 AND 78 OF THE CITY OF BREVARD CODE OF
ORDINANCES TO CONSOLIDATE DEFINITIONS**

WHEREAS, a public hearing was conducted on August 21, 2023, by 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 the City Code of 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. The City of Brevard Code of Ordinance is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. The City Clerk of the City of Brevard is hereby authorized and directed to revise and amend the official records and the Code of Ordinance to reflect the changes as set forth in the aforementioned Exhibit A.

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 on the 5th day of September 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Charles W. McKeller, Attorney at Law
City Attorney

EXHIBIT A

1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the council or the context clearly requires otherwise:

ABC Permittee: A person holding any of the following ABC permits:

- A.** An on-premises malt beverage permit issued pursuant to N.C.G.S. §18B-1001(1).
- B.** An on-premises unfortified wine permit issued pursuant to N.C.G.S. §18B-1001(3).
- C.** An on-premises fortified wine permit issued pursuant to N.C.G.S. §18B-1001(5).
- D.** A mixed beverages permit issued pursuant to N.C.G.S. §18B-1001(10).
- E.** A wine shop permit issued pursuant to N.C.G.S. §18B-1001(16).
- F.** A distillery permit issued pursuant to N.C.G.S. §18B-1100(5).

Agricultural operation: the Any operation as defined in G.S. 106-701(b) (or any successor thereto), and includes, without limitation, any facility for the production for commercial purposes of crops, livestock, poultry, livestock products or poultry products.

Alarm system: Any electronic or mechanical device transmitting an electronic alarm signal or recorded message to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building.

Ambient noise level: An average A-weighted sound level based on at least three readings made and recorded over a period of no less than ten minutes, made at the location where a complainant claims to be disturbed by an alleged violation but at a time when no noise is then being alleged to violate this ordinance, and made at a point no closer than outside the property line of the property from where the noise is generated.

Animal: A living creature, domestic or nondomestic, but does not include humans.

Animal control: Any authority designated by the city manager to discharge the requirements of this chapter.

Animal shelter: Any premises designated by the health director for the purpose of impounding and caring for animals.

ANSI: The American National Standards Institute or any successor to such organization.

Approval authority: When referring to sewer usage, the director of the division of water quality of the North Carolina Department of Environment and Natural Resources or his designee.

Ashes: The residue from the burning of wood, coal, coke or other combustible materials.

At large animal: An animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.

Authorized emergency vehicle: Vehicles of the Fire Department, Police Department, vehicles owned by the Transylvania County Emergency Medical Service and vehicles owned by the various rescue squad units operating within Transylvania County.

Authorized representative of the industrial user:

A. If the industrial user is a corporation, authorized representative shall mean:

- 1. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- 2. The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with

environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- B.** If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
- C.** If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- D.** The individuals described in paragraphs. A - C, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.
- E.** If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to director prior to or together with any reports to be signed by an authorized representative.

Authorizing official: When referring to the removal of motor vehicles, the supervisory employee of the police department designated to authorize the removal of vehicles under the provisions of this division.

Available to the public: When referring to obscene materials, that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance.

A-weighted sound level: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network measured by a sound level meter, following the criteria approved by ANSI.

Basement: A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Basic structural elements: The parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to plates, studs, joists, rafters, stringers, stairs, subflooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.

Bedroom: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Bicycle: A non-motorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

Bicycle route: Those bikeways on existing street rights of way where bicycles share the roadway with motor vehicles. Bicycle routes are designated by signs placed on vertical posts or stenciled on the pavement.

Bicycle lane: Those bikeways on existing street rights of way where a portion of the roadway is set aside for exclusive bicycle use and designated by signs on vertical posts or stenciled on the pavement and by a painted line marking the bicycle lane on the pavement. Through travel by motor vehicles or pedestrians is prohibited. Cross flows by motor vehicles and pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

Bicycle path: Those bikeways on existing street rights of way or on a completely separated right-of-way or easement. Use by pedestrians may or may not be permitted. The parking of any through traffic by motor vehicles is prohibited. Cross flows by motor vehicles and

pedestrians when necessary to gain access to and from a public street or alley and/or a private driveway or other entranceway are permitted.

Bike trail; Any road or trail maintained for bicycles.

Bikeways: All thoroughfares that explicitly provide for bicycle travel including facilities existing within street and highway rights of way and facilities along separate and independent corridors.

Bite: Any penetration of the skin by teeth constitutes a bite exposure.

Board of commissioners: Transylvania County Board of Commissioners.

BOD or biochemical oxygen demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at 20 degrees Celsius, expressed in milligrams per liter.

Bond: When a bond is required, an undertaking in writing shall be sufficient.

Building: A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or equipment and requiring a separate power meter to be installed for the building to have electrical service, or a separate water meter to be installed for the building to have water service. This will also include mobile homes or manufactured homes.

A. The term "building" shall be construed as if followed by the words "or parts thereof".

B. Each portion of a building separated by division wall from the ground up without openings shall be considered a separate building irrespective of the presence of a separate power or water meter.

C. The term "building" may also include other manmade structures or spaces that could be reasonably construed to be a building within the spirit and intent of this definition.

Building drain: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to a sewer service line, beginning five feet (1.5 meters) outside the inner face of the building wall.

Bypass: When referring to sewer usage, the intentional diversion of waste streams from any portion of a user's treatment facility.

Cat: Cats, both male and female, more than six months old.

Categorical standards: When referring to sewer usage, national categorical pretreatment standards or pretreatment standard.

Cellar: A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Certificate of public convenience and necessity: A certificate issued by the city, authorizing the holder thereof to conduct a taxicab business within the city.

Certificate of public convenience and necessity holder: A person to whom a certificate of public convenience and necessity has been issued.

Charter: The term "Charter" or "the Charter" means and refers to the Charter of the City of Brevard, North Carolina, as printed in PART I of this volume.

Chicken coop: A weather and predator proof structure or container employed in the keeping of chickens.

Chicken run: An outdoor enclosure employed in the keeping of chickens.

Chronic violations of wastewater discharge limits: Significant noncompliance of wastewater discharge limits in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);

City or municipality: The words "city" and "municipality" mean the City of Brevard in the County of Transylvania and State of North Carolina. Where the context admits, it shall mean the particular department or officer of the city charged with a specific function.

Close familial relationship: A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Code: Reference to "the Code" or "this Code" means the Code of Ordinances, City of Brevard, North Carolina, as designated in Section 1-1.

Code enforcement officer: The official of the City of Brevard charged with enforcing or supporting the enforcement of this article, and with overseeing and/or supporting the administration and enforcement of other ordinances of the city.

Commercial animal establishment: Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, animal exhibition or kennel.

Component: Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.

Computation of time: The time within which an act is to be done shall be computed by excluding the day of the act, event, default or publication after which the designated period of time begins to run and including the last day; unless the last day is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

State law reference(s)—Computation of time, G.S. 1A-1, rule 6(a).

Conjunctions: Conjunctions, such as "and" and "or," shall each be deemed to include the other as the context shall admit.

Conservation easement: An easement, held by the State of North Carolina under the administration of the North Carolina Clean Water Management Trust Fund, which binds the City of Brevard to certain terms and conditions governing uses of and activities.

Control authority: When referring to sewer usage, the POTW organization, if the POTW organization's pretreatment program approval has not been withdrawn, the City of Brevard.

Council or city council: The terms "council" and "city council" mean the Mayor and Council of the City of Brevard.

County: The word "county" means the County of Transylvania in the State of North Carolina.

Customer: In reference to social districts, a person who purchases an alcoholic beverage from an ABC permittee that is in a social district.

Decibel: A unit of measuring the amplitude of sound equal to 20 times the logarithm to the base ten of the ratio between the pressure of sound measured to the reference pressure, which is 20 micronewtons per square meter, as approved by ANSI.

Dense smoke: Smoke shall be considered dense when it is of a density equal to or greater than no. 2 on the Ringelmann Smoke Chart approved and adopted as provided in this division.

Deteriorated: When referring to a dwelling, it shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by Chapter 18, Article V at a cost not in excess of 50 percent of its value, as determined by finding of the inspections.

Dilapidated: When referring to a dwelling, it shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by Chapter 18, Article V at a cost not in excess of 50 percent of its value, as determined by finding of the inspector.

Display: To put or spread before the view of those passing within sight distance of the matter displayed, in an ostentatious manner designed to attract attention to or show off the matter displayed. Magazines that meet the definition of sexually explicit materials shall be considered displayed if they are placed in a location (e.g., a magazine rack or shelf) accessible to minors and arranged in a manner calculated to encourage minors to view or read such materials. Sexually explicit materials located within any business or commercial establishment shall not be considered displayed if they are placed in a location that is only accessible to adults or if they are located such that they are only available to customers upon request made to a person in charge of or employed by such business or commercial establishment.

Disseminate: When referring to obscene materials, the transfer possession of, with or without consideration.

Dog: Dogs, both male and female, more than six months old.

Dog park: The Brevard Dog Park is the designated area located within the City's Sports Complex where dog owners may allow their dog to run off-leash inside the designated fenced area.

Driver's license: When referring to taxicab drivers, the permission granted by the city to a person to drive a taxicab upon the streets of the city.

Driveway: A private road, private easement, or private right-of-way, giving access from a public street or road, private road, or private right-of-way, leading to a building. A driveway does not serve more than two buildings that have or require separate power or water meters to be installed for electrical service.

Duly authorized person, administrator, or official: The code enforcement officer, officers of the Brevard Police Department, or any other individual or person duly authorized by the city manager or, in the case of the Chapter 14 and Chapter 77, local health director to act on behalf of the city for purposes of this chapter.

Dwelling: A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, multiple: Any dwelling containing more than two dwelling units.

E-bike - Class I and III: Electric assisted bicycles, with no throttle and no self-propulsion, which are not categorized as a motor vehicle as defined in this chapter.

E-bike - Class II: Throttle assisted bicycles, characterized by self-propulsion, which are considered motor vehicles as defined in this chapter.

Electric personal assistive mobility device: A self-balancing non tandem two wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Element: A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system.

Emergency communications center: The city's communication center receiving telephonic requests or signal requests for police, fire, ambulance, rescue or other emergency service within the city.

Enforcement response plan or ERP: An administrative procedure, promulgated by the city manager or designee thereof. The ERP is a guidance document that is intended to provide for fair and equitable treatment of all users for anticipated enforcement situations. Generally, enforcement actions will be taken in accordance with the ERP; however, additional legal actions are available (SUO subsection 70-147.D). Therefore, a combination of enforcement actions may be taken against a user in noncompliance.

Environmental Protection Agency or EPA: The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Exposed to rabies: An animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

False alarm: An alarm signal or recorded message transmitted to the emergency communications center indicating a fire or an actual or attempted unauthorized entry into a building, or indicating the commission or attempted commission of a crime in or about a building, when in fact no evidence exists upon inspection of the building upon response to such alarm that a fire occurred or that an unauthorized entry was committed or attempted or that a crime was committed or attempted in or about the building.

Following: The word "following" means next after.

Forest management plan: A general management plan prepared by the City of Brevard and a forest management plan prepared by a forester licensed to practice forestry within the State of North Carolina.

Frontage unit: A frontage unit is a standard interval in feet used to assign consecutive property numbers on a street or road. The standard frontage unit adopted for use throughout Transylvania County is 5.28 feet.

Game room: Any place of business that operates mechanical and electronic games or other devices for which charge is made, either directly or indirectly. Examples of such games, by way of illustration and not limitation, are pinball machines, electronic video games, automatic amusement devices and the like.

Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food and from the handling, storage and sale of produce.

Gender: Words importing one gender shall include the other genders.

Governing board: The appropriate board and shall also be read to include city council.

Grab sample: A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Grooming shop: Any establishment, whether operated separately or in connection with another business enterprise, which provides hair and nail clipping, bathing and other cosmetic services for animals.

Group: A number of individuals related by a common factor, having structured organization, defined leadership, and activities directed by a charter or written bylaws.

Grossly reckless: A reckless activity that is inherently dangerous and results in injury or presents a high risk of grave injury to self or others with disregard for self-preservation or the preservation of the safety of others. Operation of an e-bike while under the influence of alcohol or drugs is hereby declared to be grossly reckless. Any operation of an e-bike with the intent of doing harm to any person or property is hereby declared to be grossly reckless.

Habitable room: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

Habitually or repeatedly and on a regular basis: When referring to dog barking or other sounds, shall mean barking or other sounds which occur on at least five occasions during a 60-day period or on at least three occasions during a 30-day period.

Harmful to minors: The quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

A. Predominantly appeals to the prurient, shameful or morbid interest of minors;

B. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

C. Taken as a whole, lacks serious literacy, artistic, political or scientific value for minors.

Hazardous recreational activity: Skateboarding, inline skating, or freestyle bicycling, and, or, any other type(s) not listed.

Head of household: The person who maintains the household, or, if no one person maintains the household, the head of the household shall be the eldest person residing in the household.

Hiking trail: Any road or trail maintained for pedestrians.

Holding tank waste: Any waste from holding tanks, including, but not limited to, such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

House number: The number assigned by the property address coordinator to any building for the purpose of identification of the location.

Humane Society: The Transylvania County Humane Society and its representatives.

Hunting: The lawful hunting of game animals as defined by the N.C. Wildlife Resources Commission.

Impoundment: Any animal in custody of a person or animal shelter duly authorized by the local health director.

Industrial warehouse, vacant: Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Indirect discharge: The discharge or the introduction from any nondomestic source regulated under Section 307(b), (c), or (d) of the Federal Water Pollution Control Act, (33 U.S.C. 1317), into the POTW including holding tank waste discharged into the sewage system.

Industrial user: A source of indirect discharge.

Industrial user, significant (SIU). An industrial user that discharges wastewater into a POTW and that:

A. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewaters; or

B. Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge; or

C. Is subject to categorical pretreatment standards under 40 CFR Part 403.6 and 40 CFR Chapter I, Subchapter N, Parts 405-471; or

D. Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.

Infestation shall mean the presence, within or around a dwelling, or any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

Inherent risk means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding.

Inspector shall mean a building inspector of the city or any agent of the inspector who is authorized by the inspector.

Interference: The inhibition or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the control authority's NPDES, collection system, or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified

applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Federal Water Pollution Control Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. § 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Joint authority: All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper: A person having custody of an animal, or who keeps or harbors an animal, or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

Kennel: Any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five dogs per year are sold by such owner.

Knowing: means When referring to obscene materials, having a general knowledge of, or reason to know, or a belief or ground for belief that warrants further inspection or inquiry of the character and content of any of the materials described in Section 42-42 that are reasonably susceptible of examination by the person charged with such knowledge.

Knowingly: When referring to obscene materials, being aware of the character and the content of the material.

Known unlawful drug user, possessor or seller: A person who has, within the knowledge of the arresting officer or complaining witness, been convicted in any court within this state of any violation involving the use, possession or sale of any of the controlled substances or drug paraphernalia referred to in the North Carolina Controlled Substances Act, G.S. 90-89 et seq., or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or of any other state, or of federal law.

Livestock:

A. Domestic animals, such as cows, bulls, calves, hogs, pigs, horses, mules, ponies, goats or sheep.

B. Any animal raised or kept for profit, excepting:

1. Dogs and cats kept for show competition;

2. Single litters of rabbits, puppies or kittens, per household; and

3. Tropical aquarium fishes.

Local board of health or board of health: The county board of health.

Local government: The City of Brevard.

Local health department or health department: The county health department.

Local health director or health director: The health director of the county health department, or his designee.

Mailing address: The address assigned by the property address coordinator and used by the United States Postal Service for the purpose of delivery of the United States mail. The property address and mailing address will be the same for all buildings unless the property owners utilize a post office box for delivery of their mail.

Manifest: A daily record prepared by a taxicab driver of all trips made by the driver, showing time and place of origin, destination and number of passengers.

Manufacturing facility, vacant: Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

Material: Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines not otherwise subject to and governed by Section 42-41.

May: When “may” is used, the action is permissive.

Medical waste: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Minor: Any person under the age of 18.

Month: A calendar month.

Motor vehicle or vehicle: All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle, such as a camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. A self-propelled vehicle shall include, but is not limited to passenger automobiles, mopeds, off-road vehicles (ORV), golf carts, motorcycles, all-terrain vehicles, Segways, and go-carts. This term does not include bicycles or electric personal assistive mobility devices. This term shall not apply to a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including sidewalks, and is limited by design to a maximum speed of 15 miles per hour when the device is being operated by a person with a mobility impairment.

Motor vehicle, abandoned: As authorized and defined in G.S. 160A-303, an abandoned motor vehicle is one that:

- A. Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- B. Is left on a public street or highway for longer than seven days;
- C. Is left on property owned or operated by the city for longer than 24 hours; or
- D. Is left on private property, without the consent of the owner, occupant or lessee thereof, for longer than two hours.

Motor vehicle, junked: As authorized and defined in G.S. 160A-303.2, the term “junked motor vehicle” means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- A. Is partially dismantled or wrecked;
- B. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- C. Is more than five years old and appears to be worth less than \$100.00.

Motor vehicle, nuisance: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- A. A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- B. A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- C. A point of collection of pools or ponds of water;
- D. A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- E. One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
- F. So situated or located that there is a danger of it falling or turning over;
- G. One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;

- H. One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
- I. It is a vehicle no longer commonly being used for personal or commercial transportation or conveyance of goods, but is stationary, either temporarily or permanently, and being utilized as an advertising platform, storage facility, dwelling, animal shelter or other use not of its original primary design; or
- J. Any other vehicle specifically declared a health and safety hazard and a public nuisance by the city council.

Motorized travel: All modes of travel or transport upon a motorized vehicle as defined in this chapter over land or water by self-propulsion.

Multi-tenant establishment: A building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.

Multi-use trail: Any trail maintained for use by any of the following: bicycle or pedestrian.

National categorical pretreatment standard or categorical standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Federal Water Pollution Control Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

National prohibitive discharge standard or prohibitive discharge standard: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 70-141.A of this ordinance and are developed under the authority of Section 307(b) of the Federal Water Pollution Control Act and 40 CFR, section 403.5.

National Pollution Discharge Elimination System, or NPDES, permit: A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. § 1342), or pursuant to G.S. 143-215.1 by the state under delegation from EPA.

Negligence: Any breach of the duty of due care, resulting in or reasonably likely to result in proximate harm to persons or property. Violating a posted speed limit or posted rule of conduct is hereby declared to be negligence in every instance, but may also be grossly reckless when circumstances so warrant.

New source.

A. Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307I of the Federal Water Pollution Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307I, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure,

facility, or installation meeting the criteria of sections A.2. or A.3. above but otherwise alters, replaces, or adds to existing process or production equipment.

C. For purposes of this definition, construction of a new source has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:

a. Any placement, assembly, or installation of facilities or equipment; or

b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Non-discharge permit: A permit issued by the state pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the state or for a wastewater treatment works which does not discharge directly to surface waters of the state.

Non-Permittee Business: In reference to social districts, a business located in a social district and does not hold any North Carolina Alcoholic Beverage Control Commission (ABC) permit.

Nonresidential: Any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.

Nudity: The showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Number: Words used in the singular include the plural and the plural includes the singular number.

Nuisance: An animal or group of animals shall be considered a nuisance if it:

A. Damages, soils or defiles private or public property;

B. Interferes with, molests or attacks persons or other animals;

C. Is repeatedly at large;

D. Causes unsanitary and offensive conditions, including interrupting the tranquility of the community;

E. Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles; or

F. Is diseased.

Oath: The word "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Obscene: That, to the average person applying contemporary community standards:

A. The predominant appeal of the matter, taken as a whole, is to prurient interest, i.e., a shameful or morbid interest in sexual conduct, nudity or excretion;

B. The matter depicts or describes, in a patently offensive manner, sexual conduct regulated by the General Statutes of the state; and

C. The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Obstruction (permanent or semipermanent): An object that is kept out on public streets, sidewalks, and alleyways after business hours. Such objects include but are not limited to displays, fixtures, inventory racks, display cases, planters, vending machines, and seating. Also referred to as a semipermanent or permanent object.

Occupant: Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Official road name: The road name list and the road name map on file with the Transylvania County 911 Emergency Operations shall be the official road names and map for Transylvania County roads, including those located within the jurisdiction of the City of Brevard, unless changed by action of the board of commissioners or city council within their respective jurisdictions.

Officials or officers: Reference to a particular official or officer of the city includes duly authorized deputies, assistants and representatives of such official or officer. Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Brevard, North Carolina."

Open Container: A container that has a broken seal or a container other than the manufacturer's unopened original container.

Operator: Any person who has charge, care, or control of a nonresidential building or structure, or part thereof.

Owner:

A. The word "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

B. The word "owner," applied to an animal, includes any person or legal entity having a possessory property right in an animal. The head of a household shall be deemed to be the owner in respect to any dogs owned, kept or harbored on the premises by any person residing in the household. While using the dog park, the owner is the person with immediate custody of the dog.

Park manager: An employee or employees of the City of Brevard, designated by the city manager, who coordinates management of a specific park or recreation facility, such as the Bracken Preserve or the Skate Park.

Parties in interest: All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

Pass-through: A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the control authority's (and/or POTW's, if different from the control authority) NPDES, collection system, or non-discharge permit or a downstream water quality standard even if not included in the permit.

Patrol dog: A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

Performance: Any preview, play, show, skit, film, dance or other exhibition performed before an audience.

Permit: Any written license issued by or under the authority of the City of Brevard permitting the performance of a specified act or acts.

Permittee: Any person, corporation, company or association in possession of a valid permit.

Person: Any individual, group acting as a unit, such as a partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

Personal property: The term "personal property" includes every species of property except real property.

- 617 **Pet:** Any animal kept for pleasure rather than utility.
- 618 **Pet shop:** Any commercial establishment, whether operated separately or in connection
619 with another business enterprise, except for a licensed kennel, that buys, sells or boards
620 any species of animal.
- 621 **pH:** A measure of the acidity or alkalinity of a substance, expressed as standard units, and
622 calculated as the logarithm of the reciprocal of the weight of hydrogen ions in grams per
623 liter of solution.
- 624 **Plumbing:** Supplied facilities and equipment, including: Gas pipes, gas-burning equipment,
625 water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes,
626 water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed
627 clothes washing machines, catch basin, drains, vents and any other similar supplied
628 fixtures, together with all connections to water, sewer or gas lines.
- 629 **Pollutant:** Any "waste" as defined in G.S. 143-213(18) and dredged spoil, solid waste,
630 incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical
631 wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment,
632 rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain
633 characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD,
634 COD, toxicity, and odor).
- 635 **POTW director:** The city administrator designated with the responsibility for the
636 pretreatment program and enforcement of this sewer use ordinance.
- 637 **POTW treatment plant:** That portion of the POTW designed to provide treatment to
638 wastewater.
- 639 **Preceding:** The word "preceding" means next before.
- 640 **Premises:** In reference to social districts, a fixed permanent establishment, including all
641 areas inside or outside the licensed establishment, where the ABC permittee has control
642 through a lease, deed, or other legal processes.
- 643 **Pretreatment or treatment:** The reduction of the amount of pollutants, the elimination of
644 pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or
645 in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction
646 or alteration can be obtained by physical, chemical or biological processes, or process
647 changes or other means, except by diluting the concentration of the pollutants or as
648 otherwise prohibited by 40 CFR Part 403.6(d).
- 649 **Pretreatment program:** The program for the control of pollutants introduced into the
650 POTW from non-domestic sources which was developed by the city in compliance with 40
651 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14)
652 in accordance with 40 CFR 403.11.
- 653 **Pretreatment requirements:** Any substantive or procedural requirement related to
654 pretreatment, other than a pretreatment standard.
- 655 **Pretreatment standard:** Any prohibited discharge standard, categorical standard, or local
656 limit which applies to an industrial user.
- 657 **Private road:** Any road servicing more than two buildings or structures containing
658 separate power or water meters, that is not otherwise defined as a street or driveway by
659 this article, and which is not maintained for public use by the United States Government,
660 the North Carolina Department of Transportation, or the City of Brevard through the use of
661 public funds.
- 662 **Promote:** To cause, permit, procure, counsel or assist.
- 663 **Property:** The word "property" includes real and personal property.
- 664 **Property address coordinator:** The official of Transylvania County, and any authorized
665 agent or delegate thereof, charged with the administration of this article.
- 666 **Public authority:** Any housing authority or any officer who is in charge of any department
667 or branch of the government of the city, county, or state relating to health, fire, building
668 regulations, or other activities concerning dwellings in the local government.

