



**AGENDA**  
**BREVARD CITY COUNCIL - REGULAR MEETING**  
**Monday, May 20, 2024 - 5:30 PM**  
**City Council Chambers**

**A. Welcome and Call to Order**

**B. Invocation**

Pastor Brian Land, Grace Brevard Church

**C. Pledge of Allegiance**

**D. Certification of Quorum**

**E. Approval of Agenda**

**F. Approval of Minutes**

1. February 29, 2024 Strategic Planning Retreat
2. May 6, 2024 Regular Meeting

**G. Public Comments**

**H. Certificates / Awards / Recognition**

1. Proclamation No. 2024-13 National Public Works Week

**I. Special Presentation(s)**

**J. Public Hearing(s)**

1. Proposed FY 2024-2025 Budget and Ordinance
2. Ordinance - Voluntary Contiguous Annexation - Pisgah Hospitality, LLC / Intersection of Lambs Creek Road and US Hwy 64  
Proposed Amendments to City of Brevard Unified Development Ordinance,
3. Chapters 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 14, 16, 17, and 19 – Group Developments and Subdivision Regulations

**K. Consent and Information**

1. Tax Settlement Report - April, 2024

2. Capital Project Close Out - Main Street Water and Sewer Improvements
3. City Council Parks, Trails, & Recreation Committee Minutes - February 21, 2024
4. City Council Parks, Trails, & Recreation Committee Minutes - April 24, 2024
5. City Council Downtown Master Plan Committee Minutes - March 18, 2024
6. City Council Downtown Master Plan Committee Minutes - April 10, 2024

**L. Unfinished Business**

1. Proposed Amendment to City of Brevard Unified Development Ordinance, Chapter 15 - Board Roles

**M. New Business**

1. Approval of FY24 Supplemental Spending Plan and Related Budget/Project Amendments
2. Application for Public Art - Moms Mabley Mural in Clemson Plaza
3. Ground Lease with Brevard Davidson River Presbyterian Church for Workforce/Affordable Housing Project

**N. Remarks / Future Agenda Considerations**

**O. Closed Session(s)**

1. Pending Litigation: NCGS §143-318.11.(a)(3)

**P. Adjourn**

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Agenda Posted, Website, Sunshine List (May 16, 2024)  
D. Hodsdon, City Clerk

*To review Agenda materials, go to the City's website [www.cityofbrevard.com](http://www.cityofbrevard.com). Select "Your Government" tab followed by "Agenda Packets" tab. Agenda packet materials are posted on Thursday afternoon prior to Council's Monday meeting.*

**MINUTES**  
**BREVARD CITY COUNCIL**  
**Strategic Planning Retreat**  
**Mary C. Jenkins Community & Cultural Center**  
**February 29, 2024 – 8:30 A.M**

The Brevard City Council met for a Strategic Planning Retreat on Thursday, February 29, 2024, at 8:30 a.m. at the Mary C. Jenkins Community & Cultural Center, with Mayor Maureen Copelof presiding.

**Present** - Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, Council Members Mac Morrow, Aaron Baker, Pamela Holder and Lauren Wise.

**Staff Present** – City Manager Wilson Hooper, Assistant City Manager/Finance Director Dean Luebbe, City Clerk Denise Hodsdon, Assistant to the City Manager Alex Shepherd, HR Director Kelley Craig and Communications Coordinator Becky McCann. Staff present for morning session: Planning Director Paul Ray, Fire Chief Bobby Cooper, Police Chief Tom Jordan, Public Works Director Wesley Shook, Water Treatment Plant ORC Dennis Richardson, Wastewater Treatment Plant ORC Emory Owen, and Community Center Director Tyree Griffin.

**Facilitator** – Rebecca Jackson, Adjunct Faculty Member, UNC Chapel Hill School of Government, Center for Public Leadership and Governance.

**Press** – Jon Rich, Transylvania Times

**A. Welcome and Call to Order** – Mayor Copelof called the meeting to order at 8:30 a.m. and welcomed those present.

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

**C. Agenda**

| Time  | Agenda Item                                                                                                                                                                                       |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8:30  | Welcome                                                                                                                                                                                           |
| 8:45  | What were our priorities, and have we achieved them?<br>What are factors that led to successes?                                                                                                   |
| 9:30  | What are the main Vision themes for the City of Brevard?                                                                                                                                          |
| 10:30 | Break                                                                                                                                                                                             |
| 10:45 | What are the City of Brevard’s departmental needs?<br>What are the key issues and trends we need to consider when developing long-term and short-term strategy?                                   |
| 12:15 | Working Lunch                                                                                                                                                                                     |
| 1:00  | What are the overarching three-year Goals and Objectives for the City of Brevard?<br>How do we move the needle in the next 12-18 months?<br>What are our Key Strategic Actions (KSA) for FY 2025? |
| 2:30  | Break                                                                                                                                                                                             |
| 2:45  | Is there consensus on our Goal Areas and Key Strategic Actions?<br>How will we prioritize our Key Strategic Actions?<br>What are the top Key Strategic Actions for Fiscal Year 2025?              |
| 4:00  | What have we accomplished during our time together and what are our next steps?                                                                                                                   |
| 4:30  | Adjourn                                                                                                                                                                                           |

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

Facilitator Rebecca Jackson introduced herself and went over the objectives, group expectations and ground rules for the retreat.

The objectives for the Retreat were as follows:

- To review and celebrate the City of Brevard’s accomplishments
- To strive for consensus on Vision themes
- To develop 3-year Goals (strategic focus areas)
- To identify Key Strategic Actions (Critical projects or tasks) for the next 12-18 months that align to the City’s Goals
- To develop and utilize criteria to prioritize Key Strategic Actions.

Council participated in a series of exercises intended to craft its vision and identify its goals for the next 12 to 18 months, and to prioritize “Key Strategic Actions” it expects the organization to fund and execute over the same period. As part of her facilitation agreement, Ms. Jackson provided the attached “**City of Brevard Defining Strategic Direction Consultant’s Report**” summarizing the results of the retreat’s exercises. Council reviewed the draft report at its April 1, 2024 meeting and accepted the report with the following minor edits and additions:

- Goal 5 - Replace “refresh Brevard’s approach to organizing and hosting festivals” to “more of a cooperative effort/communicate with key partners”;
- Add the Ecusta Trail to Goals 2 and 3; and
- Goal 3 - Add Heart of Brevard and Transylvania Economic Alliance as Key Partners.

Next steps – Mr. Hooper noted that Staff will build the FY2024-2025 Budget proposal around the prioritized action items.

**Adjourn** – There being no further business, Council adjourned the Retreat at 4:48 p.m.

\_\_\_\_\_  
Maureen Copelof  
Mayor

\_\_\_\_\_  
Denise Hodsdon, CMC  
City Clerk

Minutes Approved: May 20, 2024





**THE CITY OF BREVARD  
DEFINING STRATEGIC DIRECTION  
CONSULTANT'S REPORT**

**Overview**

The UNC School of Government's Center for Public Leadership and Governance (CPLG) is supporting the City of Brevard's 2024 strategic planning process. The City's Council's retreat was designed to ensure the strategic planning process responds to the city's service needs. The process also generated buy-in and ownership of the Council and leadership staff. To plan for an effective retreat, planning meetings were conducted by the consultant with representatives from the City Council and city staff leadership to gain insight into Council priorities, as well as to better understand group dynamics. An agenda was finalized and distributed to the Council. The retreat was held at on February 29, 2024, 8:30 am- 4:30 pm. The retreat objectives were as follows:

- ☐ To review priorities and celebrate the City of Brevard's accomplishments.
- ☐ To strive for consensus on Vision themes
- ☐ To develop 3-year Goals (strategic focus areas)
- ☐ To identify Key Strategic Actions (Critical projects or tasks) for the next 12-18 months that align to the City's Goals
- ☐ To develop and utilize criteria to prioritize Key Strategic Actions.

**Facilitator and Consultant:** Rebecca Jackson, Adjunct Faculty Member, UNC Chapel Hill School of Government, Center for Public Leadership and Governance

**Attendees:** City of Brevard Mayor, City Council Members, City Manager, City Clerk and various Department Heads

## The City of Brevard's Progress Successes

The City Council Mayor shared a report of the City's progress over the last 12-18 months.

The consultant led a Council discussion, seeking individual Council input on what they were most proud of accomplishing and what they saw as keys to success Overall, the strongest recurring themes were:

- Escusta Funding
- Affordable Housing partnerships and policy changes
- Road improvements
- Pedestrian, bike and safety improvements
- Wastewater treatment plan
- Infrastructure, including bridge
- Gateway t the national forest
- Community relationships and engagements
- Intergovernmental engagement
- NCDOT collaboration
- Public input process
- State compensation and funding support
- Downtown investment
- Masterplan
- Streetscape

The overall feeling was one of pride in the ability to accomplish so much in the last 12-18 months, and also feeling like there is still so much to do. Council discussed the importance of executing the plans that have been developed recently, being focused on execution, and follow through of those plans. An overall theme came through of that the City has "planted many seeds" and now it was time to water and grow. Council also discussed the importance of adapting to change.



### **Differences Between Comprehensive Plans and Strategic Plans**

The Council considered the differences between the recent comprehensive plan and an organizational strategic plan.

Comprehensive plan includes:

- Scope: Long-range vision document; outlines community's goals, aspirations, and policies for future development and growth over a span of typically 10 to 20 years.
- Focus: Covers broad range of topics: Land use, transportation, housing, economic development, environmental conservation, infrastructure, and community services.
- Public Involvement: Involves community engagement.
- Legal Requirement: Comprehensive plans mandated by law as a tool for guiding land use decisions and managing growth.
- Flexibility: Flexible for policy decisions.

An organizational strategic plan includes:

- Scope: Focused action-oriented; Typically covers a period from 2- 10 years.
- Focus: Identifies specific objectives, priorities, initiatives, and performance measures to achieve organizational goals and address pressing issues or challenges and is consistent with a Comp. Plan.
- Departments and Employees: Developed holistically so that various levels of the organization can be aligned.
- Resource Allocation: Are used to allocate resources strategically, including budgetary allocations, staffing, CIP, IT and other resources, to implement targeted initiatives and achieve desired outcomes.
- Performance Monitoring: Includes mechanisms for monitoring progress, evaluating outcomes, and adjusting as needed to ensure the effective implementation of strategies.

### **Vision Themes:**

A local government vision statement is a concise and aspirational expression that outlines the future state or desired outcomes for a community as envisioned by its governing body. This statement typically reflects the long-term goals, values, and aspirations that the local government aims to achieve in collaboration with its residents, businesses, and other stakeholders.

A vision statement serves as a guiding beacon, providing a sense of direction and purpose for the community's growth and development.

The City Council took a step back in time to consider the history of Brevard. Important events and dates of cultural, political, and economical significance were discussed to understand Brevard more fully and to develop a vision for the future.

### **Defining moments in history which shaped the character of the City we see today?**

The City Council created a timeline of important events that shaped the character of the City we see today. Many important dates were mentioned including:



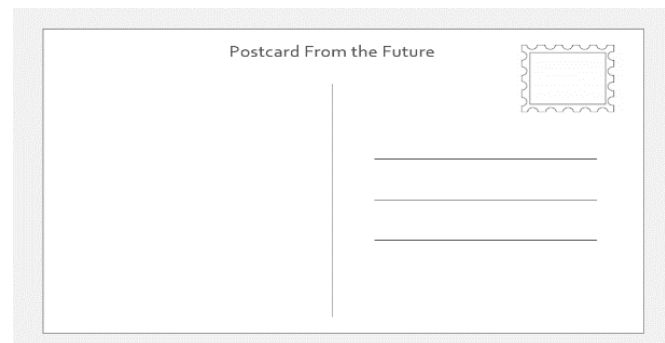
- Vanderbilt investments: Trades growth, local investments, building and booming in architecture, transportation and regional national connections
- Incorporation of government and first county meeting
- Brevard becomes County seat
- There is a focus on recreation
- Economic booms and establishments of the National Forest
- Industrial growth – Eucusta Plant
- Municipal expansion with professional character coherent with state standards and regulations
- Trades industry strong
- Switch to Council / Manager form of Government
- Schools were integrated
- Faith communities growing and crucial roles
- Disparities between communities growing
- Technology grows in 2000s
- Closure of manufacturing plants
- Becoming a Mainstreet Community

- Brevard /Pisgah forest featured in the Bike Magazine
- Re-envisioned the community center
- Residential shifts a trend
- Breweries trending
- Industry shifts to tourism- economic growth
- Rise of short term rentals and lack of new buildings
- Tourism and arts are strong and growing
- Covid made us aware of our nimbleness to adapt
- Covid brought funding to complete large projects
- Juneteenth made a holiday
- What the future brings: Recognizing all people in the community who have not been recognized previously. Bringing all community together.

### **Thinking of the Brevard Community we want to see in the future.**

The Council collaborated on themes for a 5-year vision statement for Brevard. After group discussion on individual Council Member visions for the future as expressed during a “postcards exercise.” The Council came to a consensus on which themes had the highest prioritization. The Council developed the following vision themes. The first three highlighted themes were the City Council’s highest priority.

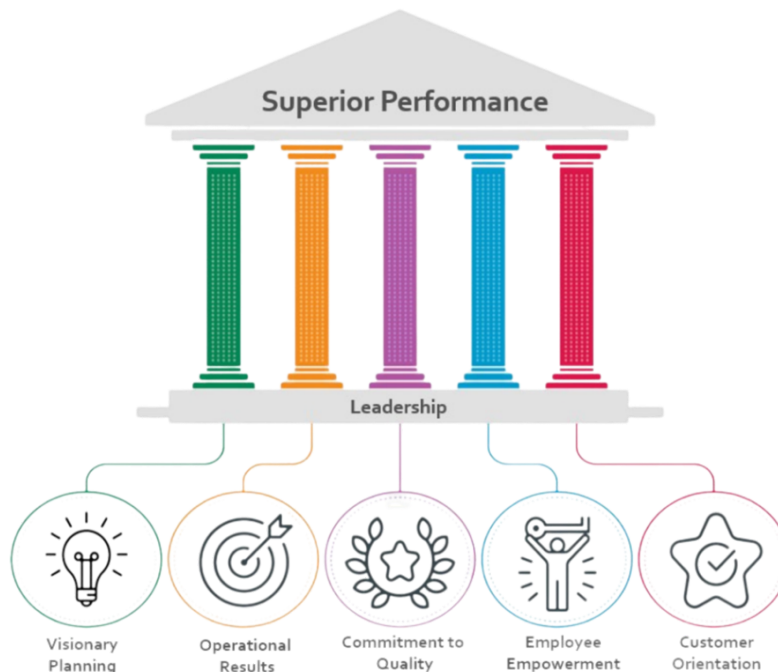
- Unique authentic character
- Vibrancy
- Unity, community, diversity
- Care for natural resources
- Responsible growth
- Outdoor Recreation
- Environmental preservation
- Family oriented
- Housing for all
- Safe and healthy
- Age-friendly
- Connectivity
- Economic vitality
- Living where you work
- Vibrant downtown



The City Council agreed to review the current vision statement to ensure consistency.

## The City of Brevard is a High Performing Organization with a Strategic Planning and Performance Management Framework

**HIGH PERFORMING ORGANIZATION:** The consultant presented an overview of high performing organizations and strategic planning.



**STRATEGIC PLANNING FRAMEWORK:** The consultant presented best practices in strategic planning and performance measurement and discussed the importance of alignment of planning and implementation.

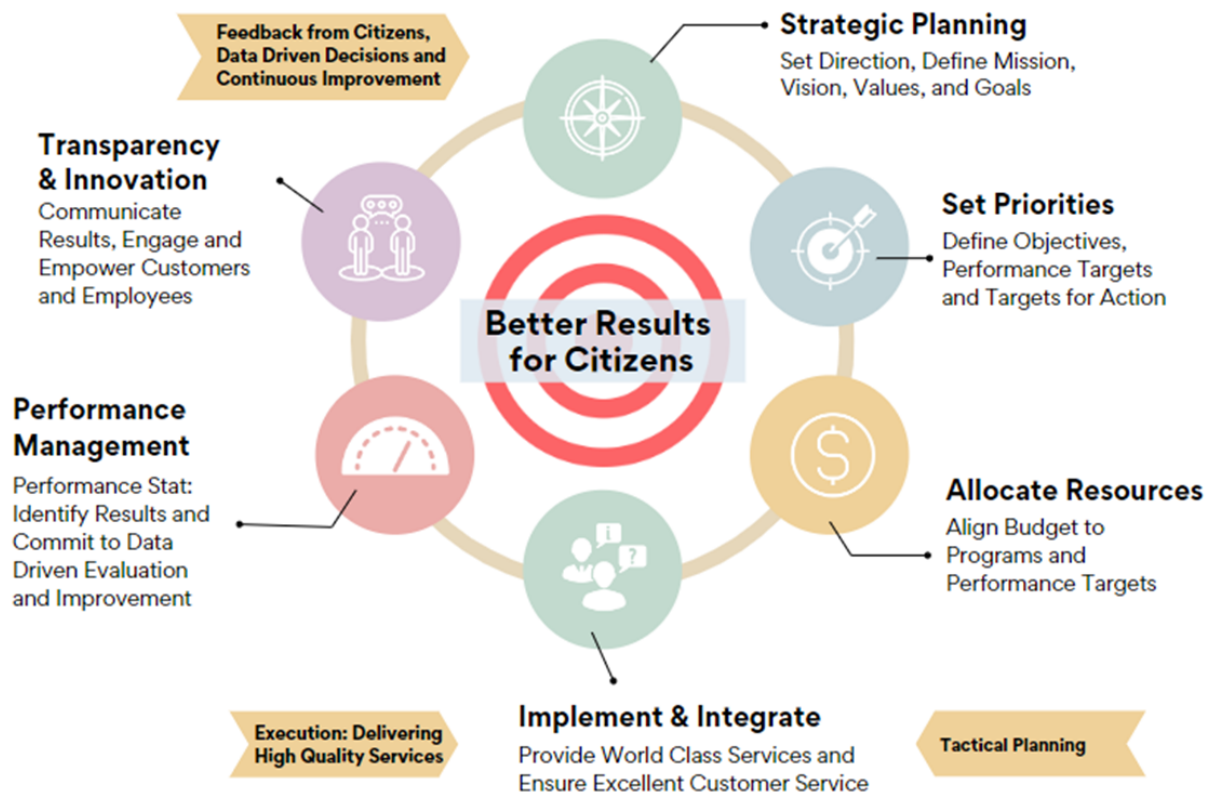
The benefit and uses of local government strategic plans were presented and include:

1. Provides direction & guidance from the elected officials
2. Transforms ideas into actions
3. Informs the Federal and State Legislative Agendas
4. Aligns core government functions and processes with desired strategies



5. Establishes Performance Management & Evaluation (Benchmarking and reporting)
6. Provides direction to Budgeting/Resource Allocation
7. Is foundational to internal and external communication strategies
8. Aligns citizen satisfaction, prioritization, engagement and education
9. Ensures employee engagement and informs orientation
10. Provides a basis for transparency and accountability.

Developing an organizational strategic plan aligns the organization for success.



## Directors Report and Environmental Scanning

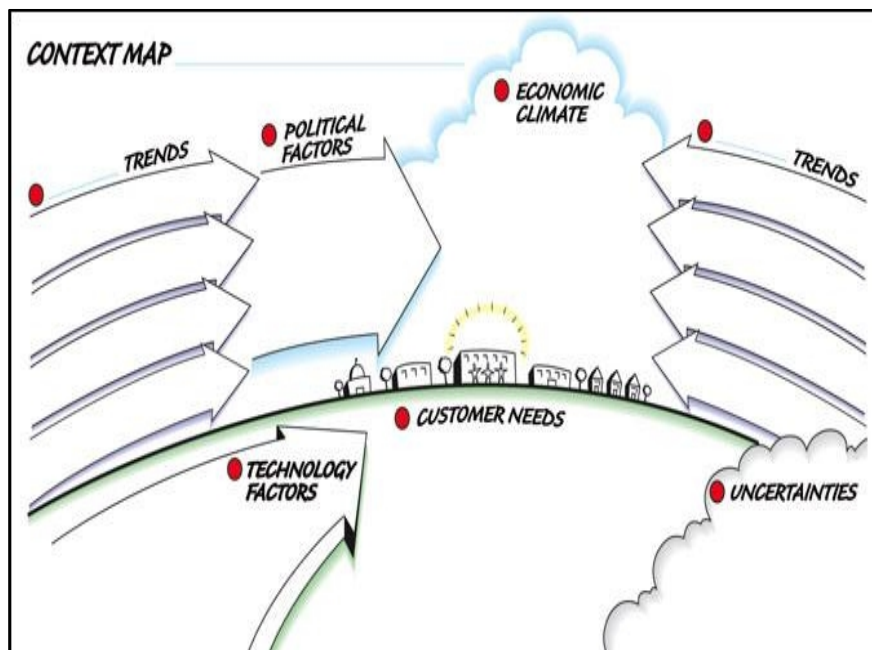
The City Council heard from the City of Brevard's Department Directors. Directors expressed key issues and trends that Council should consider when developing long-term and short-term strategy.

The Council collaborated in an exercise of environmental scanning is an analysis of the current state of Brevard and the ongoing trends in the internal and external environment that impacts success, currently and in the future. This allows the Council to identify opportunities and key strategic issues in the community and organization. The results are extremely useful in shaping goals and strategies.

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Trends- Internal:                                  | <ul style="list-style-type: none"> <li>• Staffing needs</li> <li>• Cross training</li> <li>• Professionalizing</li> <li>• Lagging technology in our organization</li> <li>• Outgrowing out space</li> <li>• Equipment needs</li> <li>• Expanding scope of large projects impacting operations</li> </ul>                                                                                                         |
| Trends- External:                                  | <ul style="list-style-type: none"> <li>• Inflation/ Construction costs/ Cost of Living increasing</li> <li>• Grant funding available</li> <li>• Employee/workforce shortages</li> <li>• Infill and growth</li> <li>• Technology enhancements: changing, social media</li> <li>• Remote work increasing</li> </ul>                                                                                                |
| Political Factors: Local, State and Federal policy | <ul style="list-style-type: none"> <li>• Intergovernmental agencies: contracts and agreements</li> <li>• County conflicts</li> <li>• State limitations</li> <li>• Conflicting visions</li> <li>• Changes in policy makers (federal and State)</li> <li>• Federal / State funding for directed projects</li> </ul>                                                                                                |
| Economic Climate:<br>What's the financial picture? | <ul style="list-style-type: none"> <li>• Pharm investments</li> <li>• Outdoor equipment manufacturing</li> <li>• Breweries</li> <li>• Architecture/arts</li> <li>• Retiree destination</li> <li>• Level off and visitor spending</li> <li>• Covid was a boom for the City financially</li> <li>• Baby boomers and new people transition impacting property availability</li> <li>• Short Term Rentals</li> </ul> |



|                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Customer Needs:<br>Changing<br>Demographics?<br>Changing<br>requirements? | <ul style="list-style-type: none"> <li>• Constituents expectations are rising</li> <li>• Increased expectations of citizens overall</li> <li>• Affordable housing</li> <li>• Safety</li> <li>• Roads</li> <li>• Stormwater infrastructure</li> <li>• Water/Sewer</li> <li>• Generational families vs. transplants mismatch</li> <li>• Population demographics change</li> <li>• Communication and feeling heard</li> <li>• Intentional engagement</li> <li>• Volunteer engagements</li> <li>• Connect with residents and leverage partnerships</li> <li>• Provide more information for citizens</li> </ul> |
| Technology Factors                                                        | <ul style="list-style-type: none"> <li>• Mismatched technology (City levels)</li> <li>• Teleworking opportunities trending up</li> <li>• IT security issues / security threats</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Uncertainties                                                             | <ul style="list-style-type: none"> <li>• Funding</li> <li>• City/County relationships</li> <li>• National economic events and trends</li> <li>• Up coming recessions</li> <li>• Reliance on tourism economy</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                     |



## Developing a Strategic Goals, Objectives and Key Strategic Actions (KSA) for the City of Brevard

Goals areas identify what the organization intends to achieve and defines a path the organization must follow to reach the vision. Goals are further defined by specific objectives that measure results with Key Performance Indicators (KPI) and Key Strategic Actions (KSA). The City Council collaborated on themes for Brevard's Goal areas. There were 7 goal areas developed by the Council. They are listed in no particular order in this document.

The Key Strategic Actions listed under each goal area were identified by Council as priorities to focus on in the next 12-18 months. There were 20 KSAs identified by Council. The Council then used a "Levels of Support Spectrum," explained below, to agree on the KSA list. There was consensus regarding the list of KSAs.

| Levels of Support                                                                                                                                |                                                                                                                                                    |                                                                                                                                                                       |                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| <p>Rate your individual level of support for this idea/topic/issue.</p> <p>We're using a spectrum to gauge support, not a vote of YES or NO.</p> |                                                                                                                                                    |                                                                                                                                                                       |                                                        |
| a                                                                                                                                                | b                                                                                                                                                  | c                                                                                                                                                                     | d                                                      |
| Full support or agreement with the proposal.                                                                                                     | Agreement with most aspects of the proposal, and, despite continued concerns with some elements, <i>willingness to go along</i> with the proposal. | <i>Significant concerns</i> or outright disagreement with some or all elements of the proposal, <i>but will not oppose</i> the action or decision ("standing aside"). | Continued <i>strong disagreement</i> with the proposal |
| <ul style="list-style-type: none"> <li>If all members of the group are at levels a-c, then there is some degree of consensus.</li> </ul>         |                                                                                                                                                    |                                                                                                                                                                       |                                                        |

If all members of the group express approval at levels A, B or C, then they have reached consensus. If some members continue to disagree strongly (level D), then consensus has not been reached. The challenge to the group is to see what interest must be addressed in the proposal to move people at D to C (or higher) and from C to B (or higher) and from B to A. In addition, it is important to find out the nature of disagreements with a proposal. It is often helpful to characterize concerns as follows:

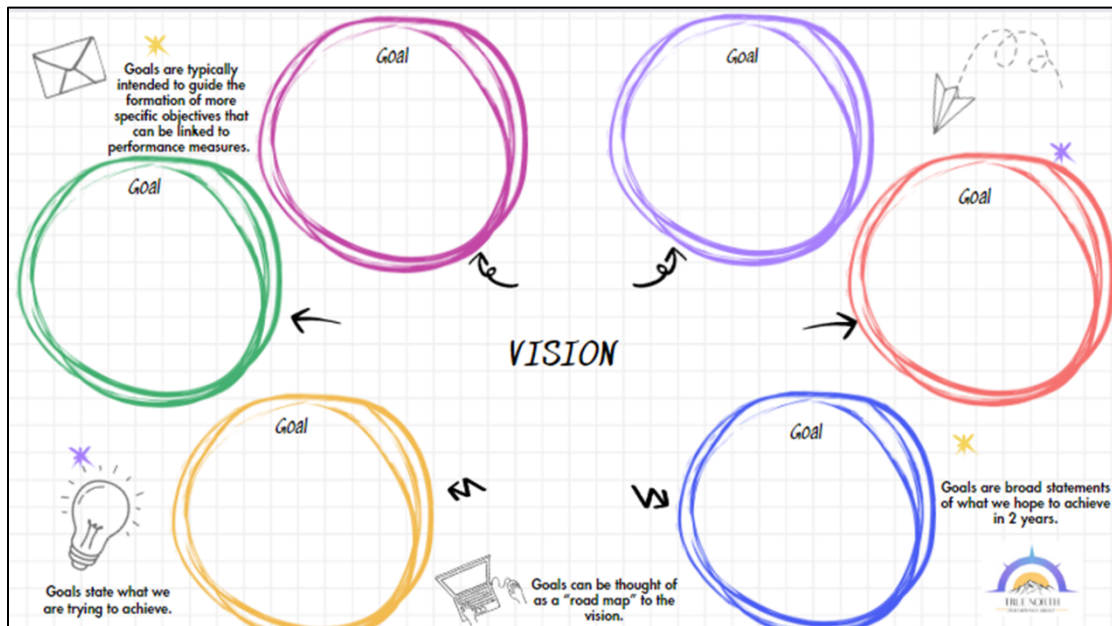
- Minor concerns with wording or editing.
- Agreement with the main thrust of the proposal, but concerns with specific elements which, if changed, would lead to agreement.
- Major concerns: principles disagreement with the overall direction of the proposal, which if not addressed, would lead the member to block the consensus (level D).

Source: Hustedde, Smutko, and Kapsa, *Turning Lemons into Lemonade* (n.d.)

The 20 KSAs were then prioritized with a strategic filter designed in collaboration by the Council. The filter included the following criteria:

- Essential Services (What keeps the lights on and is mandatory by law)
- What creates efficiencies
- Connected services
- Ongoing projects that are critical and priorities – what needs to happen for successful completion?
- What has been “hanging on the wall” and really needs to get done?
- “Big vs Small Impact” What has a big impact on the community and meets citizens needs?

The KSA receiving the most dots were considered the highest relative priority.



**GOAL 1: To be a safe community****Goal Objectives**

- Increase public trust in police
- Ensure adequate response time
- Provide road and traffic safety
- Maintain current conditions (low crime rates) and addressing negative public perception
- Address new threats (opioids & encampments)

**Goal Key Partners**

- County
- NCDOT

**Goal Key Strategic Actions for FY 2025**

This Goal has 2 Key Strategic Actions. The City Council vote for top priority is indicate in parathesis.

1. Develop a Public Safety staffing proposal that considers growth (3)
2. Review the agreement with the County for fire service

**GOAL 2: To provide effective and sustainable infrastructure****Goal Objectives**

- Provide effective Wastewater Treatment Plant (WWTP)
- Provide effective sidewalks and streets
- Provide effective Stormwater infrastructure
- Maintain and execute on an appropriate Capital Improvement Plan

**Goal Key Strategic Actions for FY 2025**

This Goal has 6 Key Strategic Actions. The City Council vote for top priority is indicate in parathesis.

1. Make progress on the WWTP (4)
2. Continue to seek funding on the Downtown master Plan (1)
3. Increase maintenance of existing infrastructure (5)
4. Provide budget proposal to accelerate street repaving schedule
5. Update stormwater plan and seek funding for approved options (4)
6. Consider revisions to fee-in-lieu policy for sidewalks

### **GOAL 3: To cultivate a vibrant economy in Brevard, characterized by vitality and sustainable development**

#### **Goal Objectives**

- Ensure consistency to the comp plan
- Support local businesses
- Levering local resources
- Incentivize specialized manufacturing and industries
- Increase the number of jobs available in the community with competitive salaries that match the cost of living
- Focus on the arts and culture of the community

#### **Goal Key Partners**

- Henderson County
- Transylvania County
- Friends of the ET

#### **Goal Key Strategic Actions for FY 2025**

This Goal has 1 Key Strategic Actions. The City Council vote for top priority is indicate in parathesis.

1. Create an economic development incentive policy (2)

**GOAL 4: To ensure affordable housing for all****Goal Objectives**

- Ensure housing that is affordable and appropriate for the workforce in the community
- Ensure adequate choices for diverse housing needs
- Ensure adequate availability of housing for all in the community

**Goal Key Partners**

- Habitat for Humanity
- Faith based organizations

**Goal Key Strategic Actions for FY 2025**

This Goal has 4 Key Strategic Actions. The City Council vote for top priority is indicated in parenthesis.

1. Ensure progress on Phase I of DFI Study (4)
2. Pursue grants for infrastructure (Azalea/Rhodo neighborhood)
3. Underwrite programs that produce affordable units (3)
4. Continue reviewing the UDO to encourage “missing middle” housing/density where appropriate (2)

**GOAL 5: To promote unity, foster a strong sense of community, and encourage collaboration among residents and stakeholders****Goal Objectives**

- To support festival and special events (MLK celebration and Juneteenth)
- To support DEI initiatives
- To provide effective communication and community engagement
- To leverage Boards and Committees
- To gain citizen input
- Provide advocacy for the community (legislative policy and agendas)

**Goal Key Partners**

- Heart of Brevard
- TDA
- Chamber

**Goal Key Strategic Actions for FY 2025**

This Goal has 1 Key Strategic Action. The City Council vote for top priority is indicated in parenthesis.

1. Refresh Brevard’s approach to organizing and hosting festivals

**GOAL 6: To ensure we are a high quality organization, optimizing resources and processes to enhance service delivery and responsiveness to the needs of our community.**

Goal Objectives

- To ensure efficient operations
- To optimize budget with appropriate tax rate'
- To provide exceptional financial management and maintain fund balance policy
- To provide effective IT services to the departments
- To ensure adequate space and equipment for employees to deliver high quality services
- To maintain legal compliance
- To ensure organizational design that reflects the community needs
- To attract and retain high quality staff
- To ensure effective project management ensuring that special/critical projects are executed

Goal Key Strategic Actions for FY 2025

This Goal has 3 Key Strategic Actions. The City Council vote for top priority is indicate in parathesis.

1. Address aging technology and software systems (4)
2. Complete space needs analysis and changes for all departments
3. Focus on employee engagement (2)

**GOAL 7: To ensure effective transportation network that enhances the connectivity of the community and access to natural resources**

Goal Objectives

- To provide adequate outdoor recreation opportunities accessible via our transportation network
- To ensure adequate trails and multiuse pathways especially focused on supporting the Ecusta and Esatoe trail
- To provide effective greenways and blueways

Goal Key Strategic Actions for FY 2025

This Goal has 3 Key Strategic Actions. The City Council vote for top priority is indicate in parathesis.

1. Create a parking plan and wayfinding sign plan for the whole city (3)
2. Complete the Tannery North section of Estateo Trail (2)
3. Complete easements and design for remaining sections of Esatoe Trail (3)

## **CONCLUSION**

In conclusion, the strategic planning retreat for the City of Brevard has been a collaborative and insightful journey, laying the groundwork for a dynamic and sustainable future. Through engaged discussions, careful analysis, and the integration of diverse perspectives, the Council has forged a roadmap that aligns with the community's aspirations and positions Brevard for long-term success. The identified goals and objectives encapsulate the collective vision for the City, emphasizing Key Strategic Actions for the next 12-18 months. It is essential to recognize that successful implementation will require ongoing commitment, adaptability, and continuous evaluation. As Brevard moves forward, the success of a strategic plan lies not only in a comprehensive design but also in the commitment of all stakeholders involved. The collaboration between community members, local government, and external partners will be pivotal in realizing the envisioned future for Brevard. While this retreat began the journey to design a comprehensive organizational strategic plan, additional collaborative work should be done to finalize the plan. Consultant recommendations include:

- Reviewing the organizational mission statement
- Developing Core Values for the organization
- Reviewing this document with Council to ensure it encapsulates the Council's interest
- Providing an opportunity for the community and employees to provide feedback and input
- Making final revisions to the plan
- Adopting the strategic plan with expectations of performance management
- Developing Key Performance Indicators to manage for results

Regular reviews, open communication, and a flexible approach to adjustments will be crucial elements in ensuring that the strategic plan remains a living document, evolving in response to changing circumstances and emerging opportunities. The commitment to transparency, community engagement, and shared responsibility will be integral to the plan's effectiveness.

Brevard is poised for a future defined by sustainable growth, enhanced quality of life, and a sense of community pride. As Brevard embarks on the journey ahead, carry forward the momentum generated through this strategic planning process, fostering a collective commitment to the well-being and prosperity of Brevard and its residents. I appreciate the dedication and enthusiasm demonstrated by all participants throughout this strategic planning endeavor. With a shared vision and a commitment to excellence, I look forward to witnessing the positive transformation and continued success of Brevard.

Sincerely,

Rebecca Jackson, Adjunct Faculty Member, UNC SOG Center for Public Leadership and Governance; CEO, True North Performance Group, LLC



**MINUTES  
BREVARD CITY COUNCIL  
Regular Meeting  
May 6, 2024 – 5:30 PM**

The Brevard City Council met in regular session on Monday, May 6, 2024, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

**Present** – Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, and Council Members Mac Morrow, Aaron Baker, Pamela Holder, and Lauren Wise

**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, Assistant Planning Director Aaron Bland, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Public Works Director Wesley Shook, Wastewater Treatment Plant ORC Emory Owen, Water Treatment Plant ORC Dennis Richardson, Community Center Director Tyree Griffin, Fire Captain Adam Hughey, and Members of Brevard Police Department

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

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

**B. Invocation** – Pastor Victor Foster of Glade Creek Baptist Church offered an invocation.

**C. Pledge of Allegiance** – Mayor Copelof led the pledge of allegiance.

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

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

**F. Approval of Minutes**

**F-1. April 1, 2024 Regular Meeting** – Mr. Wise moved, seconded by Mr. Baker to approve the minutes of the April 1, 2024 Regular Meeting as presented. The motion carried unanimously.

**G. Public Comments**

Nora Jane Montgomery said I am speaking on behalf of Brevard Bike Alliance, a grassroots organization that seeks to use engagement, education, and advocacy to enhance human powered transportation and recreation. We believe safety, access and equity strengthen our community. I am speaking to you tonight to urge you to retain the \$132,000 of funding toward the multi-use path fund. We appreciate the budget is tight this year, but we fear abandoning this dedicated money will be a step backward for the trail and for our community. Over the years Council has repeatedly pledged to the citizens of Brevard to build and complete the Estatoe path. The project was first discussed by Council as early as 1996 and the earliest section was completed in 2003. For 20-plus years we have chipped away at completing a multi-use path that would connect our schools, our businesses, and our community. Currently the City of Brevard reports that the project is 85% complete. With just 15% remaining to complete this meaningful capital project, abandoning annual dedicated funding would be a message to our community that we do not care about completing the projects we started long ago. During your annual budget prioritization retreat councilmembers stated the

importance of finishing the projects already begun. Of seven goals set during this retreat, completing the Estatoe Trail checks four of those goals: infrastructure, economic development, safety, and connectivity and transportation network. In August 2018 the City passed a resolution to complete the construction of the Estatoe path within three years. Just over a year ago Council unanimously adopted the Pedestrian and Bicycle Plan. Of the goals listed in the document, the top priority was completion of the Estatoe path. Barely a year old, it is imperative that we see this plan enacted. We assert that the Estatoe Trail is indeed a critical link for our students to travel to school safely; for folks who don't have access to vehicles to be able to go to work, the grocery, the pharmacy; for our local community members to have access to recreation opportunities including the imminent Ecusta Trail; and for our community to reflect inclusivity, wellness, and safety. We are here today to ask you to honor the promises you have made to the people of Brevard and to finish this project before you choose to cut the dedicated funding for the Estatoe Trail. While we do thank you for the \$25,000 you allocated to the fund, we believe it is crucial to retain the annual earmarked funding of one-penny per tax dollar. Thank you for your time.

Emma Zanetti said I want to address all of you this evening on behalf of some of the owners of businesses on West Jordan Street. My business is called Newfound Artisan and I am here on behalf of me, Paper and Wood and Starfangled Press. Our businesses are located on West Jordan Street inside the Heart of Brevard. The purpose of me being here today is to express our disappointment with the City's communication regarding the stormwater upgrades that are being conducted in the Times Arcade Alley and West Jordan Street. We are also concerned about the extended timeline for the project. To date, there has been very little official public communication about the persistent closure of Jordan Street. To be clear, we are not upset about the project in general as we are all well aware of the importance of this project to address critical infrastructure issues. We were happy that the plan was to complete the project during a slower season. However, we recently learned via a Hub for the Arts Committee meeting that the project will not be completed before White Squirrel Weekend as originally planned. We also learned that there was an agreement made with the City and/or contractors to pause work during lunch service at Square Root to accommodate the restaurant's desire to serve lunch on their patio. It is disturbing to know that this agreement took place without consideration for the other businesses that would be affected by this decision. One can only assume that by taking extended breaks to accommodate one business has led, at least in part, to the delay that was just communicated to us via our Arts Committee meeting. In addition to this recent news, we are disappointed that the City has not been consistently communicating with the general public about Jordan Street closures. The lack of communication has been brought to the attention of the Mayor, the Planning Department, and the Heart of Brevard. We do not believe the communication breakdown is the fault of the Communications Director, who has demonstrated a strong ability to communicate clearly and effectively. We suspect the Communications Director is not being given the necessary information from the Planning Department, which is ultimately responsible for the management of this project. We are collectively asking the City to ensure that moving forward there is clear and consistent communication to the public about street closures on Jordan Street and the impact those closures will have on the businesses located there. For example, we would like the communications to include whether a street closure means sidewalks are also closed or not, whether people will still be able to access businesses and the public parking lot on Jordan Street. We believe these communications can be made via the City's text messaging platform as well as its social media platforms. We are also asking for another stakeholder meeting so that businesses and other stakeholders can receive an official update and engage in discussion with the City staff regarding the management of this project and how it continues to affect our business.

## **H. Certificates/Awards/Recognition**

**H-1. Recognition of Police Officer Wilson Bunn Promotion to Sergeant –** Police Chief Tom Jordan recognized Police Officer Wilson Bunn who came to Brevard as a Detective and has been promoted to Sergeant. Chief Jordan presented Sergeant Bunn

with his Sergeant’s badge and his daughters Rebecca and Isabella pinned the badge on his uniform.

**H-2. Proclamation No. 2024-09 National Police Week & Peace Officer’s Memorial Day 2024** – Mayor Copelof read the proclamation aloud and presented it to Police Chief Tom Jordan.

**Proclamation No. 2024-09  
National Police Week and  
Peace Officer’s Memorial Day 2024  
Brevard, North Carolina**

**WHEREAS**, the Congress and the President of the United States have designated that there be a national Law Enforcement Officers Week; and

**WHEREAS**, the members of the law enforcement agencies of North Carolina play an essential role in safeguarding the rights and freedom of the citizens of the State; and

**WHEREAS**, there are more than 800,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Brevard Police Department and the Transylvania County Sheriff’s Office; and

**WHEREAS**, the service and sacrifice of all officers killed in the line of duty will be honored during the National Law Enforcement Officers Memorial Fund’s 36<sup>th</sup> Annual Candlelight Vigil, on the evening of Monday, May 13, 2024; and

**WHEREAS**, it is important that all citizens know and understand the problems, duties and responsibilities of their law enforcement offices and agencies, and that members of those agencies recognize their duty to serve the people by safeguarding life and property, by protecting them against violence or disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and

**WHEREAS**, the citizens of Brevard recognize and appreciate the contributions made by law enforcement officers at all levels of government.

**NOW, THEREFORE**, I, Mayor Maureen Copelof and the Brevard City Council, call upon all citizens to observe Wednesday, **May 15, 2024**, as “**PEACE OFFICER’S MEMORIAL DAY**” and **May 12-18, 2024** as “**NATIONAL POLICE WEEK**” in Brevard, North Carolina, and that all of our people join in commemorating law enforcement officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities. In so doing, they have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed this 6<sup>th</sup> day of May, 2024.

s/ Maureen Copelof  
Mayor

**H-3. Proclamation No. 2024-08 Older Americans Month, May 2024** – Mayor Copelof read the proclamation aloud and presented it to Dr. Paula Hartman-Stein, Community Coordinator for Brevard’s Age-Friendly Community Initiative.

**Proclamation No. 2024-08  
Older Americans Month**

**Whereas**, May is Older Americans Month, a time for us to recognize and honor older adults and their immense influence on every facet of American society; and

**Whereas**, through their wealth of life experience and wisdom, older adults guide our younger generations and carry forward abundant cultural and historical knowledge; and

**Whereas**, older Americans improve our communities through intergenerational relationships, community service, civic engagement, and many other activities; and

**Whereas**, communities benefit when people of all ages, abilities, and backgrounds have the opportunity to participate and live independently; and

**Whereas**, we must ensure that older Americans have the resources and support needed to stay involved in our community – reflecting our commitment to inclusivity and connectedness.

**Now, therefore,** I, Maureen Copelof, Mayor of Brevard, do hereby proclaim May 2024 as Older Americans Month in the City of Brevard. This year's theme, "Powered by Connection," emphasizes the profound impact of meaningful interactions and social connection on the well-being and health of older adults in our community.

We call upon all residents to join us in recognizing the contributions of our older citizens and promoting programs and activities that foster connection, inclusion, and support for older adults.

**IN WITNESS WHEREOF,** I have hereunto set my hand and cause the Seal of the City of Brevard to be affixed on this 6<sup>th</sup> day of May, 2024.

s/Maureen Copelof  
Mayor

**H-4. Joint Proclamation of May as Mental Health Month in Transylvania County, the City of Brevard and Town of Rosman** – Mayor Copelof noted that this is a joint proclamation of Transylvania County, the City of Brevard, and the Town of Rosman. She read the proclamation aloud and presented it to representatives of TC Strong Nicole Essenberg, Beth Ford and Rik Emaus.

**A Proclamation**  
**Mental Health Month in Transylvania County, the City of Brevard, and the Town of Rosman**

WHEREAS, the mental health and well-being of our community members, especially our youth, are paramount to the vitality and resilience of Transylvania County, the City of Brevard, and the Town of Rosman; and

WHEREAS, recent tragic events, including student suicides, have underscored the urgent need for increased awareness, support, and action to address mental health challenges in our community; and

WHEREAS, mental health is an integral component of overall health and wellness, and access to comprehensive mental health resources and support services is essential for all individuals to thrive; and

WHEREAS, stigma and discrimination surrounding mental health concerns often prevent individuals from seeking the help and support they need, perpetuating cycles of suffering and isolation; and

WHEREAS, by coming together as a community, we can break down barriers, foster empathy, and create a culture of understanding, compassion, and acceptance for those experiencing mental health challenges; and

WHEREAS, May is recognized nationally as Mental Health Awareness Month, providing an opportunity to raise awareness, combat stigma, and promote mental health resources;

NOW, THEREFORE, we, the undersigned leaders of Transylvania County, the City of Brevard, and the Town of Rosman, do hereby proclaim May as Mental Health Month and call upon all residents to join us in our commitment to prioritize mental health and well-being for ourselves, our families, and our community.

We urge individuals to:

- Educate themselves and others about mental health and the importance of seeking help when needed.
- Foster supportive and inclusive environments where individuals feel safe to share their experiences and seek support without fear of judgment or stigma.
- Advocate for policies and initiatives that promote mental health awareness, access to care, and suicide prevention efforts.
- Encourage open and honest conversations about mental health, reducing the silence and shame that often surround these issues.
- Access available mental health resources and support services and encourage others to do the same.

Together, let us work tirelessly to create a community where mental health is valued, prioritized, and supported, and where every individual feels empowered to live their lives to the fullest.

This the 22nd day of April, 2024.

Commissioners

s/ Jason R. Chappell  
Chair, Transylvania County Board of

s/ Maureen Copelof  
Mayor, City of Brevard  
s/ Brian Shelton  
Mayor, Town of Rosman

**H-5. Proclamation No. 2024-10 Professional Municipal Clerks Week –**  
Mayor Copelof read the proclamation aloud and presented it to City Clerk Denise Hodsdon.

**PROCLAMATION NO. 2024-10**  
**55th ANNUAL PROFESSIONAL MUNICIPAL CLERKS WEEK**  
**May 5 - May 11, 2024**

**Whereas**, the Office of the Professional Municipal Clerk, a time honored and vital part of local government exists throughout the world; and

**Whereas**, the Office of the Professional Municipal Clerk is the oldest among public servants; and

**Whereas**, the Office of the Professional Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels: and

**Whereas**, Professional Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

**Whereas**, the Professional Municipal Clerk serves as the information center on functions of local government and community; and

**Whereas**, Professional Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Professional Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations; and

**Whereas**, it is most appropriate that we recognize the accomplishments of the Office of the Professional Municipal Clerk.

**Now, Therefore**, I, Maureen Copelof, Mayor of the City of Brevard, do recognize the week of May 5 through May 11, 2024, as Professional Municipal Clerks Week, and further extend appreciation to our Professional Municipal Clerk, Denise Hodsdon, and to all Professional Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed on this 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**I. Special Presentations**

**I-1. Personnel Policy Revisions** – Kelley Craig explained that in coordination with the annual budget process, staff has been reviewing the City’s Personnel Policy to identify any updates and/or amendments that may be recommended or necessary. This year Staff has recommended three changes to the Personnel Policy. These changes are all employee-focused and help in the City’s efforts to retain and attract its employees. The proposed changes have been reviewed by the Finance/HR and Citizen Appointment Committee with a recommendation for Council to approve. The proposed changes are as follows:

- On-Call pay increase from the rate of \$0.90 per hour to \$2.00 per hour. This applies to employees in Public Works and the Police Department who are responsible for being on-call 24 hours a day/7days a week. The budgetary impact is approximately \$15,000 (including taxes and benefits) and this increased cost is already factored into the FY25 recommended budget.
- Floating Holiday – as a result of the inquiry into adding another paid holiday for President’s Day, staff recommend adding a floating holiday for employees which provides the flexibility for employees to use on a day of their choice that has a special meaning to them.
- Revisions to Paid Parental Leave Policy – This policy was approved in 2023 and grants six weeks of paid leave for individuals who have had the birth, adoption or fostering of a child. The policy required employees to be employed for a period of one year in order to be eligible. The revised recommendation would provide a prorated leave amount for those with less than one year of service (but at least 30 days of employment) in incremental weeks.

- 30 days to 6 months = 2 weeks of paid parental leave
- 6 months to one year = 4 weeks of paid parental leave
- 1 year or more = 6 weeks of paid parental leave

Ms. Craig noted that in addition to these policy recommendations, there are some other HR-related items in the proposed budget. The recommended budget includes a cost-of-living increase of 3.25% for all employees. We are also recommending a change to part-time Firefighter wages with a minimum hourly rate of \$16.40 and this will be the final step in getting those employees to a living wage. The final piece included in the budget is taking the 401K for general employees from a 3% match to a 401K contribution of 4% for all general employees.

**I-2. FY2025 Recommended Budget Presentation, FY2024 Supplemental Spending Plan, and Set Date for Public Hearing** – Mr. Hooper presented his Recommended FY 2024-2025 Annual Budget to Council (copy on file in the Clerk's Office). A copy of Mr. Hooper's PowerPoint presentation is attached.

The City of Brevard FY24-25 Recommended Budget is \$26,538,255. Mr. Hooper noted that the budget maintains or enhances service levels in all departments. Our three big revenue sources – property tax, sales tax, and interest income- have grown slightly but not by a lot. All their growth is basically automatically swallowed up by growth in the costs of providing services. To make the budget work we need new or enhanced revenue. Therefore he is recommending the following:

- Revised solid waste/sanitation fees to recover more of the costs of providing the service. Because the sanitation fund is a money loser, it is recommended that sanitation be brought back under the General Fund, rather than a standalone enterprise.
  - Proposing a \$1/month increase to residential and small commercial collection fees
  - Proposing a more significant increase in commercial dumpster fees from \$20/month to \$100/month
- Two-cent tax increase to fund three new full time firefighters to enable the department to have at least two full-time firefighters on every shift;
- A new "stormwater fee" to support maintenance and enhancement of our stormwater conveyance system. Mr. Hooper offered a number of tiered fee options for Council's consideration, with his recommendation being \$4/month for properties with an impervious area under 7,000 sq. ft; \$15/month for 7,001 to 250,000 sq. ft. of impervious area; and \$150/month for over 250,000 sq. ft.
- A High Strength Waste Surcharge on utility customers whose wastes have higher levels of Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS) that burden our treatment processes. Rates will be based on how much TSS and BOD each customer produces to offset the extra costs to treat high strength waste. There will be an appeal procedure for those who believe they produce less TSS and BOD than their assigned category.
- Regular 4% increase in the per/1000 gallons utility rate to start saving for our upcoming capital projects.

Mr. Hooper reviewed the balances of the City's six largest reserve funds. He is recommending an FY24 Supplementary Spending Plan that would use some of the existing dollars in these funds to pay for some important projects without burdening the FY25 budget. The Multi-Use Path Fund and the Downtown Master Plan Fund will both be endowed with \$25,000 from the operating budget.

Mr. Hooper then reviewed examples of the cumulative impact of the various proposed tax rate and fee increases on taxpayers/ratepayers.

Mr. Hooper noted if Council has any recommended changes, Staff will publish those as an addendum to the Recommended Budget so that they can be part of Council's menu of choices in preparation of the vote on June 3<sup>rd</sup>.

~~ At 7:09 PM Mayor Copelof called for a ten-minute break ~~

#### Council Discussion/Questions:

Mr. Daniel said I have some concerns about the budget. I am happy that a lot of the increases in this budget are in support of our staff. I feel that some of the cuts that have been made don't necessarily reflect the will of the Council or of our citizens. I think that some of these expenses that we have incurred, such as the Police move to Commerce Street, has changed our budget more than I personally expected it to. I understand why we did that, but at the same time I think we could divert some of the money we are spending. Instead of getting two police cars, perhaps we could get one and put that money back into the Estabrook Trail Multi-Use Fund. I think there is also, looking at Page 80, I was wondering where on this is the Recreation Fund Item 1500 M&R Buildings is increasing by \$15,000. I am trying to look at some of these items. Downtown planters is \$20,400 and if we're in a budget crunch, do we need to be spending that kind of money on planters? I think there are some ways to trim things that aren't quite as important to our infrastructure and ongoing business of running the city that would allow us to meet some of the needs that I feel like we have.

Mr. Baker said I think tackling stormwater and the issue of high strength waste are complicated issues and I commend Staff for their efforts in those two areas of the budget and trying to introduce those ideas for the City going forward, but do so with an eye towards fairness. One big concern that I have is the particular impact on a business like Classic Laundry and I wonder if there is a provision we can make to give them some extra time to assess whether they are going to take the step of proving that their wastewater might not be as high-strength as we think it is, and if there is some sort of pre-treatment that they are going to enact in order to lower where they sit in the tiers, that we give them some extra time to implement that pre-treatment. There are two main areas where my concerns lie. I'll start with the issue at the Fire Department. Like it or not, we're in a partnership with the County on this and it makes sense for local governments to be able to partner on things like this. The subtext to all of this is frankly the County's reputation and how they handle their budgets versus how we handle our budgets. It is important to call that out when we're talking about increasing our services, but it is not just the services for the city's taxpayers; there are county taxpayers who will benefit from this increase in services as well. I'm struck by a couple of things that were said. I believe that the medical response addition was a County requirement and that represents a huge increase in the number of calls that our Department is responding to and the County required us to make that change. Where we're down to here is that we're signing on for a tax increase for our city residents in order to boost services for not just them, but also the county. I don't dispute the need, but I think the timing of this should be considered. As it is, I'm not comfortable with moving forward with this budget and this tax increase and this increase in services in the Fire Department before we talk to our partner and really understand the impact long-term. If we pay for these three full-time positions in the Fire Department 100% from the City's budget, which right now it is 45/55, the County is not going to show up in three years and say "you know those three firefighters you paid for three years ago, we would love to pay for 45% of their salaries now". This is a decision that we are making for a long time, I would argue forever. So before we do that, I think we need to take a look at that contract, and this may be a year-long process, and negotiate that for the long-term and talk about things like the medical response requirement and the impact that has had on our call volume. If we are truly in a partnership with the County, they should be understanding of that impact and where we would like to see the department go and the services that it might provide for county residents going forward. The second concern I have is some of the major priorities that this Council and

previous Councils have set in the past. I'm going to talk about housing and the multi-use path. Last year was the very first year that we assigned funds for housing in any meaningful way and that was two cents or \$264,000 a year. While this budget assigns \$198,000 this year, I'm struck by the fact that we're in our second year of addressing housing and we are already taking a step back from the funding that we're allocating towards it. I don't think anybody would argue that the problem with housing has gotten better in the last year and I also don't think that anybody on this Council would agree that it is a lower priority than it was last year. We're also in the very middle of a real tangible promising project with our partners at DFI. So, the idea of taking a step back in our support for housing is something that I personally just cannot stomach in this budget. In my mind this is not the year to take a step back from our financial support for the Estatoe Trail. Yes, the Ecusta Trail is a transformative project, but that is almost entirely funded by two very large federal grants. We get a reputation sometimes for doing things only for tourists, which is completely unfair and false, but if we're truly embarking on the Ecusta Trail project as a project not just for our visitors, but for our citizens, then the Estatoe Trail, the City's trail network, is the key to providing access to the Ecusta Trail to our citizens. To reduce our funding from the Multi-Use Path Fund from one cent of the tax rate at \$132,000 down to \$25,000 a year is something that I don't think is in our strategic best interest given the projects that we have going on, and frankly I think it is contrary to the will of many, many Councils' opinions before us. The resolution that was passed in 2018 that we would finish the multi-use path in three years was certainly ambitious and we have missed that goal, but I maintain that we should continue along the path of completing that for our citizens in time for them to enjoy the Ecusta Trail once it is built. I agree with Councilman Daniel that there is another subtext to the budget which is that the increase in expenditures that we're experiencing is in large part in the Police Department and the move to Commerce Street is about a quarter-million dollars a year in increased expense. I don't think any of us are arguing whether that was important or not, or whether we support it, I think we absolutely do, but I think we do need to find a way to balance out the priorities of the Council that have existed for sometimes over 20 years in the case of the Estatoe Trail, and some of these new issues that we need to deal with. Sometimes there does need to be a give and a take between departments within the city and projects that we have, and given how much money we are dedicating to supporting the employees in the Police Department now, if there are ways that we can offset that or put off the purchase of the patrol cars in order to fund the priorities that have been around for a long time, then I think I would be supportive of that.

Mr. Wise said I think there has been a lot of great progress towards the goals we talked about during our budget retreat, but I also have some concerns and we have heard most of them tonight already from our previous two councilmembers. I'll take it a little bit further with the Fire Department. I do not believe we are in a partnership with the County with this current agreement. A 62/38 split for the amount of services we're providing and then being burdened with additional services is not a fair or equitable relationship between the two of us. I don't know the terms of the contract - if there is a term limit on that contract or if there is a renegotiation option on that contract. We had talked about that briefly in some other meetings, but we haven't really delved into it and I share the concern that we need to protect our citizens in Brevard and we keep adding services that benefit citizens outside of the city and it will not stop until we can get a contract that I think is equitable. So I do have a lot of concerns with that and it is not in any way arguing with what our Fire Department needs; it is how do we work with the County to get this equitable. The second piece is aligned with what Mr. Baker said. I feel like there is a history in the city of what we're hearing from citizens and what's important and I feel like not funding these paths...it is easy to look at these from the outside and say it's just a path. I have tried to say for a couple years that these are huge engines for our economy and they are critical for bringing people into our community and establishing local businesses in our community. We have now had almost a 20-year history of saying we're going to do it and we haven't gotten it done. I think we have to find a way to move forward with this and continue the funding. Last year I wasn't on the Council, but we kind of made a pledge to do that. It is tough to say, but I also agree that we have had some additional expenses for our Police this year and I think they are very valid, necessary and needed



and I do wonder if there is a compromise there with looking at these police vehicles, or at least one, and it kind of raises a question about, I know that these vehicles are on a rotation schedule and since we know they are going to be replaced, is there a way to get that into a budget request instead of a supplemental request. Because I would love to see if there is a way we could remove one of those cars this year and take some of those funds to help fund the trails. To me I think it is really important to honor these pledges we're hearing from our community. In a perfect world, I would say we need to honor the one penny we said we would do. I don't know if we can actually do that, but I am also worried we are going to lose sight of that in the future. Otherwise, I will say the moves we have done towards high concentrated waste and sewer and water, I think are absolutely important and imperative. We are looking at some major infrastructure improvements with wastewater treatment coming up and I am really glad we're starting to get our eye to the future on that because those are massive capital improvement projects and it is inevitable. As far as I understand it, we have not reached a good agreement to do any kind of regionalization so we are on our own out here. I think we also honored our non-profits this year and that was tough. I really appreciate us working together to make that happen. That's kudos, but I think we still have some hard work ahead of us as well.

Ms. Holder said I am struggling with raising taxes, garbage increase, utility increase, and stormwater increase. That is four areas of increases. At the same time, when we go to the store there are increases there; when we go to the grocery store, when we go to restaurants, Duke Power is going up and many of us are still dealing with the same income. If everything is increasing except our income, in many cases it is difficult to swallow and so if we have somewhere to trim I would like to see a trim to some of these areas that would help all of our citizens and maybe not increase in some area this year. I don't know if it has been done or not, but I agree with what has been said about working with the County or not having that partnership as we should financially. What would a feasibility study look like for us if we did not get two cars this year and just got one, how would that look? With that said, especially looking at the Fire Department, if we didn't have the additional staff that we need, I would hate to be that third person who gave the call. I understand the importance of adding additional personnel, I am just struggling with all of these four increases. I said that in the budget meeting and I'm just repeating it again. I would like to see more done to see where we can trim and let that trim fall upon the public rather than increasing four areas, maybe increase three areas that we are looking at proposing increases.

Mr. Morrow said the budget was presented really well and we understand the issues. In my view the high strength waste thing was long overdue. My sense is that we've got three months to figure out the laundries and the other folks. I agree with the additional firefighters and support whatever we need to do with Police and Fire over the Estatoe Trail in the sense that we are going to spend this year way more than our one cent allocation to the trail with the grants and the NCDOT and the carbon credits and all that. I'll have to defend the fact that the 3-year resolution was all predicated on if we got a grant, well we didn't get the grant. We have lived off of grants and we're talking about do we really want to go spend our tax money to extend a trail when it is in the DOT project and we're going to get DOT to pay for it? We've got ten projects out there that are likely to be funded in the future. He asked Aaron Bland when we would know if we are going to get any of that money. Mr. Bland said the scores will come back this summer. Mr. Morrow said so within this year we are going to know and that's how we have been able to do it without putting the burden on the taxpayer, we have relied on grants and projects like the carbon.

Mr. Hooper said we will publish the edits proposed by Council as an addendum to his Recommended Budget and at the public hearing, we will ask folks to share their thoughts on both possibilities. Mr. Morrow moved, seconded by Ms. Holder to hold the public hearing on the FY2025 Recommended Budget on May 20, 2024. The motion carried unanimously.

## **J. Public Hearing(s)**

**J-1. Proposed Amendment to City of Brevard Unified Development Ordinance, Chapter 15 – Board Roles** – Aaron Bland explained that this is a staff-initiated text amendment to Chapter 15 of the UDO. Chapter 15 details the authorities and responsibilities for the City’s Planning Board and Board of Adjustment. Chapter 160D of the NC General Statutes outlines specifically the responsibilities and duties that the Planning Board and the Board of Adjustment must do and others that they may do. This chapter was revised after 160D was initially adopted to update the different statutory references, but we did not do a specific review of those roles and responsibilities at the time. This text amendment would do just that, bringing these listed roles of the two boards into compliance with the new general statutes that cover land use law in North Carolina. This amendment does four things to that regard:

1. Eliminate anything listed that is not expressly authorized in the statutes
2. Ensure and make clear each board's required duties and responsibilities
3. List the optional responsibilities that each board actually engages in
4. Amend the makeup of the Planning Board city/ETJ membership for better proportional representation

North Carolina General Statutes state that the ETJ must have "proportional representation based on population for residents of the extraterritorial area" on city boards such as the BPB and BOA (GS § 160D-307). This proportionality is to be reviewed and adjusted following each decennial census; this has not yet been done following the 2020 census. The 2020 population of the city was found to be 7,818, and the population within the ETJ is estimated to be 3,129, which results in a city-to-ETJ ratio of 2.5. This ratio of 2.5 is the goal for the proportional representation on the BPB and BOA. The current makeup of the BOA is 3 city and 2 ETJ members\* which equals a ratio of 1.5. Changing the makeup of the BOA would result in the ratio becoming further from the goal of 2.5, so no change is recommended for the BOA. The Planning Board, however, can improve its proportionality. The current makeup of 4 city and 3 ETJ members equals a ratio of 1.33. Changing the makeup to 5 city and 2 ETJ equals the ideal 2.5 ratio. Therefore, it is recommended that one of the ETJ members be switched to a city member. The Planning Board has discussed these amendments at their February and March meetings, and recommended in favor and submitted a statement of consistency.

Mayor Copelof opened the public hearing at 7:57 p.m.

Public Hearing Public Participation – None.

Public Hearing Closed – Mayor Copelof closed the hearing at 7:57 p.m.

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

### **K-1. Proclamation No. 2024-07 National Day of Prayer**

#### **Proclamation No. 2024-07 National Day of Prayer**

**WHEREAS**, a National Day of Prayer has been part of our heritage since it was declared by the First Continental Congress in 1775, and the United States Congress in 1952 approved a Joint Resolution setting aside a day each year to pray in our nation; and

**WHEREAS**, the United States Congress, by Public Law 100-307, in 1988, as amended, affirms that it is essential for us as a nation to pray and directs the President of the United States to set aside and proclaim the first Thursday of May, annually, as a National Day of Prayer to be celebrated by all faiths and religions; and

**WHEREAS**, a National Day of Prayer is an occasion for each of us to pause in our normal daily routine and come together as one community giving thanks for all that we enjoy as Americans and as residents of Brevard, including our treasured freedom to practice religion as we choose; and

**WHEREAS**, regardless of one’s faith tradition, prayer helps remind us of our humanity and helps connect all of us to the greater community, nation and world in which we all share; and

**WHEREAS**, on this National Day of Prayer I encourage all members of our community to pray, reflect or meditate in a manner most appropriate to their own religious or spiritual beliefs.

**NOW, THEREFORE**, I, Maureen Copelof, Mayor of The City of Brevard, North Carolina do hereby proclaim May 2, 2024, as a Day of Prayer throughout the City of Brevard, NC and encourage all members of our Brevard community to join in thankfulness, prayer and reflection for:

Our nation and other nations especially for all those who battle for freedom throughout the world including our brave men and women in uniform;

For those who help keep us safe here at home – our Law Enforcement, Fire Department and EMS personnel;

For those entrusted with the care and education of our children – our parents, our teachers and child care workers;

For our youth who are still recovering from the effects of the pandemic;

For our most vulnerable neighbors and for all who are struggling and need compassion and assistance;

For our leaders, so that they have the strength to meet the challenges we face today and tomorrow and the wisdom to know what to do and the commitment to do what is right; and

For our nation and the diversity that makes us strong; may we treat everyone with respect and come together in unity as Americans.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed this 2nd day of May, 2024.

s/ Maureen Copelof  
Mayor

## **K-2. Proclamation No. 2024-11 National Bike Month**

### **PROCLAMATION NO. 2024-11 NATIONAL BIKE MONTH**

**WHEREAS**, the bicycle is an economical, healthy, convenient, viable, and environmentally sound form of transportation and an excellent form of recreation and enjoyment of Brevard and Transylvania County’s scenic beauty; and

**WHEREAS**, Brevard and Transylvania County trails and roads attract bicyclists each year from across the country and the world; and

**WHEREAS**, Brevard hosts several major cycling races and events, including the Assault on the Carolinas, the WNC Flyer, and the Pisgah Stage Race; and

**WHEREAS**, these bicycling activities and attractions have great potential to have a positive impact on Brevard’s economy and tourism industry, as well as to stimulate economic development by making the city attractive to businesses and citizens who enjoy the out of doors and healthy lifestyles; and

**WHEREAS**, creating bicycle-friendly communities has been shown to improve citizens’ health, well-being, and quality of life, to boost community spirit, to improve traffic safety, and to reduce pollution and congestion; and

**WHEREAS**, May has been declared National Bike Month since 1956 and is so again in 2024; and

**WHEREAS**, the League of American Bicyclists, bicycle clubs, schools, parks and recreation departments, police departments, hospitals, companies, and civic groups throughout North Carolina will be promoting bicycling as a leisure activity as well as an environmentally-friendly alternative to the automobile during the month of May 2024; and

**WHEREAS**, the education of bicyclists and motorists as to the proper and safe operation of bicycles is important to ensure the safety and comfort of all users; and

**WHEREAS**, the City of Brevard Comprehensive Plan includes several objectives and policies aimed at improving cycling as both a form of recreation and transportation.

**NOW, THEREFORE**, I, Mayor Maureen Copelof and the Brevard City Council do hereby proclaim and recognize the month of May 2024 as National Bike Month and Bicycle Safety Month.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed this 6th day of May, 2024.

s/Maureen Copelof  
Mayor

**K-3. Proclamation No. 2024-12 Public Service Recognition Week**

**PROCLAMATION NO. 2024-12  
PUBLIC SERVICE RECOGNITION WEEK  
May 5-11, 2024**

**WHEREAS**, Americans are served every single day by public servants at the federal, state, county and municipal levels. These unsung heroes do the work that keeps our nation working; and

**WHEREAS**, public employees take not only jobs, but oaths; and

**WHEREAS**, many public servants, including military personnel, police officers, firefighters, border patrol officers, embassy employees, health care professionals and others, risk their lives each day in service to the people of the United States and around the world; and

**WHEREAS**, public servants include teachers, doctors and nurses, scientists, social workers, train conductors and astronauts, safety inspectors, laborers, computer technicians, and countless other occupations. Day in and day out they provide the diverse services demanded by the American people of their government with efficiency and integrity; and

**WHEREAS**, without these public servants at every level, continuity would be impossible in a democracy that regularly changes its leaders and elected officials.

**NOW THEREFORE**, I, Maureen Copelof, Mayor of the City of Brevard, do hereby announce and proclaim to all citizens, that May 5-11, 2024 is Public Service Recognition Week in Brevard, North Carolina. All citizens are encouraged to recognize the accomplishments and contributions of government employees at all levels – federal, state, county and municipal.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed on this 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**K-4. Tax Settlement Report – March, 2024**

**K-5. Budget Amendment for Estatoe Trail Project**

**ORDINANCE NO. 2024-09**

**CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE  
NO. 2022-22, ESTATOE TRAIL PROJECT**

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

**Section 1:** The budgeted expenditures and revenues listed under the original ordinance 2022-22, and the amended ordinance 2022-51 will be decreased by \$575,000, as the State ARPA grant (SRP-SW-ARP-0009) is now being utilized for stormwater improvements in the Times Arcade Alley

**Section 2:** The Estatoe Trail Project is a multi-use path which weaves through large portions of the City and allows citizens and visitors to safely enjoy the beauty of the area without using a motorized vehicle.

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

| Account Number                     | Account Name          | Budget Amount    |
|------------------------------------|-----------------------|------------------|
| 78-6300-4400                       | Estatoe Trail Project | \$1,537,600      |
| 78-6300-4400                       | Estatoe Trail Project | (\$575,000)      |
| <b>TOTAL PROJECT APPROPRIATION</b> |                       | <b>\$962,600</b> |

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

| Account Number               | Account Name                    | Budget Amount      |
|------------------------------|---------------------------------|--------------------|
| 78-3990-0000                 | Fund Balance                    | \$395,000          |
| 78-3345-0400                 | PARTF Grant                     | \$80,300           |
| 78-3900-0200                 | Contribution from TC Tourism    | \$46,700           |
| 78-3345-0200                 | OSBM Capital Grant              | \$125,000          |
| 78-3350-0220                 | Transfer from ARPA – Brevard HS | \$315,600          |
| 78-3345-0300                 | ARPA Stormwater Grant           | \$575,000          |
| <b>78-3345-0300</b>          | <b>ARPA Stormwater Grant</b>    | <b>(\$575,000)</b> |
| <b>TOTAL PROJECT REVENUE</b> |                                 | <b>\$962,600</b>   |

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

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

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

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

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

**ADOPTED** by the City Council of the City of Brevard, North Carolina, on this 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**ORDINANCE NO. 2024-10**

**CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE  
NO. 2022-22, ESTATOE TRAIL PROJECT**

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

**Section 1:** The budgeted expenditures and revenues listed under the original ordinance 2022-22, and the amended ordinance 2022-51 will be increased from \$962,600 to \$1,094,600. This increase will allow the City to complete the section of the trail from the Mary C. Jenkins Community Center to the Community Garden.

Funding will come from the Carbon Reduction Grant received in September of 2023. Grant funding is \$528,000 and the City will contribute a 20% match of \$132,000. The grant was initiated by the City Planning Department with assistance from the Land of Sky Regional Council. The City Council previously approved Resolution 2023-07 in January of 2023 in support of the Carbon Reduction Program

**Section 2:** This Grant is expected to complete the portion of the Estatoe Trail between the Mary C Jenkins Community Center and the Community Garden. The City is only budgeting the 20% match (\$132,000), but the cost of the trail in this section is expected to be approximately \$660,000.

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

| Account Number                     | Account Name                 | Budget Amount      |
|------------------------------------|------------------------------|--------------------|
| 78-6300-4400                       | Estatoe Trail Project        | \$962,600          |
| <b>78-6300-4400</b>                | <b>Estatoe Trail Project</b> | <b>\$132,000</b>   |
| <b>TOTAL PROJECT APPROPRIATION</b> |                              | <b>\$1,094,600</b> |

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

| Account Number               | Account Name                    | Budget Amount      |
|------------------------------|---------------------------------|--------------------|
| 78-3990-0000                 | Fund Balance                    | \$395,000          |
| 78-3345-0400                 | PARTF Grant                     | \$80,300           |
| 78-3900-0200                 | Contribution from TC Tourism    | \$46,700           |
| 78-3345-0200                 | OSBM Capital Grant              | \$125,000          |
| 78-3350-0220                 | Transfer from ARPA – Brevard HS | \$315,600          |
| <b>78-3990-0000</b>          | <b>Fund Balance</b>             | <b>\$132,000</b>   |
| <b>TOTAL PROJECT REVENUE</b> |                                 | <b>\$1,094,600</b> |

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

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

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

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

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

**ADOPTED** by the City Council of the City of Brevard, North Carolina, on this 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**K-6. Budget Amendment – Heart of Brevard**

**ORDINANCE NO. 2024-11**  
**AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.**  
**BUDGET AMENDMENT NUMBER 24-05**

**SUBJECT:** Budget Amendment to increase revenues and expenditures in the Heart of Brevard Fund.

**AGENDA INFORMATION**

|                         |                                                                 |
|-------------------------|-----------------------------------------------------------------|
| <b>Agenda Location:</b> | <b>Consent</b>                                                  |
| <b>Department:</b>      | <b>Finance</b>                                                  |
| <b>Contact:</b>         | <b>Dean Luebbe, Assistant City Manager and Finance Director</b> |

**BRIEF SUMMARY:** The City bills and collects 21.3 cents per \$100 of value for properties located within the Heart of Brevard Municipal Service District. The majority (\$150,000) of the funds collected involve real property, but approximately \$20,000 involve personal property and late fees and delinquent years payments. The Finance Director neglected to account for these smaller amounts in the original FY23-24 budget. This budget amendment has no impact on fund balance, as 100% of these collections are passed on to the Heart of Brevard.

**MOTION FOR CONSIDERATION:** To approve Budget Amendment 24-05 as submitted, increasing the budget in expenditure account:

|                                    |          |
|------------------------------------|----------|
| 70-6900-4500 (Contracted Services) | \$20,000 |
|------------------------------------|----------|

And increasing the budget in the revenue account:

|                                            |          |
|--------------------------------------------|----------|
| 70-3970-0023 (Heart of Brevard Ad Val Tax) | \$20,000 |
|--------------------------------------------|----------|

**ATTACHMENTS:** None

**MANAGER’S RECOMMENDATION:** Adopt as presented

Approved and adopted this 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**K-7. Finance Report at 3-31-2024**

**K-8. Debt Financing – Fire Truck**

**RESOLUTION NO. 2023-14  
A RESOLUTION APPROVING FINANCING TERMS**

**WHEREAS:** The City of Brevard (“City”) has previously determined to undertake a project for purchasing capital equipment (the “Project”) costing \$850,000 and the Finance Officer has now presented a proposal for the financing of such Project as listed below:

| DEPARTMENT | EQUIPMENT                        |
|------------|----------------------------------|
| FIRE FUND  | One four-wheel drive fire engine |
|            |                                  |
|            |                                  |

**BE IT THEREFORE RESOLVED, as follows:**

1. The City hereby determines to finance the Project through First Citizens Bank Inc., accordance with the proposal dated March 29, 2024. The amount financed shall not exceed \$850,000 for a fifty-nine-month loan, the annual interest rate (in the absence of default or change in tax status) shall not exceed 4.33%, and the financing term shall not exceed fifty-nine months from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document’s final form.
4. The City shall not take or omit to take any action, the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The City intends that the adoption of this resolution will be a declaration of the City’s official intent to reimburse expenditures for the project that is to be financed from the proceeds of the United Community Bank Inc. financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City’s sanitation or fire fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted and approved this 6<sup>th</sup> day of May 2024.

s/ Maureen Copelof  
Mayor

**K-9. Conveyance of Property – Fire Department**

**RESOLUTION NO. 2024-15**  
**RESOLUTION APPROVING CONVEYANCE OF PROPERTY TO**  
**ANOTHER UNIT OF GOVERNMENT IN NORTH CAROLINA**  
**PURSUANT TO G.S. 160A-274**

**WHEREAS**, the City of Brevard owns a 1995 4-wheel drive engine manufactured by International/4 Guys (vin # 1HTSEAR3SH216638) and,

**WHEREAS**, North Carolina General Statute § 160A-274 authorizes a governmental unit in this state to exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property upon such terms and conditions as the governmental unit deems wise, with or without consideration; and

**WHEREAS**, the City of Brevard has determined that it is in the best interest of the City to convey the International/4 Guys Pumper to the Etowah-Horse Shoe Volunteer Fire and Rescue Department, and deems it wise to do so for a sales price of \$75,000.

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

**Section 1.** The City of Brevard hereby conveys to Etowah-Horse Shoe Volunteer Fire and Rescue Department the following property: a 1995 4-wheel drive engine manufactured by International/4 Guys (vin # 1HTSEAR3SH216638)

**Section 2.** The property herein described shall be conveyed for a sales price of \$75,000.

**Section 3.** The City Manager is authorized to execute all documents necessary to convey the property in the manner authorized by this Resolution.

Approved and adopted this the 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**RESOLUTION NO. 2024-16**  
**RESOLUTION APPROVING CONVEYANCE OF PROPERTY TO**  
**ANOTHER UNIT OF GOVERNMENT IN NORTH CAROLINA**  
**PURSUANT TO G.S. 160A-274**

**WHEREAS**, the City of Brevard owns a 1997 heavy rescue fire truck manufactured by International/Hackney (vin # 1HTSDAAN1VH448305); and

**WHEREAS**, North Carolina General Statute § 160A-274 authorizes a governmental unit in this state to exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property upon such terms and conditions as the governmental unit deems wise, with or without consideration; and

**WHEREAS**, the City of Brevard has determined that it is in the best interest of the City to convey the 1997 heavy rescue fire vehicle to the Sky Valley-Scaly Mountain Volunteer Fire Rescue Department, and deems it wise to do so for a sales price of \$42,500.

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

**Section 1.** The City of Brevard hereby conveys to the Sky Valley-Scaly Mountain Volunteer Fire Rescue Department the following property:  
1997 heavy rescue fire truck manufactured by International/Hackney  
(vin # 1HTSDAAN1VH448305).

**Section 2.** The property herein described shall be conveyed for a sales price of \$42,500.

**Section 3.** The City Manager is authorized to execute all documents necessary to convey the property in the manner authorized by this Resolution.



Approved and adopted this the 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**K-10. Funding Offer Acceptance – Sewer Pump Station**

**RESOLUTION NO. 2024-17  
BY THE CITY COUNCIL OF THE CITY OF BREVARD  
ACCEPTING AMERICAN RESCUE PLAN FUNDS**

**WHEREAS**, the City of Brevard has received funding from the American Rescue Plan Act (ARPA) funded from the State Fiscal Recovery Fund established in S.L. 2021-180/2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

**WHEREAS**, the North Carolina Department of Environmental Quality has offered American Rescue Plan Act (ARPA) funding in the amount of \$2,873,000 to perform work detailed in the submitted application related to Sewer Pump Station Improvements, and

**WHEREAS**, the City of Brevard intends to perform said project in accordance with the agreed scope of work,

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

- 1) That the City of Brevard does hereby accept the American Rescue Plan Act Grant offer of \$2,873,000.
- 2) That the City of Brevard does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
- 3) That Dean Luebbe, Assistant City Manager and Finance Director, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted and approved this the 6th day of May, 2024.

s/ Maureen Copelof  
Mayor

**K-11. Ordinance Declaring Road Closures for Special Event – White Squirrel Weekend**

**ORDINANCE NO. 2024-12  
AN ORDINANCE DECLARING STREET CLOSURES  
FOR THE 2024 WHITE SQUIRREL FESTIVAL WEEKEND**

**WHEREAS**, Brevard City Council acknowledges a tradition of providing for festivals and special events downtown for the pleasure and enjoyment of citizens and visitors alike; and,

**WHEREAS**, Brevard City Council acknowledges that festivals and special events provide an opportunity for family-oriented activities that celebrate our small-town charm; and,

**WHEREAS**, Brevard City Council acknowledges these events require NCDOT system roads to be closed for setup, activities, and cleanup; and,

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

**SECTION 1.** Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closures on the following described portions of the State Highway System:

Friday, May 24<sup>th</sup> starting at 4:00 PM until Sunday, May 26<sup>th</sup> at 9:00 PM  
Main Street (US 276) between Rice Street and Oaklawn Avenue.  
Broad Street (US 64) between Probart Street and Oakdale Street.

Monday, May 27<sup>th</sup> until 2:00 PM  
Main Street (US 276) between Rice Street and Broad Street.

**SECTION 2.** This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 6<sup>th</sup> day of May 2024.

## **K-12. Resolution re Clemson Plaza Mental Health Art Installation**

### **RESOLUTION NO. 2024-18 RESOLUTION ADOPTING “HOPE WALL” ART INSTALLATION IN CLEMSON PLAZA AND “TURN TRANSYLVANIA GREEN” AS OFFICIAL GOVERNMENT SPEECH**

**WHEREAS**, the mental health and well-being of our community members, especially our youth, are paramount to the vitality and resilience of Transylvania County, the City of Brevard, and the Town of Rosman; and

**WHEREAS**, recent tragic events, including student suicides, have underscored the urgent need for increased awareness, support, and action to address mental health challenges in our community; and

**WHEREAS**, mental health is an integral component of overall health and wellness, and access to comprehensive mental health resources and support services is essential for all individuals to thrive; and

**WHEREAS**, stigma and discrimination surrounding mental health concerns often prevent individuals from seeking the help and support they need, perpetuating cycles of suffering and isolation; and

**WHEREAS**, by coming together as a community, we can break down barriers, foster empathy, and create a culture of understanding, compassion, and acceptance for those experiencing mental health challenges; and

**WHEREAS**, May is recognized nationally as Mental Health Awareness Month, providing an opportunity to raise awareness, combat stigma, and promote mental health resources;

**WHEREAS**, an art installation in Clemson Plaza will display messages of hope

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

**Section 1.** The month of May is proclaimed as Mental Health Month and we call upon all residents to join us in our commitment to prioritize mental health and well-being for ourselves, our families, and our community.

We urge individuals to:

- Educate themselves and others about mental health and the importance of seeking help when needed.
- Foster supportive and inclusive environments where individuals feel safe to share their experiences and seek support without fear of judgment or stigma.
- Advocate for policies and initiatives that promote mental health awareness, access to care, and suicide prevention efforts.
- Encourage open and honest conversations about mental health, reducing the silence and shame that often surrounds these issues.
- Access available mental health resources and support services and encourage others to do the same.

Together, let us work tirelessly to create a community where mental health is valued, prioritized, and supported, and where every individual feels empowered to live their lives to the fullest.

**Section 2.** The Brevard City Council adopts the “Hope Wall” art installation in Clemson Plaza and “Turn Transylvania Green” as official government speech.

**Section 3.** This resolution shall be effective upon adoption.

Adopted and approved this the 6th day of May, 2024.

s/Maureen Copelof  
Mayor

**K-13. City Council Public Works & Utilities Committee Minutes – January 3, 2024**

**K-14. City Council Rosenwald Community Advisory Board Minutes – January 11, 2024**

**K-15. City Council Public Safety Committee Minutes – January 22, 2024**

**K-16. City Council Housing Committee Minutes – February 13, 2024**

**K-17. City Council Downtown Master Plan Committee Minutes – February 14, 2024**

**K-18. City Council Rosenwald Community Advisory Board Minutes – February 15, 2024**

**K-19. City Council Finance, Human Resources & Citizen Appointment Committee Minutes – February 26, 2024**

**K-20. City Council Public Safety Committee Minutes – February 26, 2024**

**K-21. City Council Public Works & Utilities Committee Minutes – March 6, 2024**

**K-22. City Council Public Works & Utilities Committee Special Meeting Minutes – March 13, 2024**

**K-23. City Council Parks, Trails, Recreation Committee Minutes – March 20, 2024**

**K-24. City Council Finance, Human Resources, and Citizen Appointment Committee Minutes – March 25, 2024**

**K-25. City Council Public Safety Committee Minutes – April 2, 2024**

**K-26. City Council Public Works & Utilities Committee Minutes – April 3, 2024**

**L. Unfinished Business – None.**

**M. New Business – None.**

**N. Remarks/Future Agenda Considerations.**

Mr. Wise said I am not going to be neutral or impartial, Denise is amazing. Thank you for all the work you do. I know you have to maintain that role, but I do not. Thank you all for helping us through the budget stuff. This budget process is really amazing to go through and daunting, so I want to thank all my fellow Council Members and the Mayor, Wilson and all you guys for helping me through that.

Ms. Holder said I want to ditto what Mr. Wise just said to Denise. Thank you so much and congratulations; well deserved. To Wilson, I'll say again thank you so much.

Mr. Morrow said I add my congratulations to Denise for all those things that the Mayor reminded us of.

Mr. Baker said I want to address some comments that a local government official made recently. I am sure if you keep up with the Transylvania Times you know what I'm talking about. I just want to say that we can disagree on policy and in many ways our whole system of government is built so that we do disagree on policy and we have a forum for talking about those disagreements and discussing a way forward. But, things

like racism and hatred and bigotry and discrimination are not something that we should have in our local politics. I think it is worth repeating that when something like what occurred and what was said is said, mostly because we have citizens who might fall into some of the categories that experience racism and bigotry. We are a small community and I can only imagine what that might feel like as a citizen to have someone who is representing you on a very local level repeat some pretty bigoted things. The second thing I want to talk about is another thing that unfortunately comes up a lot nationally, but I have seen recently the topic of misinformation even at a local level. It seems to be running a little bit out of control in our little town of 8,000 people and in our county of 34,000 people. Again, we're a really close-knit community and there is really no reason why we should have local issues just fraught with misinformation and wildly false things being spread. A lot of times we like to blame social media, but I don't think social media is the source of misinformation, but it certainly does make it easy for all to see that misinformation. It is important for us all to address it when we see it and try to correct that misinformation. Moving on to some positive things, I spent the weekend down in Greer, SC with my son's youth soccer team and a whole bunch of other academy teams from TYSA and it is amazing to go to a tournament like that and interact with other people from other places and be surrounded by people from your own community. I was really struck by the positivity and the warmth and the spirited competition, but also really the kindness that our group from here in Brevard showed while we were down there. It was in stark contrast to some of the attitudes that we saw from some of the people on our opposing teams. It was heartening to be in another place with a bunch of people from your city and have them representing such a spirited positivity. Shout out to the U-11 Boys who won that tournament. I'm really proud of them for that. Finally, I want to talk about a couple of events coming up – Bike Walk or Roll to School Day is on Wednesday and the Brevard Bike Alliance who we heard from earlier has organized several events at our local schools. They are meeting up at various places within the city, including the City's Sports Complex, the Depot, which I will add is a great trailhead, and the library in order to roll out to school so look for more information on that. Then Bike to Work Day, which I will definitely be participating in is May 17<sup>th</sup>. I did want to say because it got a little bit buried in the Consent Agenda, but May is National Bike Month. On a related note there is a bill which I admittedly don't know as much about as I probably should, but it is House Bill 198 and it is making its way through the State Legislature. It's a reform bill for NCDOT and to a point earlier by Councilman Morrow, there is actually a rule on the books which I was not aware of that the state has prohibited NCDOT funding for projects which are solely focused on pedestrian infrastructure and bicycling infrastructure. So, NCDOT can pay for those things, but only if they are also attached to a project that is improving things for vehicles. House Bill 198 would actually change that, as I understand it, and allow for NCDOT funding for standalone pedestrian projects like a sidewalk or a crossing or even a bike lane or other bicycling infrastructure. I am just learning about this, and I do think in the future I may ask this Council to consider a draft resolution in support of a bill like that or parts of that bill so I will bring that forward once I know more.

Mr. Daniel said I would like to expand on my comments about the budget earlier. I feel like this budget is a reality check for us in a lot of ways. There are a lot of things that we had said we were going to do that we may not be able to do, but we have made promises that we were going to do these things. The things that this budget is doing I think are so important, not only our staff, but also working on our infrastructure and things that have been put on the back burner for a little bit too long, and in the meantime we've been doing these other fun shiny things. Again, they're promises that we made and we may not be able to keep all those promises. I personally can accept that, but I think I personally will work my hardest to keep those promises. I think that is part of what this discussion has been about today as we talked about our reaction to this proposed budget, is working to keep promises that we've made. Another thing I want to address, which I think is being taken up by Public Safety already, but my neighborhood is the Railroad Avenue district and parking there is out of control. I have discussed it with members of the Police Department and with members of the Public Safety and I just want to be on the record that we need to get some signage and take what steps are appropriate there. I am offering my support for that.

Ms. Hodsdon thanked everyone for their kind words and recognition this evening.

Mr. Hooper said at our Public Safety meeting a month ago, some residents of the Cherry Street neighborhood came and asked if there is anything we could do to prohibit transfer trucks from turning into their neighborhood and getting stuck; trucks that were intending to go to Mountain Industrial Drive. To follow up on their request we reached out to the State since Old Hendersonville Hwy is a state road and asked if they could erect some signs on either side of Cherry Street to warn truck drivers not to turn there, and they have done that. I wanted to let Council know that NCDOT has done us a nice favor and hopefully the residents won't have some 18-wheeler stuck on the bridge anymore.

Mayor Copelof said I want to thank staff for the incredible amount of work that has gone into the budget. Probably the biggest responsibility that we, as both the city staff and as elected officials, have each year is to come up with that balanced budget. Unlike the federal government, we cannot have an unbalanced budget. Our revenue and our expenses have to be balanced. It is no easy job and I know staff has worked incredibly hard for months on this, but the last few weeks have been a real marathon. Thank you everybody for an incredible job. It is a complicated budget and you can see that trying to balance the current operations that we have here in this city and also plan for the future on what we need in terms of new projects, capital expenditures, is no easy job. I also want to encourage the public; this is your budget; this is your money; this is your opportunity at the May 20<sup>th</sup> public hearing for us to hear from you about what you think about the proposal that was put in place tonight. As the manager mentioned, there will be an addendum with some other options based on Council's feedback. Please let us know what you think about all of the different proposals and take the time to look at the document. We have put it out in many different forms with different ways to access it, so that you can read the document. The budget is certainly one of the most important and most challenging jobs that we have. I want to remind everybody that tomorrow, I think for the first time, we will be installing a temporary interactive art exhibit at Clemson Plaza in honor of Mental Health Awareness Month and it is called the Hope Wall. It will be up until White Squirrel Weekend and I encourage you to participate and write your messages of hope on that. I think it is a tremendous opportunity for our community to express ourselves and show support for people that maybe are having a hard time and need to be reminded and need to be connected with more hope. We are working on our Age-Friendly Community initiatives and I encourage you to please take our survey. We want to know what you think about how we are doing right now and then what do you think we should be prioritizing and working on to make our community more age-friendly. The survey is available on our website and we have paper copies available. I too have spent a lot of time dealing with misinformation. I will agree with Mr. Baker that there seems to be an absolute plethora of incredibly strange facts being passed around by people. Trying to get accurate information out there is one of my goals and one of my roles as Mayor. The next Meet the Mayor is this Thursday from 11:00 am to 1:00 pm at MCJCC and I have been encouraging people that if you have questions or concerns, or just want to know the actual facts on what is happening, come and ask your elected officials. I hold these every month so there are a lot of ways to get information and we post an incredible amount of information on our website and on our Facebook page. Go to the source and get the real information about what is happening in town. We also have a couple of very big events coming up at the end of this month. White Squirrel Weekend, our 20<sup>th</sup> Anniversary of that event, will be May 24<sup>th</sup> to 26<sup>th</sup>. On Monday, May 27<sup>th</sup> we will have Memorial Day. That is a very special day that lives in my heart for all of my shipmates who did not come back after serving in the military. I urge you to join me at 10:00 on Monday morning to remember those that gave the ultimate sacrifice for us and our democracy.

## **O. Closed Session**

**Closed Session #1** – At 8:20 p.m. Mr. Baker moved, seconded by Mr. Morrow to enter into closed session to discuss an economic development 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, and Transylvania Economic Alliance Executive Director Burton Hodges.

Council Returned to Regular Session – at 9:02 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

**Closed Session #2** – At 9:02 p.m. Mr. Wise moved, seconded by Mr. Morrow to enter into closed session to discuss pending litigation matter City of Brevard vs. Bauslaugh - Case No. 21-CVS-381. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 9:42 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.

**P. Adjourn** – There being no further business, at 9:42 p.m. Ms. Holder moved, seconded by Mr. Baker, to adjourn the meeting. The motion carried unanimously.

\_\_\_\_\_  
Maureen Copelof  
Mayor

\_\_\_\_\_  
Denise Hodsdon, CMC  
City Clerk

Minutes Approved: May 20, 2024



## **City Manager's Recommended FY25 Budget**

**May 6, 2024**

# Presentation Summary

- Statutory and ordinance responsibilities
- Transparency and public hearing
- Budget building process
- Priorities
- Recommended budget
  - General Fund revenue
  - General Fund expenses
  - Fire Fund
  - Stormwater Fund
  - Water/Sewer Fund revenue
  - Water Sewer Fund expenses
- Reserve funds
- FY24 Supplemental Spending Plan
- Impact on taxpayers/ratepayers



## City of Brevard

### RECOMMENDED BUDGET

Fiscal Year  
**2024/2025**





# Statutory and ordinance responsibilities

- Brevard Code of Ordinances Sec. 2-113(5)

City Manager must “prepare and submit the annual budget and capital program to Council.”

- NCGS 159-9

“Each local government...shall appoint a budget officer to serve at the will of the governing board. In cities...having the manager form of government, the city manager shall be the budget officer.”

## The Local Government Budget and Fiscal Control Act.

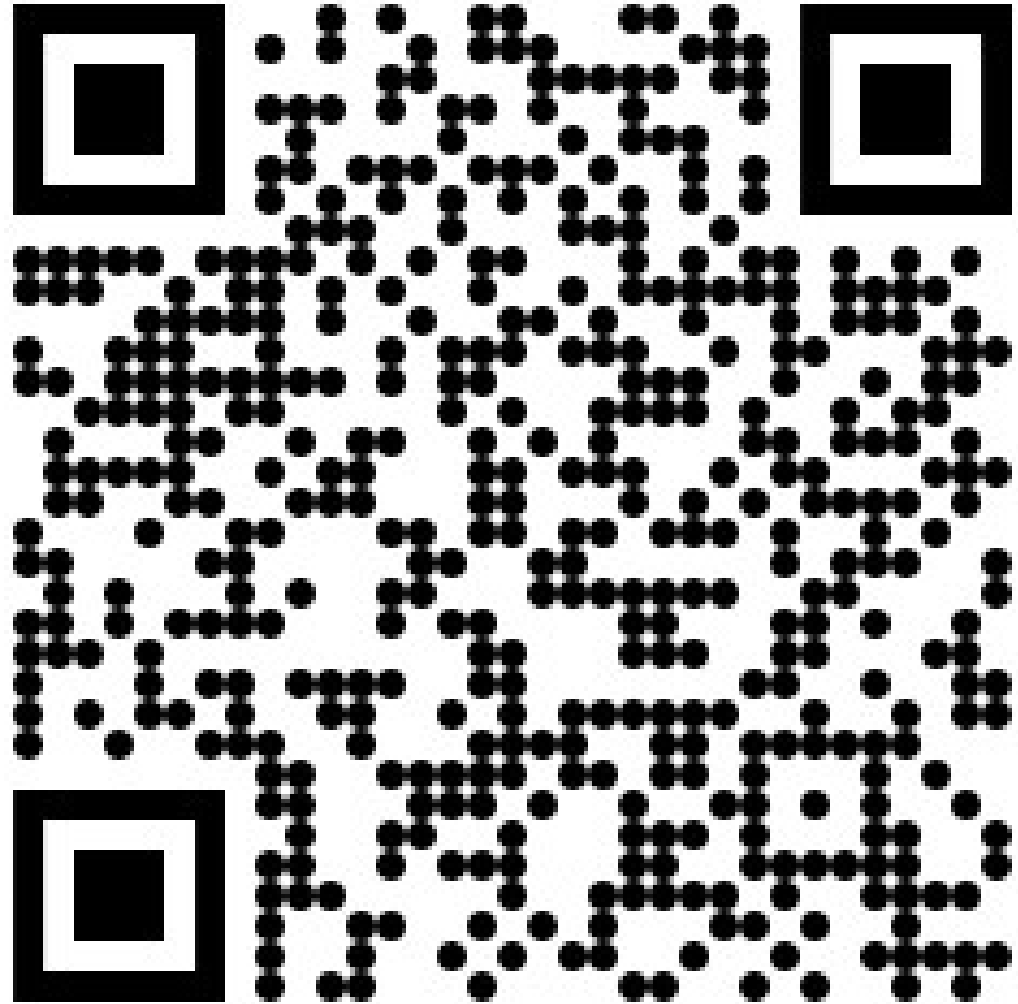
### Part 1. Budgets.

#### § 159-7. Short title; definitions; local acts superseded.

- (a) This Article may be cited as "The Local Government Budget and Fiscal Control Act."
- (b) The words and phrases defined in this section have the meanings indicated when used in this Article, unless the context clearly requires another meaning.
  - (1) "Budget" is a proposed plan for raising and spending money for specified programs, functions, activities or objectives during a fiscal year.
  - (2) "Budget ordinance" is the ordinance that levies taxes and appropriates revenues for specified purposes, functions, activities, or objectives during a fiscal year.
  - (3) "Budget year" is the fiscal year for which a budget is proposed or a budget ordinance is adopted.
  - (4) "Debt service" is the sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year, to maintain sinking funds, and to pay installments on debt instruments issued pursuant to Article 7A of this Chapter or Chapter 159G of the General Statutes accruing within a fiscal year.
  - (5), (6) Repealed by Session Laws 1975, c. 514, s. 2.
  - (7) "Fiscal year" is the annual period for the compilation of fiscal operations, as prescribed in G.S. 159-8(b).
  - (8) "Fund" is a fiscal and accounting entity with a self-balancing set of accounts recording cash and other resources, together with all related liabilities and residual equities or balances, and changes therein, for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.
  - (9) Repealed by Session Laws 1975, c. 514, s. 2.
  - (10) "Public authority" is a municipal corporation (other than a unit of local government) that is not subject to the State Budget Act (Chapter 143C of the General Statutes) or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject to the State Budget Act, and (iii) operates on an area, regional, or multi-unit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
  - (11) Repealed by Session Laws 1975, c. 514, s. 2.
  - (12) "Sinking fund" means a fund held for the retirement of term bonds.
  - (13) "Special district" is a unit of local government (other than a county, city, town, or incorporated village) that is created for the performance of limited governmental functions or for the operation of a particular utility or public service enterprises.
  - (14) "Taxes" do not include special assessments.
  - (15) "Unit," "unit of local government," or "local government" is a municipal corporation that is not subject to the State Budget Act (Chapter 143C of the General Statutes) and that has the power to levy taxes, including a consolidated city-county, as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

## Transparency and public hearing

- The law merely requires that this presentation be filed with the City Clerk and be sent to all news media in the county.
- Brevard will also post prominently on its website, with links on all social media platforms. QR codes linking to the budget document will be posted in prominent places around town.
- Hard copies will be sent to the Public Library for reference.
- If so directed by Council this evening, the Public Hearing will take place two weeks from tonight.
- Mayor/Council appreciate public input on this proposal.



## Budget building process

- Staff begins work in December, collecting data on the base costs of providing services.
- Requests for “new money” submitted in January.
- Revenues come into focus in February.
- Council names priorities in February/March. Staff filters requests through these.
- Council gets first look at numbers in April. Conducts straw votes on spending plan and revenues.
- Manager incorporates Council’s feedback into recommendation presented in May.

### FY25 BUDGET CALENDAR

|                   |                                                                                                                                     |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| December 11, 2023 | Budget Kick-Off                                                                                                                     |
| January 8-12      | Individual Department Kick-Off Meetings w/Wilson, Dean, Alex<br>Send funding letter to non-profits                                  |
| February 2        | Base operating budget, capital needs, and Service Level Change requests (SLCs) due                                                  |
| February 5-16     | Dean/Finance compile expenses and prepare revenue projection                                                                        |
| February 13-28    | Evaluate corporate-wide resource demands (compensation, ins. etc)<br>Wilson/Dean review SLCs<br>Prep for Strategic Planning Retreat |
| February 29       | Strategic Planning Retreat                                                                                                          |
| March 1-29        | Craft first draft budget                                                                                                            |
| April 12          | Budget retreat w/straw votes                                                                                                        |
| April 13-May 2    | Craft recommended budget<br>Produce recommended budget document                                                                     |
| May 6             | Manager presents recommended budget<br>Call for public hearing                                                                      |
| May 20            | Conduct public hearing                                                                                                              |
| June 3            | Approve budget                                                                                                                      |
| June 17           | Relief date if not approved June 3.                                                                                                 |

# Priorities

- Seven goals and twenty Key Strategic Actions set by Council during the February 29 Strategic Planning Session
- Refined at April 1 City Council meeting.
- Affirmed at April 12 Budget Workshop
- The filter through which funding requests or proposals are considered
- The Comprehensive Land Use Plan (CLUP) is the next source staff use to filter requests.

## Priorities Identified at the February 2024 Strategic Planning Retreat

- Community safety
- Infrastructure investments
- Economic vibrancy
- Affordable housing
- Community partnerships & collaboration
- Efficient, high-quality organization
- Connected transportation network

# Notables

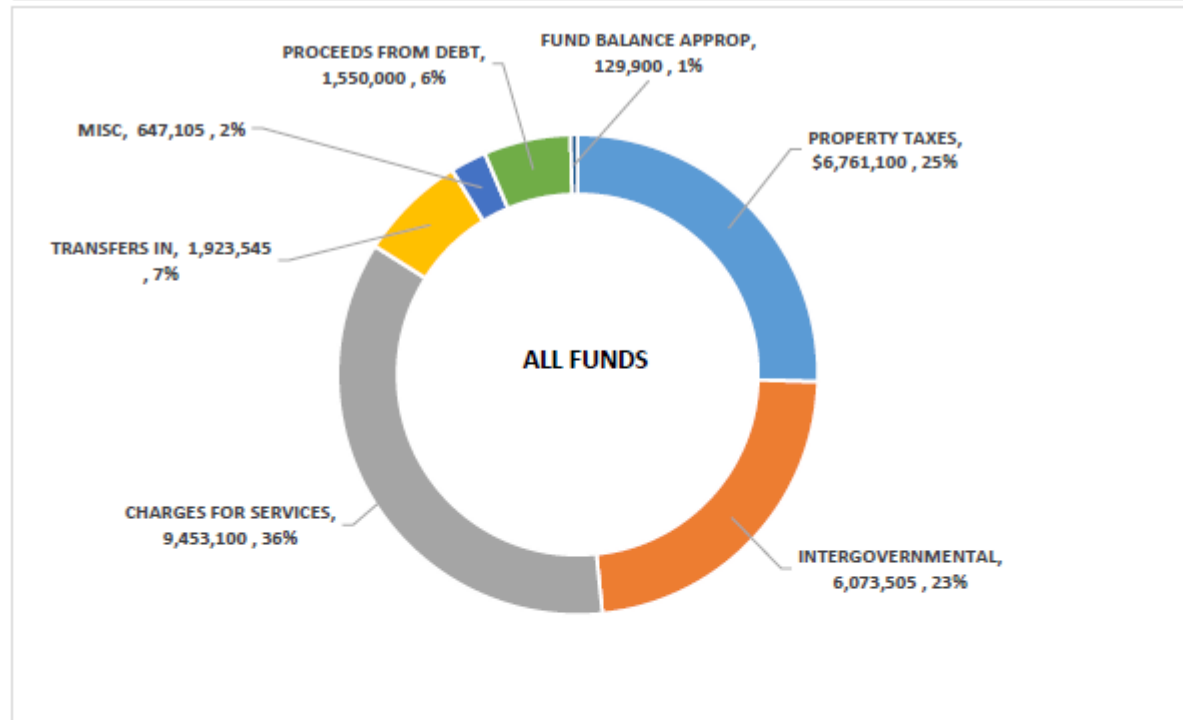
- Proposed budget includes funding for three new full-time firefighters
- Proposed budget launches dedicated “Stormwater” program
- Proposed budget combines two budgetary units in water/sewer into one and enhances water/sewer maintenance
- Proposed budget socks away money for future water/sewer utility project
- Proposed budget brings “Sanitation” back into the General Fund
- Increases employee compensation 3.25% and offers 4% match to all 401Ks.
- Some things funded with FY24 savings rather than appearing in FY25 budget

## Budget recommendation

- Total across all fund - \$26,538,255
  - GF – \$13,299,055
  - Fire Fund – \$3,255,700
  - W/S Fund - \$7,432,800
  - Stormwater Fund - \$244,000
- Up 7.0% overall compared to last year
  - Without stormwater fund and Fire Fund increase, the recommended budget is 4.5% higher than last year
- Funded via:
  - Small natural growth in most revenue sources
  - \$.02 increase to millage rate (to \$.50)
  - Revised Solid Waste/Sanitation Fees
  - A new “Stormwater Fee”
  - A new High Strength Waste Surcharge for certain utility customers
  - A 4% increase to utility consumption fees
  - Small increase to Planning fees

### All Funds

#### City of Brevard Total Revenue



|                      | ACTUAL<br>FY23       | ORIGINAL<br>BUDGET<br>FY23-24 | AMENDED<br>BUDGET<br>FY23-24 | PROJECTED<br>TO 6-30-24 | MANAGER<br>RECOMMENDED<br>FY24-25 | CHANGE IN %<br>FROM FY23-24<br>ORIGINAL |
|----------------------|----------------------|-------------------------------|------------------------------|-------------------------|-----------------------------------|-----------------------------------------|
| PROPERTY TAXES       | \$ 5,923,713         | \$ 6,303,900                  | \$ 6,303,900                 | \$ 6,381,000            | \$ 6,761,100                      | 7.3%                                    |
| INTERGOVERNMENTAL    | 5,815,568            | 5,880,112                     | 5,880,112                    | 5,962,100               | 6,073,505                         | 3.3%                                    |
| CHARGES FOR SERVICES | 8,470,963            | 8,846,600                     | 8,846,600                    | 8,902,500               | 9,453,100                         | 6.9%                                    |
| TRANSFERS IN         | 1,462,700            | 1,526,715                     | 1,532,315                    | 1,531,600               | 1,923,545                         | 26.0%                                   |
| MISC                 | 633,004              | 531,280                       | 626,280                      | 730,600                 | 647,105                           | 21.8%                                   |
| PROCEEDS FROM DEBT   | 125,136              | 1,475,000                     | 1,475,000                    | 895,276                 | 1,550,000                         | 5.1%                                    |
| FUND BALANCE APPROP  | -                    | 241,000                       | 246,600                      | -                       | 129,900                           | -46.1%                                  |
| <b>TOTAL</b>         | <b>\$ 22,431,084</b> | <b>\$ 24,804,607</b>          | <b>\$ 24,910,807</b>         | <b>\$ 24,403,076</b>    | <b>\$ 26,538,255</b>              | <b>7.0%</b>                             |

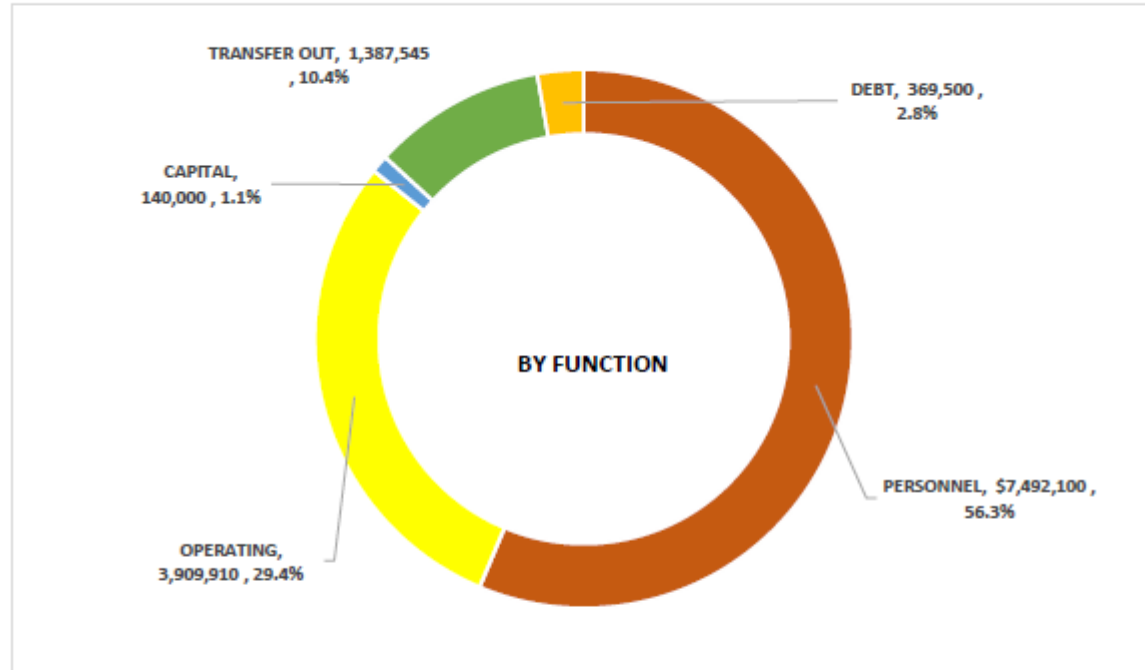
# Budget recommendation

## General Fund

- Total - \$13,299,055
- By function
  - Public safety (31%) - \$5,073,145
  - Public Works (29.1%) - \$3,871,300
  - General Govt. (23.8%) - \$3,166,510
  - Recreation/Culture (3.5%) – \$468,600
  - Debt (2.8%) - \$369,500
  - Housing (1.5%) - \$198,000
  - Non-Departmental (1.1%) - \$152,000

## General Fund

### General Fund Total Expenditures By Function



|              | ACTUAL<br>FY23 | ORIGINAL<br>BUDGET<br>FY23-24 | AMENDED<br>BUDGET<br>FY23-24 | PROJECTED TO<br>06-30-24 | MANAGER<br>RECOMMENDED<br>FY24-25 | CHANGE IN %<br>FROM FY23-24<br>ORIGINAL |
|--------------|----------------|-------------------------------|------------------------------|--------------------------|-----------------------------------|-----------------------------------------|
| PERSONNEL    | \$ 6,194,164   | \$ 7,006,692                  | \$ 6,953,692                 | \$ 6,895,500             | \$ 7,492,100                      | 6.9%                                    |
| OPERATING    | 3,731,935      | 3,612,200                     | 3,636,200                    | 3,545,300                | 3,909,910                         | 8.2%                                    |
| CAPITAL      | 567,132        | 140,000                       | 146,600                      | 177,514                  | 140,000                           | 0.0%                                    |
| TRANSFER OUT | 1,752,400      | 1,497,315                     | 1,620,315                    | 1,619,600                | 1,387,545                         | -7.3%                                   |
| DEBT         | 309,534        | 375,900                       | 375,900                      | 364,200                  | 369,500                           | -1.7%                                   |
| TOTAL        | \$ 12,555,166  | \$ 12,632,107                 | \$ 12,732,707                | \$ 12,602,114            | \$ 13,299,055                     | 5.3%                                    |

# Budget recommendation

## Sanitation Unit

- Total
  - Operating - \$1,157,600
  - Capital - \$0
- Fee increases
  - \$10.75/mo. for residential collection (up from \$9.75)
  - \$100/mo. for commercial dumpster collection (up from \$20)
  - \$75 for special refuse collections (up from \$50)

### General Fund - Sanitation

#### Total Expenditures

|                   | ACTUAL<br>FY23      | ORIGINAL<br>BUDGET<br>FY23-24 | AMENDED<br>BUDGET<br>FY23-24 | PROJECTED<br>6-30-24 | MANAGER<br>RECOMMENDED<br>FY24-25 | CHANGE IN %<br>FROM FY23-24<br>ORIGINAL |
|-------------------|---------------------|-------------------------------|------------------------------|----------------------|-----------------------------------|-----------------------------------------|
| SALARY & BENEFITS | \$ 595,606          | \$ 714,900                    | \$ 714,900                   | \$ 682,900           | \$ 761,000                        | 6.4%                                    |
| OPERATING         | 429,047             | 398,000                       | 398,000                      | 382,500              | 396,600                           | -0.4%                                   |
| CAPITAL           | 325,412             | -                             | -                            | 6,014                | -                                 | 0.0%                                    |
| <b>TOTAL</b>      | <b>\$ 1,350,065</b> | <b>\$ 1,112,900</b>           | <b>\$ 1,112,900</b>          | <b>\$ 1,071,414</b>  | <b>\$ 1,157,600</b>               | <b>4.0%</b>                             |

#### Notable Changes from the FY23-24 Budget

The City has elected to record Sanitation expenses and revenues in the General Fund moving forward, as the last two years of financial activity have shown that it cannot operate as an enterprise fund.

The Sanitation budget is \$44,700 higher than the previous fiscal year. All of this increase is related to the 3.25% COLA adjustment and the increases in the State Retirement rate and the City 401K rate.

#### Solid Waste Removal Fees

|                                                          |                                                                                                                                    |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Residential Garbage Collection                           | <del>\$9.75</del> <b>\$10.75</b> plus \$10.25 County Disposal Fee / <b>\$21.00</b> per month total                                 |
| Commercial Dumpster                                      | <del>\$20.00</del> <b>\$100.00</b> per month total for two pickups per week. Each additional pickup is \$20.00 per pickup          |
| Small Commercial Collection                              | <del>\$9.75</del> <b>\$10.75</b> plus \$10.25 County Disposal Fee times number of monthly pickups / <b>\$21.00</b> per month total |
| Special Refuse Pick Up (includes appliances & furniture) | \$20.00 per single item<br><del>\$50.00</del> <b>\$75.00</b> per load                                                              |
| Television / Computer Monitor Collection                 | ALL TV's - \$15.00                                                                                                                 |



# Budget recommendation

## Fire Fund

- Total - \$3,255,700
- Operational funding is split 62/38 with Trans. County
- Notable changes:
  - Proposed additional of 3 full-time firefighter positions (\$264,000)
  - \$1,550,000 for previously approved capital expenditure.
  - PT firefighter pay up to \$16.40/hr from \$15/hr to meet area's "Living Wage"
  - First of five \$156,600 debt service payments for rescue truck
  - First of five \$192,600 debt service payments for 4WD engine

## Fire Fund

### Total Revenue

| ACCOUNT NUMBER    | DESCRIPTION                      | ACTUAL FY23         | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | ACTUAL 2-29-24      | PROJECTED TO 06-30-24 | MANAGER RECOMMENDED FY24-25 |
|-------------------|----------------------------------|---------------------|-------------------------|------------------------|---------------------|-----------------------|-----------------------------|
| 40-3350-0000      | MISC REVENUE                     | \$ 1,206            | \$ -                    | \$ -                   | \$ 5                | \$ 100                | \$ -                        |
| 40-3530-0100      | DONATIONS                        | 395                 | -                       | -                      | 1,560               | 600                   | -                           |
| 40-3600-0000      | INSURANCE PROCEEDS               | 13,833              | -                       | -                      | 1,295               | 1,300                 | -                           |
| 40-3600-0100      | STAND BY PAY                     | 10,332              | -                       | -                      | 8,674               | 12,000                | 6,000                       |
| 40-3830-0100      | CONTRIBUTION FROM TRANS COUNTRY  | 9,287               | -                       | -                      | -                   | -                     | -                           |
| 40-3970-0000      | FIRE DISTRICT TAX - CURRENT YEAR | 483,119             | 594,585                 | 594,585                | 455,046             | 606,700               | 646,155                     |
| 40-3970-0500      | LOAN PROCEEDS                    | -                   | 1,475,000               | 1,475,000              | 694,588             | 695,000               | 1,550,000                   |
| 40-3970-0550      | GRANT - COVID 19 - FIRE MARSHALL | 10,000              | -                       | -                      | -                   | -                     | -                           |
| 40-3970-0600      | TRANSFER FROM GENERAL FUND       | 574,400             | 726,715                 | 726,715                | 544,500             | 726,000               | 1,053,545                   |
| 40-3990-0000      | FUND BALANCE APPROPRIATED        | -                   | 120,000                 | 120,000                | -                   | -                     | -                           |
| <b>TOTAL DEBT</b> |                                  | <b>\$ 1,102,572</b> | <b>\$ 2,916,300</b>     | <b>\$ 2,916,300</b>    | <b>\$ 1,705,668</b> | <b>\$ 2,041,700</b>   | <b>\$ 3,255,700</b>         |

## Fire Fund

### Total Expenditures

|                              | ACTUAL FY23         | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | PROJECTED TO 06-30-24 | MANAGER RECOMMENDED FY24-25 | CHANGE IN % FROM FY23-24 ORIGINAL |
|------------------------------|---------------------|-------------------------|------------------------|-----------------------|-----------------------------|-----------------------------------|
| <b>SALARY &amp; BENEFITS</b> | \$ 626,223          | \$ 679,200              | \$ 679,200             | \$ 699,100            | \$ 994,300                  | 46.4%                             |
| <b>OPERATING</b>             | 432,287             | 331,400                 | 331,400                | 358,000               | 362,400                     | 9.4%                              |
| <b>CAPITAL</b>               | 88,511              | 1,595,000               | 1,595,000              | -                     | 1,550,000                   | -2.8%                             |
| <b>DEBT</b>                  | 17,998              | 310,700                 | 310,700                | 131,600               | 349,000                     | 12.3%                             |
| <b>TOTAL</b>                 | <b>\$ 1,165,019</b> | <b>\$ 2,916,300</b>     | <b>\$ 2,916,300</b>    | <b>\$ 1,188,700</b>   | <b>\$ 3,255,700</b>         | <b>11.6%</b>                      |

# Budget recommendation

## Stormwater Fund

- Total - \$244,000
- New fund designed to raise money to repair and enhance Brevard's stormwater conveyance system.
- One day Brevard will be required to have this, but arguably it's needed now.
- FY25 will be startup year
  - Update 2007 stormwater master plan
  - Conduct small-scale repairs on known trouble spots
  - Develop prioritization guidelines for small repair projects
  - If Council wishes, develop a more detailed rate model

### Stormwater Fund

#### Total Revenue

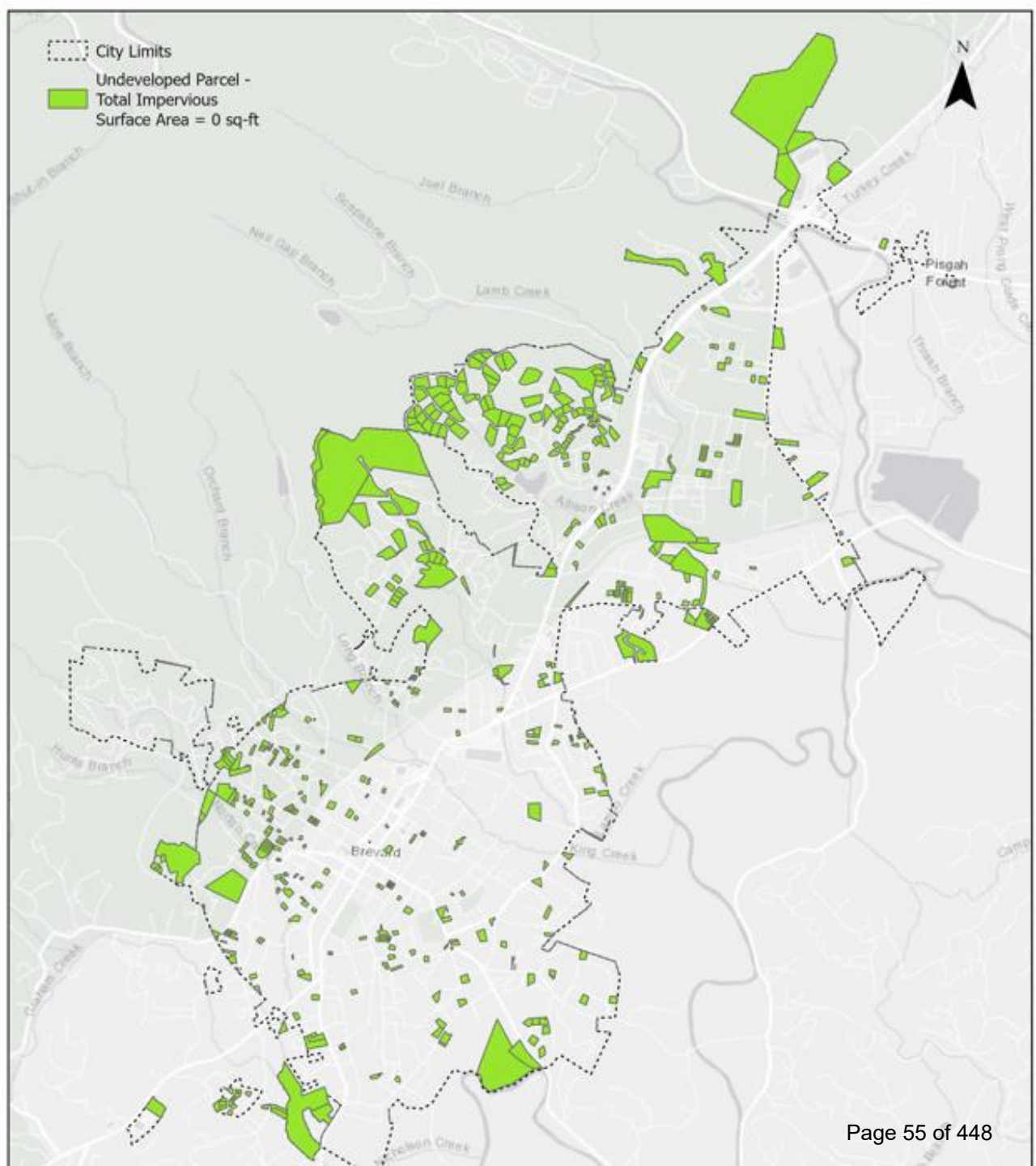
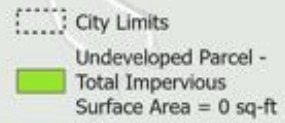
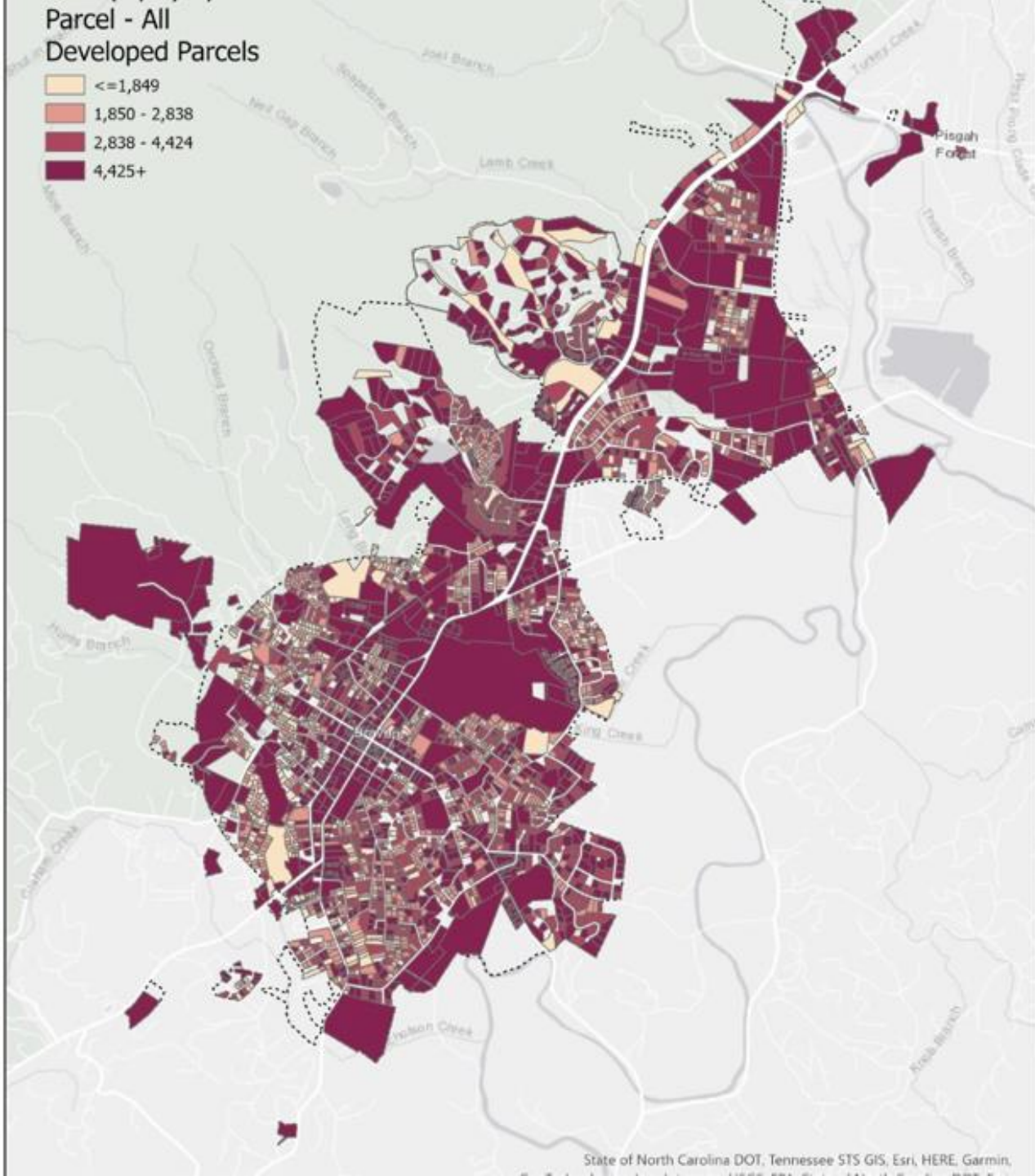
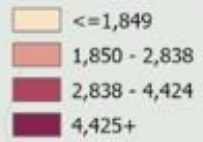
| ACCOUNT NUMBER       | DESCRIPTION    | ACTUAL FY23 | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | ACTUAL 2-29-24 | PROJECTED FY24 | MANAGER RECOMMENDED FY25 |
|----------------------|----------------|-------------|-------------------------|------------------------|----------------|----------------|--------------------------|
| 21-3800-3000         | TIER 1 REVENUE | -           | -                       | -                      | -              | -              | 147,120                  |
| 21-3800-4000         | TIER 2 REVENUE | -           | -                       | -                      | -              | -              | 82,480                   |
| 21-3800-5000         | TIER 3 REVENUE | -           | -                       | -                      | -              | -              | 14,400                   |
| <b>TOTAL REVENUE</b> |                | \$ -        | \$ -                    | \$ -                   | \$ -           | \$ -           | \$ 244,000               |

#### Detailed Expenditures

##### Operating

| ACCOUNT NUMBER         | DESCRIPTION         | ACTUAL FY23 | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | ACTUAL 2-29-24 | PROJECTED FY24 | MANAGER RECOMMENDED FY25 |
|------------------------|---------------------|-------------|-------------------------|------------------------|----------------|----------------|--------------------------|
| 21-8500-4500           | CONTRACTED SERVICES | \$ -        | \$ -                    | \$ -                   | \$ -           | \$ -           | \$ 244,000               |
| <b>TOTAL OPERATING</b> |                     | \$ -        | \$ -                    | \$ -                   | \$ -           | \$ -           | \$ 244,000               |

Parcel - All  
Developed Parcels



| Sq. Ft of Impervious                  | None | 1-3,000    | 3,001-5,000 | 5,001-7,000 | 7,001-10,000 | 10,001-20,000 | 20,001-30,000 | 30,001-40,000 | 40,001-50,000 | 50,001-75,000 | 75,001-100,000 | 100,001-250,000 | 250,001-500,000 | 500,001-1,000,000 | 1,000,001-2,000,000 | 2,000,001-3,000,000 | Exempt | Total        |
|---------------------------------------|------|------------|-------------|-------------|--------------|---------------|---------------|---------------|---------------|---------------|----------------|-----------------|-----------------|-------------------|---------------------|---------------------|--------|--------------|
| Number of properties                  | 677  | 1898       | 886         | 281         | 131          | 138           | 47            | 47            | 19            | 35            | 14             | 28              | 4               | 3                 | 1                   | 0                   | 54     |              |
| Properties per tier                   |      | 3065       |             |             | 459          |               |               |               |               |               |                |                 | 8               |                   |                     |                     |        |              |
| Pct. of total impervious <sup>1</sup> |      | 39.54      |             |             | 40.57        |               |               |               |               |               |                |                 | 12.90           |                   |                     |                     |        |              |
| Fee Option 1 (Flat Fee)               |      | \$5.00/mo. |             |             | \$5.00/mo.   |               |               |               |               |               |                |                 | \$5.00/mo.      |                   |                     |                     |        | \$211,920.00 |
| Fee Option 2 (% Based)                |      | \$2.69/mo. |             |             | \$18.40/mo.  |               |               |               |               |               |                |                 | \$336/mo.       |                   |                     |                     |        | \$250,000.00 |
| Fee Option 3 (Relief for residential) |      | \$2.50/mo. |             |             | \$10.00/mo.  |               |               |               |               |               |                |                 | \$100.00/mo.    |                   |                     |                     |        | \$156,630.00 |
| Mgr's Recommended                     |      | \$4.00/mo. |             |             | \$15.00/mo.  |               |               |               |               |               |                |                 | \$150.00/mo.    |                   |                     |                     |        | \$244,140.00 |
| AVL Model <sup>2</sup>                |      | \$10.20    | \$15.30     | \$15.30     | \$25.50      | \$45.90       | \$66.30       | \$86.70       | \$107.10      | \$158.10      | \$209.10       | \$525.30        | \$1,045.50      | \$2,091.00        | \$4,182.00          | \$6,267.90          |        |              |
| HVL Model <sup>2</sup>                |      | \$5.00     | \$8.33      | \$11.67     | \$16.67      | \$33.33       | \$50.00       | \$66.67       | \$83.34       | \$125.00      | \$138.34       | \$138.34        | \$138.34        | \$138.34          | \$138.34            | \$138.34            |        |              |
| Laurel Park Model <sup>2</sup>        |      | \$5.00     | \$5.00      | \$5.00      | \$5.00       | \$5.00        | \$5.00        | \$5.00        | \$5.00        | \$5.00        | \$5.00         | \$5.00          | \$5.00          | \$5.00            | \$5.00              | \$5.00              |        |              |



# Budget recommendation

## Water/Sewer Fund

- Total - \$7,432,800
- By function:
  - Water treatment - \$1,081,200
  - Wastewater treatment - \$1,731,900
  - Water/sewer maintenance - \$1,896,200
  - Non-department (e.g. capital expenses) - \$2,723,500
- Proposal includes one new position in Water/Sewer Maintenance unit.
- Funded via:
  - Previously approved 4% increase in per 1000/gallon rate
  - Nine months of new High Strength Waste Surcharge revenue

## Water and Sewer Fund

### Total Revenue

| ACCOUNT NUMBER | DESCRIPTION             | ACTUAL FY23  | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | ACTUAL 02-29-24 | PROJECTED TO 06-30-24 | MANAGER RECOMMENDED FY24-25 |
|----------------|-------------------------|--------------|-------------------------|------------------------|-----------------|-----------------------|-----------------------------|
| 30-3350-0100   | MISC UTILITY FEES       | \$ 3,000     | \$ 1,000                | \$ 1,000               | \$ 550          | \$ 500                | \$ 1,000                    |
| 30-3710-0100   | WATER CHARGES           | 3,222,409    | 3,280,000               | 3,280,000              | 2,190,200       | 3,350,000             | 3,450,500                   |
| 30-3710-0200   | SEWER CHARGES           | 3,056,133    | 3,060,000               | 3,060,000              | 2,167,332       | 3,240,000             | 3,480,800                   |
| 30-3710-0300   | METER CHARGES           | 179,317      | 185,000                 | 185,000                | 120,638         | 180,000               | 180,000                     |
| 30-3710-0400   | METER REACTIVATION      | 1,320        | 1,000                   | 1,000                  | 180             | 500                   | 500                         |
| 30-3730-0100   | WATER TAP & CONNECT FEE | 69,908       | 85,000                  | 85,000                 | 69,989          | 118,000               | 100,000                     |
| 30-3730-0200   | SEWER TAP & CONNECT FEE | 36,500       | 65,000                  | 65,000                 | 27,875          | 50,000                | 60,000                      |
| 30-3750-0200   | LATE - RECONNECT FEES   | 51,485       | 65,000                  | 65,000                 | 42,190          | 60,000                | 60,000                      |
| 30-3760-0000   | SEPTAGE PRETREATMENT    | 68,100       | 175,000                 | 175,000                | 42,600          | 72,000                | 100,000                     |
| 30-3990-0000   | FUND BALANCE APPROP     | -            | 28,500                  | 28,500                 | -               | -                     | -                           |
| TOTAL REVENUE  |                         | \$ 6,688,172 | \$ 6,945,500            | \$ 6,945,500           | \$ 4,661,554    | \$ 7,071,000          | \$ 7,432,800                |

|                      | ACTUAL FY23  | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | PROJECTED TO 06-30-24 | MANAGER RECOMMENDED FY24-25 | CHANGE IN % FROM FY23-24 ORIGINAL |
|----------------------|--------------|-------------------------|------------------------|-----------------------|-----------------------------|-----------------------------------|
| WATER TREATMENT      | \$ 941,699   | \$ 1,030,100            | \$ 1,030,100           | \$ 1,007,400          | \$ 1,081,200                | 5.0%                              |
| WASTEWATER TREATMENT | 1,592,396    | 2,194,100               | 2,194,100              | 1,966,450             | 1,731,900                   | -21.1%                            |
| W/S MAINTENANCE      | 1,355,627    | 1,523,500               | 1,523,500              | 1,431,400             | 1,896,200                   | 24.5%                             |
| NON DEPARTMENTAL     | 2,415,408    | 2,197,800               | 2,197,800              | 2,030,552             | 2,723,500                   | 23.9%                             |
| TOTAL                | \$ 6,305,130 | \$ 6,945,500            | \$ 6,945,500           | \$ 6,435,802          | \$ 7,432,800                | 7.0%                              |

# Water and Sewer Fund - Non Departmental

## Detailed Expenditures

### Operating

| ACCOUNT NUMBER  | DESCRIPTION                       | ACTUAL FY23 | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | ACTUAL 02-29-24 | PROJECTED TO 06-30-24 | MANAGER RECOMMENDED FY24-25 |
|-----------------|-----------------------------------|-------------|-------------------------|------------------------|-----------------|-----------------------|-----------------------------|
| 30-6600-5800    | BANKING FEES                      | \$ 53,878   | \$ 60,000               | \$ 60,000              | \$ 22,114       | \$ 35,000             | \$ 35,000                   |
| 30-6600-9100    | REIMBURSE GENERAL FUND            | 600,000     | 450,000                 | 450,000                | 337,500         | 450,000               | 661,000                     |
| 30-6600-XXXX    | TRANSFER TO WATER CAPITAL RESERVE | -           | -                       | -                      | -               | -                     | 369,400                     |
| 30-6600-9406    | TRANSFER TO 31 - WHITMIRE         | 54,000      | -                       | -                      | -               | -                     | -                           |
| 30-6600-9405    | TRANSFER TO 31 - ESTATOE STORMW   | 100,000     | -                       | -                      | -               | -                     | -                           |
| 30-6600-9407    | TRANSFER TO 31 - AIA              | 44,000      | -                       | -                      | -               | -                     | -                           |
| TOTAL OPERATING |                                   | \$ 851,878  | \$ 510,000              | \$ 510,000             | \$ 359,614      | \$ 485,000            | \$ 1,065,400                |

### Debt

| ACCOUNT NUMBER | DESCRIPTION                      | ACTUAL FY23  | ORIGINAL BUDGET FY23-24 | AMENDED BUDGET FY23-24 | ACTUAL 02-29-24 | PROJECTED TO 06-30-24 | MANAGER RECOMMENDED FY24-25 |
|----------------|----------------------------------|--------------|-------------------------|------------------------|-----------------|-----------------------|-----------------------------|
| 30-6600-9250   | DEBT PRINC DUE-FY20CAP-UNIT1078  | \$ 19,228    | \$ 19,600               | \$ 19,600              | \$ 13,024       | \$ 19,600             | \$ 20,100                   |
| 30-6600-9251   | DEBT INT DUE-FY20CAP-UNIT1078    | 3,484        | 3,200                   | 3,200                  | 2,117           | 3,200                 | 2,700                       |
| 30-6600-9260   | DEBT PRINC DUE-FY18 CAP-UNIT7438 | 2,752        | -                       | -                      | -               | -                     | -                           |
| 30-6600-9261   | DEBT INT DUE-FY18 CAP-UNIT7438   | 326          | -                       | -                      | -               | -                     | -                           |
| 30-6600-9270   | DEBT PRINC DUE-FY18CAP-UNIT7431  | 6,842        | 7,100                   | 7,100                  | 4,675           | 7,000                 | 7,300                       |
| 30-6600-9271   | DEBT INT DUE-FY18 CAP-UNIT 7431  | 1,256        | 1,100                   | 1,100                  | 725             | 900                   | 900                         |
| 30-6600-9310   | DEBT PRINC DUE-BELT PR-DEQ476-03 | 71,413       | 71,500                  | 71,500                 | -               | 71,500                | 71,500                      |
| 30-6600-9311   | DEBT INT DUE-BELT PR-DEQ476-03   | 12,272       | 10,600                  | 10,600                 | 5,260           | 10,500                | 8,800                       |
| 30-6600-9320   | DEBT PRINC DUE-BURRELL-11-1778   | 146,728      | 146,800                 | 146,800                | -               | 146,700               | 146,800                     |
| 30-6600-9330   | DEBT PRINC DUE-6-S UPG-DEQ476-04 | 84,000       | 84,000                  | 84,000                 | -               | 84,000                | 84,000                      |
| 30-6600-9331   | DEBT INT DUE-6-S UPG-DEQ476-04   | 23,520       | 21,900                  | 21,900                 | 10,920          | 21,800                | 20,200                      |
| 30-6600-9340   | DEBT PRINC DUE-RADIO M-12-1787   | 74,827       | 74,900                  | 74,900                 | -               | 74,800                | 74,900                      |
| 30-6600-9350   | DEBT PRINC DUE-KC1-DEQ476-05     | 37,469       | 37,500                  | 37,500                 | -               | 37,500                | 37,500                      |
| 30-6600-9351   | DEBT INT DUE-KC1-DEQ476-05       | 8,243        | 7,500                   | 7,500                  | 3,747           | 7,500                 | 6,800                       |
| 30-6600-9360   | DEBT PRINC DUE-KC2-DEQ476-06     | 71,789       | 71,800                  | 71,800                 | -               | 71,789                | 71,200                      |
| 30-6600-9370   | DEBT PRINC DUE-KC3-DEQ476-07     | 74,199       | 74,200                  | 74,200                 | -               | 74,200                | 74,200                      |
| 30-6600-9380   | DEBT PRINC DUE-SEWER-DEQ476-08   | 649,363      | 649,400                 | 649,400                | -               | 649,363               | 649,400                     |
| 30-6600-9381   | DEBT INT DUE-SEWER-DEQ476-08     | 191,172      | 179,300                 | 179,300                | 89,612          | 179,300               | 167,300                     |
| 30-6600-9410   | DEBT PRINC DUE-FY19CAP-ST001     | 20,987       | 21,600                  | 21,600                 | 14,294          | 21,600                | 22,100                      |
| 30-6600-9411   | DEBT INT DUE-FY19CAP-ST001       | 3,956        | 3,500                   | 3,500                  | 2,334           | 3,500                 | 2,900                       |
| 30-6600-9420   | DEBT PRINC DUE-DUKE-FC9262       | 30,308       | 31,100                  | 31,100                 | 20,594          | 31,100                | 18,500                      |
| 30-6600-9421   | DEBT INT DUE-DUKE-FC9262         | 1,504        | 800                     | 800                    | 619             | 800                   | 500                         |
| 30-6600-9430   | DEBT PRINC DUE-WATMET-ST600-002  | 23,388       | 25,500                  | 25,500                 | 15,949          | 25,400                | 25,500                      |
| 30-6600-9431   | DEBT INT DUE-WATMET-ST600-002    | 4,504        | 3,200                   | 3,200                  | 2,645           | 3,500                 | 3,300                       |
| 30-6600-9440   | DEBT PRINC DUE-GALLIMORE         | -            | 87,800                  | 87,800                 | -               | -                     | 87,800                      |
| 30-6600-9460   | DEBT PRINC DUE-KING ST           | -            | 13,600                  | 13,600                 | -               | -                     | 13,600                      |
| 30-6600-9461   | DEBT INT DUE-KING ST             | -            | 4,500                   | 4,500                  | -               | -                     | 4,500                       |
| 30-6600-9470   | DEBT PRINC DUE-BURRELL MTN       | -            | 35,800                  | 35,800                 | -               | -                     | 35,800                      |
| TOTAL DEBT     |                                  | \$ 1,563,530 | \$ 1,687,800            | \$ 1,687,800           | \$ 186,515      | \$ 1,545,552          | \$ 1,658,100                |

# High Strength Waste Surcharge (HSWS)

- Intended to more fairly distribute the cost of treating wastewater to those who produce the dirtiest waste.
  - Only the cost of treating domestic-strength waste is calculated into the current residential/commercial/institutional rate
- Modeled after a similar program in Bend, OR
- Rates based on how much Total Suspended Solids (TSS) and Biological Oxygen Demand (BODs) each customer produces.
- The revenues it collects are calculated to match the extra costs we spend to treat high strength waste.

| City of Brevard Proposed High Strength Waste Surcharge |          |             |                 |                 |
|--------------------------------------------------------|----------|-------------|-----------------|-----------------|
| Level                                                  | Category | Mg/L        | BOD Fee per lb. | TSS Fee per lb. |
| Super High                                             | 6        | >2,001      | 49 ¢            | 46 ¢            |
| High                                                   | 5        | 1,501-2,000 | 38 ¢            | 36 ¢            |
| Medium                                                 | 4        | 1,001-1,500 | 28 ¢            | 26 ¢            |
| Low                                                    | 3        | 501-1,000   | 16 ¢            | 15 ¢            |
| Standard                                               | 2        | 251-500     | 0               | 0               |
| Residential                                            | 1        | <250        | 0               | 0               |

| Category    | Concentration               | Business                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| RESIDENTIAL | <500 mg/L BOD/TSS           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| STANDARD    | <500 mg/L BOD/TSS           | All businesses not listed below that are reasonably expected to have less than 500 mg/L BOD/TSS. Businesses not listed below will be assigned to the standard category, but the City may monitor any unlisted business to determine its actual discharge concentrations and may assign the business to a higher category based on the results of the monitoring. Businesses with pretreatment devices must maintain them in order to remain in the lowest category for your business. |
| LOW         | >501 mg/L and <1,000 mg/L   | All other Vehicle dealers                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|             |                             | Assisted Living with Nursing                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|             |                             | Auto Sales - New                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|             |                             | Blood and Organ Banks                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|             |                             | Bowling alley                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|             |                             | Car Wash                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|             |                             | Caterers                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|             |                             | Coffee Shops                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|             |                             | Convenience Stores                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|             |                             | Cut Stone products manufacturing                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|             |                             | Dental Lab (& Repair)                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|             |                             | Drinking Places                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|             |                             | Drive In                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|             |                             | Fish Store                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|             |                             | Fruit & Vegetable Canning                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|             |                             | Gas Station w/ Store                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|             |                             | Hospital                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|             |                             | Kidney Dialysis Centers                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|             |                             | Medical Labs                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|             |                             | Movie Theater                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|             |                             | Musical Theater                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|             |                             | Other Specialty Grocery Store                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|             |                             | Restaurant                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|             |                             | Retail/Wholesale with food preparation                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|             |                             | School cafeterias                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|             |                             | Specialty food production                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| MEDIUM      | >1,001 mg/L and <1,500 mg/L | Supermarket                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|             |                             | Surgeical Centers                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|             |                             | Vegetable Store                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|             |                             | Veterinary Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| HIGH        | >1,501 mg/L and <2,000 mg/L | Any business that is in the Fats, Oils and Grease program                                                                                                                                                                                                                                                                                                                                                                                                                             |
|             |                             | Bakery (Production and/or Sales)                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|             |                             | Coffee Shops                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|             |                             | Meat shops                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| SUPER HIGH  | >2,000 mg/L                 | Tortilla Factory                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|             |                             | Industrial Laundry                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|             |                             | Mortuary                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|             |                             | Alcoholic Cider Production                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|             |                             | Brandy Distillery                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|             |                             | Breweries                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|             |                             | Dairy                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|             |                             | Distilleries                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|             |                             | Slaughterhouse                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| FUND                                       | Bal. as of 3/31 | Encumbrances/<br>Commitments | Q4 Revenues              | Available Bal. as of 7/1 | Recommendation           |                         |
|--------------------------------------------|-----------------|------------------------------|--------------------------|--------------------------|--------------------------|-------------------------|
|                                            |                 |                              |                          |                          | Credit/(Debit)           | New Balance             |
| Housing Trust Fund (76)                    | \$352,803       | \$50,000                     | \$66,000                 | \$368,803                | \$198,000                | \$566,803               |
| Rosenwald (82)                             | (\$100,000)     | \$144,000                    | \$167,000                | (\$77,000)               | \$72,000                 | (\$5,000)               |
| --MC Jenkins <sup>1</sup>                  | --\$0           | --\$0                        |                          | --\$0                    |                          |                         |
| --Silversteen (incl Norton Crk Streambank) | --(\$100,000)   | --\$144,000                  | --\$167,000 <sup>2</sup> | --(\$77,000)             | \$72,000 <sup>3</sup>    | (\$5,000)               |
| Multi-Use Path (78)                        | \$1,243,513     | \$1,233,250                  | \$178,000                | \$188,263                | \$88,000                 | \$276,263               |
| --Bracken Preserve                         | --(\$40,000)    | --\$0                        | --\$60,000               | --\$20,000               |                          | \$20,000                |
| --Roundabouts                              | --\$97,481      | --\$282,740                  | --\$12,500               | --(\$172,759)            | \$75,000                 | (\$97,759)              |
| --RR Ave. Bridge                           | --(\$73,925)    | --\$9,520                    | --\$85,000               | --\$1,555                |                          | \$1,555                 |
| --Estatoe Trl                              | --\$1,259,957   | --\$940,990                  | --\$20,500               | --\$339,467              | \$13,000 <sup>4</sup>    | \$352,467               |
| Downtown Master Plan Fund (83)             | \$227,023       | \$1,157,168                  | \$33,000                 | (\$927,000)              | \$1,023,130              | \$86,065                |
| --Times Arcade                             | --\$29,855      | --\$960,000                  | --\$33,000               | --(\$927,000)            | --\$982,000 <sup>5</sup> | --\$53,000 <sup>5</sup> |
| --Streetscape Improve                      | --\$197,168     | --\$197,168                  | --\$0                    | --\$0                    |                          |                         |
| --Other                                    | --\$0           | --\$0                        | --\$0                    | --\$0                    | --\$33,065               | --\$33,065              |
| Capital Reserve Fund (35)                  | \$501,036       |                              | \$68,000                 | \$569,036                | (\$43,000)               | \$526,036               |
| --Utilities                                | --\$501,036     |                              | --\$25,000 <sup>6</sup>  | --\$526,036              |                          |                         |
| --Sidewalk                                 |                 |                              | --\$43,000 <sup>7</sup>  | --\$43,000               | (\$43,000)               | \$0                     |
| Unobligated Fund Balance above 25%         | \$1,428,949     | \$70,000 <sup>8</sup>        | UNK                      | UNK                      | UNK                      | UNK                     |



| PROJECT                                                 | AMOUNT              | SOURCE                              | PRIORITY AREA | STATUS           | FISCAL YEAR     | ACTION                      | NOTE                                                                              |
|---------------------------------------------------------|---------------------|-------------------------------------|---------------|------------------|-----------------|-----------------------------|-----------------------------------------------------------------------------------|
| City Hall reconfiguration                               | \$40,000            | FY24 operational savings            | Goal 6        | Mgr. Proposed    | Current         | Budget Amendment 5/20       | To accommodate additional staff                                                   |
| 132 Commerce St. upfits                                 | \$100,000-\$150,000 | Unobligated fund balance            | Goal 6        | Mgr. Proposed    | Current         | Budget Amendment 5/20       | Upfit leased space to accommodate Brevard Police Dept. needs                      |
| Internal Email Upgrade                                  | \$50,000            | FY24 operational savings            | Goal 6        | Mgr. Proposed    | Current         | Budget Amendment 5/20       | Removed from FY25 and added here to accomm conts. to Funds 78 and 83              |
| Farmer's Market contribution                            | \$18,200            | FY24 operational savings            | Goal 2        | Council proposed | Current         | Budget Amendment 5/20       |                                                                                   |
| Contribution to Fund 78                                 | \$25,000            | FY24 operational savings            | Goal 7        | Council proposed | Next            |                             | Contribution now budgeted in FY25 proposal                                        |
| Contribution to Fund 83                                 | \$25,000            | FY24 operational savings            | Goal 3        | Council proposed | Next            |                             | Contribution now budgeted in FY25 proposal                                        |
| Fix brick and concrete concerns in HoB walkability stdy | \$40,000-\$43,000   | Cash-in Pardee sidewalk fee-in-lieu | Goal 2        | Mgr. Proposed    | Current or next | Budget Amendment whenever   |                                                                                   |
| Probart St. traffic calming Phases 1-3                  | \$30,000            | FY24 operational savings            | Goal 1        | Council proposed | Current         | Budget Amendment 5/20       |                                                                                   |
| Norton Creek streambank Phase 2                         | \$72,000            | Unobligated fund balance            | Goal 2        | Mgr. Proposed    | Current         | Budget Amendment 5/20       | Match for \$72,000 state grant endorsed by Council                                |
| R5800 trail betterments study Phase 1                   | \$12,000            | Multi-use path reserve fund         | Goals 3 and 7 | Mgr. Proposed*   | Current or next | No accounting action needed | Phase 2 costs pending findings of Phase 1. Possible TDA contribution for Phase 2. |

\*Also endorsed by Parks, Trails & Recreation Committee, and Ecusta Trail Advisory Committee

## CUMULATIVE IMPACT OF PROPOSED INCREASES ON A HOUSEHOLD

### Cost of Additional Property Taxes

|                      | \$150k assessed value | \$300k assessed value | \$600k assessed value | \$900k assessed value | \$1.2M assessed value |
|----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Current rate (\$.48) | \$720                 | \$1,440               | \$2,880               | \$4,320               | \$5,760               |
| \$.02 addl./year     | \$30                  | \$60                  | \$120                 | \$160                 | \$240                 |

*One penny brings in approximately \$132,000 in additional revenue.*

### Cost of 4% Water/Sewer Rate Increase

| Usage      | H2O flat fee addl.<br>per mo. | H2O consumption fee<br>addl. per mo. | Sewer flat fee addl. per<br>mo. | Sewer consum fee<br>addl. per mo. | Total additional per<br>month |
|------------|-------------------------------|--------------------------------------|---------------------------------|-----------------------------------|-------------------------------|
| 2,000 gals | \$0                           | \$0.64                               | \$0                             | \$0.64                            | \$1.28                        |
| 4,000 gals | \$0                           | \$1.28                               | \$0                             | \$1.28                            | \$2.56                        |
| 6,000 gals | \$0                           | \$2.16                               | \$0                             | \$2.16                            | \$4.32                        |

| Impact on household of \$98,960 appraised value, residential refuse collection, and 800 gallons/mo. utility consumption |                       |                     |                     |                        |                     |            |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------|---------------------|------------------------|---------------------|------------|
|                                                                                                                         | Annual property taxes | Annual refuse fees  | Annual Utility fees | Annual Stormwater fees | TOTAL ANNUAL BURDEN | DIFFERENCE |
| FY24                                                                                                                    | \$475.01              | \$288               | \$535.10            |                        | \$1,298.11          |            |
|                                                                                                                         | 2 cent increase       | \$1.00 mo. increase | 4% increase         | \$4.00/mo.             |                     |            |
| FY25                                                                                                                    | \$494.80              | \$300               | \$542.01            | \$48                   | \$1,384.81          | \$86.70    |

| Impact on household of \$311,440 appraised value, residential refuse collection, and 2,700 gallons/mo. utility consumption |                       |                     |                     |                        |                     |            |
|----------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------|---------------------|------------------------|---------------------|------------|
|                                                                                                                            | Annual property taxes | Annual refuse fees  | Annual Utility fees | Annual Stormwater fees | TOTAL ANNUAL BURDEN | DIFFERENCE |
| FY24                                                                                                                       | \$1,494.91            | \$288               | \$623.28            |                        | \$2,406.19          |            |
|                                                                                                                            | 2 cent increase       | \$1.00 mo. increase | 4% increase         | \$4.00/mo.             |                     |            |
| FY25                                                                                                                       | \$1,557.20            | \$300               | \$646.68            | \$48                   | \$2,551.88          | \$145.69   |

| Impact on household of \$906,820 appraised value, residential refuse collection, and 4,200 gallons/mo. utility consumption |                       |                     |                     |                        |                     |            |
|----------------------------------------------------------------------------------------------------------------------------|-----------------------|---------------------|---------------------|------------------------|---------------------|------------|
|                                                                                                                            | Annual property taxes | Annual refuse fees  | Annual Utility fees | Annual Stormwater fees | TOTAL ANNUAL BURDEN | DIFFERENCE |
| FY24                                                                                                                       | \$4,352.73            | \$288               | \$1,279.29          |                        | \$5,920.02          |            |
|                                                                                                                            | 2 cent increase       | \$1.00 mo. increase | 4% increase         | \$15.00/mo.            |                     |            |
| FY25                                                                                                                       | \$4,534.10            | \$300               | \$1,429.38          | \$180                  | \$6,443.48          | \$523.36   |

|        | Annual Impact of New Tax Rate and Fees on Various Commercial Entities |                                    |                |                                   |                                                |                                            |              |            |
|--------|-----------------------------------------------------------------------|------------------------------------|----------------|-----------------------------------|------------------------------------------------|--------------------------------------------|--------------|------------|
|        |                                                                       | Prop Tax                           | Refuse Fees    | Existing Utility Fees             | HSWS                                           | Stormwater Fee                             | TOTAL BURDEN | DIFFERENCE |
| Ingles | FY24                                                                  | \$49,343                           | \$0            | \$42,347                          | N/A                                            | N/A                                        | \$91,690     |            |
|        |                                                                       | Based on valuation of \$10,279,760 | Not applicable | Based on Avg. of 191,975 gal./mo. | Tier 3 rates Based on Avg. of 191,975 gal./mo. | >250,000 sq. ft. of impervious (\$150/mo.) |              |            |
|        | FY25                                                                  | \$51,399                           | \$0            | \$44,006                          | \$2,424                                        | \$1,800                                    | \$99,629     | \$7,939    |

|      |      |                                   |                                   |                                  |                                               |                                         |          |         |
|------|------|-----------------------------------|-----------------------------------|----------------------------------|-----------------------------------------------|-----------------------------------------|----------|---------|
| Belk | FY24 | \$12,628                          | \$2,880                           | \$16,831                         | N/A                                           | N/A                                     | \$32,339 |         |
|      |      | Based on valuation of \$2,630,750 | Based on 19 collections per month | Based on Avg. of 75,400 gal./mo. | Tier 2 rates Based on Avg. of 75,400 gal./mo. | >7,000 sq. ft. of impervious (\$15/mo.) |          |         |
|      | FY25 | \$13,154                          | \$4,560                           | \$17,810                         | \$0                                           | \$180                                   | \$35,704 | \$3,185 |

|               |      |                                   |                                   |                                  |                                               |                                         |          |         |
|---------------|------|-----------------------------------|-----------------------------------|----------------------------------|-----------------------------------------------|-----------------------------------------|----------|---------|
| Charlies Tire | FY24 | \$5,000                           | \$3,840                           | \$7,332                          | N/A                                           | N/A                                     | \$16,172 |         |
|               |      | Based on valuation of \$1,041,520 | Based on 15 collections per month | Based on Avg. of 32,000 gal./mo. | Tier 3 rates Based on Avg. of 32,000 gal./mo. | >7,000 sq. ft. of impervious (\$15/mo.) |          |         |
|               | FY25 | \$5,273                           | \$5,760                           | \$7,608                          | \$408                                         | \$180                                   | \$19,229 | \$3,057 |

|                 |      |                                        |                |                                   |                                                |                                        |          |          |
|-----------------|------|----------------------------------------|----------------|-----------------------------------|------------------------------------------------|----------------------------------------|----------|----------|
| Classic Laundry | FY24 | \$0                                    | \$0            | \$46,370                          | N/A                                            | N/A                                    | \$46,370 |          |
|                 |      | Biz is lessee in multi-tenant building | Not applicable | Based on Avg. of 210,358 gal./mo. | Tier 5 rates Based on Avg. of 210,358 gal./mo. | Biz is lessee in multi-tenant building |          |          |
|                 | FY25 | \$0                                    | \$0            | \$48,188                          | \$21,888                                       | \$0                                    | \$70,076 | \$23,706 |

|             |      |                                    |                |                                   |                                                   |                                            |           |          |
|-------------|------|------------------------------------|----------------|-----------------------------------|---------------------------------------------------|--------------------------------------------|-----------|----------|
| TR Hospital | FY24 | \$114,965                          | \$0            | \$124,860                         | N/A                                               | N/A                                        | \$239,825 |          |
|             |      | Based on valuation of \$23,951,040 | Not applicable | Based on Avg. of 568,941 gal./mo. | Tier 3 rates<br>Based on Avg. of 568,941 gal./mo. | >250,000 sq. ft. of impervious (\$150/mo.) |           |          |
|             | FY25 | \$119,755                          | \$0            | \$129,763                         | \$7,164                                           | \$1,800                                    | \$258,482 | \$18,657 |

|                     |      |                                 |                |                                  |                                                  |                                           |         |       |
|---------------------|------|---------------------------------|----------------|----------------------------------|--------------------------------------------------|-------------------------------------------|---------|-------|
| Hunters & Gatherers | FY24 | \$1,884                         | \$0            | \$2,998                          | N/A                                              | N/A                                       | \$4,882 |       |
|                     |      | Based on valuation of \$392,590 | Not applicable | Based on Avg. of 12,200 gal./mo. | Tier 2 rates<br>Based on Avg. of 12,200 gal./mo. | <7,000 sq. ft. of impervious (\$4.00/mo.) |         |       |
|                     | FY25 | \$1,963                         | \$0            | \$3,097                          | \$0                                              | \$48                                      | \$5,108 | \$226 |

|                   |      |                                   |                |                                   |                                                   |                                           |          |         |
|-------------------|------|-----------------------------------|----------------|-----------------------------------|---------------------------------------------------|-------------------------------------------|----------|---------|
| Triangle Stop 217 | FY24 | \$7,206                           | \$0            | \$22,522                          | N/A                                               | N/A                                       | \$29,728 |         |
|                   |      | Based on valuation of \$1,501,230 | Not applicable | Based on Avg. of 101,400 gal./mo. | Tier 3 rates<br>Based on Avg. of 101,400 gal./mo. | >7,000 sq. ft of impervious (\$15.00/mo.) |          |         |
|                   | FY25 | \$7,506                           | \$0            | \$23,398                          | \$108                                             | \$180                                     | \$31,192 | \$1,464 |



## In conclusion

- “Waters the seeds” Council has planted.
- Enhances public safety services.
- Maintains other core services.
- Saves for long term water/sewer capital projects.
- Closes gap on money-losing services.
- Addl. burden on tax payers/ratepayers is modest.

## RECOMMENDED BUDGET

*financial year*  
2024/2025

### MISSION STATEMENT

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.



**QUESTIONS?**



**PROCLAMATION NO. 2024-13  
NATIONAL PUBLIC WORKS WEEK  
May 19-25, 2024  
"Advancing Quality of Life For All"**

**WHEREAS**, Public Works Professionals focus on infrastructure, facilities, and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life, and well-being of the people of the City of Brevard; and

**WHEREAS**, these infrastructure, facilities, and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers, and employees at all levels of government and the private sector, who are responsible for rebuilding, improving, and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and

**WHEREAS**, it is in the public interest for the citizens, civic leaders, and children in the City of Brevard to gain knowledge of and maintain an ongoing interest and understanding of the importance of public works and public works programs in their respective communities; and

**WHEREAS**, the year 2024 marks the 64<sup>th</sup> annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association.

**NOW THEREFORE**, I, Maureen Copelof, Mayor of the City of Brevard, do hereby designate the week May 19-25, 2024, as National Public Works Week. I urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events, and ceremonies designed to pay tribute to our Public Works professionals, engineers, managers, and employees and to recognize the substantial contributions they make to protecting our national health, safety, and advancing quality of life for all.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed on this 20th day of May, 2024.

  
Maureen Copelof  
Mayor

Attest:

  
Denise Hodsdon, CMC  
City Clerk



## STAFF REPORT

City Council, Monday, May 20, 2024

**Title:** Proposed FY 2024-2025 Budget and Ordinance

**Speaker:** Wilson B. Hooper, City Manager  
Dean Luebbe, Assistant City Manager/Finance Director

**Prepared by:** Dean Luebbe, Assistant City Manager/Finance Director

**Approved by:** Wilson Hooper, City Manager

### Background

At the May 6, 2024 meeting, the City Manager presented his recommended FY25 budget. Also that evening, the City Council set the statutorily required Public Hearing for this evening, May 20, 2024.

The proposed budget is the culmination of months of work by both the Brevard staff and the city's elected officials. Staff began compiling information on the costs of providing services prior to the start of the calendar year, and submitted requests for funding for new initiatives soon after that. The City Council held its strategic planning retreat in February, identifying priorities that staff used to create the budget proposal. Council held a Budget Workshop April 12 to review options and give preliminary approval of a spending plan. The presentation on May 6 also elicited some feedback from Council, some in the form of alternative spending proposals, that staff captured and offers here as an addendum to the proposed budget.

The proposal is available to view here:

<https://www.cityofbrevard.com/DocumentCenter/View/5189/FY24-25-City-Manager-Recommended-Budget>

### Discussion

The proposed FY25 budget endows each of the city's budgetary units with resources needed to provide services, and spells out a funding strategy for each of Council's priorities. The proposal:

- Funds three new full-time firefighters, allowing Brevard Fire Department (BFD) to have at least two FT firefighters on every shift. Currently BFD relies on part-time firefighters to fill certain shifts. The budget proposes that these new positions be funded by a \$.02 increase to Brevard's property tax rate.
- Funds the relocation of Brevard Police Department (BPD) to 132 Commerce St., a move designed to increase the effectiveness and morale of BPD by moving them out of their cramped and deteriorating space in the basement of City Hall.
- The creation of the City's first Stormwater Fund, designed to dedicate resources to the maintenance and upgrading of the city's stormwater conveyance system.
- Endows the Housing Trust Fund with \$198,000 additional dollars, bringing its available balance to \$567,000

- Increases employee compensation by 3.25%; budgets for a 4% contribution to all employees 401Ks (rather than the current up-to 3% match)
- Maintains or enhances services in all other general fund functions.
- Combines "Water Distribution" and "Wastewater Collections" budgetary units into a single "Water/Sewer Maintenance" unit, and adds one FT maintenance position to enhance the City's utility maintenance activities and extend the life of our infrastructure.

In addition to the proposed \$.02 tax increase for firefighters, the proposal is paid for by:

- Modest natural growth in the city's three main General Fund revenue sources: property tax, sales tax, and interest income.
- A \$1/month increase in residential and small commercial sanitation fees, and a \$80/month increase in commercial dumpster collection fees. The latter increase is intended to close the gap between the cost of the service (nearly \$40 per collection) and its revenue (\$2.50 per collection).
- A three-tiered impervious surface fee whose collections will be dedicated to the aforementioned Stormwater Fund. Most residential properties will pay \$4/month.
- A continuation of the city's regular 4% increases to the city's "per/1000 gallon" utility fee,
- A new consumption-based High Strength Waste Surcharge (HSWS) for producers of high strength wastewater.

To relieve pressure on the FY25 budget, staff recommend that some projects/Council priorities be funded from existing resources. Therefore the budget comes accompanied by a FY24 Supplemental Spending Plan which uses operational savings, reserve funds, and unobligated fund balance to pay for proposed items. Council will be asked to approve the FY24 Supplemental Spending Plan later this evening.

### **Action**

No action required. For information, public hearing and discussion only. The Council will be asked to take action at its June 3, 2024 meeting.

### **Attachments:**

1. Proposed Budget Ordinance FY24-25
2. FY25 Budget Addendum with alternatives

# City of Brevard FY2024-2025 Budget Ordinance

## Ordinance No. 2024-XXXX

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

**Section 1. It is estimated that the following revenues will be available to the General Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:**

| REVENUES                     | BUDGET               |
|------------------------------|----------------------|
| AD VALOREM TAXES             | \$ 6,761,100         |
| OTHER TAXES                  | 2,546,850            |
| UNRESTRICTED REVENUES        | 920,500              |
| RESTRICTED INTERGOVERNMENTAL | 271,200              |
| SALES AND SERVICES           | 1,518,300            |
| MISCELLANEOUS                | 1,281,105            |
| FUND BALANCE APPROPRIATED    | -                    |
| <b>TOTAL</b>                 | <b>\$ 13,299,055</b> |

**Section 2. The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025 in accordance with the Chart of Accounts heretofore established for the City of Brevard:**

| EXPENDITURES                         | BUDGET               |
|--------------------------------------|----------------------|
| GOVERNING BODY                       | \$ 194,410           |
| ADMINISTRATIVE                       | 1,049,500            |
| FINANCE                              | 917,200              |
| PLANNING                             | 1,005,400            |
| COMMUNITY CENTER                     | 155,700              |
| BUILDING AND GROUNDS                 | 557,500              |
| POLICE                               | 4,019,600            |
| PUBLIC WORKS - ADMINISTRATION        | 626,000              |
| PUBLIC WORKS - GARAGE                | 462,800              |
| PUBLIC WORKS - STREETS - LOCAL       | 824,400              |
| PUBLIC WORKS - STREETS - POWELL BILL | 243,000              |
| RECREATION                           | 287,900              |
| SANITATION                           | 1,157,600            |
| NON DEPARTMENTAL                     | 1,798,045            |
| <b>TOTAL</b>                         | <b>\$ 13,299,055</b> |

**Section 3. It is estimated that the following revenues will be available to the Water and Sewer Utility Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:**

| REVENUES                  | BUDGET              |
|---------------------------|---------------------|
| WATER BILLINGS            | \$ 3,450,500        |
| SEWER BILLINGS            | 3,480,800           |
| METER FEES                | 180,000             |
| OTHER REVENUES            | 321,500             |
| FUND BALANCE APPROPRIATED | -                   |
| <b>TOTAL</b>              | <b>\$ 7,432,800</b> |

**Section 4. The following amounts are hereby appropriated in the Water and Sewer Utility Fund for the operation of said utilities for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:**

| EXPENDITURES                | BUDGET       |
|-----------------------------|--------------|
| WATER TREATMENT             | \$ 1,081,200 |
| WASTEWATER TREATMENT        | 1,731,900    |
| WATER AND SEWER MAINTENANCE | 1,896,200    |
| NON DEPARTMENTAL            | 2,723,500    |

# City of Brevard FY2024-2025 Budget Ordinance

## Ordinance No. 2024-XXXX

|       |    |           |
|-------|----|-----------|
| TOTAL | \$ | 7,432,800 |
|-------|----|-----------|

Section 5. The following revenues will be continued for the Capital Reserve Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| REVENUES                  | BUDGET     |
|---------------------------|------------|
| FUND BALANCE APPROPRIATED | \$ -       |
| SYSTEM DEVELOPMENT FEES   | 100,000    |
| TOTAL                     | \$ 100,000 |

Section 6. The following expenditures will be continued for the Capital Reserve Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| EXPENDITURES             | BUDGET     |
|--------------------------|------------|
| INCREASE IN FUND BALANCE | 100,000    |
| TOTAL                    | \$ 100,000 |

Section 7. It is estimated that the following revenues will be available to the Fire District Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| REVENUES                   | BUDGET       |
|----------------------------|--------------|
| TRANSFER FROM GENERAL FUND | \$ 1,053,545 |
| FIRE DISTRICT TAX          | 646,155      |
| OTHER REVENUES             | 6,000        |
| FUND BALANCE APPROPRIATED  | -            |
| LOAN PROCEEDS              | 1,550,000    |
| TOTAL                      | \$ 3,255,700 |

Section 8. The following amounts are hereby appropriated in the Fire District Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| EXPENDITURES                        | BUDGET       |
|-------------------------------------|--------------|
| PERSONNEL, OPERATING, CAPITAL, DEBT | 3,255,700    |
| TOTAL                               | \$ 3,255,700 |

Section 9. It is estimated that the following revenues will be available to the Stormwater Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| REVENUES             | BUDGET     |
|----------------------|------------|
| CHARGES FOR SERVICES | 244,000    |
| TOTAL                | \$ 244,000 |

Section 10. The following amounts are hereby appropriated in the Stormwater Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| EXPENDITURES | BUDGET     |
|--------------|------------|
| OPERATING    | 244,000    |
| TOTAL        | \$ 244,000 |

## City of Brevard FY2024-2025 Budget Ordinance

### Ordinance No. 2024-XXXX

Section 11. It is estimated that the following revenues will be available to the Bjerg Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| REVENUES                | BUDGET   |
|-------------------------|----------|
| INTEREST ON INVESTMENTS | 2,800    |
| TOTAL                   | \$ 2,800 |

Section 12. The following amounts are hereby appropriated in the Bjerg Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| EXPENDITURES             | BUDGET   |
|--------------------------|----------|
| INCREASE IN FUND BALANCE | 2,800    |
| TOTAL                    | \$ 2,800 |

Section 13. The following revenue amounts will be available in the Health Insurance Fund for Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| REVENUES                  | BUDGET       |
|---------------------------|--------------|
| FUND BALANCE APPROPRIATED | \$ 129,900   |
| TRANSFER FROM OTHER FUNDS | 1,545,000    |
| DENTAL DEPENDENT PREMIUMS | 32,000       |
| HEALTH DEPENDENT PREMIUMS | 82,000       |
| RETIREE PREMIUMS          | 44,000       |
| TOTAL                     | \$ 1,832,900 |

Section 14. The following amounts are hereby appropriated in the Health Insurance Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| EXPENDITURES           | BUDGET       |
|------------------------|--------------|
| HEALTH INSURANCE COSTS | 1,832,900    |
| TOTAL                  | \$ 1,832,900 |

Section 15. It is estimated that the following revenues will be available to the Heart of Brevard Municipal Service District Tax Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| REVENUES                                       | BUDGET     |
|------------------------------------------------|------------|
| SERVICE DISTRICT TAX - CURRENT AND PRIOR YEARS | \$ 160,000 |
| TRANSFER FROM GENERAL FUND                     | 11,000     |
| TOTAL                                          | \$ 171,000 |

Section 16. The following amounts are hereby appropriated in the Heart of Brevard Municipal Service District Tax Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| EXPENDITURES                     | BUDGET     |
|----------------------------------|------------|
| CONTRACT SERVICES                | \$ 160,000 |
| TRANSFER TO DOWNTOWN MASTER PLAN | 11,000     |
| TOTAL                            | \$ 171,000 |

## City of Brevard FY2024-2025 Budget Ordinance

### Ordinance No. 2024-XXXX

Section 17. It is estimated that the following revenues will be available to the Housing Trust Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| REVENUES                   | BUDGET     |
|----------------------------|------------|
| TRANSFER FROM GENERAL FUND | \$ 198,000 |
| DEVELOPER LOAN PAYMENT     | 2,000      |
| TOTAL                      | \$ 200,000 |

Section 18. The following amounts are hereby appropriated in the Housing Trust Fund for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025:

| EXPENDITURES             | BUDGET     |
|--------------------------|------------|
| OPERATING                | \$ 50,000  |
| INCREASE IN FUND BALANCE | 150,000    |
| TOTAL                    | \$ 200,000 |

Section 19. The Revenues and Expenditures set forth in Section 1 through Section 18 of this Ordinance are hereby summarized as follows:

| BUDGET APPROPRIATIONS         | BUDGET        |
|-------------------------------|---------------|
| GENERAL FUND                  | \$ 13,299,055 |
| STORMWATER FUND               | 244,000       |
| WATER & SEWER FUND            | 7,432,800     |
| FIRE DISTRICT FUND            | 3,255,700     |
| CAPITAL RESERVE FUND          | 100,000       |
| BJERG FUND                    | 2,800         |
| HEALTH INSURANCE RESERVE FUND | 1,832,900     |
| HEART OF BREVARD FUND         | 171,000       |
| HOUSING TRUST FUND            | 200,000       |
| TOTAL                         | \$ 26,538,255 |

# City of Brevard FY2024-2025 Budget Ordinance

## Ordinance No. 2024-XXXX

Section 20. There is hereby levied a tax at the rate of forty five cents (\$0.5000) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2024 for the purpose of raising the revenue listed as Taxes in the General Fund in Section 1 of this Ordinance. This rate is based on an estimated total valuation of property for the purposes of taxation of \$1,350,000,000 and an estimated collection rate of 99.3%.

Section 21. There is hereby further levied a tax at the rate of \$0.2130 cents per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2024 within the boundaries of the Heart of Brevard Municipal Service District for the purpose of raising the revenue listed as Taxes in the Heart of Brevard Municipal Service District Tax Fund in Section 15 of this Ordinance. This rate is based on an estimated total valuation of property for the purposes of taxation of \$71,000,000 and an estimated collection rate of 99.3%.

Section 22. There is hereby further attached (Exhibit A) to said Ordinance a schedule of taxes, fees, and charges for the General and Utility Funds.

Section 23. The Budget Officer shall be authorized to reallocate departmental appropriations among the various line item expenditures of that department, as said officer believes necessary. The Budget Officer shall be authorized to effect interdepartmental transfers, in the same fund, provided that no departmental budget shall be reduced by more than ten percent without the prior approval of the City Council. Any such transfers shall be reported to the City Council at its next regular meeting and shall be entered in the minutes.

Section 24. Copies of the Budget Ordinance shall be furnished to the Budget Officer and Finance Officer of the City to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Brevard City Code and the General Statutes of the State of North Carolina.

Adopted and approved this the 3rd day of June, 2024.

ATTEST:

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Denise Hodsdon  
City Clerk

---

Maureen Copelof  
Mayor

---

Mack McKeller  
City Attorney

## Addendum to City Manager's FY25 Recommended Budget

This document contains alternative budget proposals offered by Council at the May 6, 2024 Brevard City Council meeting.

### Property Tax Increase / Fire

**Alternative 1:** Maintain current tax rate (\$.48 per \$100)

| Fund             | Acct Number  | Acct Name   | Description      | Beginning Budget | Add/(Sub)   | Final Budget |
|------------------|--------------|-------------|------------------|------------------|-------------|--------------|
| Property Tax     | 10-3010-0423 | Ad Val 2023 | No Tax Increase  | \$6,369,700      | (\$264,000) | \$6,105,700  |
| Non-Departmental | 10-6600-9240 | Fire Dept   | Transfer to Fire | \$1,053,545      | (\$264,000) | \$789,545    |

**Note:** Alternative 1 will result in no new full-time firefighters.

**Manager's Recommended:** Increase property taxes by \$.02 (\$.50 per \$100)

| Fund             | Acct Number  | Acct Name   | Description         | Add/(Sub) | Final Budget |
|------------------|--------------|-------------|---------------------|-----------|--------------|
| Property Tax     | 10-3010-0423 | Ad Val 2023 | \$0.02 Tax Increase | \$264,000 | \$6,369,700  |
| Non-Departmental | 10-6600-9240 | Fire Dept   | Transfer to Fire    | \$264,000 | \$1,053,545  |



## Police / Estatoe Trail / Downtown Planters

**Alternative 2:** Remove funding for one police vehicle and allocate those funds to the Estatoe Trail.

| Department       | Acct Number  | Acct Name             | Description    | Beginning Budget | Add/(Sub)  | Final Budget |
|------------------|--------------|-----------------------|----------------|------------------|------------|--------------|
| Police           | 10-5100-7400 | Police Capital Outlay | One Police Car | \$140,000        | (\$70,000) | \$70,000     |
| Non-Departmental | 10-6600-9259 | Fund 78               | Estatoe Trail  | \$25,000         | \$70,000   | \$95,000     |

**Alternative 3:** Remove funding for downtown planters and allocate those funds to Downtown Master Plan Fund.

| Department         | Acct Number  | Acct Name           | Description       | Beginning Budget | Add/(Sub)  | Final Budget |
|--------------------|--------------|---------------------|-------------------|------------------|------------|--------------|
| Building & Grounds | 10-5000-4500 | Contracted Services | Downtown Planters | \$20,000         | (\$20,000) | \$0          |
| Non-Departmental   | 10-6600-9251 | Fund 83             | Downtown          | \$33,000         | \$20,000   | \$53,000     |

**Manager's Recommended:** Maintain current fleet replacement of police vehicles.

| Department          | Acct Number  | Acct Name             | Description          | Final Budget |
|---------------------|--------------|-----------------------|----------------------|--------------|
| Police              | 10-5100-7400 | Police Capital Outlay | Two Police Cars      | \$140,000    |
| Non-Departmental    | 10-6600-9259 | Fund 78               | Estatoe Trail        | \$25,000     |
| Buildings & Grounds | 10-5000-4500 | Contracted Services   | Downtown Planters    | \$20,000     |
| Non-Departmental    | 10-6600-9251 | Fund 83               | Downtown Master Plan | \$33,000     |

## Stormwater

**Alternative 4:** Removes stormwater fund and fees.

| Fund       | Acct Number  | Acct Name      | Description       | Beginning Budget | Add/(Sub)   | Final Budget |
|------------|--------------|----------------|-------------------|------------------|-------------|--------------|
| Stormwater | 21-3800-3000 | Tier 1 Revenue | No Stormwater Fee | \$147,120        | (\$147,120) | \$0          |
|            | 21-3800-4000 | Tier 2 Revenue | No Stormwater Fee | \$82,480         | (\$82,480)  | \$0          |
|            | 21-3800-5000 | Tier 3 Revenue | No Stormwater Fee | \$14,400         | (\$14,400)  | \$0          |
| Total      |              |                |                   | \$244,000        |             | \$0          |

**Manager's Recommended:** Implement a stormwater fee and fund and use the funds to invest in sustainable infrastructure.

| Fund       | Acct Number  | Acct Name      | Description        | Add/(Sub) | Final Budget |
|------------|--------------|----------------|--------------------|-----------|--------------|
| Stormwater | 21-3800-3000 | Tier 1 Revenue | New Stormwater Fee | \$147,120 | \$147,120    |
|            | 21-3800-4000 | Tier 2 Revenue | New Stormwater Fee | \$82,480  | \$82,480     |
|            | 21-3800-5000 | Tier 3 Revenue | New Stormwater Fee | \$14,400  | \$14,400     |
| Total      |              |                |                    |           | \$244,000    |

## Water & Sewer

**Alternative 5:** No water and sewer fee increases.

| Fund                  | Acct Number  | Acct Name             | Description                       | Beginning Budget | Add/(Sub)   | Final Budget |
|-----------------------|--------------|-----------------------|-----------------------------------|------------------|-------------|--------------|
| Water                 | 30-3710-0100 | Water Charges         | No Fee Increase                   | 3,450,000        | (\$100,000) | \$3,350,000  |
| *Sewer                | 30-3710-0200 | Sewer Charges         | No Fee Increase                   | 3,357,800        | (\$97,800)  | \$3,260,000  |
|                       |              |                       | Total                             | \$6,931,300      | (\$197,800) | \$6,590,000  |
|                       |              |                       |                                   |                  |             |              |
| Water Capital Reserve | 30-6600      | Water Capital Reserve | Transfer to Water Capital Reserve | 369,400          | (\$197,800) | \$171,600    |

**Note:** The revenue for high strength waste surcharge has been removed for this scenario.

**Manager's Recommended:** Maintain annual 4% increase in water and sewer fees.

| Fund                  | Acct Number  | Acct Name             | Description                       | Add/(Sub) | Final Budget |
|-----------------------|--------------|-----------------------|-----------------------------------|-----------|--------------|
| Water                 | 30-3710-0100 | Water Charges         | 4% Water Increase                 | \$100,000 | \$3,450,000  |
| Sewer                 | 30-3710-0200 | Sewer Charges         | 4% Sewer Increase                 | \$97,800  | \$3,357,800  |
|                       |              |                       | Total                             | \$197,800 | \$6,931,300  |
|                       |              |                       |                                   |           |              |
| Water Capital Reserve | 30-6600      | Water Capital Reserve | Transfer to Water Capital Reserve | \$369,400 | \$369,400    |

## High Strength Waste Surcharge

**Alternative 6:** No high strength wastewater surcharge.

| Fund  | Acct Number  | Acct Name                  | Description | Beginning Budget | Add/(Sub)   | Final Budget |
|-------|--------------|----------------------------|-------------|------------------|-------------|--------------|
| Sewer | 30-3710-0200 | HSWS Charges               | No HSWS Fee | \$123,000        | (\$123,000) | \$0          |
|       |              |                            |             |                  |             |              |
| Sewer | 30-8220-3400 | Other Supplies & Materials | Chemicals   | \$420,000        | (\$123,000) | \$297,000    |

**Manager's Recommended:** Implementation of a high strength wastewater surcharge to help cover chemical costs.

| Fund  | Acct Number  | Acct Name                  | Description | Add/(Sub) | Final Budget |
|-------|--------------|----------------------------|-------------|-----------|--------------|
| Sewer | 30-3710-0200 | Sewer Charges              | HSWS Fee    | \$123,000 | \$123,000    |
|       |              |                            |             |           |              |
| Sewer | 30-8220-3400 | Other Supplies & Materials | Chemicals   | \$123,000 | \$420,000    |

## **STAFF REPORT**

**City Council, Monday, May 20, 2024**

**Title:** Ordinance - Voluntary Contiguous Annexation - Pisgah Hospitality, LLC / Intersection of Lambs Creek Road and US Hwy 64

**Speaker:** Aaron Bland, Asst Planning Director

**Prepared by:** Aaron Bland, Asst Planning Director

**Approved by:** Wilson Hooper, City Manager

### **Background**

Representatives of Pisgah Hospitality LLC (“Applicant”) have submitted a request for voluntary continuous annexation for multiple properties located at the intersection of Asheville Highway and Lambs Creek Road, further identified by PIN’s: 8597-01-8529-000; 8597-01-6950-000; 8597-02-9059-000; 8597-12-0348-000; and a portion of 8597-11-1969-000.

### **Discussion**

The subject properties are located within the City’s Extra-Territorial Jurisdiction (ETJ) adjacent to the corporate limits and other parcels owned by Pisgah Hospitality LLC that are already inside the City’s corporate limits. The Applicant wishes to annex these parcels so that the entire project site for the luxury vacation rental development called Station Brevard is inside the city limits. The development will include a 36-room lodge, 18 rental cabins, with an adjacent entertainment venue and restaurant.

### **Policy Analysis**

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

### **Fiscal Impact**

The City service delivery impacts are estimated to be minimal given the site is already in the ETJ and City Fire District. The financial impacts are estimated to be a net positive for the City; see Attachment 3 for full financial impact details.

### **Recommendation**

The Planning Board discussed this request at their April 23rd meeting and unanimously recommended approval.

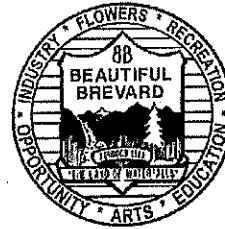
### **Action**

This staff report is being presented for public hearing purposes only; no action is requested at this time.

**Attachments:**

1. Petition for Annexation
2. Annexation Plat
3. Annexation Revenue Estimator
4. Ordinance Extending Corporate Limits

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA  
CITY OF BREVARD



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

Date: 5/30/2023

To the City Council of the City of Brevard:

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

Transylvania County Property Identification Number(s): 8597-11-0513-000  
8597-01-8529-000; 8597-01-6950-000; 8597-02-9059-000; 8597-12-0348-000  
8597-11-0886-000; 8597-11-1969-000  
Street Address: intersection - Lanks Creek Rd : Hwy 64

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

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

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

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

a. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_ Email \_\_\_\_\_  
Signature \_\_\_\_\_

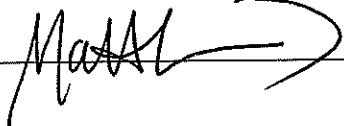
b. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_ Email \_\_\_\_\_  
Signature \_\_\_\_\_

c. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_ Email \_\_\_\_\_  
Signature \_\_\_\_\_

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

a. Name Pisgah Hospitality  
Address 204 Lois St.  
GREENVILLE SC 29601  
Telephone ~~919~~ 864 915 8301 Email bjb.sc.us@gmail.com

By: MATTHEW L. GRANDY - MEMBER  
Type or Print Name and Title (President / Managing Member)

Signature 



b. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_ Email \_\_\_\_\_

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

Signature \_\_\_\_\_

c. Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_ Email \_\_\_\_\_

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

Signature \_\_\_\_\_

\* \* \* \* \*

AGENT:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Email \_\_\_\_\_

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

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

**2022005367**
 TRANSYLVANIA CO, NC FEE \$26.00.  
 STATE OF NC REAL ESTATE EXTX  
**\$1200.00**

PRESENTED &amp; RECORDED:

08-23-2022 10:25:47 AM

BETH C LANDRETH

REGISTER OF DEEDS

BY: DELIA MCCALL  
DEPUTY REGISTER OF DEEDS**BK: DOC 1050****PG: 151-153****NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$1,200.00

 Parcel Identifier No. \_\_\_\_\_ Verified by Transylvania County on the 23 day of Aug, 2022  
 By: \_\_\_\_\_
Mail/Box to: JONES, GILLASPIA & LOYD, LLP 5 Park Place East # 201, Brevard, NC 28712This instrument was prepared by: MICHAEL K. PRATT (No title search performed by preparer)

Brief description for the Index: \_\_\_\_\_

THIS DEED made this 4th day of August, 2022, by and between

| GRANTOR                                                        | GRANTEE                                                                |
|----------------------------------------------------------------|------------------------------------------------------------------------|
| GAYLE E. RAMSEY, Executor of the<br>Estate of Esther M. Severs | PISGAH HOSPITALITY, LLC, a South Carolina<br>limited liability company |
| 35 North Gaston Street<br>Brevard, NC 28712                    | 204 Lois Street<br>Greenville, SC 29601                                |

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Brevard, Brevard Township, Transylvania County, North Carolina and more particularly described as follows:

BEING ALL OF THE SAME LAND DESCRIBED ON THE PAGE WHICH IS ATTACHED HERETO, DESIGNATED AS EXHIBIT "A" AND INCORPORATED HEREIN BY REFERENCE.

All or a portion of the property herein conveyed \_\_\_\_\_ does X does not include the primary residence of the Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Exceptions and reservations contained in this deed and/or in instruments referenced herein.  
Easements and rights of way for public and private roads and utilities, of public record.  
Lien of ad valorem taxes for the current year and subsequent years, not yet due and payable.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

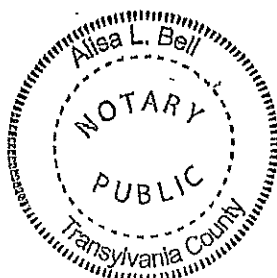
Estate of Esther M. Severs

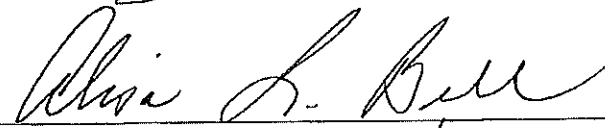
By:  (SEAL)  
GAYLE E. RAMSEY, Executor

STATE OF NORTH CAROLINA, COUNTY OF TRANSYLVANIA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: GAYLE E. RAMSEY

WITNESS my hand and Notarial Seal, this the 10 day of August, 2022.



  
Signature of Notary Public

ALISA L. BELL  
Printed or typed name of Notary Public

My commission expires: 4/20/26

**EXHIBIT "A" TO A DEED FROM SEVERS ESTATE TO THE STAYTION, LLC**

Tract 1 and Tract 2 totaling 9.11 acres, more or less, shown on a survey prepared by E. Roger Raxter for Pisgah Hospitality, LLC, dated April 27, 2022, thereof recorded in Plat File 22, Slide 295, Records of Plats for Transylvania County, and being also a part of that property described in Deed Book 66, page 515.

Also conveyed herewith is all of Seller's right, title and interest in and to that certain Lease Agreement between Esther Severs and the Lamar Companies, dated 1-10-2003, to the extent that it covers the billboards which now remain on the subject property. This conveyance is made subject to that Lease Agreement.

Esther M. Severs died on May 27, 2006. The Grantor is authorized and directed to sell the subject property by item Three of the Last Will and Testament of Esther M. Severs, dated December 10, 1997, which has been filed for probate with the Office of the Clerk of Superior Court for Transylvania County, File Number 2006 E 143.

Z:\2021 PENDING RE FILES\Working RE FILES\1 Severs Estate\Ex. A Severs Estate.wpd



2022006615

TRANSYLVANIA CO, NC FEE \$26.00

NO TAXABLE CONSIDERATION

PRESENTED &amp; RECORDED:

10-20-2022 01:46:29 PM

BETH C LANDRETH

REGISTER OF DEEDS

BY: D REE MCCALL

DEPUTY REGISTER OF DEEDS

BK: DOC 1057

PG: 393-395

## NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$0.00\*

Parcel Identifier No. \_\_\_\_\_ Verified by Transylvania County on the 20 day of October, 2022  
 By: ce

Mail/Box to: JONES, GILLASPIA & LOYD, LLP 5 Park Place East # 201, Brevard, NC 28712This instrument was prepared by: MICHAEL K. PRATT (No title search performed by preparer)Brief description for the Index: Lots 3, 4, 5 & 6, totaling 6.87 acresTHIS DEED made this 20 day of October, 2022, by and between

## GRANTOR

GAYLE E. RAMSEY, Executor of the  
Estate of Esther M. Severs

35 North Gaston Street  
Brevard, NC 28712

## GRANTEE

PISGAH HOSPITALITY, LLC, a South Carolina  
limited liability company

204 Lois Street  
Greenville, SC 29601

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Brevard, Brevard Township, Transylvania County, North Carolina and more particularly described as follows:

BEING ALL OF THE SAME LAND DESCRIBED ON THE PAGE WHICH IS ATTACHED HERETO, DESIGNATED AS EXHIBIT "A" AND INCORPORATED HEREIN BY REFERENCE.

All or a portion of the property herein conveyed does X does not include the primary residence of the Grantor.

\*The Excise tax is \$600.00 but has already been collected by the Transylvania County Register of Deeds Office prior to the recording of this deed.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Exceptions and reservations contained in this deed and/or in instruments referenced herein.  
Easements and rights of way for public and private roads and utilities, of public record.  
Lien of ad valorem taxes for the current year and subsequent years, not yet due and payable.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

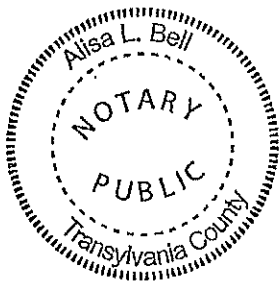
Estate of Esther M. Severs

By: Gayle E. Ramsey (SEAL)  
GAYLE E. RAMSEY, Executor

STATE OF NORTH CAROLINA, COUNTY OF TRANSYLVANIA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: GAYLE E. RAMSEY

WITNESS my hand and Notarial Seal, this the 18 day of October, 2022.



Alisa L. Bell  
Signature of Notary Public  
Alisa L. Bell

Printed or typed name of Notary Public

My commission expires: 4/26/26

**EXHIBIT "A" TO A DEED FROM THE ESTATE OF ESTHER M. SEVERS 2006-E-143 TO PISGAH HOSPITALITY, LLC**

Tracts 3, 4, 5 and 6 totaling 6.87 acres, more or less, shown on a survey prepared by E. Roger Raxter for Pisgah Hospitality, LLC, dated April 27, 2022, thereof recorded in Plat File 22, Slide 295, Records of Plats for Transylvania County, and being also a part of that property described in Deed Book 66, page 515.

Also conveyed herewith is all of Seller's right, title and interest in and to that certain Lease Agreement between Esther Severs and the Lamar Companies, dated 1-10-2003, to the extent that it covers any billboards which are now located on the subject property. This conveyance is made subject to that Lease Agreement.

Esther M. Severs died on May 27, 2006. The Grantor is authorized and directed to sell the subject property by item Three of the Last Will and Testament of Esther M. Severs, dated December 10, 1997, which has been filed for probate with the Office of the Clerk of Superior Court for Transylvania County, File Number 2006 E 143.





| PIN              | OWNER_NAME             | ADDRESS_1   | CITY       | STATE | ZIP_CODE | ACRES      | LEGAL_ADDR                      |
|------------------|------------------------|-------------|------------|-------|----------|------------|---------------------------------|
| 8597-01-6950-006 | Pisgah Hospitality LLC | 204 Lois St | Greenville | SC    | 29601    | 4.55295923 | TR-2 Lambs Creek Rd             |
| 8597-01-8529-000 | Pisgah Hospitality LLC | 204 Lois St | Greenville | SC    | 29601    | 2.409      | pt of TR-1 Lambs Creek Rd       |
| 8597-02-9059-000 | Pisgah Hospitality LLC | 204 Lois St | Greenville | SC    | 29601    | 3.34645335 | TR 3 & pt of TR4 Lambs Creek Rd |
| 8597-11-0513-000 | Pisgah Hospitality LLC | 204 Lois St | Greenville | SC    | 29601    | 2.167      | pt of TR-1 Lambs Creek RD       |
| 8597-11-0886-000 | Pisgah Hospitality LLC | 204 Lois St | Greenville | SC    | 29601    | 0.356      | pt of TR-4 Lambs Creek Rd       |
| 8597-11-1969-000 | Pisgah Hospitality LLC | 204 Lois St | Greenville | SC    | 29601    | 1.102      | TR-6 Lambs Creek Rd             |
| 8597-12-0348-000 | Pisgah Hospitality LLC | 204 Lois St | Greenville | SC    | 29601    | 1.094      | TR-5 Lambs Creek Rd             |

**ORDINANCE NO. 2022-26**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP  
OF THE CITY OF BREVARD TO ESTABLISH  
THE COMPO BREVARD CONDITIONAL ZONING DISTRICT**

**WHEREAS**, the City of Brevard has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

**WHEREAS**, in response to an application for rezoning filed by TR Hospitality for the property described as PINs 8597-11-0513-000, 8597-01-8529-000 8597-01-6950-000, 8597-02-9059-000, 8957-12-0348-000, 8597-11-0886-000, and 8597-11-1969-000 (hereafter "Subject Properties" or "Project Area") to be rezoned to Neighborhood Mixed Use Conditional Zoning District, the City of Brevard Planning Board considered REZ-22-003 on April 26, 2022, and unanimously recommended approval; and

**WHEREAS**, the Brevard Planning Board has determined that the application for rezoning all of these properties is consistent with the following polices and goals of the 2015 Comprehensive Plan:

1. **OBJECTIVE 2.1:** As the City of Brevard's primary source of financial capital, the City will take proactive measures to stabilize and grow the tax base.
  - a. **POLICY 2.1.A:** Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.
2. **OBJECTIVE 4.1:** Increased efficiency of land uses to help stabilize and grow the City's tax base.
  - a. **POLICY 4.1.A:** Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.
  - b. **POLICY 4.1.G:** Modify development ordinances and regulations in incorporate design standards and guidelines that respect existing community character while allowing greater residential density of nonresidential development within mixed use zoning districts.
3. **OBJECTIVE 4.4:** Creation of new opportunities for citizens and visitors to experience recreation and nature.

and Council finds that this Ordinance is also consistent therewith; and

**WHEREAS**, the Brevard Planning Board has determined that the application for rezoning these properties is inconsistent with the 2002 Future Land Use Map, and Council concurs and also finds that this Ordinance is inconsistent therewith; and

**WHEREAS**, in accordance with North Carolina General Statute 160D-605 Council finds that this Ordinance is also reasonable and consistent therewith and that the proposed uses are reasonable and consistent within the context of the new zoning district and the prevalence of uses in the vicinity of the properties due to the following factors:

1. The conditional district provides the opportunity for crafting a site-specific zoning code that allows for context-sensitive considerations to protect the residential and camp uses along Lambs Creek Road from commercial uses which are appropriate to be located along the Asheville Highway frontage.
2. A nature-oriented destination site will help ensure the sensitive mountain slopes, the trout stream, and its associated floodplain will be protected and even enhanced, as they are an asset to the proposed project rather than an obstacle.
3. The preliminary master plan shows higher-intensity land uses adjacent to Asheville Highway, away from neighboring residential uses.

and

**WHEREAS**, a public hearing was held on May 16, 2022, in consideration of rezoning of the Subject Properties to Neighborhood Mixed Use Conditional Zoning District; and

**WHEREAS**, the City Council, after hearing all persons wishing to comment on this request, desires to approve said request.

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

**Section 1.** The Official Zoning Map of the City of Brevard is hereby amended to establish the Compo Brevard Conditional Zoning District with the Neighborhood Mixed Use Base District as described in Exhibit A attached hereto and incorporated herein.

**Section 2.** The District is a conditional zoning district established pursuant to the Unified Development Ordinance of the City of Brevard by means of authority granted by the North Carolina General Statutes.

**Section 3.** Development and use of lands within the District shall occur in accordance with the approved Preliminary Master Plan, which is attached to this ordinance and incorporated herein as Exhibit B, as well as the List of Conditions outlined below. This Ordinance and its exhibits shall run with the land and shall be binding on the TR Hospitality LLC, its heirs and assigns.

**Section 4.** List of Conditions.

- A. Except as set forth in Section 4.C, below, development within the District shall comply with all applicable provisions of Brevard City Code, including but not limited to,
1. City of Brevard Unified Development Ordinance, general provisions and provisions specifically applicable to properties within Neighborhood Mixed Use Districts
  2. Chapter 62. Streets, Sidewalks, and Other Public Ways
  3. Chapter 70. Utilities
- B. Any and all unique architecture and building types shall fully conform to all applicable North Carolina State Building Codes.
- C. The following may be permitted within the District:
1. The base zoning district shall be Neighborhood Mixed Use.
  2. The tabled of allowed uses in the District shall follow that of Neighborhood Mixed Use, with the following alterations:

| Use                                      | Removed from base NMX | Added to NMX-CD |
|------------------------------------------|-----------------------|-----------------|
| Hotels/Motels/Inns                       | —                     | P               |
| Rental Cottage/Cabins <sup>1</sup>       | PS                    | P               |
| Animal Services                          | P                     | —               |
| Banks, Credit Unions, Financial Services | P                     | —               |
| Drive Thru Service                       | SUP                   | —               |
| Funeral Homes                            | PS                    | —               |
| Group Care Facility                      | P                     | —               |
| Kennels                                  | SUP                   | —               |

|                                                                                 |     |    |
|---------------------------------------------------------------------------------|-----|----|
| Landscaping Services                                                            | SUP | —  |
| Medical Services – Doctor Office                                                | P   | —  |
| Vehicle Services – Minor Maintenance/Repair                                     | SUP | —  |
| Alcoholic Beverage Sales Store                                                  | SUP | —  |
| Bar/Tavern/Night Club                                                           | SUP | P2 |
| Gas Station                                                                     | SUP | —  |
| Vehicle/Heavy Equipment Sales – Indoor                                          | PS  | —  |
| Metal Products Fabrication, Machine or Welding Shop                             | SUP | —  |
| Cemeteries                                                                      | PS  | —  |
| Jail                                                                            | SUP | —  |
| Public Safety Station                                                           | P   | —  |
| Schools – Elementary and Secondary                                              | P   | —  |
| Schools – Vocational/Technical                                                  | P   | —  |
| Human Crematories                                                               | PS  | —  |
| 1 As a stand-alone use.<br>2 Only bar/tavern; night club is not an allowed use. |     |    |

3. The maximum residential dwelling unit density shall be 4 dwelling units per acre. This density limit shall not be applied to lodging units.
4. Minimum setbacks from property lines shall follow those shown on the attached master plan.
5. Ground floor of each principal structure shall be a maximum of 30,000 square feet of gross heated area (does not include unheated or unenclosed floor area such as terraces and structured parking).
6. Maximum building height shall be limited as shown in the attached master plan. Building height shall be calculated as defined in the UDO Section 5.18.
7. The hours of operation for any outdoor event space shall be from 8:00 AM to 10:00 PM.
8. Buffer areas adjacent to General Residential districts shall be 40 feet in width.
9. The Developer shall explore placing buffer areas and unbuildable areas of the project site into a conservation easement in coordination with a non-profit land trust, such as Conserving Carolina, within 10 years.
10. The Developer shall construct a fence along the boundary of the Tanglewood Heights side of the project where feasible given existing slope conditions. Such fence shall be constructed before final zoning inspection approval of any development of Zone D.
11. Final master plans shall include a detailed stormwater management plan for that particular phase controlling for the net increase of impervious surface of that phase and demonstrating compliance with Chapter 6 of the UDO as certified by the City's consultant hydraulic

engineer. The stormwater infrastructure shall be installed prior to the issuance of final zoning approval and certificate of occupancy for any development activity of the particular phase.

12. Demolition and remediation of structures in close proximity to Lambs Creek, including but not limited to residential structures, underground storage tanks, and creek channelization or retention structures, shall be done in coordination with, and according to all requirements and/or best practices of, the US Army Corps of Engineers and the North Carolina Department of Environmental Quality.
13. Interior private access roads may follow Low Impact Design standards for streets.
14. Due to the low impact nature of this development, Zone B as shown on the attached master plan shall not be limited by existing slope. All other zones shall follow the typical slope standards per the UDO.
15. The minimum amount of open space shall be 1.5 acres, across the entire District.
16. All billboards on the project properties shall be removed.

- D. Minor modifications to the approved master plan may be approved by the Administrator as follows:
1. A deviation of up to 10% or 24 inches, whichever is greater, from the approved setbacks.
  2. A reduction of up to 25% in the number of parking spaces.
  3. A reduction of up to 20% in the minimum required distance between driveways and cuts, and between cuts and intersections.
  4. Any other modifications shall be done in accordance with the limitations and procedures prescribed in the UDO.

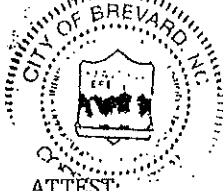
**Section 5.** The Planning Director is hereby authorized and directed to modify the City's Official Zoning Map and the Future Land Use Map consistent with this Ordinance.

**Section 6.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

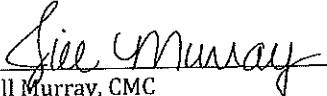
**Section 7.** All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

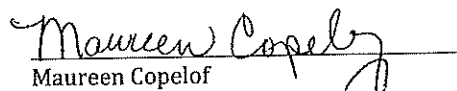
**Section 8.** This ordinance shall be in full force and effect from and after the date of adoption.

Adopted and approved this the 20<sup>th</sup> day of June 2022.

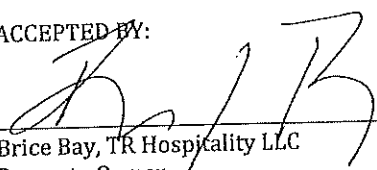


ATTEST:

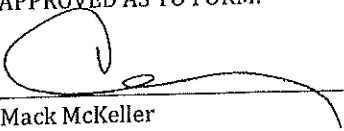
  
Jill Murray, CMC  
City Clerk

  
Maureen Copelof  
Mayor

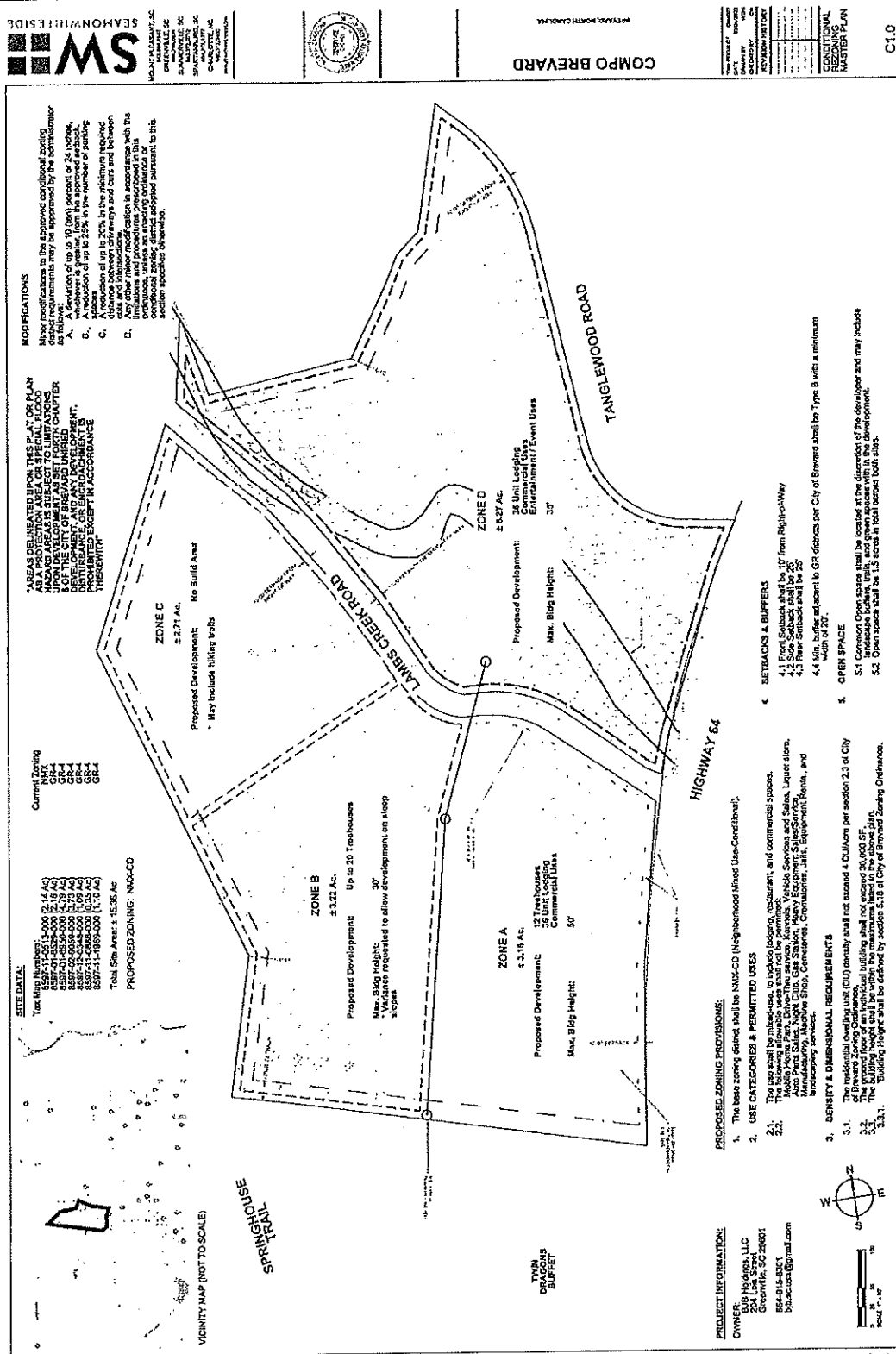
ACCEPTED BY:

  
\_\_\_\_\_  
Brice Bay, TR Hospitality LLC  
Property Owner

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Mack McKeller  
City Attorney









## 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.

March 23, 2023

Mr. Bay and Mr. Grandy,

This letter is in response to your request for a modification to your existing conditional zoning district to extend the deadline for submitting a final master plan for the development, or any phase thereof, from one year to two years from the date of the enactment of the ordinance. In light of this request, I make the following determinations:

- The Compo Brevard Conditional Zoning District was established by Ordinance 2022-26, adopted and approved by City Council on June 20, 2022.
- Section 16.9.F of the City of Brevard's Unified Development Ordinance authorizes the Planning Director to review and approve administratively minor modifications to approved conditional zoning districts, so long as the minor modification does not:
  - Involve a change in uses permitted or the density of overall development permitted; and
  - The minor modification does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
  - The minor modification meets all other ordinance requirements.
- This modification request has been determined to be a "minor" modification.

Given that this request does not involve a change of use or density, does not increase the impacts generated by the development on traffic, stormwater runoff or similar impacts beyond what was projected for the original development, and it meets all other ordinance requirements, specifically, not exceeding five years, I hereby approve the request. Accordingly, the date that a final master plan for your development, or phase thereof, must be submitted on or before is now June 20, 2024.

Sincerely,

Paul C. Ray  
Planning Director  
City of Brevard

CITY OF BREVARD  
CASH RECEIPT

Receipt No: 662991  
Date: 3/14/2024  
Time: 11:20:54AM

Received From:  
PISGAH HOSPITALITY LLC

Received: 500.00

For  
ZONING ADMIN 500.00  
S

Check 500.00

1022  
RECEIVED BY WINDOW

LEGEND  
CMF CONCRETE MONUMENT FOUND  
IRF IRON ROD FOUND  
UP UNMARKED POINT  
IRS 5/8" IRON SET  
R/W RIGHT OF WAY  
IPF IRON PIPE FOUND  
F FIRE HYDRANT  
P TELEPHONE PEDESTAL  
W WATER METER  
C CABLE PEDESTAL  
M MAN HOLE  
SR STATE ROAD  
B BURIED FUEL TANK  
D.B. DEED OR DOCUMENT BOOK  
P.B. PLAT BOOK  
P.F. PLAT FILE  
NTS NOT TO SCALE  
UB UTILITY BOX  
B/B BILL BOARD  
CP CAR PORT  
CULVERT +/-  
STREAM +/-  
WIRE FENCE +/-  
UTILITY POLE  
OVERHEAD UTILITY LINES  
GUARD RAIL  
SEWER LINES +/-

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

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

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

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_  
day of \_\_\_\_\_, 2022.

Notary Public

My Comission Expires \_\_\_\_\_

Review Officer Certification.

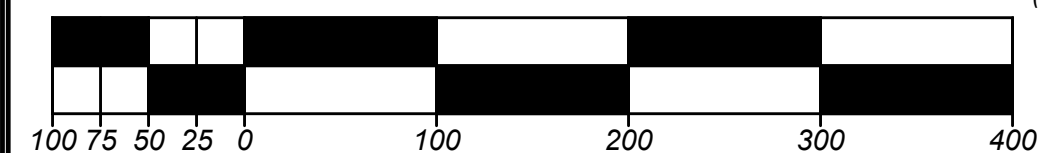
State of North Carolina, County of Transylvania

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

Date \_\_\_\_\_

Review Officer  
CALL TABLE

| Id  | Bearing       | Distance | Id  | Bearing       | Distance |
|-----|---------------|----------|-----|---------------|----------|
| L1  | S 74°17'08" E | 5.19'    | L31 | S 31°02'52" E | 13.24'   |
| L2  | N 25°05'36" E | 38.00'   | L32 | S 40°08'34" E | 11.64'   |
| L3  | S 36°07'48" E | 11.33'   | L33 | S 51°57'51" E | 11.66'   |
| L4  | N 11°43'35" E | 33.94'   | L34 | S 58°40'13" E | 12.39'   |
| L5  | N 11°43'35" E | 4.71'    | L35 | S 64°45'59" E | 11.43'   |
| L6  | N 11°43'35" E | 84.25'   | L36 | S 65°40'51" E | 11.48'   |
| L7  | S 25°51'42" E | 44.90'   | L37 | S 71°45'19" E | 16.90'   |
| L8  | S 22°20'06" W | 18.08'   | L38 | S 76°21'01" E | 48.23'   |
| L9  | S 23°52'22" E | 60.27'   | L39 | S 74°57'31" E | 26.66'   |
| L10 | N 80°39'49" E | 15.00'   | L40 | S 52°48'38" E | 45.19'   |
| L11 | N 13°53'09" E | 32.18'   | L41 | S 44°36'59" E | 66.83'   |
| L12 | S 51°15'42" E | 25.52'   | L42 | S 50°24'22" E | 36.96'   |
| L13 | S 47°19'07" E | 41.28'   | L43 | S 58°10'57" E | 61.88'   |
| L14 | S 48°58'57" E | 20.25'   | L44 | S 74°49'12" E | 80.33'   |
| L15 | S 34°10'10" E | 23.70'   | L45 | S 63°46'24" E | 22.34'   |
| L16 | S 36°14'47" E | 23.40'   | L46 | S 50°47'58" E | 18.79'   |
| L17 | S 32°09'23" E | 24.62'   | L47 | S 40°49'57" E | 22.90'   |
| L18 | S 28°56'00" E | 29.71'   | L48 | S 28°01'33" E | 111.16'  |
| L19 | S 23°02'47" E | 24.06'   | L49 | S 30°03'11" E | 28.99'   |
| L20 | S 20°28'58" E | 20.46'   | L50 | S 34°32'38" E | 35.83'   |
| L21 | S 17°46'17" E | 18.79'   | L51 | S 42°19'52" E | 91.10'   |
| L22 | S 14°15'17" E | 16.98'   | L52 | S 36°15'35" E | 168.12'  |
| L23 | S 10°23'40" E | 19.15'   | L53 | S 36°15'35" E | 38.20'   |
| L24 | S 07°30'45" E | 20.21'   | L54 | S 44°05'26" E | 12.24'   |
| L25 | S 04°57'52" E | 121.92'  | L55 | S 22°04'04" E | 29.64'   |
| L26 | S 07°12'49" E | 88.49'   | L56 | S 20°04'38" E | 67.59'   |
| L27 | S 07°12'49" E | 57.44'   | L57 | S 22°56'34" E | 70.95'   |
| L28 | S 13°31'41" E | 16.29'   | L58 | S 23°59'25" E | 38.81'   |
| L29 | S 22°14'27" E | 14.26'   | L59 | S 26°47'43" E | 47.95'   |
| L30 | S 25°09'38" E | 12.00'   |     |               |          |



GRAPHIC SCALE : 1 INCH = 100 FEET



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

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

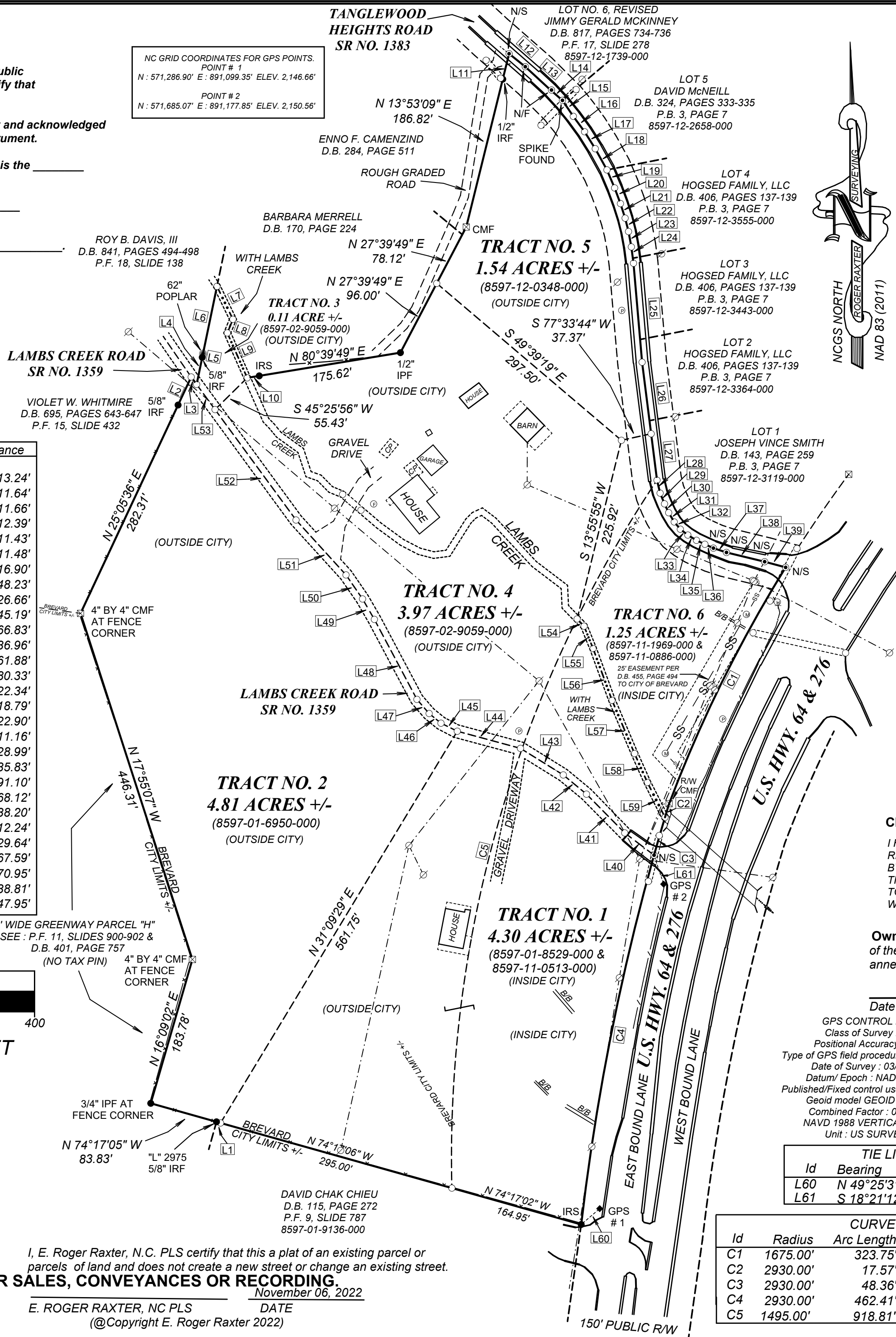
E. ROGER RAXTER  
NC PLS L-2938

November 06, 2022  
DATE

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

E. ROGER RAXTER, NC PLS  
(@Copyright E. Roger Raxter 2022)

NC GRID COORDINATES FOR GPS POINTS.  
POINT # 1  
N : 571,286.90" E : 891,099.35" ELEV. 2,146.66'  
POINT # 2  
N : 571,685.07" E : 891,177.65" ELEV. 2,150.55'



ANNEXATION PLAT -- ORDINANCE NO. \_\_\_\_\_

PREPARED FOR :

**Pisgah Hospitality, LLC,**  
a South Carolina limited liability company

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

DEED REFERENCES : D.B. 1050, PAGES 151-153 &  
D.B. 1057, PAGES 393-395.

PLAT REFERENCE : P.F. 22, SLIDE 295.

DATE : NOVEMBER 06, 2022.

NOTES

- This property is located in Zone X, areas determined to be outside the 500-year floodplain per F.I.R.M. of this area dated October 02, 2009, except as noted. Portions of these properties are located in the Floodway area and Flood Zone AE as shown on P.F. 22, Slide 295.
- This property is subject to matters found by a title examination and also subject to all restrictions, setback lines, roadways, zoning ordinances and right of ways appearing on this property and/or of record.
- Area computed by coordinate method, including all right of ways.
- This is of another category, such as the recombination of existing parcels, a court ordered survey or other exception to the definition of subdivision. (GS 47-30)(11) d.
- This map is not transferable, and may not be used by any person or entity without written authorization from E. Roger Raxter, PLS. This plat is provided for the use of the parties named hereon.
- The corners found and set are one inch to twelve inches above the ground, unless otherwise noted.
- This plat does not certify legal title to the land itself or to the boundaries shown. Users of this plat should obtain an accurate legal opinion as to the ownership within the boundaries of this plat.
- The right of way width of Tanglewood Heights is 60' wide per P.B. 3, page 7, it is an existing 18' +/- public asphalt road. The right of way width of U.S. Highways 64 and 276 is 150' wide per D.B. 119, page 149. The location of this right of way is based on the existing concrete monuments found and the location of the existing road. The right of way width of Lambs Creek Road is unknown, it is an existing 16' +/- public gravel roadbed.
- The points not labeled are unmarked points.
- The division lines were not surveyed by me, their location was determined from the recorded plat referred to above, except for with Lambs Creek Road.
- The existing sewer line easement as described in D.B. 455, page 494 is 25' wide, 12.5' each side of the existing sewer line.
- GPS # 1 & # 2 are 1/2" iron rods set. The GPS survey was used for control only.
- All distances are horizontal ground distances.
- The Tax Pin's are : 8597-01-6950-000 & 8597-01-8529-000 & 8597-11-0513-000 & 8597-11-0886-000 & 8597-11-1969-000 & 8597-02-9059-000 & 8597-12-0348-000.
- The location of the Brevard City Limits line is approximate only, being scaled from the Transylvania County Tax Map.
- The owners are PISGAH HOSPITALITY, LLC, a South Carolina limited liability company @ 204 Lois Street, Greenville, SC, 29601.
- The boundary survey was done in April, 2022.
- The area to be annexed into The City of Brevard is 12.23 acres +/-.

CITY OF BREVARD-ANNEXATION

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

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

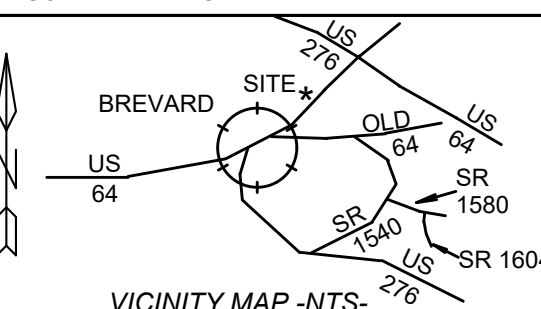
Date \_\_\_\_\_ Owner \_\_\_\_\_

GPS CONTROL DATA  
Class of Survey : B  
Positional Accuracy : 0.03'  
Type of GPS field procedure : RTK NETWORK ROVER  
Date of Survey : 03/29/2022  
Datum/ Epoch : NAD 83 (2011)  
Published/Fixed control use : NC VRS NETWORK  
Geoid model GEOID 12B (CONUS)  
Combined Factor : 0.999715  
NAVD 1988 VERTICAL DATUM  
Unit : US SURVEY FEET

| TIE LINES |               |          |
|-----------|---------------|----------|
| Id        | Bearing       | Distance |
| L60       | N 49°25'31" E | 29.91'   |
| L61       | S 18°21'12" E | 37.47'   |

| CURVE TABLE |          |            |         |
|-------------|----------|------------|---------|
| Id          | Radius   | Arc Length | Chord   |
| C1          | 1675.00' | 323.75'    | 323.25' |
| C2          | 2930.00' | 17.57'     | 17.57'  |
| C3          | 2930.00' | 48.36'     | 48.36'  |
| C4          | 2930.00' | 462.41'    | 461.93' |
| C5          | 1495.00' | 918.81'    | 904.42' |

REVISION DATE : MARCH 23, 2024  
REVISED SOME NOTES & ADDED  
SOME TAX PIN'S.



Plat Prepared By :  
**E. ROGER RAXTER, N.C. PLS L-2938**  
1101 SILVERSTEEN ROAD  
LAKE TOXAWAY, N.C. 28747  
PHONE : ( 828 ) 966-4399 OR  
CELL : ( 828 ) 226-0251  
E-MAIL : erraxter@gmail.com  
DATE NOVEMBER 06 2022 DRAWING NUMBER 22017D

**PISGAH HOSPITALITY ANNEXATION, ANN-24-001**

**FINANCIAL SUMMARY ESTIMATE  
MULTI-USE LODGING FACILITY**

| REVENUE                       | GENERAL<br>FUND | WATER &<br>SEWER FUND | FIRE DEPT<br>SPECIAL<br>REVENUE FUND | TOTAL<br>ALL<br>FUNDS |
|-------------------------------|-----------------|-----------------------|--------------------------------------|-----------------------|
| ESTIMATED PROPERTY TAXES      | \$27,811        |                       | \$2,818                              | \$30,629              |
| TRASH AND RECYCLING FEES      | \$429           |                       |                                      | \$429                 |
| WATER & SEWER UTILITY CHARGES |                 | \$46,536              |                                      | \$46,536              |
| POWELL BILL                   | \$0             |                       |                                      | \$0                   |
| TOTAL REVENUE                 | \$28,240        | \$46,536              | \$2,818                              | \$77,594              |
| EXPENDITURES                  |                 |                       |                                      |                       |
| ADMINISTRATION/FINANCE/HR     | \$71            |                       |                                      | \$71                  |
| POLICE DEPT                   | \$160           |                       |                                      | \$160                 |
| FIRE DEPT                     |                 |                       | \$2,818                              | \$2,818               |
| TRASH AND RECYCLING           | \$429           |                       |                                      | \$429                 |
| STREET DEPT                   | \$186           |                       |                                      | \$186                 |
| PARKS & PROPERTY MANAGEMENT   | \$125           |                       |                                      | \$125                 |
| PLANNING & ZONING             | \$71            |                       |                                      | \$71                  |
| WATER DISTRIBUTION            |                 | \$5,072               |                                      | \$5,072               |
| WATER TREATMENT PLANT         |                 | \$7,213               |                                      | \$7,213               |
| SEWER COLLECTIONS             |                 | \$6,980               |                                      | \$6,980               |
| WASTERWATER TREATMENT PLANT   |                 | \$12,844              |                                      | \$12,844              |
| WATER & SEWER FUND DEBT       |                 | \$14,426              |                                      | \$14,426              |
| TOTAL EXPENDITURES            | \$1,043         | \$46,536              | \$2,818                              | \$50,396              |
| NET GAIN OR (LOSS)            | \$27,197        | \$0                   | \$0                                  | \$27,197              |

**COMPS USED: PILOT COVE, SUNSET MOTEL, COMFORT INN, SQUARE ROOT**

|                                   |             |        |
|-----------------------------------|-------------|--------|
| EST TAX VALUE OF FUTURE BUILDINGS | \$2,000,000 | cabins |
|                                   | \$281,000   | land   |
|                                   | \$4,100,000 | lodge  |
|                                   | \$6,381,000 | TOTAL  |

**ORDINANCE NO. 2024-XX**  
**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS**  
**OF THE CITY OF BREVARD, NORTH CAROLINA**

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

**WHEREAS**, the City Council has by Resolution No. 2024-11 directed the City Clerk to investigate the sufficiency of said petition; and,

**WHEREAS**, the Brevard Planning Board reviewed the Petition at their meeting held on April 23, 2024 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. 2024-13 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 20th day of May, 2024, after due notice by publication on the 6th day of May, 2024; 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 Pisgah Hospitality, LLC, as shown and being a portion of that property described in the deeds recorded in Document Book 1050, Pages 151-153 and Document Book 1057, Pages 393-395, in the Transylvania County Register of Deeds and that certain plat provided by the Petitioners to be duly recorded upon annexation is hereby annexed and made a part of the City of Brevard as of the \_\_\_\_ day of \_\_\_\_\_, 2024.

Said property is more fully described as follows:

Location: Intersection of Lambs Creek Road and US Highway 64. Transylvania County Tax Property Identification Numbers 8597-01-8529-000; 8597-01-6950-000; 8597-02-9059-000; 8597-12-0348-000; and a portion of 8597-11-1969-000

Property Description:

*Beginning on an unmarked point in the existing City of Brevard City Limits, being located in the North boundary line of the property of David Chak Chieu per Deed Book 115, Page 272 and as shown on a plat recorded in Plat File 9, Slide 787. Said point also being located N 74°17'02" W, 164.95' from an iron rod set at the Northeast corner of the noted Chieu property. Thence running with the Chieu property line and with the existing City of Brevard City Limits two calls: N 74°17'06" W, 295.00' and N 74°17'08" W, 5.19' to an existing 5/8" iron rod found. Thence running N 74°17'05" W, 83.83' to an existing 3/4" iron pipe found at a fence corner. Thence running with the Eastern boundary of a 1' wide greenway area per Plat File 11, Slides 900-902 and generally with an existing wire fence and existing City Limits for two calls: N 16°09'02" E, 183.78' to an existing concrete monument found at a fence corner and N 17°55'07" W, 446.31' to an existing concrete monument found at a fence corner. Thence leaving the existing City Limits boundary and running generally with an existing wire fence and with the Violet W. Whitmire property per Deed Book 695, Pages 643-647 two calls: N 25°05'36" E, 282.31' to an existing 5/8" iron rod and N 25°05'36" E, 38.00' to an unmarked point in the center of Lambs Creek Road, State Road No. 1359. Thence running with the center of Lambs Creek Road, S 36°07'48" E, 11.33' to an unmarked point. Thence leaving Lambs Creek Road and running with the boundary of Roy B. Davis, III per Deed Book 841, Pages 494-498 for three calls: N 11°43'35" E, 33.94' to an existing 5/8" iron rod found, N 11°43'35" E, 4.71' to a 62" poplar tree and N 11°43'35" E, 84.25' to an unmarked point in the center of Lambs Creek, thence running down and with the center of Lambs Creek for three calls to unmarked points: S 25°51'42" E, 44.90', S 22°20'06" W, 18.08' and S 23°52'22" E, 60.27'. Thence running with the property of Barbara Merrell per Deed Book 107, Page 224 for four calls: N 80°39'49" E, 15.00' to an iron rod set, N 80°39'49" E, 175.62' to a 1/2" iron pipe found, N 27°39'49" E, 96.00' to an unmarked point and N 27°39'49" E, 78.12' to a concrete monument found. Thence running with the Enno F. Camenzind property per Deed Book 284, Page 511 for two calls: N 13°53'09" E, 186.82' to a 1/2" iron pipe found*



and N 13°53'09" E, 32.18' to a nail set in the center of Tanglewood Heights Road, State Road No. 1383. Thence generally running with the center of Tanglewood Height Road, S 51°15'42" E, 25.52' to a nail found and S 47°19'07" E, 41.28' to a nail found and S 48°58'57" E, 20.25' to a spike found and still running generally with the center of Tanglewood Heights Road for thirteen calls to unmarked points: S 34°10'10" E, 23.70' and S 36°14'47" E, 23.40' and S 32°09'23" E, 24.62' and S 28°56'00" E, 29.71' and S 23°02'47" E, 24.06' and S 20°28'58" E, 20.46' and S 17°46'17" E, 18.79' and S 14°15'17" E, 16.98' and S 10°23'40" E, 19.15' and S 07°30'45" E, 20.21' and S 04°57'52" E, 121.92' and S 07°12'49" E, 88.49' and S 07°12'49" E, 57.44' to an unmarked point in Tanglewood Heights Road in the City of Brevard City Limits and then running with the City Limits boundary on a curve running in a Southwestern direction with a radius of 1,495.00' and an arc length of 918.81' with a cord bearing and cord distance of S 16°10'08" W, 904.42' to the unmarked point at the Point of Beginning. Containing 12.23 acres +/- and as shown on a plat recorded in Plat File 22 at Slide 295. Being a portion of the property owned by : PISGAH HOSPITALITY, LLC, a South Carolina limited liability company per Document Book 1050, Pages 151-153 and Document Book 1057 Pages 6-8 and Document Book 1057, Pages 393-395.

**Section 2.** Upon and after the \_\_\_\_\_ day of \_\_\_\_\_, 2024 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 Pisgah Hospitality, LLC, dated November 6, 2022 and recorded in Plat File \_\_\_\_\_, Slide \_\_\_\_\_, of the Transylvania County Registry.

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

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

Adopted and approved the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Maureen Copelof  
Mayor

ATTEST:

\_\_\_\_\_  
Denise Hodsdon, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mack McKeller  
City Attorney

## STAFF REPORT

City Council, Monday, May 20, 2024

**Title:** Proposed Amendments to City of Brevard Unified Development Ordinance, Chapters 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 14, 16, 17, and 19 – Group Developments and Subdivision Regulations

**Speaker:** Emily Brewer, AICP, Senior Planner

**Prepared by:** Emily Brewer, Senior Planner

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

### Background

The *Building Brevard 2030* Comprehensive Land Use plan calls for “a development pattern that respects Brevard’s sense of place and prioritizes livable communities.” The Unified Development Ordinance establishes procedures and standards for the development and subdivision of land within its corporate limits and extra-territorial jurisdiction.

This staff-initiated text amendment began as a comprehensive review of the City’s subdivision regulations, which govern how a property may be divided in order to:

- Provide for the orderly growth and development of the City and its extra-territorial jurisdiction;
- Protect and enhance property ownership and land values;
- Maintain conditions essential to the public's health, safety, and general welfare;
- Facilitate adequate provision of public services; and
- Facilitate the further re-subdivision of larger tracts into smaller parcels of land for development.

During this process, Staff considered when the regulations should encourage subdivision of land and when subdivision wouldn’t be necessary. The scope of this effort was expanded to examine development patterns, more generally, in the UDO. This includes revised group development regulations, where more than one principal structure is permitted on a property.

This initiative has been discussed by Planning Board at many recent meetings:

- On October 24<sup>th</sup>, Staff introduced the challenges in administering the subdivision regulations and opportunities for improvement.
- On January 23<sup>rd</sup>, Staff shared a revised framework for the text amendment which included subdivisions and group developments to allow for creative ways to increase density while still ensuring health, safety, and welfare is achieved.

- On February 27<sup>th</sup>, the Board reviewed a draft of the group development regulations, which contain some of the major changes proposed as part of this amendment.
- On March 26<sup>th</sup>, the Board reviewed the proposed changes and unanimously recommended in favor of adoption.
- On April 23<sup>rd</sup>, the Board reviewed some additional changes to the proposed amendments and recommended in favor of adoption.

## **Proposed Amendments**

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

### **1) Group Development Regulations**

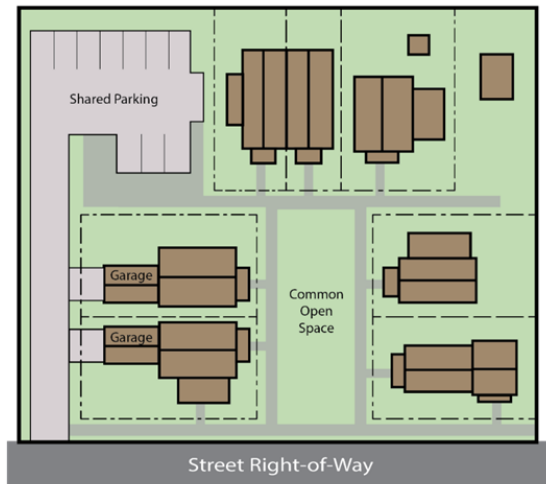
Group developments are defined as "any land development subject to a site plan that includes 2 or more principal buildings on a single parcel (or grouping thereof) for the purpose of development." The current ordinance allow development of more than one principal structure in some circumstances, but there are no regulations specifically for this type of development. The proposed amendments include, among other things, requirements for street access, connectivity between buildings, and setbacks. The location of parking as part of a group development is discussed in further detail below.

The proposed amendments also establish different types of group developments that are permitted in certain zoning districts with specific standards. These include, cluster home developments (see below), neighborhood developments, manufactured home parks, and shopping centers. The latter two were removed from the use matrix, as they are a type of development that consists of specific uses.

### **2) New Missing Middle Housing Type – Cluster Home Development**

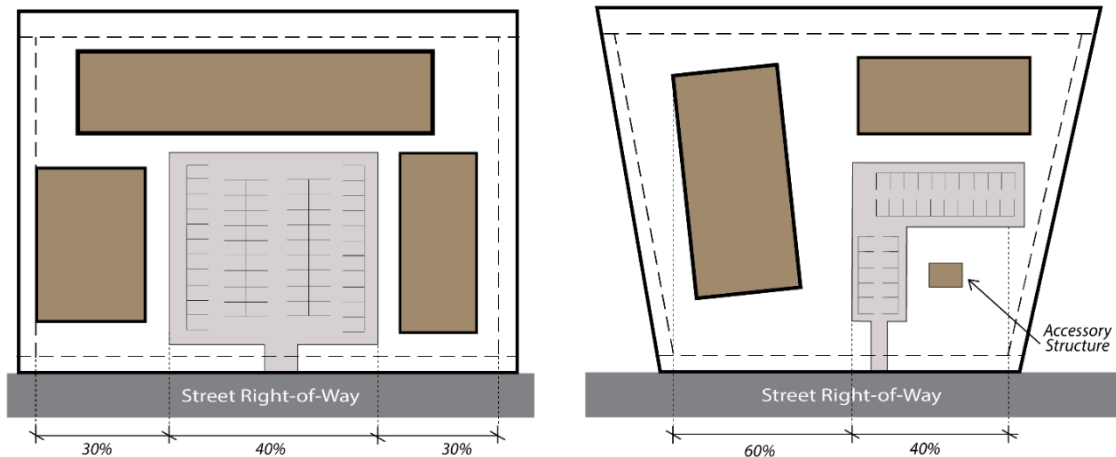
In amending the group development regulations, Staff is introducing a new missing middle housing type. A "cluster home development" allows for small lot residential development in a manner that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained in shared stewardship by residents. This type of development creates smaller housing units that can be operated as a rental property under single ownership or sold as individual lots with shared ownership of common areas. Other municipalities have allowed cluster home developments (sometimes referred to as "cottage courts") to create more diverse housing options and allow for a denser development at a community-scale.





### 3) Location of Off-Street Parking in Group Developments

By permitting more than one principal building on a lot, the regulations will allow for denser development with more creative site design and/or more appropriate site design that accommodates topographic and logistical challenges. Section 10.7 of the UDO states that off-street parking shall not be permitted between any principal structure and the street upon which such structure fronts. This amendment was passed in 2021 in response to a growing concern that the placement of parking for developments was hindering the view along major thoroughfares. This section did not consider placement of more than one principal structure on a lot or any other unique lot configurations. The proposed amendments states that if parking is located between a principal building and the street in a group development, no more than 40% of the street frontage may be occupied by parking. The goal of this is to allow for some buildings to be placed behind parking if appropriate, but for the primary view of pedestrians and vehicles along the frontage to not be parking. Additionally, the proposed amendments grant the administrator the authority to require additional landscape buffers and screening to further obstruct the view of the off-street parking areas. Because this is a variation to the way the location of parking has been contemplated in the past, Planning Board carefully considered this section before recommending the 40% / 60% split.



#### 4) Types of Subdivisions

Staff revised the definitions of exempt, minor and major subdivisions to clarify the processes and submittal requirements. NCGS allows municipalities to have expedited review processes for specific classes (e.g., minor vs. major). In practice, the difference is that major subdivisions are required to go to the Technical Review Committee for review, submit a preliminary plat, and install or guarantee the required improvements before final approval. Staff revised the definitions of minor and major subdivisions so infrastructure requirements are the defining factor that necessitates a more rigorous review process. Minor subdivisions, which have the expedited review, is now anything that creates less than 8 lots and doesn't involve the creation of public infrastructure.

#### 5) Variances to Subdivision Regulations

Currently, the subdivision regulations are spread throughout the Unified Development Ordinance. In addition to being challenging to administer, it creates regulatory issues for other areas of the ordinance. NCGS 160D-705 states that the Board of Adjustment is allowed to grant variances to a municipality's **zoning** regulations. Any other land use and development regulations (including subdivision regulations) **may** be varied if given authority in the ordinance. As previously stated, subdivision regulations are established to maintain health, safety, and public welfare and to ensure adequate provision of services. As such, many of these standards should not be varied. But because they are so intertwined with the zoning regulations in our ordinance, the Attorney to the Board of Adjustment has advised us that any lot or subdivision regulation is eligible for a variance. The proposed amendments separate the subdivision regulations from the zoning standards and establishes a new Chapter 4 [Lot and Subdivision Requirements] with limited variance authority.

#### 6) Subdivision Approval Procedures

Approval of a subdivision is a ministerial act, where the plat is required to be approved so long as it meets the requirements of the ordinance and applicable state statutes. This can be done through either administrative or quasi-judicial procedures, depending on the content of the regulations. Administrative decisions are those based on clear,

objective standards. Quasi-judicial standards are based on objective standards, as well as standards that require some level of judgement or discretion (NCGS 160D-102). For instance, a quasi-judicial standard for a subdivision plat might be that “the project does not overburden adjacent roads” or that “the project is designed to maximize access to open spaces.” These standards require some level of judgement or discretion, so the applicant is entitled to an evidentiary hearing to prove their case.

The procedural rules for subdivision approval depend on the type of standards in the ordinance, not the board it is assigned to. Current subdivision approval is with City Council, but they cannot make a legislative decision at their discretion. This was clarified by the Courts in *Guilford Financial v. City of Brevard* (2003). In this case, City Council did not follow quasi-judicial procedures and denied a subdivision without sufficient evidence. Superior court reversed the decision and instructed Council to approve the subdivision.

Staff amended the subdivision regulations to be entirely administrative, not quasi-judicial. The revised procedures have Staff as the approval authority for all subdivision decisions, with appeals being sent to the Board of Adjustment. Furthermore, each type of subdivision (exempt, minor or major) now has a clear process and detailed submittal requirements to further clarify the review process.

For more information on this topic, please refer to the UNC School of Government’s blog post entitled, “*Subdivision Plat Approval: What type of decision is it?*”

## **7) Minimum Lot Size**

Our ordinance does not require a minimum lot size for any newly established lots, but we do require compliance with the zoning standards. To ensure compliance with the density requirements, Staff will not permit a subdivision that creates more lots than the permitted residential density. For example, a one-acre parcel with a maximum allowable density of 8 dwelling units per acre cannot be divided into more than 8 lots, including any residual or parent lot. Staff added language to clarify this requirement and allow for the creation of additional lots not intended for development (e.g., environmental conservation parcels).

## **8) Private Roads for Subdivisions**

Our current ordinance does not allow the subdivision of land off of private roads longer than 150 feet. This can limit the ability of development in areas where the roads cannot be dedicated to the City. Staff has clarified what constitutes a public street, but also added stipulations for when a private street may satisfy road frontage requirements for new lots. This may only be done in the ETJ (where the City cannot accept the dedication of streets), when maintenance can be guaranteed in perpetuity, and when it is built in a way that can be accessed by emergency vehicles. In accordance with NCGS 136-102.6, Staff has added a disclosure statement to be included on the subdivision plats that identifies the responsibilities of the property owners and the potential repercussions if the street is not maintained.

## 9) Plat Requirements and Certifications

The plat requirements and certifications are updated to reflect NCGS and clarify the administrative review items.

## 10) Connectivity Index Requirements

The proposed amendments remove the connectivity index measurements for new neighborhoods found in Section 9.2. This section is out-of-date and challenging to administer, as it does not adequately account for unique topography or smaller subdivisions.

Other amendments are reorganizations, reference updates, or clarifications resulting from the other changes.

## Notes for Council 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 and underlined text means that the text is currently in our code but has been moved to another location.

## Policy Analysis

The *Building Brevard 2030* Comprehensive Land Use Plan includes goals and actions related to how a city can grow and support development that is appropriate within the development context:

### Goals

- **GOAL 2:** Encourage a **development pattern** that respects Brevard's sense of place and prioritizes **livable communities**.
- **GOAL 7:** Support economic vitality and **grow the tax base**, cultivate local businesses, and attract sustainable industry.
- **GOAL 8:** Plan **for efficient, equitable, and resilient infrastructure** and services that maintain and improve quality of life throughout the city.

### Actions

- **LUH-4:** Identify areas across the city that are best positioned to accommodate future growth.
- **LUH-9:** Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.
- **LUH-19:** Enhance communication of land use planning efforts, policy development, approvals and processes.

## Action

No action is requested at this time – the information provided for if public hearing purposes only. At the next meeting, Staff will request that Council take one of the following actions:

1. Adopt the amendment as written;
2. Adopt the amendment as revised by Council; or
3. Reject the amendment.
4. Send the application back to the Planning Board for further study and consideration; or
5. Table the matter for further consideration and/or public hearings.

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. This Statement of Consistency and Reasonableness is included in the packet as Attachment 3.

**Attachments:**

1. Proposed Text Amendment - Strikethrough Version
2. Proposed Text Amendment - Clean Version
3. Consistency Statement



## UNIFIED DEVELOPMENT ORDINANCE

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# CHAPTER 1. PURPOSE AND APPLICABILITY

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### 1.12. Interpretation.

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- A. In the interpretation and application of this ordinance, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and,
  3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- B. Fractional requirement: When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit and a fraction of less than one-half shall be disregarded.

## CHAPTER 2. DISTRICTS AND GENERAL PROVISIONS

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### 2.1. General intent and establishment of districts.

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#### 2.1.3. Establishment of conditional zoning districts.

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- A. In addition to the base districts established above, and as authorized under G.S. 160D-703 the following conditional districts are established which correspond to the above-referenced districts but which require the submission of a master plan as a prerequisite to any development.
1. Institutional Campus Conditional Zoning District (IC CD).
  2. General Industrial Conditional Zoning District (GI CD).
  3. Downtown Mixed-Use Conditional Zoning District (DMX CD).
  4. Corridor Mixed-Use Conditional Zoning District (CMX CD).
  5. Neighborhood Mixed-Use Conditional Zoning District (NMX CD).
  6. Residential Mixed-Use Conditional Zoning District (RMX CD).
  7. General Residential Conditional Zoning District (GR CD).
- B. These districts are intended to provide an effective means for the city to manage the impacts of large-scale developments; to manage developments in sensitive contexts; to provide developers with the flexibility for creative design approaches; to allow for the establishment of specific land uses not otherwise permitted in the underlying base district; to allow for changes in the density, ~~and~~ dimensional, and setback requirements of ~~Section 2-3~~ CHAPTER 2. The districts are subject to applicable conditions of the approving authority. If the ordinance creating a conditional zoning district fails to provide specific standards, any development in the district shall comply with the applicable standards for the corresponding base district contained in this



Ordinance and the Brevard City Code. These districts are not intended to relieve hardships that should be resolved by means of a variance. The procedure for the establishment of these districts is found in Section 16.7 of this Ordinance.

- C. The conditional zoning district classification allows projects of innovative design and layout that would not otherwise be permitted under this ordinance because of the strict application of zoning district or general development standards. Conditional zoning encourages innovative land planning and design concepts by:
1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards that were designed primarily for individual lots;
  2. Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;
  3. Allowing greater freedom in providing a mix of land uses in the same development, including a mix of housing types, housing prices, lot sizes, densities, and non-residential uses in a conditional zoning district;
  4. Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses; and
  5. Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities when such increases can be justified by superior design or the provision of additional amenities such as public and/or private open space.
- D. In return for greater flexibility in site design requirements, conditional zoning districts are expected to deliver exceptional quality community designs that preserve critical environmental resources, provide above-average open space amenities, incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure.
- E. General use and development standards for Conditional Zoning Districts.
1. Uses allowed. A development may contain only those uses specified in the ordinance creating the conditional zoning district. Such uses may include any of the uses indicated in the use matrix contained in Section 2.2.C, provided such uses are consistent with the Comprehensive Land Use Plan.
  2. Mixed-uses encouraged.
    - a. Mixed-use developments are strongly encouraged in conditional zoning districts, including the mixing of principal residential uses with principal non-residential uses. Mixed-use development may occur by having two or more principal uses located in the same building (e.g., retail on ground floor, office space above) or by having two or more principal uses located in different buildings sited on the same lot or parcel (e.g., freestanding child day care center located on the same parcel as an office building). ~~Unless otherwise provided in the ordinance creating a conditional zoning district, mixed-use developments shall comply with the Traditional Neighborhood Development specific standards contained in Section 2.4, below.~~
    - b. Developments containing both residential and non-residential uses shall be designed, located, and oriented on the site so that non-residential uses are directly accessible to residents of the development. For the purposes of this section, "directly accessible" shall mean pedestrian and vehicular access by way of improved sidewalks or paths and streets that do not involve leaving the planned development or using a major thoroughfare. "Directly accessible" does not necessarily mean that non-residential uses need to be located in a particular location, but that the siting of such uses considers the accessibility of the residential component of the development to the non-residential use.



3. Unless the ordinance creating a conditional zoning district specifies otherwise, conditional zoning districts which contain residential uses shall incorporate the following design principles:
  - a. All neighborhoods shall have identifiable centers and edges.
  - b. Edge lots shall be readily accessible to retail and/or recreation by non-vehicular means (a distance not greater than  $\frac{1}{4}$ — $\frac{1}{2}$  mile).
  - c. Uses shall be mixed and in close proximity to one another.
  - d. Street networks shall be interconnected and blocks small.
  - e. Sidewalks and other pedestrian infrastructure shall be interconnected and comprehensive.
  - f. The entire land area of the development shall be divided into blocks, streets, lots and open space areas.
  - g. Similar land categories shall generally front across streets. Dissimilar categories should abut at rear lot lines. Corner lots which front on streets of dissimilar use should be set back the same as the adjacent use with the lesser setback.
  - h. Open space shall be centrally located so that it is within walking distance ( $\frac{1}{4}$ — $\frac{1}{2}$  mile) from all locations within the conditional zoning district. All required open space shall be in accordance with the provisions of [CHAPTER 7](#).
  - i. Dimensional standards shall be established in accordance with neighborhood design but shall be generally consistent with those found in the RMX, NMX and DMX Districts.
- F. The ordinance creating the conditional zoning district shall specify whether phasing is proposed as well as the process, if applicable, for the review and approval of such phases, including any future subdivision of the property. Any references to the final master plan in this section or Section [16.7.E](#) may apply to the entire planned development or an individual phase of such development.

#### 2.1.4. Overlay districts.

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In accordance with G.S. 160D-703, the following overlay districts are established. These overlay districts impose additional requirements on properties within one or more underlying base or conditional districts.

1. **Manufactured Home Overlay District (MHD).** The purpose of the MHD is to allow for the continued placement of manufactured homes "by right" in areas where manufactured housing is a historical housing form. ~~Manufactured homes shall be subject to the design requirements of CHAPTER 5 as well as other provisions of this ordinance. Manufactured home parks shall require a special use permit in all parts of the city in which they are permitted.~~
2. **Highway 64 Corridor Sign Overlay District.** The purpose of the Highway 64 Corridor Sign Overlay District is to provide standard signage requirements for the commercial corridor along the Asheville and Rosman Highway commercial corridors of US Highway 64.
3. **Downtown Development Overlay District.** The purpose of the Downtown Development Overlay District is to ensure that new development in the core of downtown is consistent with the community's character and promotes a human-scaled, pedestrian-friendly environment.

## 2.2. Use categories and tables of permitted uses.

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- A. All uses permitted in this Code have been divided into 10 general categories as detailed below and are generally defined as follows:





1. *Residential*: Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.
2. *Lodging*: Premises available for short-term human habitation for a fee, including daily and weekly rental.
3. *Commercial*: Premises available for the transaction of general business, the provision of services, the commercial sale of merchandise, and/or food and drink consumption, but excluding manufacturing.
4. *Civic/institutional*: Premises available for organizations dedicated to religion, education, government, social service, health care, and other similar functions.
5. *Entertainment/recreation*: Premises for the gathering of people for purposes such as arts and culture, amusement, and recreation.
6. *Agriculture*: Premises primarily used to grow crops, produce, flowers, etc., raise animals, harvest timber, or other similar functions.
7. *Manufacturing/wholesale/storage*: Premises available for the creation, assemblage, storage, and repair of items including their wholesale or retail sale.
8. *Infrastructure*: Uses and structures dedicated to transportation, communication, information, and utilities.
9. *Accessory*: Uses of land or of a building or structure or portion thereof, which is incidental and subordinate to a principal use on the same lot.
10. *Temporary*: Uses of land which, having met certain requirements and conditions, that may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.

**B. Interpretation of use matrices.**

1. The use matrix is not intended to be a comprehensive list of all possible uses, but rather a list of more common uses likely to be proposed within the city.
2. In the event that a particular use is not listed in the use matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the administrator shall determine whether a materially similar use exists in this chapter.
  - a. Should the administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing pursuant to G.S. 160D-403.
  - b. Should the administrator determine that a materially similar use does not exist, this chapter may be amended to establish a specific listing for the use in question in accordance with the provisions set forth for text amendments in [CHAPTER 16](#).
3. When determining whether a proposed use is materially similar to a listed use, the administrator may consider the following criteria:
  - a. The actual or projected characteristics of the proposed use;
  - b. The relative amount of site area or floor area and equipment devoted to the proposed use;
  - c. Relative amounts of sales;
  - d. The customer type;
  - e. The relative number of employees;
  - f. Hours of operation;
  - g. Amount and frequency of deliveries;



- h. Building and site arrangement;
  - i. Types of vehicles used and their parking demands;
  - j. The number of vehicle trips generated;
  - k. Signs;
  - l. How the proposed use is advertised;
  - m. The likely impact on surrounding properties; and
  - n. Whether the activity is likely to be found independent of the other activities on the site.
4. Prohibited uses within the applicable zoning district or uses for which the administrator determines there is not a materially similar use in the matrix may be permitted through the application of a conditional zoning district in accordance with the provisions set forth in [CHAPTER 16](#).
- C. *Use matrix.* The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.
1. "P" denotes those uses that are permitted "by right."
  2. "—" denotes those uses that are not permitted within the given district.
  3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in [CHAPTER 16](#). Additional standards for certain uses requiring a special use permit are set forth in [CHAPTER 3](#) and [CHAPTER 5](#) of this ordinance.
  4. "PS" denotes those uses that are permitted with additional standards, which are set forth in [CHAPTER 3](#).
  5. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

| TABLE 2.2A: LAND USE MATRIX |                |                                              |                  |     |     |     |     |     |    |
|-----------------------------|----------------|----------------------------------------------|------------------|-----|-----|-----|-----|-----|----|
| CATEGORY                    | SECTION<br>(a) | USE                                          | ZONING DISTRICTS |     |     |     |     |     |    |
|                             |                |                                              | GR               | RMX | NMX | DMX | CMX | IC  | GI |
| Residential                 |                |                                              |                  |     |     |     |     |     |    |
| Household Living            | 3.5.1          | Dwelling—Single-Family                       | P                | P   | —   | —   | —   | P   | —  |
|                             |                | Dwelling—Duplex                              | P                | P   | P   | —   | —   | P   | —  |
|                             |                | Dwelling—Multifamily 3—4 units/bldg.         | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Dwelling—Multifamily more than 4 units/bldg. | —                | P   | P   | P   | P   | P   | —  |
|                             |                | Dwelling—Townhome                            | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Manufactured Home (single unit)              | MHD              | MHD | MHD | MHD | MHD | MHD | —  |
|                             |                | Manufactured Home Park                       | MHD              | MHD | MHD | MHD | MHD | MHD | —  |
|                             |                | Live-Work Units                              | PS               | PS  | PS  | PS  | —   | PS  | —  |
|                             |                | Mixed-Use Residential Unit                   | —                | —   | PS  | PS  | PS  | PS  | —  |
| Group Living                | 3.5.2          | Family Care Home                             | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Housing Services for the Elderly             | SUP              | P   | P   | P   | P   | P   | —  |
|                             |                | Rooming or Boarding House                    | P                | P   | P   | P   | P   | P   | —  |
| Social Services             | 3.5.3          | Group Care Facility                          | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Shelter                                      | SUP              | P   | P   | P   | P   | P   | —  |
| Lodging                     |                |                                              |                  |     |     |     |     |     |    |



**TABLE 2.2A: LAND USE MATRIX**

| CATEGORY                           | SECTION<br>(a) | USE                                                                                 | ZONING DISTRICTS |     |     |     |     |     |     |
|------------------------------------|----------------|-------------------------------------------------------------------------------------|------------------|-----|-----|-----|-----|-----|-----|
|                                    |                |                                                                                     | GR               | RMX | NMX | DMX | CMX | IC  | GI  |
| Overnight Accommodations           | 3.6.1          | All overnight accommodations, except as listed below                                | —                | —   | —   | P   | P   | P   | —   |
|                                    |                | Bed and Breakfast                                                                   | PS               | PS  | PS  | PS  | PS  | PS  | —   |
|                                    |                | Short-Term Rental (STR)                                                             | —                | PS  | PS  | PS  | PS  | PS  | —   |
| Camping                            | 3.6.2          | Campground/Recreational Vehicle Park                                                | SUP              | SUP | SUP | —   | —   | SUP | —   |
|                                    |                | Rental Cottage/Cabins                                                               | PS               | PS  | PS  | —   | —   | —   | —   |
|                                    |                | Seasonal Camp                                                                       | PS               | —   | —   | —   | —   | PS  | —   |
| Commercial                         |                |                                                                                     |                  |     |     |     |     |     |     |
| Eating and Drinking Establishments | 3.7.1          | All restaurants and other eating and drinking establishments except as listed below | —                | —   | P   | P   | P   | P   | —   |
|                                    |                | Bar/Night Club                                                                      | —                | —   | PS  | P   | P   | —   | —   |
| Personal Services                  | 3.7.2          | All personal services, except as listed below                                       | —                | P   | P   | P   | P   | P   | —   |
|                                    |                | Day Care Center                                                                     | PS               | PS  | PS  | PS  | PS  | PS  | PS  |
| Professional Services              | 3.7.3          | All professional services, except as listed below                                   | SUP              | P   | P   | P   | P   | P   | P   |
|                                    |                | Adult Establishment                                                                 | —                | —   | —   | —   | —   | —   | SUP |
|                                    |                | Banks, Credit Unions, Financial Services, and ATMs                                  | —                | —   | P   | P   | P   | P   | P   |
|                                    |                | Funeral Homes and Services                                                          | —                | —   | P   | P   | P   | P   | —   |
|                                    |                | Human Crematories and Crematoriums                                                  | —                | —   | PS  | PS  | PS  | PS  | PS  |
|                                    |                | Indoor Animal Services                                                              | —                | —   | P   | P   | P   | P   | P   |
|                                    |                | Kennels and Outdoor Animal Services                                                 | —                | —   | SUP | —   | PS  | —   | PS  |
|                                    |                | Landscaping and Contractor Services                                                 | SUP              | SUP | SUP | —   | —   | —   | P   |
|                                    |                | Vehicle Services—Major Repair/Body Work                                             | —                | —   | —   | —   | PS  | —   | PS  |
|                                    |                | Vehicle Services—Minor Maintenance/Repair                                           | —                | —   | SUP | SUP | PS  | PS  | PS  |
| Retail                             | 3.7.4          | All retail and sales establishments except as listed below                          | —                | —   | P   | P   | P   | P   | —   |
|                                    |                | Alcoholic Beverage Sales Store                                                      | —                | —   | SUP | P   | P   | —   | —   |
|                                    |                | Auto/Mechanical Parts Sales                                                         | —                | —   | —   | P   | P   | —   | P   |
|                                    |                | Gas Station                                                                         | —                | —   | SUP | SUP | PS  | —   | PS  |
|                                    |                | Gunsmiths and Weapon Sales                                                          | —                | —   | SUP | PS  | PS  | —   | PS  |
| Shopping Centers                   | 3.7.E          | All shopping centers                                                                | —                | —   | PS  | PS  | PS  | —   | —   |
| Civic/Institutional                |                |                                                                                     |                  |     |     |     |     |     |     |



**TABLE 2.2A: LAND USE MATRIX**

| Category                           | Section<br>(a) | Use                                                                       | Zoning Districts |     |     |     |     |     |     |
|------------------------------------|----------------|---------------------------------------------------------------------------|------------------|-----|-----|-----|-----|-----|-----|
|                                    |                |                                                                           | GR               | RMX | NMX | DMX | CMX | IC  | GI  |
| Educational                        | 3.8.1          | All educational uses except as listed below                               | SUP              | P   | P   | P   | P   | P   | —   |
|                                    |                | Colleges/Universities                                                     | —                | —   | SUP | P   | P   | P   | —   |
|                                    |                | Schools—Vocational/Technical                                              | —                | SUP | P   | P   | P   | P   | P   |
| Government                         | 3.8.2          | All government uses, except as listed below                               | —                | P   | P   | P   | P   | P   | P   |
|                                    |                | Correctional Facilities                                                   | —                | —   | SUP | SUP | P   | P   | P   |
|                                    |                | Public Safety Station                                                     | SUP              | SUP | P   | P   | P   | P   | P   |
| Medical                            | 3.8.3          | All medical offices and facilities except as listed below                 | —                | P   | P   | P   | P   | P   | —   |
|                                    |                | Hospital                                                                  | —                | —   | —   | —   | P   | P   | —   |
| Places of Worship                  | 3.8.4          | All religious institutions or places of worship                           | SUP              | P   | P   | P   | P   | P   | —   |
|                                    |                | Cemeteries                                                                | PS               | PS  | PS  | PS  | PS  | PS  | —   |
| Entertainment/Recreation           |                |                                                                           |                  |     |     |     |     |     |     |
| Indoor Recreation                  | 3.9.1          | All indoor recreation facilities, except as listed below                  | SUP              | P   | P   | P   | P   | P   | P   |
|                                    |                | Cultural or Community Facility                                            | SUP              | P   | P   | P   | P   | P   | —   |
|                                    |                | Indoor Amusements                                                         | —                | —   | SUP | P   | P   | SUP | P   |
|                                    |                | Indoor Firing Range                                                       | —                | —   | —   | —   | SUP | SUP | SUP |
|                                    |                | Live Performance Theater                                                  | —                | SUP | SUP | P   | P   | P   | —   |
|                                    |                | Movie Theater                                                             | —                | —   | —   | P   | P   | —   | —   |
|                                    |                | Special Event Venue                                                       | SUP              | SUP | PS  | PS  | PS  | PS  | —   |
|                                    |                | Studios, Galleries and Workshops - High Impact                            | —                | —   | SUP | SUP | P   | P   | P   |
|                                    |                | Studios, Galleries and Workshops - Low Impact                             | —                | P   | P   | P   | P   | P   | —   |
| Outdoor Recreation                 | 3.9.2          | All outdoor recreation facilities, except as listed below                 | SUP              | P   | P   | P   | P   | P   | P   |
|                                    |                | Non-Residential Swimming Pool or Pond                                     | —                | SUP | SUP | PS  | PS  | PS  | —   |
|                                    |                | Outdoor Amusements                                                        | —                | —   | SUP | SUP | P   | —   | P   |
|                                    |                | Outdoor Firing Range                                                      | —                | —   | —   | —   | —   | —   | SUP |
|                                    |                | Parks, Open Space, and Greenways                                          | P                | P   | P   | P   | P   | P   | P   |
| Agriculture                        |                |                                                                           |                  |     |     |     |     |     |     |
| Agriculture                        | 3.10.1         | All agricultural uses                                                     | PS               | —   | —   | —   | PS  | PS  | PS  |
| Manufacturing/Wholesale/Storage    |                |                                                                           |                  |     |     |     |     |     |     |
| Light Industrial and Manufacturing | 3.11.1         | All light industrial and manufacturing activities, except as listed below | —                | —   | —   | —   | SUP | —   | P   |



**TABLE 2.2A: LAND USE MATRIX**

| CATEGORY                     | SECTION<br>(a) | USE                                                                 | ZONING DISTRICTS |     |     |     |     |    |     |
|------------------------------|----------------|---------------------------------------------------------------------|------------------|-----|-----|-----|-----|----|-----|
|                              |                |                                                                     | GR               | RMX | NMX | DMX | CMX | IC | GI  |
|                              |                | Brewery, Distillery, Winery, Cidery - High Impact                   | —                | —   | —   | —   | P   | —  | P   |
|                              |                | Brewery, Distillery, Winery, Cidery - Low Impact                    | —                | —   | SUP | PS  | PS  | —  | PS  |
|                              |                | Laboratory                                                          | —                | —   | —   | —   | P   | P  | P   |
|                              |                | Laundry, Dry Cleaning Plant                                         | —                | —   | —   | —   | SUP | P  | P   |
|                              |                | Manufacturing Research and Development                              | —                | —   | —   | —   | P   | P  | P   |
|                              |                | Media Production                                                    | —                | —   | P   | P   | P   | P  | P   |
| Heavy Manufacturing          | 3.11.2         | All heavy manufacturing activities, except as listed below          | —                | —   | —   | —   | —   | —  | SUP |
|                              |                | Metal Products Fabrication, Machine or Welding Shop                 | —                | —   | SUP | SUP | P   | —  | P   |
| Storage and Disposal         | 3.11.3         | All storage and disposal uses, except as listed below               | —                | —   | —   | —   | SUP | —  | P   |
|                              |                | Chemical Storage Facility                                           | —                | —   | —   | —   | —   | —  | P   |
|                              |                | Solid Waste Disposal Facilities                                     | —                | —   | —   | —   | —   | —  | PS  |
|                              |                | Junkyard / Salvage Yard                                             | —                | —   | —   | —   | —   | —  | SUP |
| Wholesaling and Distribution | 3.11.4         | All wholesaling and distribution activities, except as listed below | —                | —   | —   | —   | P   | —  | P   |
|                              |                | Equipment Rental                                                    | —                | —   | —   | —   | P   | —  | P   |
|                              |                | Indoor Vehicle/Heavy Equipment Sales                                | —                | —   | PS  | PS  | PS  | —  | PS  |
|                              |                | Outdoor Vehicle/Heavy Equipment Sales                               | —                | —   | —   | —   | PS  | —  | PS  |
| Extractive Industries        | 3.11.5         | All extractive industries, except as listed below                   | —                | —   | —   | —   | —   | —  | P   |
|                              |                | Extractive industries involving blasting                            | —                | —   | —   | —   | —   | —  | SUP |
| Infrastructure               |                |                                                                     |                  |     |     |     |     |    |     |
| Utilities                    | 3.12.1         | Utilities—Class 1                                                   | P                | P   | P   | P   | P   | P  | P   |
|                              |                | Utilities—Class 2                                                   | P                | P   | P   | P   | P   | P  | P   |
|                              |                | Utilities—Class 3                                                   | —                | —   | —   | —   | —   | —  | P   |
| Telecommunications           | 3.12.2         | All wireless telecommunication facilities, except as listed below   | PS               | PS  | PS  | PS  | PS  | PS | PS  |
|                              |                | Wireless Telecommunication Facility—Tower                           | —                | —   | —   | —   | SUP | —  | PS  |
| Transportation               | 3.12.3         | Parking Lot                                                         | SUP              | PS  | PS  | PS  | PS  | PS | PS  |
|                              |                | Passenger Vehicle Terminals                                         | —                | —   | P   | P   | P   | —  | P   |
| Accessory                    |                |                                                                     |                  |     |     |     |     |    |     |



**TABLE 2.2A: LAND USE MATRIX**

| CATEGORY                                                                                                           | SECTION<br>(a) | USE                                                         | ZONING DISTRICTS |     |     |     |     |     |    |
|--------------------------------------------------------------------------------------------------------------------|----------------|-------------------------------------------------------------|------------------|-----|-----|-----|-----|-----|----|
|                                                                                                                    |                |                                                             | GR               | RMX | NMX | DMX | CMX | IC  | GI |
| Residential Accessory                                                                                              | 3.13.1         | All residential accessory uses, except as listed below      | PS               | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Day Care Home                                               | PS               | PS  | PS  | PS  | PS  | PS  | —  |
|                                                                                                                    |                | Dwelling—Accessory Unit (ADU)                               | PS               | PS  | PS  | PS  | PS  | PS  | —  |
|                                                                                                                    |                | Home Occupation                                             | PS               | PS  | P   | P   | P   | P   | —  |
|                                                                                                                    |                | Keeping Bees                                                | PS               | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Keeping Domestic Fowl (Chickens)                            | PS               | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Swimming Pool or Pond                                       | PS               | PS  | PS  | PS  | PS  | PS  | —  |
| Non-Residential Accessory                                                                                          | 3.13.2         | All non-residential accessory uses, except as listed below  | —                | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Accessory Retail                                            | —                | —   | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Drive-Thrus                                                 | —                | —   | SUP | —   | PS  | —   | —  |
|                                                                                                                    |                | Mobile Food Vendor Site                                     | —                | SUP | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Recycling - Small Collection                                | —                | —   | —   | —   | SUP | SUP | P  |
|                                                                                                                    |                | Rooftop Amenity Space                                       | —                | —   | SUP | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Taproom / Tasting Room                                      | —                | —   | SUP | P   | P   | —   | P  |
| Temporary                                                                                                          |                |                                                             |                  |     |     |     |     |     |    |
| Events and Structures                                                                                              | 3.14.1         | All temporary events and structures, except as listed below | PS               | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Carnivals or Circus                                         | —                | —   | —   | —   | PS  | PS  | PS |
|                                                                                                                    |                | Farmers Market                                              | —                | —   | PS  | PS  | PS  | PS  | —  |
| Vendors                                                                                                            | 3.14.2         | All temporary vendors, except as listed below               | —                | —   | PS  | PS  | PS  | —   | —  |
|                                                                                                                    |                | Vending Pushcarts                                           | —                | —   | —   | PS  | —   | —   | —  |
| (a) This column refers to the section of this ordinance that contains the use definition and additional standards. |                |                                                             |                  |     |     |     |     |     |    |

## 2.3. Principal structures.

### A. No development shall contain more than one principal building per lot, unless:

1. As part of an approved group development;
2. As part of a conditional zoning district;
3. As part of an approved special use permit; or
4. As part of a pre-existing nonconforming use.

### A. A multi-unit structure, such as duplexes, townhomes, and mixed-use buildings, within a single lot will be treated as a single primary structure for the purposes of compliance with the dimensional standards of this ordinance.

### B. For separate lots within a zero-lot line development, such as those for some types of townhomes and mixed-use buildings, the individual units will be considered a primary structure for each lot.



**A.C.** The maximum ground floor area for principal structures varies by zoning district and shall be measured in accordance with the following table.

| TABLE 2.3A: GROUND FLOOR AREA       |                                                    |
|-------------------------------------|----------------------------------------------------|
| District                            | Maximum Ground Floor Area Each Principal Structure |
| GR4                                 | 10,000 sq. ft.                                     |
| GR8                                 | 8,000 sq. ft.                                      |
| RMX—Single-family home and duplex   | 8,000 sq. ft.                                      |
| RMX—Multi-family and nonresidential | 25,000 sq. ft.                                     |
| NMX                                 | 30,000 sq. ft.                                     |
| DMX                                 | 25,000 sq. ft.                                     |
| CMX                                 | 5075,000 sq. ft.                                   |
| IC                                  | 100,000 sq. ft.                                    |
| GI                                  | 100,000 sq. ft.                                    |

*Note: Projects of developments that do not meet the above standards apply for conditional zoning in accordance with Section 2.1.C.*

## 2.4. Group development.

### 2.4.1. General group development requirements.

#### A. Applicability:

1. Group development review is applicable to any land development subject to a site plan that includes 2 or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future).
2. Other individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

**B. Group development matrix:** The following matrix sets forth the manner by which certain types of group developments may be permitted within the various districts.

1. "P" denotes those group development types that are permitted "by right."
2. "—" denotes those group development types that are not permitted within the given district.
3. "PS" denotes those group development types that are permitted with additional standards, which are set forth herein.
4. "MHD" denotes those group development types that are permitted within a Manufactured Housing Overlay District.

| TABLE 2.4A: GROUP DEVELOPMENT TYPOLOGY MATRIX |                                                            |                  |     |     |     |     |    |    |
|-----------------------------------------------|------------------------------------------------------------|------------------|-----|-----|-----|-----|----|----|
| CATEGORY                                      | GROUP DEVELOPMENT                                          | ZONING DISTRICTS |     |     |     |     |    |    |
|                                               |                                                            | GR               | RMX | NMX | DMX | CMX | IC | GI |
| Residential                                   | All residential group developments, except as listed below | PS               | PS  | PS  | PS  | PS  | PS | —  |
|                                               | Cluster Home Development                                   | PS               | PS  | PS  | —   | —   | PS | —  |



**TABLE 2.4A: GROUP DEVELOPMENT TYPOLOGY MATRIX**

| CATEGORY                      | GROUP DEVELOPMENT                                                                  | ZONING DISTRICTS |            |            |            |            |            |            |
|-------------------------------|------------------------------------------------------------------------------------|------------------|------------|------------|------------|------------|------------|------------|
|                               |                                                                                    | GR               | RMX        | NMX        | DMX        | CMX        | IC         | GI         |
|                               | <u>Neighborhood Development</u>                                                    | <u>PS</u>        | <u>PS</u>  | <u>=</u>   | <u>=</u>   | <u>=</u>   | <u>=</u>   | <u>=</u>   |
|                               | <u>Manufactured Home Park</u>                                                      | <u>MHD</u>       | <u>MHD</u> | <u>MHD</u> | <u>MHD</u> | <u>MHD</u> | <u>MHD</u> | <u>MHD</u> |
| <b><u>Non-Residential</u></b> | <u>All non-residential or mixed-use group developments, except as listed below</u> | <u>=</u>         | <u>PS</u>  | <u>PS</u>  | <u>PS</u>  | <u>PS</u>  | <u>PS</u>  | <u>PS</u>  |
|                               | <u>Shopping Centers</u>                                                            | <u>=</u>         | <u>=</u>   | <u>PS</u>  | <u>PS</u>  | <u>PS</u>  | <u>=</u>   | <u>=</u>   |

**C. Submittal requirements:**

- Each application for a group development shall be accompanied by development plans as required by CHAPTER 17 that show compliance with all applicable regulations, including but not limited to landscaping, parking, stormwater management, and infrastructure improvements.

**D. Use limitations:**

- Unless otherwise provided by this section for a specific type, group developments must comply with the use matrix. No other uses may be permitted.
- The following uses are not permitted in group developments, unless explicitly allowed by this section:
  - Dwelling - Single-family
  - Dwelling - Duplex
  - Manufactured Home

**E. Connectivity and circulation:**

- The group development shall accommodate safe, efficient, and convenient vehicular, pedestrian, and bicycle circulation throughout the development.
- ~~3.~~2. All principal structures within a group development shall be connected by a sidewalk.

**F. Street access:**

- Any building established as a part of a group development project, which cannot properly be served by emergency or service vehicles from an existing abutting street, shall be made accessible to such vehicles by a publicly-accessible road.
  - Typically, a building cannot be properly served if it is not within 500 feet of a fire hydrant, 150 feet from a publicly accessible road, or otherwise deemed unacceptable by the Technical Review Committee. Exceptions and/or alternatives to these minimum requirements may be considered by the Technical Review Committee.
- All interior roads shall be paved to City standards with a minimum width of 20 feet and adequately maintained for emergency or service vehicle access.

**G. Building separation:**

- All buildings established as part of a group development project shall be separated in accordance with North Carolina Building Code separation requirements.

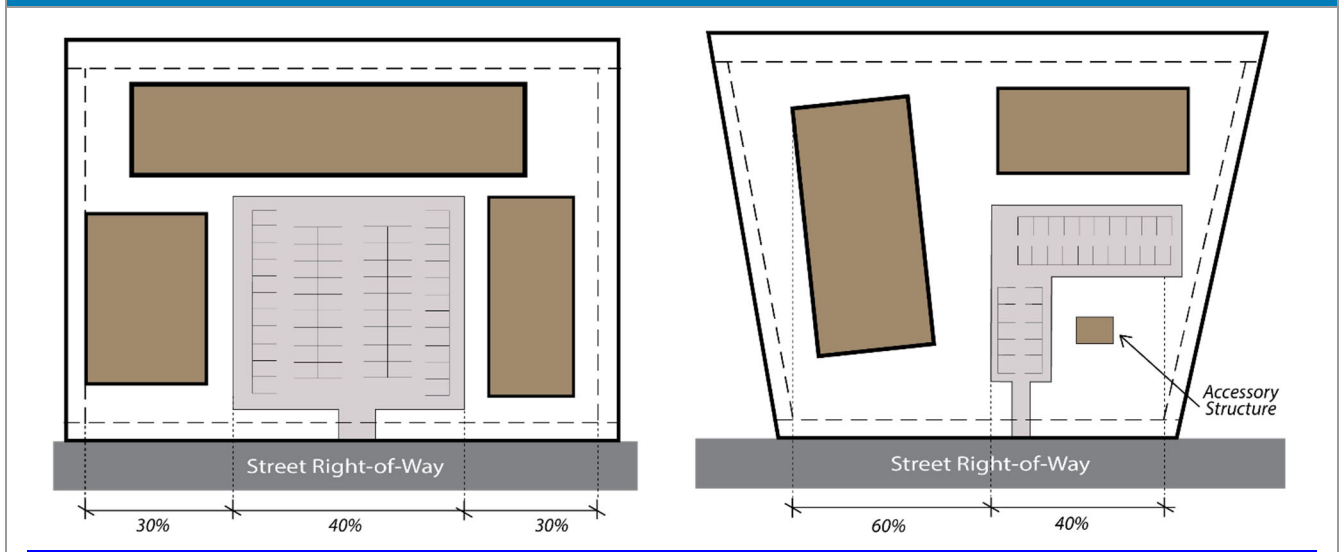
**H. Parking:**





1. The location of off-street parking may be permitted between a principal structure and the street within a group development. In such instances, no more than 40% of the street frontage, minus any required setback distances, shall be occupied by parking areas. Additional buffers and landscaping may be required to obscure parking adjacent to the street.

**FIGURE 2.4.1-A: ILLUSTRATIVE DIAGRAMS OF PARKING LOCATIONS IN A GROUP DEVELOPMENT**



**I. Setbacks:**

1. Unless otherwise provided by this section, each group development project shall comply with the setback requirements established for the zoning districts in Section 2.7.

**J. Ownership:**

1. When a group development is designed with individual lots with shared stewardship of the common areas, the following additional standards shall be met:
  - a. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final zoning inspection approval.
2. When a group development is designed as a multi-dwelling, multi-tenant or mixed-use development under single ownership, subject to the use limitations herein, the following additional standards shall be met:
  - a. If at any point in the future the owner intends to transfer individual lots into separate ownership, a plat meeting all requirements of this ordinance shall be submitted to Planning staff for review and approval. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final plat approval.

**2.4.2. Cluster home development.**

- A. Purpose:** A cluster home development allows for small lot residential development in a manner that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained in shared stewardship by residents.



**B. Applicability:**

1. Cluster home development may take one of the following forms:
  - a. A development may be designed with individual lots with shared stewardship of the common areas.
  - b. A development may be designed as a multi-dwelling development, subject to the use limitations below.
2. Cluster home development shall comply with the group development standards established herein and the following standards.

**C. Use Limitations:**

1. The following housing types are permitted in a cluster home development:
  - a. Dwelling - Single-family
  - b. Dwelling - Duplex
  - c. Dwelling – Multifamily 3-4 units/building
  - d. Dwelling – Townhome
2. Accessory dwelling units are prohibited within a cluster home development.

**D. Density and buildings:**

1. The maximum allowable density of a cluster home development shall be equal to 50% greater than the underlying base zoning district.
2. Cluster home developments shall have a minimum of three detached residential buildings.
3. All principal buildings within the cluster home development shall front on a street or a common open space.
4. Each principal building within the cluster home development is permitted one accessory structure less than 120 SF.
5. A maximum of two accessory structures shall be allowed within a cluster home development project for shared use. This includes any shared community buildings, storage sheds, etc. The maximum ground floor area for accessory structures shall not exceed 50% of the aggregate ground floor area of the principal structures. Gazebos and other structures that are amenities within the common areas are exempt.

**E. Setbacks:**

1. Individual lots or building sites within the cluster home development are exempt from the base zoning district setback requirements. However, the base zoning district setbacks apply to the cluster home development parcel.
2. Dwelling units oriented towards a common open space area shall provide a six feet minimum setback from the common area. Such setback does not count toward any required common area.

**F. Common open space:** Common open space areas shall meet the following standards:

1. The common open space shall include a central green, lawn or garden areas, playground, plaza, or other greenspace / feature as a central focal point.
2. The minimum size of the common open space area is 3,000 square feet or 500 square feet per dwelling unit, whichever is greater. This requirement shall replace any open space required in accordance with CHAPTER 7.
3. The common open space area shall maintain a minimum width of 30 feet, shall be contiguous and centrally located, and shall front on a public street.

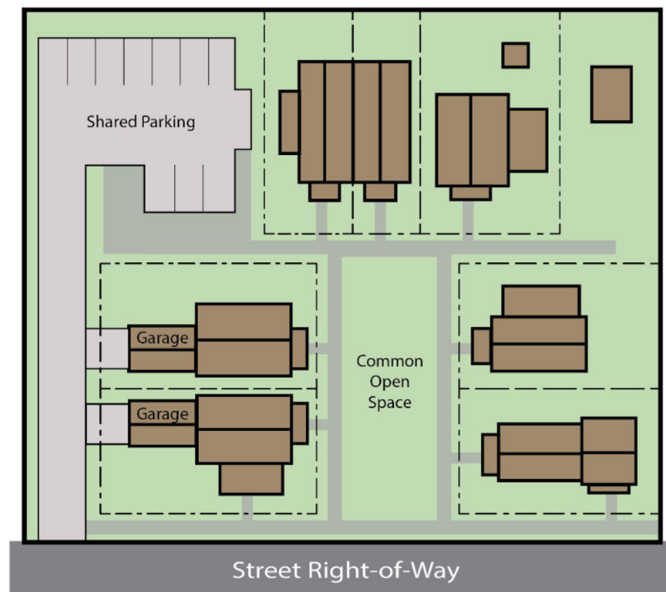


4. A maximum of 30% of the common open space may be hardscape.

**G. Parking:** In addition to the parking standards in CHAPTER 10, parking for a cluster home development shall meet the following standards:

1. Required off-street parking may be provided on individual development sites within the cluster home development or in a shared parking area serving multiple dwellings on site.
2. Parking shall not be located:
  - a. between principal structures,
  - b. between principal structures and the street,
  - c. between principal structures and the required common area, or
  - d. within any required common area.

**FIGURE 2.4.2-A: CLUSTER HOME DEVELOPMENT DIAGRAM**



### **2.4.3. Neighborhood development.**

**A. Applicability:**

1. Neighborhood development standards shall apply to a predominately residential group development designed as individual lots with shared stewardship of common areas and infrastructure.
2. These standards shall apply to any project with 8 or more lots and/or shared infrastructure.
3. Neighborhood development shall comply with the group development standards established herein and the following standards.

**B. Use limitations:**

1. Neighborhood development shall be predominately residential, subject to the use matrix in Section 2.2.

**C. Street access:**



1. All lots intended for development are required to front on a road in accordance with the lot requirements of Section 4.2.
2. Roads and driveways shall meet the requirements of CHAPTER 13. If the roads are to be dedicated to the City of Brevard for maintenance, they shall be built in compliance with public road standards.

**D. Density and buildings:**

1. The maximum allowable density of a neighborhood development shall be equal to the underlying base zoning district.

**E. Setbacks:**

1. All lots established as part of a neighborhood development shall comply with the setback requirements of the base zoning district.

**F. Parking:** In addition to the parking standards in CHAPTER 10, parking for a neighborhood development shall meet the following standards:

1. Required off-street parking may be provided on individual development sites within the neighborhood development or in a shared parking area serving multiple dwellings on site.

#### **2.4.4. Manufactured home park.**

---

**A. Applicability:**

1. Manufactured home park standards shall apply to a residential group development with three or more manufactured homes or manufactured home spaces designed as a cohesive whole and maintained either by a single entity or in shared stewardship by residents.
2. Manufactured home park may take one of the following forms:
  - a. A development may be designed with individual lots with shared stewardship of the common areas.
  - b. A development may be designed as a multi-dwelling development, subject to the use limitations below.
3. Manufactured home parks shall comply with the group development standards established herein and the following standards.

**B. Use limitations:**

1. The following housing types are permitted in a manufactured home park:
  - a. Manufactured home.
2. Accessory dwelling units are prohibited within a manufactured home park.

**C. Density and buildings:**

1. The maximum allowable density of a manufactured home park shall be equal to 50% greater than the underlying base zoning district.
2. All principal buildings within the manufactured home park shall front on a street or interior road.
3. Each principal building within the manufactured home park is permitted one accessory structure less than 120 SF.
4. A maximum of two accessory structures shall be allowed within a manufactured home park for shared use. This includes any shared community buildings, storage sheds, etc. The maximum ground floor area for accessory structures shall not exceed 50% of the aggregate ground floor area of the principal structures. Gazebos and other structures that are amenities within the common areas are exempt.



#### **D. Setbacks:**

1. Individual lots or manufactured home sites within the manufactured home park group development are exempt from the base zoning district setback requirements. However, the base zoning district setbacks apply to the manufactured home park parcel.

#### **E. Parking:** In addition to the parking standards in CHAPTER 10, parking for a manufactured home park shall meet the following standards:

1. Required off-street parking may be provided on individual development sites within the manufactured home park or in a shared parking area serving multiple dwellings on site.
2. Parking shall not be located:
  - a. between principal structures,
  - b. between principal structures and the street,
  - c. between principal structures and the required common area, or
  - d. within any required common area.

### **2.4.5. Shopping centers.**

---

#### **A. Applicability:**

1. Shopping center regulations shall apply to large-scale non-residential or mixed-use group development with at least 2 commercial, recreational and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.
2. Shopping centers may be designed as multi-tenant commercial buildings, zero-lot line development of attached structure(s); as individual parcels with shared stewardship of the common areas; or a combination thereof.
3. Shopping centers shall comply with the group development standards established herein and the following standards.

#### **B. Use Limitations:**

- ~~2.~~1. The shopping center may contain uses permitted by the applicable zoning district.

#### **C. Setbacks:**

- ~~3.~~1. Individual lots or building sites within the shopping center group development are exempt from the base zoning district setback requirements. However, the base zoning setbacks apply to the shopping center parcel.

### **4.82.5. Accessory structures.**

---

#### **A. Principal buildings required.** The construction of an accessory structure or building is not permitted unless a principal building is located on the lot, except as set forth below or as otherwise provided in this ordinance. Accessory structures shall be incidental and subordinate to the principal structure(s). Accessory and principal buildings may be constructed concurrently.

1. Accessory structures utilized for agricultural purposes in association with bona-fide agricultural operations may be permitted in the absence of a principal structure.
2. Garden sheds may be permitted in the absence of a principal structure subject to the following requirements:
  - a. Garden sheds shall be no larger than 120 square feet in size;



- b. Garden sheds shall be single-story;
- c. Garden shed shall not be connected to water, sewer, or electricity; and
- d. Garden sheds shall be utilized only for the storage of lawn equipment, garden utensils, and other implements necessary for the maintenance of gardens and grounds.

#### **B. Dimensional requirements.**

- ~~3.1.~~ Accessory structures shall meet the ~~density and dimensional requirements set forth in CHAPTER 2 of this ordinance~~ yard and setback requirements of Section 2.7.
- ~~4.2.~~ Accessory structures shall not exceed two stories in height.

#### **B.C. Accessory structures on lots with single-family dwellings and duplexes.**

1. Maximum number permitted. No more than two accessory structures shall be permitted per lot. Beehives and chicken coops shall not count toward the maximum number of accessory structures on a lot.
2. Accessory structures shall be located only in the side or rear yards, except for gazebos, private garages, and carports. Such structures shall comply with the front yard setbacks for primary structures in Section 2.7.24. The administrator shall make a determination as to the side or rear yard for accessory structures proposed to be located on lots fronting more than one street.
- ~~3. — Accessory structures with a footprint of more than 500 square feet shall be buffered from the adjacent residential development with a Type A buffer yard. Accessory structures located more than 24 feet from a property line shall be exempt from this buffering requirement.~~
- ~~4.3.~~ Under no circumstances shall the use of a shipping container be permitted for the purpose of providing permanent storage as an accessory use.

#### **C.D. Accessory structures on lots with non-residential uses, multi-family uses, and group developments.**

1. Maximum number permitted. No more than two accessory structures shall be permitted per lot, except in General Industrial (GI). In all other zoning districts, additional structures shall be considered as principal structures in a group development.
2. Accessory structures shall be located only in side or rear yards except for bona-fide agricultural enterprises.
3. Accessory structures shall comply with the applicable landscaping requirements of CHAPTER 8 of this ordinance.
4. Accessory structures shall be clad in materials similar in appearance to the principal structure in accordance with CHAPTER 5, except when such material is non-conforming with this ordinance.

#### **D.E. Exempt structures.**

1. Structures including but not limited to mailboxes, newspaper boxes, birdhouses, flagpoles, pump covers, garden boxes and planters, doghouses, and any other similar small or ornamental structures shall not be considered principal or accessory structures and shall not require a permit.

## **2.63. Density and dimensional requirements.**

### **2.6.1. Density.**

- A. **Maximum density of dwelling units.** The maximum allowable dwelling unit density varies based on the zoning district.



| TABLE 2.6.1-A: MAXIMUM DWELLING UNIT (DU) DENSITY                                                                                 |                  |
|-----------------------------------------------------------------------------------------------------------------------------------|------------------|
| District                                                                                                                          | Maximum Density  |
| GR-4                                                                                                                              | 4 du/acre        |
| GR-8                                                                                                                              | 8 du/acre        |
| RMX                                                                                                                               | 15 du/acre       |
| NMX                                                                                                                               | 25 du/acre       |
| DMX                                                                                                                               | None             |
| CMX                                                                                                                               | 40 du/acre       |
| IC                                                                                                                                | 15 du/acre       |
| GI                                                                                                                                | DU not permitted |
| Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C. |                  |

### 2.6.2.5.18. ~~Computation of b~~ Building height.

A. **Maximum building height.** The maximum building height for a structure varies based on the zoning district.

| TABLE 5.18A: MAXIMUM HEIGHT BY RIGHT                                                                                              |                 |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------|
| District                                                                                                                          | Height By Right |
| GR (4, 8)                                                                                                                         | 35 feet         |
| RMX                                                                                                                               | 35 feet         |
| NMX                                                                                                                               | 35 feet         |
| DMX                                                                                                                               | 50 feet         |
| CMX                                                                                                                               | 50 feet         |
| IC                                                                                                                                | 50 feet         |
| GI                                                                                                                                | 50 feet         |
| Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C. |                 |

- ~~Additional height may be permitted by the board of adjustment (hereinafter BOA) as a special use permit. See the requirements for tall structures as set forth in Section 5.15.~~

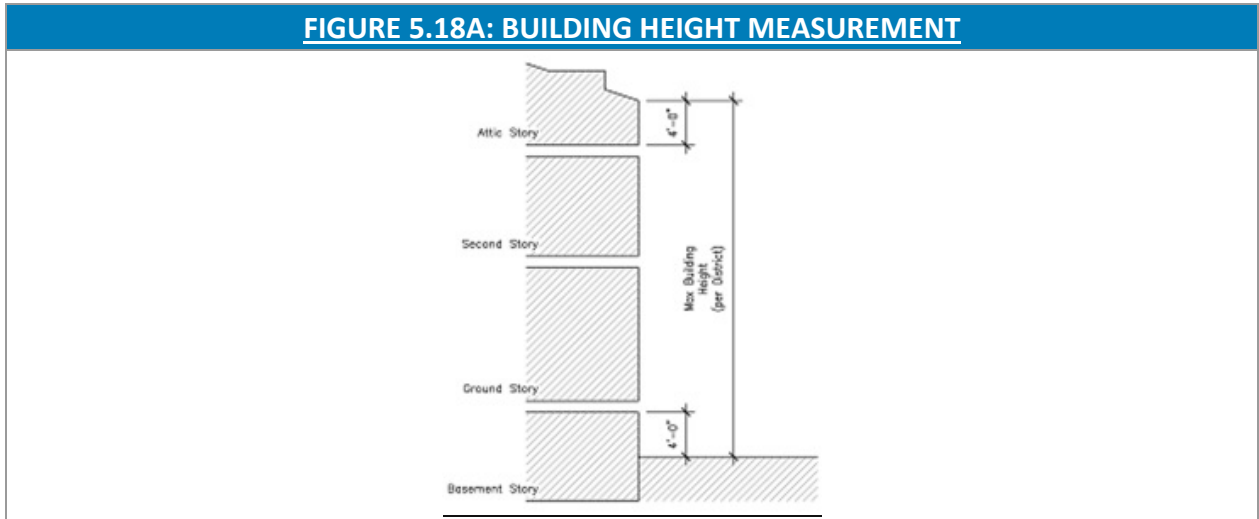
### B. **Computation of building height.**

- "Building height" is measured as the vertical distance above a reference elevation measured to the parapet or roof line of a flat roof, the eave of a pitched roof, or the deck line of a mansard roof. The height of a terraced or stepped building is the maximum height of any segment of the building. The height limitations of this Code shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas; provided evidence from appropriate authorities is submitted to the effect that such building or structure will not interfere with any airport zones or flight patterns.
- The reference elevation shall be selected using the greater of either of the following:



- a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten feet above the lowest grade; or,
- b. An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in ~~paragraph~~ subsection B.1, above is more than ten feet above the lowest grade.

**FIGURE 5.18A: BUILDING HEIGHT MEASUREMENT**



3. Items not included in calculation. The height limitations of this ~~Section 2.3~~ this section shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas; provided evidence from appropriate authorities is submitted to the effect that such building or structure will not interfere with any airport zones or flight patterns.

**C. Maximum story height.**~~Story:~~

1. A building story ~~The habitable level of a building, which level~~ shall not exceed 14 feet in height from finished floor to finished floor.
- 4.2. Basements that emerge less than four feet from grade or attics not exceeding four feet at the knee-wall shall not constitute a story.

**2.6.3. Project area by right.**

- A. Minimum project area. There is no minimum project size required, regardless of zoning district.
- B. Maximum project area. The maximum project size by right varies based on the zoning district.

**TABLE 2.6.3-A: MAXIMUM PROJECT AREA BY RIGHT**

| District         | Maximum Project Area By Right |
|------------------|-------------------------------|
| <b>GR (4, 8)</b> | <u>20 acres</u>               |
| <b>RMX</b>       | <u>10 acres</u>               |
| <b>NMX</b>       | <u>10 acres</u>               |
| <b>DMX</b>       | <u>10 acres</u>               |





| TABLE 2.6.3-A: MAXIMUM PROJECT AREA BY RIGHT                                                                                      |                               |
|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| District                                                                                                                          | Maximum Project Area By Right |
| CMX                                                                                                                               | 10 acres                      |
| IC                                                                                                                                | None                          |
| GI                                                                                                                                | None                          |
| Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C. |                               |

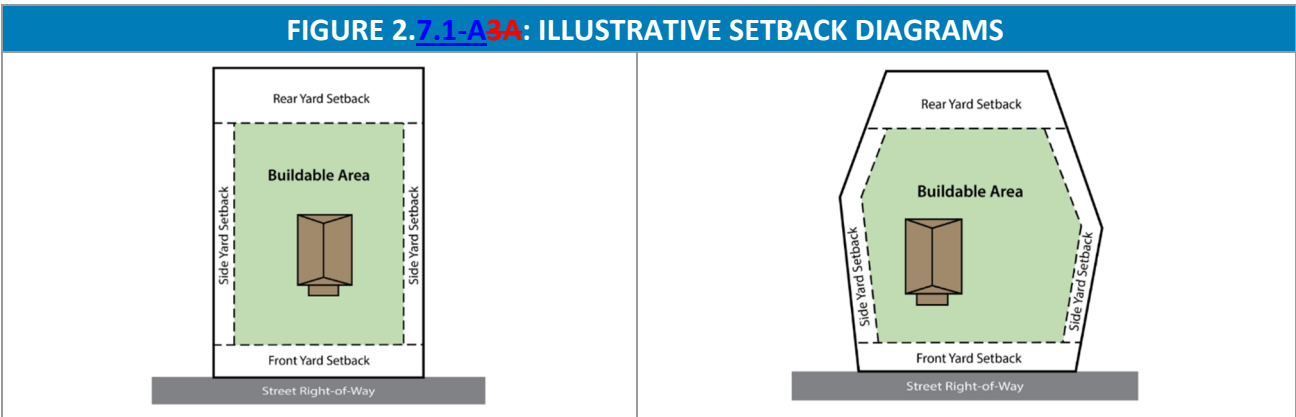
## 2.47. Yards and setbacks.

### 2.7.1. General standards for all ~~setbacks and yards~~ and setbacks.

- A. A building, structure, lot, or sign shall not be developed, used or occupied unless it meets the minimum setback requirements set forth herein for the use or the zoning district in which it is located, except permitted encroachments in Section 5.17.
- Landscaping requirements set forth in CHAPTER 8 of this ordinance may supersede setbacks listed herein.
  - No portion of any structure shall be placed upon any parcel boundary or within any public or private right-of-way or easement, unless otherwise provided for by this ordinance. This provision shall not prohibit zero lot line structures with common walls situated on one or more lot lines.

**B. Types of setbacks:**

- Front yard setbacks shall apply to the portion of the lot adjacent to the right-of-way. All lots are required to have a front yard.
- Rear yard setbacks shall apply to the portion of the lot on the opposite side of the lot from the front yard setback. All lots are required to have a rear yard.
- Side yard setbacks shall be the required setback from any property line other than front or rear property lines.



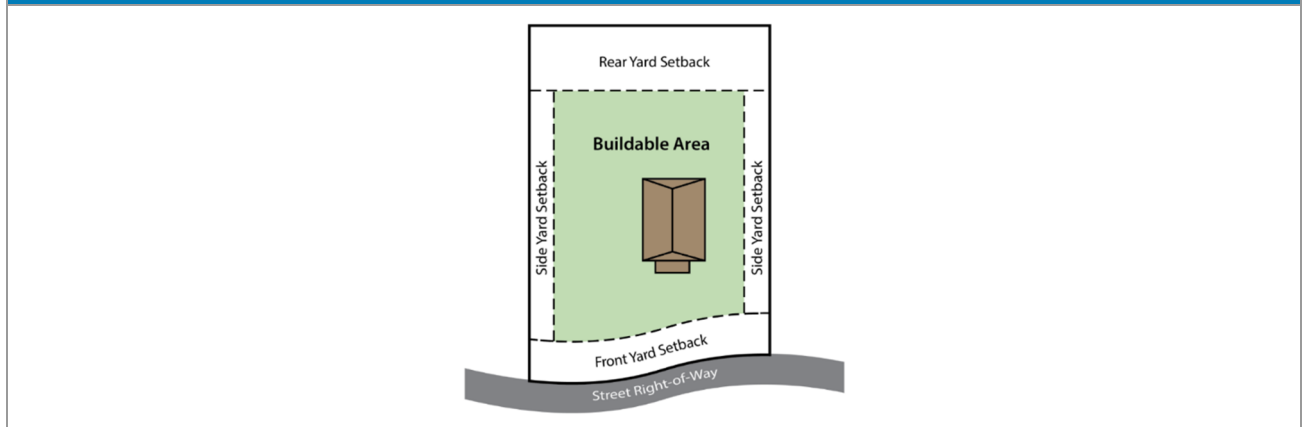
**C. Measurement of setbacks and building lines:**

- Required yard setbacks and building lines are measured parallel to the applicable lot line or public right-of-way line.



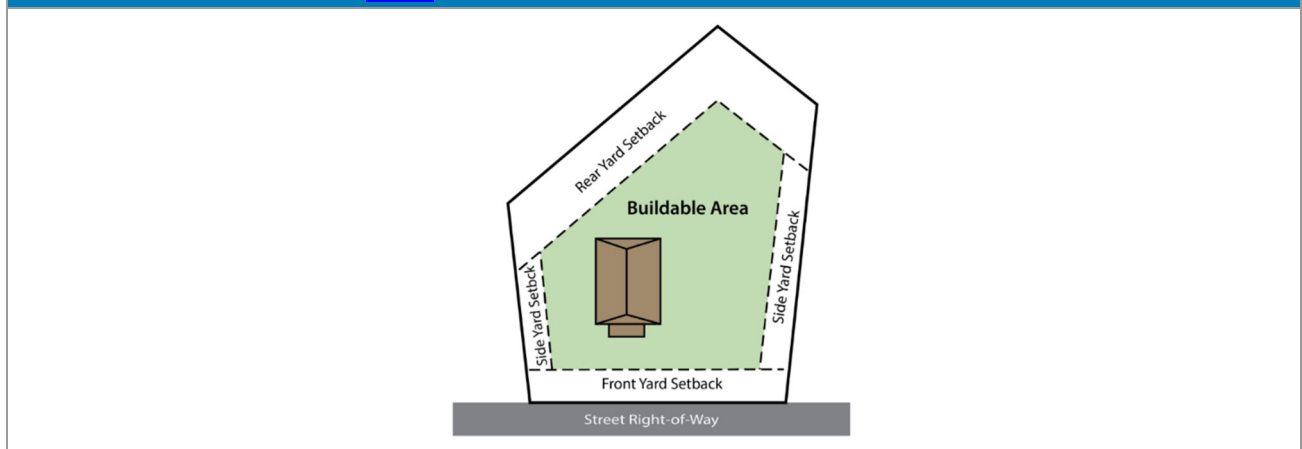
- a. Front yard setbacks and building lines shall be measured from the property line or the edge of the right-of-way, whichever is further from the centerline of the roadway.
  - b. Side yard and rear yard setbacks and building lines shall be measured from the property line(s).
2. When lot lines are curvilinear, setbacks and building lines shall be measured parallel to the curvilinear lot line.

**FIGURE 2.7.1-B39: SETBACKS FROM CURVILINEAR LOT LINES**



3. When there are multiple rear lot lines, the rear yard setback and building line must be measured from each of the rear lot lines.

**FIGURE 2.7.1-C3C: SETBACKS FROM MULTIPLE REAR LOT LINES**



**D. Administrative decisions for setbacks:**

1. The administrator may impose additional setbacks based upon specific guidance from the City of Brevard Comprehensive Plan, the City of Brevard Downtown Master Plan and other district or small area/master plans, the City of Brevard Comprehensive Pedestrian Plan, the City of Brevard Street Schedule, or other plans or policies of the city.
  - a. For private streets, a right-of-way in accordance with [CHAPTER 13](#) shall be assumed by the administrator.



- b. When determining the edge of the right-of-way, the administrator shall account for existing or proposed additional automobile, bicycle, or pedestrian travel lanes, turn lanes, roundabouts, on-street parking, and other improvements that deviate from a standard street cross-section.
2. The administrator may approve deviations from required setbacks by up to 20 percent of the required area in accordance with [CHAPTER 16](#) in order to:
  - a. protect existing or proposed rights-of-way and other infrastructure improvements
  - b. ensure environmental protection of sensitive and/or conservation areas, including steep slope areas
  - c. account for surface water protection and/or satisfy flood damage prevention requirements
3. For non-conforming lots without street frontage, the administrator shall designate a front yard for the purposes of setback measurement.
4. ~~Infill lot setbacks:~~ The administrator may grant exceptions to the setback requirements of this ordinance for infill developments where the average setback on already-built-upon lots located wholly or in part within the same block and zoning district, and fronting on the same street as such lot, is less than the minimum required setback.
  - a. In such cases, the front and side yard setbacks on such lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots.
- 4.5. ~~In established neighborhoods,~~ [in established neighborhoods](#) the administrator may determine that the functional rear yard is not opposite the front yard based on the peculiar shape of the parcel or the development pattern. In these cases, the administrator may determine that another line shall be considered the rear lot line for setback purposes.

### 2.7.2. Setbacks for principal structures.

#### ~~C. —Setbacks for zoning districts.~~

- A. The minimum setback distance for principal structures varies by zoning district and shall be measured in accordance with this section.

**TABLE 2.387.2-A: SETBACKS FOR PRINCIPAL STRUCTURES**

| District  | Front Yard Setback                      | Rear Yard Setback                           | Side Yard Setback                           |
|-----------|-----------------------------------------|---------------------------------------------|---------------------------------------------|
| GR (4, 8) | 15 feet                                 | 25 feet                                     | 6 feet                                      |
| RMX       | 10 feet                                 | 25 feet                                     | 6 feet                                      |
| NMX       | Edge of right-of-way                    | 10 feet                                     | 0 feet / 10 feet from residential district  |
| DMX       | Edge of right-of-way                    | 0 feet                                      | 0 feet                                      |
| CMX       | 10 feet                                 | 10 feet / 25 feet from residential district | 0 feet / 10 feet from residential district  |
| IC        | 40 feet                                 | 40 feet                                     | 40 feet                                     |
| GI        | 15 feet                                 | 10 feet / 25 feet from residential district | 10 feet / 25 feet from residential district |
| CZD       | To be determined by approving authority |                                             |                                             |

### 2.7.3. Setbacks for accessory structures.

- A. Setbacks for accessory structures vary based on the size of the structure and the zoning district.



**TABLE 2.7.3 AC: SETBACKS FOR ACCESSORY STRUCTURES**

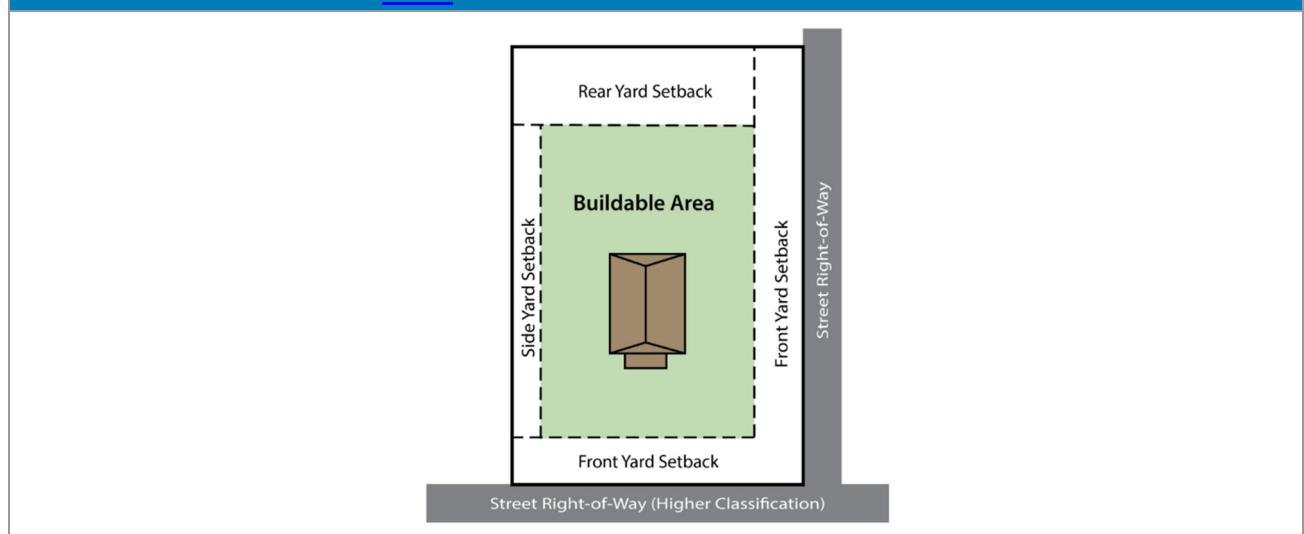
| District  | Side Yard Setback                         |                                           | Rear Yard Setback                         |                                           |
|-----------|-------------------------------------------|-------------------------------------------|-------------------------------------------|-------------------------------------------|
|           | < 120 sq. ft.                             | ≥ 120 sq. ft.                             | < 120 sq. ft.                             | ≥ 120 sq. ft.                             |
| GR (4, 8) | 3 feet                                    | 6 feet                                    | 3 feet                                    | 10 feet                                   |
| RMX       | 0 feet                                    | 3 feet                                    | 0 feet                                    | 3 feet                                    |
| NMX       | 0 feet                                    | 3 feet                                    | 0 feet                                    | 3 feet                                    |
| DMX       | 0 feet                                    | 0 feet                                    | 0 feet                                    | 0 feet                                    |
| CMX       | 0 feet                                    | 0 feet                                    | 0 feet                                    | 0 feet                                    |
| IC        | 40 feet along all external boundaries     |                                           |                                           |                                           |
| GI        | 10 feet/25 feet from residential district | 10 feet/25 feet from residential district | 10 feet/25 feet from residential district | 10 feet/25 feet from residential district |
| CZD       | To be determined by approving authority   |                                           |                                           |                                           |

- B. Accessory structures to residential uses located within 6 feet of the principal structure are considered to be attached for the purpose of setbacks, and shall comply with the setback requirements of the principal structure.

#### 2.7.4. Setbacks for corner lots and multi-frontage lots setbacks.

- A. Any structure on any lot that fronts on more than one street shall comply with the minimum front yard setback requirement for each street upon which the lot fronts.
- B. Alleys, rear lanes, and commercial service lanes are not classified as streets for the purpose of determining corner or multi-frontage lot setbacks.
- C. The rear yard shall be determined as the portion of the lot on the opposite side of the lot from the front yard on the street with the higher classification.

**FIGURE 2.7.4-A30: SETBACKS FROM MULTI-FRONTAGE LOTS**

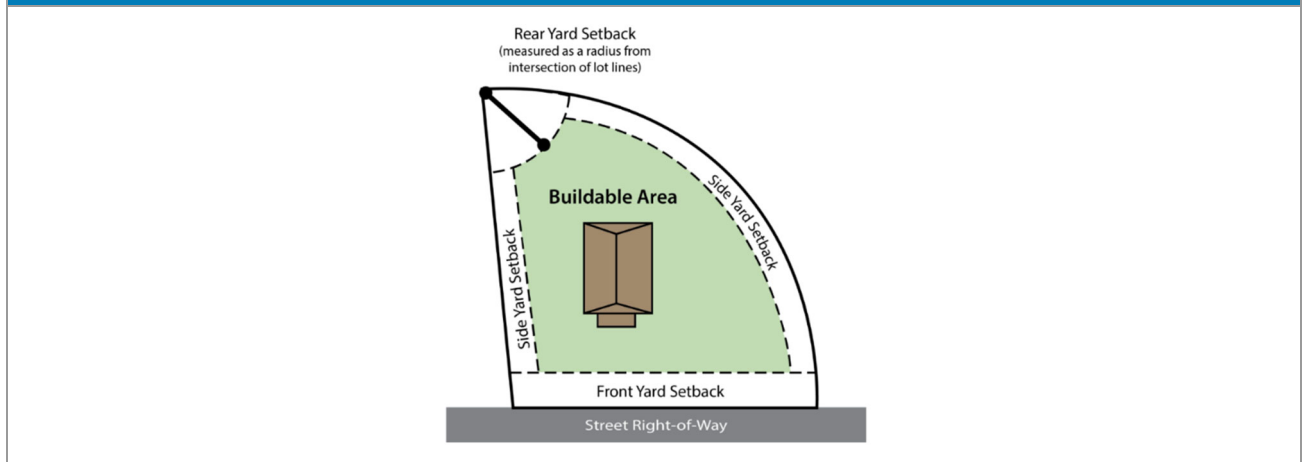


#### 2.7.5. Setbacks for triangle lots and other lots without a rear lot line.

- A. On properties where there is no rear lot line, the rear setback shall be measured as a radial distance from the intersection of side lot lines at the rear of the lot.



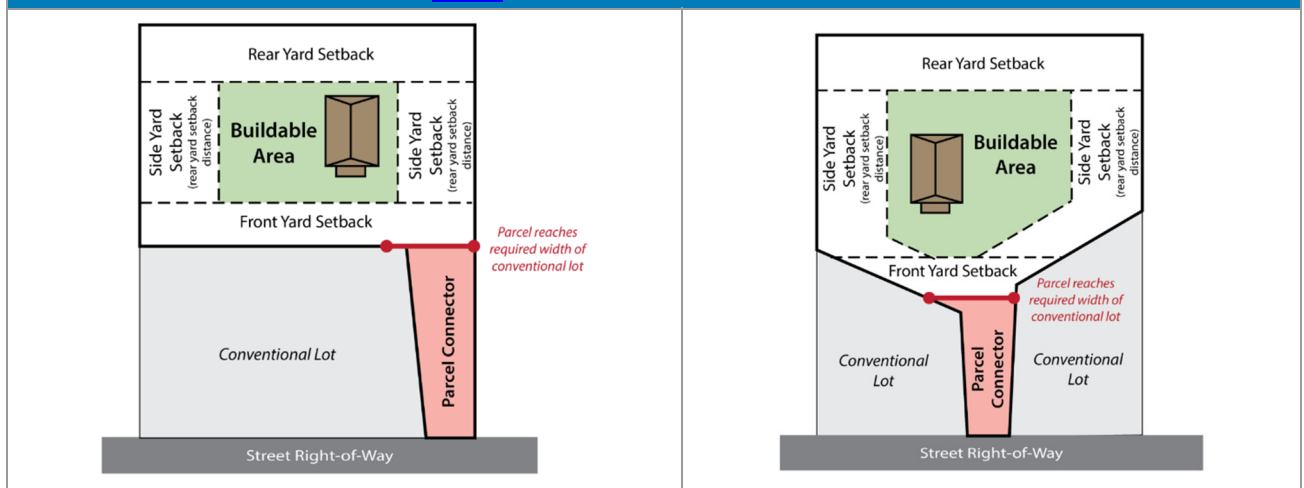
**FIGURE 2.7.5-A3E: SETBACKS FROM LOTS WITH NO REAR LOT LINE**



### 2.7.6. Setbacks for irregular lots.

- A. The location of required front, side and rear yards on irregularly shaped lots shall be determined by the administrator. This determination shall be based on the spirit and intent of this ordinance to continue the appropriate spacing and location of buildings and structures on individual lots.
- B. For irregular lots, the Zoning Administrator will determine the termination of the “parcel connector” based on the definition and will measure front yard setbacks from that point.
- C. All other setback distances (rear and side yards) shall be equal to the minimum rear yard setback for the district, unless:
  1. A newly-created irregular lot would convert an existing conforming secondary or accessory dwelling unit to a principal single-family structure. In this case, the setbacks for the principal structure may equal that of an accessory structure of that size in the zoning district.

**FIGURE 2.7.6-A3E: SETBACKS FROM IRREGULAR LOTS**

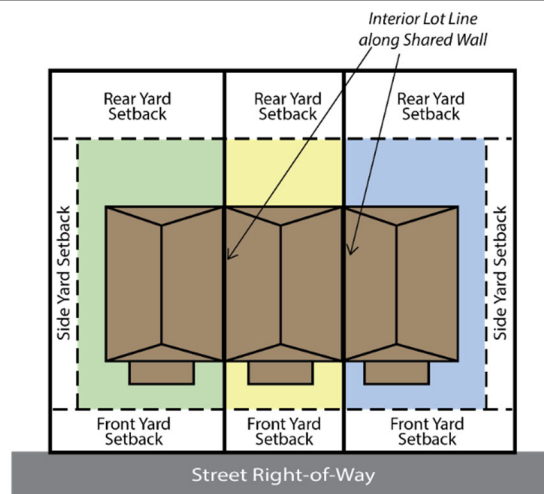




### 2.7.7. Setbacks for zero-lot line developments.

- A. Zero-lot line developments ~~(i.e., townhomes, condominiums and similar structures)~~ and other structures using ~~shared partiwalls~~ firewalls or other type of separation as prescribed by NC Building Code are permitted with no setback requirements along the interior lot line, subject to other requirements as set forth in this ordinance.

FIGURE 2.7.7-A. ZERO LOT LINE DEVELOPMENT SETBACKS

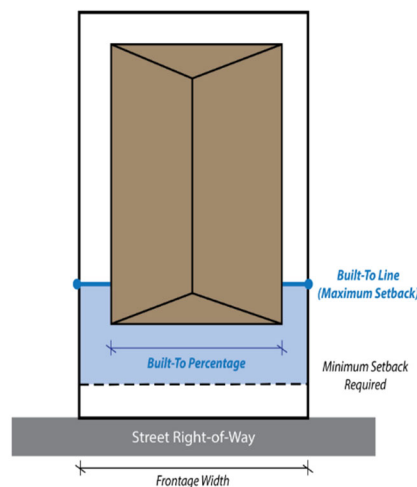


### 2.7.8. Lots within the Downtown Development Overlay District.

- A. 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.

- A.B. The build-to percentage may be reduced to 50 percent if the new building includes a public courtyard or plaza space.

FIGURE 2.7.8-A. BUILD-TO LINE AND BUILD-TO PERCENTAGE





## 4.92.8. Fences and walls.

- A. All fences and walls shall be constructed so that the best face faces outward from the parcel upon which it is constructed and towards adjacent properties. The "best face" shall generally mean the side opposite to framing members.
- B. Fences and walls shall not be placed within public utility easements or public right-of-way without first securing an encroachment agreement from the City of Brevard, the North Carolina Department of Transportation, or other appropriate entity.
- C. Fence or wall height shall be measured from the side of the fence or wall that is exterior to the property as the vertical distance between the lowest adjacent ground level, natural or filled, and the top of the fence material. Fence heights are restricted as follows:
1. In industrial districts, and public safety and other critical facilities. Fences or walls shall be no greater than six feet in height in the front yard(s) and no greater than eight feet in height in the side and rear yards.
  2. All other districts and uses. Fences or walls shall be no greater than four feet in height in the front yard(s) and no more than eight feet in the side and rear yards.
  3. No closed fence or wall shall be greater than two-and-a-half feet in height when placed within the sight triangle of any intersection as specified in Section 9.54.5 of this ordinance. Open fences are exempt from this provision.
- D. Fence and wall materials shall conform to the following requirements:
1. Residential districts:
    - a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, except that chain link or woven wire may be used in the side and rear yards.
    - b. All other wire fences, including barbed wire or concertina wire, are prohibited.
    - c. Nothing in this chapter shall prevent the administrator from approving architecturally variant uses of material to allow creative fence design, such as the contemporary look of heavy-gauged welded wire panels framed in timber.
    - d. The use of plastic plumbing pipe is a prohibited fence material.
  2. Commercial districts:
    - a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability.
    - b. Chain link wire fences may be used as secure enclosures internal to the property or site subject to the following requirements:
      - i. Chain link fences shall not be visible from a public right-of-way.
      - ii. Chain link fences shall not serve as a perimeter fence or property line fence unless buffered by a type A buffer yard on all sides, and then only in the side or rear yard behind the front building line.
    - c. All other wire fences, including barbed wire or concertina wire, are prohibited.
    - d. All walls and fences shall be materially similar to other walls and fences in the same block or general vicinity.
  3. Industrial districts, public safety facilities, and other critical facilities:



- a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, and shall be materially similar to other walls and fences on the same block or general vicinity.
- b. Vinyl coated, chain link fencing may be approved by the administrator as perimeter fencing with additional filtering through openings using opaque or semi opaque slats or screening or by installing a type A landscaping buffer between incompatible uses, between different zoning districts or where visible from a public street.
4. Barbed wire: Barbed wire may be permitted within bona-fide agricultural operations within any zoning district.
- E. Retaining walls shall also conform to the following requirements:
  1. Retaining walls should minimize the impacts of cut and fill on a site.
  2. The height of any retaining wall should not exceed five feet unless required to be higher for engineering reasons.
    - a. An increase in retaining wall height may be allowed if the proposed design minimizes the cut and fill impacts and enhances the existing landscape.
  3. In areas where cuts are steeper, a stepped or terraced wall should be used. Large, unbroken retaining walls in a uniform plane should be avoided.

## **~~2.4. Traditional Neighborhood Development (TND) specific standards.~~**

---

### ~~A. Specific district provisions.~~

- ~~1. Development size (Minimum—Maximum): 20 acres—200 acres.~~

~~(Note: Projects in excess of 200 acres should be developed as multiple Traditional Neighborhoods, each individually subject to all such provisions.)~~

- ~~a. The entire land area of the TND shall be divided into blocks, streets, lots and open space areas.~~
- ~~b. Similar land categories shall generally front across streets. Dissimilar categories shall abut at rear lot lines. Corner lots which front on streets of dissimilar use shall be set back the same as the adjacent use with the lesser setback.~~
- ~~c. The long axis of streets exceeding 500 feet in length shall have appropriate termination with either a public monument, specifically designed building façade, or a gateway to the ensuing space.~~
- ~~d. No portion of the TND is further than 760 feet (1/8 mile) from a public open space as defined in CHAPTER 7.~~
- ~~e. Open space shall be centrally located so that it is within walking distance (¼—½ mile) from all locations within the TND. All required open space shall be in accordance with the provisions of CHAPTER 7.~~
- ~~f. Dimensional standards: The dimensional standards shall be established in accordance with the neighborhood design but shall be generally consistent with those found in the RMX, NMX and DMX Districts.~~

- ~~2. Land allocation by use.~~





**TABLE 2.4A: TRADITIONAL NEIGHBORHOOD DEVELOPMENT LAND ALLOCATION BY USE**

| Land Use                                                                                                         | Minimum       | Maximum |
|------------------------------------------------------------------------------------------------------------------|---------------|---------|
| Single-Family Uses                                                                                               | 15%           | 75%     |
| Two-Family and Multi-Family Uses                                                                                 | 10%           | 40%     |
| Lodging/Office/Retail Uses                                                                                       | 2%            | 40%     |
| Civic Uses                                                                                                       | 2%            | None    |
| Open Space                                                                                                       | Per CHAPTER 7 |         |
| Note: The figures in the table are to be calculated as the net development area, excluding street rights-of-way. |               |         |

## CHAPTER 3. USE DEFINITIONS AND STANDARDS

### 3.5. Residential uses.

#### 3.5.1. Household living use category.

##### A. Household living.

1. Definition: Residential occupancy of a dwelling unit by a household. Household living includes the following uses:
  - a. Dwelling – Single-family;
  - b. Dwelling – Duplex;
  - c. Dwelling – Multifamily 3-4 units/building;
  - d. Dwelling – Multifamily more than 4 units/building;
  - e. Dwelling – Townhome;
  - f. Manufactured Home (single unit);
  - ~~g. Manufactured Home Park;~~
  - ~~h.g.~~ Live-Work Units; and
  - ~~i.h.~~ Mixed-Use Residential Units

##### B. Dwelling—Single-family.

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

##### C. Dwelling—Duplex.

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

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

1. Also known as a Triplex or Quadraplex



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

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

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

**F. Dwelling—Townhome.**

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

**G. Manufactured home.**

1. Definition: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:
  - a. It is at least eight feet in width and 32 feet in length;
  - b. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;
  - c. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and
  - d. It does not have any wheels or axles permanently attached to its body or frame.
2. Additional Standards:
  - a. This definition does not include recreational vehicles (RV), park model RVs, and other structures that are not constructed to the United States Department of Housing and Urban Development Standards or to North Carolina Building Code.
  - i. 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, 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.
  - b. Manufactured homes are permitted with standards in the Manufactured Home Overlay District.
  - c. Dwelling units built to, or utilizing any of, the following as primary construction standards are NOT considered manufactured homes suitable for use as permanent dwelling units: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5.

**~~H. Manufactured home park.~~**

- ~~1. Definition: The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.~~
- ~~2. Additional Standards:~~
  - ~~a. Manufactured home parks are permitted with standards in the Manufactured Home Overlay District.~~



~~b. Preexisting manufactured home parks.~~

- ~~i. 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.~~
- ~~ii. 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.~~

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

- ~~i. Is defined on the ground by the presence of all of the following:
  - ~~a. A water supply system service connection;~~
  - ~~b. A connection to a septic system or sanitary sewer; and~~
  - ~~c. Electric service equipment.~~~~
- ~~ii. Or, contains an occupied manufactured home connected to each of the preceding utilities.~~

~~d. Permitting.~~

- ~~i. 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.~~
- ~~ii. 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.~~

~~e. Dimensional specifications.~~

- ~~i. 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.      |

- ~~ii. 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. |

3. ~~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.~~

4. ~~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.~~

~~5. 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.~~

~~6. 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.~~

~~7. 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.~~

~~8. 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.~~

~~9. 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.~~

~~10. 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.~~





#### H. *Live-work unit.*

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

#### I. *Mixed-use residential unit.*

1. Definition: A non-residential building type that consists of both a residential use and a non-residential use that is allowed in the applicable zoning district.
2. Additional Standards:
  - a. Location of residential unit:
    - i. In the Downtown Development Overlay District, the non-residential use shall be located on the ground floor with the residential unit or units above.
    - ii. In all other districts, the ground floor shall be primarily non-residential, with the residential unit or units encouraged to be above or behind the non-residential space.
  - b. Non-residential uses within a mixed-use residential unit must be listed within Section 2.2.C as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.

## 3.7. Commercial uses.

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### ~~3.7.5. Shopping center use category.~~

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#### ~~1. Shopping center.~~

- ~~a. Definition: A form of non-residential or mixed-use development with dedicated commercial, recreational, and/or institutional uses. Anchors may include supermarkets, drug stores, department stores, etc.~~
- ~~b. Additional Standards:~~
  - ~~i. Typically, the shopping center shall contain at least three establishments with a minimum of one commercial or recreational use. The shopping center may contain other uses permitted by the applicable zoning district.~~
  - ~~ii. The shopping center may contain more than one lot when permitted as part of a Conditional Zoning District.~~

## 3.13. Accessory uses.

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### 3.13.1. Residential accessory use category.

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**A. Residential accessory use.**

1. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a residential or lodging principal use on the same lot.
2. Additional Standards:
  - a. Accessory uses shall be clearly incidental to the residential or lodging principal use and shall not change the essential character of the dwelling or the neighborhood.
  - b. Accessory uses shall adhere to the standards outlined in Section [4-82.5](#) and all other applicable sections.

**B. Day care home.**

1. 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.
2. Additional Standards:
  - a. 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).
  - b. 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).
  - c. 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.
  - d. Client drop-off and pick-up areas shall be located on the site so as not to obstruct traffic flow on adjacent public streets.
  - e. All day care establishments shall at all times be properly licensed by the State of North Carolina and all other appropriate governmental entities.
  - f. All equipment shall be stored in the side or rear yard.
  - g. 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.

**C. Dwelling— accessory unit (ADU).**

1. 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.
2. Additional Standards:
  - a. 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.
  - b. 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.
    - i. 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.
  - c. Structures for ADUs shall comply with the provisions of Section [4-82.5](#), except as provided below.



- i. Not more than one ADU is permitted on any lot.
- ii. An ADU shall be located in the side or rear yard unless an existing structure is being converted to an ADU.
- iii. 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.
- d. 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.
- e. ADUs shall be constructed according to North Carolina Building Code.
- f. 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).

**D. Home occupation.**

1. 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.
2. Additional Standards:
  - a. 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.
  - b. 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.
  - c. The use shall employ no more than two persons who are not residents of the dwelling.
  - d. There shall be no business signage or visible display of stock in trade which is sold on the premises.
  - e. 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.
  - f. The existence and operation of the home occupation shall not be visible and/or audible to neighboring residents from a street.
  - g. Only non-commercial vehicles are permitted in connection with the conduct of the home occupation.
  - h. 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.
  - i. 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.
  - j. Responsibilities of the administrator and applicant(s):



- i. 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.
  - ii. 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.
  - iii. 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.
- k. Uses permitted as home occupations:
- i. 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 Section 2.2 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.
  - ii. 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.
  - iii. 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.
- l. Duration of permit:
- i. 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.
  - ii. Applicants may apply for renewal of home occupation permits. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.
  - iii. 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.

**E. *Keeping bees.***

1. Definition: The keeping of bees as an accessory use. This definition shall include any permanent or temporary structures related to beekeeping.
2. Additional Standards:
  - a. Keeping bees shall be permitted following the standards set forth in the Brevard City Code, Section 14-9, Keeping bees.
  - b. Movable frame hives may be permitted upon parcels of land where no principal structure is present.

**F. *Keeping domestic fowl (chickens).***

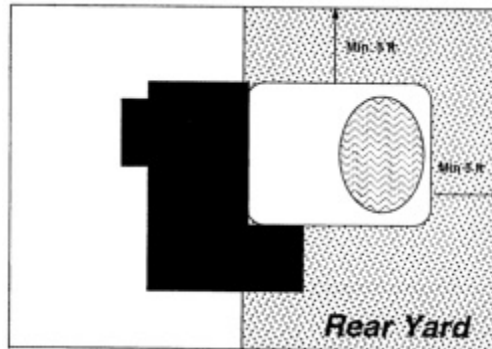
1. Definition: The keeping of geese, ducks, chickens or other domestic fowl as an accessory use. This definition shall include any permanent or temporary structures related to domestic fowl.
2. Additional Standards:
  - a. Keeping domestic fowl shall be permitted following the standards set forth in the Brevard City Code, Section 14-6, Keeping fowl.
  - b. Chicken coops and chicken runs, as defined in Section 14-1 of Brevard City Code, may be permitted upon parcels of land where no principal structure is present, subject to the requirements set forth in Brevard City Code, CHAPTER 14, Animals and Fowl; Article I, Generally; Sections 14-1, Definitions, and 14-6, Keeping fowl.

**G. *Swimming Pool or Pond.***

1. Definition: A structure, in-ground or above ground, that contains water over 18 inches deep and is typically intended for swimming or recreational bathing. The definition of a pool includes all structures, walks or patio areas of cement, stone, or wood, at or above grade, built for, and used in conjunction with the pool.
2. Additional Standards:
  - a. All pools permitted as residential accessory uses and structures, whether above-ground or in-ground, shall be built only in side or rear yards.



**FIGURE 3.13A: SWIMMING POOL OR POND PLACEMENT**



- b. Pools and related structures, walks and patio areas shall be set back a minimum of five feet from all side and rear property lines. Patio areas at grade have no setback requirements from rear and side lot lines.
- c. All pools shall be designed to prevent unsupervised access by children. Pools shall be enclosed within a secured structure or by an unclimbable privacy fence (with lockable self-latching gate) with a minimum height of four feet and a maximum of eight.

### **3.13.2. Non-residential accessory use category.**

#### **A. Non-residential accessory use.**

1. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a non-residential principal use on the same lot.
2. Additional Standards:
  - a. Accessory uses shall adhere to the standards outlined in Section ~~4.8~~ 2.5 and all other applicable sections.

#### **B. Accessory retail.**

1. Definition: The on-premises, retail sale of products directly to customers, where the retail use is incidental to a primary use conducted upon the same premises. Examples include but are not limited to the following: a furniture manufacturer who operates a show floor for the display and sales of furniture produced by the manufacturer or a bicycle manufacturer who operates a floor for the display and sales of bicycles produced by the manufacturer.
2. Additional Standards:
  - a. Accessory retail uses shall be directly related to and accessory to a conforming, principal use.
  - b. Products offered for sale within accessory retail uses shall be products which are produced or processed by the associated principal use, or which are directly related to, and offered in support of, products which are produced or processed by the associated principal use. For example, a manufacturer of bicycles may operate an accessory retail use wherein bicycles, which were manufactured within the principal use, are offered for direct, on-premises retail sale. Bicycle accessories (such as tires, helmets), which were not produced by the manufacturer but which clearly relate to and support products which are produced or processed by the principal use, may also be



offered for sale. However, products that do not clearly relate to and support products which are produced or processed by the principal use (such as backpacking or rock-climbing gear in the case of the bicycle manufacturer) cannot be offered for retail sale.

- c. Accessory retail uses shall comply with all applicable standards of federal, state or local law that would otherwise apply to retail oriented principal uses. For example, parking areas serving accessory retail uses within a General Industrial zoning district shall comply with the surfacing requirements of Section 10.6.A.
- d. Accessory retail uses are limited to an area that is equivalent to 20 percent of the gross floor area of the structure(s) containing the principal use.
- e. Accessory retail uses shall be indoors, and shall not include the outdoor display of products or merchandise.

### **C. *Drive-thru.***

1. Definition: A facility where food and other products or services may be purchased or obtained by motorists without leaving their vehicles. Examples include drive-through fast-food restaurants, coffee, photo stores, pharmacies, bank teller windows, convenience stores, and dry-cleaning pick-up stores without dry cleaning equipment. This term does not include gas stations or other vehicle services, which are separately defined.
2. Additional Standards:
  - a. Drive-through stacking lanes, windows, and associated equipment shall not be permitted within 50 feet of a residential district or residential use.
  - b. Drive-through windows and services shall be located and accessed only at the rear or side of the building and shall not be located between the principal structure and a public street. Service lanes shall not be located between the building and the street.
  - c. When situated at the side of the building, windows and services shall be located at least 20 feet back from the front façade of the building.
  - d. Vehicle storage for drive-through uses shall be located outside of, and physically separated from, the right-of-way of any street. This area shall not interfere with the efficient internal circulation of the site, adjacent property, or adjacent street right-of-way.
  - e. Service lanes shall be a minimum of 80 feet long for a single stacking lane or 80 feet per lane when there is more than one service lane. A service lane is measured from the curb cut to the service area or the order area if an outdoor order area precedes the service area. Service lanes do not have to be linear. Stand-alone automatic teller machines shall provide stacking distance for four vehicles outside of any right-of-way, parking area, or travel lane.
  - f. Drive-through service lanes shall provide a minimum of ten stacking spaces on site for restaurant and food sale uses with drive-through facilities and a minimum of six stacking spaces on site for banking, pharmacies and similar non-food-related uses with drive-through facilities. Each stacking space shall be a minimum of nine feet by 18 feet.
  - g. A service lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations. A service lane is required for full-service drive-through automobile cleaning establishments.
  - h. Service lanes shall be designed so that they do not interfere with parking, parking access and vehicle circulation. Crossings shall be situated so as to minimize conflicts between pedestrians and vehicles. Where service lanes are traversed by pedestrian crossing areas, such crossings shall be clearly





marked. Warning signage may be required at the discretion of the administrator in the interest of pedestrian safety.

- i. All service lanes shall be clearly identified by means of striping, landscaping, curbing, and the like.
- j. Site access and egress shall be shared by the drive-through and inside customer service functions.
- k. The drive-through service lane shall first exit into other circulation lanes within the same project, and then onto a public street via the same exit curb cut as the other circulation lanes within the same project.
- l. Service lanes shall be designed for a one-way traffic pattern only.
- m. The drive-through shall be limited to a maximum of two service lanes and one additional lane for an automated teller machine (ATM).
- n. Drive-through facilities shall be screened from off-site view from adjacent properties by a Type A buffer with a minimum width of ten feet.
- o. Speaker box sounds from the drive-through lane shall not unreasonably disturb the peace and quiet of abutting residential property.
- p. A traffic impact study may be required by the approving authority.

**D. *Mobile food vendor site.***

1. Definition: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale consumption.
2. Additional Standards:
  - a. Mobile food vendors shall only vend at permanent locations permitted under this section.
  - b. The owner, or authorized agent thereof, of any property upon which a mobile food vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile food vendor site.
  - c. Mobile food vendors using the designated site shall secure all necessary permits required by the Transylvania County Health Department.
    - i. Mobile food vendors must follow all applicable rules and requirements of the Transylvania County Health Department and any other relevant agencies of Transylvania County or the State of North Carolina.
    - ii. In the issuance of permits for mobile food vendor sites and mobile food vendors, the administrator shall have broad discretion to assign such conditions as may be necessary to protect the health, safety, and welfare of the public
  - d. Number of mobile food vendor sites:
    - i. In NMX and DMX zoning districts, only 1 mobile food vendor site shall be permitted per parcel.
    - ii. In CMX, IC, and GI zoning districts, each parcel is permitted up to 3 mobile food vendor sites, so long as all other separation and site requirements as set forth in this section are met.
    - iii. Additional mobile food vendor sites may be permitted with the issuance of a special use permit in accordance with [CHAPTER 16](#).
  - e. Separation requirements:
    - i. Mobile food vendors shall be situated at least 10 feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space.



- (A) This requirement shall not apply to special events approved by the city for placement upon public streets.
- ii. Mobile food vendors shall be situated at least 20 feet from one another.
- iii. Mobile food vendors shall be situated at least 25 feet from any permanent structures.
  - (A) The administrator may, upon recommendation of the fire marshal, approve the placement of mobile food vendors within 25 feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and other pertinent information. Such reductions shall be reviewed on a case-by-case basis, at the discretion of the administrator.
  - (B) There shall be no reduction in separation between mobile food vendors and permanent structures within the downtown fire district.
- iv. Mobile food vendors shall be situated at least 200 feet from any residential structure that is located within GR zoning district.
- v. Mobile food vendors must be set back a minimum of ten feet in all directions from fire hydrants.
- f. Power.
  - i. Outside of the Heart of Brevard district, generators may be used to power the vending unit. Within the Heart of Brevard only dedicated power supplies shall be used.
  - ii. For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicles needs while in operation.
- g. Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m., except during an approved special event, when other operating hours may be established as part of the event.
- h. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.
- i. Each food truck shall supply at least one waste receptacle which must be removed at the end of each day. All waste receptacles must be emptied at the end of each day and as necessary during the day. City trash receptacles shall not be used for the food truck operator's waste.
- j. Mobile food vendor signage shall be limited to the following:
  - i. Mobile food vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.
  - ii. Nothing in this Ordinance shall be construed to mean that mobile food vendor vehicles cannot be painted or decorated, or display menus affixed to the side(s) of the vendor vehicle.

**E. *Recycling—small collection.***

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

**F. *Rooftop amenity space.***

1. Definition: A covered or uncovered space on a building rooftop that is intended to be an accessory use for residents of a building or mixed-use building type or for the patrons of a commercial building.
2. Additional Standards:





- a. Any structure on a rooftop amenity space shall not exceed 12 feet in height.
- b. The rooftop amenity space shall not be enclosed.
- c. No sign affixed to any structure in a rooftop amenity space shall be visible from the street.

**G. *Taproom or tasting room.***

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

## **CHAPTER 4. ~~GENERAL LOT AND STRUCTURE~~ ~~PROVISIONS~~ LOT AND SUBDIVISION REQUIREMENTS**

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### **4.1. ~~Applicability~~ Authority and purpose.**

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~~Unless otherwise specified, the following provisions shall apply throughout the city's planning jurisdiction, regardless of the zoning district classification under the authority of G.S. 160D-703(d).~~

- A. In accordance with NCGS Section 160D-801 and 160D-804, the purpose of this Chapter is to establish procedures and standards for the subdivision of land within the planning jurisdiction of the City of Brevard, and to provide for orderly growth in a manner that facilitates the adequate provision of streets, water, sewage disposal, and other considerations essential to public health, safety, and the general welfare.
- B. In accordance with NCGS Section 160D-803, plats shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

### **4.2. ~~General provisions~~ Lot requirements.**

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#### **4.2.1. General provisions.**

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- A. **City of Brevard review:** No final plat of any subdivision (major, minor, or exempt) within the planning jurisdiction of the City of Brevard shall be filed or recorded by the Transylvania County Register of Deeds until it has been prepared, submitted to, reviewed, and approved by the appropriate authority, in accordance with this Chapter, and such approval entered in writing on the plat.
- B. **Sale of lots prohibited:** Lots shall not be offered for sale until final subdivision approval has been granted.
- C. **Conformity with ordinance required:**
  1. All lots must comply with the standards of this section, except as expressly provided in this ordinance. ~~Lots created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.~~ This prohibition shall not be construed to prevent the purchase or condemnation of land for public utilities, substations, street right-of-way, pedestrian facilities, recreational facilities, stormwater management or similar public purposes.



~~2. May not reduce/create lot(s) below minimum requirements: No lot existing upon adoption of this ordinance shall be reduced in size or area below the minimum requirements of the zoning district in which it is located.~~

~~3. No land or structure shall be used or occupied, and no structure or part thereof shall be constructed, erected, altered, or moved, unless in conformity with all of the regulations herein specified for the district in which it is located. Every building erected, moved, or structurally altered shall be located on a lot conforming to the requirements of the district in which it is located.~~

2. New subdivisions of land shall be designed to prevent the placement of a structure on any parcel boundary or within any street right-of-way. This provision shall not prohibit zero lot line structures with common walls situated on one or more lot lines.

~~D. All buildings to front on street or public space: All lots shall front upon a street built in accordance with CHAPTER 9 of this ordinance. Generally, all buildings shall front directly upon a street in a manner that creates a public space conducive to pedestrian use.~~

**D. Variances to lot and subdivision regulations:**

1. Unless explicit authority is granted herein, subdivision regulations shall not be varied by the Board of Adjustment nor shall the administrator grant any exceptions.

2. When authority is granted, variances of lot and subdivision regulations shall proceed in accordance with Section 16.8 of this ordinance and all applicable North Carolina General Statutes regarding quasi-judicial proceedings for variances.

#### **4.2.2. Minimum lot size.**

A. There is no minimum lot size for any newly established lots within the City of Brevard's jurisdiction. This provision shall not exempt lots from complying with all other applicable lot requirements (i.e., street frontage) established herein and all applicable zoning standards (i.e., setbacks).

B. However, no subdivision (exempt, minor, or major) of land shall create more lots than the underlying zoning district's residential density (e.g., a one-acre parcel with a maximum allowable density of 8 dwelling units per acre cannot be subdivided into more than 8 lots, including any residual or parent lot).

1. Additional lots may be created above this threshold, provided they are protected from any future development, such as lots reserved for the provision of open space, shared infrastructure, or conservation of environmentally sensitive areas.

#### **4.2.3.4. Street frontage required.**

A. All ~~subdivisions of land (i.e., newly created~~ parcels, lots, tracts, or other subdivisions of land), shall directly abut and have direct frontage upon a public~~ly maintained~~ street, ~~except:~~

1. Interior lots within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites (see Section 4.2.5).

2. Air lots (see Section 4.2.6).

~~1.3. Environmental containment and conservation lots (see Section 4.2.7).~~

B. Street frontage ~~for conventional lots~~ shall meet the minimum requirements set forth ~~below at the right-of-way line in Section 2.3.~~



| TABLE 4.2.2-A: STREET FRONTAGE REQUIREMENTS FOR CONVENTIONAL LOTS                                                                      |                         |
|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| District                                                                                                                               | Minimum Street Frontage |
| <u>GR (4, 8)</u>                                                                                                                       | <u>30 feet</u>          |
| <u>RMX</u>                                                                                                                             | <u>30 feet</u>          |
| <u>NMX</u>                                                                                                                             | <u>20 feet</u>          |
| <u>DMX</u>                                                                                                                             | <u>0 feet</u>           |
| <u>CMX</u>                                                                                                                             | <u>0 feet</u>           |
| <u>IC</u>                                                                                                                              | <u>60 feet</u>          |
| <u>GI</u>                                                                                                                              | <u>60 feet</u>          |
| <i><u>Note: The dimensional requirements for irregular lots, including minimum street frontage, can be found in Section 4.2.4.</u></i> |                         |

C. The following shall not be considered a public street for the purposes of satisfying street frontage requirements:

1. Access, utility, service, or other easements under the ownership, control, or maintenance of the City of Brevard, the State of North Carolina, or the United States of America ~~shall not be considered public streets for the purposes of satisfying street frontage requirements;~~
2. Public rights-of-way under the ownership and control of the City of Brevard, the State of North Carolina, or the United States of America, which are not open and operable as a travel lane for motorized vehicles ~~shall not be considered public streets for the purposes of satisfying street frontage requirements, but shall be protected from encroachment in accordance with this section.~~

~~C.D.~~ In no case shall a new parcel, lot, tract, condominium, lot or space, or other subdivision of land be created that does not conform to the public street frontage requirements of this ordinance, except as otherwise provided herein. Private streets, rights of way or access easements shall not be permitted in lieu of public streets, may satisfy street frontage requirements contained herein except as allowed below if the following provisions are met:

1. The lots are not located within the corporate limits of the City of Brevard;
2. The private street is either:
  - ~~1. Residential single-family developments in General Residential—4 (GR4) zoning districts.~~
  - a. Privately maintained streets, rights of way, or access easements of 150 linear feet or less in length may satisfy frontage requirements for up to three single-family lots;
  - b. Maintained in perpetuity by a property owner's association or development agreement.
- ~~2.3. , provided they~~ The private street ~~consists of a drivable surface of at least 20 feet in width and All such privately maintained streets, rights of way, or access easements must remain~~ satisfies ~~adequately maintained to afford a reasonable means of ingress and egress of emergency vehicles.~~
- ~~3. Designed and built in accordance with public street standards: All newly created~~ The private streets, right of way, and access easements except those authorized under Section 4.4.F.4., above, shall be ~~is~~ designed and built in accordance with public street standards set forth in CHAPTER 13 of this ordinance.

~~D.E.~~ Reserve strips: There shall be no reserve strips or any other means of limiting the accessibility of parcels platted in any subdivision.



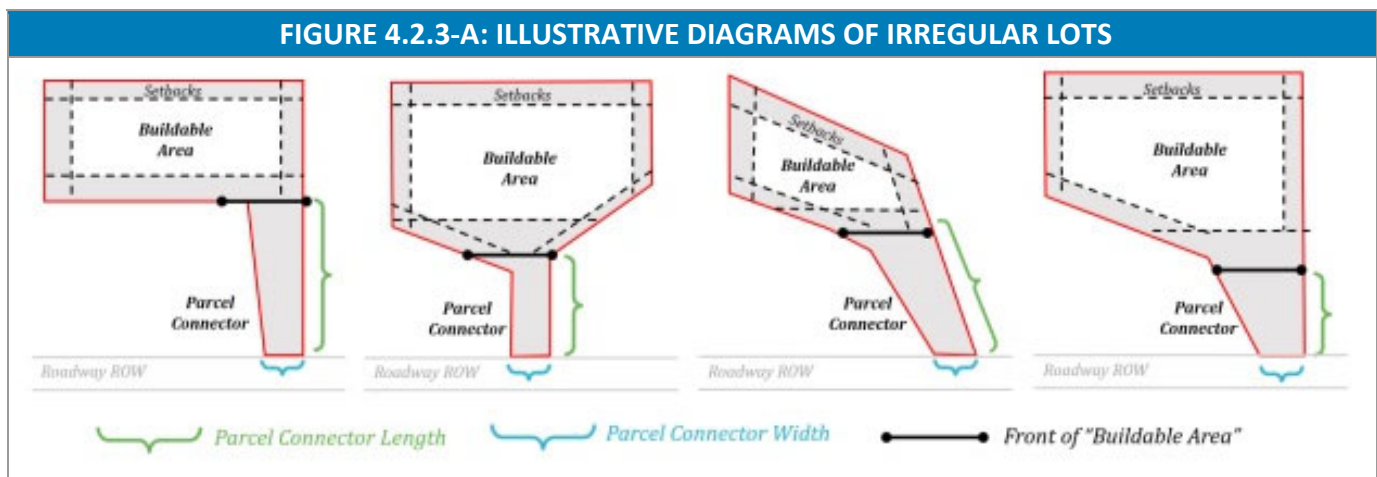
~~E. Exceptions to street frontage requirements: Following are standards whereby certain uses are excepted from the street frontage requirements contained herein:~~

- ~~1. Residential multi-family developments: Private streets, right of way, and access easements may be permitted within the foregoing developments proposing no more than four principal structures, each containing no more than four dwelling units in each structure, and for which no subdivision activity or condominium buildings or lots are proposed.~~
- ~~2. Relation to private streets: Buildings shall be oriented and situated in relation to private streets so that they conform to all applicable requirements for public streets, such that private streets could be accepted as public streets.~~
- ~~3. Additional requirements/conditions: In addition to any other applicable requirements set forth in this ordinance, the approving entity may impose such conditions, including but not limited to, the provision of access easements to the City of Brevard, as are necessary to ensure the adequate provision of public services.~~

#### 4.2.4. Irregular lots.

##### A. Applicability:

1. Irregular lots standards apply to a lot where the functional access for ingress, egress, and utilities to a road is provided along a long narrow strip of property ("parcel connector") and the portion of the lot where development is intended ("buildable area") is typically situated, at least in part, behind adjoining lots which front on a public street.



2. An irregular lot shall only be permitted if necessary to allow a property owner reasonable use and benefit from their land or to alleviate situations which would otherwise cause a hardship as determined by the Zoning Administrator, including but not limited to the following:
  - a. Where necessary to eliminate access onto arterials
  - b. To reasonably utilize irregularly shaped land
  - c. To reasonably utilize land with extreme topography
  - d. To reasonably utilize land with limited sites suitable for septic tank nitrification fields



- e. Where it is unlikely that a road created in lieu of an irregular lot would ever be extended, or otherwise needed to provide access to adjoining parcels
- f. To provide for the protection of significant natural or cultural resources
- 3. Irregular lots shall not be permitted:
  - a. If the dimensional requirements or other elements of the definition are not met
  - b. If the irregular lot does not appear to have reasonable development potential
  - c. If the irregular lot is a clear circumvention of other provisions of this ordinance.

**B. Street frontage and dimensional requirements:**

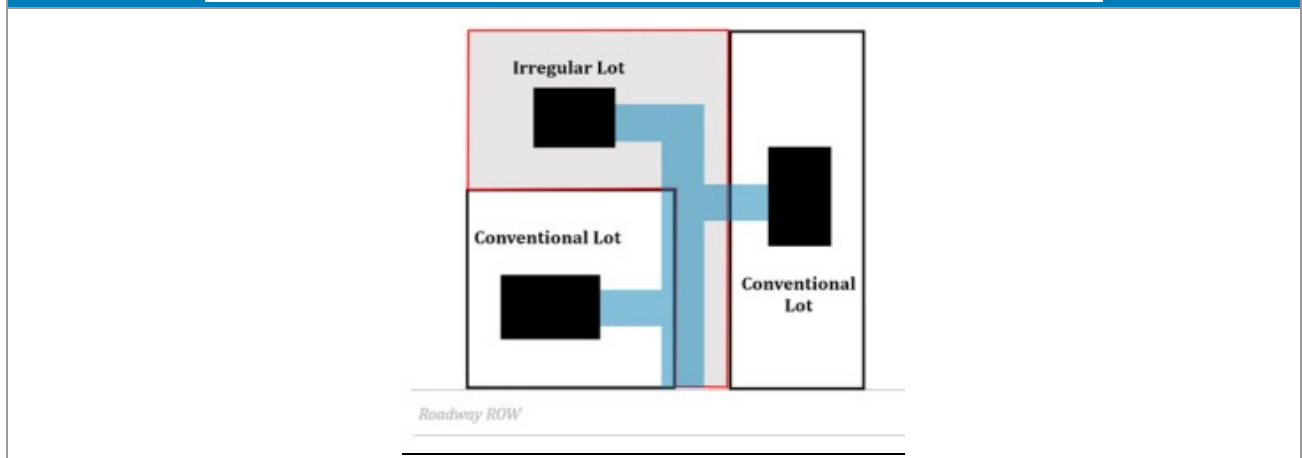
- 1. Irregular lots are permitted to have the reduced minimum lot width at the right-of-way line if the lot width reaches the minimum lot width for a conventional lot within the maximum allowable parcel connector length.
  - a. The width of the "parcel connector," measured along the right-of-way line, shall be no less than 20 feet and shall not exceed the minimum street frontage required for conventional lots in the zoning district (see Section 4.2.3).
  - b. The length of the "parcel connector," measured from the right-of-way until the property width reaches the minimum lot width for conventional lots in that zoning district, and shall not exceed 300 feet.

**C. Other types of access:**

- 1. The administrator may grant exceptions to the requirement that the "parcel connector" provide functional access with an exclusive access easement for ingress, egress, and utilities. This easement must be at least the width of the minimum lot width for irregular lots at the right-of-way. All other requirements for irregular lots shall be fulfilled by the exclusive access easement. This exemption may only be granted in instances where:
  - a. The property is located in zoning districts where ~~out-parcels are permitted~~ the minimum road frontage required for conventional lots is less than the minimum road frontage required for irregular lots.
  - b. The administrator determines that an easement is necessary to reduce the number of driveways on a public street where the posted speed limit is 25 miles per hour or greater.
  - c. The administrator determines that extreme site conditions preclude the property owner from reasonably achieving functional access.
- 2. Use of a shared private drive to serve an irregular lot and adjoining lot(s) is permitted and encouraged. The shared private drive shall be constructed in accordance with Section 9.3.B.



**FIGURE 4.3A: ILLUSTRATIVE DIAGRAM OF SHARED PRIVATE DRIVES**



~~The development standards of the zoning district in which a property is located shall apply to the irregular lot development, except that the required minimum lot width for a conventional lot is replaced by the minimum lot width for irregular lots in the zoning district (Section 2.3.E).~~

#### **4.2.5. Interior lots.**

##### **A. Applicability:**

1. Individual lots within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites.
2. Lots established to separate a cemetery or other similar use that requires permanent preservation from the remainder of the parcel shall also be considered interior lots.

##### **B. Street frontage.**

1. Unless explicitly required in Section 2.4, lots within a group development are exempt from the street frontage requirements, provided they can be adequately served by emergency or service vehicles from a street or publicly-accessible road, as determined by the Technical Review Committee.
- ~~1.2. Condominium Interior~~ lots that are separated from a public street by common space shall be serviced by a private access easement, ~~or private right-of-way~~, or other means of permanent access that directly connects to the nearest public street. No more than four condominium lots or spaces shall be serviced by the same private access easement or right of way.

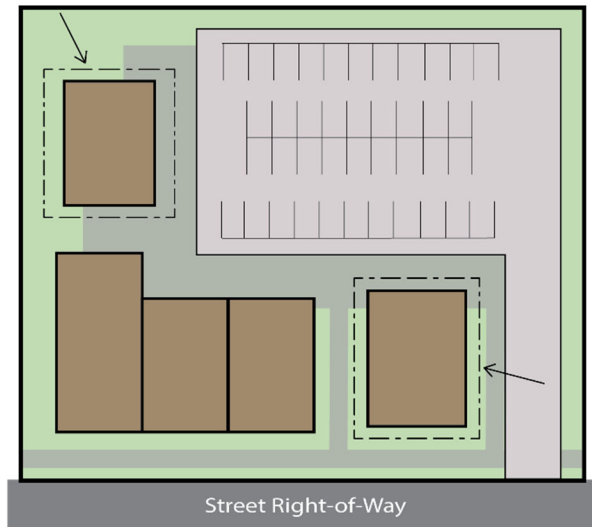
##### **Condominium lots and condominium buildings:**

- ~~a. Condominium lots may be separated from a public street by common space, maintained by a property owner's association, that is permitted within the same phase of the same subdivision within which the condominium lot is located.~~
- ~~b. No condominium lot shall be situated more than 100 feet from a public street. This distance shall be considered a maximum distance that is in keeping with the public health and safety, which shall not be varied or extended.~~
- ~~c. Private streets, right-of-way, and access easements serving condominium lots and buildings shall be no longer than 100 feet as measured from the intersection of the centerlines of the public street and the private easement or right of way. Parking for condominium lots not accessed by a public street shall be accessed by such private access easements or private rights of way.~~



d. ~~These provisions shall only apply to subdivisions of land for the creation of condominium lots and condominium buildings, and shall not be applied to any other form of subdivision of land.~~

**FIGURE 4.2.5-A: ILLUSTRATIVE DIAGRAM OF INTERIOR LOTS IN A GROUP DEVELOPMENT**



#### **4.2.6. Air lots.**

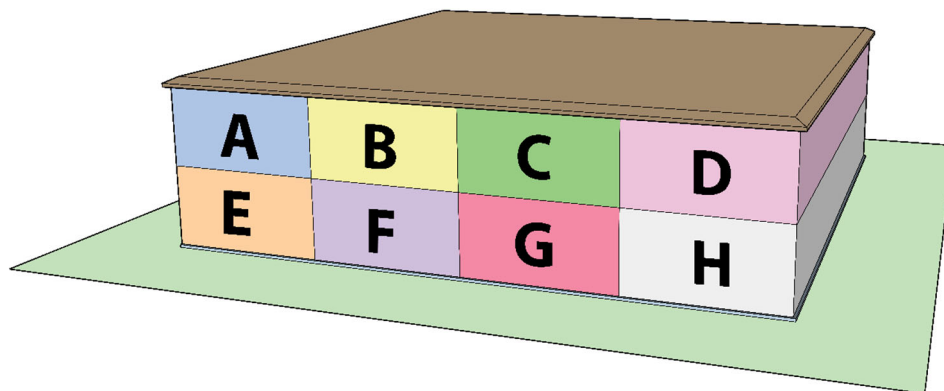
##### **A. Applicability:**

1. Air lots shall be considered any condominium unit or lot containing both horizontal and vertical dimensions and established as part of a shared structure.

##### **B. Street frontage.**

1. Air lots established as part of a permitted group development are exempt from the street frontage requirements, provided they can be adequately served by emergency or service vehicles from a street or publicly-accessible road, as determined by the Technical Review Committee.

**FIGURE 4.2.6-A: ILLUSTRATIVE DIAGRAM OF AIR LOTS**







#### 4.2.7. Environmental containment and conservation lots.

##### A. Applicability:

1. Environmental containment and conservation ~~parcels~~ lots may be permitted as a stand-alone parcel of land under the review procedures for minor subdivisions of land, or permitted as part of a broader plan of subdivision under the procedures for minor or major subdivisions of land.
- ~~1.2.~~ The applicant shall provide such evidence as may be required by the administrator to confirm the conservation purpose of the parcel. Examples of such evidence include but are not limited to conservation easement documents, deed restrictions, contracts with federal or state agencies, and similar.

##### B. Street frontage and dimensional requirements:

1. Environmental containment and conservation ~~parcels~~ lots are exempt from the road frontage requirements ~~only to the extent provided herein.~~
  - ~~a. The plat creating the environmental containment or conservation parcel lot shall dedicate a minimum 50-foot, unimproved right-of-way or access easement connecting the parcel to an improved city street or NCDOT road.~~
  - ~~b. The administrator shall have the authority to determine the appropriate location of such right-of-way or access easement and may modify this requirement in cases where a 60-50 foot right-of-way or easement cannot be provided due to constraints imposed by existing structures or property boundaries.~~
  - ~~c. However, in no case shall the administrator authorize the establishment of an environmental containment or conservation parcel lot with a right-of-way or access easement that is less than 20 feet in width.~~

##### ~~B.C.~~ Structures.

1. Structures shall not be permitted upon environmental containment or conservation ~~parcels~~ lots.
2. This requirement shall be included as restriction upon the deed, conservation easement, contract or other document that is binding upon the property owner.
3. However, structures that are necessary to carry out the stated purpose of the environmental containment or conservation parcel may be permitted. Examples include but are not limited to agricultural structures upon working farms that are the subject of agricultural conservation easements, or ~~recreational~~ structures upon properties that are subject to a conservation easement wherein recreation is a stated use and purpose of such easement. This provision shall not be construed to allow the establishment of residential, commercial or other uses upon environmental containment or conservation ~~parcels~~ lots.

##### ~~A. Conservation subdivisions:~~

- ~~1. Applicability:~~
  - ~~a. These provisions for the subdivision of land for conservation purposes shall only be applicable to environmental containment parcels and conservation parcels as defined in Section 19.3 of this ordinance.~~
  - ~~b. Process and requirements for subdivision:~~
    - ~~a. A survey in recordable form shall be provided in accordance with the administrator's standards for the submittal of a plat of minor or major subdivision, as applicable.~~

#### 4.3. Lot requirements.





**~~B. Right-of-way protection:~~**

- ~~1. Notwithstanding any other provision of this ordinance, no building or structure shall be permitted within a public street, road right-of-way, or easement, public sidewalk or other pedestrian facility, or within any private right-of-way, except for those encroachments permitted in CHAPTER 5 of this ordinance.~~
- ~~2. Rights-of-way or easements for streets and roads shall not be considered a part of a lot or open space, or front, side, or rear yards for the purpose of meeting yard requirements.~~

## **~~4.7. Miscellaneous provisions.~~**

---

**~~B. Parking and storage of abandoned, junked, unregistered or nuisance vehicles:~~**

- ~~1. In accordance with G.S. 160A-303, the following requirement shall apply within the city limits of the City of Brevard, but not within the city's extraterritorial jurisdiction.~~
- ~~2. The parking or storage of abandoned, junked, unregistered or nuisance motor vehicle or vehicle as defined in CHAPTER 19 of this ordinance shall be considered an illegal use of land within the City of Brevard and shall not be permitted except as otherwise permitted by this ordinance.~~
- ~~3. Such vehicles, including those in existence prior to the enactment of this ordinance, shall be removed by the property owner, and shall be subject to all remedies set forth in CHAPTER 18 of this ordinance.~~

**~~C. Open storage:~~**

- ~~1. Open storage of goods, materials, merchandise, inventory, or other items is prohibited except where expressly permitted by this ordinance. This shall not be construed to prohibit open storage of firewood on residential properties or goods kept in association with agricultural enterprises.~~

**~~D. Nuisances and hazards:~~**

- ~~1. In no case shall any structure, home, business, use of land or other activity consist of operations or conditions resulting in noise, odors, smoke, glare, dust, gases, electrical or other radiation, trash, wastes, rubbish, or other unsanitary conditions or other characteristics of a type or to an extent which the administrator shall determine to be a nuisance or hazard to nearby properties or the general public.~~

**~~E. Subdivision of inherited property:~~**

- ~~1. Applicability:
  - ~~a. These provisions for the subdivision of inherited properties shall only be applicable to inherited properties as defined in Section 19.3 of this ordinance.~~~~
- ~~2. Process for subdivision:
  - ~~a. A survey in recordable form shall be provided in accordance with the administrator's standards for the submittal of a plat of minor subdivision.~~
  - ~~b. Each heir or devisee shall be allowed to make any use allowed by the zoning designation of the property on his or her individual tract.~~
  - ~~c. Nothing herein shall be construed to prohibit the owners from marketing their inherited tracts.~~
  - ~~d. When the surveyor of the subdivision of inherited properties certifies that the right-of-way or access to the properties, or any of the tracts therein, will not meet City Code requirements due to width or slope, then no dedication of such right-of-way shall be required.~~
  - ~~e. A provision acknowledging the applicability of this ordinance shall be included on the subdivision plat covering all of the inherited property, upon recordation following the owner's death.~~~~
- ~~3. Access allowed by right-of-way:~~



- ~~a. Access to inherited properties for the purpose of providing city services may, in the owners' discretion, be requested upon the proposed dedication of a right-of-way no less than 50 feet in width, providing each parcel within the subdivision access to a public road, dedicated to and accepted by the city, even if the right-of-way does not otherwise meet the requirements of the City Code of Ordinances. In such cases, the administrator shall make a determination as to whether it is practicable and feasible to utilize the right-of-way to provide city services, taking into account the slope and other conditions applicable to the right-of-way, and the request shall be honored or denied, as the administrator may deem appropriate.~~
- ~~b. Upon any request that the city provide services including water, sewer, fire protection, police protection and garbage and recycling, the city planner or his designee shall review such request based on the conditions for access to the property at that time, and may require upgrade to meet its standards before providing such services, or may deny the request.~~

### **4.3. Exempt subdivisions.**

**A. Applicability:** In accordance with NCGS Section 160D-802, the following activities are considered exempt subdivisions. Such plat is not exempt from any zoning requirements and other applicable local, state, and federal ordinances.

#### **1. Combination, Recombination or Adjustment**

- a. The combination, recombination, or adjustment of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the lot standards of the local government as shown in its subdivision regulations.

#### **2. Divisions Greater than 10 Acres**

- a. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

#### **3. Public Dedication**

- a. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- b. Dedication of public improvements shall be subject to the acceptance process in Section 4.9.

#### **4. Two into Three Lots**

- a. The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the lot standards of the local government as shown in its subdivision regulations.

#### **5. Court-Ordered Survey**

- a. The division of land into parcels in accordance with the terms of a probated will, a court-order or with intestate succession under NCGS Chapter 29.
- b. Unless the lots in the estate exclusion meet the standards of this ordinance, a development permit shall not be issued.
- c. No further subdivision of the inherited property will be allowed unless or until the owners all comply with all subdivision requirements applicable to the property but for this ordinance.

#### **6. Easement Establishment**



- a. Access and utility easements may be platted and recorded as exemptions from these subdivision regulations.

#### **7. Easement / Right-of-way Abandonment**

- a. Abandonment of access and utility easements may be platted and recorded as exemptions from these subdivision regulations.

#### **8. Annexation**

- a. Annexation of a previously recorded lot may be platted and recorded as exemptions from these subdivision regulations.

#### **B. Submittal requirements:** The exempt subdivision application shall be submitted in conformance with:

1. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
2. Demonstrated compliance with the standards in NCGS Section 47-30; and
3. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.

### **4.4. Minor subdivisions.**

---

#### **A. Applicability:** Minor subdivision means a subdivision that:

1. Creates a maximum of 8 lots, including the residual or parent lot;
2. Does not involve the creation, expansion, or dedication of any public infrastructure;
3. Is not otherwise exempt under Section 4.3.

#### **B. Review process:** The approval process for a minor subdivision shall consist of the following steps:

1. Initial consultation and/or pre-application meeting with administrator;
2. Plat submittal;
3. Administrator review and decision;
4. Record approved plat with Transylvania County Register of Deeds.

#### **C. Submittal requirements:** The minor subdivision application shall be submitted in conformance with:

1. All applicable subdivision requirements;
2. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
3. Demonstrated compliance with the standards in NCGS Section 47-30; and
4. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.

### **4.5. Major subdivisions.**

---

#### **A. Applicability:** Major subdivision means a subdivision that:

1. Creates more than 8 lots, including the residual or parent lot;
2. Involves the creation, expansion, or dedication of any public infrastructure; or
3. Is not otherwise exempt under Section 4.3.

#### **B. Review process:** The approval process for a major subdivision shall consist of the following steps:

1. Initial consultation and/or pre-application meeting with administrator;



2. Sketch Plan review by Administrator and Technical Review Committee;
3. Preliminary plat submitted;
4. Administrator review and action;
5. Required improvements (installed or guaranteed);
6. Final plat submittal;
7. Administrator review and decision;
8. Record approved plat with Transylvania County Register of Deeds.

**C. Sketch plan requirements:**

1. Before submitting an application for preliminary plan approval, the applicant must submit a sketch plan of the proposed subdivision. The submission shall include one digital copy and one printed copy.
2. The sketch plan of a major subdivision shall be submitted in conformance with:
  - a. All applicable subdivision requirements;
  - b. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2; and
  - c. Compliance with the specifications in Section 17.4.
3. Following a review of the sketch plan and other materials by the planning staff and Technical Review Committee, the administrator must advise the applicant of the results of the sketch plan review.

**D. Preliminary plat requirements:**

1. A preliminary plat application may not be submitted until after the Technical Review Committee has provided the applicant with its comments and recommendations based on the sketch plan review.
2. The developer shall initiate the preliminary plat approval process by submitting the preliminary plat and, if applicable, construction documents for the required improvements, illustrating their layouts and connections to existing systems.
3. The preliminary plat for a major subdivision shall be submitted in conformance with:
  - a. Comments received by the planning staff and Technical Review Committee, if applicable;
  - b. All applicable subdivision requirements;
  - c. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
  - d. Demonstrated compliance with the standards in NCGS Section 47-30; and
  - e. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.
4. The plat shall clearly state that this is a preliminary plat and not for recording.
- 1-5. Approval duration: ~~In accordance with G.S. 160D-403(c), a~~ Approved preliminary plats are valid for one year from the date of approval by the City of Brevard. Upon expiration of approval prior to final plat approval and recordation, a new application for subdivision will be required in accordance with the process before development can recommence.
  - a. The administrator may approve reasonable and necessary extensions if a written request by the developer is made to the administrator 45 days prior to the one-year anniversary of preliminary plat approval.



6. Multiple phases not approved: Approval of a preliminary plat constituting an individual phase of a multi-phase project, which has not been entirely approved, does not constitute approval by the city of any remaining phases.

- a. For approved preliminary plats consisting of multiple phases, only the phase that is to be developed ~~for sale~~ immediately shall be submitted for final plat approval. This prohibition shall not apply to multiphase developments as defined in CHAPTER 19. The requirements for the establishment of vested rights for multiphase developments are outlined in Section 16.9.G of this ordinance

**E. Improvement requirements:**

~~2.1.~~ Notice to proceed with construction activity: Only after receiving preliminary plat approval for a ~~minor~~ major subdivision ~~or major development plan as prescribed by this chapter~~ and other written approval and necessary permits from the appropriate regulating agencies, shall the developer begin grading, soil erosion, and infrastructure construction for the development.

2. Infrastructure required within one year: All required infrastructure improvements for the preliminary plat shall be in place within one year of issuance of a land development permit unless the improvement has been guaranteed in accordance with this ordinance.

- a. If circumstances beyond the control of the developer do not allow for the commencement of the required work within the one-year period or the size of the phase is such that one year is insufficient time to commence all required work, then the developer may file a written request for an extension with the administrator no later than 45 days prior to the one year anniversary of land development permit approval by the city as provided above.
- ~~a.b.~~ If infrastructure work is not commenced within one year and/or no extension request is filed with the administrator and approved, land development permit approval becomes null and void on the day of the one year anniversary and a new application will be required.

**B.F. Final plats requirements:**

1. The final plat shall constitute all portions of the preliminary plat site, which the subdivider proposes to record, and develop at the time.

2. The developer shall initiate the final subdivision plat approval process by submitting the final plat and:

- a. ~~Copies of any required surety or performance guarantees to the administrator or other departments as required, and/or. No final plat shall be approved unless and until the developer has installed in that area all improvements required by this ordinance or has posted any required performance guarantees in accordance with CHAPTER 13 of this ordinance.~~
- b. As built drawings and plans of all required infrastructure, including water, sewer, and storm drainage system facilities, illustrating their layouts and connections to existing systems.

1. Such plans shall show all easements and rights-of-way, to demonstrate that the facilities are properly placed and the locations of all fire hydrants, blow-off valves, manholes, pumps, force mains, and gate valves are indicated.

~~1.2.~~ This information shall not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.

3. The final plat for a major subdivision shall be submitted in conformance with:

- a. The approved preliminary plat;





2. An accurately positioned north arrow coordinated with any bearings shown on the plat.
3. The exact boundary of the tract of land being subdivided showing clearly the disposition of all portions of the tract.
4. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every property line, street, ~~alley line, lot line, existing~~ building or structure, and easement, and/or other boundary lines ~~line~~. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second.
5. The accurate locations and descriptions of all corners, monuments, markers, and control points.
- ~~4.6.~~ A vicinity map showing the location of the ~~subdivision~~ property with respect to adjacent streets and properties.
- ~~5.7.~~ Where applicable, ~~The lines and names of all streets, alley lines, lot lines, lot and block numbers, easements, reservations, the location of all~~ protected areas or required open space (~~steep slope areas~~, surface water protection areas, floodways and non-encroachment areas, etc.), the special flood hazard area, ~~on-site demolition landfills~~ and areas dedicated to public purpose with notes stating their purposes.
- ~~8.~~ ~~Underground and aerial utility easements shall be shown.~~
9. The parcel identification number of the lot(s) to be subdivided and of adjacent properties;
10. The zoning classification of the lot(s) to be subdivided and of adjacent properties, if applicable;
- ~~6.11.~~ All applicable certifications and statements, as identified in Section 4.7.
- ~~7.~~ ~~Submittal of payment in lieu of dedicated open space (if applicable).~~

## 4.7. Certifications and statements.

**A. Certifications and statements matrix:** The following table identifies the certifications and statements required on plats to be filed under this ordinance. The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "R" denotes that the certification or statement is required.
2. "A" denotes that the certification or statement is required if applicable.
3. "—" denotes that the certification or statement is not required.

| TABLE 4.7-A: CERTIFICATIONS AND STATEMENTS MATRIX         |                    |                   |                           |                         |
|-----------------------------------------------------------|--------------------|-------------------|---------------------------|-------------------------|
| <u>Certification / Statement</u>                          | <u>Exempt Plat</u> | <u>Minor Plat</u> | <u>Major Prelim. Plat</u> | <u>Major Final Plat</u> |
| <u>Certificate of Survey Accuracy</u>                     | <u>R</u>           | <u>R</u>          | <u>—</u>                  | <u>R</u>                |
| <u>Certificate of Purpose of Plat</u>                     | <u>R</u>           | <u>R</u>          | <u>—</u>                  | <u>R</u>                |
| <u>Review Officer Certification – Transylvania County</u> | <u>R</u>           | <u>R</u>          | <u>—</u>                  | <u>R</u>                |
| <u>Certificate of Ownership</u>                           | <u>R</u>           | <u>R</u>          | <u>—</u>                  | <u>—</u>                |
| <u>Certificate of Ownership and Dedication</u>            | <u>—</u>           | <u>—</u>          | <u>R</u>                  | <u>R</u>                |
| <u>Certificate of Exemption and Zoning Approval</u>       | <u>R</u>           | <u>—</u>          | <u>—</u>                  | <u>—</u>                |
| <u>Certificate of Minor Subdivision Plat Approval</u>     | <u>—</u>           | <u>R</u>          | <u>—</u>                  | <u>—</u>                |





**TABLE 4.7-A: CERTIFICATIONS AND STATEMENTS MATRIX**

| <u>Certification / Statement</u>                                                                                     | <u>Exempt Plat</u> | <u>Minor Plat</u> | <u>Major Prelim. Plat</u> | <u>Major Final Plat</u> |
|----------------------------------------------------------------------------------------------------------------------|--------------------|-------------------|---------------------------|-------------------------|
| <u>Certificate of Major Subdivision Preliminary Plat Approval</u>                                                    | <u>—</u>           | <u>—</u>          | <u>R</u>                  | <u>—</u>                |
| <u>Certificate of Major Subdivision Final Plat Approval</u>                                                          | <u>—</u>           | <u>—</u>          | <u>—</u>                  | <u>R</u>                |
| <u>Flood Hazard Disclosure</u>                                                                                       | <u>A</u>           | <u>A</u>          | <u>A</u>                  | <u>A</u>                |
| <u>Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements</u> | <u>—</u>           | <u>—</u>          | <u>—</u>                  | <u>R</u>                |
| <u>Acceptance of Public Infrastructure</u>                                                                           | <u>A</u>           | <u>—</u>          | <u>—</u>                  | <u>A</u>                |
| <u>Certificate of Warranty</u>                                                                                       | <u>—</u>           | <u>—</u>          | <u>—</u>                  | <u>A</u>                |
| <u>Certification of Approval of Water Supply and Sewage Disposal Systems</u>                                         | <u>—</u>           | <u>—</u>          | <u>—</u>                  | <u>A</u>                |
| <u>NCDOT Division of Highways District Engineer</u>                                                                  | <u>—</u>           | <u>—</u>          | <u>—</u>                  | <u>A</u>                |
| <u>Disclosure of Private Roads</u>                                                                                   | <u>—</u>           | <u>—</u>          | <u>—</u>                  | <u>A</u>                |
| <u>Disclosure of Court-Ordered Subdivision</u>                                                                       | <u>A</u>           | <u>—</u>          | <u>—</u>                  | <u>—</u>                |

~~B. All the following certifications must appear on the final plat:~~

**B. Certification statements:**

**1. Certificate of Survey Accuracy**

I, \_\_\_\_\_, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book \_\_\_\_\_, page \_\_\_\_\_, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_\_\_\_, page \_\_\_\_\_; that the ratio of precision or positional accuracy as calculated is \_\_\_\_\_; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, license number and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

Seal or Stamp of Surveyor \_\_\_\_\_

Professional Land Surveyor

License Number \_\_\_\_\_

~~Certificate of Survey and Accuracy. I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_ (year).~~

\_\_\_\_\_  
Surveyor





Official Seal

\_\_\_\_\_  
License or Registration Number

~~I (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_ (year).~~

Official Seal

\_\_\_\_\_  
Signature of Licensed Surveyor

**2. Certificate of Purpose of Plat:** The final plat shall contain one of the following statements, signed and sealed by the plat preparer:

- i. This survey creates a subdivision of land within the jurisdictional area of the City of Brevard, Transylvania County, North Carolina and that the City has an Ordinance that regulates parcels of land.
- ii. This survey is located in a portion of a County or Municipality that is unregulated as to an Ordinance that regulates parcels of land.
- iii. Any one of the following:
  1. This survey is of an existing parcel or parcels of land or one or more existing easements and does not create a new street or change an existing street. For the purpose of this section, an "existing parcel" or "existing easement" is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.
  2. This survey is of an existing feature, such as a building or other structure, or natural feature, such as a watercourse.
  3. This survey is a control survey. For the purposes of this section, a "control survey" is a survey that provides horizontal or vertical position data for support or control of other surveys or for mapping. A control survey, by itself, cannot be used to define or convey rights or ownership.
  4. This survey is a proposed easement for a public utility as defined in G.S. 62-3.
- iv. This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exemption or exception to the definition of subdivision.
- v. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in (i) through (iv) above.

Seal or Stamp of Surveyor

Professional Land Surveyor

Date



### 1.3. Review Officer Certification – Transylvania County

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

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

### 4. Certificate of Ownership

I hereby certify that I am the owner of the property shown and described hereon, which is located within the subdivision jurisdiction of the City of Brevard, North Carolina, and that I hereby freely adopt this plan.

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Date

### 2.5. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described, which is located in the subdivision jurisdiction of the City of Brevard and that I hereby adopt this plan of subdivision with my free consent; ~~establish minimum building setback lines, preserve and protect all significant trees over 15 inches diameter in the tree and root protection area, and plant supplementary trees as required.~~ Furthermore, I hereby dedicate all required improvements, streets, alleys, walks, parks, open spaces, and other sites and easements, to public or private uses as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines that are located in public utility easements or rights-of-way to the City of Brevard. ~~Furthermore, I hereby set aside in perpetuity for permanent preservation, all Regulatory Floodways, Stream Corridor Protection Areas, and other protected natural areas as shown, described, or otherwise noted hereupon.~~

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Date

### 6. Certificate of Exemption and Zoning Approval

I hereby certify that the subdivision plat shown is exempt from the subdivision provisions of the Brevard ~~Regulating~~ Unified Development Ordinance, ~~and is therefore exempt from its provisions.~~ The plat has been found to comply with the zoning regulations of the Brevard ~~Regulating~~ Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

### 7. Certificate of Minor Subdivision Plat Approval

I hereby certify that the subdivision shown on this plat does not involve the creation of new public infrastructure or any change in existing public streets or change in existing utilities, that the subdivision



shown is in all respects in compliance with the subdivision provisions of the Brevard Unified Development Ordinance. The plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

\_\_\_\_\_  
Review Officer Date

**8. Certificate of Major Subdivision Preliminary Plat Approval**

I hereby certify that the subdivision shown is in compliance with the subdivision provisions of the Brevard Unified Development Ordinance for preliminary plats. The preliminary plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance. Preliminary approval is valid for a period of 12 months from the below date or as established under the vested rights procedure, if applicable.

\_\_\_\_\_  
Review Officer Date

**9. Certificate of Major Subdivision Final Plat Approval**

I hereby certify that the subdivision shown is in compliance with the subdivision provisions and zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

\_\_\_\_\_  
Review Officer Date

**10. Flood Hazard ~~Certification~~ Disclosure**

Areas delineated upon this plat as a protection area or Special Flood Hazard Areas is subject to limitations upon development as set forth CHAPTER 34 of Brevard City Code, and any development, disturbance, or encroachment is prohibited except in accordance therewith.

**3.11. Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements**

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to City of Brevard Specifications and Standards or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the City of Brevard has been received.

\_\_\_\_\_  
Planning Director, City of Brevard Date

\_\_\_\_\_  
Public Works Director, City of Brevard Date



**12. Acceptance of Public Infrastructure**

I hereby certify that the City of Brevard, North Carolina accepts the public infrastructure dedicated on this plat, in accordance with the dedication agreement dated \_\_\_\_\_.

\_\_\_\_\_  
City Manager, City of Brevard Date

**13. Certificate of Warranty**

I hereby certify that I know of no defects from any cause and will fully warrant all improvements which have been installed to be free from defects in material and workmanship for a period of three years from this date. Any improvements yet to be installed I shall fully warrant in the same manner for a period of three years from the date of the release of guarantees. If defects are discovered in any such improvement during the warranty period, I shall replace and/or repair the defective improvements at my own expense.

\_\_\_\_\_  
Subdivider Date

**14. Certificate of Approval of Water Supply and Sewage Disposal**

I hereby certify that the water supply and sewage systems installed or proposed for installation in ~~\_\_\_\_\_ Subdivision~~ this subdivision meet necessary public health requirements and are hereby approved.

\_\_\_\_\_  
County Health Officer or Authorized Representative Date

**15. ~~North Carolina Department of Transportation~~ NCDOT Division of Highways District Engineer Certification**

I hereby certify that the streets as depicted hereon are consistent with the requirements of the North Carolina Department of Transportation, Division of Highways.

\_\_\_\_\_  
District Engineer Date

**16. Disclosure of Private Roads**

This disclosure is given in accordance with North Carolina General Statutes 136-102.6.

This statement is to advise that the roads serving this subdivision are designated as private roads, not public roads. All owners of property within the subdivision have easements with one another to travel over and across such roads. The responsibility for maintenance of such private roads falls solely upon the property owners within the subdivision. No representation is made that the private roads within this subdivision meet the minimum requirements necessary to allow such roads to be included in the state road system or that the City of Brevard or North Carolina Department of Transportation will eventually assume maintenance such roads. Moreover, if such private roads are not adequately constructed and



maintained, emergency service providers and public service vehicles may be unable to provide adequate service to the residents of the subdivision.

\_\_\_\_\_  
Subdivider

\_\_\_\_\_  
Date

#### **17. Disclosure of Court-Ordered Subdivision**

~~A provision acknowledging the applicability of this ordinance shall be included on the subdivision plat covering all of the inherited property, upon recordation following the owner's death.~~

This division of land into parcels is executed in accordance with the terms of a court-order, probated will or with intestate succession under NCGS Chapter 20. No further subdivision of the inherited property will be allowed unless or until the owners comply with all applicable subdivision requirements of City of Brevard Unified Development Ordinance. Additionally, no development permit may be issued if the parcels established herein do not adhere to the regulations of the City of Brevard Unified Development Ordinance.

#### **~~Dedication of Open Space~~**

~~a. *Certificate of Approval for Recording.* I hereby certify that the subdivision plat shown hereon has been found to comply with the Regulating Ordinance for Brevard, North Carolina, and that this plat has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County. I further certify that the city council only accepts the dedication of the public open space as shown, if such parks are located within the corporate limits of Brevard, but assumes no responsibility to open or maintain the dedicated open space until, in the opinion of the city council it is in the public interest to do so.~~

~~Date: \_\_\_\_\_ Officer, City of Brevard: \_\_\_\_\_~~

C. Nothing in this section shall prohibit the administrator from requiring additional certifications and/or adjustments to the verbiage of the certifications provided herein, so long as the intent of the section is upheld.

### **4.8. Approval review procedure.**

A. Planning department staff, also referred to as the administrator, and the approving authority shall have the discretion to refer any subdivision application to a body of greater authority for consideration and approval or denial consistent with this section.

B. The administrator may determine that additional review is required and request review and/or a recommendation by a board beyond the required process described herein.

C. *Designation of approving authority:*

| TABLE 4.8-A: SUBDIVISION REVIEW, APPROVAL, AND APPEAL AUTHORITIES |                                               |                     |                                               |
|-------------------------------------------------------------------|-----------------------------------------------|---------------------|-----------------------------------------------|
| Development Activities                                            | Review / Recommendation                       | Approving Authority | Appeal Authority                              |
| Major Subdivisions                                                | Technical Review Committee and Planning Board | City CouncilStaff   | <del>Superior Court</del> Board of Adjustment |
| Minor Subdivisions                                                | -                                             | Staff               | Board of Adjustment                           |



TABLE 4.8-A: SUBDIVISION REVIEW, APPROVAL, AND APPEAL AUTHORITIES

| Development Activities                                    | Review / Recommendation | Approving Authority | Appeal Authority    |
|-----------------------------------------------------------|-------------------------|---------------------|---------------------|
| <del>Recombination Plats</del> <u>Exempt Subdivisions</u> | -                       | Staff               | Board of Adjustment |

D. *Quasi-judicial approval of subdivisions:* In accordance with NCGS 160D-102, if the approval of the subdivision plat is deemed quasi-judicial in nature with generally-stated standards requiring a discretionary decision, the Board of Adjustment shall serve as the approving authority.

A.E. *Plats to be recorded:* Approved ~~final~~ plats must be filed by the applicant for recording with the Register of Deeds of Transylvania County within 30 days of the date of approval by the administrator; otherwise, such approval shall be null and void.

~~B.F. *Issuance of permits prohibited*~~ *Development permits required:* ~~The issuance of either preliminary or final subdivision p~~ Plat approval does not confer any approvals for individual site plans. ~~Final subdivision approval shall not be issued and permits shall not be issued for the construction of buildings or the establishment of uses until all required improvements has been made.~~ All development activities require a permit in accordance with CHAPTER 16 and other relevant provisions of this ordinance.

## 4.9. Public improvements dedication and acceptance.

A. All dedications shall be indicated on the face of the plat.

B. The approval of a plat shall not be deemed to constitute or affect an acceptance by the public for maintenance purposes of the dedication of any road, ground, or other improvements shown upon the plat.

~~A. The city manager shall have the authority to accept dedication of public improvements to the City of Brevard by means of approval of final dedication plats.~~

C. The city manager, in consultation with the public works director and the planning director, shall have the authority to accept dedication of public improvements to the City of Brevard. Improvements shall only be considered on a determination that any required improvements have been properly installed and all applicable conditions met, as set out in this ordinance.

## 17.84.10. Placement of monuments.

Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying, as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors under provisions of Chapter 89 of the General Statutes of North Carolina, shall apply when conducting surveys of subdivision; in order to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.



In addition, for the purpose of identification and protection of survey corners and monuments, each corner or monument within the subdivision shall have a disk attached to a ferrous rod or placed in concrete that shall be stamped to identify that point as a property corner and or control point. All monuments shall be set flush with or just below ground level and shall be made of durable materials. In addition ferrous materials will be present in sufficient mass either in the monument or in close proximity to the monument to allow for detection by electronic metal detection devices. The city engineer or Designee will inspect all monuments prior to final approval of the subdivision.

## 4.11. Re-subdivision.

~~A. Resubdivision procedures:~~ For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision. Resubdivision of lots on already approved and recorded plats can occur subject to the following requirements:

- ~~1. No lot or tract of land shall be created or sold that is smaller than the minimum size as required by this ordinance for the district in which the subdivision is located.~~

~~A.~~ No portion of land that has been the subject of ~~minor~~ subdivision activity (major or minor) shall be the subject of additional ~~minor~~ subdivision activity for a period of two years from the most recent ~~minor~~ subdivision.

~~B.~~ However, ~~except that~~ additional minor subdivision activity may be considered in accordance with the review procedure for major subdivisions if in the following circumstances:

- ~~1. such activity is~~ It proposed within a phase of a previously approved major subdivision; and
- ~~2. It that had has~~ been clearly reserved for future development on a properly approved and recorded major subdivision plat.

- ~~1. Drainage, easements, or rights-of-way shall not be changed unless the final plat is otherwise amended.~~
- ~~2. Street alignment and block sizes shall not be changed unless the final plat is otherwise amended.~~
- ~~3. The property line between the back of lots shall not be changed to cause the rear setback of any lot to become non-conforming.~~
- ~~4. The rear portion of lots shall not be subdivided from the front part except for lots with frontage on two streets (double frontage lots).~~
- ~~5. The character of the area shall be maintained.~~

~~C.~~ These provisions shall also apply to proposals for the creation of condominium lots.

~~B.D.~~ These provisions shall not ~~, nor shall . This shall not these~~ prevent the recombination ~~and subsequent resubdivision~~ of parcels recently the subject of a minor subdivision.

~~E.~~ For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

~~G.F.~~ The provisions of this section may be varied by the Board of Adjustment in accordance with quasi-judicial proceedings for variances.

~~F.~~ Limitations on minor subdivisions:

- ~~1. Except as provided for herein, land that has been the subject of minor subdivision activity shall not be the subject of additional minor subdivision activity for a period of two years from the most recent minor subdivision. Additional minor subdivision activity may be considered in accordance with the review procedures for major subdivisions in the following circumstances:~~
  - ~~a. It is proposed within a phase of a previously approved major subdivision; and~~



~~b. It had clearly reserved for future development on a properly approved and recorded major subdivision plat.~~

~~2. These provisions shall also apply to proposals for the creation of condominium lots. This shall not prevent the recombination and subsequent resubdivision of parcels recently the subject of a minor subdivision.~~

## CHAPTER 5. BUILDING TYPES AND ARCHITECTURAL STANDARDS

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### 5.15. Requirements for tall structures.

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The following requirements shall apply to those structures for which a special use permit is required in order to exceed the maximum "by right" height requirements as set forth in ~~CHAPTER 2~~[Section 2.6.2](#).

- A. Applicants shall submit a profile of the proposed structure and a rendering of the relationship between the proposed structure and the surrounding skyline formed by existing structures within 500 feet of the proposed structure.
- B. Variations in front rooflines shall be used to reduce the scale of buildings. Roof features shall be required which complement the character of adjoining and nearby structures.
- C. All other applicable requirements of this ordinance shall apply.
- D. The board of adjustment (or city council when considered as part of a conditional zoning district) may impose other conditions as may be necessary to protect the health, safety, and welfare of the general public and the character of the surrounding neighborhood.

## CHAPTER 6. ENVIRONMENTAL PROTECTION

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### 6.4. Steep slope area requirements.

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In accordance with G.S. 160D-703(d), the provisions contained in this section shall apply to all areas within the planning jurisdiction of the City of Brevard that are classified as "moderately steep slope areas" and "steep slope areas". These provisions do not limit or negate the effect of other provisions of this ordinance which may apply to steep slope areas.

**A. Applicability:**

- 1. This section shall apply to any ~~subdivision plat~~, land-disturbing activity, building permit, or any other development proposal on a parcel located at or above 2,250 feet in elevation above mean sea level and with an average slope of 25% or greater.
  - a. "Moderately steep slope" areas are defined as those areas with a slope of 25% to 34%.
  - b. "Steep slope" areas are defined as those areas with a slope of 35% or greater.
  - c. A parcel is considered at or above the elevation if any area within the parcel boundaries is at or above the stated elevation.





2. The provisions in this section are intended to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the community.

**B. Determining slope:** Slope shall be determined in accordance with the methods and procedures contained herein.

1. Prior to commencing any development or land-disturbing activity and prior to issuing any permits and/or other approvals, the calculated slope for the parcel(s) shall be approved by the Planning Department.
  - a. Parcels where no portion of the lot is located at or above 2,250 feet in elevation above mean sea level are exempt from this requirement.
  - b. Incidental improvements and additions to existing structures, accessory structures less than 1,000 square feet in ground floor area, and interior renovations are exempt from this requirement.
2. Calculations and supporting documentation shall be submitted to the Planning Department for review prior to or in conjunction with the applicable submittals. The administrator shall: (a) request additional information; (b) request revisions to the slope calculation submittal; or (c) issue written concurrence with the determination of slope, as submitted.
  - a. Each slope calculation and supporting documentation submitted to the Planning Department for review shall include a scaled map, accurately showing the topography for the entire land tract and the parcel boundaries.
  - b. In cases where the applicant or property owner does not agree with the determination made by the administrator, the alternative slope analysis shall be heard and decided on by the Board of Adjustment, following a notice of appeal filed with the City Clerk.
3. Slope shall be determined through use of one of the following methods:
  - a. The approved contour interval formula:

**FIGURE 6.4A: SLOPE CONTOUR INTERVAL FORMULA**

Slope (**S%**) is equal to the total length (**L**) of contour lines in feet within a given parcel, multiplied by the contour interval (**I**) of said parcel, then multiplied by .0023, divided by the area (**A**) of the parcel.

Or,

$$S\% = (L \times I) .0023 / A$$

*The calculation shall use the smallest contour interval for which maps are available or at a minimum of five-foot intervals. .0023 is the product of two constants, one of which converts feet into acres and one of which converts a decimal fraction into a percentage, the value of .0023 is the percentage of one square foot of one acre.*

- b. Analysis conducted and sealed by a professional surveyor, engineer, or landscape architect using recognized, industry-accepted methods.
      - i. The administrator may require slope calculations to be sealed by a professional surveyor, engineer, or landscape architect for projects with over an acre of disturbed area.
4. Slope shall be rounded to the nearest whole number and noted on all development plans required by this ordinance.
5. Areas placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities may be removed from the calculation of parcel slope.



- a. The applicant shall provide the legal documentation for permanent protection and a closed perimeter line delineating the revised boundaries for calculating slope.
- b. Nothing shall limit the ability of moderately steep slope areas, steep slope areas, conservation easements, or other means of permanent land protections to be included in the total parcel area for the means of calculating density.

**C. *Geotechnical analysis:***

1. Development in steep slope areas shall be required to undergo geotechnical analysis by a registered professional engineer to determine the stability of the underlying geology and soils to support the proposed project. The geotechnical analysis report shall be required to be submitted prior to the issuance of a zoning permit.
2. If a geotechnical analysis has been performed for subdivision approval that includes building pad analysis of the individual lots, it is unnecessary to submit a new analysis for each lot, provided the location of structures on each lot does not change by more than 20 feet in any one direction.

**D. *General standards for development projects with moderately steep slope areas and/or steep slope areas:***

1. Development ~~and subdivision~~ plans shall be designed to minimize disturbance to the natural landform and should not destroy the visual quality and community character.
  - a. To the extent possible given topographic and other physical constraints, land disturbance should be confined to portions of the lot not considered to be steep slope areas.
  - b. Developers shall make reasonable efforts to preserve and protect existing natural features of the slope, such as trees and other plant materials, and rock outcroppings which may help to stabilize the slope.
  - c. Buildings, parking, and other improvements should be clustered on less steep and less sensitive areas of the site to reduce the amount of grading.
  - d. Projects are encouraged to demonstrate terrain-adaptive design and construction techniques.
2. Proposed land-disturbing activity shall meet all applicable local and State regulations relating to soil erosion and sedimentation control.
3. Land disturbance shall be limited to the minimum required for building foundations, driveways, stormwater management measures and immediate areas surrounding these elements as required by this ordinance.
  - a. With the exception of approved stockpiling or restoration efforts, substantial earth moving beyond that required for the installation or construction of approved buildings, structures, driveways, or stormwater management measures shall not be permitted.
4. When grading is necessary, it should be blended with the natural land form as much as possible. Rigid contouring should be avoided, and contours should be rounded to appear undulating and natural.
5. The approving authority shall have the right to impose such conditions as are necessary to protect public health, safety, and welfare for projects in moderately steep slope or steep slope areas as authorized under the provisions of this section because the minimum standards set forth in this ordinance are insufficient given the exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding development.
  - a. Such conditions shall be reasonable and shall be limited to the minimum additional improvements necessary to protect the public health, safety or welfare. Such conditions may, without limitation, pertain to the following:



- i. The retention and planting of vegetation;
  - ii. Sedimentation and erosion controls;
  - iii. Cut and fill slope design and stabilization;
  - iv. The degree of land disturbance;  
The location, form and design of proposed structures and driveways so as to minimize land disturbance and ensure structural integrity; and
  - v. The location, form and design of ~~subdivision lots~~, streets, and ~~public~~ utilities, so as to minimize land disturbance and ensure structural integrity.
- b. The administrator may reduce the required setbacks in accordance with Section 2.73 in order to facilitate compliance with this section.

**E. Conditional zoning districts with steep slope areas:**

1. It is strongly encouraged that any proposed development project containing extensive steep slope areas be considered in accordance with the procedures for conditional zoning districts, which process allows for creative designs that may enhance development potential while achieving the steep slope protection requirements of this section.
2. City Council may allow development on steep slope areas by means of a conditional zoning district. Council may require the clustering of structures and impose any other necessary condition upon the design of the development in order to minimize impacts and uphold the intent of this section.

**F. Grading extent:**

1. The maximum extent of grading on a property with moderately steep or steep slope areas shall be reduced to support the goals and objectives of this section. This shall be governed by the following table:

| TABLE 6.4A: MAXIMUM GRADING EXTENT BY SLOPE OF PARCEL |                                |
|-------------------------------------------------------|--------------------------------|
| Average Existing Slope                                | Maximum Percent of Site Graded |
| 25% - 29%                                             | 70%                            |
| 30% - 34%                                             | 60%                            |
| 35% - 39%                                             | 50%                            |
| 40% - 44%                                             | 35%                            |
| 45% or greater                                        | 20%                            |

2. Additional grading may be awarded to projects on steep slope areas if any of the following conditions are met. The credits may accumulate to equal the total reduction outlined herein.



**TABLE 6.4B: MAXIMUM GRADING EXTENT CREDITS**

| Credit | Conditions                                                                                                                                                                                                                                                                                                                            |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10%    | Buildings and parking areas are properly screened by vegetation to minimize the visual impact from key viewing areas, which include downtown, public parkland and other public recreational areas, and major streets and highways.                                                                                                    |
| 10%    | The steepest portions and/or most visible portions of the lot are placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities. |
| 10%    | Exterior colors for new buildings and structures, including roofs, are coordinated with the predominate colors of the surrounding landscape to minimize contrast between the structure and the natural environment.                                                                                                                   |

3. Additional grading may also be permitted as part of a conditional zoning district.

**G. Density:**

1. Densities of residential development shall be reduced in steep slope areas to support the goals and objectives of this section. This shall be governed by the following table:

**TABLE 6.4C: MAXIMUM RESIDENTIAL DENSITY BY SLOPE OF PARCEL**

| Average Existing Slope | Residential Density                         |
|------------------------|---------------------------------------------|
| 35% - 39%              | 20% reduction of underlying zoning district |
| 40% - 44%              | 50% reduction of underlying zoning district |
| 45% or greater         | 70% reduction of underlying zoning district |

2. Additional density may be awarded to projects on steep slope areas if any of the following conditions are met. The credits may accumulate to equal the total reduction outlined herein.

- a. The maximum residential density shall not exceed the maximum residential density permitted in the underlying zoning district as outlined in Section [2.36](#), unless such provisions are specified in a conditional zoning district.



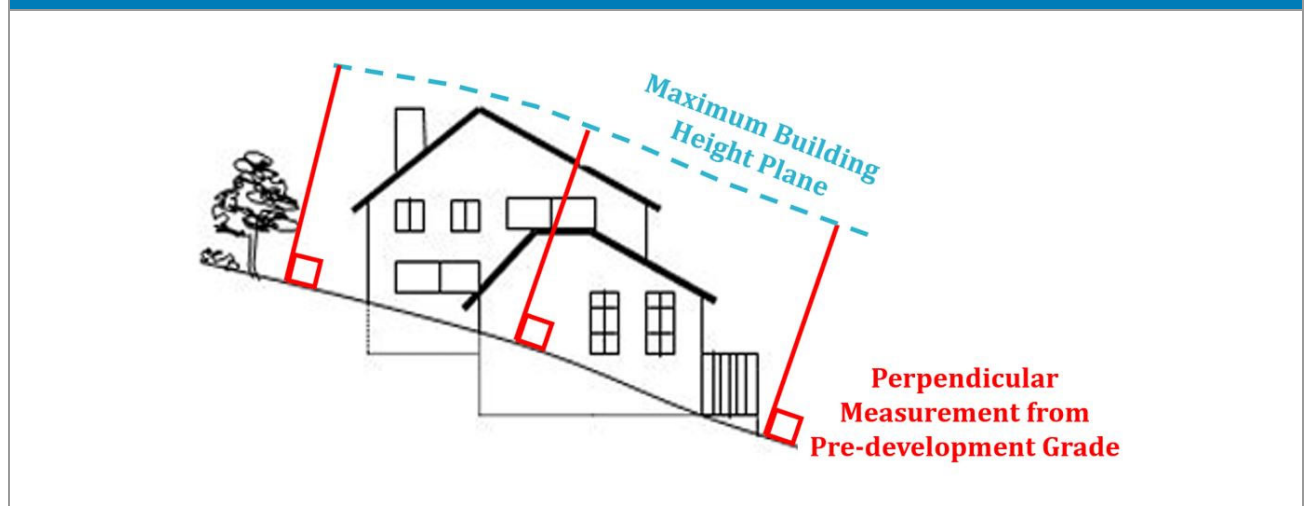
**TABLE 6.4D: MAXIMUM RESIDENTIAL DENSITY CREDITS**

| Credit | Conditions                                                                                                                                                                                                                                                                                                                            |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10%    | Grading is limited to 10% of more under the maximum allowed under this section                                                                                                                                                                                                                                                        |
| 10%    | Buildings and parking areas are properly screened by vegetation to minimize the visual impact from key viewing areas, which include downtown, public parkland and other public recreational areas, and major streets and highways.                                                                                                    |
| 10%    | The steepest portions and/or most visible portions of the lot are placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities. |
| 10%    | Exterior colors for new buildings and structures, including roofs, are coordinated with the predominate colors of the surrounding landscape to minimize contrast between the structure and the natural environment.                                                                                                                   |

**H. Building height:**

1. The maximum height of principal structures in steep slope areas shall be limited to 35 feet measured perpendicular from the pre-development grade to the top of the built structure.

**FIGURE 6.4A: ILLUSTRATION OF MAXIMUM BUILDING HEIGHT IN STEEP SLOPE AREAS**



2. The property owner is encouraged to utilize step-back or terraced building approach to reduce the visual bulk of the structure.
3. Accessory structures shall not exceed 15 feet in height on any side.
4. Applicants shall provide architectural plans and building elevations to demonstrate compliance with this section.

**I. Tree and vegetation preservation:**

1. Landscaping / vegetation preservation plans, in accordance with Section 17.9, shall be required for all development projects on steep slopes to ensure compliance with this section.



2. Plant materials should be used that blend with the hillside. Landscape schemes that are rough, natural, and/or subdued in character are encouraged.
3. All trees and other specified vegetation shall be preserved except in the area approved for grading or within 20 feet of the building footprints.
  - a. Non-native or invasive species may be removed.
4. In the event a property owner desires to remove trees and other protected vegetation required to be preserved in this section, they may submit an alternative landscape plan for consideration by the Brevard Planning Board.
  - a. This alternative landscape plan must contain:
    - i. a tree survey of the property showing which trees and other protected vegetation will be removed and which will remain;
    - ii. the location of any structures, driveways, and other impervious surfaces; and
    - iii. an explanation of the reason(s) for removal of required trees and other protected vegetation, including a statement of how the removal of the required trees and other protected vegetation supports the purposes of this section or how such removal can be mitigated consistent with the purposes of this section.
  - b. The Planning Board may approve, approve with conditions, or deny the alternative landscape plan. If conditions are established, they shall be enforceable in accordance with the provisions of the development permit.

**J. *Infrastructure:***

1. Infrastructure shall be installed in steep slope areas in accordance with the provisions of this section and any other applicable provisions in [CHAPTER 13](#).
2. Roads and driveways created on parcels with steep slopes should follow the natural terrain, unless necessary to accomplish the purpose.
3. The approving authority shall have the authority to modify infrastructure requirements and impose such conditions as are necessary to minimize the disturbance caused by the installation of infrastructure in steep slope areas.
  - a. Modifications and conditions shall be intended to minimize disturbance and increase the safety and stability of infrastructure, and shall not be granted or imposed to reduce cost to the developer.
  - b. Modifications and conditions may relate but shall not be limited to pavement width, sidewalk width, curb and gutter design and width, and shoulder design. The maximum road grade requirement shall not be modified.
4. *Culs-de-sac:*
  - a. The required turnaround on a dead-end street in a steep slope area shall have a roadway diameter of not less than 50 feet.
  - b. If the street length does not exceed 300 feet and if construction difficulties will not permit a turnaround, the use of a "Y" or "T" or other turning space of a design such as will allow a vehicle with a wheel base of at least 20 feet to complete a turning movement with a maximum of one backing movement may be permitted.
5. *Grading:*



- a. Grading shall not be required for the full right-of-way in steep slope area if the administrator determines that full grading will prevent convenient access to adjoining property or will destroy the natural beauty of the site by excessive cut and fill.
- b. Shoulder fill slopes shall not be steeper than 40%.

~~K. Subdivision of land:~~

- ~~1. Newly created parcels of land shall have adequate developable area outside of steep slope areas, except parcels created and restricted for the purpose of recreation, conservation or open space protection and land processes which are exempt from the subdivision ordinance.~~

## CHAPTER 8. TREE PROTECTION AND LANDSCAPING

### 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.

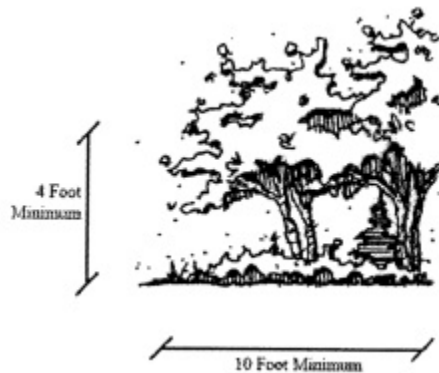
**B. Buffer yard types:**

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.





FIGURE 8.4A: TYPE A BUFFER YARD

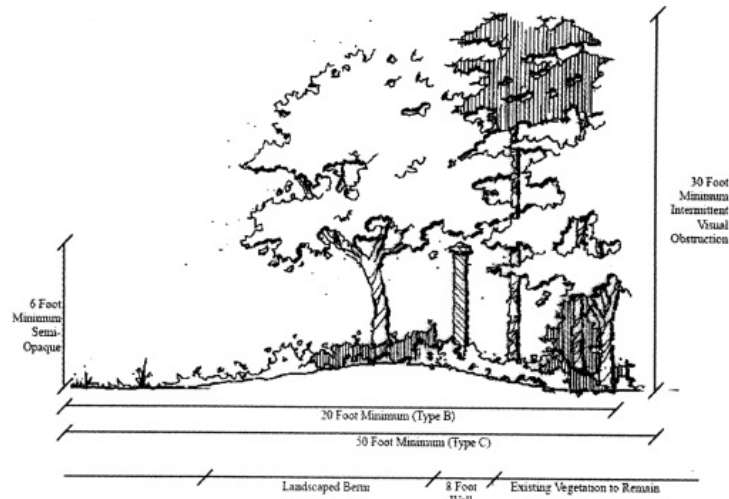


2. *Type B buffer yard:*
  - a. Minimum width: 20 feet.
  - b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.
  - c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.
  - d. Performance 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 height 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) | <del>Mixed-Use/Non-Residential Subdivision</del> and Non-Residential / <u>Mixed-Use</u> Group Development | Special Use Permit (b) |
|------------------------------------------|-----|---------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------|
| District in Which Development is Located | GR  | B                                                                               | B                                                                                                         | <del>B</del>           |
|                                          | RMX | B                                                                               | B                                                                                                         | <del>B</del>           |
|                                          | NMX | B                                                                               | B                                                                                                         | <del>A</del>           |
|                                          | DMX | B                                                                               | B                                                                                                         | <del>A</del>           |
|                                          | CMX | B                                                                               | D                                                                                                         | <del>B</del>           |
|                                          | IC  | B                                                                               | C                                                                                                         | <del>B</del>           |
|                                          | GI  | NA                                                                              | E                                                                                                         | <del>B</del>           |

~~(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**



## 8.5. Street tree plantings.

- A. Street trees shall be required along all public and private streets for the following categories of development:
1. All non-residential and mixed-use development.



2. All projects approved as a conditional zoning district, special use permit, planned development, or group development.
  3. All ~~residential~~ major subdivisions ~~for which new streets are required.~~
  4. ~~New residential subdivisions or projects for where more than two lots or dwelling units are proposed.~~
- B. Large canopy trees shall be installed at a minimum average distance of 40 feet on-center in a planting strip a minimum of six feet in width. Such trees shall be a minimum of 1½ inches in caliper at planting. Where overhead utilities exist prior to development, ornamental trees may be substituted.
- C. Street trees shall be placed at least eight feet from light poles and ten feet from electrical transformers in order to allow these utilities to be safely serviced (ornamental trees may be placed within five feet of such devices). A minimum of 300 square feet of pervious ground area per canopy tree shall be provided unless they are planted in irrigated tree wells.
- D. Street trees shall be deciduous hardwoods and shall meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen as well all applicable standards of this ordinance.

## CHAPTER 9. CIRCULATION AND CONNECTIVITY

### 9.2. ~~Connectivity index.~~ Reserved.

~~Traffic studies have shown that highly connected street networks provide much greater traffic throughput and mobility for a community, at less cost. A high degree of connectivity should occur not only at the level of arterials, but also on collector, local and other secondary roads. Such connectivity vastly improves a street network's performance. The street pattern should not force short trips of one or two miles onto arterials; it should be possible to make trips of this sort by using collector or other secondary streets. With a highly connected street network, cross-town trips should be possible using fairly direct secondary roads.~~

~~Improving connectivity and limiting culs-de-sac result in improved mobility for both automobiles and pedestrians, decreased service delivery costs through improved routing options, and improved water pressure and maintenance from the ability to loop lines through a development rather than have to rely on less efficient dead-end pipe runs.~~

~~A connectivity index should be used to determine the adequacy of street layout design. This is calculated as the ratio of the number of street links (road sections between intersections) in the project's street layout divided by the number of street nodes (intersections and cul-de-sac heads). For comparison purposes, a perfect grid has a Connectivity Index of 2.5. The figure for a conventional cul-de-sac subdivision is often 1.0 or less.~~

~~The illustration below illustrates a connectivity index of 1.2 (links are shown as circles and nodes are shown as stars). The illustration has 11 links and 9 nodes for an index of  $11/9 = 1.2$ .~~



**FIGURE 9.3A: CONNECTIVITY INDEX**



- ~~A. The maximum block length should be no more than 1500 feet. Shorter blocks of between 250 feet and 500 feet are strongly encouraged in order to create a better pedestrian-scaled environment.~~
- ~~B. Culs-de-sac should be avoided wherever possible, except where severe topography or existing built land uses make connection impossible. Where culs-de-sac are planned, they should have a turnaround at the closed end, and shall be no longer than 250 feet measured from their junction with a connected street network. No system of multiple branching culs-de-sac from a single junction with a connected street network shall be permitted. Where culs-de-sac or dead-end streets are unavoidable, site and/or subdivision plans shall incorporate provisions for future vehicular connections to adjacent, undeveloped properties, and to existing adjacent development where existing connections are poor.~~
- ~~C. The street layout in any subdivision shall conform to the arrangement, width and location of public streets indicated on the regulating thoroughfare plan for the area. Streets not indicated on that plan shall be designed and located to:~~
- ~~1. Connect to existing, proposed, and likely future streets in adjacent developments and undeveloped parcels wherever possible;~~
  - ~~2. Relate to the topography;~~
  - ~~3. Preserve natural features such as streams and tree growth;~~
  - ~~4. Provide for adequate public safety and convenience.~~
- ~~D. Where new development is adjacent to vacant land likely to be divided in the future, all streets, bicycle paths, and access ways in the development's proposed street system shall continue through to the boundary lines of the area under the same ownership as the subdivision, as determined by the administrator, to provide for the orderly subdivision of such adjacent land or the transportation and access needs of the community. In addition, all redevelopment and street improvement projects shall take advantage of opportunities for retrofitting existing streets to provide increased vehicular and pedestrian connectivity.~~
- ~~E. Cross connections: All new development permitted as a subdivision, Special Use Permit, Conditional Zoning District, or Traditional Neighborhood Development, and all new non-residential development shall be designed to allow for cross access to adjacent properties to encourage shared parking and shared access points on public~~





~~or private streets. When cross-access is deemed impractical by the administrator on the basis of topography, the presence of natural features, or vehicular safety factors, this requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses. A cross-access easement or right-of-way must be recorded prior to issuance of a certificate of occupancy for the development. See additional standards in Section 9.3(B), below.~~

~~F. *Pedestrian and bicycle facilities:* Where residential developments have culs-de-sac or dead-end streets, such streets shall be connected to the closest local or collector street or to culs-de-sac in adjoining subdivisions via a sidewalk or multi-use path, except where deemed impractical by the administrator.~~

~~G. *Required connectivity index:* 1.5. This is required for new neighborhoods, though variations may be granted for severe topographic conditions. In neighborhoods with a low connectivity index due to severe topographic conditions, pedestrian and/or bicycle path connections, a minimum of ten feet wide, shall be installed to supplement the street system by linking dead-end streets.~~

### 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 private access, when all frontage requirements are met:* The administrator may permit the establishment of additional private rights-of-way or access easements to properties that otherwise conform to public street frontage requirements of this ordinance.
- D. *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 a one-way drive aisle that are required to have at least two driveways in accordance with Section 10.8 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.~~

## 9.4. Traffic impact studies (TIS).

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The TIS is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. It is an essential part of the development review process to assist developers and government agencies in making land use decisions involving annexations, ~~subdivisions~~, rezonings, special land uses, and other development reviews. The TIS helps identify where the development may have a significant impact on safety, traffic and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIS can be used to evaluate if the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow.

- A. A TIS may be required for a rezoning, ~~subdivision plan~~, conditional zoning district, group development, special use permit, or any other proposed development with an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five day national average as defined in the ITE Trip Generation Manual.

*Trip Generation: The sum of the number of inbound and outbound vehicle trips that are expected for the type and size of the proposed land use. For purposes of determining the requirement to submit a TIS, no adjustments such as modal split, pass-by trips, and internal capture rates will be allowed to the site traffic calculation.*

*Note: Typically the following developments meet or exceed the 2,000 vehicles per day threshold:*

- 50,000 sf Retail.
  - 200 Single family homes.
  - 150,000 sf Office.
  - 250,000 sf Industrial.
  - 300 room Hotel.
- B. A traffic impact analysis report shall address the impact of projected horizon year(s) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.
- C. Based on the findings of the analysis, if a proposed development does not meet the applicable service level standards, the applicant shall be required to upgrade the facilities in accordance with the adopted level of service program. Mitigation measures may involve strategies other than roadway construction or other physical improvements such as changes to traffic signal timing or phasing, and transportation management strategies.
- D. A TIS will vary in range and complexity depending on the type and size of the proposed development. When mutually agreed by the city the requirements as described in Section 17.12 may be modified. The need for a TIS may be waived by the administrator.

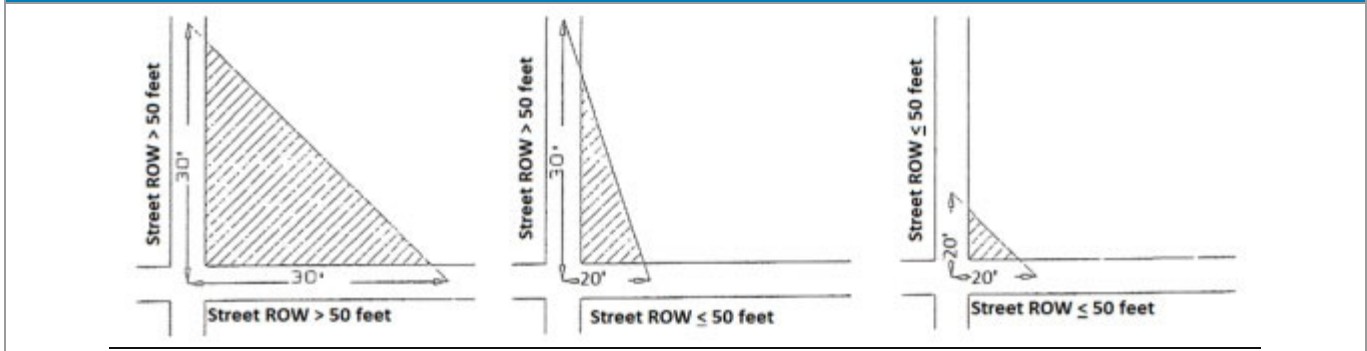
## 4.59.5. Visibility at street intersections and driveways; sight triangle.

- A. On corner lots in all districts, no planting shall be placed or maintained and no closed fence, building, wall or other structure shall be constructed if such planting or structure thereby obstructs vision at any point between a height of two-and-a-half and ten feet above the upper face of the nearest curb (or street centerline if no curb exists) and within the sight triangle area bounded on two sides by the two street right-of-way lines and on the third side by a straight line connecting points on the street right-of-way lines measured as follows:
1. On streets having a right-of-way width of 50 feet or less, a point located 20 feet from the intersection of the right-of-way lines.



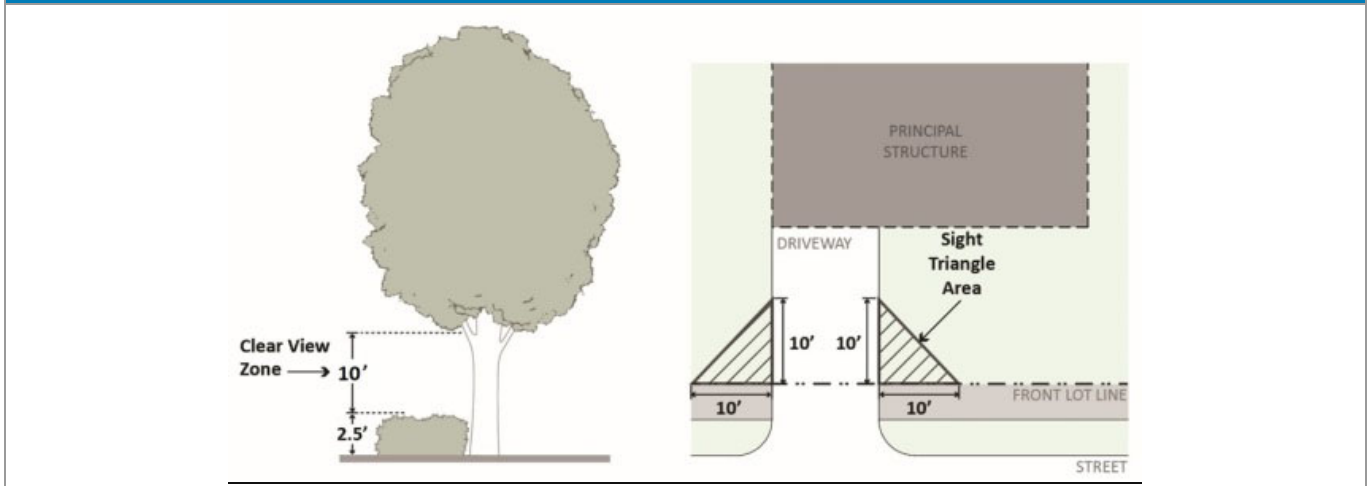
2. On streets having a right-of-way width of more than 50 feet, a point located 30 feet from the intersection of the right-of-way lines.

**FIGURE 4.9.5A: SIGHT TRIANGLES AT RIGHT-OF-WAY INTERSECTIONS**



- B. At the intersection of any private drive, entrance or exit with a public street, no closed fence, wall, hedge, or other planting or sign forming a material impediment to visibility over a height of two-and-a-half feet shall be erected, planted, placed or maintained within the sight triangle area bounded by the street right-of-way, the edge of the private driveway, and a straight line connecting points ten feet from the intersection of the right-of-way and driveway.

**FIGURE 4.9.5B: OTHER SIGHT TRIANGLE DIMENSIONS**



- C. Required sight distances for driveway connections along state-maintained roadways shall be approved by NCDOT. Where the NCDOT Driveway Manual conflicts with these standards, the stricter of the two standards shall prevail.



## CHAPTER 10. PARKING STANDARDS

### 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                                                                         |
|--------------------------|------------------------------------------------------------------------------------------|
| <b>Tier 1</b>            | General Residential (GR) and General Industrial (GI)                                     |
| <b>Tier 2</b>            | Residential Mixed-Use (RMX), Neighborhood Mixed-Use (NMX), and Institutional Campus (IC) |
| <b>Tier 3</b>            | Downtown Mixed-Use (DMX) and Corridor Mixed-Use (CMX)                                    |

#### B. Off-street parking 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 / d.u. |         | 1 / d.u. | 2 / d.u. |         | 2 / d.u. |
|                  | Dwelling - Single-family                          | 2 / d.u.   |         | 1 / d.u. | 2 / d.u. |         | 2 / d.u. |
|                  | Manufactured Home (single-unit)                   | 2 / d.u.   |         | 1 / d.u. | 2 / d.u. |         | 2 / d.u. |



**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                                                        |
| <b>Group Living</b>                       | All group living uses, except as listed below                | 1 / d.u. or rooming unit                                       |         | 1 / d.u. or rooming unit                                       | 3 / d.u. or rooming unit                                       |         | 3 / d.u. or rooming unit                                       |
|                                           | Rooming or Boarding House                                    | 0.5 / rooming unit                                             |         | 0.5 / rooming unit                                             | 1.5 / rooming unit + 1 additional space                        |         | 1.5 / rooming unit + 1 additional space                        |
| <b>Social Services</b>                    | Group Care Facility                                          | 1 / d.u., rooming unit, or bed                                 |         | 1 / d.u., rooming unit, or bed                                 | 3 / d.u., rooming unit, or bed                                 |         | 3 / d.u., rooming unit, or bed                                 |
|                                           | Shelter                                                      | 2 spaces                                                       |         | 2 spaces                                                       | 6 spaces                                                       |         | 6 spaces                                                       |
| <b>Lodging</b>                            |                                                              |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Overnight Accommodations</b>           | All overnight accommodations, except as listed below         | 1 / room or suite                                              |         | 0.5 / 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                                                |
| <b>Camping</b>                            | Campground / Recreational Vehicle Park                       | 0.25 / campsite or RV parking site                             |         | 0.2 / campsite or RV parking site                              | 1 / campsite or RV parking site                                |         | 1 / campsite or RV parking site                                |
|                                           | Rental Cottage / Cabins                                      | 1 / room or suite                                              |         | 0.5 / 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                                     |
| <b>Commercial</b>                         |                                                              |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Eating and Drinking Establishments</b> | All restaurants and other eating and drinking establishments | 1 / 750 SF                                                     |         | 1 / 750 SF                                                     | 1 / 200 SF                                                     |         | 1 / 200 SF                                                     |
| <b>Personal Services</b>                  | All personal services                                        | 1 / 500 SF                                                     |         | 1 / 600 SF                                                     | 1 / 300 SF                                                     |         | 1 / 300 SF                                                     |
| <b>Professional Services</b>              | 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 |



**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                                                        |
| <b>Retail</b>                            | 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                                           |
| <b>Shopping Centers</b>                  | <b>All shopping centers</b>                                 | <b>Varies, See Section 10.3.D</b>                              |         | <b>Varies, See Section 10.3.D</b>                              | <b>Varies, See Section 10.3.D</b>                              |         | <b>Varies, See Section 10.3.D</b>                              |
| <b><i>Civic / Institutional</i></b>      |                                                             |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Educational</b>                       | 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                                     |
| <b>Governmental</b>                      | All government uses                                         | 1 / 750 SF                                                     |         | 1 / 1,000 SF                                                   | 1 / 200 SF                                                     |         | 1 / 200 SF                                                     |
| <b>Medical</b>                           | 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                                               |
| <b>Places of Worship</b>                 | 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 |
| <b><i>Entertainment / Recreation</i></b> |                                                             |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Indoor Recreation</b>                 | 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                                                    |



**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                                                                                 |
|                                            | 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                                                              |
| <b>Outdoor Recreation</b>                  | 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                                                              |
| <b>Agriculture</b>                         |                                                   |                                                                                         |         |                                                                                         |                                                                                         |         |                                                                                         |
| <b>Agriculture</b>                         | All agricultural uses                             | 1 / 500 SF of retail or administrative space                                            |         | 1 / 750 SF of retail or administrative space                                            | 1 / 300 SF of retail or administrative space                                            |         | 1 / 300 SF of retail or administrative space                                            |
| <b>Manufacturing / Wholesale / Storage</b> |                                                   |                                                                                         |         |                                                                                         |                                                                                         |         |                                                                                         |
| <b>Light Industrial and Manufacturing</b>  | All light industrial and manufacturing activities | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Heavy Manufacturing</b>                 | All heavy manufacturing activities                | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Storage and Disposal</b>                | All storage and disposal activities               | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Wholesaling and Distribution</b>        | All wholesaling and distribution activities       | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Extractive Industries</b>               | All extractive industries                         | Varies, See Section 10.3.D                                                              |         | Varies, See Section 10.3.D                                                              | Varies, See Section 10.3.D                                                              |         | Varies, See Section 10.3.D                                                              |



**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 |
| Infrastructure          |                                                 |         |         |         |         |         |         |
| Utilities               | All utilities                                   | N/A     |         | N/A     | N/A     |         | N/A     |
| Telecommuni-<br>cations | All wireless<br>telecommunication<br>facilities | N/A     |         | N/A     | N/A     |         | N/A     |
| Transportation          | All transportation<br>uses                      | N/A     |         | N/A     | N/A     |         | N/A     |

Note: All square footage in gross square feet. d.u. = dwelling unit.

**C. Calculation of off-street vehicle parking spaces:**

1. 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.
2. When measurements of the number of required spaces result in a fractional number, the result is rounded to the nearest whole number.
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 ([some types of](#) 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.

**E. Minimum off-street vehicle 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.

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

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

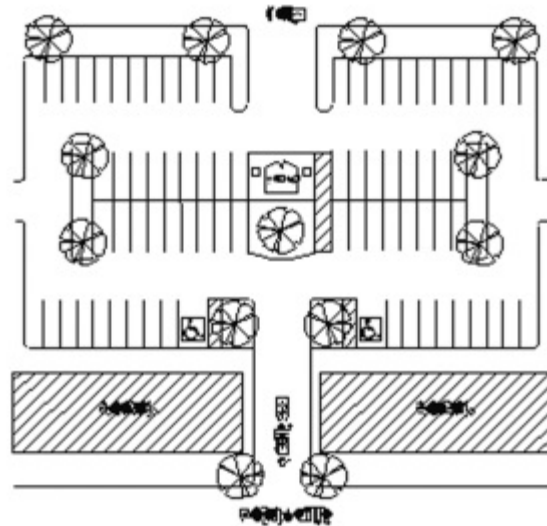
**B. General:** Internal parking area design and circulation shall be subject to the review and approval of the approving authority, who may impose such conditions as are necessary in order to:

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~~ a 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.



iii.iv. Structures developed as a permitted group development, provided the parking conforms with the relevant subsections of Section 2.4.

v. 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~~

b. The approving authority, in consultation with the Technical Review Committee, may waive this requirement if it deems that compliance would be impractical due to existing site constraints, provided the development comes into compliance to the greatest extent possible.

4. Off-street parking shall not be permitted within any required open space or common areas.

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. Poured concrete or asphalt.
- b. Masonry or concrete pavers; or
- c. Porous or semi-porous monolithic or paver materials;

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:*



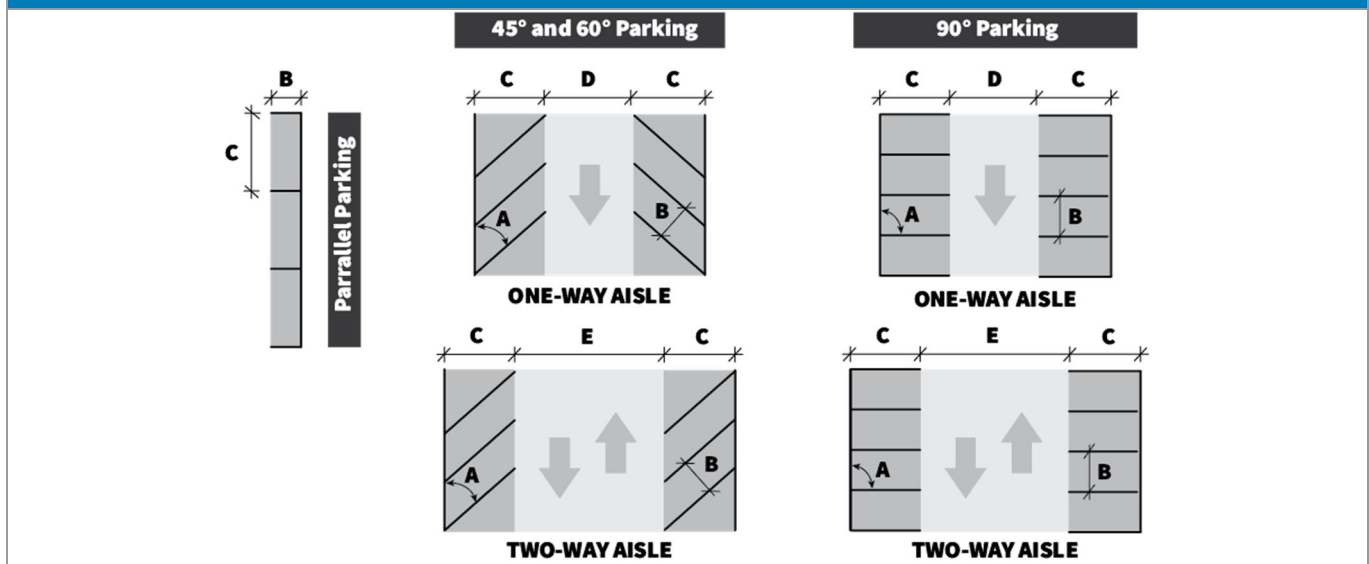
1. Parking areas shall meet the following minimum dimensional requirements

**TABLE 10.7A: MINIMUM PARKING STALL AND AISLE DIMENSIONS**

| Parking Angle<br>(A) | Stall Width<br>(B)            | Stall Depth<br>(C)                | One-Way Aisle Width<br>(D) | Two-Way Aisle Width<br>(E) |
|----------------------|-------------------------------|-----------------------------------|----------------------------|----------------------------|
| 0 / Parallel         | 8'                            | 22'                               | N/A                        | N/A                        |
| 45                   | 9' (Standard)<br>8' (Compact) | 17'6" (Standard)<br>16' (Compact) | 16'                        | 22'                        |
| 60                   | 9' (Standard)<br>8' (Compact) | 18' (Standard)<br>15' (Compact)   | 18'                        | 22'                        |
| 90                   | 9' (Standard)<br>8' (Compact) | 18'6" (Standard)<br>16' (Compact) | 22'                        | 24'                        |

Note: Refer to Figure 10.7B below.

**FIGURE 10.7B: PARKING STALL AND AISLE DIMENSIONS DIAGRAM**



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, and at least two driveways, permitted in accordance with Section 9.3.
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:
  - i. The development is a Household Living Use and does not contain more than 4 dwelling units per building.



- ii. Both spaces are assigned to one dwelling unit.
- iii. The two vehicle parking spaces in tandem must have a combined minimum dimension of 9 feet in width by 36 feet in length.
- iv. The proposed layout is functional and will not create pedestrian or traffic hazards.
- v. 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 parking areas ~~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.



## CHAPTER 12. SIGNS

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### 12.5. General standards for all signs.

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**A. Maintenance of signs:**

1. Repainting. Nonconforming painted signs may be repainted so long as the new coat of paint is for maintenance purposes and the design of the sign is not altered in any fashion. If, during repairing, the design of the sign or structure is altered in any way, then the entire structure shall comply with the provisions of this ordinance.
2. Vandalism and adverse weather. Signs destroyed by vandals or adverse weather events shall be allowed to be replaced even if such signs do not conform to this ordinance provided they existed before the date of enactment of this ordinance and they are replaced in the exact same location, in the exact same manner, and with the exact same advertising copy and graphics of the same size as the previously destroyed sign. However, if a sign is allowed to deteriorate over time due to exposure to the weather elements, then it shall not be deemed as replaceable under this section.
3. Any maintenance action that alters or modifies the location, area, height, or illumination of a sign, shall require a permit and full compliance with this chapter.

**B. Permitting:**

1. *Permits required.* A permit, issued by the administrator, shall be required for all signs unless otherwise exempted herein. No permit shall be issued until the administrator inspects plans for such signs and determines that they are in accordance with the requirements contained in this chapter. The fee schedule for sign permits shall be determined by city council. When a permit is required, a permit shall be issued prior to the installation or placement of such sign.
2. *Inspections.* Preliminary and final site inspections may be required by the Administrator as necessary.
3. Only those signs which meet all of the requirements established by this chapter for the particular type of sign may be permitted.
4. Failure to obtain a permit for any sign that is required to be permitted prior to displaying it is a violation of this ordinance.

**C. Removal of obsolete signs:**

1. Signs identifying establishments no longer in existence, products no longer being sold, and services no longer being rendered shall be removed from the premises within 30 days from the date of termination of such activities, except that ground sign supports, braces, and guys which are not easily dismantled and are to be sold as a portion of the business assets or property may remain.
2. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the administrator may order their removal, subject to the terms of this article and [CHAPTER 18](#) of this ordinance, and any expense of removal shall be billed to the owner or lessee of said sign(s).

**D. Signs on public property forfeited:** Any sign installed or placed on public property or within a public right-of-way, except in conformance with the requirements of this section, shall be forfeited and is subject to confiscation. In addition to other remedies in [CHAPTER 18](#), the administrator shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

**E. Sign area computations:** The following principles shall control the computation of sign area and sign height:

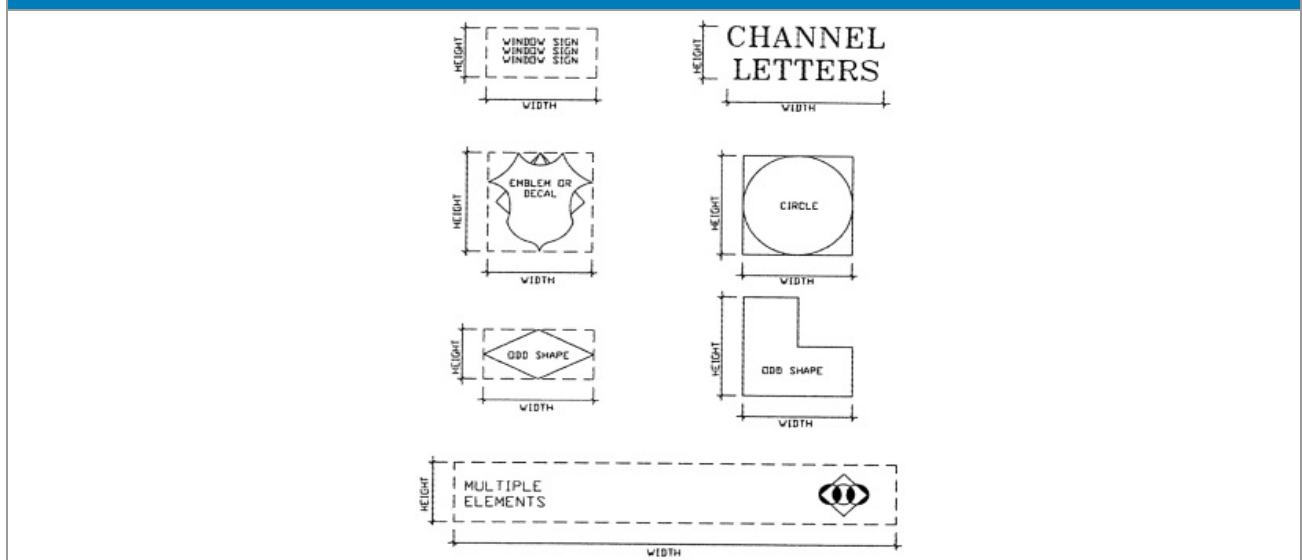




## 1. Area.

- The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed but not including any supporting framework, base, bracing, or decorative fence or wall when such fence or wall otherwise meets the regulations of this chapter and is clearly incidental to the display itself.
- For a single wall on a single-occupant building, all pieces of information or other graphic representations on that wall shall be measured as though part of one sign, encompassed within one rectangle, which may not exceed the permitted total wall area to which the sign is affixed. For a single wall on a multi-occupant building, the area of signs shall be computed using these principles and each individual sign shall not exceed the permitted total wall area for the facade area of the space occupied by the tenant requesting the sign.
- Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face. In all other cases, the areas of all faces of a multi-faced sign shall be added together to compute the area of the sign. Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point should be considered in measuring that side of the sign.
- Spherical, cylindrical, or other three-dimensional signs not having conventional sign faces shall be computed from the smallest three-dimensional geometrical shape or shapes which will best approximate the actual surface area of such faces.

**FIGURE 12.5A: COMPUTATION OF SIGN AREA**

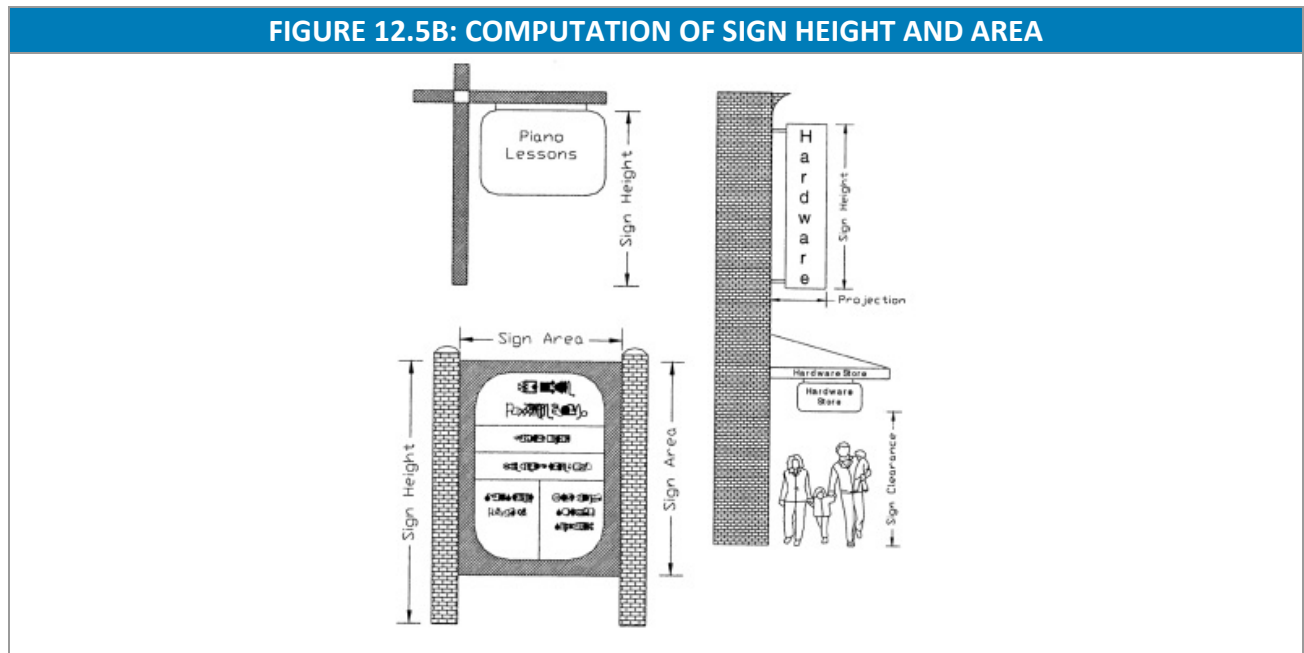


## 2. Height.





- a. Sign height shall be measured from the street grade of the closest point in the street the sign is located along or the grade at the base of the sign, whichever is higher, to the highest point of the sign structure.



- F. *Clear sight distance at street intersections required:* Signs shall be located outside of the required sight triangle as detailed in Section ~~4.59.5, in every zoning district.~~
- G. *Building code compliance:* All signs and support structures shall comply with all applicable State of North Carolina Building Code requirements.
- H. *Enforcement:* Violations of this ordinance shall be subject to the enforcement provisions of CHAPTER 18.

## CHAPTER 13. INFRASTRUCTURE IMPROVEMENT REQUIREMENTS

### 13.1. Purpose and intent.

It is hereby declared to be the policy of the City of Brevard that the ~~subdivision and~~ development of land shall be guided and regulated in such a manner as to meet the following requirements for orderly and harmonious growth:

- A. Land to be ~~subdivided~~ developed shall be of such character that it can be used safely without danger to health, or peril from fire, flood, erosion, excessive noise, air and/or water pollution, or other menace. Proper provisions shall be made for drainage, water supply, sewerage, and other appropriate utility services.
- B. The proposed streets shall provide a safe, convenient and functional system for vehicular circulation and shall be properly related to the land use plan of the area. Streets shall be of such width, grade, and location as to



accommodate prospective traffic, as determined by existing and probable future land uses. Streets shall be detailed to compliment neighborhoods and commercial centers and shall be pedestrian in scale.

- C. ~~Buildings, lots, blocks, and streets~~ Developments shall be so arranged as to afford adequate light, view, and air, and to facilitate fire protection.
- D. Land shall be ~~subdivided and~~ developed with due regard to topography so that the natural beauty of the land and vegetation shall be protected and enhanced.

### 13.3. General provisions.

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- A. *Approving authority:* The administrator shall be the approving authority for all public infrastructure proposed within any new or existing development. The city manager shall have the authority to accept or reject all dedications of public infrastructure consistent with city standards and approved development plans. The administrator shall have the authority to impose such conditions and make such allowances as are necessary in order ensure the adequate provision of public services and to ensure the sound installation and maintenance of public infrastructure.
- B. *Conformity to existing maps or plans:* The master plan ~~and any plat of a subdivision and the master plan~~ and development plan for any other development shall conform to any applicable adopted plans of the City of Brevard, including but not limited to the *Comprehensive Transportation Plan*, the *Comprehensive Pedestrian Plan*, the adopted *Comprehensive Land Use Plan*, the *Downtown Master Plan*, any adopted recreation plan, corridor plan, master plan or small area plan, and any adopted transportation plans or policies of Transylvania County that are not in conflict with adopted plans or policies of the city.
- C. *Continuation of adjoining street system:* The proposed street layout shall be coordinated with the existing street system of the surrounding area and shall conform to the requirements of CHAPTER 9 of this ordinance. Where possible, proposed streets shall be the extension of existing streets.

Whenever connections to existing or proposed streets on adjoining property are required, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the existing or proposed street is expected.

In addition, the administrator may require temporary turnarounds to be constructed at the end of such streets pending their extension. The administrator may require extension or connection where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons.

- ~~D. *Large tracts or parcels:* Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further re-subdivision.~~

### 13.4. General infrastructure design requirements.

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- A. *Connection to city sewer system required.*
  - 1. All developed property within the city limits and located within 300 feet of a city sewer line shall be connected therewith, and the property owner shall be charged the prescribed tap fee and system development fee for all such connections. Such connection shall be made in accordance with the provisions of this article within 90 days after the date of official notice to connect.



2. Improved property served by wells and annexed by the city shall be connected to the city sewer systems within five years of the effective date of annexation; provided, however, that no connection to the sewer system shall be permitted without also connecting to the city's water system.
3. New development within the city limits shall, in all cases, connect to a city sewer line. Sewer line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City sewer is not required but may be permitted for new development within the city's extraterritorial jurisdiction. The owner of any property within the city's extraterritorial jurisdiction who requests connection to the city sewer system shall request voluntary annexation into the City of Brevard. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the county health officer.
5. Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

**B. *Connection to city water system required.***

1. All developed property within the city limits shall be connected therewith and the property owner shall be charged the prescribed tap fee and system development fee for all such connections.
2. Improved property served by wells and annexed by the city shall be connected to the city water system, if within 300 feet, within five years of the effective date of annexation.
3. New development within the city limits shall, in all cases, connect to a city water line. Water line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City water is not required but may be permitted for new development within the city's extraterritorial jurisdiction. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved wells and must be approved in writing by the county health officer.
5. Any development served by the city water system shall install fire hydrants in accordance with city standards. Fire hydrant spacing and placement shall be determined by the public works director in consultation with the fire marshal. For any development within the city's ETJ without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system, the type and the location of which is to be determined by the fire marshal. A road and easement to the water source providing permanent all-weather access to the water source that is adequate for fire-fighting equipment shall be constructed and dedicated to the city, if applicable.

**C. *Sewer and water connections and infrastructure.***

- 6.1.** Sewer and water connections and infrastructure shall occur in accordance with [CHAPTER 70](#) of Brevard City Code and the City of Brevard *Standard Design and Specifications Manual for Public Improvements*, and any necessary conditions of the public works director.

**D. *Utility easements.***

1. Sewer, water, storm water, and other utility easements shall be required within all new development (including developments within the ETJ for which no public sewer or water is proposed), and may be required within existing developments undergoing improvements at the discretion of the administrator.



2. The precise location and width of easements shall be determined by the administrator. However, unless otherwise specified, underground utilities should be located in alleys and lanes. If no alley or lane is provided, then a five-foot (minimum) utility easement shall be provided behind the sidewalk located within either the right-of-way or a public utility easement. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the approving authority and shall be at least 30 feet in width.
3. Where a ~~subdivision~~ development is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as may be adequate for the purpose of drainage.
4. Lakes, ponds, creeks, and similar areas within a ~~subdivision~~ development will not be accepted for maintenance by the city except as provided for in CHAPTER 6.
5. Easements shall be accurately depicted upon all plats and plans, and dedicated to the city by means of a plat of dedication in accordance with procedures established by ~~the administrator~~ Section 4.9.
6. No structure shall be placed upon any easement. Fences and other impermanent obstructions may be permitted by the administrator in consultation with the public works director.

~~D.E.~~ Sewer and water. Sewer and water shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat or development plan unless a performance guarantee is provided to the administrator in accordance with city Code, this ordinance, and procedures established by the administrator. Sewer and water infrastructure shall be installed by the developer and dedicated to the city prior to the issuance of any Certificates of Occupancy for any building within that phase or along that line, as applicable to the particular development.

## 13.5. Street design.

### A. Streets required:

- ~~1.~~ All new development shall abut a public street as required in CHAPTER 4 of this ordinance.
- ~~2.~~ 1. New development and substantial improvements to existing development with frontages on existing public streets shall be required to upgrade all their frontages to meet the standards of this chapter.
- ~~3.~~ 2. New development without frontages upon a public street shall, in all cases, extend and connect to a public street. Public street extensions and improvements required for new development, including those beyond the development boundary, are the sole responsibility of the developer. Such improvements must be provided in accordance with the requirements of the CHAPTER 62 of Brevard City Code and this ordinance. This section shall apply to all subdivisions, the development of which is subject to the control of the city, both inside and outside the city limits.
- ~~4.~~ 3. Streets shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat or development plan unless a performance guarantee is provided to the administrator in accordance with City Code, this ordinance, and procedures established by the administrator. Streets shall be installed by the developer and dedicated to the city prior to the issuance of any certificates of occupancy for any building within that phase or on that street, as applicable to the particular development.
- ~~5.~~ 4. City streets shall be built to the minimum specifications of this chapter and CHAPTER 62 of Brevard City Code, and shall comply with all standards and specifications of the public works director. New streets in the ETJ shall meet all standards and requirements of the North Carolina Department of Transportation.



- B. *Streets to connect:* Streets shall interconnect within a development and with adjoining development in accordance with [CHAPTER 8-9](#) and [CHAPTER 10](#) of this ordinance. Culs-de-sac are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs shall be provided with development adjacent to open land to provide for future connections at the discretion of the administrator. Streets shall be planned with due regard to the designated corridors shown on adopted plans and policies of the city or Transylvania County.
- C. *Pedestrian and bicycle infrastructure:* Pedestrian and bicycle infrastructure shall be required as set forth within this chapter and conformance with adopted plans and policies of the city or Transylvania County.
- D. *Topographic considerations:* Wherever possible, street locations should account for difficult topographical conditions, paralleling excessive contours to avoid excessive cuts and fills and the destruction of significant trees and vegetation outside of street-rights-of way on adjacent lands.
- E. *Infrastructure in steep slope areas:* Infrastructure shall be installed in steep slope areas in accordance with the provisions of this chapter and any other applicable provisions in [CHAPTER 6](#).

~~F. *Private streets and reserve strips:* There shall be no private streets or reserve strips platted in any subdivision except as provided for in [CHAPTER 4](#) of this ordinance.~~

~~G.F.~~ G.F. *On-street parking:*

1. On-street parking may be required by the administrator.
2. When required, all on-street parking provided shall be parallel. Curb or angle parking is permitted upon approval of the administrator when the fronting buildings are more than 22 feet in height to provide spatial definition and when the posted speed limit is less than 25 mph.
3. When required, minimum right-of-way widths shall be modified to account for on street parking.

~~H.G.~~ H.G. *Traffic calming devices:* The use of approved traffic calming measures is encouraged as alternatives to conventional traffic control measures on Neighborhood Streets and within circulation areas of commercial and mixed-use developments.

~~I.H.~~ I.H. *Flood elevations:* No street in an area subject to flooding shall be approved if it is more than one foot below the elevation of the 100-year flood. The administrator may require, where necessary, profiles and elevations of streets for areas subject to flooding. Fill may be used for streets in accordance with [CHAPTER 34](#) of Brevard City Code. Drainage openings shall be so designed as to not restrict the flow of water and unduly increase flood heights.

~~J.I.~~ J.I. *Storm drainage:* Stormwater shall not be discharged into any stream and shall be retained and treated accordance with [CHAPTER 6](#) of this ordinance, except that streets and related retention/treatment infrastructure shall be designed to accommodate a 25-year, 24-hour storm drainage standard.

~~K.J.~~ K.J. *Street names:* Streets shall be named and property addressing assigned in accordance with Brevard City Code, Chapter 62, Streets, Sidewalks and Other Public Ways, Article VII, Property Addressing and Road Naming. The administrator shall require evidence that road names and property addresses have been approved and assigned by the Transylvania County Property Addressing Coordinator prior to approving any development.

~~L.K.~~ L.K. *Blocks:*

1. The lengths, widths, and shapes of blocks shall be determined with due regard to:
  - a. The provision of adequate building sites suitable to the special needs of the type of use contemplated, and adequate public open spaces accessible and visible to residents.
  - b. District requirements and design criteria.
  - c. Needs of non-vehicular and vehicular traffic circulation and traffic control and safety.



- d. Opportunities and constraints of topography, with convenient access to important physical and topographical features such as lakes and rivers, significant areas of trees and other natural features, and areas of high ground offering scenic views.
2. Blocks shall not be less than 200 feet nor more than 660 feet (⅓-mile), as measured from edge of right-of-way, unless site and topography or other special circumstances are present as determined by the administrator. Where deemed necessary by the administrator, a pedestrian crosswalk of at least ten feet in width may be required.
3. Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from another type of use, or when abutting a perennial stream or lake.

**M.L.** *Landscaping:*

1. Streets shall be landscaped with street trees. Commercial streets shall have trees which compliment the face of the buildings and which shade the sidewalk. Residential streets shall provide for an appropriate canopy, which shades both the street and sidewalk, and serves as a visual buffer between the street and the home.
2. All street trees shall be installed in accordance with [CHAPTER 8](#) of this ordinance. Large canopy trees shall be planted in a planting strip at a minimum average distance of 40 feet on-center.
3. The minimum width of all planting strips shall be six feet. For large canopy trees such as Willow Oaks and Red Maples, a minimum of eight foot planting strip is suggested. Refer to [CHAPTER 8](#) of this ordinance for additional information on landscaping.

**N.M.** *Street markers and traffic control signs:* Street markers and traffic control signs shall be required and posted in accordance with city standards and the Manual of Uniform Traffic Control Devices. Such infrastructure shall be installed by the developer prior to the issuance of any Certificates of Occupancy for any building on that street.

**O.N.** *Pedestrian and bicycle infrastructure:* Sidewalks, multi-use paths, or other pedestrian/bicycle infrastructure shall be constructed in accordance with the following requirements:

1. In determining the type of pedestrian/bicycle infrastructure that shall be required the Administrator shall refer to any adopted plan or policy of the city for guidance. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan, City of Brevard Comprehensive Pedestrian Plan, City of Brevard Street Schedule, City of Brevard Comprehensive Land Use Plan, City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
2. Sidewalks, multi-use paths, and other pedestrian and bicycle improvements shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat, or issuance of final zoning approval or certificate of occupancy for any development plan. Pedestrian and/or bicycle infrastructure shall be constructed within the street right-of-way. The approving authority shall require the dedication of additional street right-of-way or a pedestrian easement when sufficient right-of-way does not exist to comply with this requirement. The approving authority may accept the dedication of additional right-of-way or a pedestrian easement in order to accommodate alternative routes and designs that do not follow streets.
3. Streets shall be bordered by pedestrian/bicycle infrastructure on both sides. Exceptions to this requirement and modifications to the design of pedestrian/bicycle infrastructure may be granted by the TRC for developments in steep slope areas and where warranted by environmental or topographic conditions, or where this requirement would serve no useful purpose.





4. Without exception, pedestrian/bicycle infrastructure shall be required along all new public and private streets within new subdivisions or developments, and within new phases of existing subdivisions and any other form of development.
5. Without exception, pedestrian/bicycle infrastructure shall be required along existing streets within or abutting new subdivisions and any other form of development (except subdivisions in GR districts establishing less than eight dwelling units); or along existing streets within or abutting any form of existing development undergoing substantial improvement (except single-family and duplex residential structures in GR districts).
6. Pedestrian/bicycle infrastructure shall be required along the same side of the street upon which the development fronts, except that when a development project is located on both sides of the same street the approving authority may require that infrastructure be installed on both sides of the street.
7. When site characteristics and/or traffic patterns are such that the construction of pedestrian/bicycle infrastructure in accordance with this section would be a hardship and would not result in useful pedestrian walkways, the administrator, upon recommendation from the TRC may allow the applicant to pay the designated cost of constructing such infrastructure into the city sidewalk fund in lieu of requiring construction of the infrastructure. In determining whether to accept a fee in lieu of construction of infrastructure, the administrator shall refer to any adopted plan or policy of the City for guidance. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan*, *City of Brevard Comprehensive Pedestrian Plan*, *City of Brevard Street Schedule*, *City of Brevard Comprehensive Land Use Plan*, *City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
8. The administrator may accept a performance guarantee for the construction of sidewalks on behalf of the city in situations where no other public infrastructure is proposed in accordance with [CHAPTER 16](#) of this ordinance.
9. Multi-use paths and other infrastructure:
  - a. Multi-use paths, and other pedestrian and bicycle infrastructure shall be provided instead of or in addition to sidewalks wherever called for on an adopted plan or policy of the city. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan*, *City of Brevard Comprehensive Pedestrian Plan*, *City of Brevard Street Schedule*, *City of Brevard Comprehensive Land Use Plan*, *City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
  - b. When a multi-use path is required in an area not adjacent to a public or private street, then such facility shall be credited towards the satisfaction of the open space requirements as set forth in [CHAPTER 7](#) of this ordinance.
  - c. All required multi-use paths shall be dedicated to the City of Brevard by means of right-of-way or pedestrian easement.
  - d. On-street bicycle lanes shall be required when called for upon an adopted plan or policy of the city.
10. Pedestrian and bicycle improvements shall be as follows:



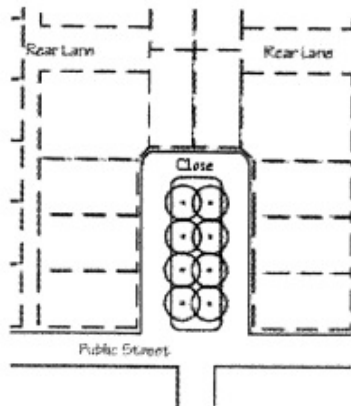
**TABLE 13.5A: PEDESTRIAN AND BICYCLE IMPROVEMENT WIDTHS**

| Zoning District                      | Facility Width                                     |                                        |
|--------------------------------------|----------------------------------------------------|----------------------------------------|
|                                      | City Streets                                       | NCDOT Streets*                         |
| GR                                   | 5 feet                                             | 5 feet                                 |
| RMX, NMX, CMX, DMX, GI, IC           | 5 feet                                             | 8 feet                                 |
| Public Streets                       | City Streets Required; Dedication to City Required | NCDOT Streets Required                 |
| Street Rights-of-Way                 | Required; Dedication to City Required              | Required; Dedication to NCDOT Required |
| Multi-Use Path (where required)      | 10 feet                                            | 10 feet                                |
| On-Street Bike Lane (where required) | 5 feet                                             | 5 feet                                 |

\*Sidewalks are not required along alleys and commercial service streets except when required as a condition of a Conditional Zoning District, Group Development, or special use permit.

11. All pedestrian/bicycle infrastructure shall comply with the minimum requirements for handicapped accessibility in compliance with the North Carolina Accessibility Code or other federal, state, or local regulations. During the construction of pedestrian/bicycle infrastructure, whether new or replacement, handicapped ramps shall be placed in the sidewalk where it intersects with streets and other pedestrian and vehicular travel ways.
  12. All sidewalks shall be made of 4,000 PSI concrete with a minimum depth of four inches, except that street and driveway crossings shall be a minimum of six inches in depth. Bike lanes and multi-use paths shall be made of asphalt, designed according to the North Carolina Bicycle Planning and Design Guidelines published by the NCDOT and shall include all appropriate signage and pavement markings. Alternative materials and designs may be approved by the TRC in consultation with the public works director.
- O. Culs-de-sac and closes.** Where practical, a close (see graphic, below) shall be used in place of a cul-de-sac. Culs-de-sac and closes shall be designed to facilitate the turning radius of emergency vehicles.

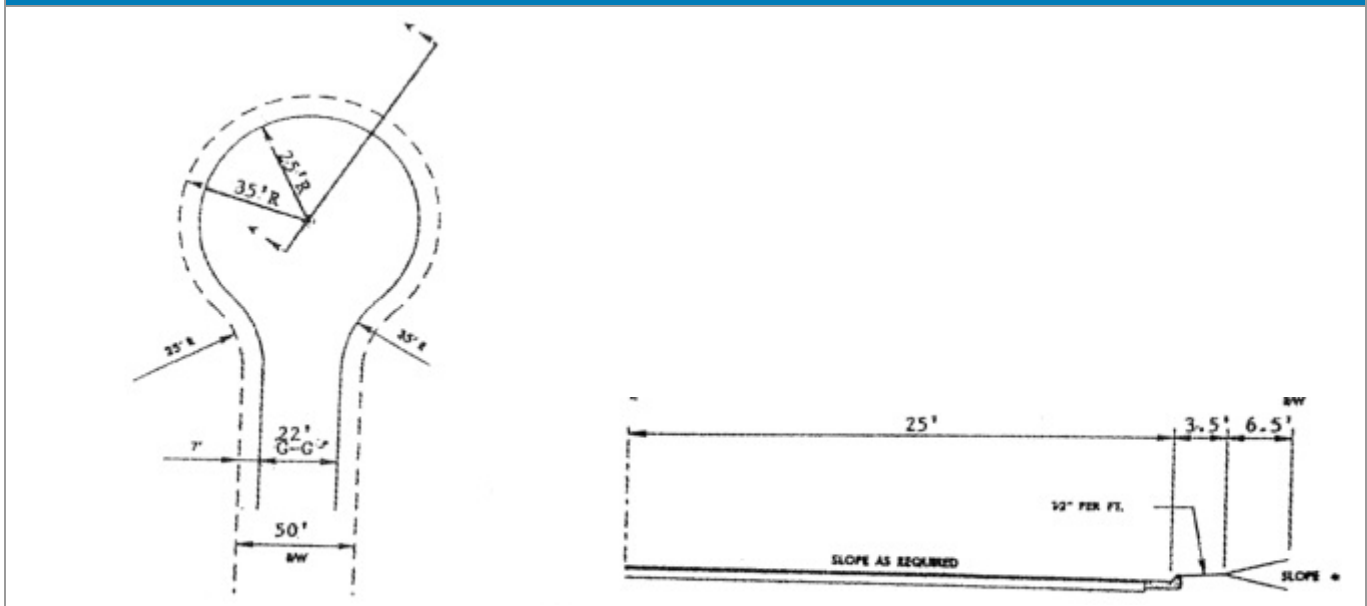
**FIGURE 13.5A: ILLISTRATION OF CLOSE**







**FIGURE 13.5B: ILLUSTRATION OF CUL-DE-SAC WITH CURB AND GUTTER SECTION**

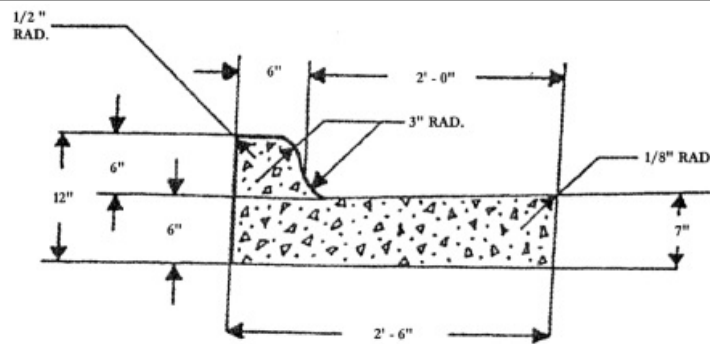


**P. Intersections:**

1. All streets shall intersect at right angles as nearly as possible and no street shall intersect at less than 60 degrees.
2. Where practical, intersections should be aligned to create four-way intersections.
3. Off-set intersections for local streets and neighborhood collectors should be at least 125 feet apart measured from centerline to centerline. A larger spacing in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards may be required for all other streets.
4. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection of less than 90 degrees, a greater radius may be required.
5. Proper sight lines shall be maintained at all intersections of streets to permit adequate sight distance. Where the posted speed limit is less than 20 mph, the intersection sight distance may be reduced to 105 feet.
6. Bulb-outs are discouraged on narrow streets (less than 30 feet face-of-curb to face-of-curb) but encouraged on wider streets.
7. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. Where a street intersects a state highway, the design standards of the state department of transportation shall apply.

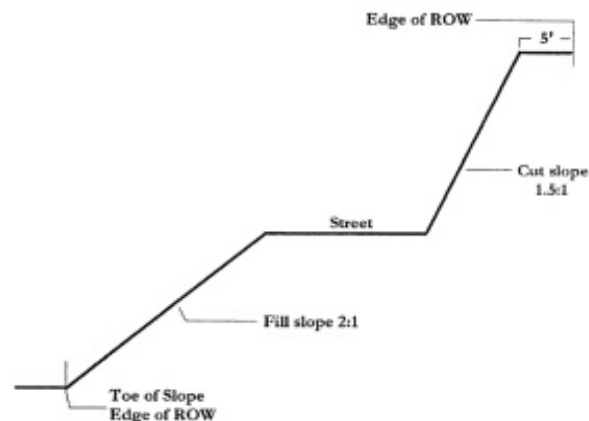
**Q. Curb radii:** Curb radii shall be designed to reduce pedestrian crossing times along all streets requiring sidewalks. In general, curb radii should not exceed 20 feet except along NCDOT-maintained roads.

**R. Curbs and drainage for city streets:** The following requirements shall apply to streets within the city. Streets within the ETJ shall meet all applicable requirements of the North Carolina Department of Transportation.



1. Curb and gutter shall be required on all new residential and commercial streets constructed within the city.
2. Standard vertical face curb and gutter within the city shall be two-foot, six-inch concrete with a height of six inches (see graphic, above). All curbing shall be properly backfilled.
3. Exceptions to this requirement may be made by the administrator subject to circumstances in the area under study. Such circumstances shall relate to the topography of the area, future maintainability of the streets, or other factors deemed relevant by the administrator.
4. Vertical face curbing is required along all streets with on-street parking and around all required landscaping areas and parking lots.
5. All drainage gates must be safe for bicyclists. Bicycle-safe drainage grates are types E, F, and G as approved by the NCDOT.
6. City street culvert dimensions shall be subject to the requirements of the public works director.
7. The right-of-way shall extend from a point five feet outward from the top of the bank of any cut slope to the toe of any fill slope. Maximum slope of any cut slope shall be at a ratio of no greater than 1.5 feet of horizontal run to one foot of vertical rise (1.5:1 slope), and the maximum slope of any fill slope shall be at a ratio of no greater than two feet of horizontal run to one foot of vertical rise (2:1 slope).

### FIGURE 13.5D: RIGHT-OF-WAY MAXIMUM SLOPE CROSS SECTION





- S. *Centerline radius:* A 90-foot minimum centerline radius shall be used for local streets, parkside drives, and minor streets between reverse curves though they may be reduced to 45 feet for design speeds less than 20 mph. All other streets shall be in accordance with AASHTO standards.
- T. *Street lights:* Street lights shall be installed by the developer on all streets in accordance with [CHAPTER 12](#) of this ordinance.
- U. *Posted speed limits:* All streets shall be posted in accordance with the Manual of Uniform Traffic Control Devices and the City of Brevard Traffic Schedule.
- V. *Street grades:* The maximum permissible street grade shall be 18 percent.
- W. *Design standards:* Design standards not specifically addressed in this ordinance must comply with the minimum design and construction criteria of the N.C. Department of Transportation.
- X. *Minimum right-of-way:* The administrator shall determine right-of-way widths based upon the characteristics of the proposed development. However, unless otherwise specified, the minimum right-of-way for all new streets within the city shall be 50 feet, and shall satisfy minimum requirements of the North Carolina Department of Transportation in the ETJ.

## 4.613.7. Containment areas for trash and recyclables.

All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. Sub-grade dumpsters shall be exempt from the provisions of this section. All containment areas shall meet the following standards:

- A. All containment areas shall be enclosed to contain windblown litter.
- B. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
- C. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall, or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
- D. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support, allows for positive drainage, and conforms to the Transylvania County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access.
- E. Enclosures shall contain gates to allow for access and security.
- F. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
- G. Enclosures shall be landscaped in accordance with [CHAPTER 8](#) of this ordinance.

## CHAPTER 14. NONCONFORMITIES

### 14.6. Nonconforming lots.

- A. Except as provided [herein](#), ~~in Section 14.6.B and 14.6.C below~~ a nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the district in which it is located, provided that the use meets all applicable yard and setback requirements for the district in which the lot is located. ~~On parcels of land that do not front upon a public street ("landlocked parcels") or that otherwise do not meet frontage~~



requirements of this ordinance, only one "by right" use or structure, along with related accessory uses or structures, shall be.

1. In such cases the administrator shall require evidence of the presence of a deeded right-of-way or other access easement prior to the issuance of any permit.
- B. A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot (owned by the same ~~person~~ entity) on or after the effective date of these regulations in order to create a single lot. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.
- C. A nonconforming lot may be developed if, at the effective date of this ordinance, the lot is located in:
  1. A subdivision in which the lot is located has received preliminary plat approval; or
  2. A subdivision in which the lot is located has received final plat approval.
- D. The administrator may permit the establishment of a private right-of-way or access easement in order to facilitate access to pre-existing land-locked parcels. However, the provision of such private access shall not be considered ~~satisfaction~~ satisfactory of the street frontage requirement ~~that all lots front upon a public street unless it fully complies with the requirements of Section 4.2.3.~~
- E. No subdivision activity shall be permitted on parcels of land that do not meet the street frontage requirements of this ordinance. This requirement shall apply regardless of the size of the landlocked or otherwise non-compliant parcel.

## 14.9. Nonconforming street ~~frontages~~improvements.

- A. A lot (excluding those containing one pre-existing single-family structure), group development, or planned development shall fully comply with all street improvement requirements of CHAPTER 13 along the fronting streets including, but not limited to, turning and traffic storage lanes, sidewalks, multi-use paths, bike lanes, and curb and gutter, if any of the following activities occurs within the same lot or project:
  1. An expansion of the heated square footage of an existing primary structure.
  2. The construction of a new primary structure.
  3. Significant or substantial damage or improvement to a principal structure.
  4. A change to a more intensive use of an existing structure.
  5. The establishment of additional primary uses.
  6. Approval of any application for the establishment of a special use, conditional zoning district, or group development.
  7. Expansions to the parking area or loading areas which increase the total area more than 40 percent shall be required to comply with all applicable parking and loading area landscaping and screening.
- ~~B. New developments shall be required to comply with all street improvement requirements of CHAPTER 13 along the fronting streets including, but not limited to turning and storage lanes, access management, sidewalks, bike lanes, and curb and gutter.~~

## CHAPTER 16. ADMINISTRATION

### 16.6. Development approval review procedure in general.



- A. Planning department staff, also referred to as the administrator, and the approving authority shall have the discretion to refer any land development permit application to a body of greater authority for consideration and approval or denial consistent with this section.
- B. The administrator shall provide advisory review and comment to all boards and city council regarding the application's compliance to this section. The administrator may determine that additional review is required and request review and/or a recommendation by a board beyond the required process described herein.
- C. *Designation of approving authority:*

| TABLE 16.6A: DEVELOPMENT REVIEW, APPROVAL, AND APPEAL AUTHORITIES |                                                                               |                                                          |                         |                                |
|-------------------------------------------------------------------|-------------------------------------------------------------------------------|----------------------------------------------------------|-------------------------|--------------------------------|
| Category                                                          | Development Activities                                                        | Review / Recommendation                                  | Approving Authority     | Appeal Authority               |
| Annexation & Dedication                                           | Annexations                                                                   | Planning Board                                           | City Council            | Superior Court                 |
|                                                                   | <del>Plats of</del> Dedication / <u>Acceptance of Infrastructure</u>          | Technical Review Committee                               | Staff                   | Board of Adjustment            |
|                                                                   | Street / Right-of-Way/Easement Abandonment                                    | Technical Review Committee                               | City Council            | Superior Court                 |
| Land Use & Development                                            | All Land Use and Development Activity for which No Higher Review is Required  | -                                                        | Staff                   | Board of Adjustment            |
|                                                                   | Group Developments                                                            | Technical Review Committee                               | Staff                   | Board of Adjustment            |
|                                                                   | Temporary Uses                                                                | -                                                        | Staff                   | Board of Adjustment            |
|                                                                   | Special Use Permits                                                           | -                                                        | Board of Adjustment     | Superior Court                 |
|                                                                   | Development Agreements                                                        | -                                                        | City Council            | Superior Court                 |
|                                                                   | Vested Rights Determination                                                   | -                                                        | City Council            | Superior Court                 |
| Regulations                                                       | Adoption, Amendment, or Repeal of Development Regulations                     | Planning Board                                           | City Council            | Superior Court                 |
|                                                                   | Official Zoning Determinations and Other Interpretations of this Ordinance    | -                                                        | Staff                   | Board of Adjustment            |
| Subdivision                                                       | <del>Major Subdivisions</del>                                                 | <del>Technical Review Committee and Planning Board</del> | <del>City Council</del> | <del>Superior Court</del>      |
|                                                                   | <del>Minor Subdivisions for which New Public Infrastructure is Proposed</del> | <del>Technical Review Committee</del>                    | <del>Staff</del>        | <del>Board of Adjustment</del> |
|                                                                   | <del>Minor Subdivisions Creating No New Public Infrastructure</del>           | <del>-</del>                                             | <del>Staff</del>        | <del>Board of Adjustment</del> |
|                                                                   | <del>Recombination Plats</del>                                                | <del>-</del>                                             | <del>Staff</del>        | <del>Board of Adjustment</del> |
| Zoning                                                            | Rezoning / Zoning Map Amendments                                              | Planning Board                                           | City Council            | Superior Court                 |
|                                                                   | Conditional Zoning Districts                                                  | Technical Review Committee and Planning Board            | City Council            | Superior Court                 |



**TABLE 16.6A: DEVELOPMENT REVIEW, APPROVAL, AND APPEAL AUTHORITIES**

| Category             | Development Activities                                      | Review / Recommendation   | Approving Authority | Appeal Authority    |
|----------------------|-------------------------------------------------------------|---------------------------|---------------------|---------------------|
|                      | Final Master Plan Approval for Conditional Zoning Districts | -                         | Planning Board      | Superior Court      |
|                      | Variances                                                   | -                         | Board of Adjustment | Superior Court      |
| <b>Modifications</b> | Minor Modifications                                         | -                         | Staff               | Board of Adjustment |
|                      | All Other Modifications                                     | Original Approval Process |                     |                     |

- D.** In addition to any findings that may be otherwise required by this chapter, the approving authority shall only approve a land development application upon determination that the application meets the following requirements:
1. All applicable requirements of this ordinance and Brevard City Code are satisfied.
  2. All other applicable federal, state, and local requirements and plans are satisfied.
  3. All applicable policies and plans of the City of Brevard are satisfied.
  4. All required system development fees, performance guarantees, or other dedications have been or will be secured.
  5. Approval of the application will not otherwise endanger the health, safety, or welfare of the public.
  6. The applicant agrees to adhere to all reasonable conditions and requirements imposed in accordance with this chapter.
- E.** The approving authority shall consider impacts upon traffic conditions, public safety, public infrastructure and services, and other relevant factors, including any proposed project's likely effect on the public health or safety in determining whether to approve or reject any land development application, and may impose such reasonable conditions as are allowed under G.S. 160D noting the applicable approval process. Findings as to such factors made by any reviewing entity shall not bind the city officer, committee, board, or council acting as the approving authority, which shall consider such factors de novo.
- F.** If the administrator or approving authority requires the application to be reviewed by the technical review committee (TRC) in accordance with Section 15.1, its members shall provide written comments to the planning director within 15 days of having received notification from the planning director of a land development application requiring their review, unless otherwise stated in this Chapter.
- G.** A permit or development approval shall be in writing, and may be issued in print or electronic form pursuant to G.S. 160D-403. Any permit or approval issued exclusively in electronic form shall be protected from further editing once issued. The permit or approval may contain a provision that the development shall comply with all applicable state and local laws. If an application is denied, the reasons for denial shall be stated in writing.
- H.** Typical procedures following issuance of land development permit:
1. Upon issuance of a land development permit, the applicant may proceed to the Transylvania County Health Department and/or Transylvania County Building Permitting and Enforcement for any necessary permits.
  2. Upon creation of structural footers or the pouring of the first-floor slab of any building or structure, the applicant shall contact the administrator for a preliminary setback inspection. The administrator shall





inspect for compliance with applicable dimensional requirements and shall issue preliminary setback approval or require modifications, as applicable.

3. Upon completion of all land development activity and the installation of all approved improvements the applicant shall contact the administrator to arrange for a final inspection. As authorized by G.S. 160D-403(e) and -1113, the administrator shall inspect for compliance with all applicable requirements of this ordinance and Brevard City Code. The administrator shall deny final inspection approval if full compliance with this ordinance and Brevard City Code, approved development plans, and all other requirements, is not observed. The administrator may issue conditional approval. Conditional approval shall be extended for a defined period of time and all conditions shall be clearly set forth in writing. The administrator may require the submission of final "as built" construction documents as a condition of final written approval.
4. Upon issuance of final approval by the administrator, the applicant shall contact the Transylvania County Building Inspection Department to request issuance of a certificate of occupancy in accordance with G.S. 160D-403(g).
5. The administrator shall, from time to time, inspect the building, structure, use, ~~subdivision~~, or other approved activity for continued compliance with this ordinance, Brevard City Code, the approved land development plan, and any other applicable requirement, and shall take such action as is necessary to ensure continued compliance, including any remedy as set forth in [CHAPTER 18](#) of this ordinance.

I. Final zoning approval and certificate of occupancy:

1. No structure shall be used or occupied until final zoning approval has been issued by the City of Brevard and a certificate of occupancy has been issued by the Transylvania County Building Inspection Department pursuant to G.S. 160D-403(g). Such approval shall be issued with the presumption that the structure or portion of a structure is in compliance with Brevard City Code, all applicable provisions of this ordinance, any specific conditions and requirements of the city, and the information stated on the development permit.
2. A record of all final zoning approvals shall be kept on file in the office of the administrator, and a record of all certificates of occupancy shall be kept on file in the office of the Transylvania County Building Inspection Department. Copies shall be furnished, on request, to all interested parties.
3. If final zoning approval or a certificate of occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant.
4. Where certain infrastructure elements have not been installed (i.e. landscaping due to time of year), a temporary final zoning approval may be issued by the administrator, and a final certificate of occupancy may be issued by Transylvania County with permission from the administrator.

J. Right of appeal:

1. If a request for a development permit is denied or if a ruling of the administrator is questioned, any aggrieved party may appeal such ruling to the board of adjustment (hereafter, "BOA") in accordance with this chapter and G.S. 160D-405.
2. Appeals of a ruling of the BPB, the BOA, or city council shall be heard by the Superior Court of Transylvania County. In accordance with G.S. 160D-1402, the aggrieved party may request a stay of execution or enforcement of the decision of the quasi-judicial board pending superior court review. If in the absence of a stay, an applicant proceeds with development, the person does so at his or her own risk.

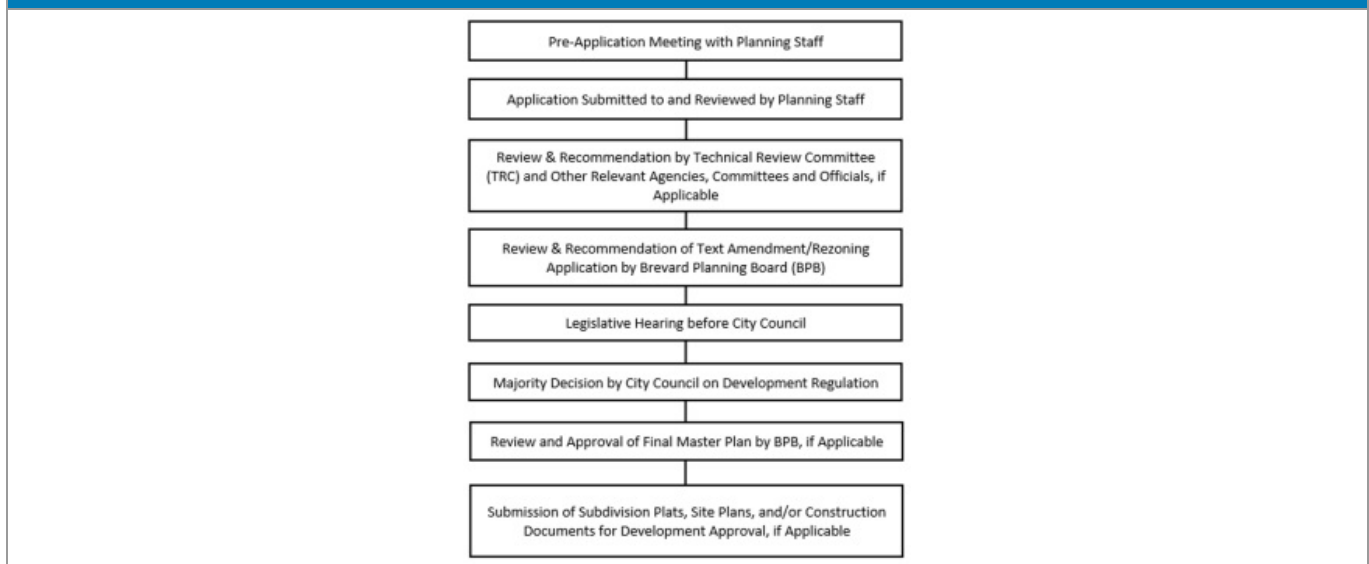
## 16.7. Legislative decisions.

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- A. The purpose of this section is to establish uniform procedures for legislative decisions. In accordance with G.S. 160D-102(1), a legislative decision is the adoption, amendment, or repeal of a development regulation. It also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Section 16.11.
- B. Outline of review procedures for legislative decisions.

**FIGURE 16.7A: REVIEW PROCEDURES FOR LEGISLATIVE DECISIONS**



- C. General procedures for amending development regulations. Before adopting amending, or repealing any ordinance or development regulation, the city council shall hold a legislative hearing pursuant to the procedures outlined below, in G.S. 160D Article 6, and in Sections 16.7.D, 16.7.E, and 16.7.F when applicable.
1. *Application required.* An adoption, amendment, or repeal of a development regulation may be initiated by the city council, the BPB, the planning department, the city manager, or any private citizen filing an application with the administrator.
    - a. Applicants shall submit a description or narrative stating why the proposed amendment or conditional zoning district is requested.
    - b. In accordance with G.S. 160D-601, no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the city. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
      - i. By decreasing the development density of the land to be less dense than was allowed under its previous usage.
      - ii. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
    - c. Amendments to zoning ordinances shall not be initiated, applicable or enforceable without consent of the owner with regard to buildings and uses for which either:





- i. Building permits have been issued pursuant to G.S. 160D-403 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired unrevoked pursuant to G.S. 160D-403, or
  - ii. A vested right has been established and remains valid and unexpired pursuant to Section 16.10.
2. *Administrative review procedure:*
  - a. The applicant shall submit the completed application, pursuant to Section 16.5, at least 60 calendar days prior to the meeting of the BPB at which the petition is to be heard. For urgent matters, the administrator may request the BPB to review the application at an earlier meeting if processing time permits.
  - b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.
  - c. The administrator shall forward the petition to the BPB for review and recommendation to the city council.
3. *Brevard Planning Board review and comment:* The BPB shall review and make recommendations to city council on any development regulations assigned to city council in Section 16.6.B, pursuant to G.S. 160D-604.
  - a. All proposed amendments to the development regulations or zoning map shall be submitted to the BPB for review and comment. If no written report is received from the BPB within 30 days of referral of the amendment to that board, the city council may act on the amendment without the BPB report. The city council is not bound by the recommendations, if any, of the BPB.
  - b. When conducting a review of proposed zoning text or map amendments, the BPB shall consider the Comprehensive Land Use Plan and other adopted plans and policies when making a recommendation and shall submit a consistency statement with their findings whether the application complies with the applicable plans.
  - c. All recommendations shall be by majority vote.
  - d. The BPB shall make one of the following recommendations with regard to a petition to amend the text of a development regulation:
    - i. Adoption of the amendment as written;
    - ii. Adoption of the amendment as revised by the BPB; or
    - iii. Rejection of the amendment.
4. *Notification requirements:* A notice of the legislative hearing shall be published in a newspaper having general circulation in the city once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing.
5. *Citizen comments:*
  - a. Development regulations may from time to time be amended, supplemented, changed, modified, or repealed. Citizens shall be provided an opportunity to comment, in writing, upon such proposed amendment, modification, or repeal. No comment on or protest against any change in or amendments to a development regulation shall be valid or effective for the purposes of G.S. 160D-603 unless it be in the form of a written statement bearing the signatures of property owners. The statement shall be submitted to the city clerk at least one week prior to the date established for the



legislative hearing on the proposed change or amendment. The city clerk shall deliver such written statement to city council.

- b. The city council may by ordinance require that all citizen comments be on a form prescribed and furnished by the city, and such form may prescribe any reasonable information deemed necessary to permit the city to determine sufficiency and accuracy of the commentors.
  - c. A person who has signed a written statement may withdraw his or her name from the protest at any time prior to the vote on the proposed development regulation amendment.
6. *Legislative hearing:* Once the BPB has made a recommendation on an application for a text amendment or rezoning, the city council shall hold a legislative public hearing on the application. Due to the legislative nature of those applications for which council is the approving authority, council may choose to table, approve, approve with conditions, or deny such applications at its discretion. However, council shall approve, approve with conditions, or deny any land development application for which it is the approving authority by means of referral in accordance with Section 16.6.A within 90 days of having first considered such application. Legislative decisions for development regulations may be finally adopted, by affirmative simple majority vote, on the date on which the regulation is introduced. For purposes of this section, an application shall be deemed to have been introduced on the date the subject matter is first voted on by council.
- a. The city council shall consider the Comprehensive Land Use Plan and other adopted plans and policies when making a decision and must adopt a consistency statement indicating whether the application complies with the approved plans in accordance with G.S. 160D-605(a).
  - b. A decision concerning a petition to amend the text of this ordinance shall be as follows:
    - i. Adoption of the amendment as written;
    - ii. Adoption of the amendment as revised by the BPB or by city council;
    - iii. Rejection of the amendment;
    - iv. Send the application back to the BPB for further study and consideration; or
    - v. Call for additional public hearings on petitions brought before them.
  - c. In the instance of a failure to vote by a member who is physically present in the council chamber, or who has withdrawn due to a conflict-of-interest without being excused by a majority vote of the remaining members present, the failure to vote shall not be included as an affirmative or negative vote.
7. *Rehearing:*
- a. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the city council decision.
  - b. Specific information to enable the city council to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically.
  - c. A rehearing shall be denied by the city council, if in its judgment a prima facie case for such change has not been alleged.
  - d. A legislative hearing shall not be required to be held by the city council to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four voting members. In the event that the city council finds that a rehearing is warranted, it shall then proceed as in the original hearing except that the application fee shall be waived.



- e. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.
- f. Every decision of the city council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision of the board is filed in the office of the city clerk, or after a written copy is delivered to an aggrieved party who has filed a written request for such copy with the administrator at the time of the hearing of the case by the city council, whichever is later.

8. *Application withdrawal:*

- a. The petitioner may withdraw his or her application before submission of the public notice to the newspaper announcing the legislative hearing.
- b. After submission of such notice, an application may be withdrawn at the discretion of city council at the legislative hearing.
- c. No more than one withdrawal may occur on the same parcel or portion of land within a one-year period
- d. No application shall be filed on the same parcel or portion of land within a one-year period after the date of the second withdrawal.

D. Procedures for zoning map amendments. Applications for zoning map amendments shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.C except as provided below:

1. *Notification requirements:* Hearings on proposed zoning map amendments require additional public notices in accordance with G.S. 160D-602. Additional notification of the public hearing shall be as follows:

- a. A notice of a proposed change to the official map shall be sent by first-class mail by the administrator to the affected property and to all abutting property owners. For the purpose of this section, properties are "abutting" even if separated from the subject property by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the hearing.
- b. The first-class mail notice required under subsection (a) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice procedures provided that the advertisement shall not be less than one-half newspaper page in size. The local government will publish the notice of a hearing in a newspaper having general circulation in the city once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing. The notice shall only be effective for the property owners who reside in the area of general circulation of the newspaper which published the notice. Property owners who reside outside of the city's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the city council that fact, and the certificates shall be deemed conclusive in the absence of fraud.
- c. One or more prominent signs with the notice of the hearing shall be posted on the subject property or properties beginning not less than ten days nor more than 25 days prior to the date established



for the hearing. Such notice shall state a phone number to contact during business hours for information. The sign shall remain until after the city council has rendered its final decision.

- d. When a zoning map amendment is proposed and if substantial impact on the neighborhood can be anticipated, the administrator shall have the right to require a neighborhood compatibility meeting in order to gather neighborhood feedback, and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents. A substantial impact on the neighborhood includes but is not limited to applications for zoning map amendments affecting multiple parcels with separate owners and for conditional zoning districts that request modifications to [the density, dimensional and setback](#) requirements enumerated in ~~Section 2.2 and Section 2.3~~ [CHAPTER 2](#).

2. *Brevard Planning Board review and comment:*

- a. In place of the recommendations outlined in Section 16.7.C, the BPB shall make one of the following recommendations with regard to a petition for a zoning map amendment:
  - i. Grant the zoning map amendment as requested;
  - ii. Grant the zoning map amendment with a reduction of the area requested;
  - iii. Grant the zoning map amendment to a more restrictive general zoning district or districts; or
  - iv. Deny the application.
- b. The BPB shall submit a statement analyzing the reasonableness of any proposal for a zoning map amendment. The statement of reasonableness may consider, among other factors:
  - i. The size, physical conditions, and other attributes of any area proposed to be rezoned;
  - ii. The benefits and detriments to the landowners, the neighbors, and the surrounding community;
  - iii. The relationship between the current actual and permissible development and the development permissible under the proposed amendment;
  - iv. Why the action taken is in the public interest; and
  - v. Any changed conditions warranting the amendment.

3. *Legislative hearing:*

- a. In addition to the general procedures outlined in Section 16.7.C.7, when adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning must be approved by the city council in accordance with G.S. 160D-605. The statement of reasonableness and the plan consistency statement may be approved as a single statement.
- b. In place of the decisions outlined in Section 16.7.C.7(b), a decision concerning a petition for a zoning map amendment shall be as follows:
  - i. Grant the zoning map amendment as requested;
  - ii. Grant the zoning map amendment with a reduction in the area requested;
  - iii. Grant the zoning map amendment to a more restrictive general zoning district;
  - iv. Grant the zoning map amendment with a combination of (i) and (ii) above;
  - v. Deny the application;
  - vi. Send the application back to the BPB for further study and consideration; or
  - vii. Call for additional legislative hearings on petitions brought before them.



- c. In accordance with G.S. 160D-605, if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and shall be required. A plan amendment and a zoning amendment may be considered concurrently, and does not require a separate application fee for a plan amendment.
- E. Procedures for conditional zoning districts. Applications for conditional zoning shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.D for zoning map amendments, except as provided below:
  1. *Application required:*
    - a. A conditional zoning district application shall be considered only upon request of the owner of the affected property or a duly authorized representative of the property owner. When applying for conditional zoning, the owner shall specify the nature of the proposed development and shall propose conditions to ensure compatibility with the surrounding uses and consistency with adopted plans.
    - b. The applicant shall submit a final master plan or a preliminary master plan, pursuant to Section 17.5. If the applicant submits a final master plan as part of the initial application, subsection 5 below shall not be applicable.
    - c. The applicant shall submit a recent survey of the parcel(s) completed within three years of the application submittal.
    - d. The administrator may request an environmental survey.
    - e. The administrator may require any other documentation, such as building elevations, deemed necessary by the administrator in order to provide a complete and accurate description of the proposed development.
  2. *Administrative review procedure:* The administrator may require that the application be circulated to any relevant city, county, and state agencies, committees and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.
  3. *Brevard Planning Board review and comment:*
    - a. The BPB shall make one of the following recommendations with regard to a petition for a conditional zoning district:
      - i. Grant the creation of the district as request;
      - ii. Grant the creation of the district with a reduction of the area requested;
      - iii. Include recommended conditions for the district;
      - iv. Continued BPB consideration of the application in order to receive further information; or
      - v. Deny the application.
  4. *Legislative hearing:*
    - a. During the adoption of a conditional zoning district, specific conditions may be proposed by the applicant, city council, BPB, technical review committee, or administrator, but only those conditions mutually approved in writing by city council and the applicant shall be incorporated into the zoning regulations and permit requirements. Conditions and site specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use



- of the site to city ordinances, the adopted Comprehensive Land Use Plan or other plans, or the impacts reasonably expected to be generated by the development or use of the site.
- b. The conditions agreed upon pursuant to the conditional zoning approval may include but are not limited to:
    - i. Allocating and/or limiting the land uses which are permitted on the property;
    - ii. Specifying locations on the property of the proposed structure(s);
    - iii. The number of dwelling units and density;
    - iv. The location and extent of supporting facilities such as parking lots, driveways, and access streets;
    - v. The location and extent of buffer areas and other special purpose areas;
    - vi. The timing of development;
    - vii. The height of structures;
    - viii. The location and extent of rights-of-way and other areas to be dedicated for public purposes; and
    - ix. Other such matters as may be identified as appropriate for the proposed development.
  - c. City council may approve the preliminary master plan provided that the enacting ordinance sets forth specific requirements to be satisfied by a master plan and subsequent site plans, construction documents, and subdivision plats.
  - d. A decision concerning a petition for a conditional zoning district shall be as follows:
    - i. Grant the creation of the district as requested with agreed upon conditions;
    - ii. Grant the creation of the district with a reduction in the area requested with agreed upon conditions;
    - iii. Deny the application;
    - iv. Send the application back to the BPB for further study and consideration; or
    - v. Call for additional legislative hearings on petitions brought before them.
  - e. Upon adoption of an enacting ordinance establishing a conditional zoning district, the official zoning map of the City of Brevard shall be amended to add the district.
5. *Procedures following preliminary master plan approval.* Unless a final master plan was approved at the time of creation of a conditional zoning district, then within one year of the enactment of the ordinance creating the district, or such other period, not to exceed five years, specified in said ordinance, the applicant shall submit a final master plan for development, or any phase thereof, meeting the requirements of Section 17.5. The provisions contained herein relating to submittal of final master plans may be modified by means of a development agreement between the developer and the City of Brevard, pursuant to Section 16.11.
- a. Upon receipt of a final master plan, the planning director shall review it for completeness and for compliance with the conditions and standards imposed in the enacting ordinance if the planning director determined that the plan is complete and does not constitute a major modification of the enacting ordinance pursuant to Section 16.9, including all conditions attached thereto and the approved preliminary master plan, he or she shall forward it to the BPB for its consideration. City council may require, as a condition at the time of creation of the conditional zoning district, that council be the approving authority for final master plan approval.



- b. If the approving authority determined that the final master plan complies with the enacting ordinance, including all conditions attached thereto, and with the approved preliminary master plan and with all applicable regulations, it shall grant final master plan approval for the development or a phase thereof, as applicable.
  6. *Modifications.* Modifications to approved conditional zoning districts, including the enacting ordinance, an approved preliminary master plan, or the final master plan shall be in accordance with Section 16.9.
  7. *Issuance of permits:*
    - a. Demolition permits may be issued based upon an approved preliminary master plan. However, no permit shall be issued for the construction, remodel, or rehabilitation of any structure within the area of a conditional zoning district, nor shall any structure be approved within the area of a conditional zoning district, until a master plan has been approved by the approving authority and, subsequently, site plans, construction documents, and/or subdivision plats, as applicable, have been approved by the administrator. No subdivision of land within a conditional zoning district shall be permitted prior to final master plan approval unless the ordinance creating the district provides otherwise.
    - b. Following approval of the final master plan of any conditional zoning district, the applicant shall submit to the administrator applications for subdivision and/or development approvals within one year of the date of final master plan approval. The administrator shall follow the applicable procedures in this chapter for subdivision and development approvals, and shall verify that all applicable requirements of the ordinance and conditions of city council are satisfied prior to granting approval. The administrator shall require any additional construction documents needed for permitting and evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDEQ permits, Army Corps of Engineers permits, etc.).
  8. If for any reason any provision of an enacting ordinance of a conditional zoning district is found to be illegal or invalid, or if the applicant should fail to provide written consent to any condition, the entire ordinance enacting the applicant's individual conditional zoning district shall be null and void. If the applicant shall fail to adhere to any condition set forth in the enacting ordinance for a conditional zoning district, the administrator may employ the remedies set forth in CHAPTER 18 or may initiate appropriate action to rezone the affected property to another zoning classification. The applicant's failure to adhere to one or more conditions shall constitute a rational basis for rezoning of the land contained within a conditional zoning district.
  9. If no action has been taken to begin development of the property in accordance with a conditional zoning ordinance within 24 months of its approval by city council or such other period, not to exceed five years, specified in the conditional zoning ordinance, the administrator may initiate appropriate action to rezone the affected property to any other classification. Such failure to begin development shall constitute a rational basis for rezoning the land contained within a conditional zoning district.
  10. If the use or uses commenced pursuant to an enacting ordinance of a conditional zoning district section are abandoned or discontinued for a period of 180 days, the administrator may initiate appropriate action to rezone the affected property to any other classification. Such abandonment or discontinuance shall constitute a rational basis for rezoning of the land contained within a conditional zoning district.
- Procedures for extension of the Extraterritorial Jurisdiction (ETJ). Applications for extending the ETJ shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.C except as provided below:

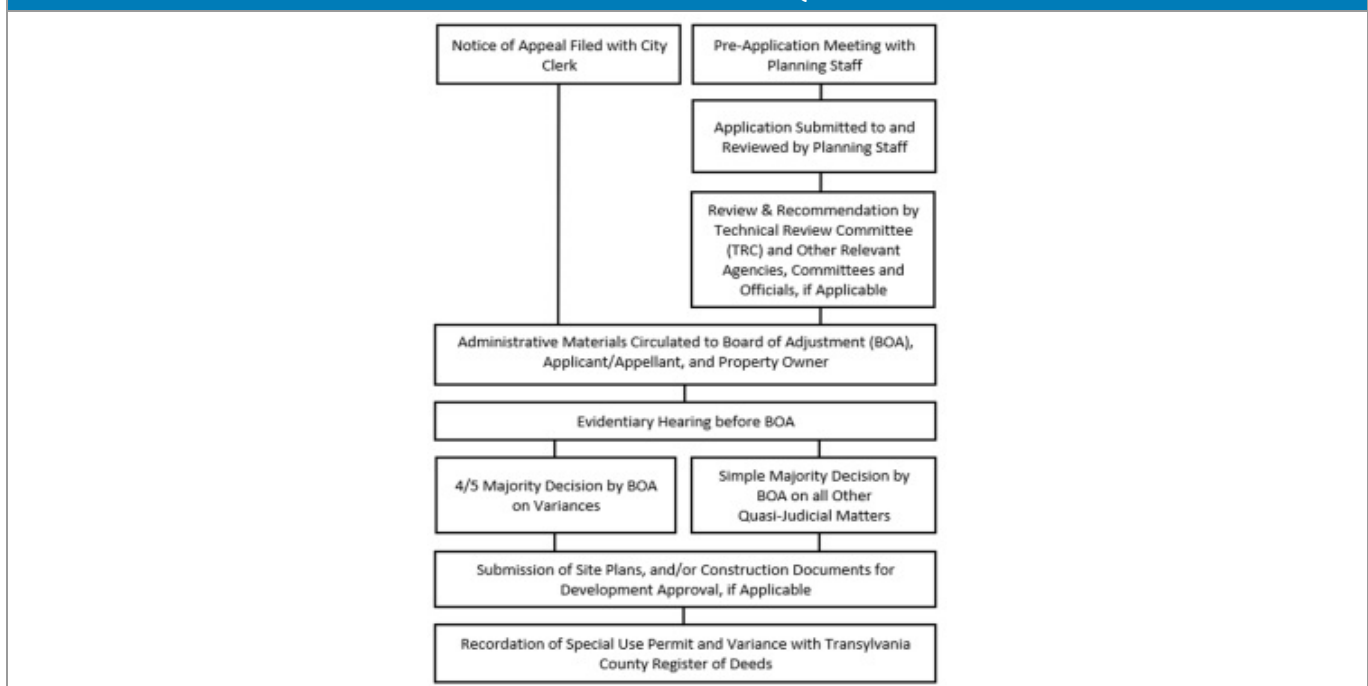


1. Notification requirements: A notice of a proposed extension of the ETJ shall be sent by first-class mail by the administrator to the last address listed for the affected property owners. The notice shall be mailed at least 30 days prior to the date of the hearing by following the procedures and containing information in accordance with G.S. 160D-202(d). In the instance of a single hearing for both a zoning map amendment and an ETJ extension, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice.
2. Legislative hearing: In accordance with G.S. 160D-202(a), if a zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction, a single hearing on the zoning map amendment and the boundary amendment may be held.
3. The city shall take any other measures consistent with G.S. 160D-204 in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

## 16.8. Quasi-judicial decisions.

### A. Outline of review procedures for quasi-judicial decisions.

**FIGURE 16.8A: REVIEW PROCEDURES FOR QUASI-JUDICIAL DECISIONS**



**B. General procedures.** In accordance with G.S. 160D-102, a quasi-judicial decision is a process that involves the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative decisions that are final and binding. Pursuant to G.S. 160D-406, the board shall follow quasi-judicial procedures for all quasi-judicial decisions.

1. *Procedure for filing appeals and applications.* Notices of appeal shall be filed with the city clerk. Applications for variances, special use permits, and architectural special use permits shall be filed with





the administrator in accordance with Section 16.5. Certificates of appropriateness are outlined in CHAPTER 20 of this Ordinance.

2. *Notice of evidentiary hearing.* Notice of evidentiary hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal or application is the subject of the hearing; to the owner of the property that is the subject of hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by these regulations. In the absence of evidence to the contrary, the city may rely on the Transylvania County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
3. *Administrative materials.* The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
4. *Hearings.* The board shall conduct an evidentiary hearing on the appeal or application. It shall determine contested facts and make its decision within 45 days of the conclusion of hearing. The board's decision shall be based upon competent, material, and substantial evidence in the record of the hearing.
  - a. The applicant, the city, and any person who would have standing to appeal the decision under G.S. 160D-1402 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value, traffic impacts, or other matters about which only expert testimony would generally be admissible under the rules of evidence.
  - b. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal, the inclusion or exclusion of administrative material, or the standing of a party, may be made to the board. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.
  - c. Witnesses shall testify under oath. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
  - d. The official who made the decision, or the person currently occupying that position if the decision-maker is no longer employed by the city, shall be present at the hearing as a witness. The appellant shall not be limited at the evidentiary hearing to matters stated in the notice of appeal. If any party



or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the BOA shall continue the hearing.

- e. When hearing an appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160D-1402(j).
- f. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of members shall be required to decide any other quasi-judicial matter or to determine an appeal in the nature of certiorari. For the purposes of this paragraph, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under Section 15.5 shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- g. The decision shall be reduced to writing and reflect the board's findings of contested facts, if any, the facts' application to applicable standards, and conclusions of law. The written decision shall be approved by the board and signed by the chair or other duly authorized member of the board. The decision of the board shall be effective upon filing such decision with the clerk to the board. The clerk shall see that the decision is delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, any entity granted party status at the hearing, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective and shall certify that proper notice has been made.

5. *Burden of persuasion.* In all quasi-judicial hearings, the applicant or appellant, as the case may be, shall have the burden of persuasion.

6. *Rehearings.*

- a. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the board's decision. In addition, specific information to enable the board to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the board, if, in its judgment, a prima facie case for such change has not been alleged. A quasi-judicial hearing shall not be required to be held by the board to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four-fifths of the board for a variance and a simple majority for all other matters. In the event that the board finds that a rehearing is warranted, it shall proceed as in the original hearing except that the application fee shall be waived.
- b. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

7. *Appeals of the BOA's decisions.* Every quasi-judicial decision of the BOA under this section shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. A petition for review shall be filed with the clerk of superior court within the times specified in G.S. 160D-1405(d).

C. *Procedures for special use permits.* Special uses are generally compatible with the land uses permitted by right in a zoning district but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses enumerated as special uses in a zoning district shall be authorized by the BOA. Applications for special use permits shall be processed,



considered, and decided upon using the same procedures and subject to the same requirements as those established in Section 16.8.A, except as provided below.

1. *Application required.*

- a. The applicant shall submit a sketch plan, in accordance with Section 17.4.
- b. The applicant shall submit a description or narrative stating why the special use is requested.
- c. The administrator may request an environmental survey.
- d. The administrator may require any other documentation, such as construction documents and building elevations, deemed necessary by the administrator in order to provide a complete and accurate description of the proposed use.

2. *Administrative review procedure.*

- a. The applicant shall submit the completed application, pursuant to Section 16.5 at least 45 days prior to the BOA meeting at which it will first be reviewed. For urgent matters, the administrator may request the BOA to review the application at an earlier meeting if processing time permits.
- b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.
- c. The administrator may require that the application and supporting materials be reviewed by the technical review committee (TRC) in accordance with Section 15.1.
- d. The administrator may require that the application be circulated to other relevant city, county, and state agencies and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.
- e. The administrator may require a neighborhood compatibility meeting in order to gather neighborhood feedback, and may require the person proposing the special use permit to report on any communication with neighboring property owners and residents.
- f. Once the administrator has reviewed the application and circulated it to other relevant agencies, committees, and officials, the administrator shall transmit the application to the BOA for action.

3. *Hearings.*

- a. The evaluation and approval of the special use permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following findings of fact:
  - i. The use meets all requirements and specifications of the ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
  - ii. The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and
  - iii. The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.
- b. The BOA may require a traffic impact study, an environmental survey or impact statement, and any other additional information or evidence as necessary to properly consider the application.

4. *Permit approval.*

- a. In approving an application for a special use permit, the BOA may attach reasonable and appropriate conditions on the location, nature, and extent of the proposed use, which support the required findings of fact. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and



facilities. These conditions shall not include requirements for which the city does not have the statutory authority to impose or for which the courts have held to be unenforceable if imposed directly the city. Only those conditions mutually approved in writing by the BOA and the applicant shall be incorporated into the permit requirements.

- b. The BOA may not require the landowner to waive a vested right as a condition of the special use permit approval. The burden of proof of producing evidence to support these findings and to overcome any challenges that approval of the plan would be contrary to one or more of these findings shall rest entirely with the applicant or landowner.
  - c. Following the approval of the special use permit by the BOA, the applicant shall submit to the administrator all construction documents and any other documents specified by [CHAPTER 17](#) for project development approval and administration. The administrator shall require evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDENR permits, Army Corps of Engineers permits, etc.).
5. *Effect of approval.* If an application is approved, the special use permit that is established and all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. The approved special use permit shall be recorded with the Transylvania County Register of Deeds and a copy of the recordation be submitted to the city, pursuant to G.S. 160D-705(c).
6. *Modifications.* Modifications to an approved special use permit shall be in accordance with Section [16.9](#).
7. *Revocation of special use permits.*
- a. Revocation of special use permits shall be conducted pursuant to Section [16.13](#).
  - b. In addition to the reasons for revocation outlined in Section [16.13](#), the applicant must secure a valid building permit within a 12-month period from date of approval of the special use permit unless otherwise specified.
- D. *Procedures for administrative appeals.* Appeals of administrative decisions and development approvals shall follow the same procedures and be subject to the same requirements as those established in Section 16.8.A except as provided below:
1. *Applicability.* In accordance with G.S. 160D-405, the BOA shall hear and decide appeals of final and binding decisions made by administrative officials charged with enforcement of any development regulations, including administrative modifications and denials of development permits. Any person who has standing under G.S. 160D-405 or the city may appeal a decision to the BOA. The owner of the property or any other party with standing shall have 30 days from receipt of notice, pursuant to Section [16.4](#), within which to file a notice of appeal stating the grounds for appeal.
  2. *Stays.*
    - a. An appeal of a notice of violation or other enforcement order stays enforcement of the decision appealed from and accrual of any fines assessed unless the official who made the decision certifies to the BOA after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulations. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.



- b. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulations shall not stay further review of an application for development approvals to use such property; in these situations the appellant or city may request, and the BOA may grant, a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.
  3. *Hearings.* The board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all powers of the official who made the decision.
  4. *Alternative dispute resolution.* The parties to an appeal may agree to mediation or other forms of alternative dispute resolution.
- E. *Procedures for variances.* Except as limited herein, the board of adjustment shall have the authority to vary provisions of the UDO in accordance with this section. Applications for variances shall follow the same procedures and be subject to the same requirements as those established in Section 16.8.A except as provided below.
1. *Administrative review procedure:*
    - a. The applicant shall submit the completed application, pursuant to Section 16.5 at least 45 days prior to the BOA meeting at which it will first be reviewed. For urgent matters, the administrator may request the BOA to review the application at an earlier meeting if processing time permits.
    - b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.
    - c. The administrator may require that the application and supporting materials be reviewed by the technical review committee (TRC) in accordance with Section 15.1.
    - d. The administrator may require that the application be circulated to other relevant city, county, and state agencies and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.
    - e. Once the administrator has reviewed the application and circulated it to other relevant agencies, committees, and officials, the administrator shall transmit the application to the BOA for action.
  2. *Standards for granting variances.* Except as limited by subsection 16.8.D.4, below, when unnecessary hardships would result from carrying out the strict letter of the UDO, the BOA shall vary such regulations upon a showing of all of the following:
    - a. Unnecessary hardship would result from the strict application of the regulations. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
    - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
    - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
    - d. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.



3. *Guiding principles.* In judging a request for a variance, the BOA shall be guided by the following principles:
  - a. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
  - b. The hardship relates to the applicant's land, rather than personal circumstances;
  - c. The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
  - d. The hardship is not the result of the applicant's own actions; and
  - e. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not constitute an unnecessary hardship.
  - f. Hardships for the following regulations are shared across many properties, are broadly required for public safety and general welfare, and are unlikely to create a situation warranting a variance.
    - i. To provide relief from the requirements of Section ~~4.59.5~~ for visibility at street intersections and driveways. In order to ensure that the requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured and substantial justice is achieved, the following additional requirements shall apply:
      - (A) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, ordinances.
      - (B) The variance shall only be issued upon the inclusion of the following determinations:
        - (1) The variance will not pose a danger to the public safety based on competent evidence. As used in this subsection, competent evidence shall not be deemed to include the opinion testimony of lay witnesses as to vehicular safety resulting from the reduction of visibility of the sight triangle.
        - (2) The variance is the minimum necessary to afford relief.
    - ii. To provide relief from the surface water protection requirements of Section 6.7 pertaining to encroachments into surface water protection areas other than that portion lying in the regulatory floodway may be considered. In order to ensure that the requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured and substantial justice is achieved, the following additional requirements shall apply:
      - (A) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, ordinances.
      - (B) Variances shall only be issued upon the following determinations:
        - (1) The granting of the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws ordinances.
        - (2) The variance is the minimum necessary to afford relief.
      - (C) Variances shall only be issued prior to floodplain development approval.
4. *Conditions.* The BOA, in granting a variance, may prescribe appropriate conditions and safeguards on any variance, provided that the conditions are reasonably related to the variance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this ordinance and shall be punishable as prescribed in CHAPTER 18.
5. *Limitations on board's authority.* The BOA shall not have authority to grant variances in the following situations:





- a. To change the permitted uses for any property.
- b. To provide relief from the environmental protection requirements in [CHAPTER 6](#) including, but not limited to, steep slope, sedimentation and erosion prevention, stormwater runoff, surface water protection, and flood damage prevention, except those surface water protection areas of [Section 6.7](#) outlined in subsection 3 above.
- c. To provide relief from the water, sewer, and utility requirements of [Section 13.4](#).
6. *Conformance with City Code.* Structures and uses permitted by means of a variance from a provision of this ordinance shall otherwise conform to all other applicable provisions of this ordinance and the Brevard [CITY CODE OF ORDINANCES](#).
7. The approved variance shall be recorded with the Transylvania County Register of Deeds and a copy of the recordation be submitted to the city, pursuant to G.S. 160D-705(c).

## 16.10. Vested rights—Site-specific vesting plans.

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### A. *General procedures:*

1. Pursuant to G.S. 160D-108 and notwithstanding any other provision or amendment, a landowner may apply for approval of a site-specific vesting plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.
2. All requests for vested rights shall be accompanied by a copy of the approved development plan in accordance with the provisions of this chapter. A request to extend vested rights to a previously approved development plan shall be reviewed and approved by the city council after notice and public hearing pursuant to [Section 16.7.D](#).

### B. *Administrative review procedure:*

1. The applicant shall request a meeting with the administrator and submit an application and a master plan as defined in [CHAPTER 17](#). Upon determination of completeness of the application, the administrator shall authorize the applicant to submit the master plan for formal review.
2. The administrator shall review and make comment on the master plan. If the master plan is denied, the reasons for denial shall be stated in writing and the applicant may resubmit the development for further review.
3. The administrator shall require evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDENR permits, Army Corps of Engineers permits, etc.).
4. The administrator may require that the application be circulated to other relevant city, county, and state agencies, committees, and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended. The applicable agencies, committees, and officials shall transmit any recommendations to the technical review committee (TRC).
5. When the administrator determines that the application is complete and complies with this ordinance, the administrator shall transmit submitted application materials along with any recommendations to the TRC.
6. The TRC shall review and make comment on the application. The TRC may require a Traffic Impact Study, and Environmental Impact Statement, and any other additional information as necessary to properly consider the application.
7. The TRC shall, within 30 days of receipt of all necessary application materials and additional information, take action to recommend approval, approval with conditions, or deny the application.



- C. *Legislative procedure:* If a site-specific vesting plan is based on an underlying legislative or quasi-judicial approval, such as a special use permit or a conditional zoning district, the administrator shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with BPB recommendation and notice pursuant to Section 16.7.D shall be held.
- D. *City council action:*
1. The city council shall determine whether or not to grant or establish a vested right after the review and consideration of the application by TRC and the BPB in accordance with the aforementioned procedures.
  2. The city council may not require the landowner to waive his or her vested right as a condition of development approval.
  3. The city council may approve the vested rights for a period greater than two years where it is found that due to:
    - a. The sizing and phasing of the development; or,
    - b. The level of investment; or,
    - c. The need for the development; or,
    - d. Economic cycles; or,
    - e. Market conditions.
  4. Building permits for all phases of the development cannot be secured within two years, provided the total period does not exceed five years from the date of plan approval of the site.
- E. *Effect of approval of vesting:*
1. The effect of the city council approving a vested plan shall be to vest such site plan for a period of two years to five years as approved by the city council from the date of approval.
  2. A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved site-specific vesting plan as provided for in this section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the previously granted or established vested right.
  3. A vested right, once established shall preclude any zoning action by the city which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property in accordance with the approved site-specific development plan except under the following conditions where such rights are terminated and revoked:
    - a. The affected landowner provides written consent to the city of his or her desire to terminate the vested right; or,
    - b. The city determines after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the plan; or,
    - c. Compensation is made by the city to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,





- d. The city determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the city council of the plan; or,
  - e. Upon the enactment of a state or federal law or regulations which precludes development as shown in plan. In such case the city may, after having advertised and conducted a public hearing, modify the affected provisions upon a finding that this change in state or federal law has a fundamental effect on the plan.
4. Once a vested right is granted to a particular plan, nothing in this section shall preclude the city from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are consistent with the original approval.
  5. The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the city from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this ordinance.
  6. Upon issuance of a development permit, the granted statutory vesting is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to Section 16.13.

**F. *Establishment of common law vesting plans:***

1. Previously approved site-specific vesting plans shall be reviewed for compliance and consistency and subsequently approved by the administrator or designee in accordance with the provisions of this chapter, providing the proposed preliminary plat for the ~~minor~~-major subdivision does not deviate from, and is subdivided in accordance with the previously approved site-specific plan.
2. Preliminary plats for major subdivisions with previously vested site-specific plans shall be reviewed for compliance and consistency and approved by the administrator or designee, providing the proposed preliminary plat for major subdivision does not deviate from, and is subdivided in accordance with the previously approved site-specific plan. Substantial financial investment must be determined and a good faith effort made to develop proportionate to the approved statutory vested plan.

**G. *Revocation or expiration of a vested right:***

1. The vested right, resulting from the approval of a site-specific vesting plan, may be revoked by the city council if the city council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this ordinance. As prescribed under the provisions of G.S. 160D-308, the vested right shall otherwise expire at the end of the approval period established by the city council. A building permit issued by the Transylvania County Building Inspector pursuant to G.S. 160D-403 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.

**H. *Establishment of multiphase development vesting plan:***

1. A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and UNIFIED DEVELOPMENT ORDINANCES in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development.

## **~~16.15. Additional procedures for minor and major subdivisions.~~**



~~D. Plats of dedication of public infrastructure:~~

- ~~1. Dedication plats shall be considered in accordance with the procedures set forth for minor subdivisions.~~
- ~~2. Dedication plats shall contain appropriate certifications to be determined by the administrator, and shall meet all other requirements for recordation as set forth in this ordinance. Other procedures for the acceptance of dedications, in addition to those set forth in this ordinance, may be determined by the administrator.~~

## CHAPTER 17. DEVELOPMENT PLAN REQUIREMENTS

### 17.4. Sketch plan requirements.

~~In addition to information on the environmental survey, the~~ Sketch plans shall be required as part of the major subdivision review process and may be required by the administrator for other land development activities. A sketch plan shall show in simple sketch form the proposed layout of streets, lots, buildings, public open spaces and other features in relation to existing conditions based upon the size of the tract proposed for development or subdivision. All plans shall be submitted at a scale not less than one inch = ~~50~~ 150 feet unless otherwise authorized by the administrator. It shall also include the following information:

- A. A sketch vicinity map, including north arrow, showing the location of any proposed building(s) or subdivision in relation to neighboring tracts, subdivisions, roads, and waterways.
- B. The name, address, and telephone number of the property owner.
- C. The name of the proposed development project.
- D. The boundary lines of the property.
- E. The total acreage.
- F. The existing and proposed land uses and the existing land uses of adjacent properties.
- G. The existing topographic conditions of the property, which may include ~~including~~ contours not exceeding five foot intervals. City of Brevard, Transylvania County, or State of North Carolina topographic information may be used to fulfill this requirement.
- H. The location, names, and private and recorded right-of-way widths of any existing streets on or within 300 feet of the land to be subdivided.
- I. Lots of adjacent developed or platted properties.
- J. Zoning classification of the land and adjacent properties.
- K. Illustrative building elevations denoting general design elements and materials.
- L. Watershed classification, if any.
- M. Floodway, non-encroachment, and surface water protection area delineation.
- N. Floodplain delineation.

### 17.5. Master plan requirements.



When required, the master plan shall be drawn to the following specifications and must contain or be accompanied by the information listed below. This section defines both preliminary and final master plans. A preliminary master plan may only be submitted as part of an application for a conditional zoning district. All plans shall be submitted at a scale not less than one inch = 50 feet unless otherwise authorized by the administrator.

**A.** Processing or review of a preliminary or final master plan may not proceed without all of the following information:

1. The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, perennial streams, wetlands, easements or other significant features of the tract.
2. Scale denoted both graphically and numerically with north arrow.
3. A vicinity map at a scale no smaller than one inch equals 1,200 feet showing the location of the ~~subdivision~~ development with respect to adjacent streets and properties.
4. The proposed name of the development, street names, the owner's name and address, the names of adjoining ~~subdivisions or~~ property owners, the name of the city, county, and state in which the development is located, the date of plan preparation, and the zoning classification of the tract to be developed, and of adjoining properties.
5. Corporate limits and extraterritorial jurisdiction boundaries (where applicable).
6. A timetable for estimated project completion for each phase proposed.
7. Original contours at intervals of not greater than five feet for the entire area to be subdivided or developed and extending into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property and 50 feet at all other points of common project boundaries. Transylvania County or City of Brevard digital topography may be used to satisfy this requirement but should be field-verified to ensure accuracy. This requirement may be waived for developments smaller than one acre or where insufficient topographic changes warrant such information.
8. The location of any building restriction areas (i.e. flood hazard areas, buffer locations, watershed protection districts, and/or jurisdictional wetlands), where applicable.
9. Site calculations shall include total acreage of tract, acreage in parks and other non-residential uses, total number and acreage of parcels, and the total number of housing units.
10. The following statement shall be placed upon all ~~final~~ master plan documents, as applicable:

"Areas delineated upon this ~~plat or~~ plan as a protection area or Special Flood Hazard Areas is subject to limitations upon development as set forth CHAPTER 34 of Brevard City Code, and any development, disturbance, or encroachment is prohibited except in accordance therewith."

**B.** Requirements for preliminary master plans. A preliminary master plan may only be submitted as part of an application for a conditional zoning district. A preliminary master plan may be more conceptual in nature than a final master plan, and shall be sufficient to demonstrate deviations from the base zoning district and the scope of the project.

1. At a minimum, a preliminary master plan shall show the conditions both requested and offered that deviate from the base zoning district.
2. A preliminary master plan may divide the district into land use areas and specify proposed uses and other development standards which shall apply to such land use area. The preliminary master plan may also depict transition zones between any such land use areas which shall permit deferring the determination of the precise boundaries between land use areas until final master plan review.



3. Additional submittal requirements for the preliminary master plan shall be determined by the administrator in the pre-application meeting or during review. The approving authority may require additional submittals as deemed necessary due to the particulars of the project. A preliminary master plan may include the following information, as applicable:
  - a. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, site reservations (i.e. school sites), property lines and building setback lines with street dimensions, and tentative lot dimensions.
  - b. The traffic and circulation system demonstrating a safe and adequate on-site transportation system that addresses vehicular, bicycle, transit and pedestrian circulation. The on-site transportation system shall be integrated with the off-site transportation circulation system of the city.
  - c. The proposed limits of construction for all proposed development activity, including all required protected areas and open space.
  - d. Landscaping plan and/or vegetation preservation plan in accordance with Section 17.9.
  - e. Lighting plan in accordance with Section 17.10.
  - f. Architectural plans in accordance with Section 17.11.
  - g. Traffic impact analysis (if required) in accordance with Section 17.12.
  - h. Stormwater management concept plan in accordance with Section 17.13.
  - i. Conceptual utilities plan. Conceptual plans for utilities to serve the development, including sanitary sewers, storm sewers and water lines.
  - j. Environmental impact statement, pursuant to Article 113A of the North Carolina General Statutes, if: the development exceeds two acres in area, and; if the BPB deems it necessary due to the nature of the land or peculiarities in the proposed design.
  - k. Development permit and certification application with supporting documentation as required by the flood hazard prevention requirements of CHAPTER 6 of this ordinance.

**C. Requirements for final master plans.**

1. A final master plan shall include all of the following information, as applicable:
  - a. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, site reservations (i.e. school sites), property lines and building setback lines with street dimensions, and tentative lot dimensions.
  - b. The transportation and circulation system showing typical cross-sections of proposed streets. Where a proposed street is an extension of an existing street, the profile of the street shall include 300 feet of the existing roadway, with a cross section of the existing street. Where a proposed street within the development abuts a tract of land that adjoins the development and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
  - c. The proposed limits of construction for all proposed development activity, including all required protected areas and open space.
2. Additional submittal requirements for the final master plan shall be determined by the administrator in the pre-application meeting or during review. The approving authority may require additional submittals as deemed necessary due to the particulars of the project. A final master plan may include the following information and supplemental plans, as applicable.
  - a. Landscaping plan and/or vegetation preservation plan in accordance with Section 17.9.



- b. Lighting plan in accordance with Section 17.10.
- c. Architectural plans in accordance with Section 17.11.
- d. Traffic impact analysis (if required) in accordance with Section 17.12.
- e. Stormwater management concept plan in accordance with Section 17.13.
- f. Conceptual utilities plan. Conceptual plans for utilities to serve the development, including sanitary sewers, storm sewers and water lines.
- g. Environmental impact statement, pursuant to Article 113A of the North Carolina General Statutes, if: the development exceeds two acres in area, and; if the BPB deems it necessary due to the nature of the land or peculiarities in the proposed design.
- h. Development permit and certification application with supporting documentation as required by the flood hazard prevention requirements of CHAPTER 6 of this ordinance.

## CHAPTER 19. DEFINITIONS

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### 19.3. Definitions.

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**Cluster home development:** A small lot residential group development that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained by a single entity or in shared stewardship by residents.

**~~Condominium:~~**

~~A.—A building or complex in which units of property, such as apartments, are owned by individuals and common parts of the property, such as the grounds and building structure, are owned jointly by the unit owners.~~

~~B.—A unit in such a complex, including air lots.~~

**Condominium lot:** The form of ownership of real property, and any interests therein in which individual owners own or lease separate units but together, or through an owners' association, own the common areas appurtenant to the units.

**Lot, ~~C~~conservation parcel:** a parcel of land containing remnant vegetation to be protected through a conservation covenant~~A parcel of land that is shown on a recordable subdivision plat that is generally not intended for building and that is intended for a conservation purpose, including but not limited to the protection of sensitive natural areas, water quality, scenic views, working forest or farm lands, wildlife habitat, recreation and open spaces, and which property is subject to limitations upon development by conservation easement, deed, contract or other binding agreement with the United States of America or any agency or subdivision thereof, the State of North Carolina or any agency or subdivision thereof, or with a not for profit entity that is authorized to hold conservation easements within the United States of America and the State of North Carolina.~~

**Development regulation:** A UNIFIED DEVELOPMENT ORDINANCE, zoning regulation, ~~subdivision regulation~~, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to G.S. 160D, or a local act or charter that regulates land use or development.

**Group development:** Any land development subject to a site plan that includes two or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future).



~~A. Groupings of two or more principal structures or principal uses built on a single lot, tract or parcel of land (or grouping thereof) not subdivided into the customary streets and lots and designed for occupancy by separate families, businesses or other enterprises normally permitted within the underlying district (examples may include, but are not limited to, summer camps, school campuses and hospitals, shopping centers, industrial parks, and apartment complexes, or any other combination of primary structures).~~

Other Individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

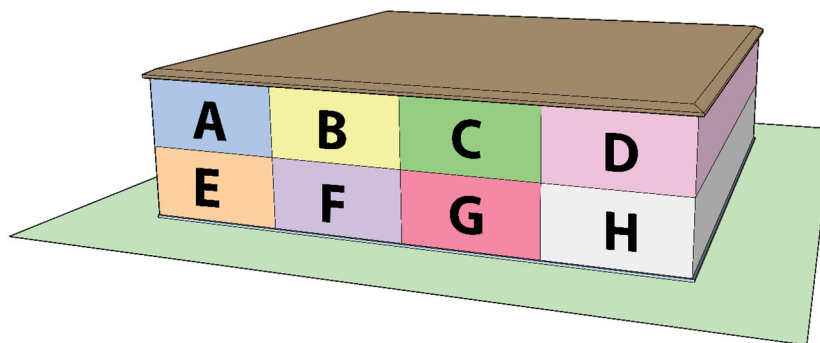
**Inherited property:**

~~A. An inherited property is defined for this ordinance specifically, as a zoned parcel to be subdivided per the terms of a document described in (B), following the death of the owner or person who executed the document, and which is to be divided by the terms of such document into two or more separate tracts, to the end that each heir or devisee is to receive a separate tract.~~

~~B. Documents requiring the division of inherited properties include wills, trusts, deeds subject to life estates, deeds with rights of survivorship, or other documents requiring that the property be divided upon the death of the owner or person who executed the document. Such documents shall have been executed on or before July 16, 2013.~~

Lot, air~~Air lot~~: A condominium unit or lot containing both horizontal and vertical dimensions and established as part of a shared structure. The air lot generally extends to the inner faces of the walls, floors and ceiling of the condominium unit.

**FIGURE 19.3-X: ILLUSTRATIVE DIAGRAM OF AIR LOTS**



**Lot, conventional:** Conventional Lot shall refer to any lot where the minimum lot width for conventional lots ~~(See Section 2.3)~~ is met at the right-of-way line (see Section 4.2.3).

Lot, Environmental containment and conservation~~parcel~~: A parcel land that is shown on a recordable subdivision plat that is not intended for a building as a result of environmental constraints, and which is subject to limitations upon development by deed, contract or other binding agreement with the United States of America or any agency or subdivision thereof, or the State of North Carolina or any agency or subdivision thereof.

Lot, interior: An individual lot within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites. Also referred to as an "out-parcel."

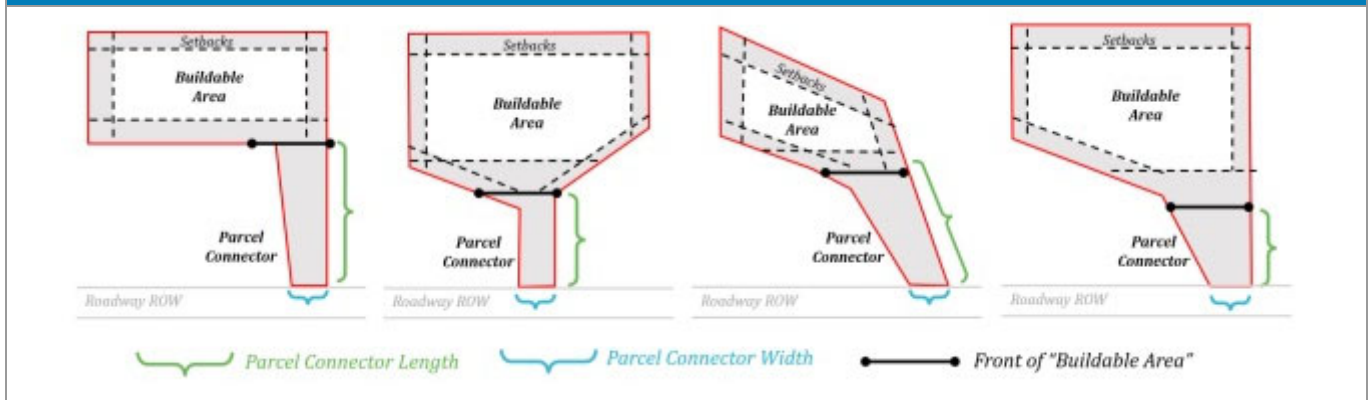




**Lot, irregular:** ~~Irregular Lot shall refer to any~~ lot where the functional access to a road is provided along a long narrow “parcel connector” and the “buildable area” is typically situated, at least in part, behind adjoining lots which front on a public street.

- A. “Buildable Area”: The largest portion of an irregular lot where development is intended.
- B. “Parcel Connector”: The long narrow strip of property that provides functional access for ingress, egress, and utilities.

**FIGURE 19.3C: ILLUSTRATIVE DIAGRAMS OF IRREGULAR LOTS**



**Pre-existing lot:** Any parcel of land, the boundaries of which were on record within the Transylvania County Register of Deeds prior to the date of the enactment of this ordinance.

**Manufactured home:** A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:

- A. It is at least eight feet in width and 32 feet in length;
- B. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;
- C. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and
- D. It does not have any wheels or axles permanently attached to its body or frame.

**Manufactured home park:** A residential group development with three or more manufactured homes or manufactured home spaces designed as a cohesive whole and maintained either by a single entity or in shared stewardship by residents. ~~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.~~

~~**Manufactured home subdivision:** A parcel (or contiguous parcels) of land divided into two or more parcels and intended for the placement of manufactured homes for rent or sale.~~

**Multiphase development:** A development ~~containing 25 acres or more~~ that is constructed in increments. Each increment would be capable of existing independent of the others, but the completed project would be a comprehensive design. ~~both of the following:~~



~~A. