



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, October 16, 2023 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Dr. Andrew White, Pastor, Calvary Baptist Church Brevard

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. September 18, 2023 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

1. Proclamation 2023-19 Filipino American History Month

I. Special Presentation(s)

J. Public Hearing(s)

1. Proposed Expansion of the Downtown Development Overlay District
2. Proposed Amendments to UDO Chapters 2, 3, 5, 8, 9, 10, and 19 - Parking Standards
3. Proposed Amendment to City of Brevard Traffic Schedule

K. Consent and Information

1. Tax Settlement Report - September, 2023
2. Franchise Agreement/Ordinance for Gas Utility System - Public Service Company of North Carolina, Inc. d/b/a Dominion Energy North Carolina

3. Council Downtown Master Plan Committee Minutes - August 9, 2023
4. Council Public Works & Utilities Committee Minutes - September 6, 2023
5. Council Housing Committee Minutes - September 12, 2023
6. Council Public Works & Utilities Committee Minutes - September 13, 2023

L. Unfinished Business

1. Proposed Amendment to the City of Brevard Code of Ordinances Chapter 2 - Utility Extension Outside Corporate Limits
2. Proposed Amendment to the City of Brevard Code of Ordinances Chapter 66 - Parking Enforcement
3. Proposed Amendment to City of Brevard Code of Ordinances, Chapter 2 - Duties of Mayor

M. New Business

1. Revise Council Meeting Calendar - Cancel November 6, 2023 Meeting

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

1. Economic Development: GS § 143-318.11. (a)(3) (4) (If Needed)
2. Personnel and/or Employment: GS § 143-318.11. (a)(3) (5)(6)

P. Adjourn

Agenda Posted, Website, Sunshine List (October 12, 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
September 18, 2023 – 5:30 PM

The Brevard City Council met in regular session on Monday, September 18, 2023, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

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

Absent – Mayor Pro Tem Gary Daniel

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, Senior Planner Emily Brewer, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Fire Chief Bobby Cooper, Community Center Director Tyree Griffin, Acting Public Works Director Wesley Shook, ORC Water Treatment Plant Dennis Richardson, and ORC Wastewater Treatment Plant Emory Owen

Guests – Mark Tooley, Friends of Ecusta Trail; Vicki Eastland, Land of Sky; Wesley Jamison, NCDOT (via Zoom); Chris Todd and Autumn Radcliffe, Henderson County; Lonnie Watkins, NCDOT; Christy Staudt, Traffic Planning & Design; Sara VanLear and Sarah Odio, UNC School of Government Development Finance Initiative

Press – Jon Rich, Transylvania Times

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

B. Invocation – Rev. Dr. Oliver Dongell of Brevard Wesleyan 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. Mayor Copelof noted that Mayor Pro Tem Gary Daniel was absent and asked for a motion to excuse him. Ms. Dinkins so moved, seconded by Mr. Baker. The motion carried unanimously.

E. Approval of Agenda – Attorney McKeller informed Council that the Closed Session regarding Personnel and/or Employment could be removed from the agenda. Ms. Dinkins moved, seconded by Mr. Baker to approve the agenda as amended. The motion carried unanimously.

F. Approval of Minutes

F-1. Monday, August 21, 2023 Regular Meeting – Mr. Jones moved, seconded by Mr. Morrow, to approve the minutes of the August 21, 2023 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments

Mark Parker said I am here to address the Council about rails for trails. We have researched many of the properties down through there and you don't own all those properties, even though you have been given those properties, but you do not. We still pay taxes on those properties and always have. There has never been a rail right-of-way that has been given. I was here some months ago and I spoke to you about this very issue and I never heard anything else about that, but I know that you're proceeding

forward with that, so you are literally going to steal people's property. I am here to inform you that you are stealing people's property down through there and we the citizens of Transylvania County do not want you down there. You're going to be all the way to the county line and that is not a city interest in there. I'm telling you that this is a huge problem. This is a problem when power is perverted. People that live along that rail, we don't have the means to fight you with lawyers and those type of things. We don't have the means to do that and you're going to continue to do that. That is what we call a tyrannical government and that government is doing that to us down through there and taking people's property. Let me tell you there's nobody that's happy about having you down there, unless you live on the top of Rich Mountain and then they're happy. But let me tell you, we are upset about this whole thing and the people of Transylvania County, our commissioners have been very firm about this whole thing; that this is a private property rights issue. The property was given when the rail was abandoned from Brevard to Rosman and Lake Toxaway. It went back to the homeowners and that's exactly what it needs to be doing on this right here. I realize that I'm probably not going to change a thing today, but I'm telling you that we're not going to be good neighbors because we do feel like our property is being stolen from us. Our Representative Chuck Edwards and Thom Tillis have secured millions of our tax dollars, DOT funding to build a trail and people are upset about this very thing. When you come and you take people's property there's no difference between what Vladimir Putin has done to the Ukraine and what the City Council is doing to the property owners in Transylvania County – not one bit. So today, I am going to unfold something and I'm going to give you, and I think that this Council is well deserving of this flag and maybe you might want to fly this instead of that one. It most represents you. (He unfurled a Communist Party flag and left it on the podium.)

H. Certificates/Awards/Recognition

H-1. Resolution 2023-45 Awarding Badge & Sidearm to Police Captain Steve Woodson – Mayor Copelof and Police Chief Tom Jordan presented to retired Brevard Police Captain Steve Woodson an original of Resolution No. 2023-45 along with his service badge and sidearm, a Glock Model G-23, Caliber .40, Serial Number BEDA 115. Chief Jordan, Council and staff thanked Captain Woodson for his 24 years of service.

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 18th day of September, 2023.

I. Special Presentations

I-1. Ecusta Trail Project Briefing – Mr. Hooper remarked that it is a historical moment worth recording that Brevard has received two \$20M+ grants – the RAISE Grant and the NSFLTP Grant. These grants, combined with other funding sources, will fund the construction of the Ecusta Trail. He noted that it was only accomplished using partnership and a joint community effort. Mr. Hooper said the trail itself, once completed, will of course have a significant recreational component, and he opined that it will also be a significant conduit of commerce. It will bring people and their wallets here; it will buttress existing businesses by inducing customers; and it hopefully will inspire new ones. But, it will also function like a traditional piece of transportation infrastructure, connecting markets and connecting people with jobs.

Mr. Hooper noted that the two big funding sources, RAISE and NSFLTP, combined with the smaller funding sources, FLAP, STBG, TDA and FOET, all have strings attached and none are available to spend on just anything, but are each designated for certain things. We might be flush in one piece, right on budget in another, or under water in another piece. There are still some financial questions to be worked out, particularly with supplementary features to the trail such as trailheads, restrooms, and parks.

Mr. Hooper explained that the purpose of this presentation is to bring Council and the public up-to-date on the status of the project. The briefing includes updates by many of the partners who helped us get where we are and will help us take the next steps forward on this trail project, with an opportunity for Council to ask questions of each presenter. He introduced the following presenters (a copy of the entire PowerPoint presentation is attached):

- Planning Director Paul Ray explained that the City had applied for the RAISE grant several times in the past but it wasn't until we began emphasizing the regionality of the Ecusta Trail project that really strengthened our application. This time we partnered with Henderson County to package it as a continuous 19-mile trail from Hendersonville to Brevard. We were awarded \$24.5M from the Federal Highways Administration through the RAISE grant. Additionally Congressman Chuck Edwards and Senator Thom Tillis were instrumental in carrying the important message of the Ecusta Trail project in Washington, DC and we could not have done it without them. They were so successful in supporting the project that NCDOT was awarded an additional \$21.5M through the NSFLTP grant, which was possible since our Estatoe Trail system connects to the Pisgah National Forest and the Ecusta Trail will connect to it. Last year the City received a \$1M federal grant for design and engineering, which is under contract.
- Mark Tooley of Friends of Ecusta Trail gave a brief history of the project to date and the vision and role of their group going forward.
- Vicki Eastland of Land of Sky Rural Planning Organization explained their role in the project and grant application process.
- Wesley Jamison of NCDOT reviewed the process of administering the grants and the reporting requirements. Mr. Hooper added that the City was the recipient of the RAISE grant, but we have transferred ownership of that grant over to NCDOT, making them the party of record for both grants now. We won't have any agreement with USDOT, but will be working exclusively through NCDOT and our relationship with them will be governed by a separate agreement.
- Chris Todd and Autumn Radcliffe from Henderson County reviewed the background and progress on the Henderson County side of the project and shared lessons they have learned from their work so far.

- Lonnie Watkins of NCDOT reviewed his role as the Project Manager for both the Henderson County and the Transylvania County sections of the project. He noted that the schedule of major project milestones has not yet been developed, but when asked, he gave a very rough timeline – looking for 30% design by next summer; letting the project in the summer of 2025; with a completion of late 2026.
- Christy Staudt of Transportation Planning & Design, the firm that is conducting the trail design and engineering, reviewed the design process including bridge design, drainage design, and roadway crossings/safety. She noted that there will be a public comment/ engagement process at some point in the future.

~~ At 6:47 PM Mayor Copelof called for a ten minute break ~~

I-2. Development Finance Initiative (DFI) Presentation – Emily Brewer explained that the Development Finance Initiative (DFI) at the UNC School of Government partners with local governments to attract private investment for transformative projects by providing specialized finance and development expertise. The City of Brevard contracted with DFI in November 2022 to provide technical assistance in evaluating opportunities to increase its supply of affordable housing for low- and moderate-income households in Brevard. DFI is providing the City of Brevard with a housing needs assessment and pre-development services that would ultimately result in the identification of a targeted site for City investment and helping to solicit private development partners that would assist the City in addressing its affordable housing needs. DFI's work is conducted in two phases and this is the conclusion of Phase 1. They will share the Phase 1 findings of the housing needs assessment and insights from the high-level site analysis and financial feasibility. Ms. Brewer said Staff requests that Council go into closed session to discuss the property-specific data and discuss property acquisition opportunities. She introduced Sara VanLear and Sara Odio of DFI who gave a PowerPoint presentation (copy attached) of their Phase 1 findings.

Ms. VanLear explained that Phase 1 was to identify affordable housing development opportunities. During this Phase DFI conducted:

1. Housing Needs (Market) Assessment
 - Takeaways – As of 2019 nearly 800 LMI households have housing needs. Of these households, nearly 50% are severely cost-burdened.
 - The number of households with housing needs has likely grown over the last couple of years due to the increasingly competitive rental and home buying market.
 - Vacancy rates are below 1%
 - Current rentals and average home prices are affordable to households at 120%+ AMI
2. Site Suitability Analysis
3. High-level Site and Financial Feasibility – Identifying suitable sites
 - Site Findings:
 - Site sizes ranging from 1 to 4 developable acres
 - Multifamily rental (LIHTC) development – 40-84 units with 70-145 parking spaces; estimated maximum financial gap of \$3.0-5.5M
 - Low-density rental (non-LIHTC) developments – up to 35 units and 60 parking spaces; estimated maximum financial gap of \$10M or \$270,000 per unit
 - Low-density homeownership (non-LIHTC) developments – up to 35 units and 60 parking spaces; estimated maximum financial gap of \$8M or \$225,000 per unit
4. Stakeholder Engagement

Ms. VanLear explained that once a site is selected for Phase 2, DFI will support the city in attracting private investment for housing development and the scope of their work will include:

- Site-specific pre-development analyses, to include establishing site-specific public interest and development plan for a robust community engagement process
- Solicitation of private development partner(s)
- Supporting the City in negotiating the development agreement with selected partner(s)

Following the presentation Council had an opportunity to make comment and ask questions. Ms. Dinkins and Mr. Morrow noted that the numbers are intimidating and overwhelming but we need to start somewhere. Mr. Baker agreed that the numbers are overwhelming and that we will need help from elsewhere, but he was thankful that we are taking tangible steps and looking at what we can do about it, and not just studying the issue. He asked how other partners might help tackle the funding gaps and how collaborating with the County might help with a development like this. Ms. VanLear explained that there are a number of ways partners can help, primarily resources (money). There are also opportunities where, depending on the kinds of housing and the density, and whether you are using tax credits or not, utilizing partners' expertise in how they have accessed other federal and state-level resources. There are also partnerships around land use in either donations or below-market rate partnerships in order to reduce the total development cost.

J. Public Hearing(s) – None.

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. Jones moved, seconded by Ms. Dinkins to approve the consent agenda. The motion carried unanimously.

K-1. Proclamation 2023-15 Harold Wellington Day

Proclamation No. 2023-15 Harold Wellington Day

WHEREAS, Harold Wellington honorably and bravely served his country in the U.S. Merchant Marine from 1943 to 1946; in the U.S. Army from 1948 to 1949; and in the U.S. Navy from 1950 to 1954; and

WHEREAS, Harold Wellington, a member of the Greatest Generation, bravely served his country during World War II in the Atlantic War Zone and the Mediterranean-Middle East War Zone; and

WHEREAS, Harold Wellington served on convoy duty on Liberty Ships carrying war supplies to the troops in Europe from 1943 to 1946; and

WHEREAS, the United States lost 1,554 ships in World War II. Approximately 8,000 to 12,000 Merchant Marine sailors died. Merchant Mariners suffered the highest rate of casualties of any service in World War II; and

WHEREAS, Harold Wellington made two trips to France on Swedish ocean liner *M.S. John Erickson*, converted into a troop transport ship, to bring prisoners of war home when World War II ended; and

WHEREAS, Harold Wellington was honorably discharged from the Navy in 1954; and

WHEREAS, Harold Wellington, has demonstrated extraordinary bravery and performed services to the United States and the community of Brevard that are honorable and deserving of recognition.

NOW, THEREFORE, be it proclaimed that I, Maureen Copelof, retired Navy Captain and Mayor of the City of Brevard, do hereby proclaim September 2, 2023 as **HAROLD WELLINGTON DAY** in the fair City of Brevard, North Carolina, and commend its observance to all its residents.

Further, I hereby present Harold Wellington with this Key to the City; it is not a key to any lock, but is the true key to the hearts of the citizens of Brevard.

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

K-2. Proclamation 2023-16 Bill Bentley Day

Proclamation No. 2023-16 Bill Bentley Day

WHEREAS, America has been blessed with an abundance of men and women who proudly and bravely serve their country sacrificing a great deal for the cherished causes of freedom and democracy; and

WHEREAS, we salute their bravery and dedication to the defense of our democracy and the sovereignty of freedom-loving nations around the world, recognizing it is an extraordinary person who willingly steps into harms way to protect others and to defend freedom; and

WHEREAS, as honored and respected citizens, our service men and women have learned the value of service, dedication, and discipline and know the worth of life and liberty; and

WHEREAS, America has found in our service men and women, the leadership, courage, and determination needed to overcome all forms of despicable threats to our nation and its freedom; and

WHEREAS, we owe our military personnel a debt of gratitude which can never be fully repaid and recognize our many local military heroes for their service; and

WHEREAS, Specialist William “Bill” Bentley served in the U.S. Army during the Vietnam Conflict from July, 1971 until July, 1974 in the 515th Military Police Company. Specialist Bentley served with honor and distinction as a Petroleum Storage Specialist and as a Military Policeman and was awarded numerous medals during his tenure. For his valor and heroic conduct during combat operations in Vietnam he was awarded the Republic of Vietnam Gallantry Cross with Bronze Star.

NOW, THEREFORE, be it proclaimed that I, Maureen Copelof, retired Navy Captain and Mayor of the City of Brevard, do hereby proclaim September 3, 2023 as **BILL BENTLEY DAY** in the fair City of Brevard, North Carolina, and commend its observance to all its residents.

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

K-3. Tax Settlement Report – August 2023

K-4. Council Public Works & Utilities Committee Minutes – May 3, 2023

K-5. Council Housing Committee Minutes – July 11, 2023

K-6. Council Public Works & Utilities Committee Minutes – August 2, 2023

L. Unfinished Business

L-1. Ordinance – Voluntary Contiguous Annexation – Greenfield, 345 Forest Hill Road – Emily Brewer recalled that this is a follow-up to the public hearing that was held on September 5, 2023 for a contiguous annexation. Mr. Morrow moved, seconded by Mr. Baker to adopt the ordinance. The motion carried unanimously.

ORDINANCE NO. 2023-44 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 18th day of September, 2023.

Said property is more fully described as follows:

Location: 345 Forest Hill Road, Brevard, NC 28712. Transylvania County 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.

Section 2. Upon and after the 18th day of September, 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 18th day of September, 2023.

M. New Business.

M-1. Proposed Amendment to the Housing Trust Fund Bylaws – Emily Brewer explained that this summer the White House announced \$85 million in federal grant funding for communities across the country to identify and remove barriers to affordable housing production and preservation. The Pathways to Removing Obstacles to Housing (PRO Housing) grant is administered through US Department of Housing and Urban Development (HUD) and is intended to highlight the efforts of communities that have shown commitment to addressing the housing crisis and will support projects that create long-term affordable housing. PRO Housing incentivizes housing-forward actions that evaluate and implement projects that address housing barriers. Staff has taken the initiative to pursue this funding opportunity to extend sewer into the Azalea / Rhododendron neighborhood and to endow the Housing Trust Fund with \$1M of funding for affordable housing preservation programs. Staff is working with Land of Sky to assist in writing the grant application and Summit Engineering is preparing an updated cost estimate for that sewer extension. The anticipated budget of the grant request will be \$6M, with \$5M for infrastructure investment and \$1M for those housing

preservation programs. The application is due October 30th and Council is required to hold a public hearing to solicit comments from the public. The public hearing is scheduled for October 2nd.

Ms. Brewer added that Staff is proposing changes to the Housing Trust Fund bylaws that would further support affordable housing preservation and make the grant request more competitive. First, the proposed amendments clarify that funding may be provided for programs that support affordable housing that are not property-specific. This allows the City to support organizations that have the capacity to administer / manage larger programs. For example, a non-profit can request funding for a home repair program instead of for a specific property. The second change is to allow residents in the City's extra-territorial jurisdiction (ETJ) to apply for funding. The current bylaws limit funding to households within the City's corporate limits. The proposed change allows ETJ residents to apply for funding through the Housing Trust Fund if it comes from a donation or a grant (such as the PRO Housing federal grant), but ensures that funding that comes from property tax revenue or other City Council appropriations can only be for City residents. This proposal was brought to the Housing Committee on September 12th and they recommended approval of the amendments.

Mr. Baker moved, seconded by Ms. Dinkins to adopt the amendments to the Housing Trust Fund Bylaws as proposed. The motion carried unanimously.

Ms. Brewer informed Council that Staff will also be presenting an amendment to the City Code at the October 2nd meeting that will further improve the competitiveness of the application. Currently, the City Code allows connection to the City's sewer system outside of its corporate limits to resolve an immediate danger to public health and safety. This can be done only in the instances where annexation cannot be completed in accordance with North Carolina General Statutes. The proposed amendment clarifies that the city manager has the authority to approve the sewer connection on a temporary basis to remedy a health and safety hazard, but a permanent connection would need to be approved by City Council, specifically to preserve affordable housing.

ORDINANCE NO. 2023-45

AN ORDINANCE AMENDING THE CITY OF BREVARD HOUSING TRUST FUND

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

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

WHEREAS, the Brevard City Council subsequently amended the Housing Trust Fund Ordinance (Ord. No. 2012-02), most recently on March 20, 2023, with Ord. No. 2023-13; and

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

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

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

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

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

Adopted and approved upon first reading this the 18th day of September, 2023.

N. Remarks/Future Agenda Considerations.

Mr. Baker said it is important for people to remember that the entire idea of the Ecusta Trail is citizen-led. The Friends of the Ecusta Trail has been working on this for 15-plus years and those are citizens who wanted this to happen. They have remained committed to it and that should not be lost as we get closer to the finish line. When government actually responds to those citizens who are asking for it, it should not be seen as local government taking control or overstepping their bounds, but as it responding to its citizens.

Mr. Morrow agreed with Mr. Baker and said that in 1895 it would not have been possible had the county not floated a bond for \$60,000. In essence the government made it work to begin with. Some people forget that too.

Ms. Dinkins said I think linear parks are like roundabouts; they are the way of the future. This is how we are going to connect other than traditional roadways and rail. This has been going on for a very long time and this is a very popular project. If you ask people anywhere of any age about the Ecusta Trail, there is always the “when is it going to happen?” So, that tells me that we are just a responsive government that is heeding the call or the desire of our constituency. Secondly, is there any way we can somehow impress upon the hotel developers that that site needs to be cleaned up? It is such a prominent site in town and it looks bad. The weeds are really tall, the fencing looks bad at this point and we need to see if we can get it to look like something that has been stopped for a while, but that is being cared for somehow. Mr. Hooper said he would include an update this week in his weekly memo to Council.

Mr. Jones expressed thanks for the information on housing which is extremely important to not only the citizens of Brevard, but of Transylvania County as well. He said that the Silversteen Park stream restoration is coming along well and is starting to look really nice. They are making way for the walking path there and I am really excited about how that is coming along. I was very pleased to see that we had three Council candidates here tonight. I am really happy to see the engagement and interest to sit up here and do what we do because it does take a lot commitment and it takes an individual who cares about where they live and who lives here.

Mayor Copelof said we have had an incredible amount of information tonight and I think it makes it obvious just how dynamic our city is, how many issues our Council and our Staff are working on. But, we are working it in partnership and in collaboration. We would never be able to build the Ecusta Trail ourselves so we created that partnership from everyone that you heard from today and we have been successful because of the dedication and working together in unity. We are doing the same thing with housing. We are not going to solve the housing problem by ourselves and we realize that. We have brought in DFI, we have brought in private partners, faith groups, non-profits, and developers going after the LIHTC tax credits. It is how we build these partnerships that are going to allow us to move forward in so many of these areas. It is all a question of balance – we work on a lot of things together; it’s different pots of money; it’s different partnerships; and what’s so great about Brevard is that we do have that capacity because we have such an engaged team of professionals and our Staff does an incredible job of balancing and being able to work all of these different issues simultaneously and move us forward in so many ways. I want to thank the Staff for everything that they have done on these two really big items that we talked about tonight; all of our elected officials that have provided that vision and that guidance to move forward; and all those partners and those future partners we are going to be looking for. Because, as we move forward with housing, we are going to need those partners and we are going to need partners to step up and bring something to the table with us so we can move forward in collaboration to come up with some concrete solutions. The next Meet the Mayor session is September 26th from 5-7 pm at the Mary C. Jenkins Community Center.

N. Closed Sessions

Closed Session #1 – At 7:59 p.m. Mr. Baker moved, seconded by Mr. Jones to enter into closed session to discuss a property acquisition matter 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, City Clerk Denise Hodsdon, Planning Director Paul Ray, Senior Planner Emily Brewer, and Sara VanLear and Sarah Odio of DFI.

Council Returned to Regular Session – at 8:25 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 8:26 p.m. Mr. Jones moved, seconded by Ms. Dinkins, to enter into closed session to discuss an economic development matter. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper, City Clerk Denise Hodsdon, Planning Director Paul Ray, Senior Planner Emily Brewer, and Transylvania Economic Alliance Executive Director Burton Hodges.

Council Returned to Regular Session – at 9:40 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 9:40 p.m. Mr. Morrow moved, seconded by Ms. Dinkins, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

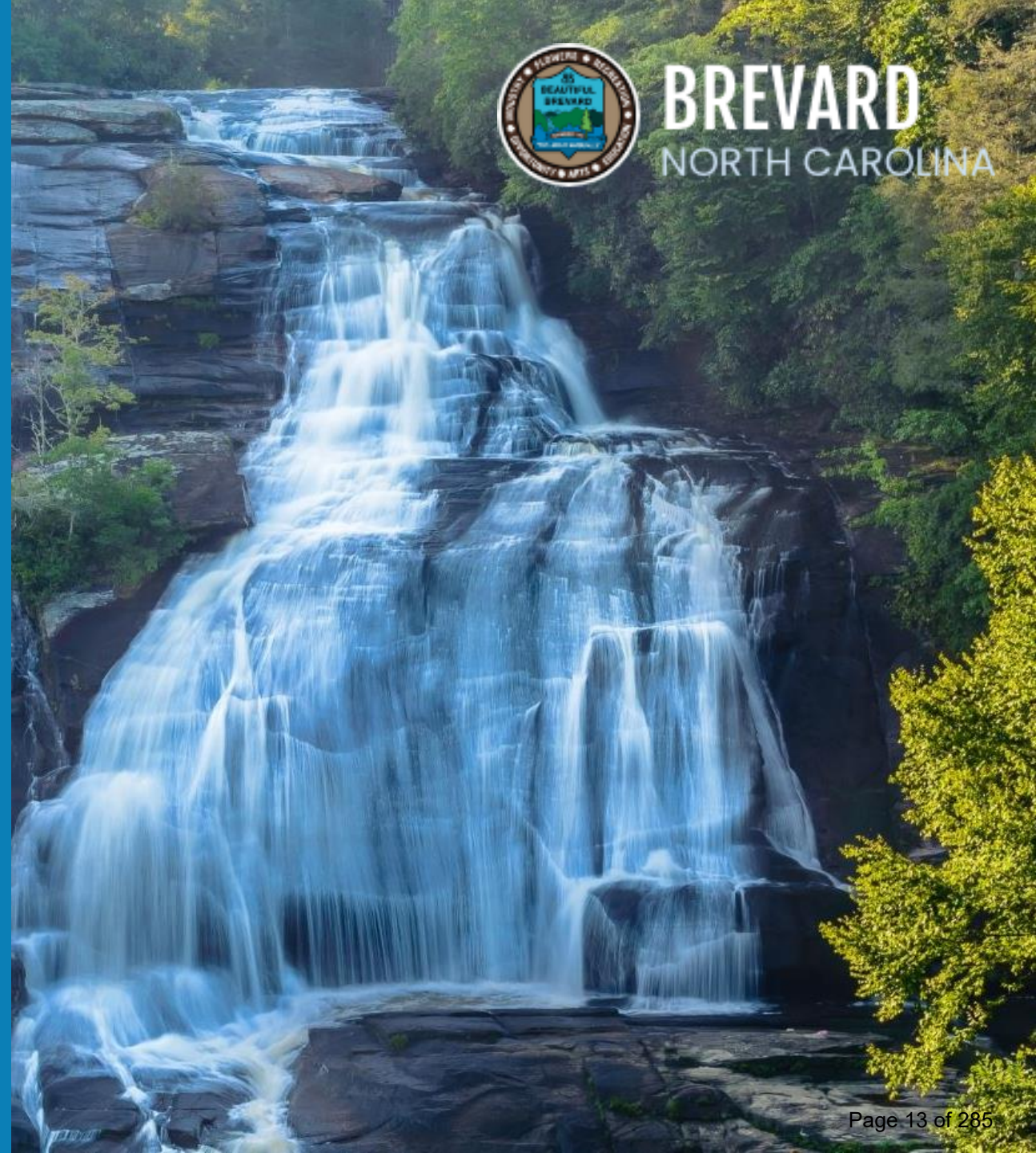
Minutes Approved: October 16, 2023

Ecusta Trail Project Briefing

City Council | September 18, 2023



BREVARD
NORTH CAROLINA



Interagency Collaboration



A Little History

- 1895 – Rail line completed from Hendersonville to Brevard
- 2007 – Early meetings in Henderson Cty. to discuss the concept of a rail trail
- 2009 – Joint meetings between Henderson Cty. and Transylvania Cty. Individuals
- 2009 – Resolutions of support from local governments and non-profits
- 2010 – Friends of the Ecusta Trail was incorporated
- 2012 – Ecusta Rail Trail Planning Study and Economic Analysis released
- 2014 – Norfolk Southern sells TR line to Watco/Blue Ridge Southern Railroad
- 2019 – Watco indicates they are willing to sell the TR line
- 2021 – Ecusta Rails2Trail LLC closes on the purchase of the rail line
- 2022 – The City of Brevard receives a \$1 million FLAP grant for design and engineering
- 2023 – Nearly \$46 million in federal grants awarded for construction

The Future

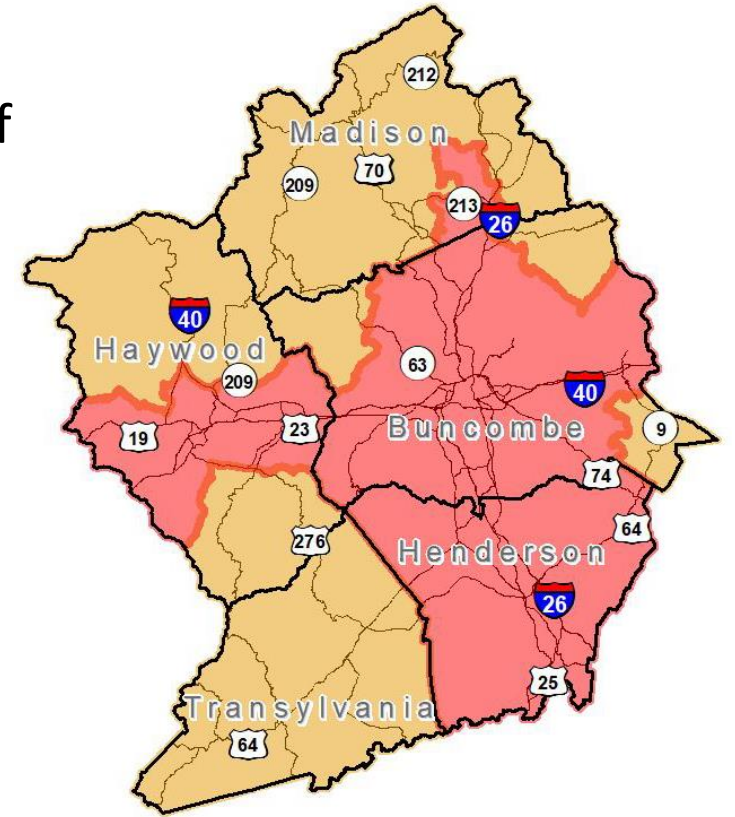
- Build and operate as a single trail
- Connect the two downtowns
- Serve as an economic engine for the region
- Revitalize the communities that it passes through
- Provides an outdoor opportunity for all ages and all abilities
- Provides a transportation alternative
- Continue to add amenities to improve the user experience
- Transition the Friends of the Ecusta Trail to a true friends organization

Work in Progress

- Rebranding the Ecusta Trail
- Signage design for continuity
- Design and placement of trail amenities
- Continue fundraising
- Continued close cooperation between the City of Brevard and Henderson County

Land of Sky RPO

- Land of Sky RPO, (LOSRPO) is a Rural Transportation Planning Organization that serves Transylvania County, and the rural areas of Madison, Buncombe and Haywood Counties, Brevard, Rosman, Marshall and Hot Springs.
- LOSRPO works with Brevard on all things related to transportation; long range planning, project development, and funding strategies.
- RPO staff also serves as a liaison for the city to NCDOT.
- RPO staff initiated the application process for the \$1 million FLAP funds for design and engineering of the trail.
- During the Ecusta Trail design process, RPO staff will work closely with the design team and NCDOT, and support city staff however necessary, to develop and deliver the Ecusta Trail it is envisioned.



Grant Administration

- Currently working on a plan to present to the Feds for how each Grant will be spread over the remaining Ecusta Trail Projects
- The PE phase of for Transylvania County is being handled by FLAP funds.
 - NSFLTP & RAISE grant funds will be used for the Construction phase
- RAISE Grant will require monthly & quarterly reporting both on financial status and progress
- NSFLTP will require bi-annual reporting on the financial status and progress as well as an annual budget review
- NCDOT is currently working to finalize the agreements with the Feds so these grants can be put into action
- As soon as the agreement is signed funds will become eligible

Henderson County – Trail Background



- County worked with NCDOT, Conserving Carolina (CC) and the FOET to acquire the ROW.
- County was awarded a total of \$7,784,193 in STBG-DA funds for the PE and Construction of the first 6 miles of trail, and \$10,467,234 for the construction of the last 5 miles of trail.
- The Board of Commissioners leased the property from CC and approved the creation of the Rail Trail Advisory Committee (RTAC).
- An encroachment policy was created to address utility, road, and driveway encroachments and trail connections.
- Worked with JMT to complete the PE including design, permitting and bid documents for the first 6 miles.



Henderson County – Where are we now!



- Working with NCDOT on the requirements for the RAISE and NSFLTP grant funding for the HC portion
- The Board is evaluating the construction bids for the first 6 miles of trail
 - Construction start is anticipated once all NCDOT documents have been reviewed and approved
 - Upon the engineer's evaluation and bid tabulation, NHN Constructors was recommended with a bid of \$10,126,120
- The Board is also reviewing the submitted RFLOI proposals for the PE on the last 5 miles of trail
 - NCDOT will proceed with scoping once all documents have been reviewed and approved
- Kicking off the Ecusta Trail Partners Program in October



Henderson County – Lessons Learned



- Planning considerations while funding is available
 - Evaluate bridges and consider replacement costs over retrofit costs
 - Design standards are important when considering impact on maintenance and replacement or rehab costs in future years
 - Do it right the first time! Funding is difficult or unavailable for future repairs or improvement needs
- Consider encroachment policy and future trail connections/development
 - Be available to respond to the public and adjacent property owners
- Expect unknown expenses (Ex: drainage issues, streambank restoration, lack of stormwater measures)



Henderson County – Lessons Learned



- Safety is the top priority and concern
- It takes a village! The trail success is a team effort with multiple departments and staff, NCDOT, Partners (TDA, FOET, CC), and the public
- Have bi-weekly meetings with project team
- Remember the trail purpose – recreation and a transportation corridor/route
- This is a unique opportunity that has been given to us!



NCDOT - Project Manager's Role

- Scope
- Budget/Funding
- Schedule
- Ensuring quality
- Coordination & Communication
- From inception through close-out

NCDOT - Project Manager's Role

- Scope
 - Disciplines needed to design the project
Ex. Hydraulics, Structures, Utilities, Envir. Doc., etc.
- Budget/Funding
 - Design & Construction
 - Right of Way previously secured
 - Four funding sources
 - Are funds authorized

NCDOT - Project Manager's Role

- Schedule - Major Project Milestones
 - Project Start Date
 - Final Environmental Document Completion
 - Design review milestones
 - Right-of-Way Plans Complete
 - Let
- Ensuring quality
 - Periodic design reviews
 - Permit reviews

NCDOT - Project Manager's Role

- Coordination & Communication
 - How is the budget & schedule impacted?
- From inception through close-out

The Design Process

What is there to design?

Isn't it just paving a railbed?



Bridge Design



Impacts to Floodway, Streams and Wetlands



Drainage Design

Roadway Crossings/Safety

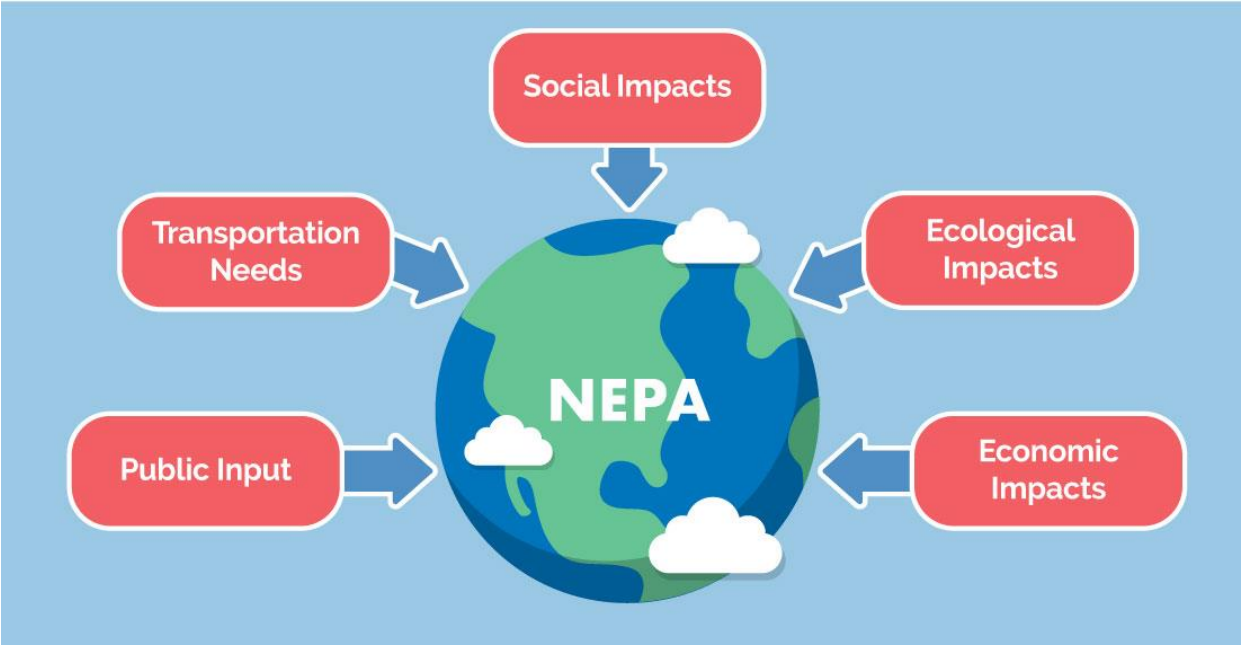


Property Impacts

Federal Funding = Federal Requirements



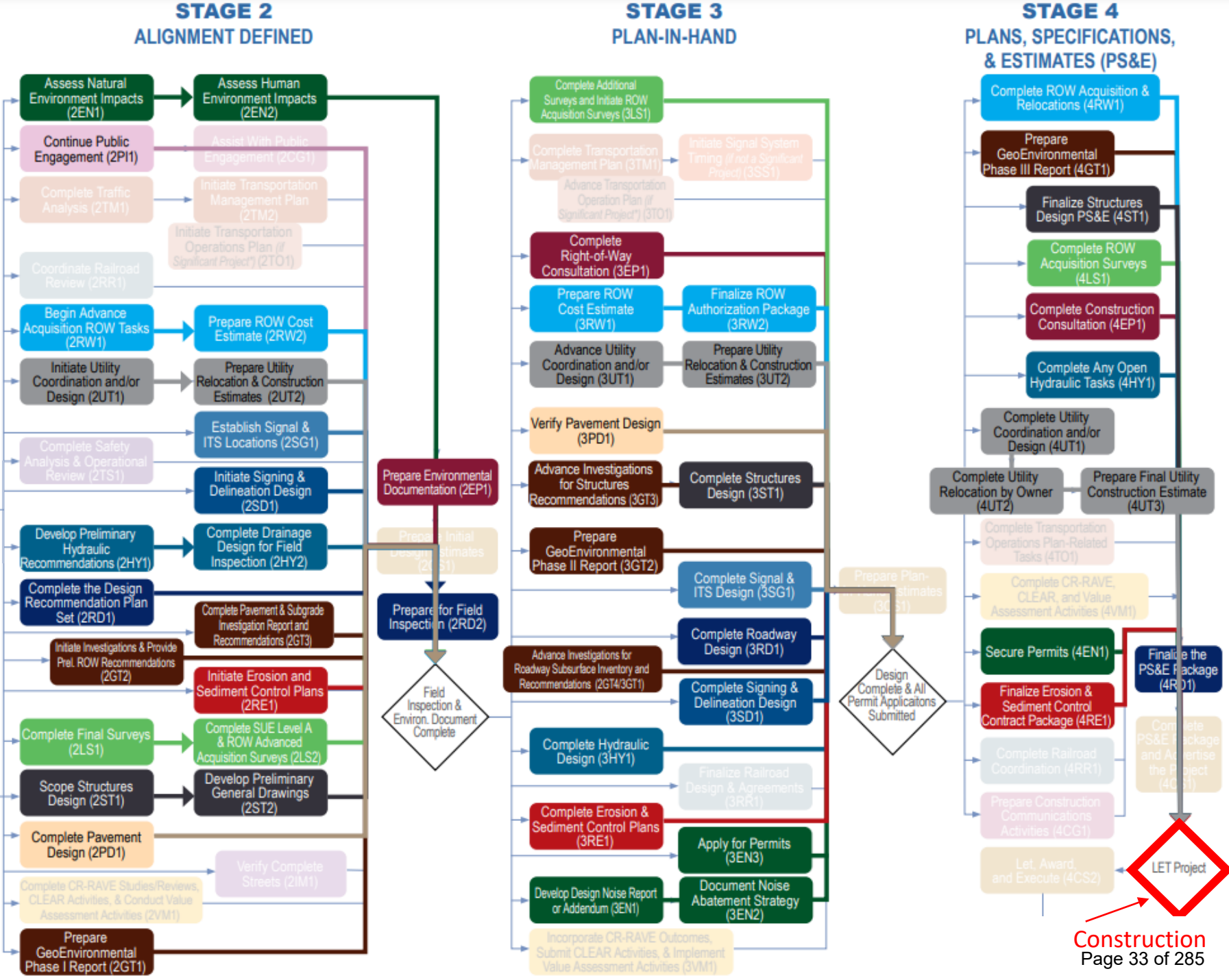
★ We are here



NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions.

The Process!

We are here



The Design Team



Trail Design, Structures and Hydraulics



Survey, Utilities, Environmental



Environmental



Public Engagement for Environmental Document



Geotechnical Investigations



Landscape Architecture and Public Engagement Support

The Vision

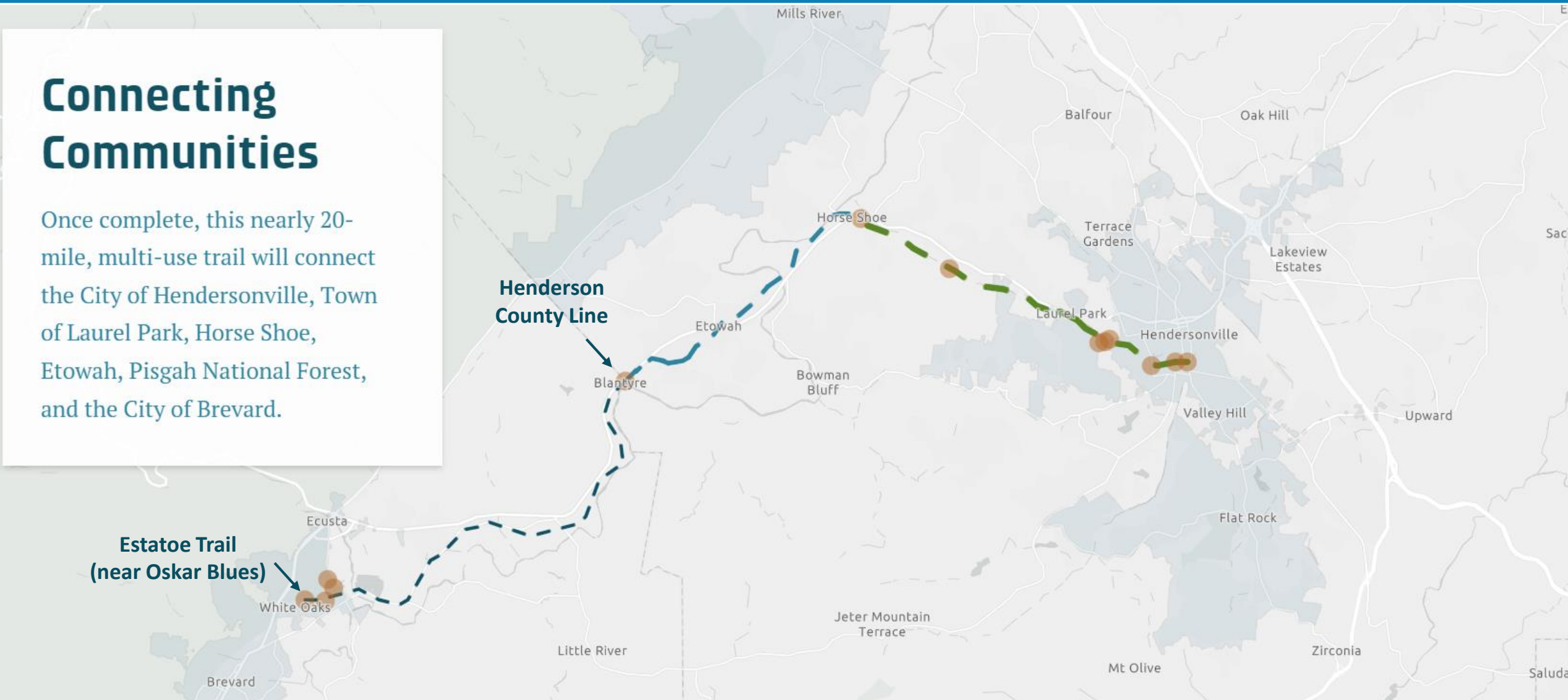


Connecting Communities

Once complete, this nearly 20-mile, multi-use trail will connect the City of Hendersonville, Town of Laurel Park, Horse Shoe, Etowah, Pisgah National Forest, and the City of Brevard.

Estatoe Trail
(near Oskar Blues)

Henderson
County Line



<https://storymaps.arcgis.com/stories/c8f99769e17a49249063a39fc4cfecfa>

We'll be back!

Stay tune for more on schedule and project details.



Affordable Housing Feasibility

Phase 1 findings for housing development in Brevard



DFI and Project Overview



UNC School of Government



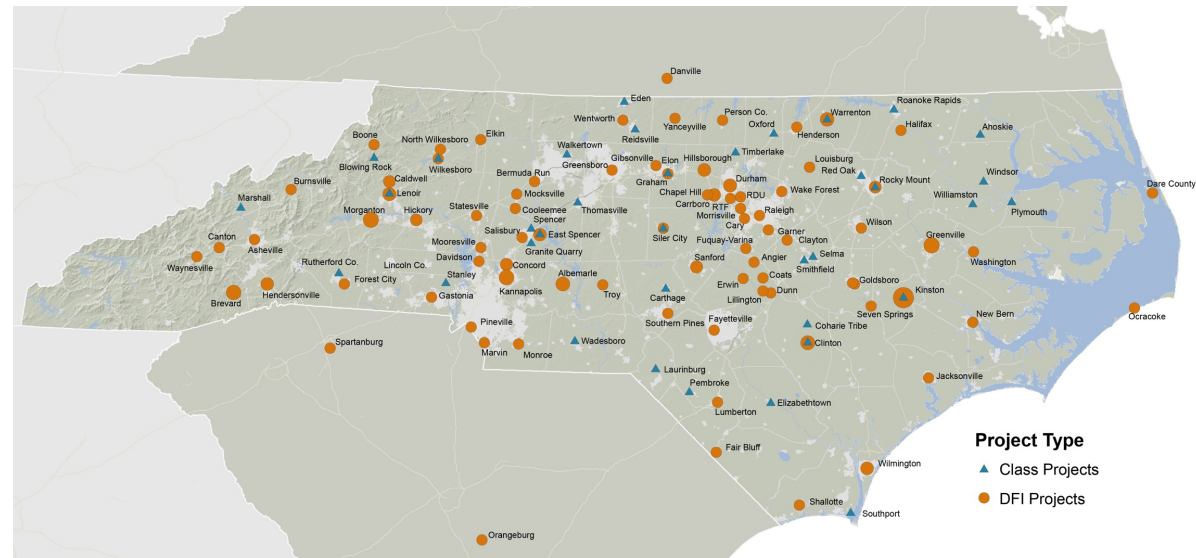
UNC Chapel Hill's School of Government is the largest university-based local government training, advisory, and research organization in the United States, and serves more than 12,000 public officials each year.



SCHOOL OF GOVERNMENT
Development Finance Initiative

DFI, a program of UNC Chapel Hill's School of Government (SOG), partners with local governments to attract private investment for transformative projects by providing specialized finance and development expertise.

Values: Nonpartisan, policy-neutral, responsive



Project Team

Project Lead: Sara VanLear

Lead Analyst: Frank Muraca

Affordable Housing Advisor: Sarah Odio

Development Advisor: Rory Dowling

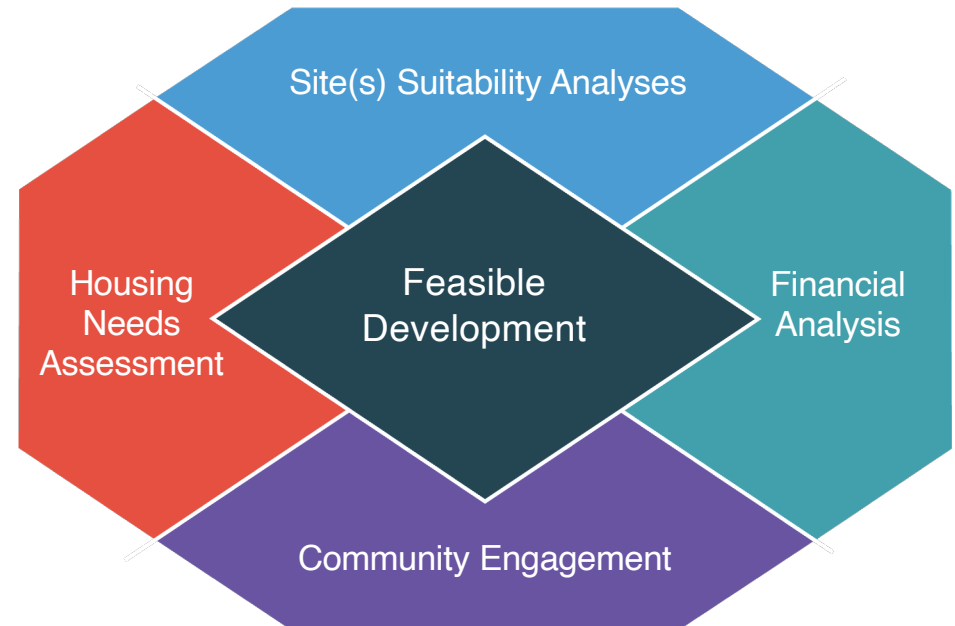
DFI Scope of Services

The City of Brevard engaged the Development Finance Initiative (DFI) to support the city in attracting private investment for housing development. The scope of work includes:

1. Phase 1: Opportunity site identification

2. Pre-development process:

- Phase 2: Site-specific pre-development analyses
- Solicitation of private development partner(s)
- Supporting the City in negotiating the development agreement with selected partner(s)



Phase 1: Opportunity Site Identification

To identify affordable housing development opportunities, DFI conducted:

1. Housing Needs (Market) Assessment

- **Goal:** determine demand for different housing types based on economic drivers and current housing supply.

2. Site Suitability Analysis

- **Goal:** identify sites that meet City's housing priorities.

3. High-Level Site and Financial Feasibility

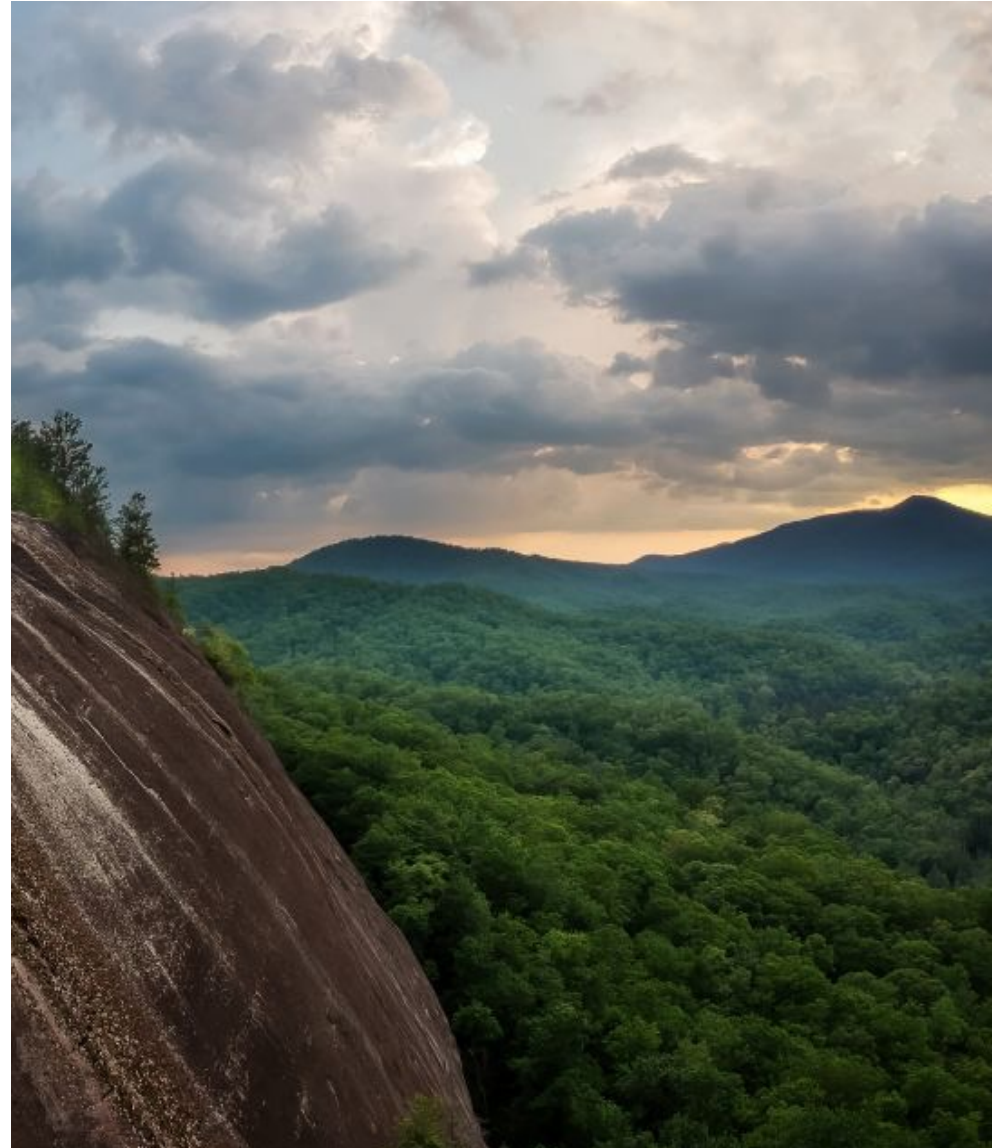
- **Goal:** for each site identified, determine type and scale of housing development possible, estimate potential private funding sources, and identify minimum funding gap for each scenario.

4. Stakeholder Engagement

- **Goal:** identify community goals, stakeholders, and development opportunities to meet housing needs in Brevard.

Today's Meeting Goals

- Review Brevard's housing needs
- Discuss Phase 1 feasibility approach
- Review Phase 1 feasibility findings



Housing Needs

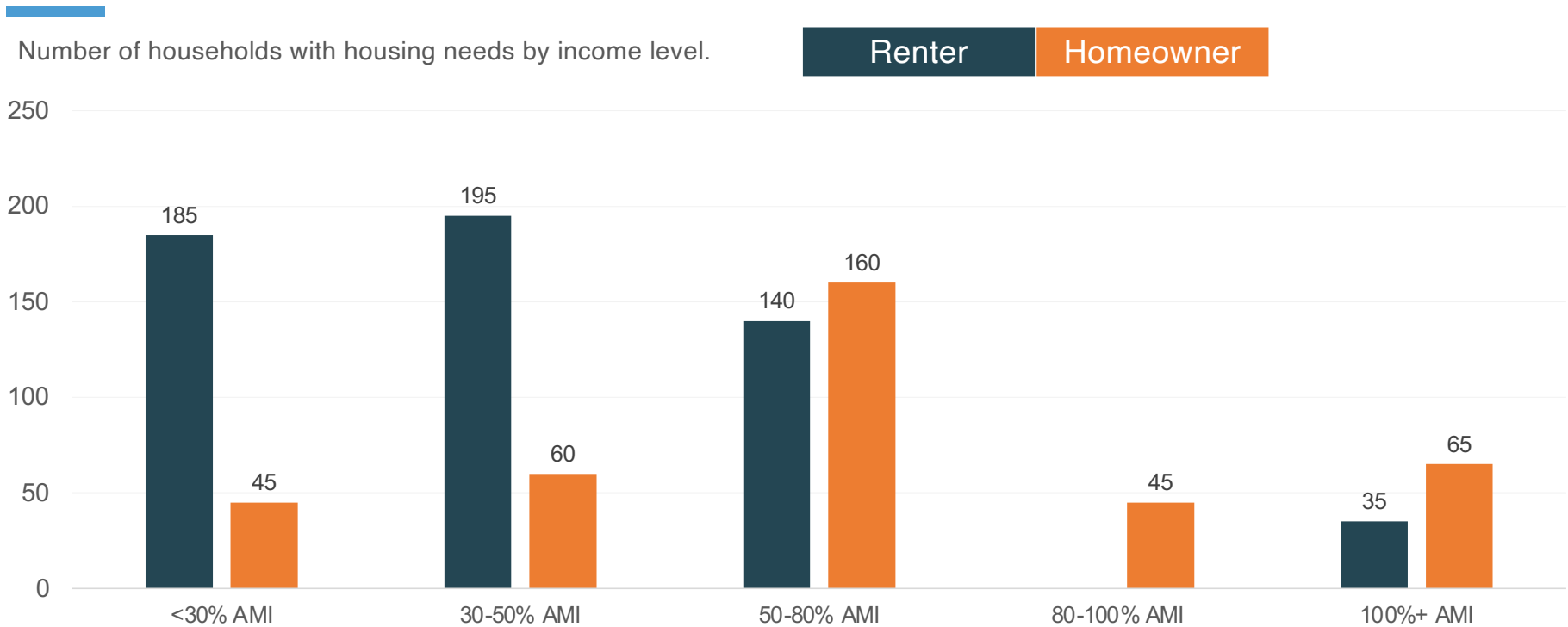


Income limits in Transylvania County.

AMI	1-person	2-person	3-person	4-person
30% Extremely Low Income	\$14,400	\$16,500	\$18,500	\$20,600
50% Very Low Income	\$24,000	\$27,500	Firefighter: \$31,000	\$34,300
80% Low-to-Moderate Income	\$38,400	Elementary Teacher (7 years experience): \$44,000	\$49,400	\$54,900
100%	\$48,000	\$54,900	\$61,700	\$68,600
120%	\$57,600	\$65,900	\$74,000	Director of Marketing (Brevard Music Center): \$83,000

Source: North Carolina Housing Finance Agency (NCHFA)

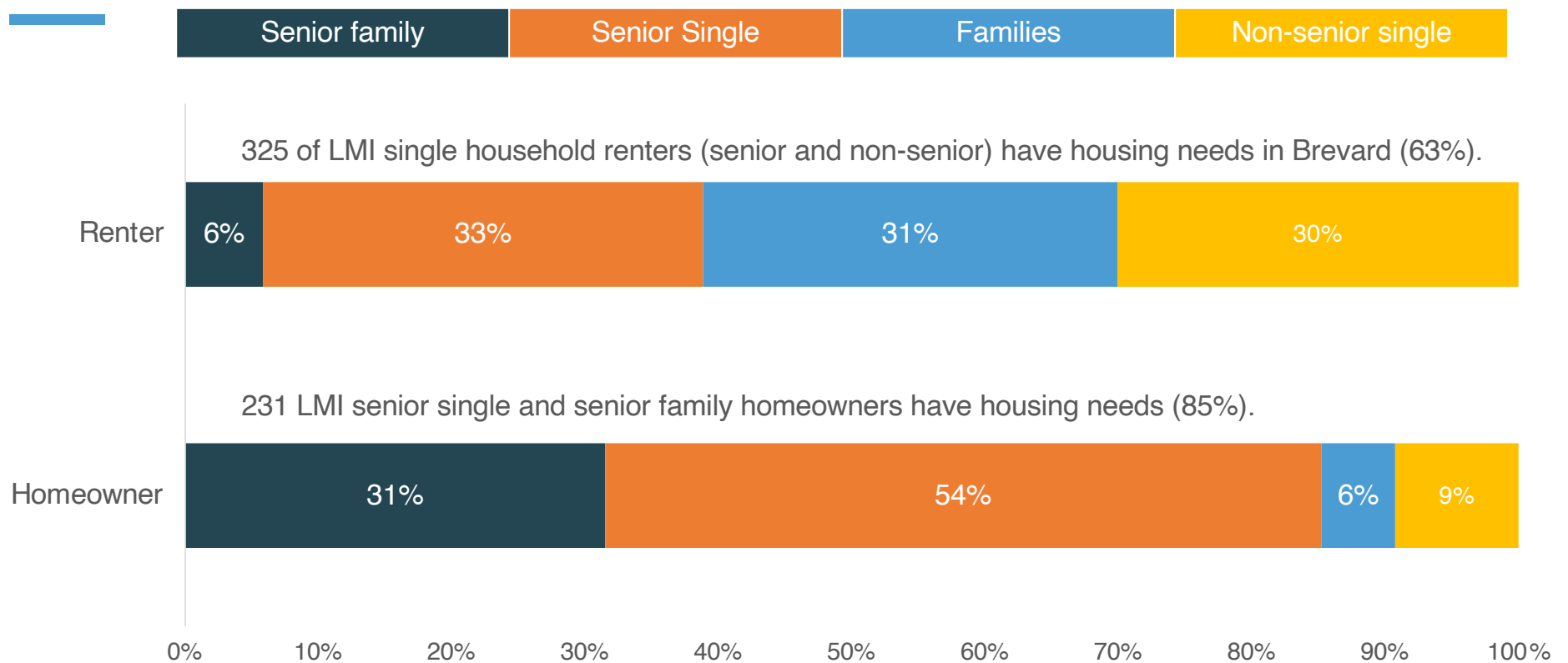
At least 520 LMI renters and 265 LMI homeowners have housing needs in Brevard.



Housing Need: households with housing need (1) spend at least 30% of their annual income on housing-related costs, (2) live in units without plumbing or kitchen facilities, or (3) live in units with more than 1 person per room.

Source: HUD CHAS (2019)

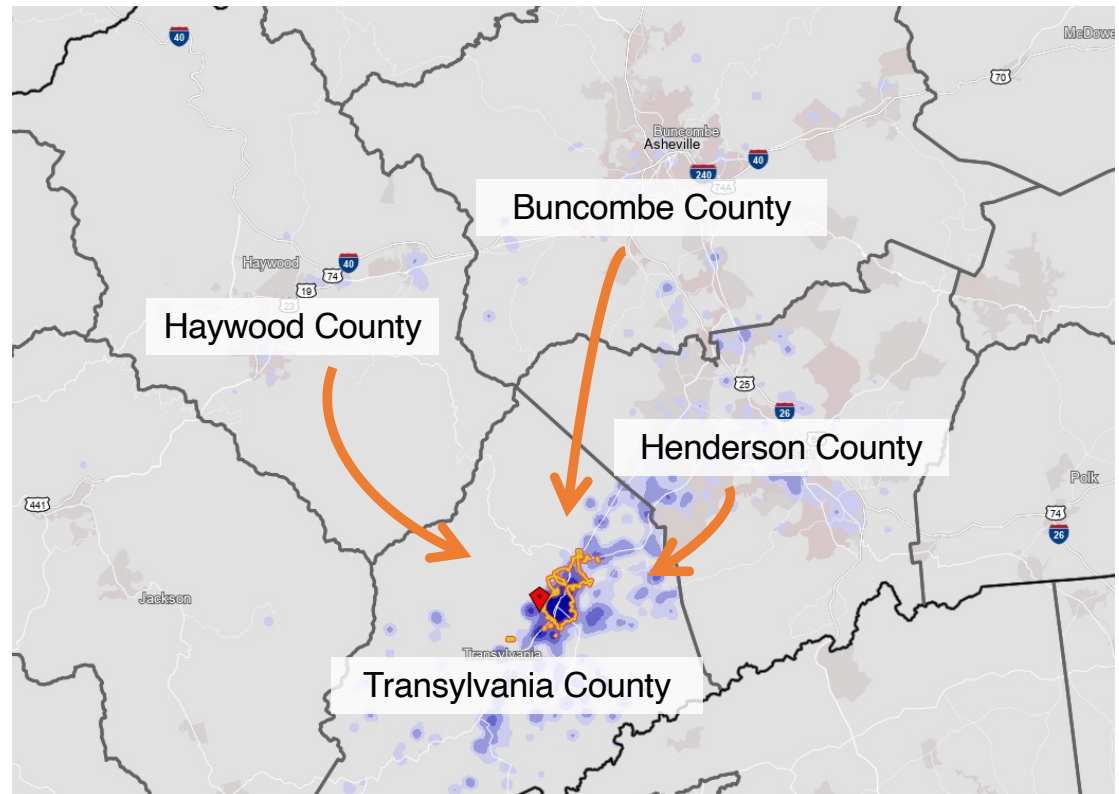
LMI renters are made up of a range of household types, while LMI homeowners tend to be senior.



Source: HUD CHAS (2019)

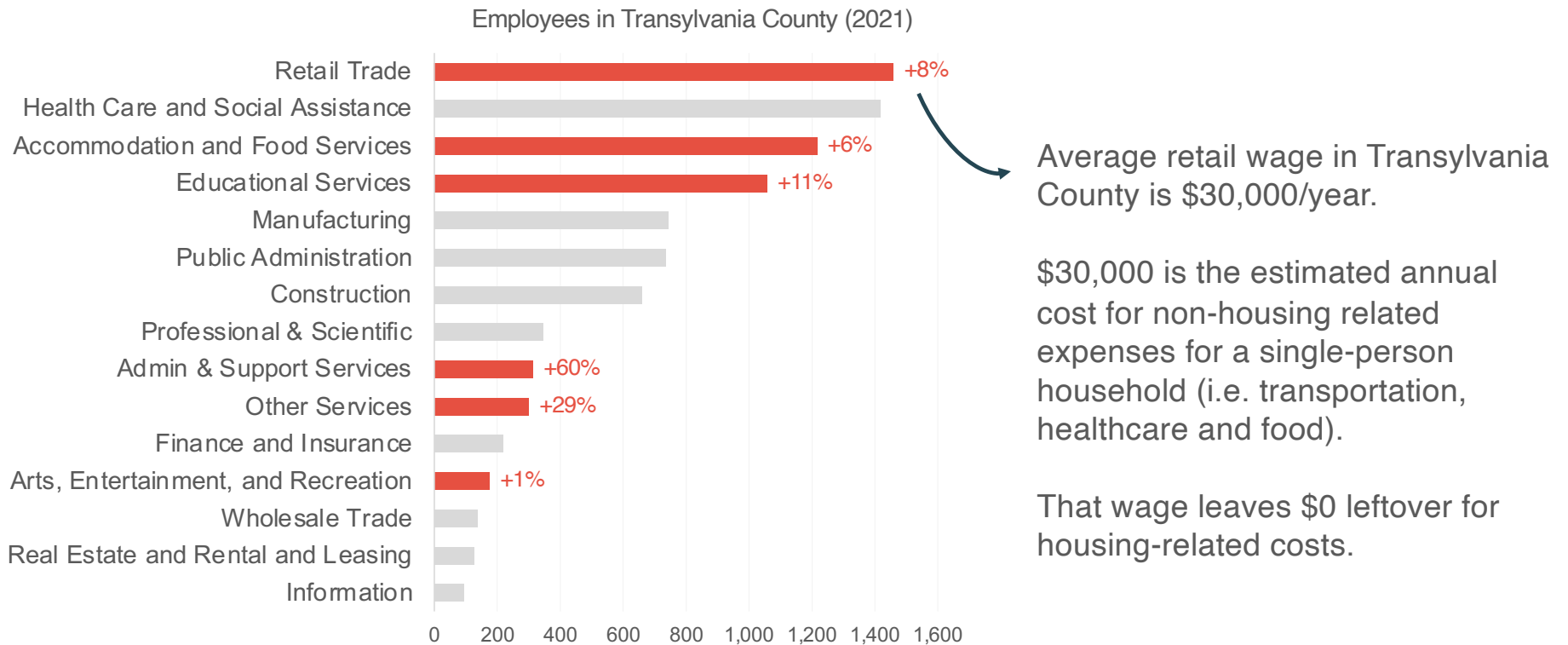
About 700 employees making less than \$40,000 commute to Brevard from outside the County.

- Approximately 1,200 people commute to Brevard from outside Transylvania County.
- **700 (58%) commuters have incomes <\$40,000,** and 500 (42%) earn incomes at 80% AMI and above.



Source: LEHD On the Map (2020)

Half of the county's workforce are employed in industries with average wages <\$40,000 a year.



Housing Market

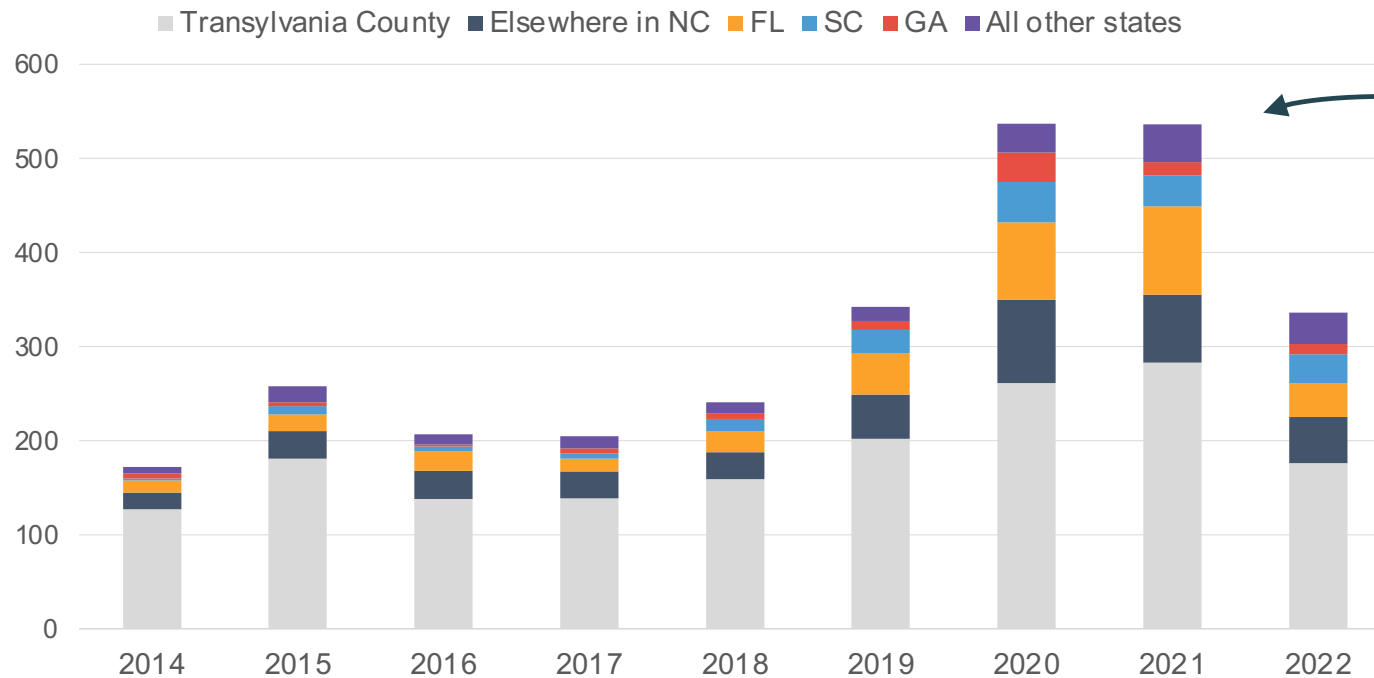


The rise in housing costs over the last three years has likely increased the number of cost-burdened households.

- Pressure on limited housing stock: population growth, 50% increase in home sales, and a tripling of seasonal-use properties has reduced rental availability.
- Land and construction costs are pushing up prices for both homeowners and renters.
- The highest price rental units (over \$1,000/month) have more than doubled.
- The average home sale price increased nearly 30%, and price of new homes has more than doubled.

Home sales increased by 50% during the pandemic, driven primarily by second home and investor purchases.

Single-family home sales in Transylvania County by buyer mailing address.



Since 2020, home sales in Transylvania County have doubled.

40% of the homes sold were bought by individuals or entities with mailing addresses outside of the county.

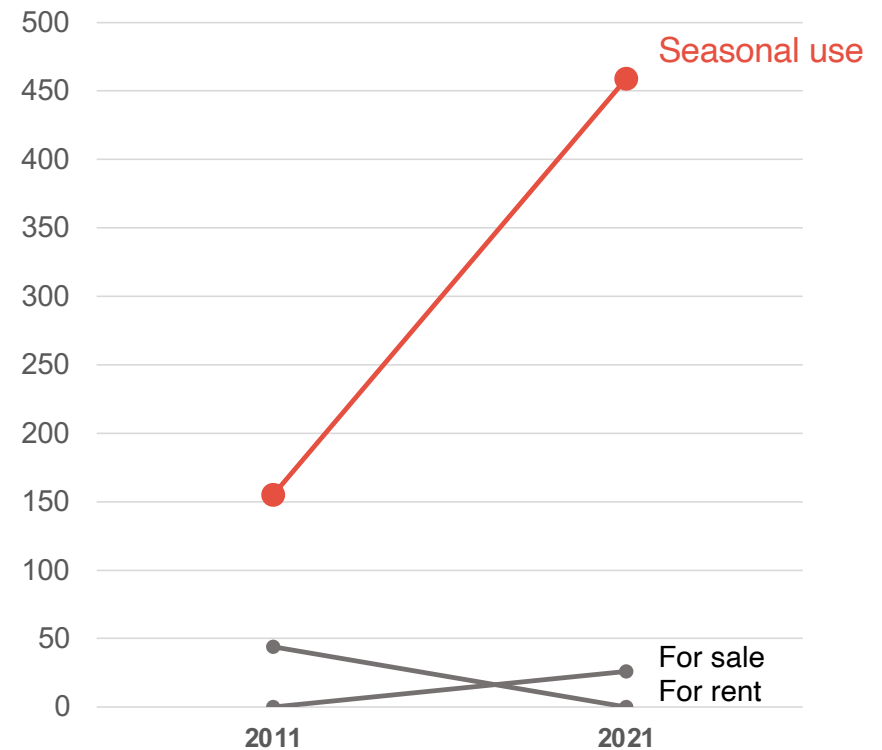
Source: DFI analysis of Transylvania County tax parcel data

Seasonal use rentals have tripled since 2011.

In 2021, over 1 in 10 housing units in the city were reserved for seasonal use and off-market for year-round renters.

Over this same time period, rental vacancy rate hit 0%.

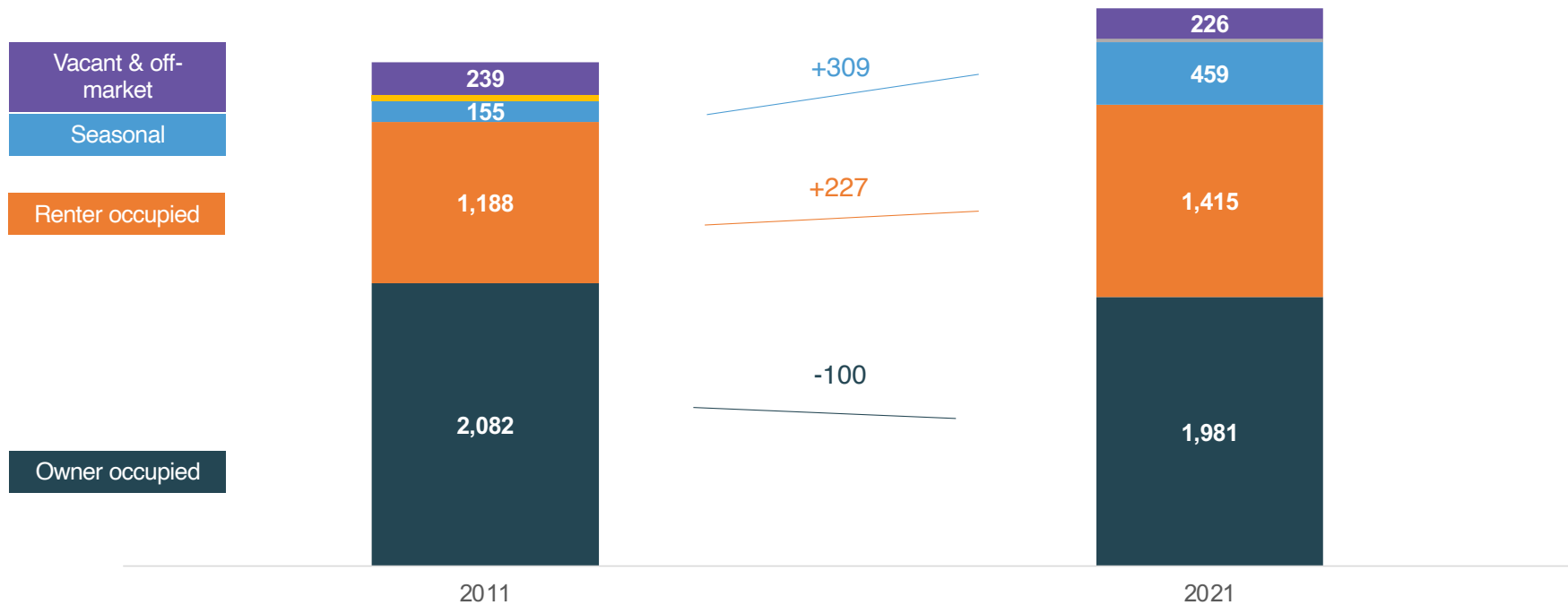
Vacant housing units by type in Brevard.



Source: ACS 2021 (5-year estimates)

Even with new units added, rental and homeowner vacancy rates are below 1%.

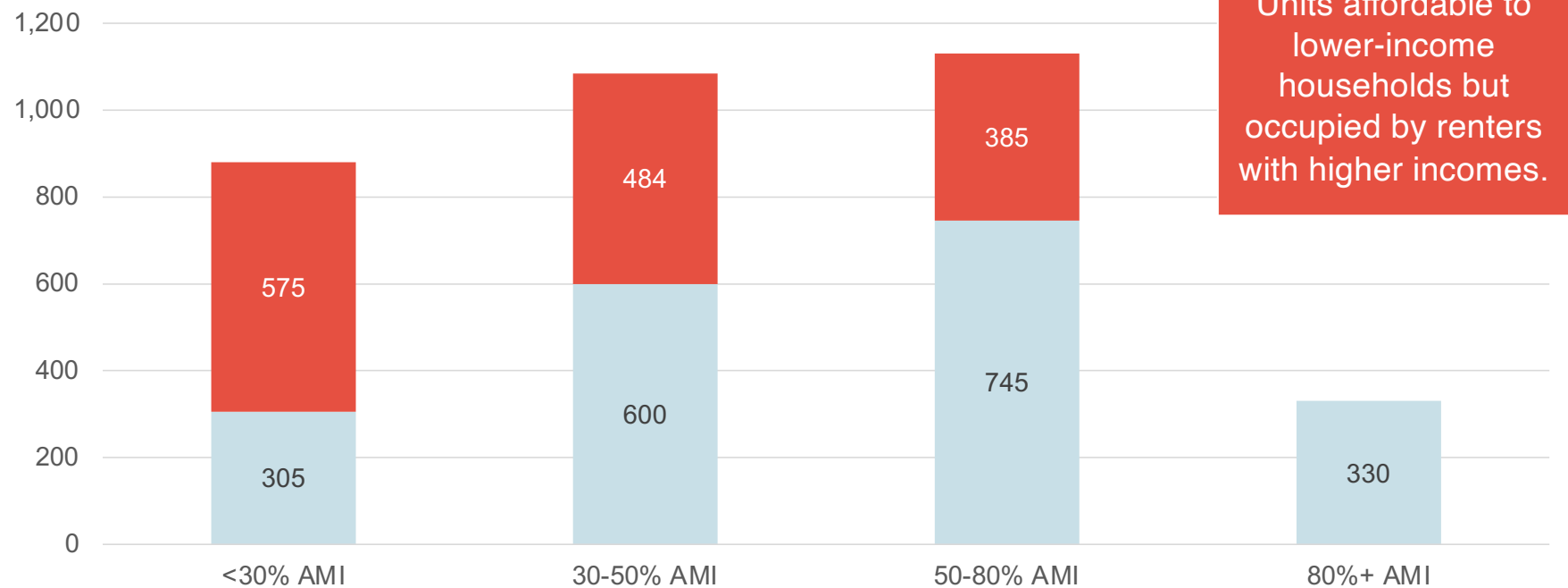
Brevard housing units by occupancy.



Source: ACS 2021 (5-year estimates)

With low vacancy rates, households with higher incomes occupy units affordable to lower-income households.

Rental units affordable to each income level in Transylvania County.



Units affordable to lower-income households but occupied by renters with higher incomes.

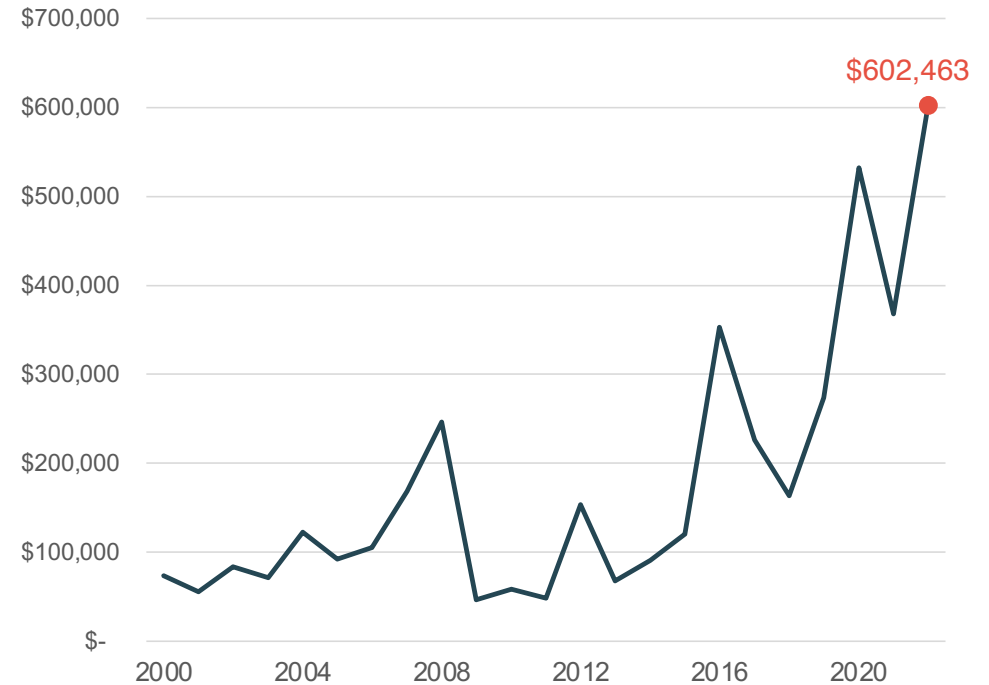
Source: ACS 2021 (5-year estimates)

Demand for land in Transylvania broke historic records during the pandemic.

Sale transactions for undeveloped lots <5 acres in Transylvania County.



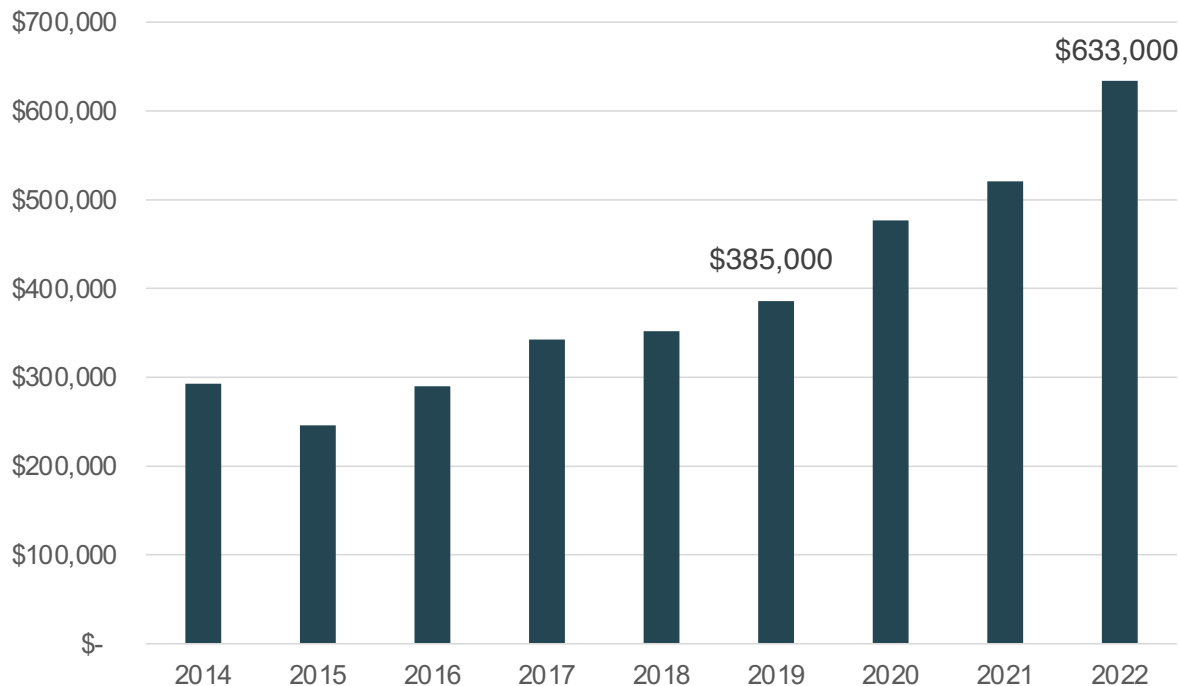
Land sale price per acre for undeveloped sites <5 acres in Transylvania County.



Source: DFI analysis of Transylvania County tax parcel data.

Increased demand is reflected in rising costs for new housing and average home sale prices.

Average sale price of new single family home in Transylvania County.



Income needed to afford the average home in July 2023:

\$133,000

170% AMI for a family of 4



Income needed to afford the average home in July 2021:

\$77,000

100% AMI for a family of 4

Source: DFI analysis of Transylvania County tax parcel data & Redfin Data Center

Housing Takeaways

- As of 2019, **nearly 800 LMI households** (renters and owners) have housing needs. Of these households, nearly 50% are severely cost-burdened.
- The number of households with housing needs has likely grown over the last couple of years, due to the **increasingly competitive rental and home buying market**.
 - Vacancy rates are below 1%.
 - Current rentals and average home prices are affordable to households at 120%+ AMI.

Site and Financial Analysis



What is a “high-level” site and financial analysis?

Phase 1 Approach: develop an understanding of how potential sites can meet local housing priorities.

We do this by:

- identifying key site constraints, and
- estimating high-level financials

Phase 1 Goal: best inform the site selection for the Phase 2 pre-development analysis and future solicitation process.



Phase 2 Approach:

- establish site-specific guiding public interests, and
- deepen the site and financial feasibility analyses.

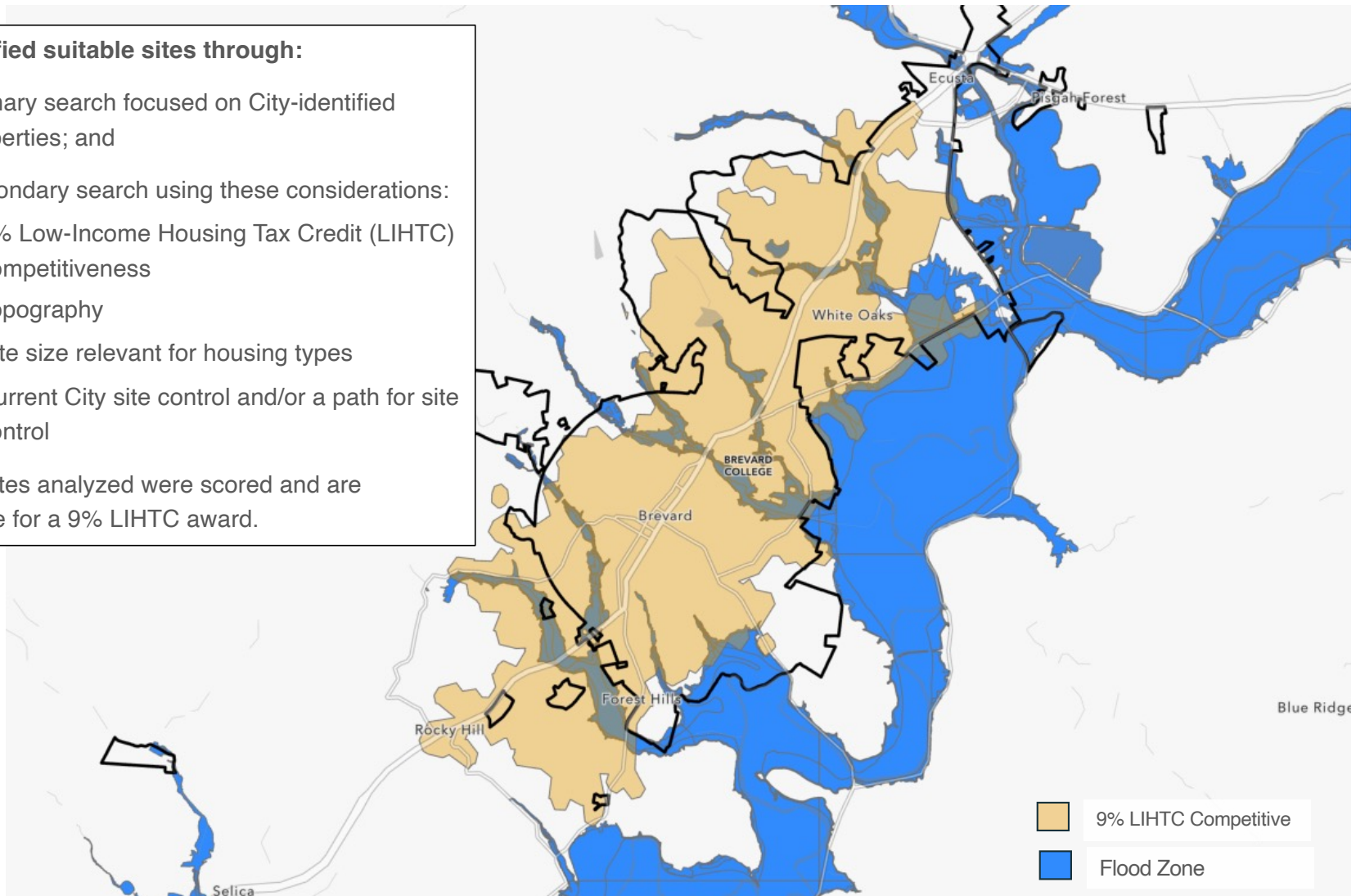
Phase 2 Goal:

- determine site-specific development parameters (i.e. unit mix, density, gap funding, etc.),
- solicit development partner(s), and
- negotiate a development agreement.

DFI identified suitable sites through:

- I. Primary search focused on City-identified properties; and
- II. Secondary search using these considerations:
 - 9% Low-Income Housing Tax Credit (LIHTC) competitiveness
 - Topography
 - Site size relevant for housing types
 - Current City site control and/or a path for site control

Note: All sites analyzed were scored and are competitive for a 9% LIHTC award.



DFI explored the feasibility of the following development approaches:

- Multifamily rental (LIHTC)
- Low-density rental (non-LIHTC)
- Low-density homeownership (non-LIHTC)



Source: Eatmon Townhomes (Wilson, NC), Affordable Housing Development Fund, ReBuildNC, NCORR



Source: Viewmont Square Court Senior Living (Hickory, NC)

Max housing costs modeled for financial analysis.

1 to 4 person households earning between \$14,700 – \$56,000 per year.

AMI	1-Bedroom	2-Bedroom	9% LIHTC	AMI	3-Bedroom	Non-LIHTC
30%	\$395	\$475	40% of units	30%	\$545	20% of units
40%	\$525	\$630		40%	\$730	
50%	\$660	\$790	60% of units	50%	\$910	
60%	\$790	\$945		60%	\$1,095	80% of units
80%	\$1,050	\$1,260		80%	\$1,460	

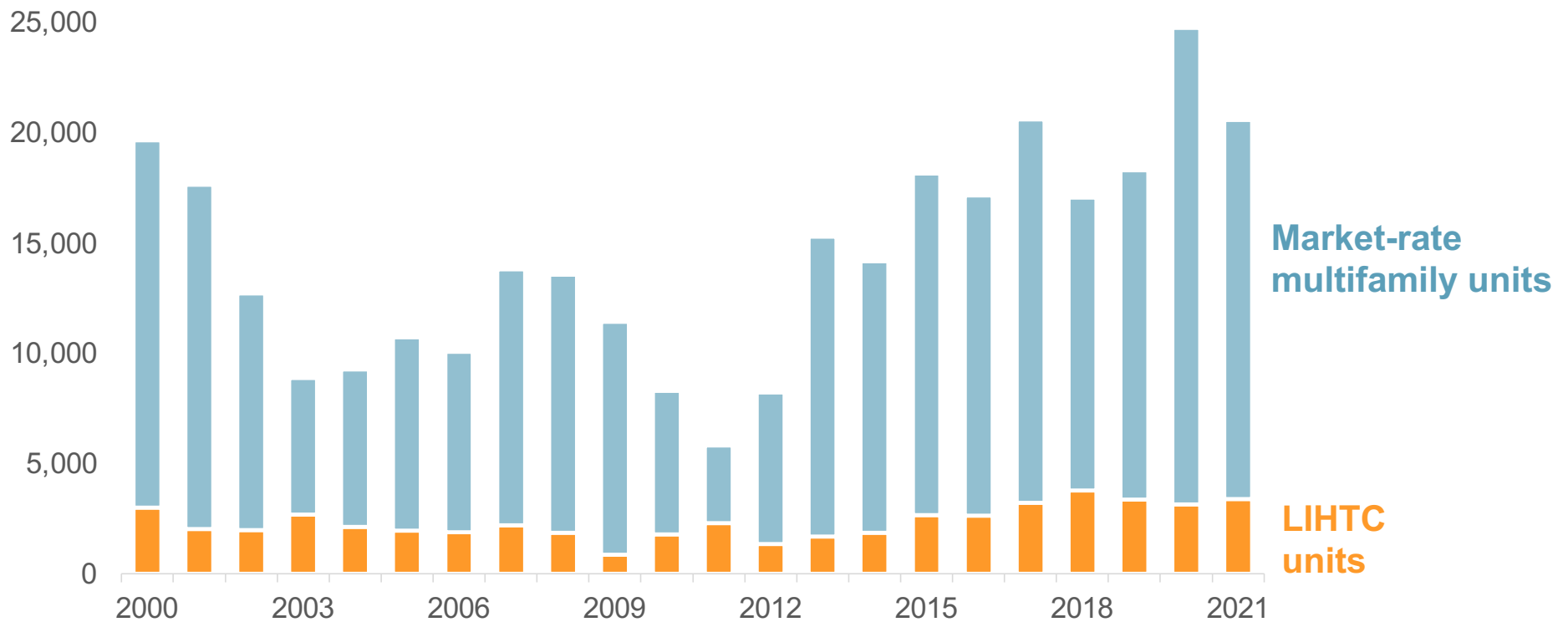
Source: U.S. Dept of HUD, FT 2023 Fair Market Rents, Transylvania County, North Carolina

LIHTC Approach



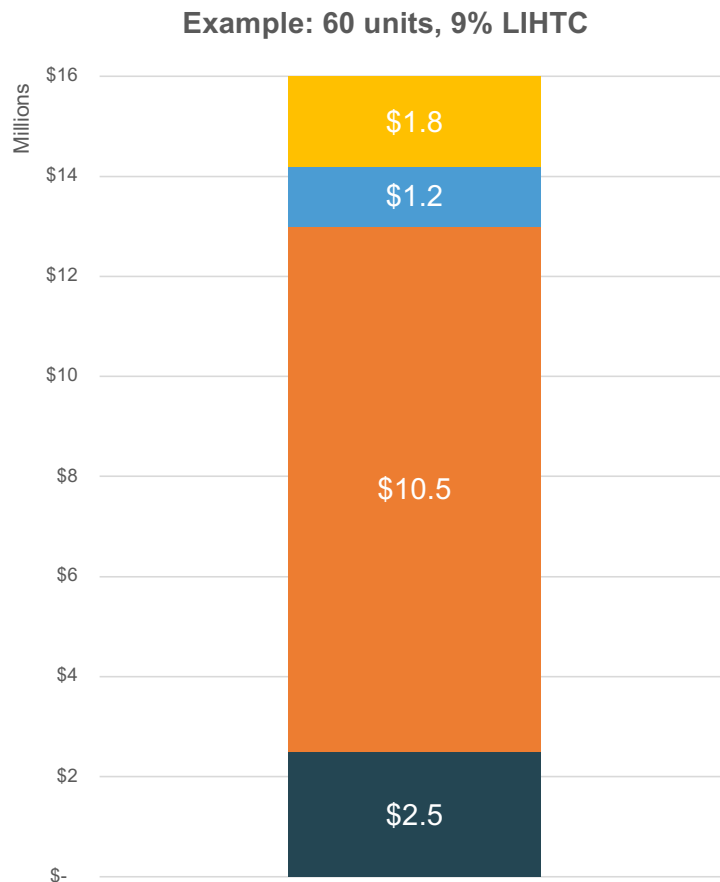
Why do we focus on LIHTC?

LIHTC consistently funds new units across North Carolina every year.



Source: National Housing Preservation Database, CoStar Analytics

Various capital sources needed to fund housing.



Funding Gap

- Deferred developer's fee (capped)
- Public or charitable source

Rental Production Program (RPP)

- 2% interest loan. Only in combination with 9% LIHTC award.

Low-Income Housing Tax Credit (LIHTC) Equity

- 9% awards: Competitive and up to 90% of capital needed
- Equity amount limited by price per \$1 of tax credit (estimated \$0.87).

Federally-Guaranteed Loans

- Below market interest rates and terms (such as USDA's Rural Development loan program)

Site Findings



Multifamily rental (LIHTC) development

Site(s) Overview

Site Sizes: Range from 1 to 4 developable acres

Site Considerations:

- Topography: slopes, streams, stormwater infrastructure
- Utility connections

Site Scenarios	Maximum	Minimum
Unit/Parking Count	• 84 Units • 145 Parking Spaces	• 40 Units • 70 Parking Spaces
Est. Max Financial Gap	• \$3.0-5.5 million	• Minimal
Requirements to Proceed	• Zoning change • City site control	• Zoning change • City site control

Example LIHTC development



Source: Viewmont Square Court Senior Living (Hickory, NC)

Note: DFI analysis is based on specific, privately-owned sites in Brevard.

Low-density rental (non-LIHTC) developments

Low-density Development Example



Source: Eatmon Townhomes (Wilson, NC), Affordable Housing Development Fund, ReBuildNC, NCORR

Site(s) Overview

Site Sizes: Range from 1 to 4 developable acres

Site Considerations:

- Topography: slopes, streams, stormwater infrastructure
- Utility connections

Rental Scenario

Up to

Unit/Parking Count

- 35 Units
- 60 Parking Spaces

Est. Max Financial Gap

- \$10 million

Est. Financial Gap per Unit

- \$270,000

Requirements to Proceed

- City site control
- Zoning change (pending total units and site acreage)

Low-density homeownership (non-LIHTC) developments

Site(s) Overview

Site Sizes: Range from 1 to 4 developable acres

Site Considerations:

- Topography: slopes, streams, stormwater infrastructure
- Utility connections

Homeownership Scenario Up to

Unit/Parking Count

- 35 Units
- 60 Parking Spaces

Est. Max Financial Gap

- \$8 million

Est. Financial Gap per Unit

- \$225,000

Requirements to Proceed

- City site control
- Zoning change (pending total units and site acreage)

Several variables impact the feasibility of a homeownership approach:

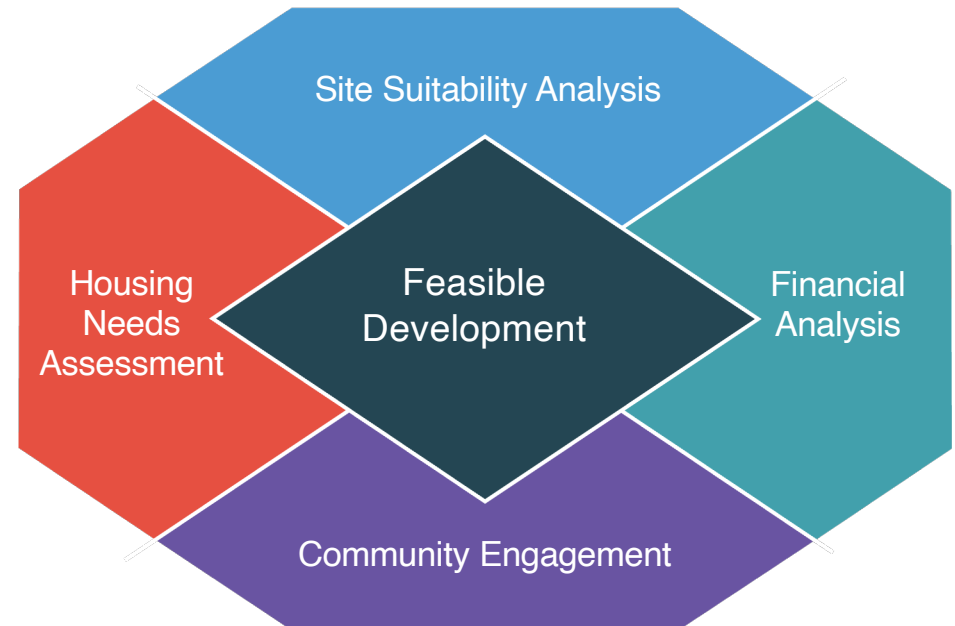
- Development costs savings (including materials, labor, and lower-cost debt options)
- Homeowner mortgage and down payment assistance
- Non-profit partner that specializes in affordable homeownership management

Once a site is selected for Phase 2:

The City of Brevard engaged the Development Finance Initiative (DFI) to support the city in attracting private investment for housing development. The scope of work includes:

Pre-development process:

- Site-specific pre-development analyses
- Solicitation of private development partner(s)
- Supporting the City in negotiating the development agreement with selected partner(s)



Questions





PROCLAMATION NO. 2023-19
FILIPINO AMERICAN HISTORY MONTH
October 2023

WHEREAS, October is designated Filipino American History Month to commemorate the arrival of Filipinos in America on October 18, 1587, landing in Moro Bay, off the coast of California as part of the Manila Galleon trade from Manila to Acapulco that began in 1565.

WHEREAS, *Filipino American History Month* honors the history and experiences of Filipinos in the United States. In October 2009 the US congress recognized October as Filipino American History Month. Various states, counties and cities have established proclamations and resolutions declaring observance of Filipino American History Month including the state of Georgia in 2021.

WHEREAS, Filipino Americans have made significant contributions in the areas of civil rights, education, politics, entertainment, the armed forces and in many other endeavors. The Filipino American community is the second largest Asian American group in the nation.

WHEREAS, the numbers of Filipino Americans have been historically large on the west coast, there are growing communities of Filipino Americans in North Carolina, South Carolina, Virginia, and Georgia. There are growing numbers of Filipinos in Brevard & Hendersonville.

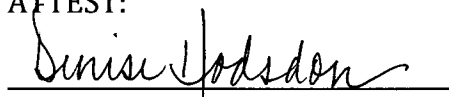
WHEREAS, there is a rich Filipino American history that is being discovered. We encourage people to learn more about this growing community by visiting the website of the Filipino American National Historical Society at www.fanhs-national.org

NOW, THEREFORE, I, Mayor Maureen Copelof and Brevard City Council, do hereby proclaim **October 2023**, as "**FILIPINO AMERICAN HISTORY MONTH**" in the City of Brevard, North Carolina, and call on all citizens to join us in recognizing and commend this observance to all citizens.

Proclaimed this the 16th day of October, 2023.


Maureen Copelof
Mayor

ATTEST:


Denise Hodsdon, CMC
City Clerk



STAFF REPORT

City Council, Monday, October 16, 2023

Title: Proposed Expansion of the Downtown Development Overlay District

Speaker: Aaron Bland, Asst. Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

In February of 2020, City Council enacted the Downtown Development Overlay District (DDOD) via Ordinance 2020-04 (Attachment 1). The DDOD was created to establish a "build to" line for new construction in the main core of downtown Brevard (see Attachment 2), which is codified in Section 2.3.B.10 of the Unified Development Ordinance:

New buildings in the Downtown Development Overlay District shall be subject to a front build-to line, or maximum setback, of 12 feet, as measured from the edge of the right-of-way, with a build-to percentage of 80 percent. The build-to percentage may be reduced to 50 percent if the new building includes a public courtyard or plaza space.

It is also a requirement of the DDOD that for mixed-use residential units located in the overlay, the non-residential use shall be located on the ground floor with the residential unit or units above.

Discussion

Expansion of the DDOD would ensure that a greater area in downtown has buildings built close to the street. The placement and orientation of buildings downtown is critical to a community's character as well as promoting pedestrian activity. Build-to lines can help ensure that new development complements the existing character of the downtown, while allowing some flexibility for siting buildings on lots.

Ensuring buildings in the heart of downtown are built close to the sidewalk helps form a sense of enclosure. "Enclosure" is an urban design concept that refers to the degree to which public spaces like sidewalks are visually defined by vertical elements, such as buildings and trees. Spaces where the height of vertical elements is proportionate to the width of the space between them have a room-like quality and are naturally comfortable places for people. Enclosure is eroded by breaks in the continuity of the surrounding vertical elements. Large or out of proportion building setbacks are a source of continuity-breaking dead space, which erodes the feeling of the sidewalk as a social, public space.

Staff is proposing expanding the DDOD along Broad Street to the north as shown on Attachment 3.

Policy Analysis

The Building Brevard comprehensive land use plan speaks to the design standards of the DDOD and its importance for supporting growth in downtown Brevard. Specifically, LUH-7 states that "areas in the greater City Center area (areas outside the current DDOD) should also have defined maximum allowable setbacks and/or build-to lines."

Fiscal Impact

None.

Recommendation

The Planning Board discussed this at their August meeting and recommended an area significantly larger than Staff's proposal, as shown in Attachment 4. Staff believes that expansion of the district should occur in a more methodical way, targeted to the areas most ripe for redevelopment and that feel like a true part of the downtown core. Therefore, Staff maintains the original recommendation for expansion of the district as shown in Attachment 3.

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. See Attachment 5.

Action

This presentation is for public hearing purposes only; no action is requested at this time.

Attachments:

1. Ord 2020-04
2. Existing DDOD
3. Staff Proposal
4. Planning Board Proposal
5. Consistency Statement

ORDINANCE NO. 2020-04

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
CHAPTERS 2 AND 19 AND THE OFFICIAL ZONING MAP TO
ESTABLISH THE DOWNTOWN DEVELOPMENT OVERLAY DISTRICT**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Unified Development Ordinance, Chapters 2 and 19, be amended to establish the Downtown Development Overlay District; and,

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that the Official Zoning Map of the City of Brevard, be amended to establish the Downtown Development Overlay District; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the City of Brevard Comprehensive Plan, specifically the following sections:

ELEMENT 4: LIVABLE COMMUNITIES

POLICY 4.1.G: Modify development ordinances and regulations to incorporate design standards and guidelines that respect existing community character while allowing greater residential density and intensity of nonresidential development within mixed use zoning areas.

and,

WHEREAS, a public hearing was conducted on Monday, February 17, 2020, 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 Brevard City Code, Unified Development Ordinance, and the Official Zoning Map of the City of Brevard, 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 Chapters 2 and 19 are hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

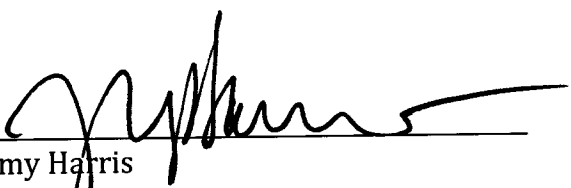
SECTION 02. The Official Zoning Map of the City of Brevard is hereby amended to establish the Downtown Development Overlay District as depicted in Exhibit B, which is attached hereto and incorporated herein by reference.

SECTION 03. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

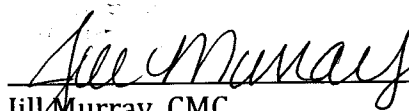
SECTION 04. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 05. 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 17th day of February, 2020.


Jimmy Harris
Mayor

ATTEST:



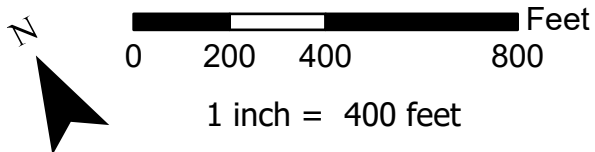
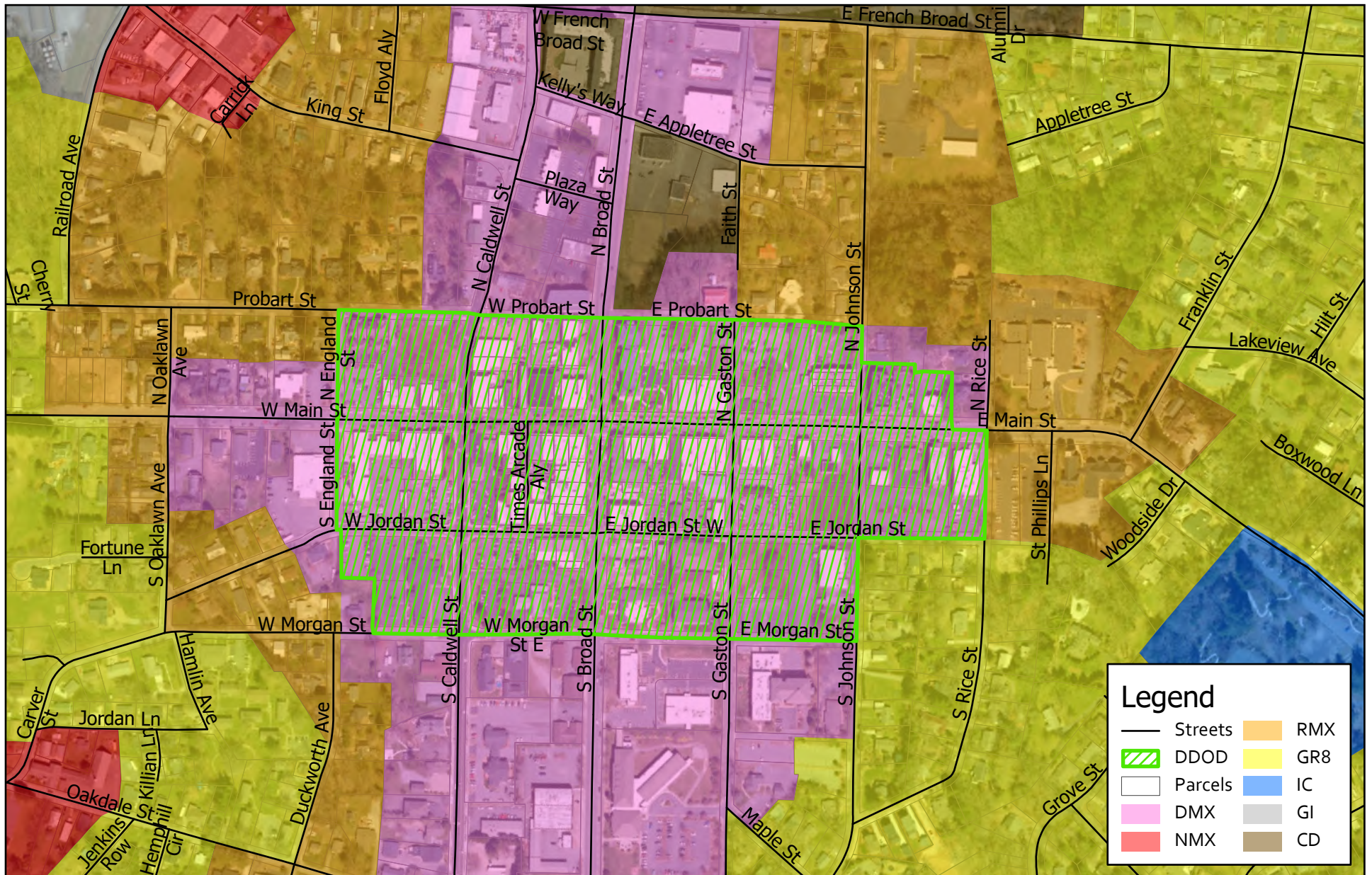
Jillo Murray, CMC
City Clerk

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney

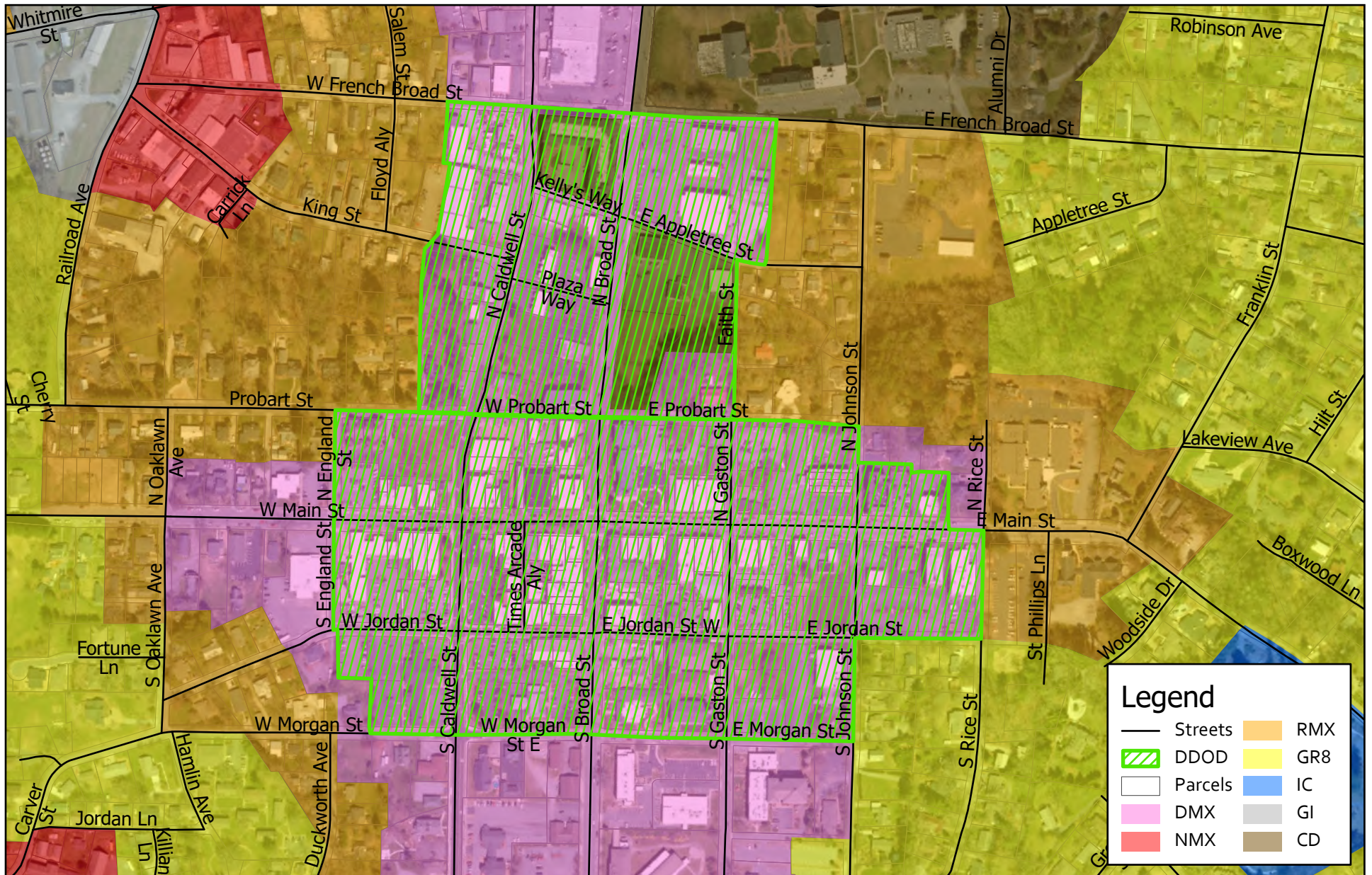
REZ-23-004 - Existing Downtown Development Overlay District



This map was prepared by the City of Brevard Planning Department.

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.

REZ-23-004 - Downtown Development Overlay District - Staff Proposal



Legend

—	Streets	RMX
	DDOD	GR8
	Parcels	IC
	DMX	GI
	NMX	CD

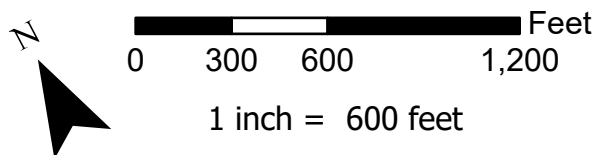
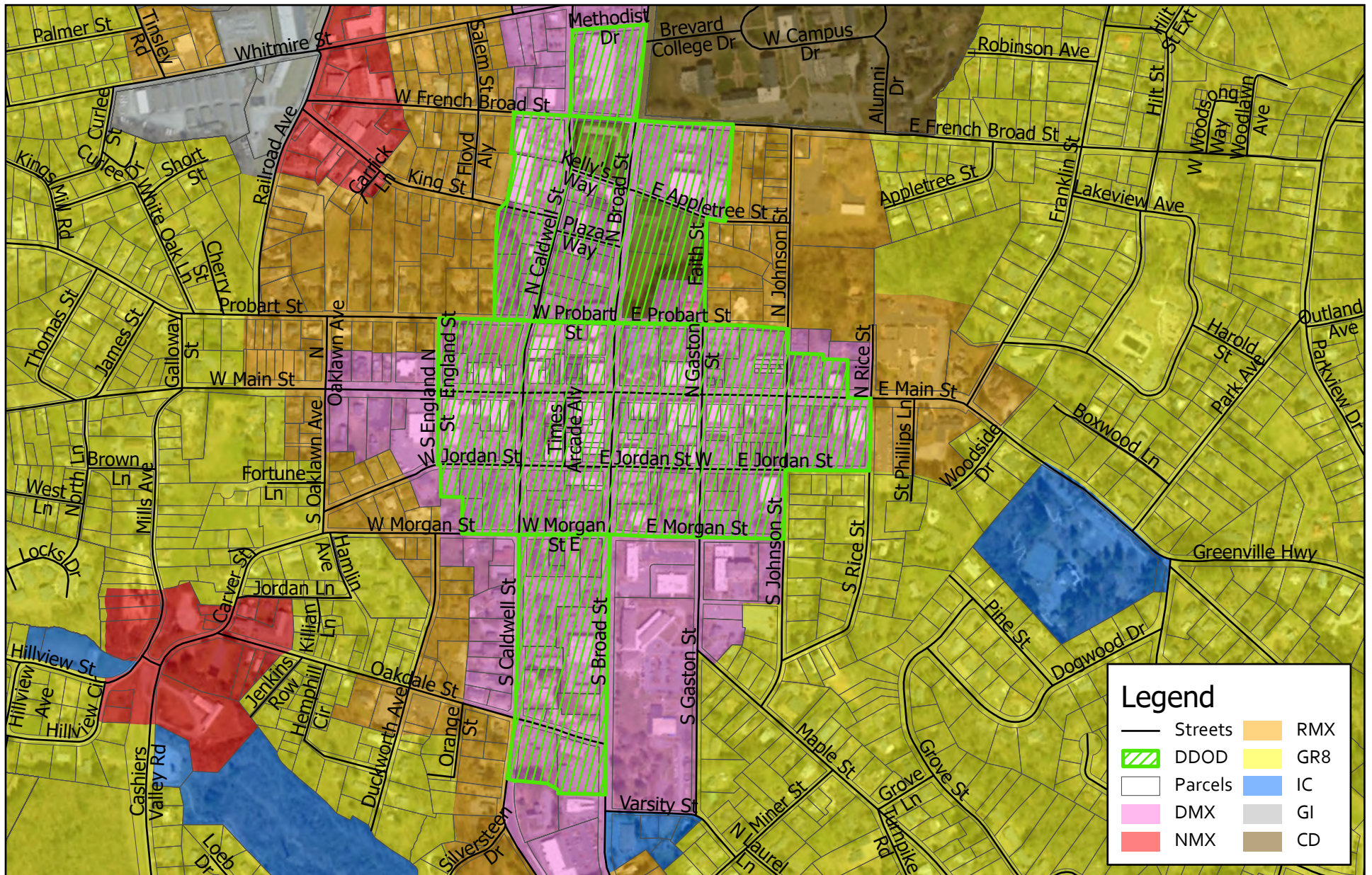


0 200 400 800 Feet
1 inch = 400 feet

This map was prepared by the City of Brevard Planning Department.

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.

REZ-23-004 - Downtown Development Overlay District - Planning Board Proposal



This map was prepared by the City of Brevard Planning Department.

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**STATEMENT OF CONSISTENCY AND REASONABLENESS WITH
ADOPTED PLANS AND POLICIES OF THE CITY OF BREVARD
REZ-23-004**

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

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

Comprehensive Land Use Plan

Recommendation Land Use & Housing – 7: Consider the development of a form-based code for Downtown that supports a human-scaled, pedestrian-friendly environment.

NCGS 160D-605 requires the Governing Board to approve a statement analyzing the reasonableness of a proposed rezoning. The statement of reasonableness and the statement of consistency may be approved as a single statement.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is in the public interest and **reasonable** due to the following factors:

- The expansion of the Downtown Development Overlay District will help to ensure that as downtown is redeveloped and expands the design of the built environment will maintain a pedestrian-oriented character.
- The Plan is consistent with the above element of the Comprehensive Land Use Plan.

STAFF REPORT

City Council, Monday, October 16, 2023

Title: Proposed Amendments to UDO Chapters 2, 3, 5, 8, 9, 10, and 19 - Parking Standards

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, Senior Planner

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

Background & Discussion

Parking regulations in development ordinances are meant to ensure the provision of off-street parking is proportionate to the land use by establishing minimum and/or maximum amounts of parking. These regulations can also be used to incentivize and encourage development that prioritizes multimodal transit options and other adopted goals from the City's comprehensive plan.

This is a staff-initiated text amendment that consolidates and refines parking standards. Staff launched this project with the following priorities:

- Right-size parking requirements by land use and development context
- Incorporate safe and efficient parking area design
- Incentivize and encourage development that prioritizes multimodal transit options and other best practices in urban design
- Add parking lot maintenance requirement
- Manage the potential negative impacts of both too little and too much parking

Staff worked with Planning Board over the past few months to develop the text amendment:

- At the Planning Board meeting on May 23, 2023, Staff led the Board in a discussion on the opportunities and constraints related to the parking requirements for developments in Brevard. The SWOT analysis from this discussion is included as Attachment 4. At this meeting, Board members concurred with Staff's assessment that parking standards should be context-dependent and the requirements should vary by zoning district. More specifically, Staff shared the City of Charlotte's tiered parking model as an example of this.
- At the Planning Board meeting on June 27, 2023, Staff prepared a revised Section 10.3 [Off-Street Vehicle Parking Requirements] for the Board's review and input. This was intended as the next step in developing a fully revised parking chapter.

- At the Planning Board meeting on August 22, 2023, Staff presented the fully revised parking regulations. Ultimately, Planning Board unanimously recommended approval of the proposed amendments.

Proposed Amendments

The major changes are listed below along with Staff's reasoning for proposing the change.

1. Consolidation of Parking Standards and Reorganization of Parking Chapter

Parking standards are generally concentrated in Chapter 10 – Parking Standards, but other elements are dispersed throughout the Unified Development Ordinance. This text amendment consolidates the standards and adds clear references to the applicable sections.

For example, the parking area screening (Section 8.6) and parking area landscaping (Section 8.7) standards are included in Chapter 8 [Tree Protection and Landscaping]. Reference to these sections is added to Section 10.7 [Parking Area Design and Construction Standards] to ensure the public knows to review those requirements.

Another example is that bicycle parking was included in Section 5.16 [Standards for Large Structures] in addition to Chapter 10. These are now consolidated into Section 10.5 [Bicycle Parking Requirements]

2. Tiered Parking Model for Minimum and Maximum Number of Spaces (Section 10.3)

The single greatest change in the proposed amendments is the implementation of a tiered parking model that varies the parking requirements by land use and zoning district. In regards to land use, the current ordinance requires parking minimums for various land uses and exempts the Downtown Mixed-Use Zoning District and King Street / Lumberyard area from non-residential parking minimums. Exempting districts is a common practice in many other cities considering parking reform, such as Asheville, Black Mountain, Greensboro, Hickory, and Hendersonville. The proposed tiered parking model takes this idea one step further by implementing a middle-ground scenario where parking minimum and maximums are both applied. The three tiers, their descriptions, and the proposed zoning districts are outlined below:

Tier	Description	Parking Requirements	Proposed Zoning Districts
Tier 1	•Less walkable districts •Concentrated land uses •No available public parking / on-street parking	Parking minimums, but no parking maximums	General Residential (GR) General Industrial (GI)
Tier 2	•Mix of lower-density residential and commercial uses •Some off-street parking needed	Both parking minimums and maximums	Residential Mixed-Use (RMX) Neighborhood Mixed-Use

	to preserve public rights-of-way •More amendable to alternative modes of transportation		(NMX) Institutional Campus (IC)
Tier 3	•Dense, heavily commercial development •Available public parking / on-street parking •Developers/owners are more likely to over-park (e.g., grocery stores, shopping centers)	Parking maximums, but no parking minimums	Downtown Mixed-Use (DMX) Corridor Mixed-Use (CMX)

To develop the parking minimums and maximums, Staff reviewed other municipalities and assessed the parking capacity / needs of current developments. Additionally, staff structured the new matrix to align with the new categories and land uses implemented as part of the comprehensive use matrix amendments adopted by City Council in December 2022. Specific notes on these ratios can be found in the strikethrough version.

3. Exceptions to the Tiered Parking Matrix (Section 10.3)

The proposed text amendment provides a number of exceptions to the minimum and maximum off-street parking requirement. Many of these are included in the current ordinance, but others are added. These exceptions allow developers to either reduce their minimum parking requirement or increase their maximum parking allotment in exchange for:

- investing in alternative modes of transportation (e.g., bicycle racks and electric vehicle parking spaces),
- utilizing existing parking in the area (e.g., shared parking agreements and public parking credits),
- better utilizing land (e.g., underground or above-grade parking and higher level of stormwater management), and
- accounting for site constraints (e.g., tree preservation and upgrading preexisting non-conforming parking facilities).

4. Other Required Off-Street Parking Spaces (Sections 10.4, 10.5 and 10.6)

The proposed text amendment revises and expands other types of off-street parking requirements:

- *Loading spaces:* Loading spaces are currently required in the UDO, but the standards are not feasible as written. For example, it requires that each retail business (regardless if it is in a mixed-use building with multiple businesses) have at least one space and the space dimensions are large (12' by 40'). Staff built out this section to allow for more shared loading spaces that are placed in locations that do not impede the flow of traffic or impact the appearance of the street.

- *Bicycle racks*: Bicycle racks are required in the UDO, but there are very few standards. Staff developed standards for the type and placement of bike racks using guidance from the Association of Pedestrian and Bicycle Professionals (APBP) and the League of American Bicyclists Bicycle-Friendly Communities program.
- *Electric vehicle parking spaces*: EV parking spaces are not currently in Chapter 10. The proposed text amendment includes a requirement of two electric vehicle parking spaces for every 50 required vehicle parking space.

5. Parking Area Design and Construction Standards (Section 10.7)

The design and construction standards are consolidated into a new Section 10.7. This section includes numerous changes to improve the efficiency of parking areas and implement best practices in urban design, including:

- Allowing alternative hard surfaces, including porous or semi-porous monolithic or paver materials,
- Requiring the use of porous paving materials in certain circumstances,
- Providing dimensions for angled parking and one-way drive aisles, and
- Requiring barriers (wheel blocks, bollards, etc.) along the perimeter of parking lots and along pedestrian connections.

Notes for Board Review

The proposed amendments can be found in Attachment 1 (strikethrough version with comments) and Attachment 2 (clean version). Please note that in the strikethrough version blue text indicates new text and ~~red text~~ indicates removed language. Black underlined text means that the text is currently in our code.

Policy Analysis

The *Building Brevard 2030* Comprehensive Land Use Plan explicitly calls out parking requirement amendments as a critical action to better link land use with transportation:

- ***ATCH – 9: Right-size parking requirements and develop incentives for multimodal access and alternative approaches to meeting parking demand.***

Parking is a complex issue that affects virtually every aspect of a city's function, including land use, transportation, economic development, community health and wellness, and public safety. As such, this action step supports many of the Plan's overarching goals and objectives:

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

- **GOAL 4:** *Create a built environment that prioritizes a **safe, active, multi-modal transportation system** and community health and wellness.*
- **GOAL 7:** *Support economic vitality and **grow the tax base**, cultivate local businesses, and attract sustainable industry.*
- **GOAL 8:** *Plan **for efficient, equitable, and resilient infrastructure** and services that maintain and improve quality of life throughout the city.*

Action

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

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

In accordance with North Carolina General Statutes, the Planning Board also submits a statement analyzing the consistency and reasonableness of this proposal with regards to existing policies or plans of the City of Brevard (Attachment 3).

Attachments:

1. Proposed Text Amendment - Strikethrough Version with Comments
2. Proposed Text Amendment - Clean Version
3. Parking SWOT Analysis
4. Consistency Statement



CHAPTER 2. DISTRICT PROVISIONS

2.2. Use categories and tables of permitted uses.

TABLE 2.2A: LAND USE MATRIX - EXCERPT									
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
			GR	RMX	NMX	DMX	CMX	IC	GI
Infrastructure									
Utilities	3.12.A	Utilities—Class 1	P	P	P	P	P	P	P
		Utilities—Class 2	P	P	P	P	P	P	P
		Utilities—Class 3	—	—	—	—	—	—	P
Telecommunications	3.12.B	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Transportation	3.12.C	Parking Lot	PS SUP	PS	PS	PS	PS	PS	PS
		Passenger Vehicle Terminals	—	—	P	P	P	—	P

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



CHAPTER 3. USE DEFINITIONS AND STANDARDS

3.5. Residential uses. [EXCERPT]

A. Household Living Use Category

8. Manufactured home park:

- a. Definition: The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.
- b. Additional Standards:
 - i. Manufactured home parks are permitted with standards in the Manufactured Home Overlay District.
 - ii. Preexisting manufactured home parks.
 - (A) Any manufactured home park, as defined by this chapter, existing on the effective date of this chapter or any subsequent amendment thereto may continue to operate without being subject to the requirements of this chapter except where explicitly set forth below.
 - (B) Expansions to a pre-existing manufactured home park shall occur in a manner that fully conforms to the requirements of this ordinance. Expansions shall not occur in districts within which manufactured home parks are not permitted.
 - iii. A manufactured home park space shall be considered preexisting if, on the effective date of this chapter, the space:
 - (A) Is defined on the ground by the presence of all of the following:
 - (1) A water supply system service connection;
 - (2) A connection to a septic system or sanitary sewer; and
 - (3) Electric service equipment.
 - (B) Or, contains an occupied manufactured home connected to each of the preceding utilities.
 - iv. Permitting.
 - (A) Each application for a manufactured home park shall be accompanied by development plans as required by [CHAPTER 17](#), including contoured site plans (five-foot intervals) using true elevations. Development plans shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements. Development plans shall also show that all improvements would meet the following standards.
 - (B) Prior to the placement, replacement, modification, or setup of a manufactured home within any manufactured home park or on an individual lot of record within the regulatory jurisdiction of the City of Brevard, the manufactured home or agent thereof shall procure a land development permit from the City of Brevard and a manufactured home setup permit from the Transylvania County Building Inspections Department.
 - v. Dimensional specifications.



Unified Development Ordinance Amendments

(A) *Lot standards:*

TABLE 3.5A: MANUFACTURED HOME PARK LOT STANDARDS	
Minimum Development Size	3 acres
Maximum Development Size	40 acres
Maximum Development Density	6 units/acre
Lot Width at Right-of-Way	50 ft.
Minimum Lot Depth	150 ft.

(B) *Principal structure standards:*

TABLE 3.5B: MANUFACTURED HOME PARK PRINCIPAL STRUCTURE STANDARDS	
Development setback on all boundaries	50 ft.
Unit setback from internal street centerline	25 ft.
Distance between homes-short side to short side	20 ft.
Distance between homes-long side to short side	20 ft.
Distance between homes-long side to long side	30 ft.
Setback from public right-of-way	50 ft.
Maximum Height	35 ft.

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

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



Unified Development Ordinance Amendments

- (E) At least ten percent of the total area of any manufactured home park containing 35 or more spaces and situated one-quarter of a mile or more from a public recreational facility shall be set aside for recreational purposes, except that open space as required in Chapters 6 and 7 of this ordinance may be applied to no more than 75 percent of such recreation space.
- vii. Manufactured home park streets.
- (A) Convenient access to each manufactured home space shall be provided by streets or drives that are properly graded, drained, and paved with a durable dustless surface, for automobile circulation.
- (B) Manufactured home parks containing ten or more units shall be serviced by a central drive that is constructed in accordance with the requirements for a new neighborhood street as set forth in [CHAPTER 13](#). Streets entering branching from the central drive shall also be built according to neighborhood street dimensions. However, a sidewalk and curb/gutter shall not be required.
- (C) Any tract of land to be developed as a manufactured home park must either have frontage on a public (state or city-maintained) road or have a private right-of-way corridor to the property. The minimum required length of the public road frontage or width of the private right-of-way corridor (at its narrowest point) shall be 50 feet.
- (D) Off-site access shall have a minimum 20-foot cleared, unobstructed corridor, with a vertical clearance of at least 14 feet to allow passage of emergency vehicles.
- (E) The grade of any road, existing or proposed, within an off-site private right-of-way corridor used to access a manufactured home park shall not exceed 15 percent.
- (F) Publicly dedicated rights of way shall not be required, and maintenance of such streets shall be provided for by the owner and/or operator of the manufactured home park.
- (G) Culs-de-sac shall not exceed 250 feet in length and shall be provided with a turnaround of at least 60 feet in diameter. Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Department of Transportation shall apply.
- (H) Proposed streets shall be named, and addresses for manufactured home spaces along such streets assigned, by the Transylvania County Property Addressing Coordinator in accordance with the provisions set forth in the City of Brevard Property Addressing Ordinance or the Transylvania County Property Addressing Ordinance, as applicable.
- ~~(I) A minimum of two automobile parking spaces (paved with a durable, dustless surface) shall be provided adjacent to each manufactured home space, but shall not be located within any public right of way or within any street in the park.~~
- ~~(J)~~ (I) All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed on each manufactured home space.
- viii. Manufactured home space.
- (A) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners.
- (B) Each manufactured home space shall be located on ground not susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises.



Unified Development Ordinance Amendments

- (C) The manufactured home space shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men" eyelets embedded in concrete foundations or runways, screen augers, arrowhead anchors, or other devices securing the stability of the manufactured home. Each manufactured home unit shall comply with the above standards or similar standards whichever are higher. Each manufactured home owner shall be responsible for securing his individual manufactured home to anchors provided by the manufactured home park operator.
- ix. Utility requirements.
 - (A) An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. All manufactured home parks within 300 feet of city water or sewer shall connect thereto. When a municipal or public water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the Transylvania County Health Department. Evidence of the issuance of necessary county or state permits shall be a condition of approval of any permit for a manufactured home park.
 - (B) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Where a public sewage collection system is available, connection shall be made thereto, and the system and sewage treatment plants complying with the requirements of the North Carolina Department of Environmental Quality shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the North Carolina Department of Environmental Quality. Individual septic tank systems can be considered, if soil, topography, and groundwater conditions are favorable. If septic tanks are used, they will be subject to approval by the Transylvania County Health Department.
 - (C) All utilities within the proposed manufactured home park shall be located underground.
 - (D) Failure to maintain an operational sewage disposal system shall constitute grounds for the revocation of a category III land development permit and the application of all applicable penalties as set forth in this ordinance.
- x. Solid waste.
 - (A) The storage, collection, and disposal of solid waste in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or pollution.
 - (B) All solid waste containing garbage shall be stored in standard fly-tight, watertight, rodent-proof containers, with a capacity of not more than 32 gallons, which shall be located not more than 150 feet from any manufactured home space. Containers shall be provided in sufficient number and capacity to properly store all solid waste containing garbage. The manufactured home park owner and/or operator shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the Transylvania County Health Department.
 - (C) Containers shall be installed in the ground or provided with stands. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
 - (D) All solid waste garbage shall be collected at least once weekly. Where suitable collection service is not available from municipal or private agencies, the manufactured home park



Unified Development Ordinance Amendments

owner and/or operator shall dispose of the solid waste by collecting and transporting it in conformance with requirements and guidelines set forth by the North Carolina State Board of Health and the Transylvania County Health Department.

- xi. Grounds, buildings, and structures.
 - (A) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination and control methods shall conform to the requirements of the County Health Department and/or North Carolina Department of Agriculture.
 - (B) Parks shall be maintained free of accumulation of garbage, litter, or other debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests, or which may pose other health or sanitation hazards, or which may contribute to an otherwise unsightly or unpleasant environment.
 - (C) Storage areas shall be so maintained as to prevent rodent harborage and shall not pose a safety hazard to manufactured home park residents or guests. Lumber, pipe, and other building material shall be stored at least one foot above ground.
 - (D) All manufactured homes shall be properly skirted with non-opaque wood, aluminum, vinyl, or other appropriate material. Plastic, plywood, particle board, carpet, or other atypical skirting material shall not be used.
 - (E) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be screened with wire mesh or other suitable materials.
 - (F) Landscaping and vegetation in and around the manufactured home park shall at all times be maintained, and landscaping provisions of the park plan shall at all times be adhered to. The growth of bushes, weeds, and grass shall be controlled so as to prevent the harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open spaces and recreation areas shall be maintained free of heavy undergrowth of any description.
 - (G) No inoperable vehicle shall remain in a manufactured home park for a period longer than 60 days unless the vehicle is stored under a carport or within a garage.
 - (H) Manufactured and mobile homes shall not be abandoned or stored within the regulatory jurisdiction of the City of Brevard. Manufactured homes that have been disconnected from active electricity, water, and sewage for a period exceeding 90 days shall be removed and properly disposed of. Manufactured homes located outside of a manufactured home space for a period to exceed 45 days shall be removed and properly disposed of.
 - (I) Manufactured homes shall not be utilized for storage or other non-residential uses of any type.
- xii. Registration of occupant.
 - (A) Every manufactured home park owner or operator shall maintain an accurate register. The register shall be available for inspection at all times by authorized city representatives. The register shall contain the following information on forms provided by the planning department: (1) Name of owner and/or occupant; (2) manufactured home space number; (3) make, model, registration number of manufactured home; and



Unified Development Ordinance Amendments

- (4) date of arrival and departure of the occupants. Records shall be maintained for a period of three years.
- xiii. Inspection and enforcement.
- (A) The park owner and/or operator shall notify park occupants of all applicable provisions of the ordinance and inform them of their duties and responsibilities under this ordinance.
 - (B) The owner and/or operator shall operate the park in compliance with this ordinance, Brevard City Code, Transylvania County Code (as applicable), and state and federal law, and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
 - (C) The City of Brevard Planning Department, the Transylvania County Health Department and the Transylvania County Building and Inspections Department are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance. It shall be the duty of the owners and/or operators or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for the purpose of inspection.
 - (D) So long as a violation exists the administrator shall not issue permits that would authorize the placement, replacement, setup, or modification of a new or existing manufactured home within the subject park.

3.6. Lodging uses. [EXCERPT]

A. *Overnight Accommodations Use Category*

3. *Short-term rental (STR)*

- a. Purpose: The regulation of short-term rentals, as defined below, is intended to maintain the predominantly residential character of traditional neighborhoods in the City of Brevard and the extra-territorial jurisdiction thereof, and to encourage an increase in housing stock available within the City and its ETJ.
- b. Definition: A private residential property that is rented, either in whole, or part, for periods of less than 30 days for compensation. The following activities shall not be considered as a Short-Term Rental use for the purposes of this ordinance:
 - i. Dwelling units rented, in whole or in part, where a permanent resident lives on-site on the property. This shall include attached or detached accessory dwelling units where the operator lives elsewhere on the property.
 - ii. Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total number of nights rented does not exceed 14.
 - iii. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or bed and breakfast establishment.
- c. Existing STRs in GR Districts:
 - i. Existing STRs in General Residential zoning districts in operation of the effective date of this ordinance shall be allowed to continue operations, in accordance with Section 14.2 – Nonconforming Uses.
- d. Additional Standards:



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- i. A typical zoning permit shall be required solely to verify notification and agreement to comply with the additional standards contained herein.
- ii. Overnight occupancy shall not exceed two persons per bedroom plus two additional persons. The number of "bedrooms" used in calculating occupancy limits shall be taken from the property tax records. For example: a two-bedroom rental would have an occupancy limit of 6 (2 x 2 bedrooms = 4 + 2 additional = 6 total).
- iii. Dwelling units used as short-term rentals in GR zoning districts shall maintain their residential character and outside appearance. No signs shall be permitted. All exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
- ~~iv. Parking requirements shall be provided for the type of dwelling unit, per CHAPTER 10 of this ordinance.~~

B. Camping Use Category

1. Camping

- a. Definition: Commercial recreational facilities developed for temporary occupancy, with or without facilities, for the exclusive use of its occupants. Camping includes the following uses:
 - i. Campground / Recreational Vehicle Park;
 - ii. Rental Cottages / Cabins; and
 - iii. Seasonal Camps

2. Campground/Recreational Vehicle Park

- a. Definition: Establishments accommodating campers and their equipment, including tents, tent trailers, travel trailers, and recreational vehicles. Facilities and services may include washrooms and food services. The property shall be used for recreational purposes and retain an open air or natural character. This definition shall not include manufactured homes, manufactured home parks, or the storage of recreational equipment or vehicles.
- b. Additional Standards:
 - i. Individual campsites or recreational vehicle ~~parking~~ sites shall be set back a minimum of 100 feet from all lot lines.
 - ii. Recreational vehicles are permitted on campgrounds provided they are on site for fewer than 30 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions).

3. Rental Cottages / Cabins

- a. Definition: A commercial lodging establishment in which multiple individual cabins or similar structures are rented for temporary lodging and recreation. This definition shall not include short-term rentals.
- b. Additional Standards:
 - i. Cottages / cabins shall be situated at least 20 feet from any side or rear property line, and screened from adjacent properties along all side and rear property lines by a Type B buffer yard. Front yard setbacks for accessory cottages shall be the same as a principal structure.
 - ii. Residential density calculations shall not be used in determining the maximum allowable number of cottages/cabins.



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- iii. Development regulations and standards, including stormwater runoff provisions, should be applied for the entire property or project, whichever is applicable, regardless of phasing.
- ~~iv. Parking requirements shall be provided per room or suite, per CHAPTER 10 of this ordinance.~~

3.7. Commercial uses. [EXCERPT]

B. Personal Services Use Category

2. Day care center:

- a. Definition: An individual, agency, or organization providing supervision or care on a regular basis for children or adults who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults. Day care centers are not an accessory to residential use.
- b. Additional Standards:
 - i. Child day care centers shall comply with the definitions and standards for child day care centers set forth in N.C.G.S. §110 (or any successors thereto).
 - ii. Adult day cares shall comply with the definitions and standards for adult day care programs as set forth in N.C.G.S. §131-D (or any successors thereto).
 - iii. Client drop-off and pick-up areas shall be located on the site so as not to obstruct traffic flow on adjacent public streets.
 - ~~iv. Parking spaces shall not be located in front of the building except as permitted by Section 10.5.G of this ordinance.~~
 - ~~v.iv.~~ All day care establishments shall at all times be properly licensed by the State of North Carolina and all other appropriate governmental entities.
 - ~~vi.v.~~ All equipment shall be stored in the side or rear yard.
 - ~~vii.vi.~~ Outdoor play space must be provided in accordance with the regulations of North Carolina Department of Health and Human Services Division of Child Development and Early Education.
 - ~~viii.vii.~~ No outdoor play shall be permitted after sundown.

3.8. Civic / institutional uses. [EXCERPT]

D. Places of Worship Use Category

2. Cemetery:

- a. Definition: A parcel of land used for interment of the dead in the ground or in mausoleums.
- b. Additional Standards:
 - i. There shall be no embalming or cremation facilities as either a principal or accessory use except where permitted by right.
 - ii. Setbacks from all street rights-of-way and adjacent properties to a wall or grave shall be a minimum of ten feet.
 - iii. Cemetery roads and parking areas shall be ~~made of asphalt or other durable dustless surfaces~~ constructed of hard surfaces, in accordance with Chapter 10 of this ordinance. The administrator may waive curb and gutter requirements for cemetery roads upon a determination that such will not result in erosion or uncontrolled stormwater runoff. Other



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road and parking standards, stormwater management, and sedimentation/erosion standards shall apply.

- iv. Sidewalk requirements within cemeteries may be waived provided that safe pedestrian circulation can be assured. Sidewalk requirements shall apply along all public rights-of-way. Sidewalks shall connect any structure or gathering place within a cemetery to adjacent public and private sidewalks and to parking areas.
- v. Mausoleums are permitted subject to the principal structure requirements of the district in which the cemetery is located.

3.11. Manufacturing / wholesale / storage uses. [EXCERPT]

C. Storage and Disposal Use Category

3. Solid waste disposal facility:

- a. **Definition:** Any facility meeting the definition of G.S. 130A-290(a)(35), as well as any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.
- b. **Additional Standards:**
 - i. Such facilities shall be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash (i.e., leaves, brush, etc.) only. All other types of materials are prohibited.
 - ii. No parking area or driveway shall be located within 50 feet of residentially zoned property.
 - iii. Access roads shall be paved, with a width of at least 12 feet per travel lane, and properly maintained at all times.
 - ~~iv. All unpaved roads, travel ways and/or parking areas must be treated to prevent dust from adversely affecting adjacent properties.~~
 - ~~iv.~~ v. Mud and debris shall be contained on site and shall not be deposited on off-site properties and streets. Tires shall be properly cleaned and loads shall be properly secured before leaving the property so as to prevent the discharge of mud and debris.
 - ~~vi.~~ v. Debris reduction methods such as chipping and mulching shall be utilized to reduce the amount of debris permanently withheld on-site. Application materials shall include a written description of proposed debris reduction methods.
 - ~~vii.~~ vi. Permanent control measures are required to retain all non-compacted soils on-site. An NCDEQ-approved sedimentation and erosion control permit, as well as other applicable permits, shall be presented to the administrator prior to permit approval.
 - ~~viii.~~ vii. Facilities shall not be located within the 100-year floodplain or the regulatory floodway.
 - ~~ix.~~ viii. Adequate suitable soils shall be available for cover, either from on or off site.
 - ~~x.~~ ix. Land clearing and inert debris landfills shall meet the following surface and ground water requirements:
 - (A) Facilities shall not cause a discharge of pollutants into waters of the state in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), Section 402 of the Clean Water Act, as amended;

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- (B) Facilities shall not cause a discharge of dredged materials or fill material into waters of the state in violation of the requirements of Section 404 of the Clean Water Act, as amended;
- (C) Facilities shall not cause non-point source pollution of waters of the state that violates assigned water quality standards; and
- (D) Waste shall be placed above the seasonal high water table.
- ~~xix.~~ x. The facility shall meet the following minimum site requirements:
 - (A) There shall be a buffer of 50 feet from the waste boundary to all surface waters.
 - (B) There shall be a buffer of 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.
 - (C) No structure shall be constructed within 50 feet of a debris deposit following the closure of a land clearing and inert debris landfill.
 - (D) A facility shall be bounded on all sides by a type C buffer yard.
 - (E) The minimum lot size for facilities shall be five acres and the total disposal area must be less than two acres in size.
 - (F) A facility shall be totally enclosed by a security fence or wall at least eight feet in height. All entrances and exits shall be secured and locked during non-operating hours.
- ~~xix.~~ xii. Operating hours are limited to from 7:00 a.m. to 7:00 p.m. (except where requested by the Transylvania County Emergency Management Coordinator or the City of Brevard Public Works Director in response to a period of inclement weather).
- ~~xix.~~ xiii. Applicants shall submit operational plans as part of the application process. Approved operational plans shall be followed as specified for the facility.
- ~~xix.~~ xiii. The facility shall only accept such land clearing and inert debris as is specified in the permit for the facility.
- ~~xix.~~ xiv. Adequate soil cover shall be applied monthly, or when the active area reaches one acre in size, whichever occurs first.
- ~~xix.~~ xv. One hundred twenty calendar days after completion of any phase of disposal operations, or upon revocation of a permit, the disposal area shall be covered with a minimum of one foot of suitable soil cover sloped to allow surface water runoff in a controlled manner. The administrator may require further action in order to correct any condition which is or may become injurious to the public health, or a nuisance to the community.
- ~~xix.~~ xvi. Adequate erosion control measures, structures, or devices shall be utilized to prevent silt from leaving the site and to prevent excessive on site erosion.
- ~~xix.~~ xvii. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 120 calendar days upon completion of any phase of landfill development.
- ~~xix.~~ xviii. The facility shall be adequately secured by means of gates, chains, berms, fences, etc. to prevent unauthorized access during non-operating hours. An attendant shall be on duty at all times while the landfill is open for public use to assure compliance with operational requirements and to prevent acceptance of unauthorized wastes.
- ~~xix.~~ xix. Surface water shall be diverted from the working face and shall not be impounded over waste.
- ~~xix.~~ xx. Solid waste shall not be disposed of in water.



Unified Development Ordinance Amendments

- ~~xxii~~-~~xxi~~. Open burning of solid waste is prohibited.
- ~~xxiii~~-~~xxii~~. A sign shall be posted at the facility entrance showing the contact name and telephone number in case of an emergency along with the permit number of the facility. The permit number requirement is not applicable for facilities not requiring an individual permit.
- ~~xxiv~~-~~xxiii~~. Permits for land clearing and inert debris storage or disposal facilities shall expire after a period of five years, and permitted operations shall accept no more materials until a permit has been re-issued.
- ~~xxv~~-~~xxiv~~. In addition to all other application materials required by CHAPTER 16 of this ordinance, the owner of a facility shall submit a certified survey depicting the property on which the landfill is to be located. Upon approval by the administrator, the owner shall file such survey with the Transylvania County Registrar of Deeds' Office.
- ~~xxvi~~-~~xxv~~. When the land on which the land clearing and inert debris landfill is sold, leased, conveyed, or transferred in any manner, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a land clearing and inert debris landfill and a reference by book and page to the recordation of the notification.

4. *Junk Yard / Salvage yard:*

- a. Definition: Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, including but not limited to vehicles, appliances and related machinery. The presence of any of the following shall constitute a junkyard and salvage operation and yard:
- four or more abandoned, wrecked, scrapped, ruined, or dismantled motor vehicles - or the motors, bodies, chassis, or frames thereof;
 - two or more abandoned, wrecked, scrapped, ruined, or dismantled recreational vehicles, mobile homes, or manufactured homes - or any portion of the body, frame, or shell thereof; or
 - four or more abandoned, wrecked, scrapped, ruined, or dismantled units of furniture, appliances mechanical equipment - or the dismantled components thereof.
- b. Additional Standards:
- Stored materials will not pose a danger to adjacent and surrounding properties, or residents, due to noise, runoff, animal or insect populations or other factors. Fluids within any vehicles or equipment are to be drained/removed and under no circumstances shall fluids or other contaminants or pollutants be leaked or discharged onto the earth or into surface or ground waters.
 - The facility shall be completely enclosed by a fence and shall be screened from view on all sides by a type D buffer yard. The fence shall be eight feet high, measured from the lowest point of grade, and shall be maintained in good condition.
 - No stored materials shall be visible from ground level immediately outside the fence.
 - The facility, including the required fence, shall be located at least 50 feet from all surface waters.
 - The minimum lot size for any such facility is two acres.
 - Facilities may not operate at any time other than between the hours of 7:00 a.m. and 6:00 p.m., Monday thru Saturday.



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- vii. Except when an operator is on duty, facilities shall be adequately secured and locked by means of gates, chains, berms, fences, etc., to prevent unauthorized access. An attendant shall be on duty at all times while the facility is open for public use to assure compliance with operational requirements and to prevent acceptance of unauthorized materials.
- viii. The site shall not be located adjacent to residentially zoned property.
- ix. No parking area or driveway shall be located within 50 feet of residentially zoned property.
- x. Access roads shall be paved, with a width of at least 12 feet per travel lane, and shall be properly maintained at all times.
- ~~xi.~~ ~~All unpaved roads, travel ways and/or parking areas must be treated to prevent dust from adversely affecting adjacent properties.~~
- ~~xii.~~ xi. Mud and debris shall be contained on site and shall not be deposited on off site properties and streets. Tires shall be properly cleaned and loads shall be properly secured before leaving the property so as to prevent the discharge of mud and debris.
- ~~xiii.~~ xii. Gasoline, oils, antifreeze, and other chemicals, pollutants, and potential contaminants shall be secured on-site and properly disposed of, and shall at no time be leaked, spilled, or discharged onto the earth or into surface or surface or ground water.
- ~~xiv.~~ xiii. A sign shall be posted at the facility entrance showing the permit number and a contact name and number in case of an emergency. The permit number requirement is not applicable for facilities not requiring an individual permit.
- ~~xv.~~ xiv. Violations:
 - (A) The following actions shall constitute a violation of this ordinance, shall constitute a class I misdemeanor, and shall be subject to the enforcement provisions of **CHAPTER 18** of this ordinance.
 - (1) Failure to comply with sections outlined herein;
 - (2) The unpermitted establishment of a new junkyard or salvage yard at any time;
 - (3) Any unpermitted expansion in the area of any junkyard or salvage yard at any time;
 - (4) Any violation of any requirement of these standards by any permitted junkyard or salvage yard at any time;
 - (B) In addition to the enforcement procedures of **CHAPTER 18**, such violations shall invalidate any special use permit for the operation of a junkyard or salvage yard, and shall invalidate any pre-existing non-conforming status as established herein.
 - (C) The board of adjustment shall revoke any special use permit, in accordance with G.S. 160D-403(f), and shall order the cessation of operations of any junkyard or salvage yard found to be in violation of this ordinance, shall set forth a reasonable time frame for the owner or operator to remedy the violation, and may re-issue a special use permit only when such a junkyard or salvage yard is in full compliance with this ordinance. If the owner and operator do not remedy the violation within the required time frame, the administrator shall take action to cause the cessation of all operations and to cause the owner and operator to remove the junkyard from the property.

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3.12. Infrastructure uses. [EXCERPT]



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C. Transportation Use Category

1. Parking lot:

- a. Definition: Any public or private open area or facility used for parking automobiles and other vehicles as a principal use. The lot or facility may serve as remote parking for a principal use on a separate lot or as a principal use on the site. A fee may or may not be charged.
- b. Additional Standards:
 - i. All parking lots shall adhere to the applicable standards set forth in this ordinance, including CHAPTER 10 – Parking Standards and CHAPTER 8 – Tree Protection and Landscaping.
 - ii. Parking Lots as a Principal Use in General Residential zoning district
 - ~~(A) Satellite parking lots (as described in Section 10.3.F) within a GR zoning district shall only be provided for permitted uses in Section 2.2. Satellite parking lots shall otherwise comply with all requirements of Section 10.3.F.~~
 - ~~(B) Parking lots for uses not permitted within GR zoning districts may be permitted provided that said lot is located on the same parcel or lot as the use for which the parking is intended, or on a parcel or lot that is contiguous or adjacent to the parcel or lot containing the use for which the parking is intended, and provided that all other requirements of this section are satisfied.~~
 - ~~(C)~~ (A) New parking lots shall be surrounded on all sides by a "Type A" buffer yard, as described in CHAPTER 8 of this ordinance, which is primarily comprised of evergreen vegetation. Parking lot shall comply with all other applicable landscaping requirements of CHAPTER 8 of this ordinance. Expansions to existing parking lots shall comply with this requirement to maximum extent practical given site conditions.
 - ~~(D)~~ (B) All new parking lot lighting shall be integrated into landscaping wherever possible. Low-level lights such as bollard lights (waist-high, heavy-duty fixture posts), mushroom or step-lights (ground-level fixtures that are built in to the sides or surfaces of walkways and steps) shall be utilized in lieu of traditional pole-mounted parking lot lighting. Parking lot lighting shall comply with all applicable other lighting requirements of CHAPTER 11.
 - ~~(E)~~ (C) New parking lots shall be constructed with stormwater control measures designed to control the stormwater run-off generated by a 25-year, 24-hour rain event (9.2 inches), and shall otherwise comply with Section 6.6.
 - ~~(F) Maximum parking spaces permitted:~~
 - ~~(1) The number of parking spaces provided shall be no greater than 110 percent of the minimum required number of spaces required for any use as set forth in Section 10.3.A.~~
 - ~~(2) Satellite parking lots and parking lots provided for uses not permitted GR zoning district shall not exceed the lesser of 50 parking spaces or 110 percent of the minimum required number of spaces required for any use as set forth in Section 10.3.A.~~
 - ~~(G)~~ (D) The administrator may impose any other condition necessary to protect the residential character of the neighborhood in which the parking lot is located.

3.13. Accessory uses. [EXCERPT]



Unified Development Ordinance Amendments

A. Residential Accessory Uses

2. Day care home:

- a. Definition: Supervision or care provided on a regular basis, as an accessory use within a principal residential dwelling unit, by a resident of the dwelling for children or adults who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.
- b. Additional Standards:
 - i. Child day care homes shall comply with the definitions and standards for family child care homes set forth in N.C.G.S. §110 (or any successors thereto).
 - ii. Adult day care homes shall comply with the definitions and standards for adult day care programs as set forth in N.C.G.S. §131-D (or any successors thereto).
 - iii. Child day care homes shall provide ample open area in the form of a rear yard with a minimum of 2,500 square feet suitable for children's play. Child day care homes located adjacent to parks are exempt from this provision.
 - iv. Client drop-off and pick-up areas shall be located on the site so as not to obstruct traffic flow on adjacent public streets.
 - ~~v. Parking spaces shall not be located in front of the building except as permitted by Section 10.5.G of this ordinance.~~
 - ~~vi.~~ v. All day care establishments shall at all times be properly licensed by the State of North Carolina and all other appropriate governmental entities.
 - ~~vii.~~ vi. All equipment shall be stored in the side or rear yard.
 - ~~viii.~~ vii. No structural or decorative alteration which would alter the single-family character of an existing or proposed residential structure or which would be incompatible with surrounding residences shall be permitted.

3. Dwelling— Accessory Unit (ADU):

- a. Definition: A dwelling unit that exists either as part of a principal dwelling or as an accessory building and is secondary and incidental to the use of the property as single-family or duplex residential.
- b. Additional Standards:
 - i. Accessory dwelling units within residentially-zoned, single-family and duplex lots shall be encouraged and designed to meet housing needs. ADUs shall be secondary and subordinate in size to the primary living quarters.
 - ii. ADUs may be created as an independent structure (detached), as an addition to an existing primary structure (attached), conversion of existing space, such as a basement with an exterior entrance, or as a second story within detached garages.
 - (A) When built as a second story of a detached garage, the ground floor area of the garage shall not be considered part of the total square footage of the ADU.
 - iii. Structures for ADUs shall comply with the provisions of Section 4.8, except as provided below.
 - (A) Not more than one ADU is permitted on any lot.
 - (B) An ADU shall be located in the side or rear yard unless an existing structure is being converted to an ADU.
 - (C) The total area of an ADU shall not exceed 1,200 square feet or two-thirds of the primary structure, whichever is the lesser. The ground floor area of a detached garage shall not



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be considered as part of the total square footage of any ADU that is built as the second story of a detached garage; provided, however, such ground floor garage area shall not be subsequently converted to dwelling space.

- iv. ADUs shall not be considered additional dwelling units for the purpose of determining maximum density or other dimensional requirements as set forth in [CHAPTER 2](#) of this ordinance.
- v. ADUs shall be constructed according to North Carolina Building Code.
- ~~vi. At least one off-street parking space shall be provided per unit.~~
- ~~vii.~~ [vi.](#) The administrator may impose reasonable conditions regarding the height, bulk, orientation, or location of the structure in order to protect the privacy of existing dwelling units on adjacent parcels in accordance with G.S. 160D-702(b).

4. Home occupation:

- a. **Definition:** An occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home occupations are small and quiet non-retail businesses which generally cannot be discerned from the frontage, are seldom visited by clients, require little parking, little or no signage, have only one or two employees and provide services such as professional services, music instruction, and hair styling.
- b. **Additional Standards:**
 - i. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or the neighborhood.
 - ii. Home occupation activities shall be confined to the interior of an approved structure. A home occupation housed within a dwelling shall occupy no more than 25 percent of the total floor area of the dwelling. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure that meets the requirements of this ordinance.
 - iii. The use shall employ no more than two persons who are not residents of the dwelling.
 - iv. There shall be no business signage or visible display of stock in trade which is sold on the premises.
 - v. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
 - vi. The existence and operation of the home occupation shall not be visible and/or audible to neighboring residents from a street.
 - vii. Only non-commercial vehicles are permitted in connection with the conduct of the home occupation.
 - ~~viii. A minimum of two parking spaces shall be provided. Parking areas and driveways shall be paved.~~
 - ~~ix.~~ [viii.](#) Home occupations utilizing or proposing to utilize public water and sanitary sewer services shall be subject to all applicable water and sewer system development fees as per Brevard City Code, Chapter 70 Utilities.
 - ~~x.~~ [ix.](#) Home occupations shall comply with all applicable requirements of any federal, state, or local agency with jurisdiction over the proposed use. The applicant shall provide the administrator with evidence of approval by any relevant agency.



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~~xiii~~.x. Responsibilities of the administrator and applicant(s):

- (A) The administrator may impose any necessary condition upon the operation of a home occupation, shall monitor home occupations and conduct site inspections to ensure compliance with this ordinance and any condition of approval, and shall revoke any permit for the operation of a home occupation and cause the use to be terminated in accordance with the procedures set forth in [CHAPTER 18](#) of this ordinance upon a determination that such use is in violation of this ordinance or any condition of approval.
- (B) The administrator shall have broad authority to deny any application for home occupation if in the opinion of the administrator, the proposed use would not be in keeping with the spirit and intent of this section. The burden of proving that a proposed home occupation would be in keeping with the spirit and intent of, and satisfy all requirements of this section as well as any condition of the administrator, shall lie with the applicant.
- (C) In reviewing any application for home occupation and in the monitoring and enforcement of any approved permit for home occupation the administrator shall strongly consider the expectation that the residential use and character of each residentially zoned neighborhood be preserved and shall take into consideration these unique characteristics of any proposed use and its relationship to the site and surrounding properties in considering whether such use would be suitable as a home occupation.

~~xiii~~.xi. Uses permitted as home occupations:

- (A) Examples of uses that may be permitted as home occupations include but are not limited to professional services such as those provided by an architect, engineer or accountant; art, music, or dance instruction; hair styling; bicycle repair or vehicle cleaning; and may include other uses defined herein or listed upon the use matrix in [CHAPTER 2](#) of this ordinance when such uses can be performed in a manner that is strictly in keeping with the spirit and intent of, and satisfy all requirements of, this section.
- (B) Uses involving the fabrication of products may be permitted provided, however, the home occupation shall not utilize mechanical, electrical, or other equipment, materials or processes, or create any by-product or effect, which produces noise, electrical or magnetic interference, vibration, heat, glare, odor, dust, pollution or other nuisances outside the dwelling or accessory structure housing the home occupation. Examples of such uses include but are not limited to baking, candle or soap making, fly-tying, woodworking, engraving, gunsmithing and or other similar small scale craft production or fabrication. This provision shall not be construed to authorize industrial uses within residential zoning districts.
- (C) Home occupation shall not include any use that is primarily retail in nature. It is the intention of this section that goods and merchandise produced as part of any home occupation be sold off-site; any on-site retail activity must be incidental to the purpose of this home occupation.

~~xiii~~.xii. Duration of permit:

- (A) Home occupation permits are temporary, and shall not establish a vested right to renewal. Home occupation permits shall be valid for a period of one year from the date upon which approval is granted.



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- (B) Applicants may apply for renewal of home occupation permits. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.
- (C) In approving renewal applications, the administrator may modify prior conditions of approval and may impose any necessary, additional conditions. The administrator may deny a request for permit renewal and require the applicant to terminate the home occupation or relocate the home occupation to an appropriate commercial or mixed-use zoning district upon determination that the home occupation operated in violation of a requirement of this section or other applicable condition or requirement; or, that the home occupation has generated unanticipated effects that are detrimental to the residential character of the neighborhood in which the home occupation is located.

3.14. Temporary uses. [EXCERPT]

A. *Temporary Events and Structures Category*

1. *Temporary events and structures:*

- a. Definition: An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event. Examples of these activities include, without limitation, the following:
 - i. carnivals or circuses;
 - ii. contractor's office and equipment sheds
 - iii. farmers markets;
 - iv. outdoor meetings;
 - v. satellite real estate sales office;
 - vi. seasonal structures; and
 - vii. special events
- b. Additional Standards:
 - i. In the consideration of any temporary use, structure or special event, the administrator shall have broad discretion to impose such conditions as may be necessary to protect the health, safety and welfare of the public.
 - ii. The use shall clearly be of a temporary nature.
 - iii. The use shall be limited to a period not to exceed 90 days except as otherwise provided.
 - iv. The use shall not obstruct any public travel way except by specific approval by the city and will cause no traffic congestion;
 - v. The use shall not create a nuisance to surrounding uses.
 - vi. The use shall not create hazards or adverse impacts related to parking, drainage, fire protection, or other adverse impacts.
 - vii. The operator shall provide a plan for the management of waste generated by the use, and sanitary facilities if the administrator or health department deems it is necessary.
 - viii. The operator shall satisfy all other requirements of the director of public health, the building inspector or the fire marshal.



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- ix. The operator shall secure a business license, street closure permit, sidewalk closure permit, or parade permit if required.
- x. The applicant and/or operator shall promote the temporary use or special event as tobacco and nicotine free (including, but not limited to smoking, vaping, dipping, and chewing).
- ~~xi. A minimum of five parking spaces shall be designated for use by patrons of the temporary use, structure or special event. In all cases, the applicant shall demonstrate that there will be adequate parking for the existing uses as well as the temporary use, structure or special event.~~
- ~~xii. Temporary use, structures, and special event may be permitted within developed parking lots that serve a principal structure(s), the hours of operation of which are the same as the use, structure or event, only when the number of existing parking spaces exceeds the minimum number of spaces that are required for the principal structure(s) by a minimum of five parking spaces, plus the number of parking spaces to be rendered unusable within the area of the use, structure, or event.~~
- ~~xiii.~~ xii. The total area of a temporary use or special event, including tents, display areas, and other appurtenances of the use, shall not exceed 2,000 square feet. This requirement shall not apply to the following categories of temporary uses or special events:
 - (A) Special events, upon approval by the administrator.
 - (B) Farmers markets.
 - (C) Carnivals and circuses.
- ~~xiv.~~ xiii. Tents and structures:
 - (A) Applicants shall provide flame retardancy certifications for all tents.
 - (B) Temporary structures shall not exceed 120 square feet. Tents, shipping containers, satellite offices and classrooms, and equipment sheds shall not be subject to this requirement.
 - (C) Seasonal greenhouses, tents, and other temporary structures may be permitted for a period not to exceed 90 days. These structures must be removed on the expiration date of the permit.
 - (D) A satellite office and equipment shed may be permitted in any district for a period covering the construction phase of a project, not to exceed one year, provided that such office be placed on the property on which the project is situated.
 - (E) The administrator may approve the temporary set-up and occupancy of recreational vehicles (or other temporary dwellings in consultation with the building inspector) when the principal residence of the occupant has been destroyed by wind, fire, movement of earth, or other manmade or natural disaster, and subsequent to such event having been declared a disaster by the Mayor of the City of Brevard, the County Manager of the County of Transylvania, the Governor of the State of North Carolina, or the President of the United States. In no case shall such a vehicle or temporary dwelling be set up or occupied for a period exceeding 180 days. The setup or occupancy of a recreational vehicle shall not be permitted within the City of Brevard for any other reason whatsoever, except as otherwise provided for in this ordinance.
 - (F) Shipping containers shall only be permitted to be used for temporary storage and must be in conjunction with a non-residential use.



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~~xv~~xiv. Site layout:

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

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

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

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



CHAPTER 5. BUILDING TYPES AND ARCHITECTURAL STANDARDS

5.16. Additional requirements for large structures.

- A. *Applicability:* These standards shall apply to newly constructed structures or existing structures undergoing substantial improvement that meet the following criteria:
1. Any single structure with a gross floor area of 100,000 square feet or greater.
 2. Any single structure or grouping of two or more structures with a combined total gross floor area of 100,000 square feet or more when:
 - a. Such structures are joined by a fire wall or partiwall; and
 - b. Such structures are under the same ownership, or are undergoing improvement under a single land development permit, or have been approved under the same development authorization.
 3. ~~Where indicated with an (I), such standards shall apply to industrial structures.~~
- B. *Additions to existing structures:*
1. These standards shall apply to additions to existing structures when such addition equals or exceeds ten percent of the ground floor area of the original structure.
 2. These standards shall apply to the original portion of the structure to which the addition is being made when:
 - a. Renovation is being made to the original structure; and,
 - b. Such renovation equals or exceeds 50 percent of the appraised value of the original structure.
 3. Modifications to or waiver of requirements:
 - a. The approving authority may modify a requirement of this section up to 25 percent upon determining the following:
 - i. Such requirement would serve no useful purpose.
 - ii. When applicable to pre-existing, non-conforming structures, compliance with such requirement would be impossible or unreasonably burdensome due to constraints imposed by the original design of the existing structure.
 - iii. Such requirements would impose an unreasonable hardship upon the applicant.
 - b. If the approving authority is city council, council may allow a modification of greater than 25 percent or waive the requirement.
 - c. When considering a request to modify or waive a requirement under this section, the approving authority shall verify, in consultation with the administrator and the city engineer, that no other reasonable options exist to achieve compliance with these standards.
 4. These requirements are expressed as performance standards. It shall be the responsibility of the applicant to provide engineer-certified documentation that these requirements have been or shall be met for any newly constructed structure to which these standards apply. The administrator may, in consultation with the city engineer, take steps to verify that these requirements have been or will be met.

Commented [EB3]: Deleted because there aren't any standards with an (I)



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5. Failure to comply with these standards shall constitute grounds for revocation of the special use permit.

C. Requirements:

1. Large structures shall require the submission of a traffic impact study in accordance with [CHAPTER 17](#) of this ordinance. Any improvements recommended by a traffic impact study shall be constructed by the applicant as a condition of approval.

~~2. All buildings shall provide secure bicycle storage capable of serving building users. One bicycle space shall be provided for every 20 automobile parking spaces, with a minimum of one five bicycle rack provided near each building entrance regardless of the number of parking spaces provided.~~

~~3. Provide preferred parking for carpools or vanpools capable of serving five percent of all building users (measured at peak periods).~~

- 4.2. Heat island effect: The performance standards contained herein are intended to reduce heat islands (thermal gradient differences between developed and undeveloped areas), thereby minimizing the impact on microclimate and human and wildlife habitat.

a. Non-roof areas:

- Provide shade (within five years of landscape installation), use light-colored/high-albedo materials with a solar reflectance index (SRI) of at least 29, and use open grid pavement for at least 50 percent of the site's non-roof impervious surfaces, including parking areas, walkways, plazas, fire lanes, etc.; or,
- Place a minimum of 50 percent of parking spaces underground or covered by structured parking; or,
- Use an open-grid pavement system (less than 50 percent impervious) for a minimum of 50 percent of the ~~parking lot~~ [parking area](#);

b. Roof areas:

- Use roofing materials having a solar reflectance index (SRI) as required in the following table for a minimum of 75 percent of the roof surface; or,
- Install a "green" (vegetated) roof for at least 50 percent of the roof area.
- Combinations of high albedo and vegetated roof can be used if they meet, in combination, the following criteria:

$$\text{Total Roof Area} \leq (\text{Area of SRI Roof} * 1.33) + (\text{Area of green roof} * 2)$$

TABLE 5.16A: ROOF SLOPE AND SRI		
Roof Type	Slope	SRI
Low-Sloped Roof	≤ 2:12	78
Steep-Sloped Roof	> 2:12	29

3. CFC reduction in HVAC&R equipment required:

- The purpose of this provision is to reduce ozone depletion.
- There shall be no use of CFC-based refrigerants in new base building HVAC&R systems. When reusing existing base building HVAC equipment, complete a comprehensive CFC phase-out conversion.

4. Façade requirements: The requirements shall apply to all facades that face a public or private street (except alleys) and to facades that are oriented so as to be visible from a public or private street. Rear

Commented [EB4]: Incorporated into bicycle parking section of Chapter 10

Commented [EB5]: Removing this because it is hard to quantify and difficult to enforce.



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service areas shall be screened so as to not be visible from adjacent properties, and shall comply with these requirements if visible from any street with a classification greater than an alley or commercial service street.

- a. Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth/projection of at least three percent of the length of the façade and extending horizontally for at least 20 percent of the length of the façade.
 - b. No portion of the façade shall extend more than 20 feet in length without incorporating a break as described in the preceding paragraph.
 - c. No less than 60 percent of the horizontal length of ground floor shall have arcades, display windows, entry areas, awnings, or other such features.
 - d. No less than 60 percent of the horizontal length of ground floor facades shall be transparent between the height of three feet and eight feet above the walkway grade.
5. Variations in front rooflines shall be used to reduce the scale of buildings. Roof features shall be required which will complement the character of adjoining and nearby structures.



CHAPTER 8. TREE PROTECTION AND LANDSCAPING

8.3. Tree protection.

A. *Applicability:*

1. The provisions of the tree protection section of this chapter shall be applicable to any tree that falls within one or more of the following categories:
 - a. Any tree which has a trunk six inches or more in diameter at one foot above the ground; or is of a horticultural variety or is highly ornamental (such as a dogwood, redbud, crab apple, sourwood, flowering cherry, holly or any like or similar such plant) and has a trunk diameter of three inches or more at one foot above the ground.
 - b. Any tree that is noted as part of a development plan or that is required as part of a special use permit, group development, planned development, Conditional Zoning District, or other development approval.
 - c. Any tree located within a historic district or any property containing a historically designated structure.
 - d. Any tree subject to D, below.

B. *Exemptions:*

1. Trees located on properties developed for single family or duplex uses located within GR districts shall be exempt from the tree protection provisions of this chapter, except for those trees subject to A.1.b.—c., above, and trees and other vegetation in protection areas set forth in [CHAPTER 6](#) and listed as Tier 1 trees in Section 8.3.D, below.
2. The following trees are exempt from the provisions of this Chapter: Mimosa (*Albizia julibrissin*), Princess Tree (*Paulonia tomentosa*), Russian Olive (*Elaeagnus angustifolia*), Tree of Heaven (*Ailanthus altissima*), Bradford Pear (*Pyrus calleryana*), Japanese Privet (*Ligustrum japonicum*), Norway Maple (*Acer platanoides*), Paper Mulberry (*Broussonetia papyrifera*), Thorney Olive (*Elaeagnus pungens*), White Mulberry (*Morus alba*), White Poplar (*Populus alba*), Chinese Elm (*Ulmus parvifolia*), Silver Maple (*Acer saccharinum*), Lombardy Poplar (*Populus nigra*), Chinese Tallow (*Triadica sebiferum*), Chinaberry (*Melia azedarach*).
3. Pruning trees as normal maintenance provided such pruning does not result in the mutilation, death or destruction of the tree.
4. All trees which are grown by a licensed plant or tree nursery or tree farm, provided such trees are planted and grown on the licensee's premises for the sale or intended sale to the general public in the ordinary course of the licensee's business.
5. All trees which have been destroyed or harmed by a storm or similar act of nature or casualty loss; provided the administrator is notified of such intended removal, replacement or relocation at least two business days prior to removal, replacement or relocation of any tree. The administrator shall approve or deny the request within the two-day period, and may require replacement subject to the requirements of this ordinance. There shall be no fee for this inspection and review.
6. Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the North Carolina General Statutes.



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7. Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes.
 8. Installation and maintenance activities conducted by public utility providers within utility easements, public lands, or public rights-of-way.
- C. *Permit required:* It shall be unlawful for any person to remove, replace or relocate any tree within the city until an application for a permit has been submitted to the administrator. In determining whether a permit should be issued, the administrator shall consider the following criteria:
1. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services.
 2. The necessity to remove trees in order to construct proposed improvements to allow economic enjoyment of the property.
 3. Topography of the land and the effect of tree removal on erosion, soil retention and the diversion or increased flow of surface waters, and coordination with the city's drainage plans and recommendations on drainage patterns.
 4. Number of trees existing in the neighborhood on improved property. Administrator shall be guided by the effect of tree removal upon property, as well as aesthetic values, in the area.

In all cases, the administrator may require the relocation or replacement of the trees as a condition of issuing the permit, on a one-for-one basis, with replacement trees having a caliper of two-inches or more in diameter at one foot above the ground

- D. *Required tree protection areas:* Trees and existing vegetation shall be preserved in accordance with the table below. Exceptions to tree protection in Tier 2 and Tier 3 areas shall be reviewed by the board of adjustment on a case-by-case basis.



TABLE 8.3A: REQUIRED TREE PROTECTION AREAS

Tier	Priority Tree Protection Area	Required Protection
Tier 1	Special Flood Hazard Areas Required Surface Water Protection Area Required Buffer Yard Slope Areas 25 percent or greater Wetlands	All Vegetation and Soil to Remain Undisturbed In some cases, limited disturbance may occur within the areas to be protected provided all necessary approvals are obtained. Such activities include, but are not limited to the following: • Mitigation of development activities. • Restoration of previously disturb areas. • Stream restoration. • Utility installations and emergency public safety activities. • Construction of a trail or pedestrian walkway that will provide public access. • Required street or driveway connections.
Tier 2	Front Setback Areas Required Landscaping Areas Required Open Space Slope Areas of 15—25 percent	All Trees Greater than 12" DBH Replacement trees, if permitted, shall be planted at a rate of one tree per each 12" DBH
Tier 3	All Other Locations	All Trees Greater than 24" DBH Replacement trees, if permitted, shall be planted at a rate of 1 tree per each 12" DBH

~~E. Credits for preservation of existing trees in parking areas: Trees that are saved in a parking lot area (other than those in Tier 1 or Tier 2 Tree Save Areas in Section B above) can be used towards the interior tree landscape requirement in Section 8.7. Note that each tree preserved will require a minimum pervious area around it equal to its drip line.~~

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TABLE 8.3B: CREDITS FOR PRESERVATION OF EXISTING TREES IN PARKING AREAS

Size of Preserved Trees	Deduction from Required Plantings
For Each Tree 6—12" DBH	One Required Parking Lot Tree
For Each Tree 13—24" DBH	Two Required Parking Lot Trees
For Each Tree 25" DBH or Greater	Three Required Parking Lot Trees

~~F.E. Public tree care and protection:~~

~~1. Responsibility for public tree care:~~

- ~~The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the city or state-owned rights-of-way or bounds of all streets, alleys, lanes, squares, and city-owned public grounds, or any that extend into the public right-of-way, or that harbors disease or insects in order to ensure public safety or to preserve or enhance the beauty of such public places.~~
- ~~The City of Brevard Public Works Department is hereby granted the responsibility of public tree care within the City of Brevard.~~
- ~~The parks, trails, and recreation committee shall assist and provide guidance to the public works department regarding care and protection of public trees as necessary.~~



2. *Public tree care:*

- a. The city may remove or cause to be removed by the appropriate agency/contractor, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is seriously affected with any injurious insect or disease.
- b. Trees, vines, shrubbery, flowers, or other ornamental vegetation standing in or upon any lot or land adjacent to any public street, sidewalk, greenway, or other public place shall be kept trimmed by the owner or occupant of the property on which the plants are growing so as not to interfere with the free and safe passage along the public way by pedestrians, bicyclists, and vehicular traffic.
- c. The public works department may, in the interest of public health and safety, prune any tree that overhangs into any street, sidewalk, greenway, or right-of-way within the city, so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the walkways, a clear space of 13½ feet above the surface of streets, and a clear space of at least 17 feet above highways. The public works department will notify, in writing or in person, any property owner whose trees will be pruned in accordance with this section, no later than 24 hours prior to pruning.
- d. Pruning of public trees shall be done in conformance with pruning standards published by the International Society of Arboriculture, or similar professional organization.

3. *Public tree protection:* All public trees shall be protected during construction activities in accordance with the following:

- a. A tree on any street or other publicly owned property whose crown is within five feet of any excavation or construction of any building, structure, or street work, shall be guarded with a substantial fence, frame, or box. The construction tree guard shall be not less than four feet high and at a distance in feet from the trunk equal to the diameter of the trunk at breast height (DBH) in inches. All building material, dirt, or other debris shall be kept outside the construction tree guard.
- b. Land-disturbing activities within five feet of a public tree shall incorporate protection for tree root areas in accordance with generally accepted best practices.

4. *Prohibited activities:*

- a. Abuse of public trees:
 - i. No person shall intentionally damage, cut, carve, transplant, or remove any public tree.
 - ii. No person shall attach any rope, wire, nails, advertisements, posters, banners, or other contrivance to any public tree.
 - iii. No person shall knowingly allow any gaseous, liquid, or solid substance which is harmful to trees to contact public trees.
 - iv. No person shall set fire to public trees nor permit any fire to burn when such fire or the heat thereof will injure any portion of a public tree.
- b. Tree topping of public trees, per Section 8.2.J of this ordinance.

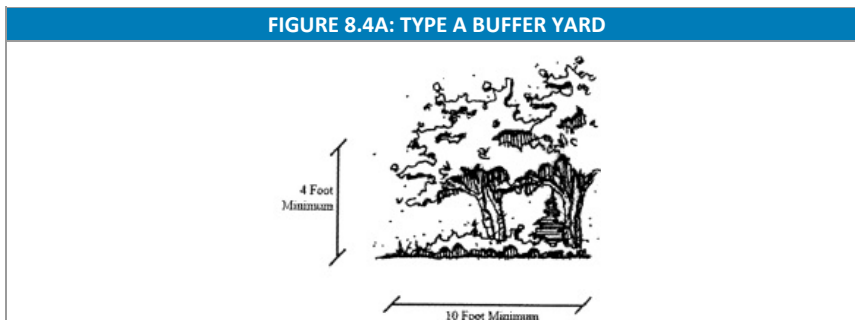
8.4. Buffers and screening.

A. *Applicability:*

1. These regulations shall apply to the following:



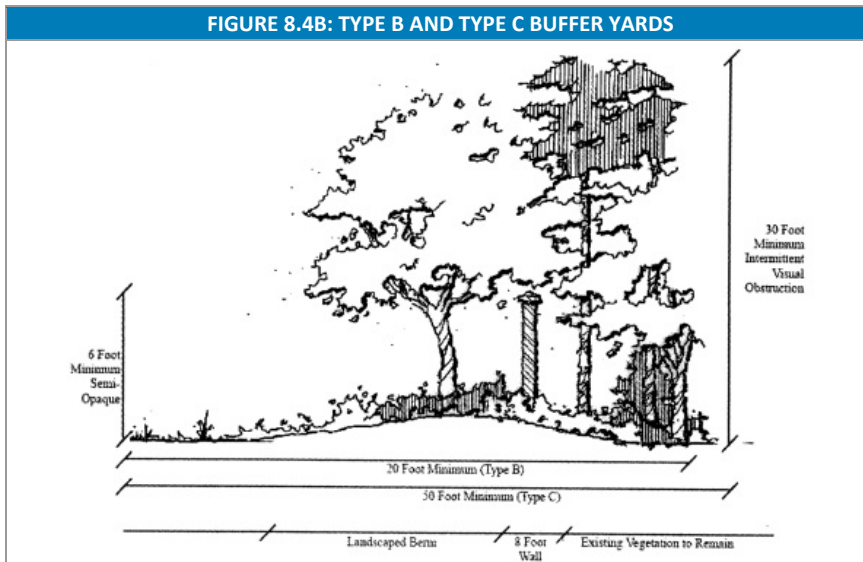
- i. All newly developed properties
 - ii. When expansions or changes in use result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25 percent, and any property containing an existing structure undergoes significant or substantial improvement as defined in [CHAPTER 19](#) of this ordinance, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
 - iii. When the zoning district classification changes for an existing use or parcel at the request of the property owner or representative thereof, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
2. The administrator may modify landscaping requirements up to ten percent in situations where pre-existing conditions make it impossible to comply with subsections ii and iii above.
 3. Applicants are encouraged to design buffer and other landscape areas in such a way as to satisfy stormwater management requirements as set forth in [CHAPTER 6](#) of this ordinance.
- B. Buffer yard types:**
1. *Type A buffer yard:*
 - a. Minimum width: 10 feet.
 - b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen.
 - c. Maximum horizontal openings: 20 feet.
 - d. Performance standard: A buffer which is ten feet in width and contains screening materials which at maturity provide intermittent visual obstruction from the ground to a height of four feet as well as intermittent visual obstruction from a height of four feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width upon the plants' maturity.



2. *Type B buffer yard:*
 - a. Minimum width: 20 feet.
 - b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.
 - c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.



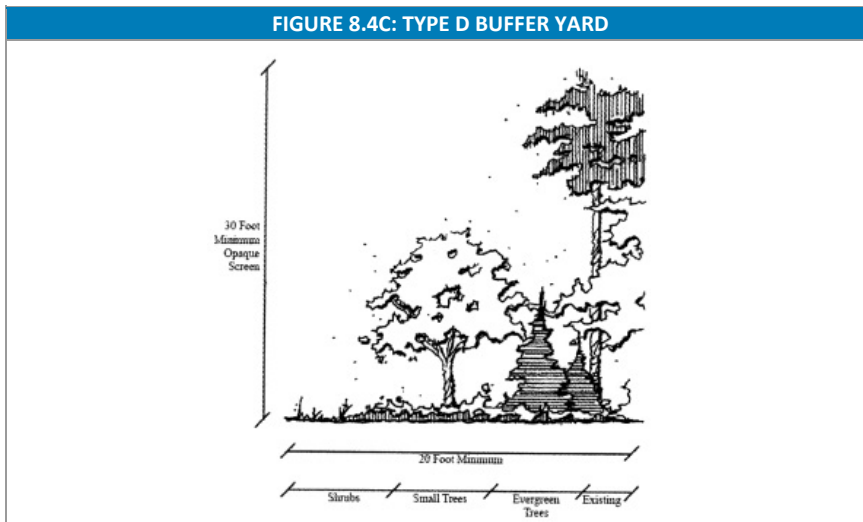
- d. Performance standard: A buffer which is 20 feet in width and contains screening materials which at maturity provide semi-opacity from the ground to a height of six feet, and intermittent visual obstruction from a height of six feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width; and vegetative screening materials within semi-opaque areas shall contain horizontal openings no greater than 15 feet in width upon the plants' maturity.
3. *Type C buffer yard:*
 - a. Minimum width: 50 feet.
 - b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.
 - c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.
 - d. Performance standard: A buffer which is 50 feet in width and contains screening materials which at maturity provides semi-opacity from the ground to a height of six feet, and intermittent visual obstruction from a height of six feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width; Vegetative screening materials within semi-opaque areas shall contain no horizontal openings greater than 15 feet in width upon the plants' maturity.



4. *Type D buffer yard:*
 - a. Minimum width: 30 feet.



- b. Minimum height and opacity: Ground to 30 feet—Opaque.
- c. Maximum horizontal openings: None permitted.
- d. Performance standard: A buffer which is 30 feet in width and contains screening materials which at maturity provides opacity from the ground to a height of 30 feet. Vegetative screening materials within opaque areas shall contain no horizontal openings upon the plants' maturity.



5. *Type E buffer yard.*

- a. Minimum width: 25 feet.
- b. Minimum height and opacity: Ground to 30 feet—Opaque.
- c. Maximum horizontal openings: None permitted.
- d. Performance standard: A buffer which is 25 feet in width and contains screening materials which at maturity provides opacity from the ground to a height of 30 feet. Vegetative screen materials within opaque areas shall contain no horizontal openings upon the plants' maturity.

C. Fences, walls, and berms:

- 1. Fences, walls, or earthen berms may be substituted for all or a portion of the shrub requirement in all buffer types. In addition, existing vegetation within the buffer shall be maintained and may receive partial or total credit towards screening requirements. All berms, if provided, shall not exceed a slope with maximum rise of one foot to a run of two feet (a ratio of 1:2) and a maximum height of four feet. All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation or permanent slope retention device. Berms taller than four feet shall be approved by the administrator on a case by case basis.

D. Required buffer yards:



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1. A buffer yard is intended to give spatial separation and to decrease visual contact between incompatible uses. Buffer yards shall be required in accordance with the tables below when any use is being established on a property that abuts an existing developed lot or less intense zoning district. More stringent buffer yard requirements may apply to certain specified uses as set forth in [CHAPTER 3](#) of this ordinance.
2. Buffer yards shall be required along the perimeter of proposed projects within certain zoning districts (and associated conditional districts) when such project lies *adjacent* to a zoning district (or conditional district) of lesser intensity:

TABLE 8.4A: REQUIRED BUFFER YARDS BY ZONING DISTRICT

		Adjacent District						
		GR	RMX	NMX	DMX	IC	CMX	GI
District in Which Development is Located	GR	None	None	None	None	None	B	D
	RMX	B	None	None	None	None	None	D
	NMX	B	A	None	None	None	None	D
	DMX	B	A	A	None	None	None	D
	IC	C	C	C	C	None	None	None
	CMX	D	D	D	D	None	None	None
	GI	E	E	E	E	None	None	None

3. In addition to the buffer yards required between districts as set forth above, buffer yards shall be required for certain types of development *within* certain zoning districts and associated conditional districts, as follows. This requirement applies regardless of the adjacent district. However, where conflicts occur between 8.4.D.2, above, and this section, the more restrictive requirement shall apply.

TABLE 8.4B: REQUIRED BUFFER YARDS BY TYPE OF PROPOSED DEVELOPMENT

		New Multifamily (more than 4 units/bldg.) and Residential Group Development (a)	Mixed-Use/Non-Residential Subdivision and Non-Residential Group Development	Special Use Permit (b)
District in Which Development is Located	GR	B	B	B
	RMX	B	B	B
	NMX	B	B	A
	DMX	B	B	A
	CMX	B	D	B
	IC	B	C	B
	GI	NA	E	B

- (a) This requirement shall apply to any new residential project where a multifamily development contains more than four dwelling units per building, or residential group development.



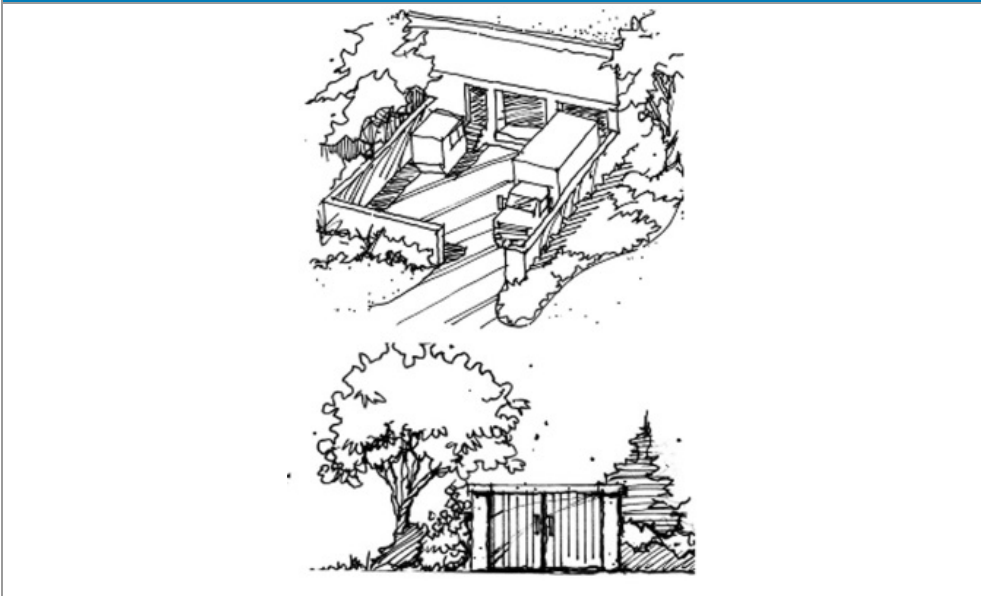
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- (b) This requirement shall apply to any project for which a Special Use Permit is issued for an individual use or structure on a distinct parcel of land as set forth above, unless a more restrictive buffer yard is otherwise required in [CHAPTER 3](#) of this ordinance. No individual buffer yard shall be required for a use or structure permitted within a group development, or conditional district, for which project-wide buffering and general landscaping is required, unless such individual buffer yard is specifically required in [CHAPTER 3](#) of this ordinance.
4. The approving authority may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.
5. Buffer yards are intended to be constructed along the perimeter of the property or project; however, when there are irregular topographic conditions (such as the perimeter of the property is at a lower grade than the use being screened) the approving authority may require the relocation of the required buffer yard in order to better serve its purpose.
6. Natural vegetation, vegetation required for tree protection, riparian buffer areas, and other forms of existing vegetation may be utilized to satisfy these requirements when such natural and existing vegetation clearly satisfies the purpose of this section.
7. Off-site vegetation:
- Existing plant material on adjacent property may be credited toward buffer requirements, provided that such material is in a permanently protected area such as a conservation easement or similarly preserved area.
 - Plant material, existing or proposed, on an adjacent property may be credited toward buffer requirements through use of a landscape easement.
8. Buffer requirements may be reduced or waived by the approving authority in the following circumstances:
- Such requirements would pose a safety hazard.
 - The plantings or planting area would conflict with utilities, easements, or overhead power lines, or encroach upon city trees, as recommended by the city horticulturalist.
 - Special use permits based solely upon building height or building ground floor square footage size, where such requirement would serve no useful purpose.
 - When projects to which these requirements apply exhibit unifying architectural and landscape design characteristics that integrate the project into surrounding development, and when the landscape design of such a project clearly meets and exceeds the goal of these requirements such that these requirements become unnecessary.
9. Fences, walls and berms in buffers
- Where walls and berms are built within any required project boundary buffer, they shall meet the following requirements.
 - Walls and berms within a buffer may be used to permit a reduction in the buffer up to 25 percent of the required width.
 - Walls and berms shall not be permitted within surface water protection areas, floodplains, and floodways.
 - Walls and berms shall conform to other applicable requirements of this ordinance.
 - All walls, when located within a buffer, shall be planted on the face towards the adjacent property with at least one upright shrub for every six feet of wall length.



- (v) Berms shall have side slopes of not less than three feet horizontal for each one foot vertical and a minimum crown width of two feet.
- vi. Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within three to five years.
- vii. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall, berm, or fence structure at the time of landscape plan approval.
- viii. Chain link and concertina wire fences shall be buffered by a Type A buffer yard on all sides.

FIGURE 8.4D: ILLUSTRATIONS OF APPROPRIATE SCREENING OF DUMPSTERS AND LOADING AREAS



8.6. ~~Parking lot~~Parking area screening.

- A.** Applicability: Perimeter yard of all parking areas visible from the street, except ~~(Except one- and two-family homes)~~ residential developments with six or less off-street vehicle parking spaces.
- A.B.** Minimum planting: Semi-opaque screen from the ground to at least a height of three feet for screening of car lights and glare. (Minimum width: Ten feet).
- B.C.** Performance standard: This type functions as a semi-opaque screen around the parameter of a ~~parking lot~~ parking area from the ground to at least three feet for the screening of car lights and glare. This shall only be required along the parking area that fronts the public right-of-way or any side of a ~~parking lot~~ parking area that is not protected by a required buffer yard. The location of such yards shall be determined by the administrator upon review. Effective screening devices may include solid decorative brick walls, wood fences, earth berms, tight evergreen hedges which shall reach the required height within two years of planting, or any



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combination of the above. Plantings which can achieve a mature height exceeding 30 inches shall not be planted in the sight triangle on each side of drives or streets.

- G.D. Screening of open storage, above ground utilities, and dumpsters:** Any open storage of merchandise, equipment, materials or goods other than those on display for retail sales, above ground utilities, and dumpsters areas shall be screened from view from any street right-of-way in accordance with the ratios (but not necessarily the minimum dimension) prescribed for type C buffer yards. Sub-grade dumpsters shall be exempt from the provisions of this section.

8.7. ~~Parking lot~~ Parking area landscaping.

- A. **Applicability:** Interiors of all parking areas with more than 16 parking spaces or more than 1/10 of an acre in size.
- B. **Stormwater management requirements:** Applicants are encouraged to design buffer and other landscape areas in such a way as to satisfy stormwater management requirements as set forth in [CHAPTER 6](#) of this ordinance.
- C. **Minimum plantings:**
1. No parking space shall be more than 50 feet from the base of a canopy tree.
 2. One 15-to-18-inch minimum height evergreen or deciduous shrub shall be required per 250 square feet of required landscaped vehicular use area. This rate may be varied by the administrator considering alternate shrub heights, ground covers, or other factors.
- D. **Performance standard:** This type functions as a tree ceiling over a parking area providing shelter from sun and rain and minimizing the impact of runoff by providing "green" surface area on which to collect. Large maturing canopy trees shall be planted in a manner that provides shade for the entire parking area at maturity. All landscaped areas shall be separated from parking spaces. The use of differing species around the parking area is encouraged to promote diversity in the overall urban tree canopy. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials.
- E. **Credits for preservation of existing trees in parking areas:** ~~Trees that are saved in a parking lot area (other than those in Tier 1 or Tier 2 Tree Save Areas in Section 8.3 B above) can be used towards the interior tree landscape requirement in Section 8.7. Note that each tree preserved will require a minimum pervious area around it equal to its drip line.~~

Commented [EB7]: Moved from Section 8.3 and removed the table

TABLE 8-18: CREDITS FOR PRESERVATION OF EXISTING TREES IN PARKING AREAS	
<u>Size of Preserved Trees</u>	<u>Deduction from Required Plantings</u>
<u>For Each Tree 6 – 12" DBH</u>	<u>One Required Parking Lot Tree</u>
<u>For Each Tree 13 – 24" DBH</u>	<u>Two Required Parking Lot Trees</u>
<u>For Each Tree 25" DBH or Greater</u>	<u>Three Required Parking Lot Trees</u>



CHAPTER 9. CIRCULATION AND CONNECTIVITY

9.3. Access management.

Access management standards that regulate the connection of new driveways to the street system shall be as follows. NCDOT must approve the design and location for the connection of new driveways when located on state-maintained roadways.

- A. New driveways, on public streets with curbing, shall be limited in accordance with the following standards:

TABLE 9.3A: DRIVEWAY SEPARATION DISTANCES		
Posted Speed Limit (mph)	Minimum Distance Between Driveways	Minimum Distance Between Driveways and Intersections*
15	20 feet	40 feet
20	40 feet	80 feet
25 to 35	60 feet	120 feet
40	120 feet	240 feet
45	140 feet	280 feet
50	160 feet	320 feet
55	180 feet	360 feet

Note: Access separation between driveways shall be measured from inside edge of curb cuts. Access separation between a driveways and intersecting streets shall be measured from the nearest inside edge of the driveway curb cut to the intersecting right-of-way lines.

- B. *Shared Private Drives*: Whenever feasible in the interests of access management the administrator shall encourage the establishment of shared private drives and entrances with adjacent properties, and may require that driveways and entrances be situated along property lines. The approving authority may require the establishment of access easements along property lines to be reserved for future use by adjacent properties as part of any development.
1. *Capacity* – No more than 3 properties or 6 dwelling units shall use the same driveway. At all times, the shared private drive shall be maintained in a good, safe and usable condition, in good repair, and in compliance with all applicable state, county and local ordinances.
 2. *Easement* – The minimum width of the easement for shared private drives shall be 30 feet.
 3. *Minimum Design and Construction* – The minimum design and construction standards which apply to a public street (Section 13.5) shall apply to a shared private drive except that:
 - a. All shared private drives are to be paved to City standards with a minimum width of 20 feet.
 - b. Street names shall not be allowed for shared private drives. The properties with ingress and egress on the shared private drive are required to have an address on the abutting public street.
 - c. Pedestrian and bicycle infrastructure shall not be required, but it is encouraged. This also includes multi-use paths and other similar types of infrastructure.



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3. *Plats* - All shared private drives must be shown as such on all affected plats.
4. *Through Streets* - Through streets connecting 2 public streets may not be designated as a shared private drive.
5. *Connections to Public Streets* - All shared private drives connecting with public streets require approved driveway applications from the city (or NCDOT, if applicable).

C. *Additional provisions:*

1. The administrator shall require the closure of any nonconforming driveway or curb cut as a condition of approval of any land development application.
2. Single-family, duplex, and secondary dwellings on existing lots of record and new infill development lots on roads 35 mph and under shall be exempt from the "Minimum distance between driveways" standards for the first driveway, but shall meet minimum separation requirements for additional driveways. Additionally, driveway separation distances on new dead-end streets posted 30 mph and under and with no on-street parking may also be exempted by the administrator. Further modification of these requirements shall be considered by the board of adjustment.

3. Parking lots with one-way aisle that are required to have at least two driveways, in accordance with Section 10.7 may be exempt from the "Minimum distance between driveways" standards. The exemption may be granted by the administrator for local and private roads and by NCDOT for state roads.

~~3.4.~~ The board of adjustment may modify these requirements only after the following are satisfactorily provided by an applicant:

- a. A transportation assessment performed by an engineer licensed in the State of North Carolina containing sufficient detail to demonstrate that the modification request does not adversely impact public safety or traffic operation; and
- b. Evidence that the modification request represents the minimum necessary to address existing site constraints or to improve site circulation stemming from urban infill and/or redevelopment.

~~4.5.~~ Appeals from any adverse decision by the administrator shall be made to the board of adjustment.



CHAPTER 10. PARKING STANDARDS

10.1. Purpose and intent.

~~Parking lot~~Parking area, loading areas, and similar facilities are necessary elements in the urban environment. However, these facilities have been known to cause the following negative impacts:

- A. Increased stormwater volume and velocity;
- B. Increased surface pollutants;
- C. Increased surface level heat and glare;
- D. Reduction in the efficiency of the connecting street system; and,
- E. Reduction in the operations of the surrounding pedestrian and bicycle network.

To mitigate these negative impacts, and to provide adequate service, the city has enacted standards to regulate the construction, expansion, and renovation of such facilities.

10.2. Applicability.

~~A. Off-street parking and loading spaces shall be provided for all uses as well as for any expansion of such uses or change in use in accord with the requirements of this section. This chapter shall apply when any of the following occurs:~~

- 1. New construction of a principal building or buildings;
- 2. Expansion of an existing principal building resulting in an increase in required off-street vehicle parking spaces equivalent to 50% or 10 vehicle parking spaces, whichever is greater; or
- ~~3. Change of use or expansion of an existing use resulting in an increase in required off-street vehicle parking spaces equivalent to 50% or 10 vehicle parking spaces, whichever is greater; or~~

Commented [EB8]: Please note the new cut off for applicability. Current is 25%.

10.3. Off-street vehicle parking requirements.

A. General off-street parking requirements:

- 1. Off-street parking requirements are structured in a three-tier system as follows:
 - a. **Tier 1:** A minimum number of off-street parking spaces are required. There are no off-street parking maximums. Generally, zoning districts in this tier are less walkable and do not have available public parking or space for on-street parking.
 - b. **Tier 2:** A minimum number of off-street parking spaces are required. There are also off-street parking space maximums. Generally, zoning districts in this tier contain a mix of lower-density residential and commercial uses. Some off-street parking is necessary to preserve public rights-of-way, but many of these areas are more amenable to alternative modes of transportation.
 - c. **Tier 3:** There is no required number of spaces for off-street parking, but there are off-street parking space maximums. Generally, zoning districts in this tier consist of dense, heavily commercial development.



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2. The tiered parking requirements applies based on the zoning district. In the case of Planned Development Districts or Conditional Zoning Districts, the tier applicable to the base zoning district shall apply, unless otherwise specified in the adopting ordinance.

TABLE 10.3A: TIERED PARKING REQUIREMENTS	
Parking Requirement Tier	Zoning Districts
Tier 1	General Residential (GR) and General Industrial (GI)
Tier 2	Residential Mixed-Use (RMX), Neighborhood Mixed-Use (NMX), and Institutional Campus (IC)
Tier 3	Downtown Mixed-Use (DMX) and Corridor Mixed-Use (CMX)

Commented [EB9]: Note that in our current regulations – NMX “in the Railroad Avenue/Lumberyard area” is exempt from non-residential minimum parking requirements.

Commented [EB10]: Note that DMX is currently exempt from non-residential minimum parking requirements.

- 1.3. Required parking shall be available for the parking of operable vehicles of residents, customers, and employees, and shall not be used for the storage of vehicles or materials, or for the parking of vehicles used for loading or unloading.

B. Off-street minimum and maximum vehicle parking ratios:

TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS							
Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
<u>Residential</u>							
Household Living	<u>All household living uses, except as listed below</u>	<u>1.5 / dwelling unit</u>	-	<u>1 / dwelling unit</u>	<u>2 / dwelling unit</u>	-	<u>2 / dwelling unit</u>
	<u>Dwelling - Single-Family</u>	<u>2 / dwelling unit</u>	-	<u>1 / dwelling unit</u>	<u>2 / dwelling unit</u>	-	<u>2 / dwelling unit</u>
	<u>Manufactured Home (single unit)</u>	<u>2 / dwelling unit</u>	-	<u>1 / dwelling unit</u>	<u>2 / dwelling unit</u>	-	<u>2 / dwelling unit</u>
Group Living	<u>All group living uses, except as listed below</u>	<u>1 / dwelling unit or rooming unit</u>	-	<u>1 / dwelling unit or rooming unit</u>	<u>3 / dwelling unit or rooming unit</u>	-	<u>3 / dwelling unit or rooming unit</u>
	<u>Rooming or Boarding House</u>	<u>.5 / rooming unit</u>	-	<u>.5 / rooming unit</u>	<u>1.5 / rooming unit + 1 additional space</u>	-	<u>1.5 / rooming unit + 1 additional space</u>
Social Services	<u>Group Care Facility</u>	<u>1 / dwelling unit, rooming unit, or bed</u>	-	<u>1 / dwelling unit, rooming unit or bed</u>	<u>3 / dwelling unit, rooming unit or bed</u>	-	<u>3 / dwelling unit, rooming unit or bed</u>
	<u>Shelter</u>	<u>2 spaces</u>	-	<u>2 spaces</u>	<u>6 spaces</u>	-	<u>6 spaces</u>
<u>Lodging</u>							
Overnight Accommodations	<u>All overnight accommodations, except as listed below</u>	<u>1 / room or suite</u>	-	<u>.5 / room or suite</u>	<u>1.5 / room or suite</u>	-	<u>1.5 / room or suite</u>
	<u>Short-term Rental</u>	<u>2 / rental unit</u>	-	<u>1 / rental unit</u>	<u>2 / rental unit</u>	-	<u>2 / rental unit</u>
Camping	<u>Campground / Recreational Vehicle Park</u>	<u>.25 / campsite or RV parking site</u>	-	<u>.2 / campsite or RV parking site</u>	<u>1 / campsite or RV parking site</u>	-	<u>1 / campsite or RV parking site</u>
	<u>Rental Cottage / Cabins</u>	<u>1 / room or suite</u>	-	<u>.5 / room or suite</u>	<u>1.5 / room or suite</u>	-	<u>1.5 / room or suite</u>
	<u>Seasonal Camp</u>	<u>Varies, See Section 10.3.D</u>	-	<u>Varies, See Section 10.3.D</u>	<u>Varies, See Section 10.3.D</u>	-	<u>Varies, See Section 10.3.D</u>

Commented [EB11]: Current Parking Minimums:
-Single Family Residential: 2/dwelling unit
-MF in DMX or NMX: 1/dwelling unit
-MF in all other districts: 1.5/dwelling unit

Commented [EB12]: Current parking minimum is 1 / room or suite

Commented [EB13]: Matches single-family dwelling

Commented [EB14]: Matches overnight accommodations



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TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Commercial		-	-	-	-	-	-
Eating and Drinking Establishments	All restaurants and other eating and drinking establishments	1/ 750 SF	-	1/ 750 SF	1/ 200 SF	-	1/ 200 SF
Personal Services	All personal services	1/ 500 SF	-	1/ 600 SF	1/ 300 SF	-	1/ 300 SF
Professional Services	All professional services, except as listed below	1/ 500 SF	-	1/ 600 SF	1/ 300 SF	-	1/ 300 SF
	Funeral Homes and Services	1/ 4 seats in main assembly area + 1 / 500 SF of office space	-	1/ 4 seats in main assembly area + 1 / 600 SF of office space	1/ 2 seats in main assembly area + 1 / 300 SF of office space	-	1/ 2 seats in main assembly area + 1 / 300 SF of office space
Retail	All retail and sales establishments except as listed below	1/ 500 SF	-	1/ 600 SF	1/ 300 SF	-	1/ 300 SF
	Gas Station	1/ 500 SF of retail	-	1/ 500 SF of retail	1/ 400 SF of retail	-	1/ 400 SF of retail
Shopping Centers	All shopping centers	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D
Civic / Institutional		-	-	-	-	-	-
Educational	All educational uses except as listed below	2 / classroom	-	2 / classroom	None	-	None
	Colleges/Universities	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D
	Schools—Vocational/Technical	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D
Governmental	All government uses	1/ 750 SF	-	1/ 1,000 SF	1/ 200 SF	-	1/ 200 SF
Medical	All medical offices and facilities except as listed below	1/ 500 SF	-	1/ 600 SF	1/ 300 SF	-	1/ 300 SF
	Hospital	2.5 / patient room	-	2 / patient room	5 / patient room	-	5 / patient room
Places of Worship	All religious institutions or places of worship	1/ 6 seats in main assembly area + 1 / 500 SF of office space	-	1/ 6 seats in main assembly area + 1 / 600 SF of office space	1/ 2 seats in main assembly area + 1 / 300 SF of office space	-	1/ 2 seats in main assembly area + 1 / 300 SF of office space
Entertainment / Recreation		-	-	-	-	-	-
Indoor Recreation	All indoor recreation facilities, except as listed below	1/ 500 SF	-	1/ 750 SF	1/ 250 SF	-	1/ 250 SF
	Cultural or Community Facility	1/ 6 seats in main assembly area + 1 / 500 SF of office space	-	1/ 6 seats in main assembly area + 1 / 600 SF of office space	1/ 2 seats in main assembly area + 1 / 300 SF of office space	-	1/ 2 seats in main assembly area + 1 / 300 SF of office space
	Live Performance Theater	1/ 8 seats	-	1/ 10 seats	1/ 2 seats	-	1/ 2 seats
	Movie Theater	1/ 8 seats	-	1/ 10 seats	1/ 2 seats	-	1/ 2 seats
	Special Event Venue	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D

Commented [EB15]: Current parking minimum is 1/4 seats. This is changed to a square footage measurement to standardize with other commercial uses.

Commented [EB16]: Current parking minimum is 1 / 500 SF

Commented [EB17]: No maximum because there are a lot of variations between the parking needs of an elementary school, high school, or tutoring center. Most of those are currently found in IC (Tier 2).

Commented [EB18]: Same as professional services

Commented [EB19]: Current parking minimum is 1 / 4 seats or 1 / 6 feet of pews

Commented [EB20]: Same as places of worship

Commented [EB21]: Current parking minimum is 1 / 3 seats.



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TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Outdoor Recreation	All outdoor recreation facilities	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D	Varies, See Section 10.3.D	-	Varies, See Section 10.3.D
Agriculture	-	-	-	-	-	-	-
Agriculture	All agricultural uses	1 / 500 SF of retail or administrative area	-	1 / 750 SF of retail or administrative area	1 / 300 SF of retail or administrative area	-	1 / 300 SF of retail or administrative area
Manufacturing / Wholesale / Storage	-	-	-	-	-	-	-
Light Industrial and Manufacturing	All light industrial and manufacturing activities	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space	-	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space	-	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space
Heavy Manufacturing	All heavy manufacturing activities	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space	-	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space	-	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space
Storage and Disposal	All storage and disposal uses	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of storage/ disposal space	-	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of storage/ disposal space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of storage/ disposal space	-	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of storage/ disposal space
Wholesaling and Distribution	All wholesaling and distribution activities	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of wholesale, distribution, or retail space	-	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of wholesale, distribution, or retail space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of wholesale, distribution, or retail space	-	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of wholesale, distribution, or retail space
Infrastructure	-	-	-	-	-	-	-
Utilities	All utilities	N/A	-	N/A	N/A	-	N/A
Telecommunications	All wireless telecommunication facilities	N/A	-	N/A	N/A	-	N/A
Transportation	All transportation uses	N/A	-	N/A	N/A	-	N/A

Note: All square footage in gross square feet.

Commented [EB22]: Current parking minimum for all manufacturing/industrial uses is 0.25 / 1,000 SF of non-office space.

Changes account for the broad variations in industrial types (some have retail components, some have more office space and less warehouse, etc.)

C. Calculation of off-street vehicle parking spaces:

- Vehicle parking spaces are calculated based on the principal use of the lot. When more than one principal use occupies the same lot, the number of spaces is the sum of separate requirements for each principal use.
- When measurements of the number of required spaces result in a fractional number, the result is rounded to the nearest whole number.



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3. Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed on the basis of gross floor area.

D. Uses without minimum and maximum off-street vehicle parking spaces:

1. Some uses or combination of uses (group developments, mixed-use projects, etc.) have widely varying parking demand characteristics making it impossible to specify a single off-street parking standard. For these uses, the administrator shall determine the appropriate requirements with one of the following methods:
 - a. Apply the off-street parking requirement specified for the listed use that is deemed most similar to the proposed use; or
 - b. Establish off-street parking requirements based on a parking study prepared by a qualified professional and provided by the applicant.
 - i. Such a study must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the administrator, and should include other reliable data collected from uses or combinations of uses that are the same as, or comparable with, the proposed use.
 - ii. Comparability will be determined by density, scale, bulk, area, type of activity, and location.
2. In no circumstance may the total number of parking spaces exceed a ratio of exceed one space per 200 gross square feet of the building(s).

E. Minimum off-street parking exceptions:

1. Public parking credit:
 - a. Public parking facilities located within 1,760 feet (1/3-mile) walking distance of the development site may be credited toward the minimum parking requirement at a rate of 1 space for every 5 public parking spaces.
 - b. Signage shall be provided that indicates the location of the public use spaces.
 - c. Residential uses are not eligible for this exemption.

1.2. Shared/combined parking:

- a. The joint use of shared off-street parking between two uses may be made by contract between two or more adjacent property owners. The administrator may adjust the minimum parking requirements at a rate of 1 space for every 2 shared spaces.

3. Tree preservation:

- a. The minimum number of spaces required may be adjusted by the administrator when it has been determined that the reductions are necessary to preserve a healthy tree or trees (with a 12-inch or greater diameter) from being damage or removed, and where the site plan provides for the retention of said tree or trees.
- b. The reduction shall not exceed 25% of the total minimum parking spaces required.
- c. Invasive tree species as outlined in Section 8.2 of this ordinance are not eligible for this exemption.

4. Additional bicycle parking:

- ~~b.~~a. Additional bicycle parking spaces above the minimum required bicycle parking may reduce the number of required off-street parking spaces at a rate of 1 parking space for every 2 additional bicycle parking spaces.

Commented [EB23]: Distance is derived from Depot parking lot to King Street businesses



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~~e.b.~~ The reduction of spaces granted with this exception shall not exceed 25% of the minimum off-street parking requirement.

5. Electric vehicle parking:

a. Off-street vehicle parking with EVSE-installed vehicular charging stations shall count toward satisfying the minimum off-street vehicle parking requirements.

~~d.b.~~ All off-street vehicle parking with EVSE-installed vehicular charging stations shall meet the general provisions of Section 10.6.

6. Payment in lieu of parking spaces:

a. The minimum number of parking spaces required may, at the administrator's discretion, be reduced by up to 50% with a fee paid to the city in lieu of developing the parking space(s).

b. Payments in lieu of parking spaces may be approved as part of the development plan.

c. All payments made in lieu of parking spaces shall be made at the time of construction document approval. Failure to submit the required fee along with such applications will delay approval of such submissions until payment is rendered.

d. All funds received for payment in lieu of parking spaces shall be used for the acquisition, improvement, development, or redevelopment of public parking spaces within the city.

7. Upgrading preexisting non-conforming parking facilities:

a. The minimum number of spaces required may be reduced by up to 25% to allow an existing development to retrofit parking to conform to the existing parking area design and landscaping regulations.

~~D.F.~~ Maximum off-street vehicle parking exceptions~~parking allowed:~~

1. Spaces reserved for the following are not included in calculating off-street vehicle parking maximums:

a. Required accessible parking spaces in compliance with City, state, and federal standards

~~a.b.~~ Parking spaces with EVSE-installed electric vehicle charging stations

c. Loading / unloading spaces as required by this ordinance

2. ~~Additional parking that exceeds ten percent of the required minimum (hereafter "excess parking") shall not be permitted, except as follows:~~ The administrator may grant exceptions to the maximum off-street parking up to 25% when the following conditions are met:

~~b.a.~~ Parking spaces constructed with ~~durable and dustless pervious paving systems~~ porous monolithic pavers, or other pervious paving materials.

i. Pervious paving shall be considered surface improvements such as interlocking concrete paving blocks, brick pavers, grid pavers, or other similar improvements which permit the infiltration of water through the improved surface.

ii. Sub-surface preparation to accommodate the water infiltration allowed through the surface material shall be required.

iii. Gravel shall not be considered a pervious paving surface.

~~e.b.~~ Parking spaces located in a parking area that is designed to control for stormwater run-off generated by a 25-year, 24-hour rain event, and in compliance with Section 6.6 of this ordinance.

~~d.~~ For manufacturing/warehousing/light assembly use types, excess parking shall be determined as additional parking that exceeds ten percent of parking calculated at 1 space per 500 square feet. Excess parking may be permitted in accordance with subsections (a), (b), (c), and (d) above.

Commented [EB24]: Requirements mimic the payment in lieu of open space dedication



3. Underground or above-grade parking:

- ~~e.a.~~ The maximum off-street parking may be increased by up to 100% if the additional parking spaces are located ~~Excess parking may be provided within in an~~ underground, on a roof-top, or within a multi-story parking structure.

4. Satellite parking:

- ~~f.a.~~ Satellite parking may be permitted, subject to certification by the administrator that the following requirements have been met:

- ~~i.~~ ~~The use being served by the satellite parking shall be a permitted principal use, as established in CHAPTER 2, in the zoning districts within which the lot containing such parking is located;~~
- ~~ii.~~ Satellite parking lots shall only be permitted in zoning districts where parking lots are permitted as a by-right primary use, as established in Chapter 2 and Chapter 3.
- ~~iii.~~ ii. The satellite parking spaces shall be located within ~~1,320-1,760~~ feet (3/4 1/3-mile) walking distance of a public entrance to the structure or lot containing the use for which such spaces are required.
- ~~iv.~~ iii. A safe, direct, attractive, lighted and convenient pedestrian route shall exist or be provided between the satellite parking and the use being served;
- ~~v.~~ iv. The continued availability of satellite parking spaces necessary to meet the requirements of this section shall be ensured by an appropriate condition that the continued validity of the zoning compliance or special use permit shall be dependent upon the permit holder's continued ability to provide the requisite number of parking spaces.

Commented [EB25]: This would be any district except GR, which has a SUP.

G. Accessible parking:

1. Accessible parking shall be provided in accordance with the North Carolina State Accessibility Code.

H. Compact car parking spaces:

- 2.1. For parking areas and structures with 20 or more off-street vehicle parking spaces, up to 25% of required vehicle parking spaces may be designed for compact vehicles and designated with the appropriate signage and/or markings.

~~E. Exemptions and adjustments:~~

- ~~1. Developments which meet any of the following criteria may be totally or partially exempt from the parking requirements of this section:~~
- ~~a. Developments which involve an increase in floor area and which will not increase the number of parking spaces required under this chapter by more than 25 percent;~~
- ~~b. Developments which involve only a change of use and which will not increase the number of parking spaces required under this chapter by more than 25 percent;~~
- ~~2. No development shall be exempted from bicycle parking requirements.~~

~~F. Variations in parking requirements:~~ In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required in this section may be provided as follows:

- ~~1. Overflow parking:~~ Off-street areas used to accommodate occasional (no more than once per month) overflow parking may be constructed of grass. The owner of the property shall be responsible for the maintenance of such parking in a clean and dust-free condition.

10.4. Off-street loading requirements.



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A. Off-street loading spaces shall be required for the following uses:

1. ~~Every lot on which a A retail or wholesale business that is expected to regularly receive or deliver goods;~~
2. A multi-use building with at least 3 different businesses and/or uses;
3. Manufacturing/Wholesale/Storage uses; ~~trade, industry, or~~
4. Multi-family housing development with 10 or more dwelling units; ~~or~~
- 4-5. ~~Any other use that is expected to regularly receive or deliver goods, as determined by the administrator is hereafter established, shall provide space indicated herein for the loading and unloading of vehicles off the street.~~

B. Off-street loading spaces shall be required based on the gross floor area of the primary structure or structures on the parcel, according to the following ratios: ~~Required space shall be considered as follows:~~

~~Retail businesses: One space per business location.~~

~~Wholesale, industrial, governmental and institutional uses (including public assembly places, hospitals, and educational institutions): One space for the first 25,000 square feet, such uses shall provide loading spaces according to the following schedule.~~

TABLE 10.4A: ~~OFF-STREET LOADING RATIOS~~ ~~REQUIREMENTS FOR WHOLESALE, INDUSTRIAL, GOVERNMENTAL AND INSTITUTIONAL USES~~

Square Feet	Number of Spaces
0 – 24,999	1
25,000—99,999	2
100,000—159,999	3
160,000—239,999	4
240,000—349,999	5
Additional 100,000 or fraction thereof	1 additional

C. ~~Required loading spaces shall be available for the loading and unloading of vehicles, and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements.~~

D. Location:

1. Required off-street loading spaces shall be located to the sides and/or rear of the lot to maximize the street exposure of the primary structure(s). The administrator may grant exceptions to this requirement if deemed impractical or impossible given the layout of the existing structures and vehicular access.
- 1-2. ~~Where a loading space is adjacent to a public sidewalk or other public pedestrian way, it shall be so located, arranged and improved with curbs or other barriers, as to provide adequate protection for pedestrians.~~
3. All off-street loading spaces shall be provided with adequate off-street maneuvering areas so that vehicles do not obstruct traffic during maneuvering.
4. Such space shall have access to an alley or commercial service street or, if there is no alley or service street, to a street.
5. No loading space or bay may intrude into any portion of a required setback, required parking space, parking area aisle, or driveway.

Commented [EB26]: If it is a building with multiple businesses, it would be required to measure it out for the entire building. Our current ordinance that says one per business.

Commented [EB27]: Moved from Section 10.3 – No content changes



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6. ~~For the purposes of this section, an~~ An off-street loading space shall have the minimum dimensions of 12 feet by ~~40-25~~ feet and be free and clear of obstruction at all times. ~~However, the minimum loading requirements shall meet the needs of each individual use.~~

C. Exceptions to loading space requirements: The administrator may adjust the minimum loading space requirements in the following instances:

1. The joint use of shared off-street loading spaces between up to 4 uses is made by contract between adjacent property owners.
2. On-street loading spaces are provided for public use within 1,760 feet (1/3-mile) walking distance.

10.5. Off-street bicycle parking requirements.

A. Applicability: Off-street bicycle parking for the secure storage of bicycles shall be required for the following uses:

1. Multifamily developments containing ~~3-8~~ or more dwelling units;
2. Group developments;
1. ~~Planned developments;~~
2. ~~Conditional zoning districts;~~
3. ~~Special use permit development;~~
3. All overnight accommodation uses, except short-term rentals;
4. Any other development requiring ~~10~~20 or more off-street vehicle parking spaces.

B. Minimum amount of bicycle spaces:

- ~~5.1. One~~ Two bicycle spaces shall be provided for every 20 required vehicle parking spaces as determined by Section 10.3, with a minimum of one 4-bicycle rack.

C. General provisions:

1. Bicycle parking may be provided through various types of facilities, so long as the facility meets the following requirements:
 - a. Bicycle racks are securely anchored, and easily usable with both U-locks and cable locks and support a bicycle at 2 points of contact to prevent damage to the bicycle wheels and frame.
 - b. Spacing of the racks shall provide clear and maneuverable access.
 - c. Where a bicycle can be locked on both sides without conflict, each side can be counted as a required space.
2. Bicycle parking shall remain accessible and not be rendered unusable by fixed or movable objects.

D. Location:

1. Bicycle racks are encouraged to be placed in well-lit, visible and convenient locations near building entrances and easily accessible from multi-use paths, if applicable.
2. Bicycle parking locations shall not impede pedestrian or motorized vehicle movement or circulation.
3. Bicycle racks may be located in the public right-of-way with approval from the City or the North Carolina Department of Transportation, as applicable, with an encroachment agreement.
4. The administrator may adjust bicycle parking requirements to account for shared parking, buildings located in close proximity to one another, or the presence of public bicycle racks in close proximity.

Commented [EB28]: Pulled from a bullet in Section 10.3 and adjusted/expanded

Commented [EB29]: Matches the trigger for street trees, open space, etc.



10.6. Off-street electric vehicle parking requirements.

- A. *Applicability:* Off-street electric vehicle parking spaces installed with electric vehicle supply equipment (EVSE) shall be required for developments requiring 50 or more off-street vehicle parking spaces.
1. Multifamily developments where at least 25% of the units meet the definition of affordable housing shall be exempt from all electric vehicle parking space requirements.
- B. *Minimum amount of electric vehicle parking spaces:*
1. Two electric vehicle parking spaces shall be provided for every 50 required vehicle parking spaces as determined by Section 10.3.
- C. *General provisions:*
1. Electric vehicle parking spaces shall be installed outside of the public right-of-way.
2. All required electric vehicle parking spaces shall be equipped with Level 2 or DC Fast Charging. Alternative electric vehicle charging equipment may be considered.
3. Electric vehicle parking spaces and all charging equipment shall be:
- a. Located outside of the public right-of-way;
- b. Placed outside of the critical root zone of any preserved tree; and
- c. Placed at least five feet from a newly planted tree.
4. Electric vehicle parking spaces shall be designated with the appropriate signage and/or markings.
5. Barriers, such as wheel blocks, bollards, and curbs, shall be placed between the electric vehicle parking space and the electric vehicle charging equipment.

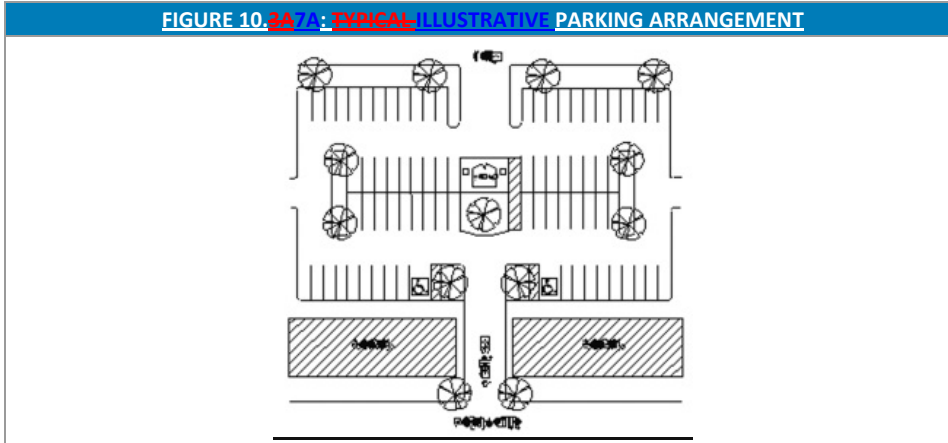
10.57. General Off-street parking area design and construction standards.

- A. *Applicability:* The following shall apply to surface off-street parking areas.
- A.B. *General:* Internal parking area design and circulation shall be subject to the review and approval of the approving authority, who may impose such conditions as are necessary in order to:
1. Ensure the safety of pedestrians and motorists;
2. Allow unobstructed movement into and out of each parking space without interfering with fixed objects or vehicles;
3. Minimize delay and interference with traffic on streets and driveways;
4. Maximize sight distances from parking area exits and access driveways;
5. Facilitate safe and convenient movement of pedestrians from the parking spaces to the principal structure and/or other pedestrian facilities (e.g., sidewalks, multi-use paths, etc.).

Commented [EB30]: Merging the current Section 10.5 (design standards) and 10.6 (construction standards) into a single section.



FIGURE 10.2A7A: TYPICAL ILLUSTRATIVE PARKING ARRANGEMENT



B.C. Location of off-street parking:

1. ~~Off-street parking shall not be permitted within any public right-of-way.~~ Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
2. ~~For non-residential uses and multi-family development with more than 4 dwelling units, access configurations which require backing directly onto a street from a required off-street vehicle parking space are prohibited. Alleys and commercial service lanes are not considered streets for the purposes of this requirement.~~
- 2.3. Off-street parking shall not be permitted within any front yard setback area and shall not be permitted between any principal structure and the street upon which such structure fronts. Where a structure fronts upon two or more streets, parking may be permitted between the principal structure and the adjacent street of lesser classification when parking cannot reasonably be placed in another location.
 - a. The following uses and parking types shall be exempt from ~~Section 10.5.G.2~~ this requirement above:
 - i. Single-family and duplex residential structures in ~~GR, RMX and NMX districts~~ zoning districts with Tier 1 and Tier 2 off-street parking requirements, according to Section 10.3.
 - ii. Handicapped parking spaces as required by the North Carolina Accessibility Code or other federal, state, or local regulations.
 - iii. Bicycle parking spaces required by this ordinance.
 - iv. Existing non-residential and multi-family development undergoing significant improvement, substantial improvement or change of use ~~as defined in CHAPTER 19 of this ordinance,~~ provided that all newly created parking spaces associated with such redevelopment shall conform with ~~Section 10.5.G.2~~ this requirement unless the approving authority deems that compliance would be impractical due to existing site constraints.

C.D. Surfacing: All off-street vehicle ~~accommodation~~ parking area surfacing shall be constructed in accordance with the following specifications:



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1. Hard surface required: All off-street parking areas including drives connecting such areas with the public street rights-of-way shall be ~~surfaced with a dust free paving treatment including but not limited to asphalt, concrete, or unit pavers~~ constructed of permanent non-erodible surface treatment as follows:
 - a. Porous or semi-porous monolithic or paver materials;
 - b. Masonry or concrete pavers; or
 - ~~a-c.~~ Poured concrete or asphalt.
2. ~~Porous paving permitted:~~ The administrator may ~~permit and/or require that the use of~~ porous paving materials ~~be substituted for conventional paved surfaces in some in all or a portion of a the vehicular surface area parking areas. Such instances may pertain to the following, without limitation:~~
 - a. ~~where it finds it is necessary to~~ To protect the root system of an existing tree or trees from damage
 - b. ~~or To~~ reduce the amount of impervious surface for stormwater calculation purposes, or
 - ~~b-c.~~ To protect environmentally sensitive areas.
- 2.3. ~~Exceptions to paved parking~~ hard surface requirement: The following situations are exempted from the ~~hard surface requirement~~ requirements of this section.
 - a. Parking for a single-family or duplex dwelling in GR districts;
 - b. Parking for agricultural uses;
 - ~~a-c.~~ A parking lot/parking area used only for occasional (not more than once per month) use or is temporary in nature (not exceeding 24 months), as determined by the administrator as part of a permitted special event or temporary use permit;
 - ~~b-d.~~ Public Outdoor recreational facilities that are open to the public; located in residential districts.
 - ~~e.~~ Whenever a proposed development involves only one of the following:
 - i. ~~A non-occupied accessory structure, or,~~
 - ii. ~~A change in use which will not increase the number of required parking spaces by more than 25 percent, and provided that no significant or substantial improvements to the primary structure are proposed.~~
 - ~~d.~~ The administrator may exempt up to 75 percent of the required employee parking spaces for industrial uses in industrial zoning districts from the paving requirements of the section. The exemption is based upon the following criteria: if the employee parking area is not visible, either by effective buffer screening or because of the grade of the site, from any public right of way or a residentially or commercially zoned property.
- 3.4. Non-paved areas: Whenever an off-street parking area is exempt from the ~~paved parking~~ hard surface requirements, the administrator shall require the following:
 - a. The non-paved parking areas shall be in compliance with the parking lot landscaping requirements in Chapter 8.
 - b. Landscape aisles, space markings, or other spatial separations shall be provided to ensure that the parking spaces will be readily identifiable to the users.
 - c. The perimeter of off-street parking areas encompassing the parking stalls and the side of any unpaved drive or aisle leading to said stalls, shall be edged with brick, pressure treated timbers, or cast in place concrete, and anchored into place. Alternate borders may be considered on a case-by-case basis.



- d. Landscaping or other measures shall be utilized to prevent the discharge of sediment off-site or into any body of water from an unpaved parking area.

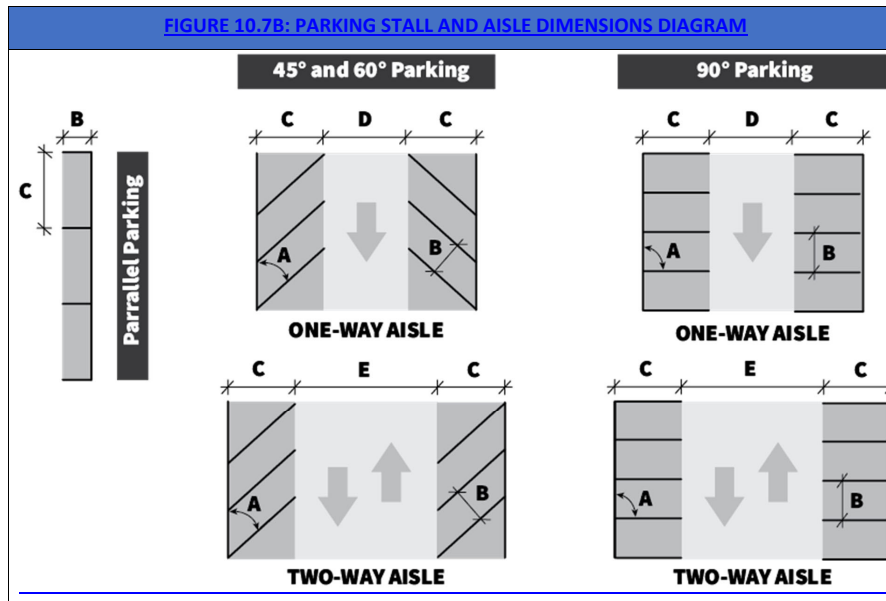
D-E. Parking ~~space~~ dimensions:

1. Parking areas shall meet the following minimum dimensional requirements:

TABLE 10.7A: MINIMUM PARKING STALL AND AISLE DIMENSIONS				
Parking Angle (A)	Stall Width (B)	Stall Depth (C)	One-Way Aisle Width (D)	Two-Way Aisle Width (E)
0 / Parallel	8'	22'	N/A	N/A
45	9' (Standard) 8' (Compact)	17'6" (Standard) 16' (Compact)	16'	22'
60	10' (Standard) 8' (Compact)	18' (Standard) 15' (Compact)	18'	22'
90	9' (Standard) 8' (Compact)	18'6" (Standard) 16' (Compact)	22'	24'

Note: Refer to Figure 10.7B below.

Commented [EB31]: Current regulations only provide regulations for 90-degree parking that is 9'x18' with 24' drive aisle.





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- ~~1. Standard parking spaces shall be 9' x 18' (width x length). Alternative parking space designs shall be dimensioned in accordance with Architectural Graphics Standards by Ramsey & Sleeper published by the American Institute of Architects, latest edition.~~
- ~~2. Parking aisles: Parking aisles shall be a minimum of 24 feet in width.~~
2. Other parking angles, aisle widths, and traffic flows will be considered on a case-by-case basis by the administrator and/or the Technical Review Committee.
3. All parking lots with one-way aisle are required to have the appropriate directional signage, permitted in accordance with Section 12.9 [Permanent Signage], and at least two driveways, permitted in accordance with Section 9.3 [Access Management].
4. Nothing in this section shall be construed as an exemption from local Fire Code access requirements.
5. All parking areas with a hard surface shall delineate parking spaces with paint or other permanent materials. Pavement markings shall be white, at least 4" wide, and maintained in clearly visible condition.
6. *Tandem parking space:* Two spaces stacked (i.e., tandem) may be permitted provided all of the following criteria are met:
 - a. The development is a Household Living Use and does not contain more than 4 dwelling units per building.
 - b. Both spaces are assigned to one dwelling unit.
 - c. The two vehicle parking spaces in tandem must have a combined minimum dimension of 9 feet in width by 36 feet in length.
 - d. The proposed layout is functional and will not create pedestrian or traffic hazards.
 - e. The spaces comply with all other standards in this ordinance.

F. *Curbing required:*

1. All parking areas and circulation drives shall be curbed using a vertical curb with a minimum width of 1'6". Landscape islands and areas shall be similarly curbed to protect vegetation.
2. This requirement may be waived to permit sheet flow drainage into pervious areas as part of an approved engineered stormwater retention system.

G. *Barriers:*

1. Barriers, such as wheel blocks, bollards, and curbs, shall be located along the perimeter of parking lots, internal sidewalks and pedestrian connections that abut parking spaces or driveways.
2. Such barriers shall be designed and located to prevent parked vehicles from extending beyond designated parking areas.

H. *Maintenance:* Parking lots shall be maintained to a reasonable drivable standard with visible pavement markings.

I. *Landscaping:* Parking lots shall be subject to the parking lot landscaping standards of Section 8.7.

J. *Lighting:* Parking lots shall be subject to the outdoor lighting standards of Section 11.2.

K. *Stormwater management:*

1. Parking areas are subject to stormwater management requirements set forth in CHAPTER 6 of this ordinance.



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2. It is strongly encouraged that parking area landscaping be incorporated into the approved stormwater management system for any project.

G.L. Connectivity:

1. Adjacent lots in group developments shall be interconnected. Exceptions may be granted by the administrator in the case of existing natural barriers such as steep slopes, surface water protection areas, etc. between the sites.
2. Each parking area that is interconnected may reduce their minimum parking requirement by 10%. ~~five percent.~~

H.M. Circulation drives:

1. A circulation drive may be permitted around the front of the building but may not encroach into any required landscape area.
2. If provided, this drive shall be one-way and designed to be the minimal width required (not to exceed 12 feet in width) and shall be constructed using alternative paving treatments such as unit pavers or stamped concrete.

FIGURE 10. ~~SAZC~~: CIRCULATION DRIVES



Note: Circulation drives, if provided, should be minimized and treated with pedestrian-scaled materials.

~~Primary entry drives:~~

- ~~1. Parking lots shall be served by a primary entrance drive that is constructed to the standards of a local boulevard. The approving authority may approve construction in accordance with the standards set forth for a local collector street when a local boulevard is not feasible due to dimensional limitations within the site.~~

J.N. Pedestrian ~~amenities~~ connections:

1. Off-street parking areas shall be designed to allow pedestrians to safely move from their vehicles to the building. Barrier free access shall be provided across ~~parking lot~~ parking areas and between adjacent pedestrian generators such as commercial or public buildings.
2. All structures (other than single-family and duplex structures) shall be connected to the street and, if available, an adjacent public sidewalk, by a sidewalk. Furthermore, all structures within a group development, planned development, or other project containing multiple principal structures shall be connected by a sidewalk. Sidewalks shall also connect other phases of the same development, and adjacent developments, as required by the administrator



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3. In addition to any required sidewalk, barrier free access shall also include providing ramps at curbs, clear walkways between pre-cast wheel stops, and clearly delineated walkways on the ~~parking lot~~ parking area surface across travel lanes.
4. For lots of 36 spaces or greater, no parking space shall be more than 65 feet from a sidewalk that provide access to the entrance of the building or to other sidewalks connecting to the building. Sidewalk corridors a minimum of five feet in width shall be provided within the parking area or along the perimeter to provide safe building access for pedestrians.

FIGURE 10.78: PEDESTRIAN AMENITIES CONNECTIONS



Note: Sidewalks must connect parking areas and streets to principal structures.

10.78. Structured parking.

- A. Applicability: The following shall apply to any parking structure, whether it be above-grade, at-grade, below-grade, or a combination thereof.
- B. Location: Locating structured parking at the interior of the block, surrounded by buildings, is the preferred method of screening.
- C. Design:
 1. Where an above-ground parking structure fronts a public street, the side(s) facing the street shall be screened in such a way that cars are not visible from the street.
 2. Along pedestrian-oriented streets, parking structure facades shall be treated with high quality materials and given vertical articulation and emphasis compatible with the principal structure, if applicable. The façade shall be designed to visually screen cars.
 3. Parking structures must present a horizontal rather than sloped building line on all visible edges.
- D. Entries: Pedestrian entries shall be clearly visible.
- E. Lighting: Parking structures shall be subject to the outdoor lighting standards of Section 11.2.



CHAPTER 19. DEFINITIONS

19.3. Definitions.

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

Electric vehicle parking space: A public or private parking space installed with electric vehicle supply equipment (EVSE) to charge electric vehicles.

Loading space, off-street: Space conveniently located for pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles even when required off-street parking spaces are filled.

Parking area: Any public or private open area or facility used for parking automobiles and other vehicles serving a primary use or uses.

Parking lot: Any public or private open area or facility used for parking automobiles and other vehicles as a principal use. The lot or facility may serve as remote parking for a principal use on a separate lot or as a principal use on the site. A fee may or may not be charged.

Public parking facilities: Facilities open to the public for off-street vehicle parking that are owned or operated by a government agency or municipal service district, or developed as a public-private partnerships.

Satellite parking: A parking lot that is located on a parcel or lot that is not adjacent to the parcel or lot containing the use for which the parking is intended.

Tandem Parking Space: A parking arrangement in which one space (the tandem parking space) is accessible only by passing through another parking space (the traditional space).



CHAPTER 2. DISTRICT PROVISIONS

2.2. Use categories and tables of permitted uses.

TABLE 2.2A: LAND USE MATRIX - EXCERPT									
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
			GR	RMX	NMX	DMX	CMX	IC	GI
Infrastructure									
Utilities	3.12.A	Utilities—Class 1	P	P	P	P	P	P	P
		Utilities—Class 2	P	P	P	P	P	P	P
		Utilities—Class 3	—	—	—	—	—	—	P
Telecommunications	3.12.B	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Transportation	3.12.C	Parking Lot	SUP	PS	PS	PS	PS	PS	PS
		Passenger Vehicle Terminals	—	—	P	P	P	—	P
(a) This column refers to the section of this ordinance that contains the use definition and additional standards.									



CHAPTER 3. USE DEFINITIONS AND STANDARDS

3.5. Residential uses. [EXCERPT]

A. *Household Living Use Category*

8. *Manufactured home park:*

- a. Definition: The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.
- b. Additional Standards:
 - i. Manufactured home parks are permitted with standards in the Manufactured Home Overlay District.
 - ii. Preexisting manufactured home parks.
 - (A) Any manufactured home park, as defined by this chapter, existing on the effective date of this chapter or any subsequent amendment thereto may continue to operate without being subject to the requirements of this chapter except where explicitly set forth below.
 - (B) Expansions to a pre-existing manufactured home park shall occur in a manner that fully conforms to the requirements of this ordinance. Expansions shall not occur in districts within which manufactured home parks are not permitted.
 - iii. A manufactured home park space shall be considered preexisting if, on the effective date of this chapter, the space:
 - (A) Is defined on the ground by the presence of all of the following:
 - (1) A water supply system service connection;
 - (2) A connection to a septic system or sanitary sewer; and
 - (3) Electric service equipment.
 - (B) Or, contains an occupied manufactured home connected to each of the preceding utilities.
 - iv. Permitting.
 - (A) Each application for a manufactured home park shall be accompanied by development plans as required by [CHAPTER 17](#), including contoured site plans (five-foot intervals) using true elevations. Development plans shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements. Development plans shall also show that all improvements would meet the following standards.
 - (B) Prior to the placement, replacement, modification, or setup of a manufactured home within any manufactured home park or on an individual lot of record within the regulatory jurisdiction of the City of Brevard, the manufactured home or agent thereof shall procure a land development permit from the City of Brevard and a manufactured home setup permit from the Transylvania County Building Inspections Department.
 - v. Dimensional specifications.

(A) *Lot standards:*

TABLE 3.5A: MANUFACTURED HOME PARK LOT STANDARDS	
Minimum Development Size	3 acres
Maximum Development Size	40 acres
Maximum Development Density	6 units/acre
Lot Width at Right-of-Way	50 ft.
Minimum Lot Depth	150 ft.

(B) *Principal structure standards:*

TABLE 3.5B: MANUFACTURED HOME PARK PRINCIPAL STRUCTURE STANDARDS	
Development setback on all boundaries	50 ft.
Unit setback from internal street centerline	25 ft.
Distance between homes-short side to short side	20 ft.
Distance between homes-long side to short side	20 ft.
Distance between homes-long side to long side	30 ft.
Setback from public right-of-way	50 ft.
Maximum Height	35 ft.

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

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



- (E) At least ten percent of the total area of any manufactured home park containing 35 or more spaces and situated one-quarter of a mile or more from a public recreational facility shall be set aside for recreational purposes, except that open space as required in Chapters 6 and 7 of this ordinance may be applied to no more than 75 percent of such recreation space.
- vii. Manufactured home park streets.
 - (A) Convenient access to each manufactured home space shall be provided by streets or drives that are properly graded, drained, and paved with a durable dustless surface, for automobile circulation.
 - (B) Manufactured home parks containing ten or more units shall be serviced by a central drive that is constructed in accordance with the requirements for a new neighborhood street as set forth in [CHAPTER 13](#). Streets entering branching from the central drive shall also be built according to neighborhood street dimensions. However, a sidewalk and curb/gutter shall not be required.
 - (C) Any tract of land to be developed as a manufactured home park must either have frontage on a public (state or city-maintained) road or have a private right-of-way corridor to the property. The minimum required length of the public road frontage or width of the private right-of-way corridor (at its narrowest point) shall be 50 feet.
 - (D) Off-site access shall have a minimum 20-foot cleared, unobstructed corridor, with a vertical clearance of at least 14 feet to allow passage of emergency vehicles.
 - (E) The grade of any road, existing or proposed, within an off-site private right-of-way corridor used to access a manufactured home park shall not exceed 15 percent.
 - (F) Publicly dedicated rights of way shall not be required, and maintenance of such streets shall be provided for by the owner and/or operator of the manufactured home park.
 - (G) Culs-de-sac shall not exceed 250 feet in length and shall be provided with a turnaround of at least 60 feet in diameter. Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Department of Transportation shall apply.
 - (H) Proposed streets shall be named, and addresses for manufactured home spaces along such streets assigned, by the Transylvania County Property Addressing Coordinator in accordance with the provisions set forth in the City of Brevard Property Addressing Ordinance or the Transylvania County Property Addressing Ordinance, as applicable.
 - (I) All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed on each manufactured home space.
- viii. Manufactured home space.
 - (A) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners.
 - (B) Each manufactured home space shall be located on ground not susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises.
 - (C) The manufactured home space shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men" eyelets embedded in concrete foundations or runways, screen augers, arrowhead anchors, or other devices securing the stability of the



manufactured home. Each manufactured home unit shall comply with the above standards or similar standards whichever are higher. Each manufactured home owner shall be responsible for securing his individual manufactured home to anchors provided by the manufactured home park operator.

ix. Utility requirements.

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

x. Solid waste.

- (A) The storage, collection, and disposal of solid waste in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or pollution.
- (B) All solid waste containing garbage shall be stored in standard fly-tight, watertight, rodent-proof containers, with a capacity of not more than 32 gallons, which shall be located not more than 150 feet from any manufactured home space. Containers shall be provided in sufficient number and capacity to properly store all solid waste containing garbage. The manufactured home park owner and/or operator shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the Transylvania County Health Department.
- (C) Containers shall be installed in the ground or provided with stands. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
- (D) All solid waste garbage shall be collected at least once weekly. Where suitable collection service is not available from municipal or private agencies, the manufactured home park owner and/or operator shall dispose of the solid waste by collecting and transporting it in conformance with requirements and guidelines set forth by the North Carolina State Board of Health and the Transylvania County Health Department.



- xi. Grounds, buildings, and structures.
 - (A) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination and control methods shall conform to the requirements of the County Health Department and/or North Carolina Department of Agriculture.
 - (B) Parks shall be maintained free of accumulation of garbage, litter, or other debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests, or which may pose other health or sanitation hazards, or which may contribute to an otherwise unsightly or unpleasant environment.
 - (C) Storage areas shall be so maintained as to prevent rodent harborage and shall not pose a safety hazard to manufactured home park residents or guests. Lumber, pipe, and other building material shall be stored at least one foot above ground.
 - (D) All manufactured homes shall be properly skirted with non-opaque wood, aluminum, vinyl, or other appropriate material. Plastic, plywood, particle board, carpet, or other atypical skirting material shall not be used.
 - (E) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be screened with wire mesh or other suitable materials.
 - (F) Landscaping and vegetation in and around the manufactured home park shall at all times be maintained, and landscaping provisions of the park plan shall at all times be adhered to. The growth of bushes, weeds, and grass shall be controlled so as to prevent the harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open spaces and recreation areas shall be maintained free of heavy undergrowth of any description.
 - (G) No inoperable vehicle shall remain in a manufactured home park for a period longer than 60 days unless the vehicle is stored under a carport or within a garage.
 - (H) Manufactured and mobile homes shall not be abandoned or stored within the regulatory jurisdiction of the City of Brevard. Manufactured homes that have been disconnected from active electricity, water, and sewage for a period exceeding 90 days shall be removed and properly disposed of. Manufactured homes located outside of a manufactured home space for a period to exceed 45 days shall be removed and properly disposed of.
 - (I) Manufactured homes shall not be utilized for storage or other non-residential uses of any type.
- xii. Registration of occupant.
 - (A) Every manufactured home park owner or operator shall maintain an accurate register. The register shall be available for inspection at all times by authorized city representatives. The register shall contain the following information on forms provided by the planning department: (1) Name of owner and/or occupant; (2) manufactured home space number; (3) make, model, registration number of manufactured home; and (4) date of arrival and departure of the occupants. Records shall be maintained for a period of three years.
- xiii. Inspection and enforcement.



- (A) The park owner and/or operator shall notify park occupants of all applicable provisions of the ordinance and inform them of their duties and responsibilities under this ordinance.
- (B) The owner and/or operator shall operate the park in compliance with this ordinance, Brevard City Code, Transylvania County Code (as applicable), and state and federal law, and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- (C) The City of Brevard Planning Department, the Transylvania County Health Department and the Transylvania County Building and Inspections Department are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance. It shall be the duty of the owners and/or operators or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for the purpose of inspection.
- (D) So long as a violation exists the administrator shall not issue permits that would authorize the placement, replacement, setup, or modification of a new or existing manufactured home within the subject park.

3.6. Lodging uses. [EXCERPT]

A. *Overnight Accommodations Use Category*

3. *Short-term rental (STR)*

- a. Purpose: The regulation of short-term rentals, as defined below, is intended to maintain the predominantly residential character of traditional neighborhoods in the City of Brevard and the extra-territorial jurisdiction thereof, and to encourage an increase in housing stock available within the City and its ETJ.
- b. Definition: A private residential property that is rented, either in whole, or part, for periods of less than 30 days for compensation. The following activities shall not be considered as a Short-Term Rental use for the purposes of this ordinance:
 - i. Dwelling units rented, in whole or in part, where a permanent resident lives on-site on the property. This shall include attached or detached accessory dwelling units where the operator lives elsewhere on the property.
 - ii. Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total number of nights rented does not exceed 14.
 - iii. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or bed and breakfast establishment.
- c. Existing STRs in GR Districts:
 - i. Existing STRs in General Residential zoning districts in operation of the effective date of this ordinance shall be allowed to continue operations, in accordance with Section 14.2 – Nonconforming Uses.
- d. Additional Standards:
 - i. A typical zoning permit shall be required solely to verify notification and agreement to comply with the additional standards contained herein.
 - ii. Overnight occupancy shall not exceed two persons per bedroom plus two additional persons. The number of "bedrooms" used in calculating occupancy limits shall be taken from the



property tax records. For example: a two-bedroom rental would have an occupancy limit of 6 (2×2 bedrooms = 4 + 2 additional = 6 total).

- iii. Dwelling units used as short-term rentals in GR zoning districts shall maintain their residential character and outside appearance. No signs shall be permitted. All exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.

B. *Camping Use Category*

1. Camping

- a. Definition: Commercial recreational facilities developed for temporary occupancy, with or without facilities, for the exclusive use of its occupants. Camping includes the following uses:
 - i. Campground / Recreational Vehicle Park;
 - ii. Rental Cottages / Cabins; and
 - iii. Seasonal Camps

2. *Campground/Recreational Vehicle Park*

- a. Definition: Establishments accommodating campers and their equipment, including tents, tent trailers, travel trailers, and recreational vehicles. Facilities and services may include washrooms and food services. The property shall be used for recreational purposes and retain an open air or natural character. This definition shall not include manufactured homes, manufactured home parks, or the storage of recreational equipment or vehicles.
- b. Additional Standards:
 - i. Individual campsites or recreational vehicle sites shall be set back a minimum of 100 feet from all lot lines.
 - ii. Recreational vehicles are permitted on campgrounds provided they are on site for fewer than 30 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions).

3. *Rental Cottages / Cabins*

- a. Definition: A commercial lodging establishment in which multiple individual cabins or similar structures are rented for temporary lodging and recreation. This definition shall not include short-term rentals.
- b. Additional Standards:
 - i. Cottages / cabins shall be situated at least 20 feet from any side or rear property line, and screened from adjacent properties along all side and rear property lines by a Type B buffer yard. Front yard setbacks for accessory cottages shall be the same as a principal structure.
 - ii. Residential density calculations shall not be used in determining the maximum allowable number of cottages/cabins.
 - iii. Development regulations and standards, including stormwater runoff provisions, should be applied for the entire property or project, whichever is applicable, regardless of phasing.

3.7. Commercial uses. [EXCERPT]

B. *Personal Services Use Category*

2. *Day care center:*



- a. Definition: An individual, agency, or organization providing supervision or care on a regular basis for children or adults who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults. Day care centers are not an accessory to residential use.
- b. Additional Standards:
 - i. Child day care centers shall comply with the definitions and standards for child day care centers set forth in N.C.G.S. §110 (or any successors thereto).
 - ii. Adult day cares shall comply with the definitions and standards for adult day care programs as set forth in N.C.G.S. §131-D (or any successors thereto).
 - iii. Client drop-off and pick-up areas shall be located on the site so as not to obstruct traffic flow on adjacent public streets.
 - iv. All day care establishments shall at all times be properly licensed by the State of North Carolina and all other appropriate governmental entities.
 - v. All equipment shall be stored in the side or rear yard.
 - vi. Outdoor play space must be provided in accordance with the regulations of North Carolina Department of Health and Human Services Division of Child Development and Early Education.
 - vii. No outdoor play shall be permitted after sundown.

3.8. Civic / institutional uses. [EXCERPT]

D. *Places of Worship Use Category*

2. *Cemetery*:

- a. Definition: A parcel of land used for interment of the dead in the ground or in mausoleums.
- b. Additional Standards:
 - i. There shall be no embalming or cremation facilities as either a principal or accessory use except where permitted by right.
 - ii. Setbacks from all street rights-of-way and adjacent properties to a wall or grave shall be a minimum of ten feet.
 - iii. Cemetery roads and parking areas shall be constructed of hard surfaces, in accordance with Chapter 10 of this ordinance. The administrator may waive curb and gutter requirements for cemetery roads upon a determination that such will not result in erosion or uncontrolled stormwater runoff. Other road and parking standards, stormwater management, and sedimentation/erosion standards shall apply.
 - iv. Sidewalk requirements within cemeteries may be waived provided that safe pedestrian circulation can be assured. Sidewalk requirements shall apply along all public rights-of-way. Sidewalks shall connect any structure or gathering place within a cemetery to adjacent public and private sidewalks and to parking areas.
 - v. Mausoleums are permitted subject to the principal structure requirements of the district in which the cemetery is located.

3.11. Manufacturing / wholesale / storage uses. [EXCERPT]

C. *Storage and Disposal Use Category*



3. *Solid waste disposal facility:*

- a. Definition: Any facility meeting the definition of G.S. 130A-290(a)(35), as well as any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.
- b. Additional Standards:
 - i. Such facilities shall be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash (i.e., leaves, brush, etc.) only. All other types of materials are prohibited.
 - ii. No parking area or driveway shall be located within 50 feet of residentially zoned property.
 - iii. Access roads shall be paved, with a width of at least 12 feet per travel lane, and properly maintained at all times.
 - iv. Mud and debris shall be contained on site and shall not be deposited on off-site properties and streets. Tires shall be properly cleaned and loads shall be properly secured before leaving the property so as to prevent the discharge of mud and debris.
 - v. Debris reduction methods such as chipping and mulching shall be utilized to reduce the amount of debris permanently withheld on-site. Application materials shall include a written description of proposed debris reduction methods.
 - vi. Permanent control measures are required to retain all non-compacted soils on-site. An NCDEQ-approved sedimentation and erosion control permit, as well as other applicable permits, shall be presented to the administrator prior to permit approval.
 - vii. Facilities shall not be located within the 100-year floodplain or the regulatory floodway.
 - viii. Adequate suitable soils shall be available for cover, either from on or off site.
 - ix. Land clearing and inert debris landfills shall meet the following surface and ground water requirements:
 - (A) Facilities shall not cause a discharge of pollutants into waters of the state in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), Section 402 of the Clean Water Act, as amended;
 - (B) Facilities shall not cause a discharge of dredged materials or fill material into waters of the state in violation of the requirements of Section 404 of the Clean Water Act, as amended;
 - (C) Facilities shall not cause non-point source pollution of waters of the state that violates assigned water quality standards; and
 - (D) Waste shall be placed above the seasonal high water table.
 - x. The facility shall meet the following minimum site requirements:
 - (A) There shall be a buffer of 50 feet from the waste boundary to all surface waters.
 - (B) There shall be a buffer of 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.
 - (C) No structure shall be constructed within 50 feet of a debris deposit following the closure of a land clearing and inert debris landfill.
 - (D) A facility shall be bounded on all sides by a type C buffer yard.



- (E) The minimum lot size for facilities shall be five acres and the total disposal area must be less than two acres in size.
- (F) A facility shall be totally enclosed by a security fence or wall at least eight feet in height. All entrances and exits shall be secured and locked during non-operating hours.
- xi. Operating hours are limited to from 7:00 a.m. to 7:00 p.m. (except where requested by the Transylvania County Emergency Management Coordinator or the City of Brevard Public Works Director in response to a period of inclement weather).
- xii. Applicants shall submit operational plans as part of the application process. Approved operational plans shall be followed as specified for the facility.
- xiii. The facility shall only accept such land clearing and inert debris as is specified in the permit for the facility.
- xiv. Adequate soil cover shall be applied monthly, or when the active area reaches one acre in size, whichever occurs first.
- xv. One hundred twenty calendar days after completion of any phase of disposal operations, or upon revocation of a permit, the disposal area shall be covered with a minimum of one foot of suitable soil cover sloped to allow surface water runoff in a controlled manner. The administrator may require further action in order to correct any condition which is or may become injurious to the public health, or a nuisance to the community.
- xvi. Adequate erosion control measures, structures, or devices shall be utilized to prevent silt from leaving the site and to prevent excessive on site erosion.
- xvii. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 120 calendar days upon completion of any phase of landfill development.
- xviii. The facility shall be adequately secured by means of gates, chains, berms, fences, etc. to prevent unauthorized access during non-operating hours. An attendant shall be on duty at all times while the landfill is open for public use to assure compliance with operational requirements and to prevent acceptance of unauthorized wastes.
- xix. Surface water shall be diverted from the working face and shall not be impounded over waste.
- xx. Solid waste shall not be disposed of in water.
- xxi. Open burning of solid waste is prohibited.
- xxii. A sign shall be posted at the facility entrance showing the contact name and telephone number in case of an emergency along with the permit number of the facility. The permit number requirement is not applicable for facilities not requiring an individual permit.
- xxiii. Permits for land clearing and inert debris storage or disposal facilities shall expire after a period of five years, and permitted operations shall accept no more materials until a permit has been re-issued.
- xxiv. In addition to all other application materials required by [CHAPTER 16](#) of this ordinance, the owner of a facility shall submit a certified survey depicting the property on which the landfill is to be located. Upon approval by the administrator, the owner shall file such survey with the Transylvania County Registrar of Deeds' Office.
- xxv. When the land on which the land clearing and inert debris landfill is sold, leased, conveyed, or transferred in any manner, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a



statement that the property has been used as a land clearing and inert debris landfill and a reference by book and page to the recordation of the notification.

4. *Junk Yard / Salvage yard:*

- a. Definition: Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, including but not limited to vehicles, appliances and related machinery. The presence of any of the following shall constitute a junkyard and salvage operation and yard:
 - i. four or more abandoned, wrecked, scrapped, ruined, or dismantled motor vehicles - or the motors, bodies, chassis, or frames thereof;
 - ii. two or more abandoned, wrecked, scrapped, ruined, or dismantled recreational vehicles, mobile homes, or manufactured homes - or any portion of the body, frame, or shell thereof; or
 - iii. four or more abandoned, wrecked, scrapped, ruined, or dismantled units of furniture, appliances mechanical equipment - or the dismantled components thereof.
- b. Additional Standards:
 - i. Stored materials will not pose a danger to adjacent and surrounding properties, or residents, due to noise, runoff, animal or insect populations or other factors. Fluids within any vehicles or equipment are to be drained/removed and under no circumstances shall fluids or other contaminants or pollutants be leaked or discharged onto the earth or into surface or ground waters.
 - ii. The facility shall be completely enclosed by a fence and shall be screened from view on all sides by a type D buffer yard. The fence shall be eight feet high, measured from the lowest point of grade, and shall be maintained in good condition.
 - iii. No stored materials shall be visible from ground level immediately outside the fence.
 - iv. The facility, including the required fence, shall be located at least 50 feet from all surface waters.
 - v. The minimum lot size for any such facility is two acres.
 - vi. Facilities may not operate at any time other than between the hours of 7:00 a.m. and 6:00 p.m., Monday thru Saturday.
 - vii. Except when an operator is on duty, facilities shall be adequately secured and locked by means of gates, chains, berms, fences, etc., to prevent unauthorized access. An attendant shall be on duty at all times while the facility is open for public use to assure compliance with operational requirements and to prevent acceptance of unauthorized materials.
 - viii. The site shall not be located adjacent to residentially zoned property.
 - ix. No parking area or driveway shall be located within 50 feet of residentially zoned property.
 - x. Access roads shall be paved, with a width of at least 12 feet per travel lane, and shall be properly maintained at all times.
 - xi. Mud and debris shall be contained on site and shall not be deposited on off site properties and streets. Tires shall be properly cleaned and loads shall be properly secured before leaving the property so as to prevent the discharge of mud and debris.
 - xii. Gasoline, oils, antifreeze, and other chemicals, pollutants, and potential contaminants shall be secured on-site and properly disposed of, and shall at no time be leaked, spilled, or discharged onto the earth or into surface or surface or ground water.



- xiii. A sign shall be posted at the facility entrance showing the permit number and a contact name and number in case of an emergency. The permit number requirement is not applicable for facilities not requiring an individual permit.
- xiv. Violations:
 - (A) The following actions shall constitute a violation of this ordinance, shall constitute a class I misdemeanor, and shall be subject to the enforcement provisions of [CHAPTER 18](#) of this ordinance.
 - (1) Failure to comply with sections outlined herein;
 - (2) The unpermitted establishment of a new junkyard or salvage yard at any time;
 - (3) Any unpermitted expansion in the area of any junkyard or salvage yard at any time;
 - (4) Any violation of any requirement of these standards by any permitted junkyard or salvage yard at any time;
 - (B) In addition to the enforcement procedures of [CHAPTER 18](#), such violations shall invalidate any special use permit for the operation of a junkyard or salvage yard, and shall invalidate any pre-existing non-conforming status as established herein.
 - (C) The board of adjustment shall revoke any special use permit, in accordance with G.S. 160D-403(f), and shall order the cessation of operations of any junkyard or salvage yard found to be in violation of this ordinance, shall set forth a reasonable time frame for the owner or operator to remedy the violation, and may re-issue a special use permit only when such a junkyard or salvage yard is in full compliance with this ordinance. If the owner and operator do not remedy the violation within the required time frame, the administrator shall take action to cause the cessation of all operations and to cause the owner and operator to remove the junkyard from the property.

3.12. Infrastructure uses. [EXCERPT]

C. Transportation Use Category

1. Parking lot:

- a. Definition: Any public or private open area or facility used for parking automobiles and other vehicles as a principal use. The lot or facility may serve as remote parking for a principal use on a separate lot or as a principal use on the site. A fee may or may not be charged.
- b. Additional Standards:
 - i. All parking lots shall adhere to the applicable standards set forth in this ordinance, including [CHAPTER 10](#) – Parking Standards and [CHAPTER 8](#) – Tree Protection and Landscaping.
 - ii. Parking Lots as a Principal Use in General Residential zoning district
 - (A) New parking lots shall be surrounded on all sides by a "Type A" buffer yard, as described in [CHAPTER 8](#) of this ordinance, which is primarily comprised of evergreen vegetation. Parking lot shall comply with all other applicable landscaping requirements of [CHAPTER 8](#) of this ordinance. Expansions to existing parking lots shall comply with this requirement to maximum extent practical given site conditions.
 - (B) All new parking lot lighting shall be integrated into landscaping wherever possible. Low-level lights such as bollard lights (waist-high, heavy-duty fixture posts), mushroom or



step-lights (ground-level fixtures that are built in to the sides or surfaces of walkways and steps) shall be utilized in lieu of traditional pole-mounted parking lot lighting. Parking lot lighting shall comply with all applicable other lighting requirements of [CHAPTER 11](#).

- (C) New parking lots shall be constructed with stormwater control measures designed to control the stormwater run-off generated by a 25-year, 24-hour rain event (9.2 inches), and shall otherwise comply with Section [6.6](#).
- (D) The administrator may impose any other condition necessary to protect the residential character of the neighborhood in which the parking lot is located.

3.13. Accessory uses. [EXCERPT]

A. *Residential Accessory Uses*

2. *Day care home:*

- a. Definition: Supervision or care provided on a regular basis, as an accessory use within a principal residential dwelling unit, by a resident of the dwelling for children or adults who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.
- b. Additional Standards:
 - i. Child day care homes shall comply with the definitions and standards for family child care homes set forth in N.C.G.S. §110 (or any successors thereto).
 - ii. Adult day care homes shall comply with the definitions and standards for adult day care programs as set forth in N.C.G.S. §131-D (or any successors thereto).
 - iii. Child day care homes shall provide ample open area in the form of a rear yard with a minimum of 2,500 square feet suitable for children's play. Child day care homes located adjacent to parks are exempt from this provision.
 - iv. Client drop-off and pick-up areas shall be located on the site so as not to obstruct traffic flow on adjacent public streets.
 - v. All day care establishments shall at all times be properly licensed by the State of North Carolina and all other appropriate governmental entities.
 - vi. All equipment shall be stored in the side or rear yard.
 - vii. No structural or decorative alteration which would alter the single-family character of an existing or proposed residential structure or which would be incompatible with surrounding residences shall be permitted.

3. *Dwelling— Accessory Unit (ADU):*

- a. Definition: A dwelling unit that exists either as part of a principal dwelling or as an accessory building and is secondary and incidental to the use of the property as single-family or duplex residential.
- b. Additional Standards:
 - i. Accessory dwelling units within residentially-zoned, single-family and duplex lots shall be encouraged and designed to meet housing needs. ADUs shall be secondary and subordinate in size to the primary living quarters.
 - ii. ADUs may be created as an independent structure (detached), as an addition to an existing primary structure (attached), conversion of existing space, such as a basement with an exterior entrance, or as a second story within detached garages.



- (A) When built as a second story of a detached garage, the ground floor area of the garage shall not be considered part of the total square footage of the ADU.
 - iii. Structures for ADUs shall comply with the provisions of Section 4.8, except as provided below.
 - (A) Not more than one ADU is permitted on any lot.
 - (B) An ADU shall be located in the side or rear yard unless an existing structure is being converted to an ADU.
 - (C) The total area of an ADU shall not exceed 1,200 square feet or two-thirds of the primary structure, whichever is the lesser. The ground floor area of a detached garage shall not be considered as part of the total square footage of any ADU that is built as the second story of a detached garage; provided, however, such ground floor garage area shall not be subsequently converted to dwelling space.
 - iv. ADUs shall not be considered additional dwelling units for the purpose of determining maximum density or other dimensional requirements as set forth in CHAPTER 2 of this ordinance.
 - v. ADUs shall be constructed according to North Carolina Building Code.
 - vi. The administrator may impose reasonable conditions regarding the height, bulk, orientation, or location of the structure in order to protect the privacy of existing dwelling units on adjacent parcels in accordance with G.S. 160D-702(b).
4. *Home occupation:*
- a. Definition: An occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home occupations are small and quiet non-retail businesses which generally cannot be discerned from the frontage, are seldom visited by clients, require little parking, little or no signage, have only one or two employees and provide services such as professional services, music instruction, and hair styling.
 - b. Additional Standards:
 - i. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or the neighborhood.
 - ii. Home occupation activities shall be confined to the interior of an approved structure. A home occupation housed within a dwelling shall occupy no more than 25 percent of the total floor area of the dwelling. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure that meets the requirements of this ordinance.
 - iii. The use shall employ no more than two persons who are not residents of the dwelling.
 - iv. There shall be no business signage or visible display of stock in trade which is sold on the premises.
 - v. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
 - vi. The existence and operation of the home occupation shall not be visible and/or audible to neighboring residents from a street.
 - vii. Only non-commercial vehicles are permitted in connection with the conduct of the home occupation.



- viii. Home occupations utilizing or proposing to utilize public water and sanitary sewer services shall be subject to all applicable water and sewer system development fees as per Brevard City Code, Chapter 70 Utilities.
- ix. Home occupations shall comply with all applicable requirements of any federal, state, or local agency with jurisdiction over the proposed use. The applicant shall provide the administrator with evidence of approval by any relevant agency.
- x. Responsibilities of the administrator and applicant(s):
 - (A) The administrator may impose any necessary condition upon the operation of a home occupation, shall monitor home occupations and conduct site inspections to ensure compliance with this ordinance and any condition of approval, and shall revoke any permit for the operation of a home occupation and cause the use to be terminated in accordance with the procedures set forth in [CHAPTER 18](#) of this ordinance upon a determination that such use is in violation of this ordinance or any condition of approval.
 - (B) The administrator shall have broad authority to deny any application for home occupation if in the opinion of the administrator, the proposed use would not be in keeping with the spirit and intent of this section. The burden of proving that a proposed home occupation would be in keeping with the spirit and intent of, and satisfy all requirements of this section as well as any condition of the administrator, shall lie with the applicant.
 - (C) In reviewing any application for home occupation and in the monitoring and enforcement of any approved permit for home occupation the administrator shall strongly consider the expectation that the residential use and character of each residentially zoned neighborhood be preserved and shall take into consideration these unique characteristics of any proposed use and its relationship to the site and surrounding properties in considering whether such use would be suitable as a home occupation.
- xi. Uses permitted as home occupations:
 - (A) Examples of uses that may be permitted as home occupations include but are not limited to professional services such as those provided by an architect, engineer or accountant; art, music, or dance instruction; hair styling; bicycle repair or vehicle cleaning; and may include other uses defined herein or listed upon the use matrix in [CHAPTER 2](#) of this ordinance when such uses can be performed in a manner that is strictly in keeping with the spirit and intent of, and satisfy all requirements of, this section.
 - (B) Uses involving the fabrication of products may be permitted provided, however, the home occupation shall not utilize mechanical, electrical, or other equipment, materials or processes, or create any by-product or effect, which produces noise, electrical or magnetic interference, vibration, heat, glare, odor, dust, pollution or other nuisances outside the dwelling or accessory structure housing the home occupation. Examples of such uses include but are not limited to baking, candle or soap making, fly-tying, woodworking, engraving, gunsmithing and or other similar small scale craft production or fabrication. This provision shall not be construed to authorize industrial uses within residential zoning districts.
 - (C) Home occupation shall not include any use that is primarily retail in nature. It is the intention of his section that goods and merchandise produced as part of any home occupation be sold off-site; any on-site retail activity must be incidental to the purpose of this home occupation.



- xii. Duration of permit:
- (A) Home occupation permits are temporary, and shall not establish a vested right to renewal. Home occupation permits shall be valid for a period of one year from the date upon which approval is granted.
 - (B) Applicants may apply for renewal of home occupation permits. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.
 - (C) In approving renewal applications, the administrator may modify prior conditions of approval and may impose any necessary, additional conditions. The administrator may deny a request for permit renewal and require the applicant to terminate the home occupation or relocate the home occupation to an appropriate commercial or mixed-use zoning district upon determination that the home occupation operated in violation of a requirement of this section or other applicable condition or requirement; or, that the home occupation has generated unanticipated effects that are detrimental to the residential character of the neighborhood in which the home occupation is located.

3.14. Temporary uses. [EXCERPT]

A. *Temporary Events and Structures Category*

1. *Temporary events and structures:*

- a. Definition: An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event. Examples of these activities include, without limitation, the following:
 - i. carnivals or circuses;
 - ii. contractor's office and equipment sheds
 - iii. farmers markets;
 - iv. outdoor meetings;
 - v. satellite real estate sales office;
 - vi. seasonal structures; and
 - vii. special events
- b. Additional Standards:
 - i. In the consideration of any temporary use, structure or special event, the administrator shall have broad discretion to impose such conditions as may be necessary to protect the health, safety and welfare of the public.
 - ii. The use shall clearly be of a temporary nature.
 - iii. The use shall be limited to a period not to exceed 90 days except as otherwise provided.
 - iv. The use shall not obstruct any public travel way except by specific approval by the city and will cause no traffic congestion;
 - v. The use shall not create a nuisance to surrounding uses.
 - vi. The use shall not create hazards or adverse impacts related to parking, drainage, fire protection, or other adverse impacts.



- vii. The operator shall provide a plan for the management of waste generated by the use, and sanitary facilities if the administrator or health department deems it is necessary.
- viii. The operator shall satisfy all other requirements of the director of public health, the building inspector or the fire marshal.
- ix. The operator shall secure a business license, street closure permit, sidewalk closure permit, or parade permit if required.
- x. The applicant and/or operator shall promote the temporary use or special event as tobacco and nicotine free (including, but not limited to smoking, vaping, dipping, and chewing).
- xi.
- xii. The total area of a temporary use or special event, including tents, display areas, and other appurtenances of the use, shall not exceed 2,000 square feet. This requirement shall not apply to the following categories of temporary uses or special events:
 - (A) Special events, upon approval by the administrator.
 - (B) Farmers markets.
 - (C) Carnivals and circuses.
- xiii. Tents and structures:
 - (A) Applicants shall provide flame retardancy certifications for all tents.
 - (B) Temporary structures shall not exceed 120 square feet. Tents, shipping containers, satellite offices and classrooms, and equipment sheds shall not be subject to this requirement.
 - (C) Seasonal greenhouses, tents, and other temporary structures may be permitted for a period not to exceed 90 days. These structures must be removed on the expiration date of the permit.
 - (D) A satellite office and equipment shed may be permitted in any district for a period covering the construction phase of a project, not to exceed one year, provided that such office be placed on the property on which the project is situated.
 - (E) The administrator may approve the temporary set-up and occupancy of recreational vehicles (or other temporary dwellings in consultation with the building inspector) when the principal residence of the occupant has been destroyed by wind, fire, movement of earth, or other manmade or natural disaster, and subsequent to such event having been declared a disaster by the Mayor of the City of Brevard, the County Manager of the County of Transylvania, the Governor of the State of North Carolina, or the President of the United States. In no case shall such a vehicle or temporary dwelling be set up or occupied for a period exceeding 180 days. The setup or occupancy of a recreational vehicle shall not be permitted within the City of Brevard for any other reason whatsoever, except as otherwise provided for in this ordinance.
 - (F) Shipping containers shall only be permitted to be used for temporary storage and must be in conjunction with a non-residential use.
- xiv. Site layout:
 - (A) Temporary uses, structures and special events shall be arranged so as to maximize public safety, to minimize conflicts among vehicles and pedestrians, to minimize conflicts with existing, permanent uses.



- (B) Temporary uses, structures and special events shall be situated at least ten feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space. This requirement shall not apply to special events approved by the city for placement upon public streets.
 - (C) Temporary uses, structures and events may obstruct travel ways within parking areas only upon determination by the administrator that such obstruction will not impede commerce, hinder the flow of traffic or endanger the safety of motorists or pedestrians. Uses, structures or events shall be clearly delineated and separated from areas of active vehicle operation by means of traffic safety cones, signage, flagging, or other approved means.
 - (D) Temporary uses, structures and special events shall be situated at least ten feet from points of ingress and egress, and shall not obstruct the sight triangle at any intersection. Ingresses and egresses to the temporary uses, structures and special events shall be designated.
- xv. The administrator shall require an operations and site plan for each temporary use, structure, or special event, and shall require written permission for the operation of the temporary use, structure or special event by the owner(s) of the subject property.
 - xvi. The administrator may require that the operator provide a performance bond in the amount of 125 percent of the cost of removal of the use and restoration of the site, as authorized by G.S. 160D-702.
 - xvii. The temporary use, structure or special event shall comply with all other applicable provisions of City Code.



CHAPTER 5. BUILDING TYPES AND ARCHITECTURAL STANDARDS

5.16. Additional requirements for large structures.

- A. *Applicability:*** These standards shall apply to newly constructed structures or existing structures undergoing substantial improvement that meet the following criteria:
1. Any single structure with a gross floor area of 100,000 square feet or greater.
 2. Any single structure or grouping of two or more structures with a combined total gross floor area of 100,000 square feet or more when:
 - a. Such structures are joined by a fire wall or partiwall; and
 - b. Such structures are under the same ownership, or are undergoing improvement under a single land development permit, or have been approved under the same development authorization.
- B. *Additions to existing structures:***
1. These standards shall apply to additions to existing structures when such addition equals or exceeds ten percent of the ground floor area of the original structure.
 2. These standards shall apply to the original portion of the structure to which the addition is being made when:
 - a. Renovation is being made to the original structure; and,
 - b. Such renovation equals or exceeds 50 percent of the appraised value of the original structure.
 3. Modifications to or waiver of requirements:
 - a. The approving authority may modify a requirement of this section up to 25 percent upon determining the following:
 - i. Such requirement would serve no useful purpose.
 - ii. When applicable to pre-existing, non-conforming structures, compliance with such requirement would be impossible or unreasonably burdensome due to constraints imposed by the original design of the existing structure.
 - iii. Such requirements would impose an unreasonable hardship upon the applicant.
 - b. If the approving authority is city council, council may allow a modification of greater than 25 percent or waive the requirement.
 - c. When considering a request to modify or waive a requirement under this section, the approving authority shall verify, in consultation with the administrator and the city engineer, that no other reasonable options exist to achieve compliance with these standards.
 4. These requirements are expressed as performance standards. It shall be the responsibility of the applicant to provide engineer-certified documentation that these requirements have been or shall be met for any newly constructed structure to which these standards apply. The administrator may, in consultation with the city engineer, take steps to verify that these requirements have been or will be met.
 5. Failure to comply with these standards shall constitute grounds for revocation of the special use permit.

**C. Requirements:**

1. Large structures shall require the submission of a traffic impact study in accordance with [CHAPTER 17](#) of this ordinance. Any improvements recommended by a traffic impact study shall be constructed by the applicant as a condition of approval.
2. Heat island effect: The performance standards contained herein are intended to reduce heat islands (thermal gradient differences between developed and undeveloped areas), thereby minimizing the impact on microclimate and human and wildlife habitat.
 - a. *Non-roof areas:*
 - i. Provide shade (within five years of landscape installation), use light-colored/high-albedo materials with a solar reflectance index (SRI) of at least 29, and use open grid pavement for at least 50 percent of the site's non-roof impervious surfaces, including parking areas, walkways, plazas, fire lanes, etc.; or,
 - ii. Place a minimum of 50 percent of parking spaces underground or covered by structured parking; or,
 - iii. Use an open-grid pavement system (less than 50 percent impervious) for a minimum of 50 percent of the parking area;
 - b. *Roof areas:*
 - i. Use roofing materials having a solar reflectance index (SRI) as required in the following table for a minimum of 75 percent of the roof surface; or,
 - ii. Install a "green" (vegetated) roof for at least 50 percent of the roof area.
 - iii. Combinations of high albedo and vegetated roof can be used if they meet, in combination, the following criteria:

$$\text{Total Roof Area} \leq (\text{Area of SRI Roof} * 1.33) + (\text{Area of green roof} * 2)$$

TABLE 5.16A: ROOF SLOPE AND SRI		
Roof Type	Slope	SRI
Low-Sloped Roof	$\leq 2:12$	78
Steep-Sloped Roof	$> 2:12$	29

3. CFC reduction in HVAC&R equipment required:
 - a. The purpose of this provision is to reduce ozone depletion.
 - b. There shall be no use of CFC-based refrigerants in new base building HVAC&R systems. When reusing existing base building HVAC equipment, complete a comprehensive CFC phase-out conversion.
4. Façade requirements: The requirements shall apply to all façades that face a public or private street (except alleys) and to façades that are oriented so as to be visible from a public or private street. Rear service areas shall be screened so as to not be visible from adjacent properties, and shall comply with these requirements if visible from any street with a classification greater than an alley or commercial service street.
 - a. Façades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth/projection of at least three percent of the length of the façade and extending horizontally for at least 20 percent of the length of the façade.



- b. No portion of the façade shall extend more than 20 feet in length without incorporating a break as described in the preceding paragraph.
 - c. No less than 60 percent of the horizontal length of ground floor shall have arcades, display windows, entry areas, awnings, or other such features.
 - d. No less than 60 percent of the horizontal length of ground floor facades shall be transparent between the height of three feet and eight feet above the walkway grade.
5. Variations in front rooflines shall be used to reduce the scale of buildings. Roof features shall be required which will complement the character of adjoining and nearby structures.



CHAPTER 8. TREE PROTECTION AND LANDSCAPING

8.3. Tree protection.

A. *Applicability:*

1. The provisions of the tree protection section of this chapter shall be applicable to any tree that falls within one or more of the following categories:
 - a. Any tree which has a trunk six inches or more in diameter at one foot above the ground; or is of a horticultural variety or is highly ornamental (such as a dogwood, redbud, crab apple, sourwood, flowering cherry, holly or any like or similar such plant) and has a trunk diameter of three inches or more at one foot above the ground.
 - b. Any tree that is noted as part of a development plan or that is required as part of a special use permit, group development, planned development, Conditional Zoning District, or other development approval.
 - c. Any tree located within a historic district or any property containing a historically designated structure.
 - d. Any tree subject to D, below.

B. *Exemptions:*

1. Trees located on properties developed for single family or duplex uses located within GR districts shall be exempt from the tree protection provisions of this chapter, except for those trees subject to A.1.b.—c., above, and trees and other vegetation in protection areas set forth in [CHAPTER 6](#) and listed as Tier 1 trees in Section 8.3.D, below.
2. The following trees are exempt from the provisions of this Chapter: Mimosa (*Albizia julibrissin*), Princess Tree (*Paulonia tomentosa*), Russian Olive (*Elaeagnus angustifolia*), Tree of Heaven (*Ailanthus altissima*), Bradford Pear (*Pyrus calleryana*), Japanese Privet (*Ligustrum japonicum*), Norway Maple (*Acer platanoides*), Paper Mulberry (*Broussonetia papyrifera*), Thorney Olive (*Elaeagnus pungens*), White Mulberry (*Morus alba*), White Poplar (*Populus alba*), Chinese Elm (*Ulmus parvifolia*), Silver Maple (*Acer saccharinum*), Lombardy Poplar (*Populus nigra*), Chinese Tallow (*Triadica sebiferum*), Chinaberry (*Melia azedarach*).
3. Pruning trees as normal maintenance provided such pruning does not result in the mutilation, death or destruction of the tree.
4. All trees which are grown by a licensed plant or tree nursery or tree farm, provided such trees are planted and grown on the licensee's premises for the sale or intended sale to the general public in the ordinary course of the licensee's business.
5. All trees which have been destroyed or harmed by a storm or similar act of nature or casualty loss; provided the administrator is notified of such intended removal, replacement or relocation at least two business days prior to removal, replacement or relocation of any tree. The administrator shall approve or deny the request within the two-day period, and may require replacement subject to the requirements of this ordinance. There shall be no fee for this inspection and review.
6. Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the North Carolina General Statutes.



7. Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes.
 8. Installation and maintenance activities conducted by public utility providers within utility easements, public lands, or public rights-of-way.
- C. *Permit required:* It shall be unlawful for any person to remove, replace or relocate any tree within the city until an application for a permit has been submitted to the administrator. In determining whether a permit should be issued, the administrator shall consider the following criteria:
1. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services.
 2. The necessity to remove trees in order to construct proposed improvements to allow economic enjoyment of the property.
 3. Topography of the land and the effect of tree removal on erosion, soil retention and the diversion or increased flow of surface waters, and coordination with the city's drainage plans and recommendations on drainage patterns.
 4. Number of trees existing in the neighborhood on improved property. Administrator shall be guided by the effect of tree removal upon property, as well as aesthetic values, in the area.

In all cases, the administrator may require the relocation or replacement of the trees as a condition of issuing the permit, on a one-for-one basis, with replacement trees having a caliper of two-inches or more in diameter at one foot above the ground

- D. *Required tree protection areas:* Trees and existing vegetation shall be preserved in accordance with the table below. Exceptions to tree protection in Tier 2 and Tier 3 areas shall be reviewed by the board of adjustment on a case-by-case basis.



TABLE 8.3A: REQUIRED TREE PROTECTION AREAS

Tier	Priority Tree Protection Area	Required Protection
Tier 1	Special Flood Hazard Areas Required Surface Water Protection Area Required Buffer Yard Slope Areas 25 percent or greater Wetlands	All Vegetation and Soil to Remain Undisturbed In some cases, limited disturbance may occur within the areas to be protected provided all necessary approvals are obtained. Such activities include, but are not limited to the following: • Mitigation of development activities. • Restoration of previously disturb areas. • Stream restoration. • Utility installations and emergency public safety activities. • Construction of a trail or pedestrian walkway that will provide public access. • Required street or driveway connections.
Tier 2	Front Setback Areas Required Landscaping Areas Required Open Space Slope Areas of 15—25 percent	All Trees Greater than 12" DBH Replacement trees, if permitted, shall be planted at a rate of one tree per each 12" DBH
Tier 3	All Other Locations	All Trees Greater than 24" DBH Replacement trees, if permitted, shall be planted at a rate of 1 tree per each 12" DBH

E. Public tree care and protection:

1. Responsibility for public tree care:

- a. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the city or state-owned rights-of-way or bounds of all streets, alleys, lanes, squares, and city-owned public grounds, or any that extend into the public right-of-way, or that harbors disease or insects in order to ensure public safety or to preserve or enhance the beauty of such public places.
- b. The City of Brevard Public Works Department is hereby granted the responsibility of public tree care within the City of Brevard.
- c. The parks, trails, and recreation committee shall assist and provide guidance to the public works department regarding care and protection of public trees as necessary.

2. Public tree care:

- a. The city may remove or cause to be removed by the appropriate agency/contractor, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is seriously affected with any injurious insect or disease.
- b. Trees, vines, shrubbery, flowers, or other ornamental vegetation standing in or upon any lot or land adjacent to any public street, sidewalk, greenway, or other public place shall be kept trimmed by the owner or occupant of the property on which the plants are growing so as not to interfere with the free and safe passage along the public way by pedestrians, bicyclists, and vehicular traffic.
- c. The public works department may, in the interest of public health and safety, prune any tree that overhangs into any street, sidewalk, greenway, or right-of-way within the city, so that such branches



shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the walkways, a clear space of 13½ feet above the surface of streets, and a clear space of at least 17 feet above highways. The public works department will notify, in writing or in person, any property owner whose trees will be pruned in accordance with this section, no later than 24 hours prior to pruning.

- d. Pruning of public trees shall be done in conformance with pruning standards published by the International Society of Arboriculture, or similar professional organization.
3. *Public tree protection:* All public trees shall be protected during construction activities in accordance with the following:
 - a. A tree on any street or other publicly owned property whose crown is within five feet of any excavation or construction of any building, structure, or street work, shall be guarded with a substantial fence, frame, or box. The construction tree guard shall be not less than four feet high and at a distance in feet from the trunk equal to the diameter of the trunk at breast height (DBH) in inches. All building material, dirt, or other debris shall be kept outside the construction tree guard.
 - b. Land-disturbing activities within five feet of a public tree shall incorporate protection for tree root areas in accordance with generally accepted best practices.
4. *Prohibited activities:*
 - a. Abuse of public trees:
 - i. No person shall intentionally damage, cut, carve, transplant, or remove any public tree.
 - ii. No person shall attach any rope, wire, nails, advertisements, posters, banners, or other contrivance to any public tree.
 - iii. No person shall knowingly allow any gaseous, liquid, or solid substance which is harmful to trees to contact public trees.
 - iv. No person shall set fire to public trees nor permit any fire to burn when such fire or the heat thereof will injure any portion of a public tree.
 - b. Tree topping of public trees, per Section 8.2.J of this ordinance.

8.4. Buffers and screening.

A. *Applicability:*

1. These regulations shall apply to the following:
 - i. All newly developed properties
 - ii. When expansions or changes in use result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25 percent, and any property containing an existing structure undergoes significant or substantial improvement as defined in [CHAPTER 19](#) of this ordinance, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
 - iii. When the zoning district classification changes for an existing use or parcel at the request of the property owner or representative thereof, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
2. The administrator may modify landscaping requirements up to ten percent in situations where pre-existing conditions make it impossible to comply with subsections ii and iii above.

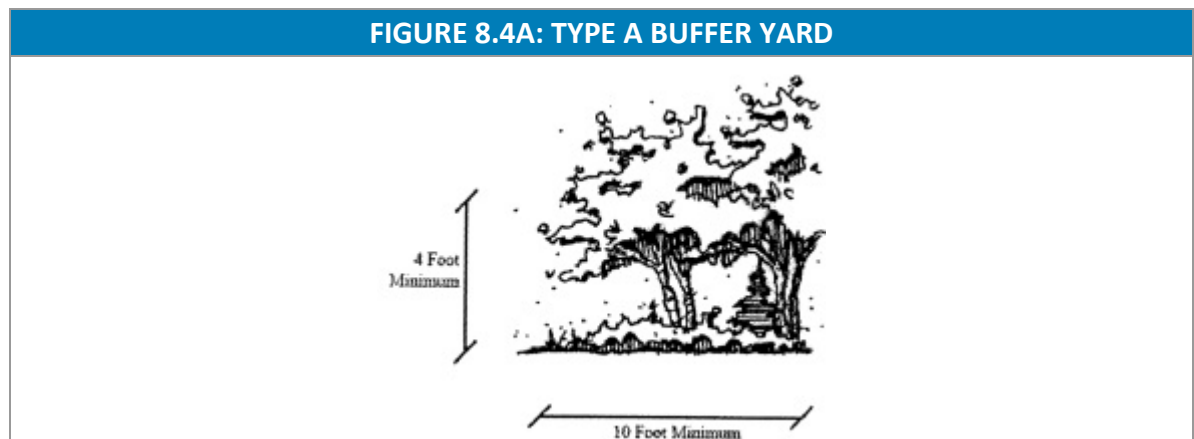


3. Applicants are encouraged to design buffer and other landscape areas in such a way as to satisfy stormwater management requirements as set forth in [CHAPTER 6](#) of this ordinance.

B. Buffer yard types:

1. *Type A buffer yard:*

- a. Minimum width: 10 feet.
- b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen.
- c. Maximum horizontal openings: 20 feet.
- d. Performance standard: A buffer which is ten feet in width and contains screening materials which at maturity provide intermittent visual obstruction from the ground to a height of four feet as well as intermittent visual obstruction from a height of four feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width upon the plants' maturity.



2. *Type B buffer yard:*

- a. Minimum width: 20 feet.
- b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.
- c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.
- d. Performance standard: A buffer which is 20 feet in width and contains screening materials which at maturity provide semi-opacity from the ground to a height of six feet, and intermittent visual obstruction from a height of six feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width; and vegetative screening materials within semi-opaque areas shall contain horizontal openings no greater than 15 feet in width upon the plants' maturity.

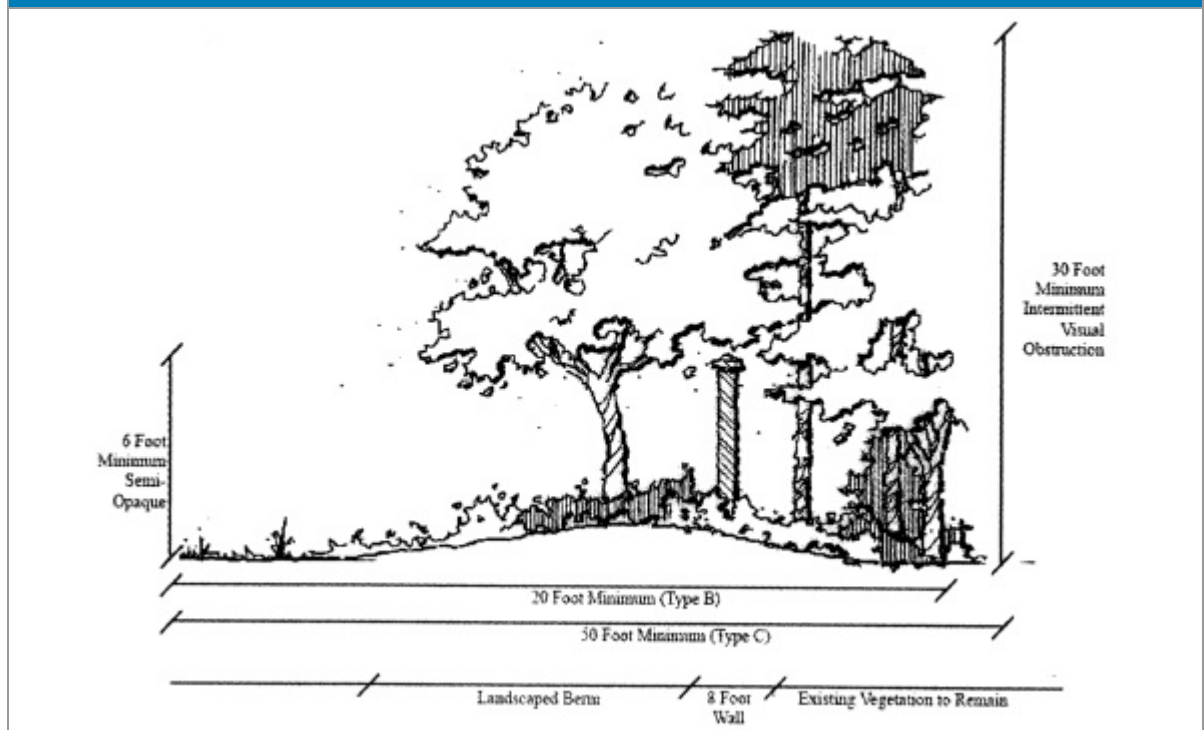
3. *Type C buffer yard:*

- a. Minimum width: 50 feet.
- b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.

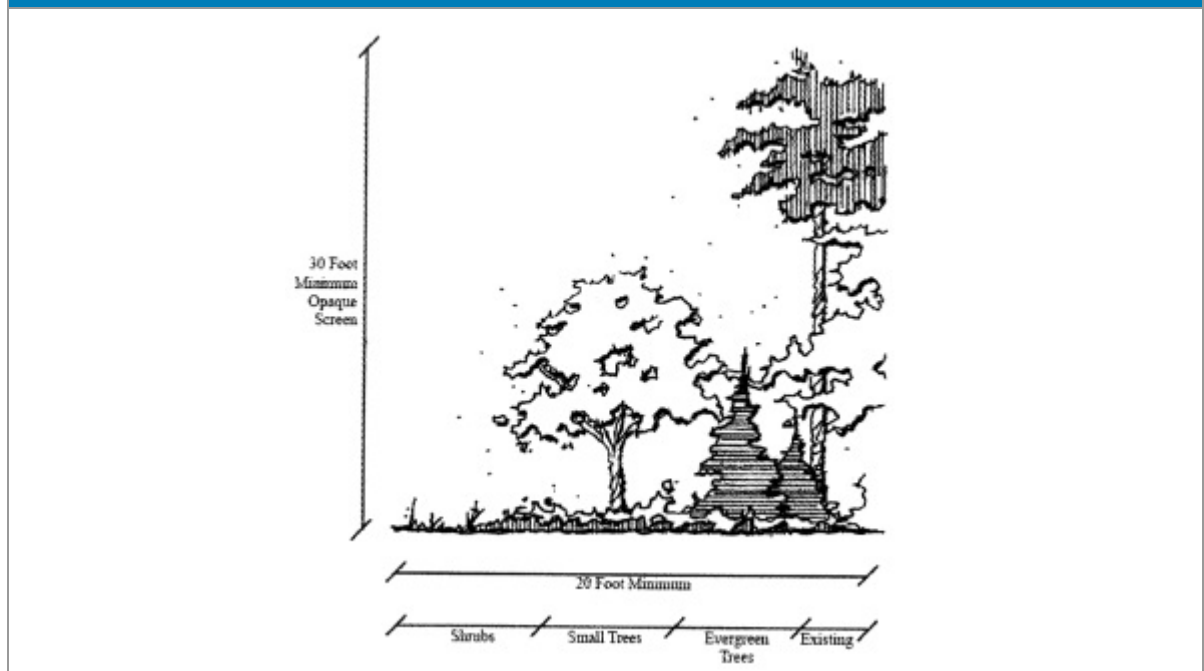


- c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.
- d. Performance standard: A buffer which is 50 feet in width and contains screening materials which at maturity provides semi-opacity from the ground to a height of six feet, and intermittent visual obstruction from a height of six feet up to a height of 30 feet. Vegetative screening materials within intermittent visual obstruction areas shall contain horizontal openings no greater than 20 feet in width; Vegetative screening materials within semi-opaque areas shall contain no horizontal openings greater than 15 feet in width upon the plants' maturity.

FIGURE 8.4B: TYPE B AND TYPE C BUFFER YARDS



- 4. *Type D buffer yard:*
 - a. Minimum width: 30 feet.
 - b. Minimum height and opacity: Ground to 30 feet—Opaque.
 - c. Maximum horizontal openings: None permitted.
 - d. Performance standard: A buffer which is 30 feet in width and contains screening materials which at maturity provides opacity from the ground to a height of 30 feet. Vegetative screening materials within opaque areas shall contain no horizontal openings upon the plants' maturity.

**FIGURE 8.4C: TYPE D BUFFER YARD**

5. *Type E buffer yard.*

- a. Minimum width: 25 feet.
- b. Minimum height and opacity: Ground to 30 feet—Opaque.
- c. Maximum horizontal openings: None permitted.
- d. Performance standard: A buffer which is 25 feet in width and contains screening materials which at maturity provides opacity from the ground to a height of 30 feet. Vegetative screen materials within opaque areas shall contain no horizontal openings upon the plants' maturity.

C. *Fences, walls, and berms:*

1. Fences, walls, or earthen berms may be substituted for all or a portion of the shrub requirement in all buffer types. In addition, existing vegetation within the buffer shall be maintained and may receive partial or total credit towards screening requirements. All berms, if provided, shall not exceed a slope with maximum rise of one foot to a run of two feet (a ratio of 1:2) and a maximum height of four feet. All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation or permanent slope retention device. Berms taller than four feet shall be approved by the administrator on a case by case basis.

D. *Required buffer yards:*

1. A buffer yard is intended to give spatial separation and to decrease visual contact between incompatible uses. Buffer yards shall be required in accordance with the tables below when any use is being established on a property that abuts an existing developed lot or less intense zoning district. More stringent buffer yard requirements may apply to certain specified uses as set forth in [CHAPTER 3](#) of this ordinance.



2. Buffer yards shall be required along the perimeter of proposed projects within certain zoning districts (and associated conditional districts) when such project lies *adjacent* to a zoning district (or conditional district) of lesser intensity:

TABLE 8.4A: REQUIRED BUFFER YARDS BY ZONING DISTRICT

		Adjacent District						
		GR	RMX	NMX	DMX	IC	CMX	GI
District in Which Development is Located	GR	None	None	None	None	None	B	D
	RMX	B	None	None	None	None	None	D
	NMX	B	A	None	None	None	None	D
	DMX	B	A	A	None	None	None	D
	IC	C	C	C	C	None	None	None
	CMX	D	D	D	D	None	None	None
	GI	E	E	E	E	None	None	None

3. In addition to the buffer yards required between districts as set forth above, buffer yards shall be required for certain types of development *within* certain zoning districts and associated conditional districts, as follows. This requirement applies regardless of the adjacent district. However, where conflicts occur between 8.4.D.2, above, and this section, the more restrictive requirement shall apply.

TABLE 8.4B: REQUIRED BUFFER YARDS BY TYPE OF PROPOSED DEVELOPMENT

		New Multifamily (more than 4 units/bldg.) and Residential Group Development (a)	Mixed-Use/Non-Residential Subdivision and Non-Residential Group Development	Special Use Permit (b)
District in Which Development is Located	GR	B	B	B
	RMX	B	B	B
	NMX	B	B	A
	DMX	B	B	A
	CMX	B	D	B
	IC	B	C	B
	GI	NA	E	B

- (a) This requirement shall apply to any new residential project where a multifamily development contains more than four dwelling units per building, or residential group development.
- (b) This requirement shall apply to any project for which a Special Use Permit is issued for an individual use or structure on a distinct parcel of land as set forth above, unless a more restrictive buffer yard is otherwise required in [CHAPTER 3](#) of this ordinance. No individual buffer yard shall be required for a use or structure permitted within a group development, or conditional district, for which project-wide buffering and general landscaping is required, unless such individual buffer yard is specifically required in [CHAPTER 3](#) of this ordinance.

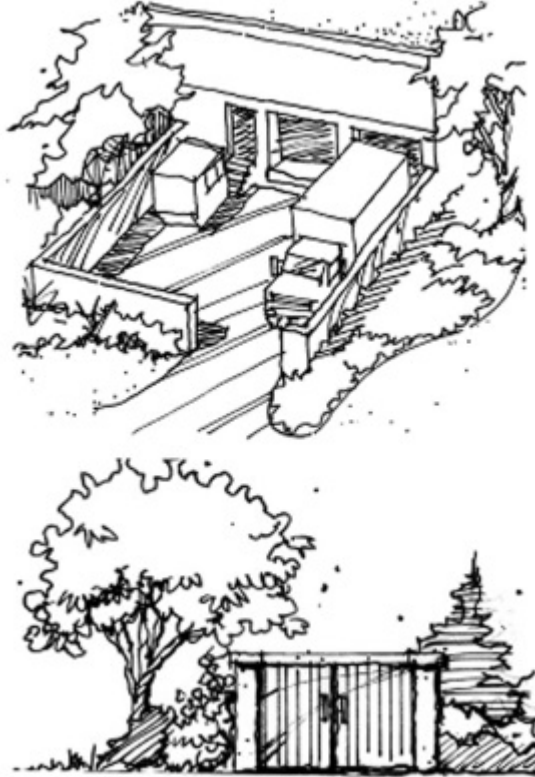


4. The approving authority may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.
5. Buffer yards are intended to be constructed along the perimeter of the property or project; however, when there are irregular topographic conditions (such as the perimeter of the property is at a lower grade than the use being screened) the approving authority may require the relocation of the required buffer yard in order to better serve its purpose.
6. Natural vegetation, vegetation required for tree protection, riparian buffer areas, and other forms of existing vegetation may be utilized to satisfy these requirements when such natural and existing vegetation clearly satisfies the purpose of this section.
7. Off-site vegetation:
 - a. Existing plant material on adjacent property may be credited toward buffer requirements, provided that such material is in a permanently protected area such as a conservation easement or similarly preserved area.
 - b. Plant material, existing or proposed, on an adjacent property may be credited toward buffer requirements through use of a landscape easement.
8. Buffer requirements may be reduced or waived by the approving authority in the following circumstances:
 - a. Such requirements would pose a safety hazard.
 - b. The plantings or planting area would conflict with utilities, easements, or overhead power lines, or encroach upon city trees, as recommended by the city horticulturalist.
 - c. Special use permits based solely upon building height or building ground floor square footage size, where such requirement would serve no useful purpose.
 - d. When projects to which these requirements apply exhibit unifying architectural and landscape design characteristics that integrate the project into surrounding development, and when the landscape design of such a project clearly meets and exceeds the goal of these requirements such that these requirements become unnecessary.
9. Fences, walls and berms in buffers
 - a. Where walls and berms are built within any required project boundary buffer, they shall meet the following requirements.
 - i. Walls and berms within a buffer may be used to permit a reduction in the buffer up to 25 percent of the required width.
 - ii. Walls and berms shall not be permitted within surface water protection areas, floodplains, and floodways.
 - iii. Walls and berms shall conform to other applicable requirements of this ordinance.
 - iv. All walls, when located within a buffer, shall be planted on the face towards the adjacent property with at least one upright shrub for every six feet of wall length.
 - (v) Berms shall have side slopes of not less than three feet horizontal for each one foot vertical and a minimum crown width of two feet.
 - vi. Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within three to five years.
 - vii. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall, berm, or fence structure at the time of landscape plan approval.



- viii. Chain link and concertina wire fences shall be buffered by a Type A buffer yard on all sides.

FIGURE 8.4D: ILLUSTRATIONS OF APPROPRIATE SCREENING OF DUMPSTERS AND LOADING AREAS



8.6. Parking area screening.

- A. *Applicability:* Perimeter yard of all parking areas visible from the street, except residential developments with six or less off-street vehicle parking spaces.
- B. *Minimum planting:* Semi-opaque screen from the ground to at least a height of three feet for screening of car lights and glare. (Minimum width: Ten feet).
- C. *Performance standard:* This type functions as a semi-opaque screen around the parameter of a parking area from the ground to at least three feet for the screening of car lights and glare. This shall only be required along the parking area that fronts the public right-of-way or any side of a parking area that is not protected by a required buffer yard. The location of such yards shall be determined by the administrator upon review. Effective screening devices may include solid decorative brick walls, wood fences, earth berms, tight evergreen hedges which shall reach the required height within two years of planting, or any combination of the above. Plantings which can achieve a mature height exceeding 30 inches shall not be planted in the sight triangle on each side of drives or streets.
- D. *Screening of open storage, above ground utilities, and dumpsters:* Any open storage of merchandise, equipment, materials or goods other than those on display for retail sales, above ground utilities, and dumpsters areas shall be screened from view from any street right-of-way in accordance with the ratios (but



not necessarily the minimum dimension) prescribed for type C buffer yards. Sub-grade dumpsters shall be exempt from the provisions of this section.

8.7. Parking area landscaping.

- A. *Applicability:* Interiors of all parking areas with more than 16 parking spaces or more than 1/10 of an acre in size.
- B. *Stormwater management requirements:* Applicants are encouraged to design buffer and other landscape areas in such a way as to satisfy stormwater management requirements as set forth in [CHAPTER 6](#) of this ordinance.
- C. *Minimum plantings:*
 - 1. No parking space shall be more than 50 feet from the base of a canopy tree.
 - 2. One 15-to-18-inch minimum height evergreen or deciduous shrub shall be required per 250 square feet of required landscaped vehicular use area. This rate may be varied by the administrator considering alternate shrub heights, ground covers, or other factors.
- D. *Performance standard:* This type functions as a tree ceiling over a parking area providing shelter from sun and rain and minimizing the impact of runoff by providing "green" surface area on which to collect. Large maturing canopy trees shall be planted in a manner that provides shade for the entire parking area at maturity. All landscaped areas shall be separated from parking spaces. The use of differing species around the parking area is encouraged to promote diversity in the overall urban tree canopy. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials.
- E. *Credits for preservation of existing trees in parking areas:* Trees that are saved in a parking area (other than those in Tier 1 or Tier 2 Tree Save Areas in Section 8.3) can be used towards the interior tree landscape requirement. Note that each tree preserved will require a minimum pervious area around it equal to its drip line.



CHAPTER 9. CIRCULATION AND CONNECTIVITY

9.3. Access management.

Access management standards that regulate the connection of new driveways to the street system shall be as follows. NCDOT must approve the design and location for the connection of new driveways when located on state-maintained roadways.

- A. New driveways, on public streets with curbing, shall be limited in accordance with the following standards:

TABLE 9.3A: DRIVEWAY SEPARATION DISTANCES

Posted Speed Limit (mph)	Minimum Distance Between Driveways	Minimum Distance Between Driveways and Intersections*
15	20 feet	40 feet
20	40 feet	80 feet
25 to 35	60 feet	120 feet
40	120 feet	240 feet
45	140 feet	280 feet
50	160 feet	320 feet
55	180 feet	360 feet

Note: Access separation between driveways shall be measured from inside edge of curb cuts. Access separation between a driveways and intersecting streets shall be measured from the nearest inside edge of the driveway curb cut to the intersecting right-of-way lines.

- B. *Shared Private Drives*: Whenever feasible in the interests of access management the administrator shall encourage the establishment of shared private drives and entrances with adjacent properties, and may require that driveways and entrances be situated along property lines. The approving authority may require the establishment of access easements along property lines to be reserved for future use by adjacent properties as part of any development.
1. *Capacity* – No more than 3 properties or 6 dwelling units shall use the same driveway. At all times, the shared private drive shall be maintained in a good, safe and usable condition, in good repair, and in compliance with all applicable state, county and local ordinances.
 2. *Easement* – The minimum width of the easement for shared private drives shall be 30 feet.
 3. *Minimum Design and Construction* – The minimum design and construction standards which apply to a public street (Section 13.5) shall apply to a shared private drive except that:
 - a. All shared private drives are to be paved to City standards with a minimum width of 20 feet.
 - b. Street names shall not be allowed for shared private drives. The properties with ingress and egress on the shared private drive are required to have an address on the abutting public street.
 - c. Pedestrian and bicycle infrastructure shall not be required, but it is encouraged. This also includes multi-use paths and other similar types of infrastructure.



3. *Plats* - All shared private drives must be shown as such on all affected plats.
4. *Through Streets* - Through streets connecting 2 public streets may not be designated as a shared private drive.
5. *Connections to Public Streets* - All shared private drives connecting with public streets require approved driveway applications from the city (or NCDOT, if applicable).

C. *Additional provisions:*

1. The administrator shall require the closure of any nonconforming driveway or curb cut as a condition of approval of any land development application.
2. Single-family, duplex, and secondary dwellings on existing lots of record and new infill development lots on roads 35 mph and under shall be exempt from the "Minimum distance between driveways" standards for the first driveway, but shall meet minimum separation requirements for additional driveways. Additionally, driveway separation distances on new dead-end streets posted 30 mph and under and with no on-street parking may also be exempted by the administrator. Further modification of these requirements shall be considered by the board of adjustment.
3. Parking lots with one-way aisle that are required to have at least two driveways, in accordance with Section 10.7 may be exempt from the "Minimum distance between driveways" standards. The exemption may be granted by the administrator for local and private roads and by NCDOT for state roads.
4. The board of adjustment may modify these requirements only after the following are satisfactorily provided by an applicant:
 - a. A transportation assessment performed by an engineer licensed in the State of North Carolina containing sufficient detail to demonstrate that the modification request does not adversely impact public safety or traffic operation; and
 - b. Evidence that the modification request represents the minimum necessary to address existing site constraints or to improve site circulation stemming from urban infill and/or redevelopment.
5. Appeals from any adverse decision by the administrator shall be made to the board of adjustment.



CHAPTER 10. PARKING STANDARDS

10.1. Purpose and intent.

Parking areas, loading areas, and similar facilities are necessary elements in the urban environment. However, these facilities have been known to cause the following negative impacts:

- A. Increased stormwater volume and velocity;
- B. Increased surface pollutants;
- C. Increased surface level heat and glare;
- D. Reduction in the efficiency of the connecting street system; and,
- E. Reduction in the operations of the surrounding pedestrian and bicycle network.

To mitigate these negative impacts, and to provide adequate service, the city has enacted standards to regulate the construction, expansion, and renovation of such facilities.

10.2. Applicability.

- A. This chapter shall apply when any of the following occurs:
 - 1. New construction of a principal building or buildings;
 - 2. Expansion of an existing principal building resulting in an increase in required off-street vehicle parking spaces equivalent to 50% or 10 vehicle parking spaces, whichever is greater; or
 - 3. Change of use or expansion of an existing use resulting in an increase in required off-street vehicle parking spaces equivalent to 50% or 10 vehicle parking spaces, whichever is greater; or

10.3. Off-street vehicle parking requirements.

- A. *General off-street parking requirements:*
 - 1. Off-street parking requirements are structured in a three-tier system as follows:
 - a. **Tier 1:** A minimum number of off-street parking spaces are required. There are no off-street parking maximums. Generally, zoning districts in this tier are less walkable and do not have available public parking or space for on-street parking.
 - b. **Tier 2:** A minimum number of off-street parking spaces are required. There are also off-street parking space maximums. Generally, zoning districts in this tier contain a mix of lower-density residential and commercial uses. Some off-street parking is necessary to preserve public rights-of-way, but many of these areas are more amenable to alternative modes of transportation.
 - c. **Tier 3:** There is no required number of spaces for off-street parking, but there are off-street parking space maximums. Generally, zoning districts in this tier consist of dense, heavily commercial development.
 - 2. The tiered parking requirements applies based on the zoning district. In the case of Planned Development Districts or Conditional Zoning Districts, the tier applicable to the base zoning district shall apply, unless otherwise specified in the adopting ordinance.


TABLE 10.3A: TIERED PARKING REQUIREMENTS

Parking Requirement Tier	Zoning Districts
Tier 1	General Residential (GR) and General Industrial (GI)
Tier 2	Residential Mixed-Use (RMX), Neighborhood Mixed-Use (NMX), and Institutional Campus (IC)
Tier 3	Downtown Mixed-Use (DMX) and Corridor Mixed-Use (CMX)

3. Required parking shall be available for the parking of operable vehicles of residents, customers, and employees, and shall not be used for the storage of vehicles or materials, or for the parking of vehicles used for loading or unloading.

B. Off-street minimum and maximum vehicle parking ratios:

TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Residential							
Household Living	All household living uses, except as listed below	1.5 / dwelling unit		1 / dwelling unit	2 / dwelling unit		2 / dwelling unit
	Dwelling - Single-Family	2 / dwelling unit		1 / dwelling unit	2 / dwelling unit		2 / dwelling unit
	Manufactured Home (single unit)	2 / dwelling unit		1 / dwelling unit	2 / dwelling unit		2 / dwelling unit
Group Living	All group living uses, except as listed below	1 / dwelling unit or rooming unit		1 / dwelling unit or rooming unit	3 / dwelling unit or rooming unit		3 / dwelling unit or rooming unit
	Rooming or Boarding House	.5 / rooming unit		.5 / rooming unit	1.5 / rooming unit + 1 additional space		1.5 / rooming unit + 1 additional space
Social Services	Group Care Facility	1 / dwelling unit, rooming unit, or bed		1 / dwelling unit, rooming unit or bed	3 / dwelling unit, rooming unit or bed		3 / dwelling unit, rooming unit or bed
	Shelter	2 spaces		2 spaces	6 spaces		6 spaces
Lodging							
Overnight Accommodations	All overnight accommodations, except as listed below	1 / room or suite		.5 / room or suite	1.5 / room or suite		1.5 / room or suite
	Short-term Rental	2 / rental unit		1 / rental unit	2 / rental unit		2 / rental unit
Camping	Campground / Recreational Vehicle Park	.25 / campsite or RV parking site		.2 / campsite or RV parking site	1 / campsite or RV parking site		1 / campsite or RV parking site
	Rental Cottage / Cabins	1 / room or suite		.5 / room or suite	1.5 / room or suite		1.5 / room or suite
	Seasonal Camp	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Commercial							
Eating and Drinking Establishments	All restaurants and other eating and drinking establishments	1/ 750 SF		1 / 750 SF	1/ 200 SF		1/ 200 SF


TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Personal Services	All personal services	1/ 500 SF		1/ 600 SF	1 / 300 SF		1/ 300 SF
Professional Services	All professional services, except as listed below	1/ 500 SF		1/ 600 SF	1 / 300 SF		1/ 300 SF
	Funeral Homes and Services	1/ 4 seats in main assembly area + 1 / 500 SF of office space		1 / 4 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
Retail	All retail and sales establishments except as listed below	1/ 500 SF		1/ 600 SF	1 / 300 SF		1/ 300 SF
	Gas Station	1 / 500 SF of retail		1 / 500 SF of retail	1 / 400 SF of retail		1 / 400 SF of retail
Shopping Centers	All shopping centers	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Civic / Institutional							
Educational	All educational uses except as listed below	2 / classroom		2 / classroom	None		None
	Colleges/Universities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
	Schools— Vocational/Technical	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Governmental	All government uses	1 / 750 SF		1 / 1,000 SF	1 / 200 SF		1 / 200 SF
Medical	All medical offices and facilities except as listed below	1/ 500 SF		1/ 600 SF	1 / 300 SF		1/ 300 SF
	Hospital	2.5 / patient room		2 / patient room	5 / patient room		5 / patient room
Places of Worship	All religious institutions or places of worship	1/ 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
Entertainment / Recreation							
Indoor Recreation	All indoor recreation facilities, except as listed below	1 / 500 SF		1 / 750 SF	1 / 250 SF		1/ 250 SF
	Cultural or Community Facility	1/ 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
	Live Performance Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Movie Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Special Event Venue	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Outdoor Recreation	All outdoor recreation facilities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Agriculture							


TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS

Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Agriculture	All agricultural uses	1 / 500 SF of retail or administrative area		1/ 750 SF of retail or administrative area	1 / 300 SF of retail or administrative area		1 / 300 SF of retail or administrative area
Manufacturing / Wholesale / Storage							
Light Industrial and Manufacturing	All light industrial and manufacturing activities	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space		1/ 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space
Heavy Manufacturing	All heavy manufacturing activities	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space		1/ 750 SF of office, retail or administrative area + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of industrial space
Storage and Disposal	All storage and disposal uses	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of storage/ disposal space		1/ 750 SF of office, retail or administrative area + 1 / 4,000 SF of storage/ disposal space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of storage/ disposal space		1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of storage/ disposal space
Wholesaling and Distribution	All wholesaling and distribution activities	1 / 750 SF of office, retail or administrative area + 1 / 4,000 SF of wholesale, distribution, or retail space		1/ 750 SF of office, retail or administrative area + 1 / 4,000 SF of wholesale, distribution, or retail space	1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of wholesale, distribution, or retail space		1 / 300 SF of office, retail or administrative area + 1 / 2,000 SF of wholesale, distribution, or retail space
Infrastructure							
Utilities	All utilities	N/A		N/A	N/A		N/A
Telecommunications	All wireless telecommunication facilities	N/A		N/A	N/A		N/A
Transportation	All transportation uses	N/A		N/A	N/A		N/A

Note: All square footage in gross square feet.

C. Calculation of off-street vehicle parking spaces:

- Vehicle parking spaces are calculated based on the principal use of the lot. When more than one principal use occupies the same lot, the number of spaces is the sum of separate requirements for each principal use.
- When measurements of the number of required spaces result in a fractional number, the result is rounded to the nearest whole number.
- Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed on the basis of gross floor area.

D. Uses without minimum and maximum off-street vehicle parking spaces:



1. Some uses or combination of uses (group developments, mixed-use projects, etc.) have widely varying parking demand characteristics making it impossible to specify a single off-street parking standard. For these uses, the administrator shall determine the appropriate requirements with one of the following methods:
 - a. Apply the off-street parking requirement specified for the listed use that is deemed most similar to the proposed use; or
 - b. Establish off-street parking requirements based on a parking study prepared by a qualified professional and provided by the applicant.
 - i. Such a study must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the administrator, and should include other reliable data collected from uses or combinations of uses that are the same as, or comparable with, the proposed use.
 - ii. Comparability will be determined by density, scale, bulk, area, type of activity, and location.
2. In no circumstance may the total number of parking spaces exceed a ratio of exceed one space per 200 gross square feet of the building(s).

E. *Minimum off-street parking exceptions:*

1. Public parking credit:
 - a. Public parking facilities located within 1,760 feet (1/3-mile) walking distance of the development site may be credited toward the minimum parking requirement at a rate of 1 space for every 5 public parking spaces.
 - b. Signage shall be provided that indicates the location of the public use spaces.
 - c. Residential uses are not eligible for this exemption.
2. Shared/combined parking:
 - a. The joint use of shared off-street parking between two uses may be made by contract between two or more adjacent property owners. The administrator may adjust the minimum parking requirements at a rate of 1 space for every 2 shared spaces.
3. Tree preservation:
 - a. The minimum number of spaces required may be adjusted by the administrator when it has been determined that the reductions are necessary to preserve a healthy tree or trees (with a 12-inch or greater diameter) from being damage or removed, and where the site plan provides for the retention of said tree or trees.
 - b. The reduction shall not exceed 25% of the total minimum parking spaces required.
 - c. Invasive tree species as outlined in Section 8.2 of this ordinance are not eligible for this exemption.
4. Additional bicycle parking:
 - a. Additional bicycle parking spaces above the minimum required bicycle parking may reduce the number of required off-street parking spaces at a rate of 1 parking space for every 2 additional bicycle parking spaces.
 - b. The reduction of spaces granted with this exception shall not exceed 25% of the minimum off-street parking requirement.
5. Electric vehicle parking:



- a. Off-street vehicle parking with EVSE-installed vehicular charging stations shall count toward satisfying the minimum off-street vehicle parking requirements.
- b. All off-street vehicle parking with EVSE-installed vehicular charging stations shall meet the general provisions of Section 10.6.
6. Payment in lieu of parking spaces:
 - a. The minimum number of parking spaces required may, at the administrator's discretion, be reduced by up to 50% with a fee paid to the city in lieu of developing the parking space(s).
 - b. Payments in lieu of parking spaces may be approved as part of the development plan.
 - c. All payments made in lieu of parking spaces shall be made at the time of construction document approval. Failure to submit the required fee along with such applications will delay approval of such submissions until payment is rendered.
 - d. All funds received for payment in lieu of parking spaces shall be used for the acquisition, improvement, development, or redevelopment of public parking spaces within the city.
7. Upgrading preexisting non-conforming parking facilities:
 - a. The minimum number of spaces required may be reduced by up to 25% to allow an existing development to retrofit parking to conform to the existing parking area design and landscaping regulations.

F. *Maximum off-street vehicle parking exceptions:*

1. Spaces reserved for the following are not included in calculating off-street vehicle parking maximums:
 - a. Required accessible parking spaces in compliance with City, state, and federal standards
 - b. Parking spaces with EVSE-installed electric vehicle charging stations
 - c. Loading / unloading spaces as required by this ordinance
2. The administrator may grant exceptions to the maximum off-street parking up to 25% when the following conditions are met:
 - a. Parking spaces constructed with porous monolithic, pavers, or other pervious paving materials.
 - i. Pervious paving shall be considered surface improvements such as interlocking concrete paving blocks, brick pavers, grid pavers, or other similar improvements which permit the infiltration of water through the improved surface.
 - ii. Sub-surface preparation to accommodate the water infiltration allowed through the surface material shall be required.
 - iii. Gravel shall not be considered a pervious paving surface.
 - b. Parking spaces located in a parking area that is designed to control for stormwater run-off generated by a 25-year, 24-hour rain event, and in compliance with Section 6.6 of this ordinance.
3. Underground or above-grade parking:
 - a. The maximum off-street parking may be increased by up to 100% if the additional parking spaces are located underground, on a roof-top, or within a multi-story parking structure.
4. Satellite parking:
 - a. Satellite parking may be permitted, subject to certification by the administrator that the following requirements have been met:



- i. Satellite parking lots shall only be permitted in zoning districts where parking lots are permitted as a by-right primary use, as established in Chapter 2 and Chapter 3.
- ii. The satellite parking spaces shall be located within 1,760 feet (1/3-mile) walking distance of a public entrance to the structure or lot containing the use for which such spaces are required.
- iii. A safe, direct, attractive, lighted and convenient pedestrian route shall exist or be provided between the satellite parking and the use being served;
- iv. The continued availability of satellite parking spaces necessary to meet the requirements of this section shall be ensured by an appropriate condition that the continued validity of the zoning compliance or special use permit shall be dependent upon the permit holder's continued ability to provide the requisite number of parking spaces.

G. Accessible parking:

1. Accessible parking shall be provided in accordance with the North Carolina State Accessibility Code.

H. Compact car parking spaces:

1. For parking areas and structures with 20 or more off-street vehicle parking spaces, up to 25% of required vehicle parking spaces may be designed for compact vehicles and designated with the appropriate signage and/or markings.

10.4. Off-street loading requirements.

A. Off-street loading spaces shall be required for the following uses:

1. A business that is expected to regularly receive or deliver goods;
2. A multi-use building with at least 3 different businesses and/or uses;
3. Manufacturing/Wholesale/Storage uses;
4. Multi-family housing development with 10 or more dwelling units; or
5. Any other use that is expected to regularly receive or deliver goods, as determined by the administrator.

B. Off-street loading spaces shall be required based on the gross floor area of the primary structure or structures on the parcel, according to the following ratios:

TABLE 10.4A: OFF-STREET LOADING RATIOS

Square Feet	Number of Spaces
0 – 24,999	1
25,000—99,999	2
100,000—159,999	3
160,000—239,999	4
240,000—349,999	5
Additional 100,000 or fraction thereof	1 additional

C. Required loading spaces shall be available for the loading and unloading of vehicles, and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements.



D. Location:

1. Required off-street loading spaces shall be located to the sides and/or rear of the lot to maximize the street exposure of the primary structure(s). The administrator may grant exceptions to this requirement if deemed impractical or impossible given the layout of the existing structures and vehicular access.
2. Where a loading space is adjacent to a public sidewalk or other public pedestrian way, it shall be so located, arranged and improved with curbs or other barriers, as to provide adequate protection for pedestrians.
3. All off-street loading spaces shall be provided with adequate off-street maneuvering areas so that vehicles do not obstruct traffic during maneuvering.
4. Such space shall have access to an alley or commercial service street or, if there is no alley or service street, to a street.
5. No loading space or bay may intrude into any portion of a required setback, required parking space, parking area aisle, or driveway.
6. An off-street loading space shall have the minimum dimensions of 12 feet by 25 feet and be free and clear of obstruction at all times.

C. Exceptions to loading space requirements: The administrator may adjust the minimum loading space requirements in the following instances:

1. The joint use of shared off-street loading spaces between up to 4 uses is made by contract between adjacent property owners.
2. On-street loading spaces are provided for public use within 1,760 feet (1/3-mile) walking distance.

10.5. Off-street bicycle parking requirements.

A. Applicability: Off-street bicycle parking for the secure storage of bicycles shall be required for the following uses:

1. Multifamily developments containing 8 or more dwelling units;
2. Group developments;
3. All overnight accommodation uses, except short-term rentals;
4. Any other development requiring 20 or more off-street vehicle parking spaces.

B. Minimum amount of bicycle spaces:

1. Two bicycle spaces shall be provided for every 20 required vehicle parking spaces as determined by Section 10.3, with a minimum of one 4-bicycle rack.

C. General provisions:

1. Bicycle parking may be provided through various types of facilities, so long as the facility meets the following requirements:
 - a. Bicycle racks are securely anchored, and easily usable with both U-locks and cable locks and support a bicycle at 2 points of contact to prevent damage to the bicycle wheels and frame.
 - b. Spacing of the racks shall provide clear and maneuverable access.
 - c. Where a bicycle can be locked on both sides without conflict, each side can be counted as a required space.
2. Bicycle parking shall remain accessible and not be rendered unusable by fixed or movable objects.



D. Location:

1. Bicycle racks are encouraged to be placed in well-lit, visible and convenient locations near building entrances and easily accessible from multi-use paths, if applicable.
2. Bicycle parking locations shall not impede pedestrian or motorized vehicle movement or circulation.
3. Bicycle racks may be located in the public right-of-way with approval from the City or the North Carolina Department of Transportation, as applicable, with an encroachment agreement.
4. The administrator may adjust bicycle parking requirements to account for shared parking, buildings located in close proximity to one another, or the presence of public bicycle racks in close proximity.

10.6. Off-street electric vehicle parking requirements.

A. Applicability: Off-street electric vehicle parking spaces installed with electric vehicle supply equipment (EVSE) shall be required for developments requiring 50 or more off-street vehicle parking spaces.

1. Multifamily developments where at least 25% of the units meet the definition of affordable housing shall be exempt from all electric vehicle parking space requirements.

B. Minimum amount of electric vehicle parking spaces:

1. Two electric vehicle parking spaces shall be provided for every 50 required vehicle parking spaces as determined by Section 10.3.

C. General provisions:

1. Electric vehicle parking spaces shall be installed outside of the public right-of-way.
2. All required electric vehicle parking spaces shall be equipped with Level 2 or DC Fast Charging. Alternative electric vehicle charging equipment may be considered.
3. Electric vehicle parking spaces and all charging equipment shall be:
 - a. Located outside of the public right-of-way;
 - b. Placed outside of the critical root zone of any preserved tree; and
 - c. Placed at least five feet from a newly planted tree.
4. Electric vehicle parking spaces shall be designated with the appropriate signage and/or markings.
5. Barriers, such as wheel blocks, bollards, and curbs, shall be placed between the electric vehicle parking space and the electric vehicle charging equipment.

10.7. Off-street parking area design and construction standards.

A. Applicability: The following shall apply to surface off-street parking areas.

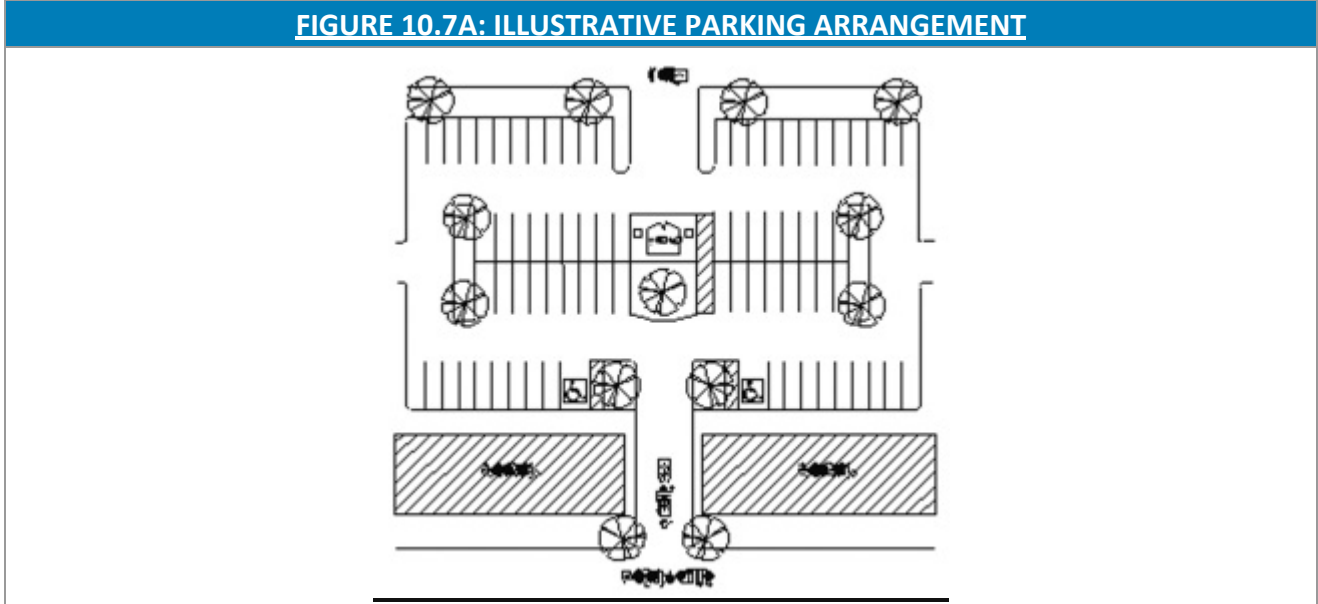
B. General: Internal parking area design and circulation shall be subject to the review and approval of the approving authority, who may impose such conditions as are necessary in order to:

1. Ensure the safety of pedestrians and motorists;
2. Allow unobstructed movement into and out of each parking space without interfering with fixed objects or vehicles;
3. Minimize delay and interference with traffic on streets and driveways;
4. Maximize sight distances from parking area exits and access driveways;



5. Facilitate safe and convenient movement of pedestrians from the parking spaces to the principal structure and/or other pedestrian facilities (e.g., sidewalks, multi-use paths, etc.).

FIGURE 10.7A: ILLUSTRATIVE PARKING ARRANGEMENT



C. Location of off-street parking:

1. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
2. For non-residential uses and multi-family development with more than 4 dwelling units, access configurations which require backing directly onto a street from a required off-street vehicle parking space are prohibited. Alleys and commercial service lanes are not considered streets for the purposes of this requirement.
3. Off-street parking shall not be permitted within any front yard setback area and shall not be permitted between any principal structure and the street upon which such structure fronts. Where a structure fronts upon two or more streets, parking may be permitted between the principal structure and the adjacent street of lesser classification when parking cannot reasonably be placed in another location.
 - a. The following uses and parking types shall be exempt from this requirement above:
 - i. Single-family and duplex residential structures in zoning districts with Tier 1 and Tier 2 off-street parking requirements, according to Section 10.3.
 - ii. Handicapped parking spaces as required by the North Carolina Accessibility Code or other federal, state, or local regulations.
 - iii. Bicycle parking spaces required by this ordinance.
 - iv. Existing non-residential and multi-family development undergoing significant improvement, substantial improvement or change of use, provided that all newly created parking spaces associated with such redevelopment shall conform with this requirement unless the approving authority deems that compliance would be impractical due to existing site constraints.



D. Surfacing: All off-street vehicle parking area surfacing shall be constructed in accordance with the following specifications:

1. *Hard surface required:* All off-street parking areas including drives connecting such areas with the public street rights-of-way shall be constructed of permanent non-erodible surface treatment as follows:
 - a. Porous or semi-porous monolithic or paver materials;
 - b. Masonry or concrete pavers; or
 - c. Poured concrete or asphalt.
2. The administrator may require the use of porous paving materials in all or a portion of the parking areas. Such instances may pertain to the following, without limitation:
 - a. To protect the root system of an existing tree or trees from damage
 - b. To reduce the amount of impervious surface for stormwater calculation purposes, or
 - c. To protect environmentally sensitive areas.
3. *Exceptions to hard surface requirement:* The following situations are exempted from the hard surface requirement.
 - a. Parking for a single-family or duplex dwelling in GR districts;
 - b. Parking for agricultural uses;
 - c. A parking area used only as part of a permitted special event or temporary use permit;
 - d. Outdoor recreational facilities that are open to the public;
4. *Non-paved areas:* Whenever an off-street parking area is exempt from the hard surface requirements, the administrator shall require the following:
 - a. The non-paved parking areas shall be in compliance with the parking lot landscaping requirements in Chapter 8.
 - b. Landscape aisles, space markings, or other spatial separations shall be provided to ensure that the parking spaces will be readily identifiable to the users.
 - c. The perimeter of off-street parking areas encompassing the parking stalls and the side of any unpaved drive or aisle leading to said stalls, shall be edged with brick, pressure treated timbers, or cast in place concrete, and anchored into place. Alternate borders may be considered on a case-by-case basis.
 - d. Landscaping or other measures shall be utilized to prevent the discharge of sediment off-site or into any body of water from an unpaved parking area.

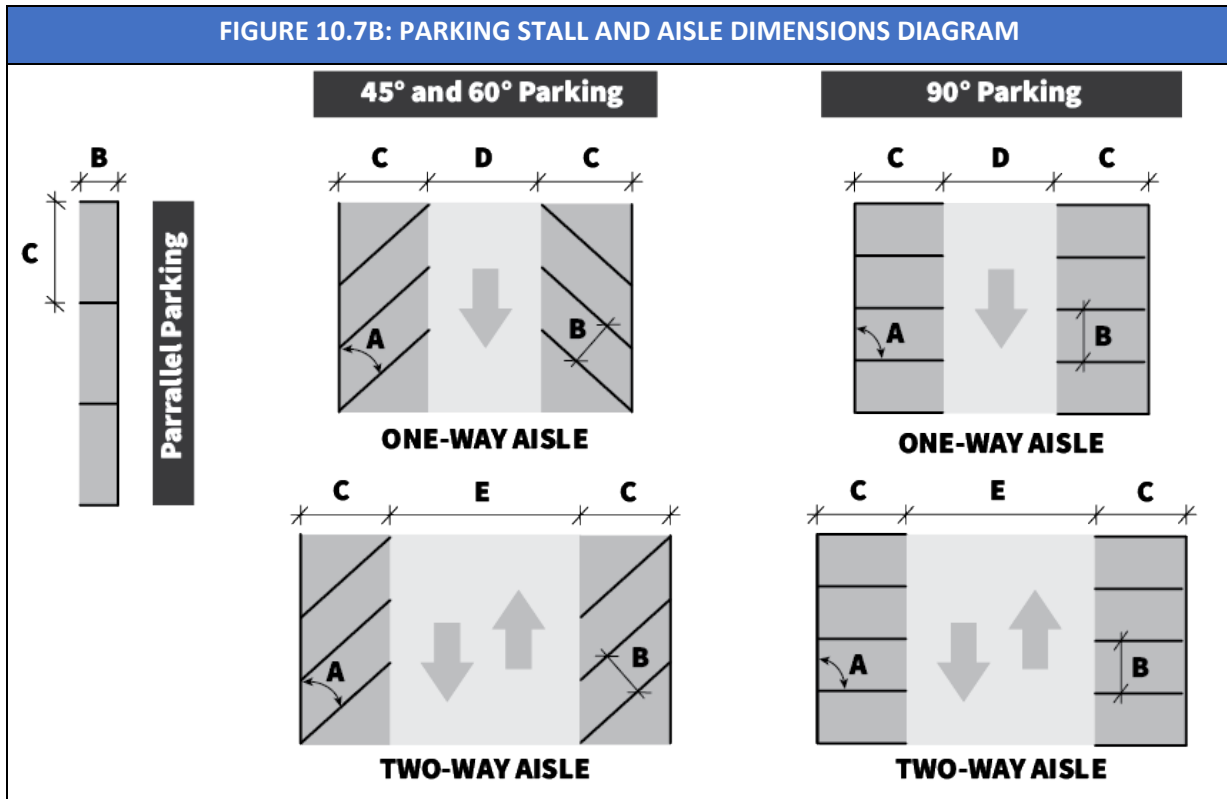
E. Parking dimensions:

1. Parking areas shall meet the following minimum dimensional requirements:

TABLE 10.7A: MINIMUM PARKING STALL AND AISLE DIMENSIONS					
Parking Angle (A)	Stall Width (B)	Stall Depth (C)	One-Way Aisle Width (D)	Two-Way Aisle Width (E)	
0 / Parallel	8'	22'	N/A	N/A	
45	9' (Standard) 8' (Compact)	17'6" (Standard) 16' (Compact)	16'	22'	
60	10' (Standard) 8' (Compact)	18' (Standard) 15' (Compact)	18'	22'	



90	9' (Standard) 8' (Compact)	18'6" (Standard) 16' (Compact)	22'	24'
<i>Note: Refer to Figure 10.7B below.</i>				



2. Other parking angles, aisle widths, and traffic flows will be considered on a case-by-case basis by the administrator and/or the Technical Review Committee.
3. All parking lots with one-way aisle are required to have the appropriate directional signage, permitted in accordance with Section 12.9 [Permanent Signage], and at least two driveways, permitted in accordance with Section 9.3 [Access Management].
4. Nothing in this section shall be construed as an exemption from local Fire Code access requirements.
5. All parking areas with a hard surface shall delineate parking spaces with paint or other permanent materials. Pavement markings shall be white, at least 4" wide, and maintained in clearly visible condition.
6. *Tandem parking space:* Two spaces stacked (i.e., tandem) may be permitted provided all of the following criteria are met:
 - a. The development is a Household Living Use and does not contain more than 4 dwelling units per building.
 - b. Both spaces are assigned to one dwelling unit.



- c. The two vehicle parking spaces in tandem must have a combined minimum dimension of 9 feet in width by 36 feet in length.
- d. The proposed layout is functional and will not create pedestrian or traffic hazards.
- e. The spaces comply with all other standards in this ordinance.

F. *Curbing required:*

- 1. All parking areas and circulation drives shall be curbed using a vertical curb with a minimum width of 1'6". Landscape islands and areas shall be similarly curbed to protect vegetation.
- 2. This requirement may be waived to permit sheet flow drainage into pervious areas as part of an approved engineered stormwater retention system.

G. *Barriers:*

- 1. Barriers, such as wheel blocks, bollards, and curbs, shall be located along the perimeter of parking lots, internal sidewalks and pedestrian connections that abut parking spaces or driveways.
- 2. Such barriers shall be designed and located to prevent parked vehicles from extending beyond designated parking areas.

H. *Maintenance:* Parking lots shall be maintained to a reasonable drivable standard with visible pavement markings.

I. *Landscaping:* Parking lots shall be subject to the parking lot landscaping standards of Section 8.7.

J. *Lighting:* Parking lots shall be subject to the outdoor lighting standards of Section 11.2.

K. *Stormwater management:*

- 1. Parking areas are subject to stormwater management requirements set forth in [CHAPTER 6](#) of this ordinance.
- 2. It is strongly encouraged that parking area landscaping be incorporated into the approved stormwater management system for any project.

L. *Connectivity:*

- 1. Adjacent lots in group developments shall be interconnected. Exceptions may be granted by the administrator in the case of existing natural barriers such as steep slopes, surface water protection areas, etc. between the sites.
- 2. Each parking area that is interconnected may reduce their minimum parking requirement by 10%.

M. *Circulation drives:*

- 1. A circulation drive may be permitted around the front of the building but may not encroach into any required landscape area.
- 2. If provided, this drive shall be one-way and designed to be the minimal width required (not to exceed 12 feet in width) and shall be constructed using alternative paving treatments such as unit pavers or stamped concrete.

**FIGURE 10.7C: CIRCULATION DRIVES**

Note: Circulation drives, if provided, should be minimized and treated with pedestrian-scaled materials.

N. Pedestrian connections:

1. Off-street parking areas shall be designed to allow pedestrians to safely move from their vehicles to the building. Barrier free access shall be provided across parking areas and between adjacent pedestrian generators such as commercial or public buildings.
2. All structures (other than single-family and duplex structures) shall be connected to the street and, if available, an adjacent public sidewalk, by a sidewalk. Furthermore, all structures within a group development, planned development, or other project containing multiple principal structures shall be connected by a sidewalk. Sidewalks shall also connect other phases of the same development, and adjacent developments, as required by the administrator
3. In addition to any required sidewalk, barrier free access shall also include providing ramps at curbs, clear walkways between pre-cast wheel stops, and clearly delineated walkways on the parking area surface across travel lanes.
4. For lots of 36 spaces or greater, no parking space shall be more than 65 feet from a sidewalk that provide access to the entrance of the building or to other sidewalks connecting to the building. Sidewalk corridors a minimum of five feet in width shall be provided within the parking area or along the perimeter to provide safe building access for pedestrians.

FIGURE 10.7D: PEDESTRIAN CONNECTIONS

Note: Sidewalks must connect parking areas and streets to principal structures.

10.8. Structured parking.



- A. *Applicability:* The following shall apply to any parking structure, whether it be above-grade, at-grade, below-grade, or a combination thereof.
- B. *Location:* Locating structured parking at the interior of the block, surrounded by buildings, is the preferred method of screening.
- C. *Design:*
 - 1. Where an above-ground parking structure fronts a public street, the side(s) facing the street shall be screened in such a way that cars are not visible from the street.
 - 2. Along pedestrian-oriented streets, parking structure facades shall be treated with high quality materials and given vertical articulation and emphasis compatible with the principal structure, if applicable. The façade shall be designed to visually screen cars.
 - 3. Parking structures must present a horizontal rather than sloped building line on all visible edges.
- D. *Entries:* Pedestrian entries shall be clearly visible.
- E. *Lighting:* Parking structures shall be subject to the outdoor lighting standards of Section 11.2.



CHAPTER 19. DEFINITIONS

19.3. Definitions.

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

Electric vehicle parking space: A public or private parking space installed with electric vehicle supply equipment (EVSE) to charge electric vehicles.

Loading space, off-street: Space conveniently located for pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles even when required off-street parking spaces are filled.

Parking area: Any public or private open area or facility used for parking automobiles and other vehicles serving a primary use or uses.

Parking lot: Any public or private open area or facility used for parking automobiles and other vehicles as a principal use. The lot or facility may serve as remote parking for a principal use on a separate lot or as a principal use on the site. A fee may or may not be charged.

Public parking facilities: Facilities open to the public for off-street vehicle parking that are owned or operated by a government agency or municipal service district, or developed as a public-private partnerships.

Satellite parking: A parking lot that is located on a parcel or lot that is not adjacent to the parcel or lot containing the use for which the parking is intended.

Tandem Parking Space: A parking arrangement in which one space (the tandem parking space) is accessible only by passing through another parking space (the traditional space).

SWOT ANALYSIS OF CURRENT PARKING SITUATION

	INTERNAL FACTORS	EXTERNAL FACTORS
POSITIVE	STRENGTHS • Ongoing investment in multimodal infrastructure (bike paths, sidewalks, etc.) • Public parking lots around Downtown and at the Depot • No parking minimums for non-residential uses in DMX and in King Street/Lumberyard area • Bike parking requirements	OPPORTUNITIES • Reducing required parking frees up land for additional infill development (housing, businesses, etc.) • Shared parking agreements can encourage better use of existing parking lots • Multimodal transportation reduces traffic congestion, improves air quality and supports community health
NEGATIVE	WEAKNESSES • Lacking infrastructure and narrow roads make on-street parking unsafe and lead to traffic congestion • Multimodal paths traverse the city, but will not support key “last mile” connections to some areas • No public transit system, so driving is a necessity for most (if not all) residents • Ordinance is over-simplified and doesn’t align with the new use matrix	THREATS • Businesses and residents have extreme emotional attachment to free, proximal parking • Paid parking in key areas can increase cost of living • Increasing constructions costs (concrete, asphalt, etc.) make parking more expensive for developers – either pass the added cost to tenants or abandon the project • Parking lots do not generate much tax revenue • Expansive parking areas facilitate sprawl

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

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

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

Building Brevard 2030 Comprehensive Land Use Plan Goals

- **GOAL 2:** *Encourage a **development pattern** that respects Brevard's sense of place and prioritizes **livable communities**.*
- **GOAL 4:** *Create a built environment that prioritizes a **safe, active, multi-modal transportation system** and community health and wellness.*
- **GOAL 7:** *Support economic vitality and **grow the tax base**, cultivate local businesses, and attract sustainable industry.*
- **GOAL 8:** *Plan for **efficient, equitable, and resilient infrastructure** and services that maintain and improve quality of life throughout the city.*

Building Brevard 2030 Comprehensive Land Use Plan Actions

- **Active Transportation and Community Health - 9:** *Right-size parking requirements and develop incentives for multimodal access and alternative approaches to meeting parking demand.*

STAFF REPORT

City Council, Monday, October 16, 2023

Title: Proposed Amendment to City of Brevard Traffic Schedule

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

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

Background

In doing research for the recent Bicycle Friendly Communities application, Staff noticed several inaccuracies and discrepancies in the Traffic Schedule sections that establish speed limits for streets within the City. This is a Staff-initiated amendment to clarify these sections for better usability and clarity.

Discussion

The bulk of the amendments are clarifying duplicative and erroneous descriptions of streets in the eight sections that establish speed limits.

The only substantive changes are establishing a speed limit and no parking for the new Maple Grove Lane, which is being constructed and dedicated to the City as a part of the Ecusta View Commons apartments. The speed limit is being set at 15 MPH with the entirety of the road designated as a no parking area. The requirement to stop before entering Asheville Highway will also be codified.

Policy Analysis

Ensuring motorist safety on all streets is harmonious with the goals of the Active Transportation & Community Health topic area, specifically to "enhance transportation network for all modes of travel."

Fiscal Impact

Minor costs of purchasing and installing new signage on Maple Grove Lane.

Action

For information and public hearing only. Staff will request action at the next full City Council meeting.

Attachments:

1. Draft Amendments



SCHEDULE I. NO PARKING AREAS (Section 66-122)

A

Both sides of Appletree Street from the intersection of Faith Street to the intersection of North Johnson Street.

Both sides of Appletree Street from its intersection with East French Broad Street to the point where that portion of Appletree Street terminates.

North side of the ACCESS ROAD TO THE BREVARD HIGH SCHOOL MAINTENANCE FACILITY from its intersection with Country Club Road to a point 50 feet east of said intersection.

B

On the east side of North Broad Street from the loading zone to Probart Street for a distance of 287 feet 5 inches. *(NOTE: Loading Zone is not marked; No Parking is marked north from the Square to East Probart Street beside the Courthouse.)*

Both sides of North Broad Street from Probart Street to Caldwell Street.

Both sides of Brown Lane.

Both sides of Burrell Avenue from its intersection of Railroad Avenue to the intersection of Tinsley Road.

C

Both sides of Cadence Circle.

Both sides of North Caldwell Street from its intersection with Main Street to its intersection with North Broad Street.

Both sides of South Caldwell Street from its intersection with Main Street to its intersection with US 64W/Rosman Hwy.

West side of Carver Street from intersection of Mills Avenue and extending for a distance of 528 feet in a northerly direction.

East side of Carver Street from Morgan Street and extending for a distance of 528 feet in a southerly direction.

Both sides of Colwell Drive.

East side of Country Club Road from Monroe Street to Hayes Street.

E

Both sides of Elm Bend Road from its intersection with U.S. Highway 276 eastward to the limits of the city of Brevard's Extraterritorial Jurisdiction.

Both sides of England Street from its intersection with Probart Street, southward to its intersection with West Jordan Street.

F

Both sides of Franklin Street from East Main to East French Broad Streets.



North side of East French Broad Street from North Broad Street and extending 2,112 feet in an easterly direction.

South side of West French Broad Street from North Broad Street to Railroad Avenue.

G

Both sides of South Gaston Street from East Main Street to its intersection with Varsity Street.

Both sides of North Gaston Street from East Main Street to its intersection with East Probart Street.

Both sides of Gillespie Circle.

H

Both sides of Hampton Road between Whitmire Street and the City Limits.

Both sides of Hayes Street from Country Club Road to Ashworth Avenue.

Both sides of Hemphill Circle from Oakdale Street to Duckworth Avenue.

Both sides of High School Drive from its intersection with Gallimore Road to its end at the Brevard High School parking lot.

Both sides of Hillside Heights in its entirety.

North side of Hillview from its intersection with Brushy Creek (including a portion of Mills Avenue), west 485 feet, and the south side of Hillview Circle from its intersection with Mills Avenue, west 325 feet, each segment being adjacent to or across from Silversteen Memorial Park as No Parking Area.

J

Both sides of Jack Hudson Way in its entirety.

Johnson Street from East Main Street to Maple Street.

West side of Johnson Street between East Main Street and East Jordan Street.

East side of Jordan Road from Maple Street to Batson Road.

Both sides of East Jordan Street from Gaston Street to Johnson Street.

Both sides of West Jordan Street from Caldwell Street to England Street.

K

Both sides of Kilpatrick Street from the intersection of Burrell Avenue to the intersection of Tinsley Road.

Both sides of King Street approximately 35 feet from Railroad Avenue.

L

Both sides of East Laurel Court.

Both sides of West Laurel Court.

Both sides of Laurel Village Drive.

M

South side of East Main Street from Johnson Street extending approximately 100 feet eastward.



South side of East Main Street from Franklin to the end of East Main Street Extension.

Maple Street from South Gaston Street easterly for a distance of 84 feet.

Both sides of Maple Grove Lane.

North side of Mills Avenue from intersection with Hillview Circle to a point approximately 300 feet northeast of said intersection.

Both sides of Monroe Street.

Both sides of Morgan Street from its intersection with South Caldwell Street to its intersection with Duckworth Avenue.

North side of East Morgan Street between South Gaston Street and South Broad Street.

North Side of West Morgan Street between South Broad Street and South Caldwell Street.

N

Both sides of North Lane from its intersection with West Lane southward to its end at the English Hills parking area.

O

North side of Oakdale Street from South Caldwell Street and extending for a distance of 264 feet in an easterly direction.

South side of Oakdale Street between Carver Street and Jenkins Row, a distance of 315 feet.

Both sides of Oakdale Street, between Duckworth Avenue and Hemphill Circle.

Both sides of Oaklawn Avenue between Probart Street and West Main Street.

P

East side of Park Avenue from Outland Avenue and extending for a distance of 792 feet in a northerly direction.

West side of Park Avenue from East Main Street to Park View Drive.

Both sides of West Probart Street from North Broad Street Westward to the City Limits.

Both sides of East Probart Street from its intersection with North Broad Street, eastward to the terminus of East Probart Street.

R

On both sides of Reservoir Road from its intersection with Whitmire Street, a distance of 300 feet.

West side of Rosenwald Lane from West Main Street to West Lane.

S

Both sides of Salem Street from King Street to Whitmire Street.

North side of Southview Drive extending from Country Club Road westward for a distance of 350 feet.

T

Both sides of Turnpike Road in its entirety.



U

The unnamed alley way between Jordan Street and Main Street.

W

Both sides of West Lane.

North side of Whitmire Street from North Caldwell to Railroad Avenue.

South side of Whitmire Street from Tinsley Road and extending 792 feet in an easterly direction.

PARKING PERMITTED DURING CERTAIN HOURS IN DESIGNATED PLACES

Parking shall be permitted in no parking zones on Sundays between the hours of 9:00 a.m. and 1:00 p.m. on the following streets:

West side of South Gaston Street from Jordan Street to Morgan Street.

North side of East Jordan Street from South Broad Street to South Gaston Street.

South side of Morgan Street from South Broad Street to South Gaston Street.



SCHEDULE XI-A. STOP BEFORE ENTERING CERTAIN INTERSECTIONS (Section 66-72)

A

Ashworth Avenue from Monroe Street.
Asheville Highway starting from Old Hwy 64.
Asheville Highway from Brain Berg Lane.
Asheville Highway from Jack Hudson Way.
Asheville Highway from Pisgah Heights (Allison Road and Hawthorne Drive).
Asheville Highway from Straus Parkway.
Asheville Highway from Big Bend Road.
Asheville Highway from Morris Road.
Asheville Highway from Hillside Heights.
[Asheville Highway from Maple Grove Lane.](#)

B

Batson from Jordan Lane.
Batson from Willow.
Batson from Wilson Drive.
Batson from Wilson Street.
Big Bend from Branch Street.
Big Bend from Little Bend.
North Broad from East and West Probart Streets.
North Broad from Appletree Street.
North Broad from Green Acres.
South Broad from Varsity Street.
South Broad from Oakdale Street.
South Broad from Miner Street.
Burrell Avenue from Kilpatrick.
Burrell Avenue from Peace Drive.

C

Cadence Circle at both intersections with Forest Hills Circle.
North Caldwell from West Probart Street.
North Caldwell from King Street.



SCHEDULE XVIII-A. FIFTEEN (15) MPH SPEED LIMIT (Section 66-87)

B

Bungalow Way.

C

Cadence Circle.

H

Hillview Avenue between Probart Extension and Hillview Street.

Hillview Circle.

Hillview Street.

J

Jack Hudson Way.

L

Laurel Village Drive.

East Laurel Court.

West Laurel Court.

M

[Maple Grove Lane](#)

Mills Avenue.

R

Resada Drive.

U

Unity Drive.



SCHEDULE XVIII-B. TWENTY (20) MPH SPEED LIMIT (Section 66-87)

- B**
~~South~~ Broad Street from Morgan Street to ~~Main Street thence along North Broad Street (U.S. 64-276) to~~
Probart Street.
- C**
Curlee Street.
- D**
Deerlake ~~Road from Asheville Highway to just before Deer Run.~~
~~Deerlake from Stone to White Squirrel Lane.~~
- E**
England Street
- F**
West French Broad ~~Street Avenue~~ from North Caldwell to North Broad Street.
- G**
Gaston Street from Probart Street to East ~~Main~~Morgan Street.
- H**
Hampton Road.
Hillside Heights.
- J**
East Jordan Street from South Broad Street to Johnson Street.
West Jordan Street from ~~England Street~~ Oaklawn Avenue to South Broad Street.
- L**
Lakeview Avenue.
- M**
East Main Street from Johnson Street to Broad Street, thence along West Main Street to Oaklawn Avenue.
~~Main Street from Broad Street to its intersection with Rosenwald Lane.~~
~~Mills Avenue.~~
Morgan Street from South Caldwell Street to ~~Gaston~~Johnson Street.
- P**
Pisgah Drive.



Pisgah Lane.

Probart Street from North Caldwell Street to Gaston Street.

S

Short Street.

Straus Parkway.

T

Temple Church Road.

W

White Oak Lane.

Wilson Drive.



SCHEDULE XIX. TWENTY-FIVE (25) MPH SPEED LIMIT (Section 66-87)

A

Aiken Street.
Allison Road.
Appletree Street.
Ashworth Avenue.

B

Baston Road from Maple Street to Wilson Drive.
Big Bend Road.
South Broad Street from Rosman Highway to a point 500 feet south of Varsity Street.
Burrell Avenue from Railroad Avenue to its end.

C

Caldwell Street from Oakdale Street to Broad Street.
Carolina Avenue from Cashiers Valley Road to City Limit (Rosman Highway).
Carver Street from Tucker Creek to Oakland Avenue, ~~thence along Oaklawn Avenue to Probart Street.~~
Cashiers Valley Road from Carver Street to the Brevard City Limits.
Cedar Crest Drive.
Cherry Street.
Colwell Drive.

D

~~Deerlake between Deer Run and Stone Drive.~~
Dogwood Drive.
Duckworth Avenue.

E

Elks Club Road.
~~England Street from Jordan Street to Probart Street.~~

F

Far Hills Terrace.
Franklin Street.
Fisher Road.
West French Broad Street from Railroad Avenue to North Caldwell Street.



G

Galloway Street.

Gaston Street from Varsity to ~~Maple Street~~ East Morgan

~~South GASTON Street from Maple to East Main Street.~~

Grandview Avenue.

Green Acres Avenue.

Grove Circle.

Grove Street.

H

Hamlin Avenue.

Harold Street.

Hawthorne Drive.

Hayes Street.

Hazel Circle.

High School Road.

Hillcrest Avenue.

Hilt Street.

J

James Street.

Johnson Street ~~from Maple Street to East French Broad Street.~~

Jordan Lane.

Jordan Road from Batson Road to Placid Drive.

Jordan Road from Gallimore Road to Maple Street.

East Jordan Street from Johnson Street to Rice Street.

K

Kilpatrick Street from Tinsley Road to Burrell Avenue.

Kings Mill Road from Whitmire Street to Eastabrook Avenue.

King Street from North Caldwell Street to Railroad Avenue.

L

Laurel Avenue.

M

East Main Street from Greenville Highway and Wilson Drive to Batson Road.



East Main Street from Johnson Street to Franklin Street.

Maple Street from Gallimore to South Gaston Street.

McLean Road.

McMinn Avenue.

Miner Street.

Monroe Street.

Montview Circle.

Morgan Street from Hamlin Avenue to South Caldwell Street.

Morningside Drive.

N

Neely Road from Old Hendersonville Highway to College Walk.

North Lane.

North Oak Street.

O

Oak Park.

Oak Street.

Oakdale Street.

Oaklawn Avenue.

Outland Avenue.

Owens Street.

P

Palmer Street.

Park Avenue.

Parkview Drive from Elm Bend to Outland Avenue.

Pine Street.

Placid Drive from Jordan Road to Gallimore Road.

Probart Street from North Caldwell to City Limits.

R

Railroad Avenue.

Reservoir Road to City Limits.

Rice Street.

Robinson Avenue.



Rosenwald Lane.

S

Salem Street.

Shipman Avenue.

Silversteen Drive.

South View Drive.

Stratford Avenue.

T

Thomas Street.

Tinsley Road.

Turnpike Road.

V

Varsity Street.

Verdery Avenue.

W

Washington Avenue.

Welcome Street.

West Lane.

Whitmire Street.

Willow Drive.

Woodlawn Avenue.



SCHEDULE XXI. THIRTY-FIVE (35) MPH SPEED LIMIT (Section 66-87)

A

Asheville Highway from a point 0.05 miles south of Osborne Road to a point 0.15 miles north of Osborne Road.

B

North Broad Street from Probart Street north to Old Hendersonville Road.

North Broad Street from a point 0.05 miles south of Osborne Road to a point 0.15 miles north of Osborne Road.

South Broad Street from Morgan Street to Varsity Street.

C

South Caldwell Street from Oakdale Street to Rosman Highway.

Cashiers Valley Road from the Carver Street/Mills Avenue/Hillview Street intersection to the City Limits.

Chestnut Street.

Country Club Road from Rosman Highway southward to City Limit.

E

Elm Bend Road from Greenville Highway to the eastern City Limit.

F

East French Broad Street from Park Avenue to North Broad Street.

G

Gallimore Road.

Greenville Highway from the southern City Limit to East Main Street.

M

East Main Street from Greenville Highway to Franklin Street.

Morris Road.

N

Neely Road from Park Avenue to College Walk Drive.

Nicholson Creek Road from Cashiers Valley Road to the city limit.

R

Rosman Highway (U.S. 64) from South Broad Street (U.S. 64) to the City Limit.



CITY *of* BREVARD

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

TAX SETTLEMENT REPORT FOR MONTH ENDED SEPTEMBER 30, 2023

Tina Tanner, Tax Collector

CITY OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING SEPTEMBER 30, 2023

UPDATED: 10.05.2023

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
2023		\$ 3,999,226.23	\$ 423,200.72				
2022-2011	\$ 8,264.83	\$ 22,421.57	\$ 1,772.62				
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL:	\$ 8,264.83	\$ 4,021,647.80	\$ 424,973.34	\$ -	\$ -	\$ -	
	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2023							
2022-2011							\$ 4,422,426.95
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 32,459.02
TOTAL:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,454,885.97

HEART OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING, SEPTEMBER 30, 2023

UPDATED: 10.05.2023

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
2023		\$ 84,666.91	\$ 4,920.46				
2022-2011		\$ 4,227.80					
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL:	\$ -	\$ 88,894.71	\$ 4,920.46	\$ -	\$ -	\$ -	
2023							\$ 89,587.37
2022-2011							\$ 4,227.80
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 93,815.17

STAFF REPORT

City Council, Monday, October 16, 2023

Title: Franchise Agreement/Ordinance for Gas Utility System -
Public Service Company of North Carolina, Inc. d/b/a
Dominion Energy North Carolina

Speaker: Wilson Hooper, City Manager
Mack McKeller, City Attorney

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

In North Carolina, the utility environment for electricity, natural gas, and broadband is a mixed system. Some areas have municipally provided electricity and broadband, for example. But the most common model is each of these three utilities provided by a for-profit company to residents of an area via a "franchise agreement" with the local government entity.

Franchise agreements grant utilities permission to serve customers in the jurisdiction, and set the conditions under which those services must be provided.

Public Service Company of North Carolina, who does business under the name Dominion Energy, is the natural gas provider for western North Carolina. The city last signed a franchise agreement with them in November 1992. The term of the agreement was 30 years.

The Public Works and Utilities Committee reviewed the agreement at its October 4, 2023 meeting and recommended its approval to full Council.

Discussion

The franchise agreement grants the company the authority to construct, maintain, and utilize a natural gas distribution system within the city limits. It gives them permission to access rights-of-way and public ways for this purpose. In staff's opinion, this is the most significant provision of the contract because it gives them almost uninhibited access to areas the city has a maintenance responsibility for. But the contract grants the city some protection, namely the ability to inspect the work of the company on public ways to ensure that it's done to a "reasonable" standard.

The agreement includes other protections of interest to the city. It requires that work done in public ways shall not obstruct those ways longer than reasonably necessary. It requires that customers in Brevard be provided the same level of service as customers in other areas. It requires that its rates be approved by the North Carolina Utilities Commission. It is a non-exclusive agreement, meaning it cannot exclude a competitor utility from entering

the market.

Fiscal Impact

A portion of the city's general revenue comes from sales tax on the sale of natural gas to properties in Brevard.

Action

The agreement is presented in the form of an ordinance. Council is asked to approve the ordinance accepting the terms of the agreement.

Attachments:

1. Proposed Ordinance w/Dominion Gas Franchise Agreement May 2023
2. Historic Dominion Gas Franchise Agreement - 1992

ORDINANCE

AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO USE AND OCCUPY THE PUBLIC WAYS OF THE CITY OF BREVARD, NORTH CAROLINA, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A GAS UTILITY SYSTEM AND ALL NECESSARY MEANS FOR TRANSMITTING AND DISTRIBUTING GAS WITHIN SAID CITY FOR A PERIOD OF 30 YEARS.

WHEREAS, Public Service Company of North Carolina, Incorporated proposes to continue to construct, operate and maintain a Gas Utility System and all necessary means for transmission and distribution of gas within the City of Brevard, North Carolina, (the "City") and

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

SECTION 1. DEFINITIONS.

Whenever and wherever used in this Ordinance the following words and names shall have the following meanings:

- (a) **(CITY COUNCIL)** shall mean the governing body of the City of Brevard, North Carolina, as now or hereafter constituted.
- (b) **COMPANY** shall mean Public Service Company of North Carolina, Incorporated, d/b/a Dominion Energy North Carolina, its successors, and assigns.
- (c) **(CITY)** shall mean the City of Brevard, North Carolina, including its present and future boundaries.
- (d) **DEPARTMENT OF TRANSPORTATION** shall mean the North Carolina Department of Transportation or its successor.
- (e) **GAS** shall mean natural gas, mixed gas and substitute fuels carried over the Company's facilities as authorized by the North Carolina Utilities Commission.
- (f) **GAS UTILITY SYSTEM** shall mean all facilities of the Company in the City used for the transmission or distribution of Gas within the City.

- (g) **FERC** shall mean any reference made to the Federal Energy Regulatory Commission or its successor.
- (h) **COMMISSION** shall mean the North Carolina Utilities Commission, or any successor body lawfully constituted.
- (i) **PUBLIC WAY OR WAYS** shall mean any public street, avenue, road, alley, lane, bridge, or other public right-of-way within the City over which the City has jurisdiction or exercises control.
- (j) **GOOD UTILITY PRACTICES** shall mean the practices, methods and acts engaged in or approved by a significant portion of the gas industry during the relevant time period or other practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, safety, expedition, requirements of governmental agencies having jurisdiction, and at the lowest reasonable cost. The term Good Utility Practices is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to constitute a spectrum of acceptable practices, methods, or acts.

SECTION 2. Grant of Authority

The right, power and authority is hereby granted to and vested in the Company to construct, install, replace, repair, maintain and operate transmission mains, gas mains, pipes, equipment, service lines, communications lines, facilities and other appurtenant apparatus of the gas system, for the purpose of operating a natural gas system along, across, and under the streets, alleys, bridges, rights-of-way, and other public places of the City together with any necessary rights of access thereto; and to use that natural gas system to conduct a gas business. This granting of authority is provided that the City as of the applicable time, has jurisdiction or exercises control of the public ways. This Franchise Agreement shall also permit the Company to exercise the rights granted herein without the need for additional permit(s) from the City.

SECTION 3. Conditions on Use of Public Ways

(a) No street, alley, bridge, right-of-way, or other public place used by the Company shall be obstructed longer than reasonably necessary during its work of construction or repair and shall be restored to the same good order and condition as when said work was commenced. However, should any such damage occur due to the Company's failure to use due care, the Company shall repair the same as promptly as possible, and, in default thereof, the City, after written notice and opportunity for the Company to repair, may make such repairs and charge the reasonable cost thereof and collect the same from the Company.

(b) All work upon the streets and public places of the City shall be done subject to reasonable inspection of the City Manager or designee (or other legally constituted governing body) of the City, all sidewalks or street pavements or street surfaces which may be displaced by reason of such work shall be properly replaced by the Company, its successors, and assigns, to the reasonable requirements of the City.

SECTION 4. Annexation Notification

The City shall mail to the Company areas annexed into the City. Said notices shall include pertinent maps and/or tax map numbers, so that newly annexed customers may be identified. Any written notice to the Company shall be sent to Public Service Company of North Carolina, GIS Services-Annexations, 800-A Gaston Road, Gastonia, NC 28056.

SECTION 5. Service

(a) The Company may supply any form of gas containing approximately one thousand (1,000) BTU's per cubic foot, and its obligation in respect thereto shall continue only so long as it is able to reasonably obtain an adequate supply of such gas hereunder, provided, however, that in the supply of such gas the customers within the City shall enjoy equal rights with respect to other similar customers served by the Company consistent with Commission rules and regulations.

(b) The Company shall, as to all other conditions and elements of service not fixed herein, be and remain subject to the rules and regulations of the Commission, Department of Transportation, and FERC or its successors, applicable to gas service in the City.

SECTION 6. Nonexclusive Grant and Term

(a) The gas franchise granted by this Ordinance is not exclusive. The City may grant the same or similar rights and privileges to other certified persons or companies at any time, provided that any such grants shall be made under terms and conditions which do not materially impair the exercise of the rights and privileges granted to the Company under this franchise.

(b) Upon ratification and acceptance, this franchise shall constitute a contract between the City and the Company and shall be in force and effect for an initial term of 30 years and shall continue in force and effect year-to-year thereafter until properly terminated by either party. Either party may terminate the contract at the end of its initial term or its anniversary date any year thereafter, by giving written notice of its intention to do so no less than one (1) year before the proposed date of termination.

SECTION 7. Franchise Not Waiver of Law

This franchise is subject to the constitution and laws of the State of North Carolina and is not a waiver of any present or future law or regulation. This franchise is not a limitation of the authority of the City to enact any ordinance or policy that does not diminish, conflict, or impair the rights and authority granted to the Company in this franchise or otherwise impose additional obligations on the Company in order to exercise the rights granted herein.

SECTION 8. Regulations, Safety and Customer Service

(a) Gas utility service is not guaranteed to be free from interruptions, supply failure or outages.

(b) The Company will restore gas utility service using Good Utility practices.

(c) The Company shall maintain and operate its Gas Utility System in compliance with applicable State and Federal maintenance and safety regulations.

(d) Company vehicles, responding to natural gas emergencies, may park as close to the location of the emergency as is practicable.

SECTION 9. Commission Rules and Rates

The Company may from time to time declare, make, and enforce such rules and regulations as shall have been fixed or allowed by the Commission as to the sale or distribution of Gas to any of its customers in the City. The rates to be charged for Gas at all times shall be such rates as are fixed or allowed by the Commission, including such rates as shall be negotiated by the Company with certain industrial or commercial customers pursuant to authority granted by the Commission.

SECTION 10. Plat of Gas Utility System

The Company shall maintain maps or plats of its Gas Utility System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's offices, and the City may review the same during any regular business hours of the Company.

SECTION 11. Bankruptcy, Successors, Assigns

In the event the Company is adjudged bankrupt or its assets are placed in the hands of a receiver or other court officer, either voluntarily or involuntarily, then the interest, rights and remedies of the City in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company, shall be bound by this Ordinance and the terms and provisions hereof and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this Ordinance. Likewise, if the Company reorganizes, merges, or consolidates with any other company, then the City is bound by this Ordinance.

SECTION 12. Revocation

In the event the Company fails to comply with the provisions of this Ordinance and, within thirty (30) days after receipt of written notice from the City, the Company fails to cure or remedy such default,

or to have begun reasonable measures to do so, then the City may cause the Company to appear at a hearing before the City upon thirty (30) days prior written notice. Any written notice to the Company shall be sent to Dominion Energy North Carolina, DBA Public Service Company of North Carolina, PO Box 1398, Gastonia, NC 28056-6519. Attention: Economic Development & External Affairs Manager. If at such hearing the City should determine that the Company's failure or default has been substantial, repeated or flagrant, then upon such determination the City may revoke and terminate this franchise; provided, however, that the Company may file with the City within ten (10) days after such determination the Company's election to appeal to the proper North Carolina court, during the pendency of which the Ordinance shall remain in full force and effect. In that event the City and Company agree that such court shall hear and determine *de novo* whether there has been substantial, repeated, or flagrant failure or default by the Company of the terms, conditions, or obligations of this Ordinance. Failure or default which cannot be corrected by the Company shall not be grounds for revocation or termination unless such failure or default shall be determined to be material and continuing.

SECTION 13. Indemnification:

The Company shall indemnify and hold harmless the City, its officers, and employees from any losses, costs, expenses, claims, judgments, suits, or demands resulting or in any manner arising from the action or inaction of the Company in constructing, operating, or maintaining a gas system, in carrying on the business of selling, transmitting or distributing gas, or in exercising or failure to exercise any right or privilege granted by this franchise and save and except for any such losses, costs, expenses, claims, judgments, suits, or demands resulting or in any manner arising from, or contributed to, by the negligent action or inaction of the City or any of its officers, agents, or employees. Provided, however, the Company's indemnification at any time is conditioned on the City having notified the Company in writing of any such claim, demand, or suit within such time as to give the Company reasonable opportunity to resolve or defend the same on behalf of the City. In the event of such notification, the Company shall have the sole and full responsibility for the

resolution and defense of any such claim, demand, or suit on behalf of the City, and the City shall cooperate fully with the Company in any such undertaking. If after proper notification, the Company fails to undertake any such responsibility, the City shall have the right to resolve or defend any such claim, demand, or suit at the expense of the Company.

SECTION 14. Severability, Third Party Rights

(a) If any provision in this contract is determined to be invalid, void, or unenforceable by any court or regulatory body having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement, or covenant of this Contract. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders, and regulations of any governmental authority having jurisdiction over the parties, their facilities, or gas supply, this Contract or transaction or any provisions thereof.

(b) The rights hereunder in this Ordinance accrue exclusively to the parties, their successors, and assigns. It is the express intent of the parties that this franchise shall not create any rights in third parties.

SECTION 15. Effective Date, Term, Adoption, and Ratification

- (a) This Ordinance shall be effective from and after the _____ day of May, 2023, provided the Company shall have executed the written acceptance hereof at the end of this Ordinance, and shall exist in force for a period of 30 years hereafter, and continue in force year to year thereafter until cancelled upon written notice of either party at least one year in advance.
- (b) All other Ordinances and clauses of Ordinances in conflict herewith are hereby repealed.

Adopted by the City of Brevard the _____ day of May 2023, and hereby ratified.

Maureen Copelof, Mayor

ATTEST:

Denise Hodsdon, City Clerk

APPROVED AS TO FORM:

Mack McKeller, Attorney

ACCEPTANCE BY COMPANY

Public Service Company of North Carolina, Incorporated does hereby accept and acknowledge the foregoing Ordinance, and in consideration of the benefits and privileges granted to it does hereby agree to the terms and conditions therein provided.

This the ____ day of _____, 20__.

PUBLIC SERVICE COMPANY
OF NORTH CAROLINA, INCORPORATED

By: _____
D. Russell Harris
President and Chief Operating Officer

ATTEST:

Karen W. Doggett
(Corporate Seal)

Its: Assistant Corporate Secretary

ORDINANCE NO. 21-92

AN ORDINANCE RENEWING GAS FRANCHISE TO PUBLIC SERVICE
COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS AND
ASSIGNS, FOR THE CITY OF BREVARD, NORTH CAROLINA, FOR
A PERIOD OF THIRTY (30) YEARS

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina:

SECTION 1. Definitions. Whenever and wherever used in this Ordinance the following words and names shall have the following respective meanings:

- (a) CITY COUNCIL shall mean the City Council of the City of Brevard, North Carolina, as now or hereafter constituted.
- (b) COMPANY shall mean Public Service Company of North Carolina, Incorporated, its successors and assigns.
- (c) CITY shall mean the City of Brevard, North Carolina, including its present and future city limits.
- (d) DEPARTMENT OF TRANSPORTATION shall mean the North Carolina Department of Transportation or its successors.
- (e) GAS shall mean natural gas, mixed gas and substitute fuels as approved by the North Carolina Utilities Commission for distribution to customers of the Company.
- (f) GAS SYSTEM shall mean all facilities of the Company in the City used for the transmission and distribution of gas within the City.
- (g) COMMISSION shall mean the North Carolina Utilities Commission or any successor body lawfully constituted.
- (h) FERC shall mean the Federal Energy Regulatory Commission or its successor.
- (i) PUBLIC WAY OR WAYS shall mean any public street, avenue, road, alley, lane, bridge, or other public right-of-way within the City over which the City as of the applicable time has control or jurisdiction.

SECTION 2. Grant of Authority. The City hereby grants to the Company the right and privilege to construct, operate, and maintain a gas utility system within the City for the transmission, distribution, and sale of Gas to customers or users within the City. The Company shall have the right, authority, and privilege to construct, install, operate, maintain, lay, re-lay, renew, replace, and repair gas pipes, mains, pipelines, and necessary appurtenances thereto in, through, across, along, and under the Public Ways

within the City for the pumping, handling, transmission, distribution, and sale of Gas for any and all purposes, and for such objects and purposes to take up the pavement in Public Ways, and to make such excavation and changes therein as may be necessary therefor.

SECTION 3. Nonexclusive Grant. This franchise is not exclusive. The City may grant the same or similar rights and privileges to other persons at any time.

SECTION 4. Franchise not Waiver of Law. This franchise is not a waiver of any present or future law or regulation. This franchise is not a limitation upon the authority of the City to adopt any law or regulation.

SECTION 5. Conflict With Other Regulations. In the event any provision of this franchise is in conflict with any rule of the Commission or FERC, so that the Company can not reasonably comply with both the provisions of this franchise and any rule of the Commission or FERC, then the Company shall comply with any such rule instead of the conflicting provision of this franchise.

SECTION 6. Service Standards.

(a) The Company shall maintain and operate its Gas System in a reasonably efficient manner in order to supply adequate gas service to its customers in the City.

(b) The Company shall comply with all applicable ordinances and regulations of the City not in conflict with the rules of the Commission or FERC.

(c) The Company shall comply with all applicable rules of the Commission and FERC.

(d) In the event of any interruption or impairment of service or failure of supply of Gas by reasons of force majeure, act of God, strike, breakdown, accident, or other happening beyond the reasonable control of the Company, the Company shall use due diligence to restore such service within a reasonable time. Such interruption or failure shall not constitute a breach of this Ordinance.

SECTION 7. Conditions on Use of Public Ways.

(a) The Company shall construct, operate, and maintain its Gas System so as to cause minimum interference with the public use of any Public Ways, or with any abutting property owner's access thereto.

(b) The Company shall locate the gas mains and pipes of its Gas System in the Public Ways at such location as the City may prescribe. The Company shall construct and locate its gas mains and pipes so as not to interfere with the construction, location, and maintenance of sewer or water connections or sewer lines or water mains. The Company will take the necessary steps to protect the facilities of the City and other utilities during the work.

(c) The Company shall coordinate with other utilities which use the Public Way. Upon request of the City, the Company shall provide information identifying the location of Company facilities.

SECTION 8. Excavation in Public Ways; Restoration; Damage.

(a) Whenever the Company excavates in any of the Public Ways pursuant to this franchise, such excavation shall be made by the Company in compliance with the laws and regulations of the City in effect at the time of such excavation.

(b) Immediately after the Company installs or repairs gas mains or pipes, the Company shall refill the trenches in which the mains and pipes are located according to standards established by the City. The Company shall promptly restore and replace the pavement, sidewalks with a minimum of four feet section, curbs or gutters in any Public Way destroyed, disturbed or damaged by such work with like materials to their former condition at the Company's expense.

SECTION 9. Inspection.

The City shall have the right to inspect all construction and installation work performed by the Company pursuant to this Ordinance and to make such other inspections as it shall deem necessary to insure compliance with this Ordinance by the Company.

SECTION 10. Indemnification.

The Company shall indemnify and hold harmless the City, its officers and employees from any costs, expenses, claims, judgments, suits or demands resulting or in any manner arising from the action or inaction of the Company in constructing, operating or maintaining its Gas System, in carrying on the business of selling, transmitting or distributing Gas, or in exercising or failing to exercise any right or privilege granted by this Ordinance, save and except for any such losses, costs, expenses, claims, judgments, suits or demands resulting or in any manner arising from or contributed to by the negligent action or inaction of the City or any of its officers, agents or employees. The Company's obligation to indemnify the City and such persons at any time is conditioned, however, on the City having notified the Company in writing of any such claim, demand or suit within a sufficient amount of time as to give the Company reasonable opportunity to resolve or defend the same on behalf of the City. In the event of such notification, the Company shall have the sole and full responsibility for the resolution and defense of any such claim, demand or suit on behalf of the City, and the City shall cooperate fully with the Company in any such undertaking. If after proper notification, the Company fails to undertake any such responsibility, the City shall have the right to resolve or defend any such claim, demand or suit at the expense of the Company.

SECTION 11. Rules and Regulations. The Company may from time to time declare, make, and enforce such rules and regulations as shall have been fixed or approved by the Commission as to the sale or distribution by it of Gas to any of its customers in the City.

SECTION 12. Rates. The rates to be charged for Gas at all times shall be such rates as are fixed and approved by the Commission, including such rates as shall be negotiated by the Company with certain industrial or commercial customers pursuant to authority granted by the Commission to do so.

SECTION 13. Plat of Gas System. The Company shall maintain maps or plats of its Gas System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's offices in Brevard, North

Carolina, and the City shall have access to the same during any regular business hours of the Company.

SECTION 14. Bankruptcy. In the event (a) the Company is adjudged a bankrupt or (b) its assets are placed in the hands of a receiver or other court officer, either voluntarily or involuntarily, or (c) the Company reorganizes, merges or consolidates with any other Company, or (d) the properties and business of the Company are foreclosed or sold to satisfy any lien or indebtedness or obligation of the Company, then the interest, rights, and remedies of the City in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company shall be bound by this Ordinance and the terms and provisions hereof, and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this Ordinance.

SECTION 15. Preferential or Discriminatory Practices Prohibited. The Company shall not make or grant any unreasonable preference or advantage to any person, nor subject any person to any unreasonable prejudice or disadvantage, in its exercise of the rights and privileges granted by this Ordinance; provided, however, that nothing in this Ordinance shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules consistent with G.S. 62-140 to which any customer coming within such classification would be entitled.

SECTION 16. Taking Part in Litigation. The Company shall not object to the City taking part at its option, by intervention or otherwise, in any suit, action or proceeding instituted by or against the Company in which any judgment or decree or act can be rendered foreclosing any lien on any of the Company's property, or affecting the rights, powers or duties of the Company to do or not to do anything which by this Ordinance it is obligated or may be required to do or not to do, or to taking such steps in any such proceedings as the City may deem essential to protect the interest of the public or the City.

SECTION 17. Forfeiture. In the event the Company violates or fails to perform any of the provisions of this Ordinance and within sixty days after

receipt of written notice of the same from the City has failed to cure or remedy, or to have begun reasonable steps to cure or remedy, any such violation, failure or default, then the City Council may give at least ten (10) days written notice to the Company to appear at a hearing before the City Council to show cause why this franchise should not be revoked. If at such hearing the City Council should determine that the Company's violation, failure or default has been so substantial, repetitive or flagrant that this franchise should be revoked, then upon such determination the City Council may revoke and terminate this franchise; provided, however, that the Company may file with the City within ten (10) days after any such determination the Company's election to appeal such determination to the proper North Carolina court, whereupon the City and the Company agree that such court shall hear and determine such matter de novo. A non-curable violation or default shall not be grounds for revocation and termination, unless such non-curable violation or default shall be determined to be one of a substantial and material series of violations or defaults over the preceding six months.

SECTION 18. Severability. Should any court of competent jurisdiction declare any part, term or provision of this Ordinance illegal, unauthorized or in conflict with any law of the United States or the State of North Carolina, or to be in conflict with any valid rule or regulation duly promulgated by any agency or regulatory body of the United States or the State of North Carolina, the remaining portions or provisions of this Ordinance shall not be affected thereby.

SECTION 19. Certified Copy to Company. The City Clerk shall deliver to the Company an executed or conformed copy of this Ordinance and of the Company's written acceptance thereof, certified as follows:

"Certified to be a true and exact copy of an ordinance duly adopted by the City Council of the City of Brevard, North Carolina, on the 21 day of September, 1992, and of the acceptance thereof by Public Service Company of North Carolina, Incorporated. This 16 day of November 1992.

(City's Seal)

Glenda W. Sansosti
Glenda W. Sansosti, City Clerk
City of Brevard, North Carolina"

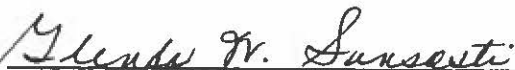
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SECTION 20. Effective Date; Acceptance by Company; Term. This Ordinance shall be effective from and after the 1st day of January, 1993, provided the Company shall have executed the written acceptance hereof at the end of this Ordinance, and shall exist and continue for a period of thirty (30) years thereafter.

Adopted and Approved by City Council the 21 day of September 1992, after passage at two regular meetings of the City Council in accordance with GS 160A-76.


Katherine E. Anderson
Mayor

ATTEST:


Glenda W. Sansosti, CMC/AAE
City Clerk

APPROVED AS TO FORM:


Michael K. Pratt
City Attorney

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Acknowledgement

STATE OF NORTH CAROLINA

TRANSYLVANIA COUNTY

This is to certify that on the 29th day of October, 1992, before me personally came GLENDA W. SANSOSTI, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and KATHERINE E. ANDERSON is the Mayor of the City of Brevard, the municipal corporation described in and which executed the foregoing; that she knows the corporate seal of said municipal corporation; that the seal affixed to the foregoing instrument is said corporate seal, and the name of the municipal corporation was subscribed thereto by the City Clerk and that the said corporate seal was affixed, all by order of the governing body of said municipal corporation, and that the said instrument is the act and deed of said municipal corporation.

Witness my hand and official seal the 29th day of October, 1992.

Jeanette M. Owen
Notary Public

(SEAL)

My Commission Expires: March 30, 1997.

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Acceptance of Franchise

Public Service Company of North Carolina, Incorporated does hereby accept and approve the foregoing Ordinance and all its terms and conditions, and in consideration of the benefits and privileges granted to it does hereby agree to abide by, carry out, observe, and perform all the obligations and things therein provided to be carried out and performed by it.

This the 9th day of November, 1992.

PUBLIC SERVICE COMPANY OF
NORTH CAROLINA, INCORPORATED

By Charles E. Zeigler, Jr.
Charles E. Zeigler, Jr., President
and Chief Executive Officer

ATTEST:

Robert A. Linn
Robert A. Linn, Senior Vice
President and Corporate Secretary

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Acknowledgement

STATE OF NORTH CAROLINA
GASTON COUNTY

This is to certify that on the 9th day of November, 1992, before me personally came ROBERT A. LINN, with whom I am personally acquainted, who, being by me duly sworn, says that he is the Senior Vice President and Corporate Secretary and CHARLES E. ZEIGLER, JR. is the President and Chief Executive Officer of Public Service Company of North Carolina, Incorporated, the corporation described in the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said Secretary and that the said Secretary and President subscribed their names thereto, and said seal was affixed, all by order of the Board of Directors of said corporation.

Witness my hand and official seal this the 9th day of November, 1992.

Judith C. Cook
Notary Public

(SEAL)

My Commission Expires: 7-24-95

MINUTES

COUNCIL DOWNTOWN MASTER PLAN COMMITTEE

Wednesday, August 9, 2023 – 4:00 PM

City Hall Council Chambers

Members Present: Gary Daniel, Chair, Council Member
Geraldine Dinkins, Vice Chair, Council Member
Nicole Bentley, Heart of Brevard Executive Director
Billy Parrish, Heart of Brevard Representative
Lee McMinn, Citizen Member
Parker Platt, Citizen Member

Staff Present: Wilson Hooper, City Manager
Paul Ray, Planning Director
Alex Shepherd, Assistant to the City Manager
Becky McCann, Communications Coordinator

Guests: Monica Driscoll, Citizen; Doug Miller, Citizen

A. Welcome & Call to Order

Committee Chair Gary Daniel welcomed everyone and called the meeting to order at 4:03 PM.

B. Certification of Quorum

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

C. Approval of Agenda

Mr. Hooper made a request that we suspend Item G. Request for Additional Bike Racks till the next meeting. Motion by Ms. Bentley, seconded by Ms. Dinkins to approve the agenda as amended. The motion carried unanimously.

D. Approval of Minutes of June 22, 2023 Meeting

Motion by Ms. Dinkins, seconded by Mr. McMinn to approve the minutes of the June 22, 2023 meeting as presented. The motion carried unanimously.

E. NCDOT Projects Update

Mr. Ray informed the committee that NCDOT will begin milling Main St. from Oaklawn St. to Broad St. starting this Sunday night. The next section to be worked on will be from Broad St. to Elm Bend. They will work at night until the project is complete, except for

the ADA curb ramps, which need to be constructed during the day. Main St. will never be fully closed; at least one lane will remain open at all times. Each section will take one to two weeks to complete. After finishing the paving, they will return to complete the concrete stamped crosswalks. Mr. Ray also mentioned that NCDOT plans to install new induction loops to improve traffic signal detection at intersections and enhance timing.

F. Wayfinding Signage

Mr. Hooper shared two important documents with the committee. The first is the NCDOT guidelines for wayfinding signage, which include encroachment agreements and standards. The second is the Federal Department of Transportation Manual of Uniform Traffic Calming Devices (MUTCD), which provides specifications for dimensions, colors, fonts, and sign placement in relation to other signs. These documents establish the standards for sign placement. We need to establish criteria for determining who appears on these signs, evaluate our sign inventory, and decide whether the council should allocate funds for upgrades, replacements, or additional signage. Mr. Hooper also informed the committee about the policy adopted by the Downtown Master Plan Committee approximately a decade ago, which outlines the criteria for inclusion on wayfinding signs.

Mr. Daniel pointed out that with the funding received for the Ecusta Trail, wayfinding signage will become an important topic for the City in the coming years.

Ms. Dinkins suggested that the wayfinding signage topic may need to be referred to the Public Safety Committee and expressed her interest in including bike path signage in the future.

Mr. Parrish proposed the idea of having wayfinding signs around the city's perimeter and on bike paths to guide people into the city center.

Nicole Bentley informed the committee that she has requested signage to direct people from the depot into downtown Brevard. She emphasized the importance of connectivity with other trails and downtown, with many businesses also requesting additional signage for side streets and foot traffic beyond Main and Broad Streets.

Mr. Daniel asked if the planning department would be responsible for coordinating this effort, with input from the committee.

Mr. Hooper expressed a desire to hear the committee's thoughts on the criteria and then seek advice from the public safety or public works committees to review it from a city-wide perspective. He also mentioned consulting with Henderson County to understand their approach to wayfinding signage for the Ecusta Trail.

Ms. Dinkins expressed her reservations about wayfinding signage, suggesting that in the age of smartphones and GPS, fewer signs might be needed. Instead, she proposed having more signs to assist with parking locations.

Mr. Ray raised the question of whether the aim is to revise the wayfinding sign policy or identify projects for adding or upgrading signs to include new amenities.

Mr. Miller suggested that all signs should adhere to the same branding, as there are currently inconsistencies that can confuse visitors.

G. Request for Additional Bike Racks

Item is moved to the next meeting.

H. Downtown Master Plan Next Steps

Mr. Hooper informed the committee that the next step in the Downtown Master Plan is Times Arcade Alley. He expects the project to go out for bid in the next month to six weeks, and we should know the cost relatively soon. He mentioned that we are funding this project through the Golden Leaf grant, a State grant, and one cent from the tax dollar.

Mr. Hooper proposed several potential next steps to help complete the Downtown Master Plan. The first option is to follow the master plan for streetscape improvements on Broad St., but this would be too expensive and would tie up our funds for the next ten years. The second option is to pause other projects for a few years and save money to make a down payment on the Broad St. improvements using the accumulated funds from the one-cent tax increase. The third option is to focus on smaller projects over the next few years, such as replacing trees, wooden power poles with more decorative ones, adding electricity to existing poles, and repairing run-down sidewalks. The fourth option is to allocate funds to enhance the frequency of public works services downtown, including trash pickup, gardening, and bench maintenance.

Mr. Daniel inquired about our plans to seek additional resources to continue the Downtown Master Plan in its entirety, recognizing that we lack the necessary funding and need outside assistance.

Mr. Hooper responded that there are grants available for streetscape projects and potential State earmarks that may assist us, but the majority of the funding will need to come directly from the City.

Ms. Dinkins suggested the possibility of hiring a grant writer to explore grants from external organizations that could support the continuation of our Downtown Master Plan.

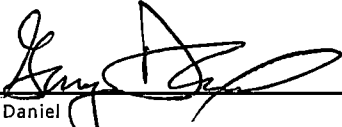
I. Set Date for Next Meeting

The next meeting of the Council Downtown Master Plan Committee was scheduled for Wednesday, September 20, 2023 at 4:00 PM.

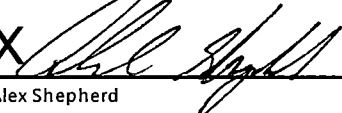
J. Adjourn

There being no further business, the meeting was adjourned at 4:59 PM.

Minutes Approved - September 21, 2023

X 

Gary Daniel
Chair, Council Member

X 

Alex Shepherd
Assistant to the City Manager

MINUTES
City Council Public Works & Utilities Committee

Wednesday, September 6, 2023 – 3:30 PM
City Council Chambers

Members Present: Maurice Jones, Chair, Council Member
Mac Morrow, Vice-Chair, Council Member
Owen Carson, Citizen Member
Mayor Maureen Copelof, Ex-Officio

Staff Present: Wilson Hooper, City Manager
Cliff Justus, Public Works
Emory Owen, Wastewater Treatment Plant Supervisor
Alex Shepherd, Assistant to the City Manager
Becky McCann, Communications Coordinator
Aaron Winans, WWTP Staff
Emily Brewer, Senior Planner

Guests: Burton Hodges, Transylvania Economic Alliance

Media: Jon Rich, Transylvania Times

A. Welcome and Call to Order

Committee Chair Maurice Jones called the meeting to order at 3:32 pm.

B. Certification of Quorum

Assistant to the City Manager Alex Shepherd certified that a quorum was present.

C. Approval of Agenda

Mr. Hooper requested an amendment that we move item E to F add an item E. Closed Session: Economic Development GS § 143-318.11.(a)(4). Motion by Mr. Carson, seconded by Mr. Morrow to approve the agenda as amended. The motion carried unanimously.

D. Approval of Minutes from August 2, 2023 Meeting

Motion by Mr. Morrow, seconded by Mr. Carson to approve the minutes of the August 2, 2023 meeting as presented. The motion carried unanimously.

E. Closed Session: Economic Development GS § 143-318.11.(a)(4)

At 3:34 p.m. Mr. Morrow moved, seconded by Mr. Carson, to enter into closed session to discuss an economic expansion matter pursuant to GS § 143-318.11.(a)(4). The motion carried unanimously.

At 3:51 p.m. the motion was made and seconded to come out of Closed Session and resume the meeting in open session. The motion carried unanimously.

F. Review of Code of Ordinance Article V, Division 3, Section 2-292(C): Policy regarding provision of wastewater services to properties outside city limits

Mr. Hooper discussed the possibility of amending the conditions for tapping into our utility system when you are outside of the City limits. This amendment would exclude Provision 3, which is the annexation requirement, and also exclude Provision 1, which requires outside customers to fully comply with Chapter 6 of the Unified Development Ordinance (UDO). Chapter 6 of the UDO primarily deals with floodplain and stormwater regulations. It's worth noting that the County has its own ordinance with similar requirements, so by excluding this provision, we wouldn't be waiving all floodplain requirements. Currently, the City requires structures to be built two feet above the floodplain, while the County's requirement is one foot. Mr. Hooper asked are you willing to waive these requirements, and if so, what conditions would you impose for businesses wanting to tap into the utilities.

Mr. Jones raised a related concern: Should we also consider the distance outside the City limits? As we move further from the City limits and the Extraterritorial Jurisdiction (ETJ), it becomes increasingly important to consider land-use policies and zoning regulations.

Mr. Morrow agreed, stating that businesses might exploit this situation by purchasing cheaper land outside the City limits, tapping into our utilities, and avoiding City obligations.

Mr. Hooper responded that this scenario was not considered because extending utilities to businesses too far away from the City limits could become economically unfeasible.

Mr. Jones asked if there's a possibility for businesses to pay for the installation of a utility line to their facility.

Mr. Hooper suggested that we could evaluate such cases on a case-by-case basis.

Mr. Carson noted that Chapter 6 of the UDO pertains to the floodplain and that waiving the floodplain requirement would align with the County's requirement of only one foot above the floodplain. He then inquired whether the City's regulations match the State's current model.

Ms. Brewer mentioned that the City has a higher standard due to its participation in the National Flood Plain Insurance Program.

Mr. Carson expressed his concerns about waiving this provision, citing his personal experience working in floodplains. He emphasized the pressure on our floodplains, particularly in the French Broad area and other watersheds. He stated that waiving this provision could put both property and lives at risk. Additionally, it might have a potential negative impact on flood insurance premiums and claims.

Mr. Hooper suggested that he would like to hold a special called meeting to address these concerns more comprehensively. He intends to bring back a proposal that takes these concerns into account. However, he emphasized the urgency due to the grant application deadline and the desire not to delay it by another month. Mr. Jones inquired about the timeline and how these decisions might affect future and ongoing projects.

Mr. Carson suggested that this should be an application-based process or an evaluation with specific parameters for businesses.

Mr. Hooper asked if the Council would be interested in making this an economic incentive program, offering it based on the number of jobs, salaries, and similar criteria. He mentioned that if a company requested a tax incentive, these are the items they would evaluate.

Mr. Jones expressed interest in pursuing this type of plan.

Mr. Carson questioned what the City would not receive if it waived the annexation requirement in exchange for providing water and wastewater services.

Mr. Hooper explained that, in such cases, the City would not receive property taxes. However, if the business were within the Extraterritorial Jurisdiction (ETJ), the City could enforce its planning and zoning requirements.

Mr. Jones raised the question of how the City truly benefits if it allows businesses to tap into its utilities without annexation, especially if the jobs created do not necessarily go to Brevard residents.

Mr. Hooper mentioned that this would primarily be a community benefit but would also bring around \$50 million in taxable investment to the County, leading to an increase in property tax revenue. Additionally, there would be secondary economic benefits, such as spending by the people working there, potentially buying homes and paying property taxes locally.

Ms. Coperlof asked if we have looked at any developable land in the stretch that extends to the proposed utility lines. There was virtually none due to the floodplain. Does extending this line open up possibilities, or is it just for a single user.

Mr. Hodges mentioned that there are segments of the Ecusta property adjacent to the proposed site, and the old shooting range is also adjacent to the proposed utility route. However, it presents a challenge due to its proximity to the river.

Mr. Morrow inquired about why the new customer is against annexation.

Mr. Hodges explained that it stems from concerns about limitations on their property due to existing floodplain challenges. The concern is that further property development might be restricted.

Mr. Hooper acknowledged some concerns that the Committee has raised, such as lowering our floodplain requirements. He stated that they would work on obtaining more information about this issue. Additionally, he noted concerns about the strength of wastewater, the rate the new customer would pay, its impact on the capacity of our system, and suggested that these requests be evaluated similarly to tax incentive requests. He proposed establishing criteria, including points for local hiring and contributions from the County.

Ms. Coperlof asked if it's possible to ask the County to split the property taxes.

Mr. Hooper responded that it's indeed possible, and he has seen agreements like that in the past.

G. Set Date for Next Meeting

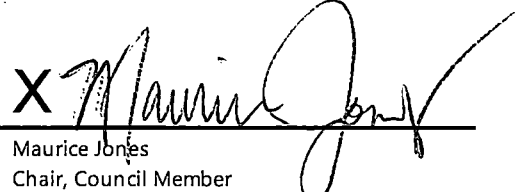
A special meeting of the Public Works & Utilities Committee was scheduled for Wednesday, September 13, 2023 at 3:30 p.m.

The next regular meeting of the Public Works & Utilities Committee was scheduled for Wednesday, October 4, 2023 at 3:30 p.m.

H. Adjourn

There being no further business, the meeting was adjourned at 4:34 p.m.

Minutes Approved: October 4th, 2023

X 
Maurice Jones
Chair, Council Member

X 
Alex Shepherd
Assistant to the City Manager

MINUTES

CITY COUNCIL HOUSING COMMITTEE

Tuesday, September 12, 2023 – 3:30 PM

City Hall Council Chambers

Members Present: Gary Daniel, City Council Member
Victor Foster, Citizen Member

Staff Present: Wilson Hooper, City Manager
Dean Luebbe, Assistant City Manager/Finance Director
Paul Ray, Planning Director
Emily Brewer, Senior Planner
Alex Shepherd, Assistant to the City Manager
Becky McCann, Communications Coordinator

Guest Present: Ray Brewster, Citizen
Maureen Copelof, Mayor

A. Welcome and Call to Order

Gary Daniel welcomed everyone and called the meeting to order at 3:28 PM.

B. Certification of Quorum

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

C. Approval of Agenda

Motion by Mr. Foster, seconded by Mr. Daniel to approve the agenda as presented.
The motion carried unanimously.

D. Approval of Minutes

Motion by Mr. Foster, seconded by Mr. Daniel to approve the minutes of the July 11, 2023 meeting as presented. The motion carried unanimously.

E. James St. Property Disposition

Mr. Ray informed the committee that the City owns a small piece of land on James St., located off of W. Main St., which was acquired in 2021 from the Pittillo estate for the purpose of creating affordable housing. The lot is small, measuring only fifty by one hundred feet, and is zoned as general residential-8, which can support only one single-family house. Under North Carolina law, local governments are authorized to convey property by private sale to any public or private entity that provides affordable housing to persons of low to moderate income. As part of that

conveyance, the local government must place covenants or conditions that assure the property will be developed for the purpose of low to moderate housing. The property was recently appraised for seventy thousand dollars (\$70,000), and there are two nonprofit affordable housing developers interested in building a single-family home on the site. Each of them has prepared a summary of their organization and proposal for developing the site, which has been included in the staff report. Also, listed in the staff report are four recommendations that staff will recommend to Council with the committee's approval.

Mr. Daniel asked if we were to gift the property, would it have deed restrictions that would guide it to always be affordable housing.

Mr. Ray said that it would always require it.

Ms. Brewer said it could either be always or for a specified time limit.

Mr. Daniel asked if even though the housing assistance group nonprofit allows their occupants to sell at market value once they have lived in the home for a certain amount of time, would the deed restriction allow the home to be sold.

Mr. Hooper answered the question and said that the intent of the state statute is for the whole property to remain in the affordable housing range and make that clear in the deed restriction.

Mr. Foster said that he thought Habitat for Humanity would be the best choice because it gives individuals the best opportunity to get on their feet. Also, we would really be helping people who are in dire need.

Mr. Daniel said that it sounds like the Habitat for Humanity option would require the individual to move out of the home after a certain time.

Ms. Copelof said that, yes, there is a certain number of years in which someone can stay in the home.

Mr. Daniel said that he wants to provide housing to people in need but without any restrictions on the housing.

Ms. Copelof explained the logic behind the Habitat for Humanity time limit, which is to ensure equity. The person that moves into the Habitat for Humanity home will receive the equity they put into the home when they move out. It will then allow the next person who really needs affordable housing to be able to move in when the other person can get on their feet. It will allow more families the opportunity for affordable housing rather than a single family.

Ms. Copelof mentioned that Housing Assistance Corp. wants to assist in the Transylvania County area again and they want to be able to help the first person that moves into the new home and not restrict the homeowner.

Mr. Daniel stated that we should give the property to whoever we decide on free of charge and not sell the property to them because it was originally given to us for free.

Mr. Foster was also in agreement with Mr. Daniel's statement.

Mr. Daniel asked if an accessory dwelling is an option to place on the property.

Mr. Ray stated that we can certainly ask either program if that would be allowable.

Mr. Daniel and Mr. Foster both expressed concerns with the Habitat for Humanity starter home program due to the program limiting occupancy to eight years. They both said that they would like to discuss this further with a representative from Habitat for Humanity.

Mr. Ray informed the Committee that the Habitat for Humanity model is currently working in Flagstaff, Arizona. However, the homes they are building in Flagstaff are small, around five hundred square feet.

F. Introduction of Pro Housing Grant

Ms. Brewer explained to the Committee that there has recently been an announcement of \$85 million in federal grant funding for communities across the country to identify and remove barriers to affordable housing production and preservation. It is administered through the Housing and Urban Development Department (HUD) as part of the Community Development Block Grant Program (CDBG). This funding is focused on communities that have shown interest and investment in housing. It presents a great opportunity to address some of the barriers that our committee has identified in affordable housing in Brevard. Some of the barriers listed in this program include restrictive zoning and land use policies, outdated procedures, inadequate or deteriorating infrastructure, lack of financial resources, threats from environmental or natural hazards, and other impediments. However, we have particularly focused on inadequate infrastructure, lack of financial resources, and environmental and natural hazards. We are proposing to pursue this funding opportunity to extend the sewer system into the Azalea and Rhododendron Neighborhoods and endow the Housing Trust Fund with approximately \$1 million for affordable housing preservation efforts. We are currently working on the grant application, and we anticipate the budget to be around \$6 million. Of this, \$5 million will go towards infrastructure investment to extend the sewer lines, and \$1 million will be allocated to the housing preservation program. It's important to emphasize housing preservation as part of this grant because many homes in our area have failing septic tanks that could potentially pose health hazards. As part of this program, we are required to hold a public hearing, and it is scheduled for October 2nd. However, we wanted to ensure that the committee had this information before the public hearing.

G. Housing Trust Fund Bylaw Amendment – Grant Funding Usage

Ms. Brewer continued, saying that we need to propose amendments to the Housing Trust Fund Bylaws and the Code of Ordinance. The Housing Trust Fund amendments are crucial for us to remain competitive for the Pro Housing Grant. If we intend to invest in the Azalea Avenue Neighborhood, we must have anti-displacement measures and programs in place to allow households to stay in their homes. The proposed amendment clarifies that funding can be provided for programs that support affordable housing, not just properties. For instance, organizations like Habitat for Humanity and the Housing Assistance Corporation have home repair programs. We could potentially provide them with funding for a program, specifying eligible beneficiaries and setting restrictions on how they can spend the money, which can be tracked more effectively. These programs have greater capacity for managing such initiatives. The second change involves allowing residents in the ETJ (Extraterritorial Jurisdiction) to access funding. In the proposed amendment change, there's a requirement that any funding appropriated by City Council must be spent within the City limits. However, if we receive a grant or donation, then those funds could be spent in the ETJ, allowing us to expand our impact.

Mr. Foster commented that making these changes should enable us to focus on areas beyond just the City limits or where we see a need.

Ms. Brewer explained that the proposed changes would indeed open up possibilities beyond the City limits, but the application process would remain the same, and the committee would still decide on fund distribution.

Mr. Daniel asked why we wouldn't request these areas to be incorporated into the City for a larger grant.

Mr. Hooper explained that extending the program to ETJ residents makes us a more competitive applicant because it involves a program with more potential beneficiaries. We're also proposing waiving the annexation requirement for affordable housing and instead imposing conditions that require properties to have a deed restriction ensuring they remain affordable. This change should open up more affordable housing opportunities and preserve existing affordable housing while providing necessary utilities. It might also encourage more people to connect to the new utility if they know they don't have to annex into the City and pay taxes. The most significant revision to the Code of Ordinance involves removing the involuntary annexation provision. We would use this as a tool to preserve affordable housing by including a deed restriction on any property that connects to our utilities without annexation. This restriction would mandate that the property remains affordable to low and moderate-income households until it becomes annexed, at which point the restriction could be removed. We see this as a measure to protect residents' health and address our affordable housing issue.

Mr. Daniel inquired if the \$1 million grant we're applying for targets this neighborhood.

Ms. Brewer explained that the grant's intent is to benefit this neighborhood, but it would be up to the committee to decide. The proposed changes to the Housing Trust Fund Bylaws are aimed at allowing the funds to be used for that purpose.

Mr. Daniel asked if homes in the Azalea Neighborhood have a specific zoning.

Ms. Brewer confirmed that the homes in the Azalea Neighborhood have a zoning of general residential-8, which means they cannot have new short-term rentals.

Mr. Daniel stated that he is in favor of changing the Code of Ordinance to allow for the revisions.

Mr. Hooper added that there's a provision stating that utility access will always be granted at the discretion of the City Council.

Ms. Brewer clarified that the committee needs to approve the amendments to the Housing Trust Fund Bylaws, and it appears the committee is in favor of these revisions. Additionally, she mentioned that the proposed changes to the Code of Ordinance are attached to the meeting packet.

Ms. Copelof asked if homeowners who choose not to connect still have the option not to.

Mr. Hooper confirmed that they do.

Mr. Foster motioned that the Housing Trust Fund Bylaw amendment and the Code of Ordinance revisions should both be recommended to the City Council, and Mr. Daniel seconded the motion.

H. Closed Session – Property Acquisition: GS § 143-318.11.(a)(5)

At 4:14 p.m. Mr. Foster moved, seconded by Mr. Daniel, to enter into closed session to discuss a property acquisition matter pursuant to GS § 143-318.11.(a)(5). The motion carried unanimously.

At 4:27 p.m. the motion was made and seconded to come out of Closed Session and resume the meeting in open session. The motion carried unanimously.

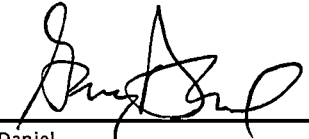
I. Set Date for Next Meeting

The next meeting was scheduled for Tuesday, October 10, 2023 at 3:30 pm.

J. Adjourn

There being no further business, the meeting adjourned at 4:14 P.M.

Minutes Approved: October 10th, 2023

X 

Gary Daniel
City Council Member

X 

Alex Shepherd
Assistant to the City Manager

MINUTES
City Council Public Works & Utilities Committee
Special Meeting

Wednesday, September 13, 2023 – 3:30 PM
City Council Chambers

Members Present: Maurice Jones, Chair, Council Member
Mac Morrow, Vice-Chair, Council Member
Owen Carson, Citizen Member
Mayor Maureen Copelof, Ex-Officio

Staff Present: Wilson Hooper, City Manager
Wesley Shook, Acting Public Works Director
Emory Owen, Wastewater Treatment Plant Supervisor
Dennis Richardson, Water Treatment Plant Supervisor
Alex Shepherd, Assistant to the City Manager
Becky McCann, Communications Coordinator
Paul Ray, Planning Director
Emily Brewer, Senior Planner

Guests: Burton Hodges, Transylvania Economic Alliance

A. Welcome and Call to Order

Committee Chair Maurice Jones called the meeting to order at 3:34 pm.

B. Certification of Quorum

Assistant to the City Manager Alex Shepherd certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Carson, seconded by Mr. Morrow to approve the agenda as amended.
The motion carried unanimously.

D. Review of Code of Ordinance Article V, Division 3, Section 2-292(C): Policy regarding provision of wastewater services to properties outside city limits

Mr. Hooper informed the Committee that since our last meeting, staff has gathered answers to the Committee's questions and refined the proposal. We are requesting two separate actions: first, to amend the Code of Ordinances to remove the annexation and floodplain requirements from formal law, and second, to write a separate policy to establish the terms governing who can connect to our system, with the expectation that annexation is always our preference. Yesterday, the

Housing Committee endorsed the removal of the annexation and floodplain requirements from the code for the purpose of affordable housing.

Mr. Hooper continued by discussing floodplain and stormwater concerns. Since Pisgah Labs is outside of the City's planning jurisdiction, it would not affect our national floodplain rating or our community scorecard floodplain rating. Thus, no ratepayer in the City of Brevard will be affected by allowing Pisgah Labs to tap on. Regarding possible future connections to properties outside of the City limits, they would either be subject to our floodplain provisions by virtue of being in the Extraterritorial Jurisdiction (ETJ) or subject to the County's floodplain requirements by virtue of being in the County. Burton Hodges has offered to pay for a study to determine the potential flood level impact of Pisgah Labs' development if the Committee deems it necessary.

Mr. Hooper pointed out that we have wastewater provisions that describe the requirements of wastewater that we will accept. Finally, we discussed the public benefit we would receive, treating it like an economic incentive. He recommended that it meet certain economic impact metrics, including the business's qualification for Transylvania County economic incentives. The economic incentives policy from the County follows a scale that assigns points for factors like job creation and investment, and to be eligible for connection to municipal utilities, a business would need to qualify for eighty points, signifying significant job creation and investment. Additionally, Mr. Hooper recommended that all jobs counted toward the incentive must be compensated at least at the Transylvania County living wage, which is currently \$16.40 per hour. Another provision is that every job counted toward the incentive points should have a compensation rate above the average rate for a comparable job in Transylvania County. The last provision is that all these waivers would be granted at the discretion of the City Council, reserving the right to deny utility connection for any reason, even if all the criteria are met.

Mr. Morrow expressed concern, stating that the City had decided years ago to establish a two-foot floodplain requirement because they believed that the minimum requirements were insufficient. He was bothered because Pisgah Labs does not want to be annexed, and they were aware of this when they first purchased their property. Reducing the floodplain requirement could have a detrimental impact on the French Broad River.

Mr. Hooper explained that he knows of other cities that do not require annexation and do not have the same requirements for tapping on as we do because they believe it hampers competitiveness. They aim to create an environment conducive to expansion and have heard from businesses that the requirement is a deterrent to that.

Mr. Carson asked for the equivalent of a full-time job at \$16.40 per hour.

Mr. Hodges responded that it's a little over \$32,000.

Mr. Hooper noted that although it might not be considered a living wage by some, the Living Wage Coalition has designated it as a living wage for our area.

Mr. Jones expressed concerns about making concessions that might have negative impacts in the future. He appreciated Mr. Hooper's efforts to protect the City while also allowing for potential economic development. However, he emphasized the need for more specific criteria regarding which businesses can qualify to connect to utilities without annexation.

Mr. Hooper asked if Mr. Jones had any specific recommendations.

Mr. Jones mentioned that he would communicate those recommendations at a later date.

Mr. Carson inquired about the availability of industrial-appropriate land within the ETJ versus outside of the ETJ.

Mr. Hooper explained that the largest available site is the Ecusta property, and they would not allow it to develop without annexation.

Mr. Hodges added that they are currently focusing their attention on the Ecusta property and another site in the general area where Oskar Blues is located, which is within the City limits. The County has set a high bar for investment and wages, making it challenging to imagine a project of that size choosing a location outside of Brevard's corporate limits.

Ms. Copelof suggested that if we enact this policy, instead of making a single policy decision, we will now be forced to make individual decisions for each company that receives utility service. To encourage economic development while also ensuring the City's tax base continues to grow, she proposed treating this as an economic incentive. However, she recommended attaching a timeframe, stating that companies don't have to annex for the first five years, but they must annex at the end of that period. She also suggested two protections: splitting property tax revenue with the County while the company is not annexed and establishing a set timeline matching their economic incentive period, after which they must be annexed.

Mr. Hooper said that he has not seen that happen before but that it would subject the business to double taxation because they would now have to pay County and City property taxes.

Ms. Copelof communicated that we are going to enable development with our resources for businesses that are meeting none of our standards that we set.

Mr. Hodges informed the Committee that if Pisgah Labs is unable to continue to expand on their site, then it is very likely that they could leave. This distinguishes this project from others because there is a long-term retention element to it.

Mr. Morrow asked, do you not think that there is any place in the City that they could move to.

Mr. Hodges responded, there probably is, but not anywhere they could move to at this exact moment.

Ms. Copelof stated there is no benefit to the City.

Mr. Hodges countered there are benefits in that they are actively recruiting and trying to attract internships from the school system, bringing attractive young people back here after they graduate college. The other element is that the investment associated with this project is substantial; it will help build our economic development brand and allow us to retain Pisgah Labs.

Mr. Hooper added it will also allow the City to expand our economy, not solely relying on tourism.

Mr. Ray clarified the main point of this ordinance change is to allow City Council to negotiate with the company or developer to enter into a development agreement and negotiate conditions.

Ms. Copelof expressed concern that it puts Council in negotiation every time a company wants to relocate here and sets an expectation for companies.

Mr. Hooper emphasized the economy is not solely based inside the City limits, and we need to view the economy as also being around the City. The current restrictions make it difficult to do business.

Mr. Carson inquired why is Pisgah Labs so against annexing.

Mr. Hodges explained that Pisgah Labs is heavily regulated right now by numerous federal agencies, and they feel that since they are already heavily regulated, adding additional regulation will further inhibit their ability to maximize their investment here. Also, from a cost perspective, we are making it too costly for Pisgah Labs to conduct business here if we force them to annex. There are many other potential locations that they could have chosen that offer cheaper utilities and taxes.

Mr. Hooper concluded that he is seeking a referral of the code I am proposing to City Council for discussion, and then we can set the terms as strong as we would like afterward.

Ms. Copelof mentioned that the Housing Committee's version of this proposed amendment differs from this one because it only applies to affordable housing. If the owner chooses to make it market-rate housing, then they must annex.

Ms. Brewer said that we are applying for a \$6 million federal grant that will allow us to extend sewer connections out to Azalea Avenue Neighborhood and apply for funding to endow the housing trust fund. As part of that federal grant, we are much more competitive if we do not require annexation as a requirement to connect to City sewer because that adds an additional expense to those low-income households.

Mr. Hodges added that we are barely cost-competitive with just the County's tax rates compared to the Research Triangle Park, where they have access to major research universities, robust urban utilities, transportation assets, and a huge population.

The Committee came to a consensus that they do not approve of the proposed change in the Code of Ordinances, which would allow businesses outside of the City limits to become utility users without annexing for economic development purposes.

E. Closed Session: Economic Development GS § 143-318.11.(a)(4) (If Needed)

A closed session was not needed.

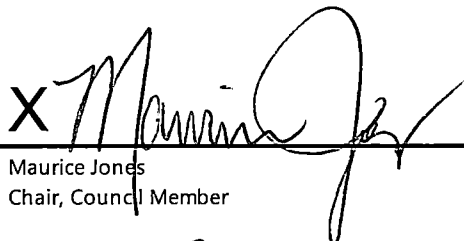
F. Set Date for Next Meeting

The next regular meeting of the Public Works & Utilities Committee was scheduled for Wednesday, October 4, 2023 at 3:30 p.m.

G. Adjourn

There being no further business, the meeting was adjourned at 4:54 p.m.

Minutes Approved: October 4th, 2023

X 
Maurice Jones
Chair, Council Member

X 
Alex Shepherd
Assistant to the City Manager

STAFF REPORT

City Council, Monday, October 16, 2023

Title: Proposed Amendment to the City of Brevard Code of Ordinances Chapter 2 - Utility Extension Outside Corporate Limits

Speaker: Emily Brewer, Planning
Wilson Hooper, City Manager

Prepared by: Wilson Hooper, City Manager, Emily Brewer, Senior Planner

Approved by: Wilson Hooper, City Manager

Background

As written, Brevard's ordinance only permits out-of-town properties to tap onto the city's utility system under certain conditions. These conditions are codified in Chapter 2, Article 5, Division 3, Section 292. The two most notable conditions are: a property must abide by certain flood and stormwater provisions of the city's Unified Development Ordinance, and a property must annex into the city. Staff have requested the Council reconsider the requirements to accommodate housing and economic development related projects.

At its August 21, 2023 meeting the Brevard City Council agreed to apply for a federal EDA grant to fund the extension of utility lines to Pisgah Labs property outside town limits. Pisgah Labs has committed to expanding its pharmaceutical manufacturing facility, which will bring 57 new jobs with an average compensation of \$60,088 per year and \$55M in new real estate/tangible personal property investment to the area. The expansion has been awarded economic development incentives from both Transylvania County and the State of North Carolina. It was understood by Council that a review of the city's requirements would accompany its agreeing to proceed with the grant application.

The council's Public Works & Utilities Committee took up the matter at its September 6, 2023 meeting. They gave staff feedback on the circumstances under which they'd consider waiving the annexation and floodplain/stormwater requirements. Staff took the committee's feedback and used it to formulate a proposed amendment to the ordinance and an accompanying "Utility Connection Policy" that establishes conditions under which a property would be permitted to connect to utilities without annexing or meeting the precise floodplain/stormwater requirements. The committee heard the proposal at a special-called meeting on September 13, 2023 and provided additional feedback. However, they did not send a recommendation to Council to remove the annexation requirement.

At around the same time (specifically, its September 12, 2023 meeting) the Council's Housing Committee heard a staff proposal on the US HUD-funded "Pathways to Remove Obstacles to Housing" (PRO Housing) grant program. Staff wishes to apply for \$6M from the program: \$5M to extend utilities to the affordable but unincorporated Azalea/Rhododendron neighborhood, and \$1M to endow the Housing Trust Fund for

preservation and other housing related activities. The proposal included a request to update the Housing Trust Fund bylaws to permit spending grant dollars on houses outside the city-limits, and make programs performed by outside agencies such as Habitat for Humanity eligible for HTF dollars. The Committee recommended the changes to the full Council, who approved them at the September 18, 2023 meeting. The Housing Committee also endorsed updating Chapter 2, Article 5, Division 3, Section 292 to permit unincorporated residential properties to tap on to city utilities under certain conditions. A public hearing was held on the proposed amendments at the October 2, 2023 City Council meeting.

Discussion

It has been a longstanding policy of the City of Breard that utility connection, particularly wastewater collection service, shall only be extended within the corporate limits of the City of Brevard. Voluntary annexation is a prerequisite for extending this service to any property outside of the city's corporate limits. This policy is codified in the above-named chapter of the Code of Ordinance.

However, this approach comes with trade offs as it limits the amount of developable land for residential, commercial, and industrial growth. Therefore, staff have proposed amending the language of the Code of Ordinances (attached) to permit exceptions for certain housing and economic development purposes. The conditions an applicant must meet to receive an exception would be listed in a separate "Utility Connection Policy" (to be discussed in the near future), and Council would reserve the right to grant/deny an application based on any reason.

Further Considerations

Transylvania County has indicated a willingness to consider redirecting \$5M in earmarked funds from Raleigh to Brevard if the city publicly commits to supporting the Pisgah Labs expansion, which cannot be done legally without this amendment.

Action

Staff requests that Council take one of the following actions:

1. Adopt the amendments as written;
2. Rivse the amendments and adopt the amendments as revised by City Council;
3. Reject the amendments;
4. Table the amendments for further consideration.

Attachments:

1. Draft Code of Ordinances amendments re: utility extensions
2. Utility Connection Policy (Housing Provisions)

Chapter 2, Article 5, Division 3

Sec. 2-292. General principles and requirements.

The planning and extension of the water and waste water collection systems of the city shall be accomplished in accordance with the following general principles and requirements:

- (1) It shall be the policy of the city that water service be extended within the corporate limits of the City of Brevard and its extraterritorial jurisdiction in accordance with the procedures set forth in this subdivision and the plans and specifications of the city manager or his designee. Water service may be extended outside of the corporate limits of the City of Brevard and its extraterritorial jurisdiction upon approval by Brevard City Council.
- (2) It shall be the policy of the city that waste water collection service shall only be extended within the corporate limits of the City of Brevard. Voluntary annexation shall be a prerequisite of the extension of waste water collection service to any area outside the city's corporate limits. Waste water collection shall not be provided to any property not also connected to and using the city's water system.
- (3) Waste water collection service may be provided outside the corporate limits of the City of Brevard only in the following circumstances and subject to the following requirements:
 - a. Waste water collection service may be provided outside the corporate limits of the City of Brevard as part of a joint economic development agreement between the City of Brevard and another ~~political jurisdiction~~ party, containing provisions as set by city council, when such agreement has been approved by city council. However, sewer service shall not be extended to any economic development project ~~that would not fully comply with chapter 6 of the City of Brevard Unified Development Ordinance or~~ that would not be in keeping with adopted land use plans of the City of Brevard or other ~~political~~ applicable governing jurisdiction.
 - b. Waste water collection service may be provided to residential customers outside the corporate limits of the City of Brevard in order to resolve an immediate danger to the public health and safety, upon recommendation by the Transylvania County Health Department and ~~approval by the city manager~~
 - i. The city manager may approve connection to the utility system on a temporary basis for a period not to exceed one year, at which time voluntary annexation shall be required.
 - ii. Permanent utility connection to property and/or neighborhood to resolve an immediate health danger may be granted according to provisions as set by city council.
 - c. ~~Provided, however, that~~ voluntary annexation shall be a requirement of the provision of waste water collection service ~~under these provisions~~ when annexation can be completed in accordance with applicable North Carolina General Statutes except in cases governed by provisions (a) and (b) of this section; and
 - d. Extension of and/or connection with the city's water system may be required as a condition of connection the city's waste water collection system. ~~Provided further that extension of and/or connection with the city's waste water collection system shall not be made to any property outside the corporate limits of the City of Brevard not connected to and using the city's water system.~~
- (4) Extensions and/or service to residential or commercial developments outside the city shall be at the option of the developer or property owner; provided that, wherever both water and waste water collection systems are available within 300 feet of the property for which service is desired, connection to both shall be required if connection to either is desired.

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- (5) System extensions will be made only if it has been determined by the city manager or his designee that the expected additional loads can be safely handled by the respective system.
 - (6) Installation may be by city forces, workload permitting, or by contract administered by the city or by the developer subject to subsection (5) of this section. The method of accomplishment shall be determined by the city manager for all jobs costing less than \$5,000.00, including labor and material, and by the city council if \$5,000.00 or more.
 - (7) Before proceeding with installation of a line the developer shall furnish the city with a drawing, which must be approved by the city manager or his designee, showing the proposed line extensions. The drawing shall show the proposed lines, fire hydrants, streets, rights-of-way and property lines, existing utility lines and any other information required by the city manager or his designee, which might be relevant to the proposed work.
 - (8) Installation of lines shall be according to city specifications and must be approved by the city manager or his designee. Lines shall be dedicated, in writing, to the city for operation and maintenance; provided, however, the city shall not accept any dedication unless the line shall have been installed according to city specifications and its installation approved, in writing, by the city manager or his designee. Prior to acceptance of the line by the city the developer shall furnish the city with accurate as-built drawings, acceptable to the city manager or his designee, showing the location and size of lines, fittings, valves, pump stations and other pertinent information.
 - (9) A water and sewer acreage charge and a front foot charge ~~shall~~ may be established to aid in the financing of new major water mains and sewage collection facilities and the replacement or enlargement of existing facilities. This charge shall apply uniformly to all properties to which service is extended after the date of adoption of the ordinance from which this division is derived.
 - (10) The city shall be responsible for the maintenance, operation and control of all water and sewage facilities.

(Ord. No. 12-06, § 1(Att. 1), 7-17-06)

City of Brevard Sewer Connection Policy

It has been a longstanding policy of the City of Brevard that wastewater collection service shall only be extended within the corporate limits of the City of Brevard. Voluntary annexation is a prerequisite for extending this service to any property outside of the city's corporate limits. However, the legislative body of the City of Brevard has legal authority to make exceptions to this practice for any reason, but it shall be the policy of Council to narrowly exercise this authority in the following circumstances.

Provisions as Referenced in Chapter 2, Article 5, Division 3, Section 2-292

- 1.) Wastewater which does not comply with the residential provisions of Title 40 of the United States Code of Federal Regulations, subchapter N (40 CFR Subchapter N) shall not be accepted.
- 2.) Wastewater which, via its composition, volume, or both, causes Brevard's WWTP to exceed or violate the conditions of its NPDES permit shall not be accepted.
- 3.) Properties shall be subject to all provisions of the Unified Development Ordinance and Code of Ordinances.
- 4.) Utility access shall be treated as a tool to preserve neighborhoods primarily consisting of low to moderate income families. Therefore, eligible developments shall:
 - a.) Include deed restrictions to produce and/or preserve affordable housing for low to moderate income households
- 5.) Utility access is granted at the discretion of Council. The Brevard City Council reserves the right to deny a utility connection for any reason.

STAFF REPORT

City Council, Monday, October 16, 2023

Title: Proposed Amendment to the City of Brevard Code of Ordinances Chapter 66 - Parking Enforcement

Speaker: Tom Jordan, Police Chief

Prepared by: Tom Jordan, Police Chief

Approved by: Wilson Hooper, City Manager

Background

Brevard's parking enforcement practices are governed by Chapter 66, Article I, Section 66 of the Code of Ordinances. After complaints by constituents about frequent violations of the two-hour parking limit downtown, Council included funds in the FY23/24 budget to purchase a new parking enforcement system. In order to implement the system, a number of provisions of the code of ordinances must be updated.

The Council's Public Safety Committee heard the proposed changes at its August 28, 2023 and September 25, 2023 meetings and recommended their approval to full Council.

Chief Jordan presented the changes to City Council prior to the October 2, 2023 public hearing.

Discussion

The amendments to the code are intended to bring it up to date and create a more enforceable parking enforcement program. For example, the current code lists the penalty as \$10, whereas the update ties the fee to the city's fee schedule (which currently lists the fee at \$30). Perhaps most importantly, the revisions give BPD the ability to impound a vehicle with three or more unpaid citations. The amended code also makes attempts to remove a vehicle from impoundment (e.g. "remove the boot") by anyone other than an authorized party a Class 2 misdemeanor.

The amendments take the citizen into account as well. The deadline to pay the citation is extended from 10 to 15 days and an appeals process is codified within the ordinance.

The rationale for these changes is to give Brevard's parking enforcement program more teeth, and deter freeloaders from using 2-hour parking spaces all day long. This is of increased importance since the completion of downtown streetscape improvements which reduced the number of on-street spaces available for the patrons of downtown businesses.

Staff also requests Council amend the FY23/24 fee schedule to increase the penalty for parking violations from \$30 to \$50. The increase is intended to further deter violators. The fine for parking violations varies from town to town. Black Mountain and Highlands both charge \$50.

Action

Staff requests that Council take one of the following actions:

1. Adopt the amendments as written (with corresponding amendment to Fee Schedule);
2. Adopt the amendments as revised by City Council;
3. Reject the amendments;
4. Table the amendment for further consideration.

Attachments:

1. Draft Code of Ordinance amendments Chapter 66. Traffic
2. Enacting Ordinance Amending Code of Ordinances - Parking Enforcement
3. Ordinance Amending Fee Schedule



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. The violation of any such provision shall be deemed a violation of this Code, and punishable as such.

(Code 1980, § 16-1)

66-2. Civil penalty for parking violations—Amount; failure to pay.

For any parking violation under this chapter, a civil penalty of ~~\$10.00~~ as set by the City of Brevard fee schedule is hereby fixed. Failure to pay such penalty within for ten fifteen days will be subject to late payment fees as set by the City of Brevard fee schedule. Any vehicle with three or more unpaid parking violations will be subject to impoundment by the Brevard Police Department either by towing the vehicle or use of a vehicle mobility restrictor device. Vehicles will not be released from impoundment until all parking violation fees, applicable late payment fees, towing fees, storage fees, and service fees have been paid. All parking violations shall be enforceable as provided in G.S. ch. 20, along with all other pertinent provisions of law.

(Code 1980, § 16-2)

66-3. ~~Payment to dispatcher.~~ Unauthorized removal of vehicles from impoundment

~~When a person charged with the violation of any of the parking regulations of this chapter appears before the dispatcher on duty at the police station in response to a traffic citation, such officer is authorized, if the person desires to do so, to allow such person to pay the civil penalty fixed in Section 66-2. Upon such payment the officer shall give a receipt for the money paid, showing the violation for which it was paid.~~

(Code 1980, § 16-3)

Commented [EB1]: Note that these will be moved to Section 1-2 [Definitions] as part of a pending text amendment.

Commented [TJ2R1]: Just know there is a state law requiring certain markings and lights for it to be considered an emergency vehicle under state law. The way it is currently written doesn't mention anything about appropriate markings or lights.



Code of Ordinances

- (a) Only the Brevard Police Department or their agents will be authorized to impound a vehicle within the City of Brevard unless it is on private property. Any unauthorized person removing or attempting to remove a vehicle from impoundment, including tampering with or removing a vehicle mobility restrictor device, is expressly prohibited.
- (b) A violation of the provisions of 66-3 is a Class 2 misdemeanor, with a penalty of up to 60 days in jail and/or a fine of \$1000.

66-4. Duties of dispatcher. **Parking Violations - Appeals**

Persons issued a parking violation under section 66-2 may appeal the issuance of said violation in writing, or by another approved method, to the Chief of Police within five (5) days of the issue date of the violation. The Chief of Police, or their designee, has the authority to adjust the civil penalty amount by lowering the fine as set by the fee schedule or canceling the parking violation in its entirety. Any cancellation of a parking violation in its entirety will be documented by the Chief of Police with the justifying reason for the cancellation in writing.

Persons who have been issued a parking violation and had their appeal denied by the Chief of Police may seek civil remediation with the District Court of Transylvania County.

Parking violations that are appealed after five (5) days from the issue date may be heard at the discretion of the Chief of Police if extenuating circumstances existed that would have precluded the person from filing the appeal in a timely manner.

The following duties are hereby imposed upon the dispatcher:

- ~~A. Generally. He shall accept designated civil penalties, issue receipts and perform such other duties as are imposed upon him by this chapter and the chief of police.~~
- ~~B. Parking violation notices. If a violator of any section prescribing parking regulations does not appear in response to a notice affixed to the motor vehicle involved within a period of 24 hours after the affixing of such notice, the dispatcher shall send to the registered owner of the motor vehicle to which the notice was affixed a notice informing him of the violation and warning him that he will be held responsible for the appearance of the offender, and that if such notice is disregarded for a period of five days a complaint will be filed and warrant of arrest issued.~~

~~(Code 1980, § 16-4)~~

~~State law reference(s)—Punishment generally for violation of state traffic laws, G.S. 20-176.~~

66-6. Carts, bicycles or other vehicles blocking sidewalks and driveways.

It shall be unlawful for any person to stop or park any pushcart or pull cart, bicycle or other vehicle used for hauling any articles of merchandise for charge or hire upon any sidewalk or between the curb of any street and the private property line, or in any driveway leading from the street to a private driveway or private property, in front of any business establishment in the city, unless authorized by Article II of [CHAPTER 46](#).

(Code 1980, § 16-10)

66-7, 66-8. Reserved.



Code of Ordinances

Editor's note(s)—Ord. No. 4-03, § 2, adopted April 21, 2003, repealed §§ 66-7 and 66-8 in their entirety and incorporated them into § 66-13. Former §§ 66-7 and 66-8 pertained to parade permits required and special permit for parades involving animals, and derived from Code 1980, § 16-11 and 16-12, and Ord. No. 2-96, § 1, 1-16-96.

66-9. Boarding or alighting from vehicle in motion.

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

(Code 1980, § 16-13)

66-10. Unlawful riding.

It shall be unlawful for any person to ride on any public conveyance or other vehicle in a place not designed or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in spaces intended for merchandise.

(Code 1980, § 16-14)

66-11. Entering, jumping on or riding vehicles without permission.

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

(Code 1980, § 16-15)

66-12. Riders to stay inside vehicle; hanging on vehicle.

No person shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as are by law required, and no person shall hang on to any vehicle whatsoever.

(Code 1980, § 16-16)

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.



Code of Ordinances

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 not 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 66-13.M, 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.

- 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



Code of Ordinances

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]
 - f. The event will create a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property; or
 - g. The event, if held at the time or at the location or along the route proposed will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or
 - h. The applicant has failed to comply with any of the provisions of the special events ordinance, including but not limited to payment of any required fees and costs; or
 - i. A special events permit has previously been applied for or issued for substantially the same location and time requested in the application.
 2. In considering the matters listed above and the question of whether or not to issue the permit, the public safety and health shall be given paramount importance.
- I. Conditions upon issuance of permit.** If a permit is issued the city manager may attach any reasonable conditions that serve to promote the protection of the public safety and health. Any event held pursuant to a permit issued under this section shall be conducted within the applicable terms including any attached conditions.
- J. Right of appeal.** If the city manager denies or revokes a special event permit this action shall be final unless the applicant or permit holder files, within three working days, a written appeal with the city clerk. Such written appeal will be placed for consideration by city council at its next regularly scheduled meeting. The city council shall review the matter and its decision shall be final.
- K. Street closing.**
1. The city manager is authorized to permit the temporary closing of a street or other public right-of-way except as otherwise provided for in subsection (I) below if the provisions of the section are adequately complied with. Any temporary closing of a street or part thereof owned and/or maintained by the State of North Carolina shall require concurrence by the N.C. Department of Transportation.



Code of Ordinances

The city manager may only permit the temporary closing of any portion of U.S. Highway 64, US Highway 64 Business, U.S. Highway 276, SR 1349 (West Main Street) for city recognized special events. An event shall be considered to be city recognized upon the adoption of a resolution by city council making such designation. In order to qualify for recognition an event must have received a commitment of funding and/or resources from the city for any necessary public safety and traffic control measures prescribed by the city manager for the special event.

2. The city clerk shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place as soon as possible once a permit is issued.
- L. *Temporary parking restrictions.* The chief of police, or his duly appointed representative, is authorized to prohibit, on a temporary basis, the parking of vehicles under the following circumstances:
 1. Along permitted parade routes or on streets closed pursuant to the issuance of a special events permit for a period of two hours before any special event begins, during the entire event and up to one hour after the completion of the event.
- M. *Permit for special events involving animals.* No special event in which animals are involved shall 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 or the administrator, 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.
 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.
 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.

(Ord. No. 4-03, § 1, 4-21-03; Ord. No. 24-04, § 1, 11-1-04; Ord. No. 12-2011, § 6(Exh. F), 6-20-11, eff. 7-1-11; Ord. No. 2022-74, 11-21-22)

Cross reference(s)—Animals and fowl, [CHAPTER 14](#).



66-14—66-40. Reserved.

ARTICLE II. OFFICIAL TRAFFIC CONTROL DEVICES

66-41. Obedience generally; signs required for enforcement of certain provisions.

- A. The driver of any vehicle shall obey the directions of any official traffic control device placed in accordance with the provisions of this chapter, subject to certain exceptions which are granted to the driver of any authorized emergency vehicle, unless otherwise directed by a police officer.
- B. No provision of this chapter which provides for signs or other devices shall be enforced against an alleged violator if, at the time and place of the alleged violation, such official sign or other device is not in proper position or is insufficiently legible or identifiable to an ordinarily observant person. Whenever a particular section does not stipulate signs, such section shall be effective without signs being placed to give notice thereof.

(Code 1980, § 16-20)

66-42. Stop and yield signs.

Whenever authorized signs are placed that indicate "stop" or "yield," the driver of the vehicle shall completely stop or shall yield the right-of-way, as the case may be.

(Code 1980, § 16-21)

66-43. No turn signs and turning markers.

Whenever authorized signs are placed which indicate that no right turn, left turn or U-turn is permitted, the driver of a vehicle shall obey the directions of any such sign. When authorized markers, buttons or other indications are placed within an intersection which indicate the course to be traveled by vehicles traversing or turning, the driver of a vehicle shall obey the directions of such indications.

(Code 1980, § 16-22)

State law reference(s)—Powers of city as to turning at intersections, G.S. 20-153(c).

66-44. No parking zone and safety zone markers.

Whenever authorized signs or markings are placed which indicate no parking zones or safety zones, the driver of a vehicle shall obey such regulatory indications.

(Code 1980, § 16-23)

66-45. Zone of quiet.

Whenever authorized signs are placed which indicate a zone of quiet, the persons operating a motor vehicle within any such zone shall not sound the horn or any other warning device of the vehicle, except in an emergency.

(Code 1980, § 16-24)

66-46. Reserved.



Ord. No. 2018-29, § 1(Att. A), adopted Oct. 8, 2018, repealed § 66-46, which pertained to play streets and derived from the Code 1980, § 16-25.

66-47. School zones.

Whenever authorized signs are placed which prescribe any street or part thereof as a school zone, drivers of motor vehicles using the street or part thereof shall exercise the greatest care, for the protection of children.

(Code 1980, § 16-26)

66-48—66-70. Reserved.

ARTICLE III. OPERATION OF VEHICLES

66-71. Stop before entering through street.

Those streets and parts of streets described in [SCHEDULE X](#), which is made a part of this article, are hereby declared to be through streets for the purpose of this section. When stop signs are placed upon highways which intersect a through street, the driver shall bring his vehicle to a stop before entering the intersection, and he shall not proceed into or across the through street until he has first determined that no conflict with traffic will ensue.

(Code 1980, § 16-30)

66-72. Stop before entering certain intersections.

Certain intersections described in [SCHEDULE XI-A](#), [SCHEDULE XI-B](#), [SCHEDULE XI-C](#) which is made a part of this article, are hereby declared to be stop intersections when entered from the streets last named. When stop signs are placed at such intersections, every driver of a vehicle shall stop before entering the intersection, and he shall not proceed into or across the through street until he has first determined that no conflict with traffic will ensue.

(Code 1980, § 16-31)

66-73. Yield right-of-way before entering certain intersections.

Those intersections described in [SCHEDULE XII](#), which is made a part of this article, are hereby declared to be yield right-of-way intersections when entered from the streets last named. Where proper signs are placed, erected or installed at such intersections, no driver of a vehicle shall enter or cross such intersections until he has first determined that no conflict with traffic will be involved.

(Code 1980, § 16-32)

66-74. Intersections controlled by official traffic signals.

Those intersections described in [SCHEDULE XIII](#), which is made a part of this article, are hereby declared to be intersections to be controlled by official traffic signals, with which signals the drivers of all vehicles and all pedestrians shall comply.

(Code 1980, § 16-33)



66-75. Stop when traffic obstructed.

No driver shall move his vehicle across an intersection, or a marked crosswalk, unless he knows that there is sufficient space on the other side of the intersection or crosswalk to accommodate his vehicle without obstructing the passage of other vehicles or pedestrians, although a traffic control signal may be indicating his right to proceed.

(Code 1980, § 16-34)

66-76. One-way streets.

Upon certain streets, described in [SCHEDULE XIV](#), which is made a part of this article, vehicular traffic shall move only in the direction indicated by traffic signs during the times indicated.

(Code 1980, § 16-35)

State law reference(s)—One-way traffic, G.S. 20-165.1.

66-77. Driving through funeral procession.

No vehicle shall be driven through a funeral procession, except fire department vehicles, police vehicles and ambulances, and only if such vehicles are responding to calls.

(Code 1980, § 16-36)

66-78. Left turns.

In making left turns at street intersections, all traffic, when approaching an intersection, shall keep close to the centerline of the street, and the left turn shall be made beyond the center of the intersection as may, or may not, be indicated by buttons, markers or other directing signs, and the vehicle shall proceed in the new direction along the right-hand lane, except for certain intersections which may be expressly designated by the city.

(Code 1980, § 16-37)

66-79. No right or left turn intersections; right turn only intersections.

- A. No vehicle shall make a left turn at any street intersection described in [SCHEDULE XV](#), which is made a part of this article.
- B. No vehicle shall make a right turn at any street intersection described in [SCHEDULE XVI](#), which is made a part of this article.
- C. All vehicles shall make a right turn only at any street intersection described in [SCHEDULE XXIX](#), which is made a part of this article.

(Code 1980, § 16-38)

66-80. Turning around at intersection; U-turns.

No driver shall turn any vehicle and proceed in the opposite direction at any street intersection described in [SCHEDULE XVII](#), which is made a part of this article. Further, no driver shall make a U-turn on any portion of any street described in [SCHEDULE XXIX](#), which is made a part of this article.

(Code 1980, § 16-39)



66-81. Limitations on backing.

The driver of a vehicle shall not back it into any intersection, or over a crosswalk, nor shall he back it otherwise unless such movement can be made in safety, and unless ample warning has been given by hand and horn or other signal.

(Code 1980, § 16-40)

66-82. Emerging from alley or private driveway.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to reaching the sidewalk, or the sidewalk areas extending across any alleyway, and, upon entering the roadway, he shall yield the right-of-way to all vehicles approaching on the roadway.

(Code 1980, § 16-41)

66-83. Riding bicycle or motorcycle without hands on handlebars; riding bicycle on sidewalk.

- A. No person shall ride a bicycle or motorcycle on any street without having his hands on the handlebars, nor shall any person ride a bicycle upon any sidewalk or walkway within the business district of the city.
- B. For purposes of this section, the business district shall include those streets within the area bounded by Probart Street on the north, Gaston Street on the east, Morgan Street on the south and England Street on the west.

(Code 1980, § 16-42)

Cross reference(s)—Streets, sidewalks and other public ways, [CHAPTER 62](#).

66-84. Clinging to moving vehicles.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or toy vehicle shall not attach the vehicle, or himself, to any public conveyance or other moving vehicle upon any roadway.

(Code 1980, § 16-43)

66-85. Use of coasters, roller skates and similar devices.

- A. No person on roller skates, roller blades or skateboards or riding on any coaster, toy vehicle or similar device shall go upon any granolithic or paved sidewalk within the business district.
- B. For purposes of this section, the business district shall include those streets within the area bounded by Probart Street on the north, Gaston Street on the east, Morgan Street on the south and England Street on the west.

(Code 1980, § 16-44)

66-86. Driving through street barricades.

No person shall drive any vehicle of any kind into or upon any alley or street which has been barricaded by the city or under authority from the city.

(Code 1980, § 16-50)

Cross reference(s)—Removal of barricades or warning lights prohibited, [§ 62-34](#).



66-87. Speed limits.

- A. It shall be unlawful for any person to operate a vehicle on a street or highway within the city at a speed greater than is reasonable and prudent under the conditions then existing.
- B. Unless otherwise provided in this section, it shall be unlawful to operate any vehicle in excess of the following speeds:
 - 1. Twenty miles per hour in any business district.
 - 2. Thirty-five miles per hour in any residential district.
- C. Notwithstanding subsection 66-87.B, it shall be unlawful to operate any vehicle in excess of the following speeds:
 - 1. Twenty miles per hour on the streets or portions of streets described in [SCHEDULE XVIII-B](#), which is made a part of this article.
 - 2. Twenty-five miles per hour on the streets or portions of streets described in [SCHEDULE XIX](#), which is made a part of this article.
 - 3. Thirty miles per hour on the streets or portions of streets described in [SCHEDULE XX](#), which is made a part of this article.
 - 4. Thirty-five miles per hour on the streets or portions of streets described in [SCHEDULE XXI](#), which is made a part of this article.
 - 5. Forty, forty-five, fifty or fifty-five miles per hour on the streets or portions of streets described in [SCHEDULE XXII-A](#), [SCHEDULE XXII-B](#), and [SCHEDULE XXII-C](#) respectively, which is made a part of this article.
 - 6. Fifteen miles per hour on the streets or portion of streets described in [SCHEDULE XXVIII](#), which is made a part of this article.

(Code 1980, § 16-52; Ord. No. 1-97, §§ 1—3, 1-6-97)

State law reference(s)—Power of city as to speed limits, G.S. 20-141(e).

66-88. Temporary closing of street intersections.

Those intersections described in [SCHEDULE XXX](#), which is made part of this article, are hereby declared to be intersection to be controlled by official traffic signs and gates with which the drivers of all vehicles shall comply.

(Ord. No. 29-04, § 1, 11-15-04)

66-89. Streets closed to semi-truck/tractor-trailer rig traffic.

Upon certain streets, as described in [SCHEDULE XXXI](#), which is made a part of this article, semi-truck/tractor-trailer rig traffic is prohibited; provided, however, that semi-trucks/tractors, which are not connected to a semi-trailer, are not prohibited. A semi-truck/tractor-trailer rig is a combination-type vehicle, including, but not limited to, a five-axle tractor with a 45-foot semi-trailer and three-axle tractor with 27-foot semi-trailer.

(Ord. No. 2014-14, § 01, 8-18-14)

66-90—66-110. Reserved.



ARTICLE IV. STANDING, STOPPING AND PARKING

66-111. Parking for certain purposes prohibited.

It shall be unlawful for any person to stand or park a vehicle upon any street for the principal purpose of:

- A. Displaying a vehicle for sale.
- B. Washing, greasing or repairing a vehicle, except repairs necessitated by an emergency.
- C. Storage of a vehicle by a garage, dealer or other person.
- D. Storage of any detached trailer or van when the towing unit has been disconnected.
- E. Transferring merchandise or freight from one vehicle to another.
- F. Advertising.

(Code 1980, § 16-60)

66-112. Parking prohibited in specified places.

It shall be unlawful for any person to stop, stand or park a vehicle, except when conflict with other traffic is imminent or when so directed by a police officer or traffic control device, in any of the following places:

- A. On a sidewalk.
- B. Within an intersection.
- C. On a crosswalk.
- D. Within 30 feet of any flashing beacon, stop sign or traffic control signal located at the side of a street or roadway.
- E. On either side of any street leading to a railroad or other underpass, or an overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- F. On either side of any street leading to a grade crossing, within 50 feet of the closest rail; provided, where existing permanent structures are located closer than 50 feet, parking may be permitted in front of such structure unless otherwise prohibited and if such parking does not block the view in either direction of the approach of a locomotive or train.
- G. Alongside or opposite any street excavation or obstruction, if the stopping, standing or parking would obstruct traffic.
- H. Upon any bridge or other elevated structure or within any underpass structure.
- I. Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium or any public building.
- J. On the roadway side of any vehicle stopping, standing or parking at the edge or curb of a street.
- K. Within 15 feet of any fire plug or hydrant.
- L. Within 15 feet of any street corner.

(Code 1980, § 16-61)

State law reference(s)—Parking in front of fire station, fire hydrant or private driveway, G.S. 20-162; parking within one block of fire, G.S. 20-157(b).



66-113. Stopping in street.

No vehicle shall be stopped in any street, except for the purpose of parking as prescribed in this chapter, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by being given countermanding traffic signals, by the passing of some other vehicle or a pedestrian, or by some emergency. In all cases covered by these exceptions, the vehicle shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing or street intersection if it can be avoided.

(Code 1980, § 16-62)

State law reference(s)—Stopping on highway, G.S. 20-161.

66-114. Obstructing passage of other vehicles.

It shall be unlawful for any person to allow any vehicle to park or stand on any street or road surface so as to interrupt, or interfere with, the passage of any fire truck or other emergency vehicle, public conveyances or other vehicles.

(Code 1980, § 16-63)

66-115. Method of moving cars from parked position.

Parked cars shall move out in the direction headed, or, if they are parked at an angle with the curb, they shall back out at that angle until they have cleared the other cars and shall then proceed in the direction they are most nearly headed in.

(Code 1980, § 16-64)

66-116. Moving vehicle of other operator into prohibited area.

It shall be unlawful for any person to move a vehicle not owned by himself or lawfully in his charge into any prohibited area, or sufficiently away from a curb to make the distance unlawful.

(Code 1980, § 16-65)

66-117. Parking parallel to curb.

Where not otherwise indicated by this article, all vehicles shall be parked parallel to the curb and not more than 12 inches therefrom.

(Code 1980, § 16-66)

66-118. Parking at angle to curb.

Vehicles shall be parked at an angle of approximately 45 degrees to the curb and with one of the front wheels within 12 inches of the curb on the streets enumerated in [SCHEDULE VIII](#), which is made a part of this article.

(Code 1980, § 16-67)

66-119. Vehicles backed up to curb.



In no case shall a vehicle remain backed up to the curb, except when actually being loaded or unloaded.

(Code 1980, § 16-68)

66-120. Stopping with left side to curb prohibited.

No vehicle shall be stopped with its left side to the curb or edge of the street.

(Code 1980, § 16-69)

66-121. Vehicles to be parked within marked space.

On any street which is marked off with lines or markers indicating the parking space for vehicles, the vehicles shall be parked entirely within the area designated by such lines or markers.

(Code 1980, § 16-70)

66-122. No parking areas.

When signs are placed which prohibit parking, or when the curbing has been painted yellow in lieu of such signs, no person shall park a vehicle at any time upon any of the streets or designated places described in [SCHEDULE I](#), which is made a part of this article.

(Code 1980, § 16-71)

66-123. Parking prohibited during certain hours in designated places.

When signs are placed in certain streets, no person shall park a vehicle between the hours of 1:00 a.m. and 6:00 a.m. upon any of the streets described in [SCHEDULE II](#), which is made a part of this article; provided, this section shall not apply to vehicles, the owners of which are at work in the building or on the premises near which the vehicles are parked.

(Code 1980, § 16-72)

66-124. Two-hour parking zones.

When signs are placed in certain streets, no person shall park a vehicle for longer than two hours, at any time between the hours of 9:00 a.m. and 6:00 p.m., on any day except Sundays and public holidays, upon any of the streets described in [SCHEDULE III](#), which is made a part of this article. A change of position of the vehicle from one point directly to another point within the same block shall be deemed one continuous parking period.

(Code 1980, § 16-73)

66-125. One-hour parking zones.

When signs are placed in certain streets, no person shall park a vehicle for longer than one hour, at any time between the hours of 6:00 a.m. and 6:00 p.m., on any day except Sundays and public holidays, upon any of the streets described in [SCHEDULE IV](#), which is made a part of this article. A change of position of the vehicle from one point directly to another point within the same block shall be deemed one continuous parking period.

(Code 1980, § 16-74)



66-126. Fifteen-minute parking zones.

When signs are placed in certain streets, no person shall park a vehicle for longer than 15 minutes at any time upon any streets described in [SCHEDULE V](#), which is made a part of this article. A change of position of the vehicle from one point directly to another point within the same block shall be deemed one continuous parking period.

(Code 1980, § 16-75; Ord. No. 33-96, § 1, 9-3-96)

66-127. Ten-minute parking zones.

When signs are placed in certain streets, no person shall park a vehicle for longer than ten minutes at any time upon any streets or parts of streets described in [SCHEDULE VI](#), which is made a part of this article, between the hours of 9:00 a.m. and 6:00 p.m. on Mondays through Fridays, and between the hours of 8:00 a.m. and 12:00 noon on Saturdays.

(Code 1980, § 16-76)

66-128. Reserved spaces; loading zones; parking of buses and vehicles for hire.

- A. Those streets or parts of streets described in [SCHEDULE VII-A](#), [SCHEDULE VII-B](#) and [SCHEDULE VII-C](#), which is made a part of this article, shall be reserved for the specific purpose and at the exact location named therein, and no vehicle shall be parked therein, except those for which the space has been designated.
- B. Those streets or parts of streets reserved as loading zones and described in [SCHEDULE VII-B](#) shall be used only for the purpose of loading and unloading goods, wares, merchandise or commodities on and from motor vehicles unless the type loading zone clearly indicates otherwise.
- C. In addition, no bus, taxicab or vehicle for hire shall park on any street in a place other than that which has been designated for such purpose and no bus shall stop or stand on any street except in a designated bus stop.

(Code 1980, § 16-77)

66-129. Parking of more than two taxicabs within same block.

Not more than two taxicabs, owned by the same company, shall be parked in one block at the same time, except if parked in established taxistands.

(Code 1980, § 16-78)

66-130. Use of taxistands.

Private vehicles, or other vehicles for hire, shall not at any time occupy any space upon a street which has been established as an open stand for taxicabs.

(Code 1980, § 16-79)

Cross reference(s)—Taxicabs, § 78-31 et seq.

66-131. Truck parking.

- A. No truck exceeding three-fourths ton capacity shall park for longer than two hours at any one time on any streets or parts of streets described in [SCHEDULE IX](#), which is made a part of this article.



Code of Ordinances

- B. No truck exceeding three-fourths ton capacity shall at any time park on any street other than those described in [SCHEDULE IX](#), which is made a part of this article, except for the purpose of loading or unloading.

(Code 1980, § 16-80)

66-132. Handicapped parking.

It shall be unlawful to park or leave standing any vehicle in a space designated for physically handicapped persons when such vehicle does not display the distinguishing license plate or placard as provided in G.S. 20-37.6, where appropriate aboveground signs or symbols and words giving notice thereof are erected marking the designated parking space. The punishment for violation of this section shall not exceed a fine **as set by the City of Brevard fee schedule** of ~~\$10.00~~ and the prima facie rule of evidence set forth in G.S. 20-162.1 shall apply. The parking spaces designated for handicapped parking are described in [SCHEDULE XXVII](#).

(Code 1980, § 16-81)

66-133. Overtime parking prohibited; exceptions for persons serving on jury.

It shall be unlawful and a violation of the provisions of this article for any person to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime, or beyond the period of legal parking time established for any space **or parking lot** designated for parking, either upon a public road or street or public parking lot.

(Code 1980, § 16-82; Ord. No. 2022-52, § 1(Exh. A), 8-15-22)

66-134. All day parking.

Those areas described in [SCHEDULE XXVIII](#), which is made a part of this article, are hereby declared to be all day parking areas.

(Ord. No. 13-06, § 4, 8-7-06)

66-135. Long-term parking prohibited.

It shall be unlawful and a violation of the provisions of this article for any person to cause, allow or permit any privately owned vehicle or trailer to be parked more than 24 consecutive hours within any municipal parking lot of the city. Moving a vehicle between spaces within the same lot for the purpose of circumventing this ordinance shall constitute a violation of this section.

(Ord. No. 2022-52, § 1(Exh. A), 8-15-22)

ORDINANCE NO. 2023-XX

**AN ORDINANCE AMENDING THE CITY OF BREVARD CODE OF
ORDINANCES, CHAPTER 66 – TRAFFIC: SPECIFICALLY
AMENDING REGULATIONS REGARDING PARKING ENFORCEMENT**

WHEREAS, the City of Brevard wishes to strengthen its parking enforcement practices; and

WHEREAS, certain provisions of the Code of Ordinances must be updated to legally enable enhanced parking enforcement; and

WHEREAS, a public hearing was conducted on October 2, 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 Brevard City Council that the City Code of Ordinances 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 Ordinances 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 Ordinances 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 16th day of October 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

ORDINANCE NO. 2023-XX

**AN ORDINANCE AMENDING THE FEE SCHEDULE OF THE
FY 2023-2024 CITY OF BREVARD BUDGET**

WHEREAS, the City of Brevard adopted the FY 2024 budget on June 5, 2023, including a schedule of fees; and,

WHEREAS, the City Council of Brevard adopted Ordinance No. 2023-XX amending Chapter 66 of the Code of Ordinances to strengthen parking enforcement; and,

WHEREAS, the City Council further wishes to deter parking violators by increasing the parking violation fine from \$30 to \$50 per violation; and,

WHEREAS, it is the desire of the City Council of the City of Brevard that the FY 2024 budget fee schedule 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 FY 2024 fee schedule is hereby amended as described below:

SECTION 02. Amend “Traffic Violation Fees” section to read:

Parking Ticket	\$50 per violation
Late Fee	\$25 per violation
Fire Hydrant, Fire Lane Obstruction, and designated handicap spaces	\$75 per violation

SECTION 03. The City Manager of the City of Brevard is hereby authorized to amend the official FY 2024 budget to reflect the change as set forth herein.

SECTION 04. This Ordinance shall become effective upon its adoption and approval.

Adopted and approved upon first reading this 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, Monday, October 16, 2023

Title: Proposed Amendment to City of Brevard Code of Ordinances, Chapter 2 - Duties of Mayor

Speaker: Wilson Hooper, City Manager

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

At the August 7, 2023 meeting, Council agreed to have staff look at the various texts governing appointments to policy boards, advisory boards, and external boards. At the September 5, 2023 meeting, the Council received a presentation from staff on the Code of Ordinance language governing mayor and council appointments, along with a draft revision to the ordinance clarifying each's appointment responsibilities. A public hearing was held at the October 2, 2023 Council meeting.

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. The proposed Code of Ordinance amendment is included in attachment 2 and the resolution as attachment 3.

Action

Staff requests that Council take one of the following actions:

1. Adopt the amendments as written;
2. Adopt the amendments as revised by City Council;
3. Reject the amendments;
4. Table the amendment for further consideration.

Attachments:

1. Board and comms. appointment table
2. Ordinance 2023-XX Amend Chapter 2, Section 34 Duties of Mayor
3. Resolution 2023-XX Updating the appointment procedure

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 appointment of council members to serve on committees and boards, subject to approval by vote of City 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, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

RESOLUTION NO. 2023-XX

RESOLUTION UPDATING THE APPOINTMENT PROCEDURE FOR BREVARD CITY COUNCIL COMMITTEES AND OTHER BODIES ON WHICH CITY COUNCIL MEMBERS SERVE

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

WHEREAS, the reforms were memorialized in Resolution 2022-40 which took effect in December 2022; and

WHEREAS, the provisions of the Resolution 2022-40 superseded the related provisions of the resolutions listed below:

- a. Public Works and Utilities, Resolution 2015-12
- b. Public Safety, Resolution 2015-13
- c. Parks, Trails, and Recreation, Resolutions 2015-14, 2015-21
- d. Finance and Human Resources, Resolution 2015-15
- e. Downtown Master Plan, Resolutions 2015-16, 2015-21, 2017-04
- f. Housing Trust Fund Selection Committee, Ordinance 2012-02, and Resolutions 2016-19, 2019-03, 2021-07
- g. Rosenwald Community Advisory Board, Resolution 2021-23; and

WHEREAS, in August 2023 the City Council asked to revisit Section 5 of Resolution 2022-40 that read the Public Works and Utilities, Public Safety, Finance and Human Resources, and Housing Trust Fund Selection committees “are reconstituted to have three voting members: two members of City Council as appointed by the Mayor in consultation with the full Council, and one citizen member appointed by the City Council.”

WHEREAS, the City Council also asked to revisit and clarify the procedures for appointing City Council members the Parks, Trails, and Recreation; Downtown Master Plan; and Rosenwald Community Advisory Board committees; and

WHEREAS, the City Council also asked to revisit and/or clarify the procedures for appointing City Council members and other city representatives to the Transylvania County Tourism Development Authority, the Transylvania County Chamber of Commerce, the Transylvania Economic Alliance, the Heart of Brevard, the Land of Sky Regional Council, the Transylvania County Transportation Advisory Committee, and the Community Relations Board; and

WHEREAS, the City Council wishes to amend the appointment procedures so that it has final appointment authority over all aforementioned committees; and

WHEREAS, in conjunction with this resolution the City Council has approved changes to the Brevard Code of Ordinances removing appointment authority from the “Duties of Mayor” article.

NOW, THEREFORE, BE IT RESOLVED by the Brevard City Council that:

1.) Section 5 of Resolution 2022-40 is hereby amended to read:

“Policy Committees are reconstituted to have three voting members: two members of City Council as recommended by the Mayor and approved by vote of the full City Council, and one citizen member appointed by vote of full City Council. The citizen member shall be a resident of Brevard.”

2.) Unaffected provisions of the below resolutions remain in effect:

- a. Resolution updating the structure of Brevard City Council Committees (2022-40)
- b. Public Works & Utilities (2015-12)
- c. Public Safety (2015-13)

- d. Parks, Trails & Recreation (2015-14, 2015-21)
- e. Finance and Human Resource (2015-15)
- f. Downtown Master Plan (2015-16, 2015-21, 2017-04)
- g. Housing Trust Fund Selection Committee (2016-19, 2019-03, 2021-07, and Ordinance 2012-02)
- h. Rosenwald Community Advisory Board (2021-23)

Approved and adopted this __ day of _____, 2023.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

DRAFT

STAFF REPORT

City Council, Monday, October 16, 2023

Title: Revise Council Meeting Calendar - Cancel November 6, 2023 Meeting

Speaker: Denise Hodsdon, City Clerk

Prepared by: Denise Hodsdon

Approved by: Wilson Hooper, City Manager

Background

The City Council's regular schedule includes meetings on the first and third Mondays of each month, though Council can amend the schedule to accommodate holidays and other conflicts. The calendar includes a regularly scheduled meeting for Monday, November 6, 2023, the evening before the municipal election scheduled for Tuesday, November 7, 2023.

Discussion

Staff wish to offer the City Council the opportunity to cancel the first meeting in November so as not to conflict with municipal election activities. The November 20, 2023 meeting is still scheduled to proceed.

Action

If so desired by Council, approve an amendment to the Council calendar canceling the November 6, 2023 regular meeting.

Attachments:

1. Proposed Amendment to 2023 Council Meeting Schedule

Brevard City Council 2023 Meeting Schedule

Day / Date	Time	Type	Location
Tuesday, January 3, 2023	5:30 PM	Regular Meeting	Council Chambers
Tuesday, January 17, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, February 6, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, February 20, 2023	5:30 PM	Regular Meeting	Council Chambers
Wednesday, March 1, 2023	5:15 PM	Strategic Planning Session #1	Mary C. Jenkins Community Center
Thursday, March 2, 2023	5:15 PM	Strategic Planning Session #2	Mary C. Jenkins Community Center
Monday, March 6, 2023	5:30 PM	Special Meeting	Council Chambers
Monday, March 20, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, April 3, 2023	5:30 PM	Budget Workshop	Council Chambers
Tuesday, April 4, 2023	5:30 PM	Budget Workshop	Council Chambers
Monday, April 17, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, May 1, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, May 15, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, June 5, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, June 19, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, August 7, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, August 21, 2023	5:30 PM	Regular Meeting	Council Chambers
Tuesday, September 5, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, September 18, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, October 2, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, October 16, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, November 6, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, November 20, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, December 4, 2023	5:30 PM	Regular Meeting	Council Chambers
Monday, December 18, 2023 (If Needed)	5:30 PM	Regular Meeting	Council Chambers

Amended/Readopted: [October 16, 2023](#)

Amended/Readopted: June 19, 2023

Amended/Readopted: March 20, 2023

Amended/Readopted: February 6, 2023

Amended/Readopted: January 17, 2023

Adopted: December 5, 2022

Distribution: December 13, 2022

D Hodsdon, City Clerk