- 669 **Public nudity:** A person's intentional nudity, as defined herein, while in a public place.
- 670 **Public officer:** The officer or officers who are authorized by ordinances adopted
671 hereunder to exercise the powers prescribed by the ordinances and by G.S. 160D, art. 12.
- 672 **Public park:** Any publicly-owned or maintained land which is designated by the City of
673 Brevard as a park or recreation facility.
- 674 **Public place:** Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking
675 lot or transportation facility, or the doorways and entranceways to any building which
676 fronts on any of those places, or a motor vehicle in or on any of those places, or any
677 property owned by the city or by any public agency or public authority and located within
678 the city.
- 679 **Public Street:** Any highway, road, street, avenue, boulevard, or another way within and
680 under the control of the City or State and open to public use, including the sidewalks of any
681 such street.
- 682 **Publicly owned treatment works (POTW) or municipal wastewater system:** A
683 treatment works as defined by Section 212 of the Federal Water Pollution Control Act, (33
684 U.S.C. § 1292) which is owned in this instance by the city. This definition includes any
685 devices or systems used in the collection, storage, treatment, recycling, and reclamation of
686 municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and
687 other conveyances only if they convey wastewater to the POTW treatment plant. For the
688 purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters
689 to the POTW from persons outside the city who are, by contract or agreement with the city,
690 or in any other way, users of the POTW of the city.
- 691 **Rate card:** A card issued by the city for display in each taxicab, which card contains the
692 rates of fares then enforced.
- 693 **Real property:** The term "real property" includes lands, tenements and hereditaments.
- 694 **Refuse:** All putrescible and nonputrescible solid wastes (except body wastes), including
695 garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial
696 wastes.
- 697 **Registered sex offender:** An individual who is registered by any state or federal agency as
698 a sex offender and whose name is published on any state or federal registered sex offender
699 listing, including, but not limited to the sex offender registry established in Article 27A of
700 G.S. ch. 14.
- 701 **Restaurant:** A retail business selling ready-to-eat food and/or beverages for on or off-
702 premise consumption. Customers may be served from an ordering counter (i.e. cafeteria or
703 limited service restaurant), at their tables (full-service restaurant), and at exclusively
704 pedestrian-oriented facilities that serve from a walk-up ordering counter (snack and/or
705 nonalcoholic bars).
- 706 **Restraint:** Any animal shall be considered under restraint if it is within the real property
707 limits of its owner, or secured by a leash or lead, or confined.
- 708 **Riding school or stable:** Any place which has available for hire, boarding and/or riding
709 instruction any horse, pony, donkey or burro.
- 710 **Road:** A public or private one-way or two-way street or road for ingress and/or egress.
711 Such roads may be of various types including frontage roads, rear access roads, roads with
712 culs-de-sac and dead-end roads. This definition does not include driveways.
- 713 **Road sign:** A metal blade and necessary hardware used to convey a street name, public or
714 private road name, or driveway name, and, where applicable, the state road number.
- 715 **Rock climbing:** Traversing a rock face that is steep enough to require the use of hands and
716 feet to get up or down.
- 717 **Rooming house:** Any short or long-term accommodations that serve a specific group or
718 membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or
719 similar accommodations, or single room occupancy units that provide a number of related
720 services including, but not limited to housekeeping, meals, and laundry services; excludes
721 hotels, motels, inns, bed and breakfasts, and short-term rentals.

Rubbish: Nonputrescible solid wastes (including ashes) consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, rubble, crockery and similar materials.

Sadomasochistic abuse: Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Security dog: Any dog used, kept or maintained in the county for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog or watch dog.

Sentry dog: A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

Septage: The solid and liquid contents of privies, septic tanks or cesspools, industrial wastes, chemical compounds and sludges which are hauled by truck or other mobile conveyance.

Service permit: A permit, issued by the city manager or designee thereof, authorizing a connection to the city sewer system and setting forth any necessary conditions associated with such connection, including, but not limited to, pretreatment requirements and the assessment of any surcharges.

Service to patrons: The provision of services to paying guests in establishments providing food and beverages, including but not limited to hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertaining.

Severe property damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sexual conduct: Acts of masturbation, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

Sexually explicit materials: Materials consisting of:

- A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or
- B. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in the definitions of nudity, sadomasochistic abuse, sexual conduct and subsection (A) of this definition, or any explicit and detailed verbal description or narrative account of sexual excitement, sexual conduct or sadomasochistic abuse, which, taken as a whole, is harmful to minors.

Sewer: A pipe or conduit for carrying sewage.

Sewer, building: A sewer conveying wastewater from the premises of a user to the POTW.

Sewer, public: A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

Sewer, sanitary: A sewer which carries wastewater or sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Sewer service line: The extension from a building drain to the public sewer or other place of disposal; also, a lateral connection.

Sewer system: All facilities for collecting, pumping, treating and disposing of wastewater.

Shall: When "shall" is used, the action is mandatory

Sidewalk: Any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

Signature or subscription: The terms "signature" and "subscription" include a mark when the person cannot write.

A. Significant noncompliance or SNC. The status of noncompliance of a significant industrial user when one or more of the following criteria are met. Chronic violations of wastewater discharge limits, as defined herein.

B. Technical review criteria violations, as defined herein.

C. Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

D. Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the control authority's POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and subsection 70-147.A.4 of this SUO to halt or prevent such a discharge;

E. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

F. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.

G. Failure to accurately report noncompliance.

H. Any other violation or group of violations that the control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.

Skate park: Any city-owned facility specifically designed, constructed, and designated by on-site signage as an area in which a person may engage in skateboarding.

Sleeping unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Slug load or discharge: Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the P'TW's regulations, local limits, or industrial user permit conditions. This can include, but is not limited to, spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in subsection 70-141.A of this ordinance.

Smoking: The inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

Social District: A defined area in which a person may consume alcoholic beverages sold by an ABC permittee, pursuant to N.C.G.S. 18B-300.1 or other applicable state law. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the local government by ordinance. A social district may include privately owned property, including ABC permittees and non-permittee businesses, and multi-tenant establishments, and public streets, crosswalks, or parking areas whether or not the streets or parking areas are closed to vehicle traffic.

Sound level meter: An instrument which measures sound levels in decibels, which either meets the standard of ASAS 1.4-1983 or other ANSI approved minimum requirements, and provided further that such instrument shall be serviced, calibrated and operated as recommended by the manufacturer, operated by a person or persons trained to operate the same, as approved by the chief of police or his designee.

Standard industrial classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

- 827 **State:** The word “state” means the State of North Carolina.
- 828 **State law:** Reference to a section or other subdivision of the General Statutes (G.S.) refers
829 to such section or subdivision as amended or to any other section or subdivision to which
830 the section or other subdivision has been transferred or by which the section or other
831 subdivision has been superseded.
- 832 **State road number:** A number assigned by the North Carolina Department of
833 Transportation.
- 834 **Storm drain and storm sewer:** A sewer which carries stormwater and surface water and
835 drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.
- 836 **Stormwater:** Any flow occurring during or following any form of natural precipitation and
837 resulting therefrom.
- 838 **Stray:** Any unregistered or unlicensed dog or cat deemed to be at large.
- 839 **Street:** Any alley, avenue, circle, highway, lane, road, street, drive, or other public way
840 situated within a dedicated public right-of-way which has been accepted by the
841 appropriate governmental agency for continuing maintenance and upkeep; and/or any
842 alley, avenue, circle, highway, lane, road, street, drive, or other public way maintained for
843 public use by the United States Government, the North Carolina Department of
844 Transportation, or the City of Brevard through the use of public funds.
- 845 **Subscriber:** Any person, corporation, partnership, or governmental or educational entity
846 owning or leasing an alarm system.
- 847 **Supplied:** Paid for, furnished, or provided by, or under the control of, the owner or
848 operator.
- 849 **Suspected of having rabies:** An animal which does not have a current vaccination against
850 rabies in accordance with section 14-41 or has bitten a person, or any animal bitten or
851 scratched by a wild carnivorous mammal (including a bat) not available for testing.
- 852 **Suspended solids:** Solids that either float on the surface of or are in suspension in water,
853 sewage or other liquids, and which are removable by laboratory filtering.
- 854 **Taxicab:** A motor vehicle regularly engaged in the business of carrying passengers for hire,
855 having a seating capacity of less than six persons and not operated on a fixed route.
- 856 **Technical review criteria violations (TRC):** Significant noncompliance of wastewater
857 discharge limits in which 33 percent or more of all the measurements taken for the same
858 pollutant parameter during a six-month period equal or exceed the product of the numeric
859 pretreatment standard or requirement including instantaneous limits, as defined by 40
860 CFR Part 403.3(l) multiplied by the applicable TRC; [TRC = 1.4 for BOD, TSS, fats, oil and
861 grease, 1.2 for all other pollutants (except flow and pH)];
- 862 **Temporary housing:** Any tent, trailer or other structure used for human shelter which is
863 designed to be transportable and which is not attached to the ground, to another structure,
864 or to any utilities system on the same premises for more than 30 consecutive days.
- 865 **Tenant or occupant:** The words “tenant” and “occupant,” applied to a building or land,
866 include any person who occupies the whole or a part of such building or land, whether
867 alone or with others.
- 868 **Tense:** Words used in the past, present or future tense each include the other tenses.
- 869 **Unfit for human habitation:** When referring to a dwelling, it shall mean that conditions
870 exist in a dwelling which violate or do not comply with one or more of the minimum
871 standards of fitness or one or more of the requirements established by this article.
- 872 **Unmuffled engine compression brake:** A motor vehicle brake which is activated or
873 worked by the compression of the engine of a motor vehicle, and which is not effectively
874 muffled to prevent excessive noise.
- 875 **Unregistered dog or unlicensed dog:** A dog which has not been listed on the owner’s tax
876 listing form for the then-current year or registered for a vaccination tag and certification,
877 and/or a dog which does not have affixed to it a rabies vaccination tag.

Upset: When referring to sewer usage, an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User: When referring to sewage, any person using the services of the city for conveyance or treatment of wastewater.

User permit: I permit issued by the chief of police in response to a written application from a subscriber authorizing connection to and use of the alarm system in the emergency communications center.

Vehicle for hire: Any vehicle providing public passenger transportation for a fee, from a point originating or terminating within the city's jurisdiction, including limousine and passenger van services but excluding taxicabs, which are regulated in article ii. (See G.S. 20-87, 160A-579(12).

Vehicle of the fire department: Shall include the personal vehicles of members of the fire department responding to a fire call and using a red light to indicate an emergency whether they be at the location of a fire, parked in the immediate vicinity of the fire station or in route to either location.

Vendor, contractor: The security company designated by the city to operate and maintain the alarm system of the city along with all incoming apparatus connecting to the 'city's system.

Veterinary hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal: Any animal which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

Vicious dog: Any dog which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

Waiting time: The time when a taxicab is not in motion from the time of acceptance of a passenger to the time of discharge, but it does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger.

Wastewater: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, institutions and treatment facilities, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the sewer system. Also *sewage*.

Wastewater, compatible: Wastewaters with only those polluting constituents which are susceptible to adequate treatment in the treatment system works, without harm to the sewerage system. The term "compatible constituents" has like meaning with reference to individual wastewater parameters.

Wastewater, incompatible: Wastewater containing constituents or characteristics which render it unsuitable for transport or treatment in the sewerage system. The terms "incompatible constituents" and "incompatible characteristics" have like meaning with reference to individual wastewater parameters. Incompatible constituents and characteristics include water parameters. Incompatible constituents and characteristics include the elements listed in prohibitions and may include other elements so identified by the manager and specified in the user's service permit.

Wastewater permit. As set forth in subsection 70-143.B of this ordinance.

Wastewater treatment plant: The arrangement of infrastructure including, but not limited to, piping, pumps, equipment, devices and structures used for treating wastewater and discharging effluent meeting the requirements.

Watch dog: A dog that barks and threatens to bite any intruder and that has not been specifically trained or conditioned for that purpose.

Watercourse: A channel in which a flow of water occurs, either continuously or intermittently.

Waters of the State: All streams, rivers, brooks, creeks, swamps, lakes, waterways, reservoirs, ponds, marshes, wells, springs, aquifers, irrigation systems, drainage systems, bays, sounds, tidal estuaries and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Writing or written: The words "writing" and "written" include printing and any other mode of representing words and letters.

Year: The word "year" means a calendar year.

6-32. Reserved.

10-81. Reserved.

14-1. Reserved.

14-37. Animals creating nuisance.

A. Prohibited. It shall be unlawful for an owner or keeper to permit an animal to create a nuisance, or to maintain a nuisance created by an animal. An agricultural operation or any of its appurtenances shall not constitute a nuisance when operated in accordance with the conditions and provisions set forth in G.S. 106-701.

B. Abatement procedure. Compliance shall be required as follows:

1. When an animal control officer, law enforcement officer or duly authorized person observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from the time of notification to abate the nuisance.
2. Upon receipt of a written, detailed and signed complaint being made to the city manager, or the local health director, where the county is contracted to provide animal control services for the city or by any person that any other person is maintaining a nuisance as defined in Section 1-2, the city manager, or local health director, shall cause the owner or keeper of the animal in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.
3. If the written findings indicate that the complaint is justified, then the city manager, the local health director or a duly authorized person shall cause the owner or keeper of the animal in question to be so notified in writing, and ordered to abate such nuisance within 48 hours by whatever means may be necessary. If the owner or keeper of the animal is unknown and cannot be ascertained, the notice and order, along with a general description of the animal, shall be posted for 48 hours at the animal shelter, city hall and county courthouse. If after 48 hours the owner or keeper of the animal remains unknown, the animal may be impounded or humanely destroyed.

C. Violations. It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this section. Violation is punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

18-69. Inspection procedure.

A. Generally. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code. In accordance with G.S. 160D-1113, the inspection department must perform (or contract for) inspections for building permits. The inspection department shall inspect all buildings and structures and real property and work therein or thereon for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes.

- 986 **B. *Off-site inspection.*** When deemed necessary by the appropriate inspector, materials
987 and assemblies may be inspected at the point of manufacture or fabrication, or
988 inspections may be made by approved and recognized inspection organizations;
989 provided, no approval shall be based upon reports of such organizations unless the
990 reports are in writing and certified by a responsible officer of such organization.
- 991 **C. *Inspection stages.*** All holders of permits, or their agencies, shall notify the inspection
992 department and the appropriate inspector at each of the following stages of
993 construction so that approval may be given before work is continued:
- 994 1. *Foundation inspection.* To be made after trenches are excavated and the necessary
995 reinforcement and forms are in place, and before concrete is placed. Drilled
996 footings, piles and similar types of foundations shall be inspected as installed.
- 997 2. *Framing inspection.* To be made after all structural framing is in place and all
998 roughing-in of plumbing and electrical and heating has been installed, and after all
999 fire blocking, chimneys, bracing and vents are installed, but before any of the
1000 structure is enclosed or covered. Poured-in-place concrete structural elements
1001 shall be inspected before each pour of any structural member.
- 1002 3. *Fireproofing inspection.* To be made after all areas required to be protected by
1003 fireproofing are lathed, but before plastering or other fireproofing is applied.
- 1004 4. *Final inspection.* To be made after the building or structure has all doors hung and
1005 fixtures set and is ready for occupancy, but before the building is occupied. Before
1006 the local power utility company is contacted to install permanent power, the
1007 building or structure must have passed the building, electrical and plumbing final
1008 inspection.
- 1009 **D. *Calls for inspection.*** Requests for inspections may be made to the office of the
1010 inspection department or to the appropriate inspector. The inspection department
1011 shall make inspections as soon as practicable after request is made therefor, provided
1012 such work is ready for inspection at the time the request is made. To ensure that work
1013 is ready for inspection and to permit adequate scheduling by the inspection
1014 department, the licensed contractor, or where no licensed contractor is used the
1015 permit holder, must place the call for inspection at least one working day prior to the
1016 time requested for inspection.
- 1017 **E. *Reinspections.*** Reinspections may be made at the convenience of the inspector. No
1018 work shall be inspected until it is in proper and completed condition, ready for
1019 inspection. All work which has been concealed before the inspection and approval shall
1020 be uncovered at the request of the inspector and placed in condition for proper
1021 inspection. Approval or rejection of the work shall be furnished by the appropriate
1022 inspector in the form of a notice posted on the building or given to the permit holder or
1023 his agent. Failure to call for inspections or proceeding without approval at each stage
1024 of construction shall be deemed a violation of this Code. A reinspection fee shall be
1025 charged to the individual or company that calls for an inspection which is not ready or
1026 does not pass inspection. The fee shall be as provided for in Section 18-68.
- 1027 **F. *Survey of street or alley lines.*** Where the applicant for a permit proposes to erect any
1028 building or structure on the line of any street, alley or other public place, he shall
1029 secure a survey of the line of such street, alley or other public place, adjacent to the
1030 property upon which such building or structure is to be erected, before proceeding
1031 with construction of such building or structure. It shall be the duty of the building
1032 inspector to see that the building does not encroach upon such street, alley or other
1033 public place.
- 1034 **G. *Alternate inspection method.*** Notwithstanding the requirements of this Article, a city
1035 shall accept and approve, without further responsibility to inspect, a design or other
1036 proposal for a component or element in the construction of buildings from an architect
1037 licensed under G.S. ch. 83A or professional engineer licensed under G.S. ch. 89C
1038 provided all of the following apply:
- 1039 1. The submission design or other proposal is completed under valid seal of the
1040 licensed architect or licensed professional engineer.

2. Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

3. The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means.

Upon the acceptance and approval receipt of a signed written document by the city as required under subsection G of this section, notwithstanding the issuance of a certificate of occupancy, the city, its inspection department, and the inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed by this article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

H. *Inspections of work in progress.* As the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable state and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to G.S. ch. 83A.

I. *Periodic inspections.* The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with state fire prevention code or as otherwise required by state law.

18-132. Meaning of certain words.

Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof".

18-155. Reserved.

18-163. Regulation authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.

A. *Authority.* The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulation shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Such regulation shall be applicable within the local government's entire planning and development regulation

1097 jurisdiction or limited to one or more designated zoning districts or municipal service
1098 districts.

1099 **B. *Investigation.*** Whenever it appears to the public officer that any nonresidential
1100 building or structure has not been properly maintained so that the safety or health of
1101 its occupants or members of the general public are jeopardized for failure of the
1102 property to meet the minimum standards established by the governing board, the
1103 public officer shall undertake a preliminary investigation. If entry upon the premises
1104 for purposes of investigation is necessary, such entry shall be made pursuant to a duly
1105 issued administrative search warrant in accordance with G.S. 15-27.2 or with
1106 permission of the owner, the owner's agent, a tenant, or other person legally in
1107 possession of the premises.

1108 **C. *Complaint and hearing.*** If the preliminary investigation discloses evidence of a
1109 violation of the minimum standards, the public officer shall issue and cause to be
1110 served upon the owner of and parties in interest in the nonresidential building or
1111 structure a complaint. The complaint shall state the charges and contain a notice that
1112 an administrative hearing will be held before the public officer, or his or her
1113 designated agent, at a place within the county scheduled not less than ten days nor
1114 more than 30 days after the serving of the complaint; that the owner and parties in
1115 interest shall be given the right to answer the complaint and to appear in person, or
1116 otherwise, and give testimony at the place and time fixed in the complaint; and that the
1117 rules of evidence prevailing in courts of law or equity shall not be controlling in
1118 hearings before the public officer.

1119 **D. *Order.*** If, after notice and hearing, the public officer determines that the nonresidential
1120 building or structure has not been properly maintained so that the safety or health of
1121 its occupants or members of the general public is jeopardized for failure of the
1122 property to meet the minimum standards established by the governing board, the
1123 public officer shall state in writing findings of fact in support of that determination and
1124 shall issue and cause to be served upon the owner thereof an order. The order may
1125 require the owner to take remedial action, within a reasonable time specified, subject
1126 to the procedures and limitations herein.

1127 **E. *Limitations on orders.***

1128 1. An order may require the owner to repair, alter, or improve the nonresidential
1129 building or structure in order to bring it into compliance with the minimum
1130 standards established by the governing board or to vacate and close the
1131 nonresidential building or structure for any use.

1132 2. An order may require the owner to remove or demolish the nonresidential
1133 building or structure if the cost of repair, alteration, or improvement of the
1134 building or structure would exceed 50 percent of its then current value.
1135 Notwithstanding any other provision of law, if the nonresidential building or
1136 structure is designated as a local historic landmark, listed in the National Register
1137 of Historic Places, or located in a locally designated historic district or in a historic
1138 district listed in the National Register of Historic Places and the governing board
1139 determines, after a public hearing as provided by ordinance, that the
1140 nonresidential building or structure is of individual significance or contributes to
1141 maintaining the character of the district, and the nonresidential building or
1142 structure has not been condemned as unsafe, the order may require that the
1143 nonresidential building or structure be vacated and closed until it is brought into
1144 compliance with the minimum standards established by the governing board.

1145 3. An order may not require repairs, alterations, or improvements to be made to
1146 vacant manufacturing facilities or vacant industrial warehouse facilities to
1147 preserve the original use. The order may require such building or structure to be
1148 vacated and closed, but repairs may be required only when necessary to maintain
1149 structural integrity or to abate a health or safety hazard that cannot be remedied
1150 by ordering the building or structure closed for any use.

1151 **F. *Action by governing board upon failure to comply with order.***

1. If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

2. If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

G. *Action by governing board upon abandonment of intent to repair.* If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

1. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50 percent of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.
2. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50 percent of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

H. *Service of complaints and orders.* Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

I. *Liens.*

1. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. ch. 160A, art. 10.
2. If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
3. If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

J. *Ejectment.* If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this

subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

K. *Civil penalty.* The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.

L. *Supplemental powers.* The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

1. To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.
2. To administer oaths, affirmations, examine witnesses, and receive evidence.
3. To enter upon premises pursuant to Subsection B of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
4. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.
5. To delegate any of his or her functions and powers under the ordinance to other officers and agents.

M. *Appeals.* The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160D-1208.

N. *Funding.* The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.

O. *No effect on just compensation for taking by eminent domain.* Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

38-72.1. Violations; exceptions.

Notwithstanding the enumeration of prohibited noises as listed in section 38-72, whenever it is practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the following procedure shall be used to determine whether any specific noise alleged to be a violation of this noise ordinance is, in fact, a violation, at any certain time and for any given location from which a complaint arises.

A. *Violations.* In order to document and prove a prima facie violation of this noise ordinance:

1. The ambient noise level shall be determined, if it is reasonably practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint. Then, the alleged violation noise level shall be determined at the same location, both determinations to be

made by the use of the same sound level meter, and using the same procedure. A violation shall have occurred if the alleged violation noise level exceeds the ambient noise level:

a. By ten decibels, between the hours of 9:00 p.m. and 7:00 a.m.; or

b. By 20 decibels, between the hours of 7:00 a.m. and 9:00 p.m.

2. If, due to the nature of the alleged violation noise level, no determination of an ambient noise level is practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, then a violation shall have occurred if the alleged violation noise level exceeds:

a. 60 decibels between the hours of 9:00 p.m. and 7:00 a.m.; or

b. 70 decibels between the hours of 7:00 a.m. and 9:00 p.m.

3. If no decibel readings or comparison between ambient noise levels and alleged violation noise levels are practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the alleged violation is listed in section 38-72, and the violator does not voluntarily and promptly reduce the noise level when requested to do so by a law enforcement officer or code enforcement officer, so as to comply with the definitions in section 38-71, or if, having reduced the noise level to comply therewith but then within a 24-hour period again produces or allows to be produced noise at a level not in compliance with the definitions in section 38-71, the noise shall be a violation of the ordinance.

B. Exceptions. The following are excepted from this noise ordinance:

1. Any noise generated by an emergency vehicle, such as a fire truck, police car, an EMS vehicle or their sirens, or other noises generated by or at the behest of a governmental entity which is intended to immediately promote the public health, safety or welfare.

2. Any sporting event sanctioned by a school, any other government agency, or any civic group or club provided that in the latter instance, such event is properly permitted.

3. Noises caused by:

a. Lawn care equipment, agricultural equipment or construction equipment operated for intended and legitimate purposes between the hours of 7:00 a.m. and 9:00 p.m.;

b. Properly permitted events such as parades, fairs, circuses and other entertainment events;

c. Bells, chimes and similar devices which operate from a stationary location, which were in operation before the complainant's residency was established, and which operate for no longer than five minutes in any hour;

d. Emergency work reasonably necessary to safeguard the public safety to person or property;

e. Duly permitted electrical transformers and utility substations;

f. Traffic noises other than the unnecessary use of horns, radios or other sound amplifying or receiving equipment, intentional screeching of tires, intentional revving of motors, provided that such traffic noises emanate from a public street or right-of-way; and

g. Noises permitted pursuant to section 38-73.

C. Regulations and measurement standards promulgated by the chief of police. The chief of police may promulgate any regulations and sound level measurement standards consistent with this noise ordinance which, in his professional opinion, will aid in the enforcement hereof.

D. *Noises are public nuisances.* Nothing in this noise ordinance shall be construed in such manner as to prohibit the code enforcement officer, the city manager and/or the city council from following the procedure for abatement of a nuisance, enumerated in division 1 of this article, as an alternative or in addition to the prosecution of a violation of the noise ordinance as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

38-122. Reserved.

38-152. Reserved.

38-191. Reserved.

42-6. Loitering for purpose of engaging in drug-related activity.

A. *Violations.* It shall be unlawful for a person to loiter, remain or wander about in a public place in a manner and under circumstances manifesting the purpose of engaging in a violation of any subdivision of the North Carolina Controlled Substances Act, G.S. 90-89 et seq. A prima facie showing of a violation of this section is made by proof that a person, while in a public place, loiters and commits any of the following acts or courses of conduct:

1. Repeatedly beckons to, stops or attempts to stop passersby, or repeatedly attempts to engage passersby in conversation;
2. Repeatedly stops or attempts to stop motor vehicles;
3. Repeatedly interferes with the free passage of motor vehicles or other persons;
4. Associates at such location with one or more persons who are known unlawful drug users, possessors and sellers;
5. Behaves in such a manner as to raise a reasonable suspicion that he is about to engage in, or is engaged in, an unlawful drug-related activity;
6. Repeatedly passes to or receives from passersby, whether on foot or in a vehicle, money or objects;
7. Takes flight upon the approach or appearance of a police officer;
8. Is at a location frequented by persons who use, possess or sell drugs; or
9. Uses or associates with the user of any vehicle which is registered to a known unlawful drug user, possessor or seller, or is known to be or have been involved in drug-related activities.

B. *Penalty.* A violation of any provision of this section is a misdemeanor and shall subject the offender to punishment in accordance with Section 1-8.

42-42. Display of sexually explicit materials.

A. *Display.* No person, knowing the character of the materials involved, may display or cause or permit the display of any sexually explicit materials in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk or other public right-of-way, or in any business or commercial establishment where minors, as a part of the general public or otherwise, are or will probably be exposed to view all or any part of such materials. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

B. *Exception.* Nothing in this section shall apply to any recognized historical society or museum accorded charitable status by the federal government or any library operated by any unit of state or local government.

42-71. Reserved.

43-2. Reserved.

46-7. Reserved.

58-1. Reserved.

58-2. Management and control of collection services; appeals.

A. All garbage and other refuse accumulated in the city shall be collected, conveyed and disposed of by the city under the control of the city manager, and under the supervision of the director of public works. The director shall have the authority to make regulations concerning the days of collection, type and location of waste containers, and such other matters pertaining to the collection, conveyance and disposal as he shall find necessary, and to change and modify the regulations after due notice as required by law, provided such regulations are not contrary to the provisions of law.

B. Any person aggrieved by a regulation of, or fee charged by, the public works director shall have the right of appeal to the city manager, who shall have the authority to confirm, modify or revoke any such regulations or fee.

58-5. Containers.

A. *Required; maintenance; specifications.* Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises served and shall be of a type approved by the public works director. Containers shall be maintained in good condition and shall be kept in a clean, neat and sanitary condition at all times. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice. The public works director shall have the authority to refuse collection services for failure to comply herewith. City collection personnel shall exercise due care in the handling of containers and the city shall not be liable for any damage to containers resulting from handling the containers unless it can be shown that the personnel were negligent or careless in the handling thereof, and in such cases the liability of the city shall extend only to replacement of the container with one in good condition of like material and capacity. The following types and numbers of containers are prescribed for use in the collection of waste material:

1. *Residential containers.* The standard small container, normally used at residences, shall be made of metal or substantial plastic equipped with suitable handles and tight-fitting covers, shall be watertight and shall have a capacity of not more than 32 gallons. These containers may be used for any waste material. Care shall be taken to ensure that the weight of the contents shall be such that the container, with contents, can readily be handled by one adult person.
2. *Dumpsters.* Commercial dumpster containers shall be of steel construction, of up to four-cubic-yard capacity and of such design and construction as to facilitate mechanical unloading by collection equipment operated by the city. Sub-grade dumpsters may be installed of steel or polyethylene construction for private hauler service and maintenance; the public works director may require the customer use a private hauler to collect the waste in such dumpsters due to city collection capabilities. Dumpsters may be used for garbage, refuse or rubbish.
3. *Disposable containers.* Disposable containers shall be made of either metal, plastic, wood, cardboard or paper, all of which shall be removed with the contents thereof. These containers together with the contents thereof shall be of such weight that they can readily be handled by one adult person and shall be of sufficient strength to withstand failure when being picked up and placed in the collection vehicle.
4. *Number of containers.* Residential and noncommercial business customers shall be limited to two standard small containers per dwelling unit or business per collection. If more than two containers are used on a regular basis, the collection fee shall be doubled. For multifamily residential buildings having more than four units, a commercial dumpster container shall be provided in lieu of the standard small containers. Commercial customers requiring more than four standard small containers on a regular basis shall be required to use a commercial dumpster container.

B. *Use.* No person shall place any refuse in any street, alley or other public place, or upon any private property, whether or not owned by such person, within the city except in proper containers for collection or under express approval granted by the public

works director; nor shall any person throw or deposit any refuse in any stream or other body of water.

- C. *Placement.*** Refuse containers shall be placed for collection at ground level and directly accessible from the street or alley from which collection is made. Residential refuse containers shall be placed at curbside prior to collection, no later than 7:30 AM and shall be removed within reasonable time thereafter. A suitable permanent location, satisfactory to the public works director, may be established for containers of commercial customers.

58-6. Frequency of collection.

- A.** Refuse shall be collected once each week under normal circumstances.
- B.** Hotels, restaurants and such other businesses and institutions as deem it necessary may enter into an agreement for a greater frequency of collection.
- C.** Where necessary to protect the public health, the public works director shall have the authority to require that more frequent collection be made. If necessary, an extra city-wide collection shall not affect fees. Individual collections made according to this section shall be charged on a pro-rata basis to the affected fee payer.

58-7. Refuse quantity.

- A.** The public works director shall collect a reasonable accumulation of refuse of each patron during each collection period for the standard charge. The public works director shall have the authority to refuse to collect unreasonable amounts, or to make additional charges for such amounts.
- B.** Only material placed in approved containers shall be picked up. Refuse placed on the ground or scattered about in the immediate vicinity of the container shall not be picked up unless, in the opinion of the public works director, pickup by city personnel is warranted due to delays in the service or other factors which are strictly the responsibility of the city.

58-8. Special refuse problems.

- A. *Contagious disease refuse.*** The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the county health department. Such refuse shall not be placed in containers for regular collection.
- B. *Construction debris; tree limbs, trunks, etc.*** Rubbish resulting from any construction, remodeling, wrecking or repair of any building or other real estate improvement shall be removed by the producer of such rubbish, or by the owner of the premises upon which rubbish has accumulated, at his own expense, subject to the provisions of section 58-9. These restrictions shall apply to the removal of limbs, trunks, stumps, etc., of any trees or shrubs removed or trimmed by landscape gardeners, tree surgeons or other parties engaged to carry on such work.
- C. *Inflammable or explosive refuse.*** Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the public works director at the expense of the owner or possessor thereof.
- D. *Free curbside pickup service.*** Rubble, wood, tree trimmings, hedge clippings and debris resulting from cleaning of property may be placed at curbside for collection. The public works director shall collect a reasonable amount of such rubbish at no charge, but he shall have the authority to refuse to collect heavy or bulky items that cannot be handled readily by two adult persons. It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery trimmings on any street or sidewalk so as to obstruct the free passage of vehicles or pedestrians.
- E. *Parking of pickup vehicles at private residences.*** The city manager or his designee may authorize city vehicles to be parked at private residences to facilitate the collection of brush and other refuse that would otherwise be collected under other provisions of this section. The city manager is directed to develop a written policy to provide for the implementation of this subsection. The policy is to be kept on file in the office of the

city clerk and at the public works department. The fee for this service shall be adopted in the city's annual schedule of fees.

58-9. Collection by actual producers and outside collectors.

A. Vehicles. The actual producers of refuse or the owners of premises upon which refuse is accumulated who desire personally to collect and dispose of such refuse, persons who desire to dispose of waste material not included in the definition of refuse and collectors of refuse from outside of the city who desire to haul over the streets of the city shall use a watertight vehicle provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled.

B. Additional rules and regulations. The public works director shall have the authority to make such other reasonable regulations concerning individual collection and disposal, and relating to the hauling of refuse over city streets by outside collectors, as such director may find necessary, subject to the right of appeal as set forth in Section 58-2.

58-11. Fees; delinquent accounts.

A. Establishment of fees for the collection and disposal of refuse. Fees for the collection and disposal of refuse shall be set forth within the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of such fees shall be established by the city manager.

B. Applicability of fee. The appropriate fee for collection and disposal of refuse shall be charged each occupied single, duplex or multifamily dwelling. Businesses which have a contract for refuse collection by a private contractor shall not be required to pay the city fee.

C. Single and duplex family dwellings. The fee for collection and disposal of refuse placed for collection adjacent to the side of the street or alley from which collection is made shall be as set forth in the schedule of taxes, fees and charges, and shall include the free pickup service provided for in Section 58-8.D.

D. Multifamily dwellings. For each dwelling unit in a multifamily dwelling, i.e., three or more family dwelling units per building, the fee shall be as set forth in the schedule of taxes, fees and charges, provided, however, that this fee shall not include the free pickup service provided for in Section 58-8.D. The regular fee provided for in Subsection 58-11.F shall be charged for pickup of rubble, wood, tree trimmings, hedge clippings and debris resulting from cleaning of property at multifamily dwellings. Owners of multifamily dwelling buildings shall have the option of using a dumpster container at the regular commercial rate in lieu of individual unit garbage containers.

E. Fee for commercial premises. The fee for collection and disposal of refuse from nonresidential premises shall be as set forth in the schedule of taxes, fees and charges.

F. Fee for special loads. The fee for the collection and disposal of special loads of refuse shall be as set forth in the schedule of taxes, fees and charges.

G. Delinquent accounts. All accounts shall be considered delinquent if not paid by the 20th of the month following the month in which service is rendered. All delinquent accounts are subject to stoppage of service without notice. If the delinquent account is not paid within 30 days, the public works director shall cease all refuse collection for that account unless otherwise directed by the city manager. Service shall be resumed thereafter only upon payment of the accumulated fees for the period of collection and the period of noncollection unless the city manager specifically directs otherwise. The stoppage of services for nonpayment of collection charges shall be in addition to the right of the city to proceed for the collection of such unpaid charges in any manner provided by law for the collection of a claim of the city.

62-141. Reserved.

62-164. Reserved.

66-1. Adoption of state law.

A. For the purpose of regulating traffic on the streets of the city, and in addition to the provisions of this chapter, there are hereby adopted by reference by the city the

following provisions of G.S. ch. 20: G.S. 20-4.01 (Definitions), G.S. 20-115 et seq. (The Size, Weight, Construction and Equipment of Vehicles), G.S. 20-138.1 et seq. (Operation of Vehicles and Rules of the Road), G.S. 20-171.1 et seq. (Operation of Bicycles), G.S. 20-172 et seq. (Pedestrians) and G.S. 20-216 et seq. (Miscellaneous Provisions Relating to Motor Vehicles).

- B.** The violation of any such provision shall be deemed a violation of this Code, and punishable as such.

66-90. Unmuffled engine compression brake.

A. *Prohibition.*

1. No person shall use an engine braking system within the corporate limits of the City of Brevard which is in any way activated or operated by the compression of the engine of any such motor vehicle or any such unit or part thereof, except in cases of emergency or necessary for the protection of persons and/or property. Such braking is commonly referred to as compression braking or a "fake brake."
2. The City of Brevard will identify areas in which engine braking is prohibited and signs shall be conspicuously posted in such areas stating: "No engine braking" or its equivalent.

- B.** *Emergency vehicle exemption.* All emergency vehicles are exempt from this order.

70-83. Reserved.

70-140. General provisions.

- A.** *Purpose and policy.* This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Brevard, hereafter referred to as the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by G.S. 160A-312 and/or 153A-275. The city shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW director or director. Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the director may be delegated by the director to other city personnel.

By discharging wastewater into the city wastewater system, industrial users located within or outside the city limits agree to comply with the terms and conditions established in this ordinance, as well as any permits, enforcement actions, or orders issued hereunder. Users subject to this ordinance are also subject to the City of Brevard Code of Ordinances, CHAPTER 70 - utilities.

1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the wastewater system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

B. Abbreviations.

1. The following abbreviations, when used in this ordinance, shall have the designated meanings:
 - a. BOD: Biochemical oxygen demand;
 - b. CFR: Code of Federal Regulations;
 - c. COD: Chemical oxygen demand;
 - d. EPA: Environmental Protection Agency;
 - e. gpd: Gallons per day;
 - f. l: Liter;
 - g. mg: Milligrams;
 - h. mg/l: Milligrams per liter;
 - i. G.S.: North Carolina General Statutes;
 - j. NPDES: National Pollution Discharge Elimination System;
 - k. O&M: Operation and maintenance;
 - l. POTW: Publicly owned treatment works;
 - m. RCRA: Resource Conservation and Recovery Act;
 - n. SIC: Standard industrial classification;
 - o. SWDA: Solid Waste Disposal Act;
 - p. TSS: Total suspended solids;
 - q. TKN: Total Kjeldahl nitrogen; and
 - r. U.S.C.: United States Code.

70-141. General sewer use requirements.

A. Prohibited discharge standards.

1. *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.
2. *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
 - b. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.
 - c. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
 - d. Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

- 1684 e. Any wastewater containing pollutants, including oxygen-demanding
1685 pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either
1686 singly or by interaction with other pollutants, to cause interference with the
1687 POTW.
- 1688 f. Any wastewater having a temperature greater than 139° F (59.4° C), or which
1689 will inhibit biological activity in the POTW treatment plant resulting in
1690 interference, but in no case wastewater which causes the temperature at the
1691 introduction into the treatment plant to exceed 104° F (40° C).
- 1692 g. Any pollutants which result in the presence of toxic gases, vapors or fumes
1693 within the POTW in a quantity that may cause acute worker health and safety
1694 problems.
- 1695 h. Any trucked or hauled pollutants, except at discharge points designated by the
1696 director in accordance with subsection 70-141.I of this ordinance.
- 1697 i. Any noxious or malodorous liquids, gases, or solids or other wastewater
1698 which, either singly or by interaction with other wastes, are sufficient to
1699 create a public nuisance or hazard to life or are sufficient to prevent entry into
1700 the sewers for maintenance and repair.
- 1701 j. Any substance which may cause the POTW's effluent or any other product of
1702 the POTW such as residues, sludges, or scums, to be unsuitable for
1703 reclamation and reuse or to interfere with the reclamation process. In no case,
1704 shall a substance discharged to the POTW cause the POTW to be in
1705 noncompliance with sludge use or disposal regulations or permits issued
1706 under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act,
1707 the Toxic Substances Control Act, or state criteria applicable to the sludge
1708 management method being used.
- 1709 k. Any wastewater which imparts color which cannot be removed by the
1710 treatment process, including, but not limited to, dye wastes and vegetable
1711 tanning solutions, which consequently imparts sufficient color to the
1712 treatment plant's effluent to render the waters injurious to public health or
1713 secondary recreation or to aquatic life and wildlife or to adversely affect the
1714 palatability of fish or aesthetic quality or impair the receiving waters for any
1715 designated uses.
- 1716 l. Any wastewater containing any radioactive wastes or isotopes except as
1717 specifically approved by the director in compliance with applicable state or
1718 federal regulations.
- 1719 m. Stormwater, surface water, groundwater, artesian well water, roof runoff,
1720 subsurface drainage, swimming pool drainage, condensate, deionized water,
1721 noncontact cooling water and unpolluted industrial wastewater, unless
1722 specifically authorized by the director.
- 1723 n. Fats, oils, or greases of animal or vegetable origin in concentrations greater
1724 than 100 mg/l unless authorized by the director.
- 1725 o. Any sludges, screenings or other residues from the pretreatment of industrial
1726 wastes.
- 1727 p. Any medical wastes, except as specifically authorized by the director in a
1728 wastewater discharge permit.
- 1729 q. Any material containing ammonia, ammonia salts, or other chelating agents
1730 which will produce metallic complexes that interfere with the municipal
1731 wastewater system.
- 1732 r. Any material that would be identified as hazardous waste according to 40 CFR
1733 Part 261 if not disposed of in a sewer except as may be specifically authorized
1734 by the director.
- 1735 s. Any wastewater causing the treatment plant effluent to violate state water
1736 quality standards for toxic substances as described in 15A NCAC 2B.0200.

- 1737 t. Wastewater causing, alone or in conjunction with other sources, the treatment
1738 plant's effluent to fail a toxicity test.
- 1739 u. Recognizable portions of the human or animal anatomy.
- 1740 v. Any wastes containing detergents, surface active agents, or other substances
1741 which may cause excessive foaming in the municipal wastewater system.
- 1742 w. At no time, shall two successive readings on an explosion hazard meter, at the
1743 point of discharge into the wastewater system (or at any point in the system)
1744 be more than five percent nor any single reading over ten percent of the lower
1745 explosive limit (LEL) of the meter.
- 1746 3. Pollutants, substances, wastewater, or other wastes prohibited by this section
1747 shall not be processed or stored in such a manner that they could be discharged to
1748 the municipal wastewater system. All floor drains located in process or materials
1749 storage areas must discharge to the industrial user's pretreatment facility before
1750 connecting with the POTW.
- 1751 When the director determines that a user is contributing to the POTW, any of the above-
1752 enumerated substances in such amounts which may cause or contribute to interference of
1753 POTW operation or pass-through, the director shall:
- 1754 a. Advise the user(s) of the potential impact of the contribution on the POTW in
1755 accordance with subsection 70-147.B; and
- 1756 b. Take appropriate actions in accordance with section 70-143 for such user(s)
1757 to protect the POTW from interference or pass-through.
- 1758 **B. *National categorical pretreatment standards.*** Users subject to categorical pretreatment
1759 standards are required to comply with applicable standards as set out in 40 CFR
1760 Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.
- 1761 1. Where a categorical pretreatment standard is expressed only in terms of either the
1762 mass or the concentration of a pollutant in wastewater, the director may impose
1763 equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- 1764 2. When wastewater subject to a categorical pretreatment standard is mixed with
1765 wastewater not regulated by the same standard, the director shall impose an
1766 alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- 1767 3. A user may obtain a variance from a categorical pretreatment standard if the user
1768 can prove, pursuant to the procedural and substantive provisions in 40 CFR
1769 403.13, that factors relating to its discharge are fundamentally different from the
1770 factors considered by EPA when developing the categorical pretreatment
1771 standard.
- 1772 4. A user may obtain a net gross adjustment to a categorical standard in accordance
1773 with 40 CFR 403.15.
- 1774 **C. *Local limits.*** An industrial waste survey is required prior to a user discharging
1775 wastewater (containing in excess of the following average discharge limits):

TABLE 70-141A: LOCAL LIMITS TO WASTEWATER DISCHARGE		
BOD	220	mg/l
TSS	220	mg/l
NH ₃	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Chromium	0.05	mg/l (total chromium)
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l
Nickel	0.021	mg/l

Silver	0.005	mg/l
Zinc	0.175	mg/l

- D.** Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for pollutants of concern. User-specific local limits for pollutants of concern shall be included in wastewater permits. The director may impose mass based limits in addition to, or in place of, concentration based limits.
- E.** *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.
- F.** *Right of revision.* The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in subsection 70-140.A of this ordinance or the general and specific prohibitions in subsection 70-141.A of this ordinance, as is allowed by 40 CFR 403.4.
- G.** *Dilution.* No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.
- H.** *Pretreatment of wastewater.*
1. *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under subsection 70-143.B of this ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in subsection 70-141.A of this ordinance within the time limitations as specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.
2. *Additional pretreatment measures.*
- a. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- b. The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- c. Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

- d. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

I. Accidental discharge/slug control plans.

1. The director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 1-2. All SIUs must be evaluated within one year of being designated an SIU. The director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the director may develop such a plan for any user.
2. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see subsections 70-144.E and 70-144.F.
3. An accidental discharge/slug control plan shall address, at a minimum, the following:
 - a. Description of discharge practices, including non-routine batch discharges;
 - b. Description of stored chemicals;
 - c. Procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection 70-144.F of this ordinance; and
 - d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

J. Hauled wastewater.

1. Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate section 70-141 of this ordinance or any other requirements established by the city. The director may require septic tank waste haulers to obtain wastewater discharge permits.
2. The director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may require generators of hauled industrial waste to obtain wastewater discharge permits. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
3. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

70-143. Wastewater discharge permit application and issuance.

- A. Wastewater dischargers.** It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

B. Wastewater permits. All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the director be required to obtain a wastewater discharge permit for non-significant industrial users.

1. *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the director a significant industrial user determination. If the director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.
2. *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the city, an application in the form prescribed by the director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in subsection 70-143.B.1 above. The application shall include at a minimum:
 - a. Name of industrial user;
 - b. Address of industrial user;
 - c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
 - d. Wastewater flow;
 - e. Types and concentrations (or mass) of pollutants contained in the discharge;
 - f. Major products manufactured or services supplied;
 - g. Description of existing on-site pretreatment facilities and practices;
 - h. Locations of discharge points;
 - i. Raw materials used or stored at the site;
 - j. Flow diagram or sewer map for the industrial user;
 - k. Number of employees;
 - l. Operation and production schedules; and
 - m. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
3. *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority as defined in Section 1-2. and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4. *Application review and evaluation.* The director will evaluate the data furnished by the user and may require additional information.
 - a. The director is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.

- 1934 b. The director shall acknowledge and accept the complete application; or if not
1935 complete, shall return the application to the applicant with a statement of
1936 what additional information is required.
- 1937 5. *Tentative determination and draft permit.*
- 1938 a. The POTW staff shall conduct a review of the application and an on-site
1939 inspection of the significant industrial user, including any pretreatment
1940 facilities, and shall prepare a written evaluation and tentative determination
1941 to issue or deny the significant industrial user permit.
- 1942 b. If the staff's tentative determination in subsection 70-143(b)(5)a. above is to
1943 issue the permit, the following additional determinations shall be made in
1944 writing:
- 1945 i. Proposed discharge limitations for those pollutants proposed to be
1946 limited;
- 1947 ii. A proposed schedule of compliance, including interim dates and
1948 requirements, for meeting the proposed limitations; and
- 1949 iii. A brief description of any other proposed special conditions which will
1950 have significant impact upon the discharge described in the application.
- 1951 c. Subsections 70-143.B.5.a. and 70-143.B.5.b. above and the general permit
1952 conditions of the city into a significant industrial user permit.
- 1953 6. *Permit supporting documentation.* The control authority staff shall prepare the
1954 following documents for all significant industrial user permits.
- 1955 a. An allocation table (AT) listing permit information for all significant industrial
1956 users, including, but not limited to, permit limits, permit effective and
1957 expiration dates, and a comparison of total permitted flows and loads with
1958 division-approved maximum allowable loadings of the POTW, including flow,
1959 on forms or in a format approved by the division. The AT shall be updated as
1960 permits are issued or renewed, and as permits are modified where the
1961 permitted limits or other AT information is revised.
- 1962 b. The basis, or rationale, for the pretreatment limitations, including the
1963 following:
- 1964 i. Documentation of categorical determination, including documentation of
1965 any calculations used in applying categorical pretreatment standards;
1966 and
- 1967 ii. Documentation of the rationale of any parameters for which monitoring
1968 has been waived under 40 CFR Part 403.12(e)(2).
- 1969 7. *Final action on significant industrial user permit applications.*
- 1970 a. The director shall take final action on all applications not later than 90 days
1971 following receipt of a complete application.
- 1972 b. The director is authorized to:
- 1973 i. Issue a significant industrial user permit containing such conditions as
1974 are necessary to effectuate the purposes of this ordinance and G.S. 143-
1975 215.1;
- 1976 ii. Issue a significant industrial user permit containing time schedules for
1977 achieving compliance with applicable pretreatment standards and
1978 requirements;
- 1979 iii. Modify any permit upon not less than 60 days' notice and pursuant to
1980 subsection 70-143.B.9;
- 1981 iv. Revoke any permit pursuant to subsection 70-147.A;
- 1982 v. Suspend a permit pursuant to subsection 70-147.A;
- 1983 vi. Deny a permit application when in the opinion of the director such
1984 discharge may cause or contribute to pass-through or interference of the

1985 wastewater treatment plant or where necessary to effectuate the
1986 purposes of G.S. 143-215.1.

1987 8. *Permit modification.*

1988 a. Modifications of permits shall be subject to the same procedural requirements
1989 as the issuance of permits except as listed below. Any changes or new
1990 conditions in the permit shall include a reasonable time schedule for
1991 compliance.

1992 i. Changes in the ownership of the discharge when no other change in the
1993 permit is indicated,

1994 ii. A single modification of any compliance schedule not in excess of four
1995 months,

1996 iii. Modification of compliance schedules (construction schedules) in
1997 permits for new sources where the new source will not begin to
1998 discharge until control facilities are operational.

1999 b. Within nine months of the promulgation of a national categorical
2000 pretreatment standard, the wastewater discharge permit of users subject to
2001 such standards shall be revised to require compliance with such standard
2002 within the time frame prescribed by such standard. Where a user, subject to a
2003 national categorical pretreatment standard, has not previously submitted an
2004 application for a wastewater discharge permit as required by subsection 70-
2005 143(b)(2), the user shall apply for a wastewater discharge permit within 180
2006 days after the promulgation of the applicable national categorical
2007 pretreatment standard.

2008 c. A request for a modification by the permittee shall constitute a waiver of the
2009 60-day notice required by G.S. 143-215.1(b) for modifications.

2010 9. *Permit conditions.*

2011 a. The director shall have the authority to grant a permit with such conditions
2012 attached as he believes necessary to achieve the purpose of this ordinance and
2013 G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the
2014 following:

2015 i. A statement of duration (in no case more than five years);

2016 ii. A statement of non-transferability;

2017 iii. Applicable effluent limits based on categorical standards or local limits
2018 or both;

2019 iv. Applicable monitoring, sampling, reporting, notification, and record
2020 keeping requirements. These requirements shall include an
2021 identification of pollutants to be monitored, sampling location, sampling
2022 frequency, and sample type based on federal, state and local law;

2023 v. Requirements for notifying the POTW in the event of an accidental
2024 discharge or slug load as defined in Section 1-2;

2025 vi. Requirements to implement a plan or other controls for prevention of
2026 accidental discharges and/or slug loads, if determined by the director to
2027 be necessary for the user and,

2028 vii. Requirements for immediately notifying the POTW of any changes at its
2029 facility affecting the potential for spills and other accidental discharges,
2030 or slug load. Also see subsections 70-144.E and 70-144.F; and

2031 viii. A statement of applicable civil and/or criminal penalties for violation of
2032 pretreatment standards and requirements and any applicable
2033 compliance schedule.

2034 b. In addition, permits may contain, but are not limited to, the following:

2035 i. Limits on the average and/or maximum rate of discharge, and/or
2036 requirements for flow regulation and equalization.

- 2037 ii. Limits on the instantaneous, daily and/or monthly average and/or
2038 maximum concentration, mass, or other measure of identified
2039 wastewater pollutants or properties.
- 2040 iii. Requirements for the installation of pretreatment technology or
2041 construction of appropriate containment devices, etc., designed to
2042 reduce, eliminate, or prevent the introduction of pollutants into the
2043 treatment works.
- 2044 iv. Development and implementation of waste minimization plans to reduce
2045 the amount of pollutants discharged to the municipal wastewater
2046 system.
- 2047 v. The unit charge or schedule of user charges and fees for the management
2048 of the wastewater discharged to the system.
- 2049 vi. Requirements for installation and maintenance of inspection and
2050 sampling facilities and equipment.
- 2051 vii. Specifications for monitoring programs which may include sampling
2052 locations, frequency of sampling, number, types, and standards for tests,
2053 and reporting schedules.
- 2054 viii. Requirements for immediate reporting of any instance of noncompliance
2055 and for automatic resampling and reporting within 30 days where self-
2056 monitoring indicates a violation(s).
- 2057 ix. Compliance schedules for meeting pretreatment standards and
2058 requirements.
- 2059 x. Requirements for submission of periodic self-monitoring or special
2060 notification reports.
- 2061 xi. Requirements for maintaining and retaining plans and records relating
2062 to wastewater discharges as specified in subsection 70-144.M and
2063 affording the director, or his representatives, access thereto.
- 2064 xii. Requirements for prior notification and approval by the director of any
2065 new introduction of wastewater pollutants or of any significant change
2066 in the volume or character of the wastewater prior to introduction in the
2067 system.
- 2068 xiii. Requirements for the prior notification and approval by the director of
2069 any change in the manufacturing and/or pretreatment process used by
2070 the permittee.
- 2071 xiv. A statement that compliance with the permit does not relieve the
2072 permittee of responsibility for compliance with all applicable federal and
2073 state pretreatment standards, including those which become effective
2074 during the terms of the permit.
- 2075 xv. Other conditions as deemed appropriate by the director to ensure
2076 compliance with this ordinance, and state and federal laws, rules, and
2077 regulations.
- 2078 10. *Permit duration.* Permits shall be issued for a specified time period, not to exceed
2079 five years. A permit may be issued for a period less than a year or may be stated to
2080 expire on a specific date.
- 2081 11. *Permit transfer.* Wastewater permits are issued to a specific user for a specific
2082 operation. A wastewater discharge permit shall not be reassigned or transferred
2083 or sold to a new owner, new user, different premises, or a new or changed
2084 operation.
- 2085 12. *Permit reissuance.* A significant industrial user shall apply for permit reissuance by
2086 submitting a complete permit application in accordance with subsection 70-143.B
2087 a minimum of 90 days prior to the expiration of the existing permit.

2088 **70-144. Reporting requirements.**

2089 **A. *Baseline monitoring reports (BMRs).***

- 2090 1. Within either 180 days after the effective date of a categorical pretreatment
2091 standard, or the final administrative decision on a category determination under
2092 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently
2093 discharging to or scheduled to discharge to the POTW shall submit to the director
2094 a report which contains the information listed in subsection 70-144.A.2, below. At
2095 least 90 days prior to commencement of their discharge, new sources, and sources
2096 that become categorical users subsequent to the promulgation of an applicable
2097 categorical standard, shall submit to the director a report which contains the
2098 information listed in subsection 70-144.A.2, below. A new source shall report the
2099 method of pretreatment it intends to use to meet applicable categorical standards.
2100 A new source also shall give estimates of its anticipated flow and quantity of
2101 pollutants to be discharged.
- 2102 2. Users described above shall submit the information set forth below:
- 2103 a. *Identifying information.* The name and address of the facility, including the
2104 name of the operator and owner.
- 2105 b. *Environmental permits.* A list of any environmental control permits held by or
2106 for the facility.
- 2107 c. *Description of operations.* A brief description of the nature, average rate of
2108 production, and standard industrial classifications of the operation(s) carried
2109 out by such user. This description should include a schematic process diagram
2110 which indicates points of discharge to the POTW from the regulated processes.
- 2111 d. *Flow measurement.* Information showing the measured average daily and
2112 maximum daily flow, in gallons per day, to the POTW from regulated process
2113 streams and other streams, as necessary, to allow use of the combined waste
2114 stream formula set out in 40 CFR 403.6(e).
- 2115 e. *Measurement of pollutants.*
- 2116 i. The categorical pretreatment standards applicable to each regulated
2117 process.
- 2118 ii. The results of sampling and analysis identifying the nature and
2119 concentration, and/or mass, where required by the standard or by the
2120 POTW director, of regulated pollutants in the discharge from each
2121 regulated process. Instantaneous, daily maximum, and long-term
2122 average concentrations, or mass, where required, shall be reported. The
2123 sample shall be representative of daily operations and shall be analyzed
2124 in accordance with procedures set out in subsection 70-144.J of this
2125 ordinance.
- 2126 iii. Sampling must be performed in accordance with procedures set out in
2127 subsection 70-144.K of this ordinance and 40 CFR 403.12(b) and (g),
2128 including 40 CFR 403.12(g)(4).
- 2129 f. *Certification.* A statement, reviewed by the user's current authorized
2130 representative of the industrial user as defined in Section 1-2 and certified by
2131 a qualified professional, indicating whether pretreatment standards are being
2132 met on a consistent basis, and, if not, whether additional operation and
2133 maintenance (O&M) and/or additional pretreatment is required to meet the
2134 pretreatment standards and requirements.
- 2135 g. *Compliance schedule.* If additional pretreatment and/or O&M will be required
2136 to meet the pretreatment standards, the shortest schedule by which the user
2137 will provide such additional pretreatment and/or O&M. The completion date
2138 in this schedule shall not be later than the compliance date established for the
2139 applicable pretreatment standard. A compliance schedule pursuant to this
2140 section must meet the requirements set out in subsection 70-144.B of this
2141 ordinance.

h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.

B. *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection 70-144.A.2.g. of this ordinance:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
2. No increment referred to above shall exceed nine months;
3. The user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
4. In no event shall more than nine months elapse between such progress reports to the director.

C. *Reports on compliance with categorical pretreatment standard, deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 70-144.A.2.d. through 70-144.A.2.f. of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.

D. *Periodic compliance reports.* The control authority may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

1. All significant industrial users shall, at a frequency determined by the director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in subsections 70-144.J and 70-144.K of this ordinance. All periodic compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.
2. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsections 70-144.J and 70-144.K of this ordinance, the results of this monitoring shall be included in the report.

E. *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the control authority. See subsection 70-144.F.4 for other reporting requirements.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 70-143.B of this ordinance.

2. The director may issue a wastewater discharge permit under subsection 70-143.B of this ordinance or modify an existing wastewater discharge permit under subsection 70-143.B of this ordinance in response to changed conditions or anticipated changed conditions.

3. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 15 percent or greater, or the discharge of any previously unreported pollutants.

F. *Reports of potential problems.*

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

2. Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection 70-144.F.1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

4. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load.

G. *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.

H. *Notice of violation/repeat sampling and reporting.*

1. If sampling performed by a user indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. If allowed by the director, the user is not required to resample:

a. If the director monitors at the user's facility at least once a month; or

b. If the director samples between the user's initial sampling and when the user receives the results of this sampling.

2. If the director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:

a. The director monitors at the user's facility at least once a month; or

b. The director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or

c. The director requires the user to perform sampling and submit the results to the director within the 30-day deadline of the POTW becoming aware of the violation.

- I. *Notification of the discharge of hazardous waste.* The city prohibits the discharge of any hazardous wastes without notification to and approval by the director.
1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 90 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the city. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection 70-144.E. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections 70-144.A, subsection 70-144.C, and subsection 70-144.D.
 2. Dischargers are exempt from the requirements of subsection 70-144.I.1, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 3. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
 4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.
- J. *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and city. Analyses must be performed by a state certified lab for each parameter analyzed, if such certification exists for that parameter.
- K. *Grab and composite sample collection.*
1. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be operated in accordance with best management practices, kept clean, and maintained in good

- 2305 working order at all times. The failure of a user to keep its monitoring facility in
2306 this manner shall not be grounds for the user to claim that sample results are
2307 unrepresentative of its discharge and may be in violation of its wastewater
2308 discharge permit.
- 2309 2. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide,
2310 volatile organic compounds, and any other pollutants as required by 40 CFR 136.
2311 The POTW shall determine the number of grabs necessary to be representative of
2312 the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number
2313 requirements for baseline monitoring reports and 90-day compliance reports.
2314 Additionally, the director may allow collection of multiple grabs during a 24-hour
2315 period which are composited prior to analysis as allowed under 40 CFR 136.
- 2316 3. Composite samples: All wastewater composite samples shall be collected with a
2317 minimum of hourly aliquots or grabs for each hour that there is a discharge. All
2318 wastewater composite samples shall be collected using flow proportional
2319 composite collection techniques, unless time-proportional composite sampling or
2320 grab sampling is authorized by the director. When authorizing time-proportional
2321 composites or grabs, the samples must be representative and the decision to allow
2322 the alternative sampling must be documented.
- 2323 **L. *Timing.*** Written reports will be deemed to have been submitted on the date
2324 postmarked. For reports which are not mailed, postage prepaid, into a mail facility
2325 serviced by the United States Postal Service, the date of receipt of the report shall
2326 govern.
- 2327 **M. *Record keeping.*** Users subject to the reporting requirements of this ordinance shall
2328 retain, and make available for inspection and copying, all records of information
2329 obtained pursuant to any monitoring activities required by this ordinance and any
2330 additional records of information obtained pursuant to monitoring activities
2331 undertaken by the user independent of such requirements. Records shall include the
2332 date, exact place, method, and time of sampling, and the name of the person(s) taking
2333 the samples; the dates analyses were performed; who performed the analyses; the
2334 analytical techniques or methods used; and the results of such analyses. These records
2335 shall remain available for a period of at least three years. This period shall be
2336 automatically extended for the duration of any litigation concerning the user or the
2337 city, or where the user has been specifically notified of a longer retention period by the
2338 director.
- 2339 **N. *Electronic reporting.*** The director may develop procedures for receipt of electronic
2340 reports for any reporting requirements of this ordinance. Such procedures shall
2341 comply with 40 CFR Part 3. These procedures shall be enforceable under section 70-
2342 147.
- 2343 **O. *Special reporting requirements for IUs in satellite POTWs.*** In the case of industrial user
2344 located in a satellite POTW organization's jurisdiction, all information required to be
2345 reported to the industrial user's pretreatment program control authority by the
2346 section shall also be reported to the POTW treatment plant organization.
- 2347 **77-2. Reserved.**
- 2348 **77-41. Reserved.**
- 2349 **77-48. Reserved.**
- 2350 **77-52. Reserved.**
- 2351 **78-2. Vehicles other than taxicabs.**
- 2352 **A. *Purpose.*** The purpose of this section is to ensure the public safety through the minimal
2353 regulation of public vehicles for hire.
- 2354 **B. *Requirements.*** The owners of all vehicles for hire shall apply to the city clerk annually
2355 for certification to operate their vehicle for hire within the city's jurisdiction. Such
2356 application shall contain their full names and addresses, the number, make, model of
2357 all vehicles for hire in operation, and shall state that:

- 2358 1. All such vehicles have met all state inspection requirements and are in good
2359 working order;
- 2360 2. All such vehicles have met all of the city's rules and regulations regarding
2361 cleanliness and sanitation, as referred to (with respect to taxicabs) in section 78-
2362 33;
- 2363 3. All drivers are duly licensed to operate such vehicles;
- 2364 4. All such vehicles are fully insured with regard to liability for personal injury and
2365 property damage, to the extent required by state law;
- 2366 5. To the extent that it may be applicable, all such vehicles have been approved by
2367 the state utilities commission or such other regulatory agency as may have
2368 jurisdiction over the matter.
- 2369 Upon the completion of such application, the city clerk shall certify the applicant to operate
2370 such vehicle for hire.
- 2371 **C. *Inspections.*** Every vehicle operating under this section may be periodically inspected
2372 by the police department at such intervals as may be established by the chief of the
2373 Department to ensure the continuing maintenance of the vehicle in a safe operating
2374 condition.
- 2375 **D. *Violation.*** Any violation of this section shall be punishable as a Misdemeanor or
2376 Infraction with fine up to \$500.00 per G.S. 14-4. In addition, any violation shall be
2377 grounds for refusal to issue or renew the owner's certificate to operate vehicles for
2378 hire within the city's jurisdiction. Upon a failure to submit to the inspection required
2379 by this section or upon a failure to pass such inspection, the owner's certificate to
2380 operate the vehicle shall be immediately revoked.
- 2381 **78-31. Reserved.**

STAFF REPORT

City Council, Tuesday, September 5, 2023

Title: City-Sponsored Holiday Activities

Speaker: Nicole Bentley, Heart of Brevard
Wilson Hooper, City Manager

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

Brevard's holiday activities have traditionally all taken place on a Saturday. The holiday parade kicked off the activities in the morning, followed by Light up the Night (street fair) activities in the afternoon/evening, and the official tree lighting at the Courthouse in the evening. Held all on one day, the events require that uptown streets be closed for more than twelve hours.

For 2023, the Heart of Brevard's (HOB) board of directors voted to shift Light up the Night activities to Friday December 1 (see "discussion" below). The City's contract with HOB designates HOB's events as the official city-sponsored events. Therefore, the city staff have traditionally had minimal involvement in the planning and execution of holiday events, instead delegating that responsibility to HOB.

Discussion

As envisioned, the rescheduled Light up the Night and Courthouse treelighting activities on Friday, December 1 would take place with minimal street closures. The Friday night slate would be enhanced by new activities -inflatables, hay rides- at Silvermont sponsored by Transylvania County. The parade on Saturday, December 2 would close streets from early morning to about 1 pm. Additional downtown activities on Saturday will take place off-street.

HOB's recent survey of downtown business indicated that the parade and associated street closures (that last for 12+ hours when the parade and tree lighting are combined) adversely affected sales on a crucial shopping day. Many retailers depend on holiday shopping to offset reduced revenue in January and February. Additionally, according to the survey, businesses located on Broad Street feel excluded due to their inability to utilize their spaces due to the parade route, thus the move to Friday night.

With that said, HOB has committed to helping keep downtown active even after the Saturday parade by coordinating activities such as visits with Santa, caroling, and holiday specials within shops. But if the Council wishes to have events on Saturday after the parade that are akin to Light up the Night activities, city staff will need to be involved in the planning, execution, and funding of those events. As currently planned, the holiday

activities are the product of a partnership between Heart of Brevard, Transylvania County, the Chamber of Commerce, and Territory Brevard and provide two days worth of community activities to kick off the holiday season.

HOB and festival organizers request that city involvement consist of additional public services (like trash collection) each day. If the city wishes to host additional events, festival organizers ask that they be planned so as not to draw guests away from the already-planned events.

Fiscal Impact

The fiscal impact depends on the nature of the city's involvement. If as requested, the city merely supports the event by providing additional public services, the man-hours costs will be paid with pre-budgeted "overtime" funds in the respective departmental budget.

If the city wishes to plan additional Saturday night events, the costs would be divided into two categories: actual outlay, and in-kind staff costs.

- The actual outlay depends on what type of activities are planned, but a reasonable budget could be set (say, \$5,000) and absorbed by the Miscellaneous line item in the Governing body budget. However, no specific funds were set aside for this purpose.
- In-kind costs would consist of mostly staff hours. For comparison, a staff member spent six hours away from her normal duties organizing the July 4 activities.

Action

Staff wishes for feedback from Council on additional city involvement in the community holiday event.

Attachments:

STAFF REPORT

City Council, Tuesday, September 5, 2023

Title: Review of Mayor/Council Appointment Procedures

Speaker: Wilson Hooper, City Manager
Mack McKellar, City Attorney

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

At the August 4, 2023 meeting, Council agreed to have staff look at the various texts governing appointments to policy boards, advisory boards, and external boards. The purpose of the action was to clarify the responsibilities of mayor and council with regard to appointments.

Discussion

Attachment 1 summarizes the relevant sections of all official materials that speak to appointments: the city charter, the city Code of Ordinances, establishing resolutions, and the bylaws of external bodies to which the city appoints a member.

With regard to appointments to external groups, the bylaws of the TC Tourism Development Authority and Transylvania Economic Alliance specifically endow the City Council with the appointing authority. The bylaws of Heart of Brevard and Transylvania Chamber of Commerce only ask that the city appoint a representative, but are silent as to the method of appointment. The Council can clarify/codify its appointment procedures for Heart of Brevard and Chamber of Commerce via resolution.

However, if the Council wishes to amend the appointment procedure for "such committees as approved by Council" (e.g. internal committees), it will need to pass an amendment to the Code of Ordinances along with a new resolution superseding Res. 2022-40. See Attachment 2 for a draft Code of Ordinance amendment.

Action

For information and discussion only. Staff requests Council feedback on next steps.

Attachments:

1. Boards and Committee Appointment Table
2. Draft Resolution 2023-XX Amend Chapter 2, Section 34 Duties of Mayor

CITY BOARDS AND COMMITTEES			
DOCUMENT	TEXT re: appointments	DATE	NOTE
City Charter	None ^{See note}	????	The Charter contains the following language: “The Mayor shall be the official head of City government, shall preside at all meetings of the City Council, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes.”
Code of Ordinances	“It shall be the duty of the mayor to: E. Appoint such committees as approved by the council.”	1980	
Public Works Committee establishing resolution (2015-12)	“[C]ommittee shall be composed of two City Council members, one to serve as Chair and the other as Vice Chair, with the Mayor appointing the Chair and Vice-Chair of the Committee.”	2015	
Public Safety Committee establishing resolution (2015-13)	Same	2015	
Parks, Trails Committee establishing resolutions (2015-14, 2015-21)	Same	2015	
Finance and HR Comm establishing resolution (2015-15)	Same	2015	
Downtown Master Plan Comm. establishing resolution (2015-16, 2015-21, 2017-04)	Same	2017	
Housing Trust Fund Selection Comm. establishing ordinance and resolutions (Ord. 2012-02, Res. 2016-19, 2019-03, 2021-07)	See note	2021	Ord. 2012-02 and Resolutions 2016-19, and 2019-03 contain no “whereas” sections specifying <i>who</i> makes the appointments. However, each resolution contained a “be it resolved” section with the language “Brevard City Council approved the appointment of Council Member _____” Housing Trust Fund Selection Committee was renamed Housing Committee in Res. 2022-40 and made subject to Policy Committee appointment procedure described therein.
Rosenwald Community Advisory Board establishing resolution (2021-23)	None	2021	

“Resolution updating the structure of Brevard City Council Committees.” (2022-40)	Therefore be it resolved that... 5.) Policy Committees are reconstituted as appointed by the Mayor in consultation with the full Council and one citizen member appointed by the City Council.	2022	Resolution also contains the following language: “Therefore be it resolved that... 11.) The provisions of this resolution supersede the related provisions of the [above] resolutions. Unaffected provisions of the [above] resolutions remain in effect.” This applies the appointment provision described in clause 5.) to Public Works, Public Safety, Finance/HR, and Housing policy committees.
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EXTERNAL BOARDS AND COMMITTEES			
DOCUMENT	TEXT re: appointments	DATE	NOTE
Tourism Development Authority bylaws	Members: Section 4, E.) “One individual appointed by the Brevard City Council.” Terms: “[The member as established by section 4.E] shall be appointed by their respective boards and shall serve at the pleasure of the appointing board.”	2022	
Transylvania Chamber of Commerce bylaws	“Representatives shall be chosen annually by each organization and submitted to the President by December 1.” ^{See note}	????	
Transylvania Economic Alliance bylaws	“One (1) member appointed by the City Council of the City of Brevard.”	????	
Heart of Brevard bylaws	“One director shall hold office by virtue of their position with the City of Brevard.”	????	

ORDINANCE NO. 2023-XX

**AN ORDINANCE AMENDING CHAPTER 2 SECTION 34 OF THE
BREVARD CODE OF ORDINANCES**

WHEREAS, Chapter 2, Section 34, "Duties of Mayor" endows the mayor with certain duties as permitted by City Charter and NC General Statutes; and

WHEREAS, subpart E reads "Appoint such committees as approved by the Council"; and

WHEREAS, the City Council of the City of Brevard wishes to have the ability to approve such appointments, and codify that ability in ordinance.

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

The following amendment is made to Chapter 2, Section 34, of the Code of Ordinances of the City of Brevard:

"It shall be the duty of the mayor to:

- a.) Preside over all meetings of the council.
- b.) Vote in the case of an equal division of the council.
- c.) Keep himself informed as to all matters affecting the government of the city.
- d.) Sign all ordinances enacted by the council.
- ~~e.) Appoint such committees as approved by the council.~~
- e.) Recommend appointments to such committees as approved by Council.
- f.) Perform such other duties as the laws of the state, the city Charter, the ordinances of the city and nature of the office may require."

The change shall take affect immediately upon its ratification.

Approved and adopted this ____ day of _____, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk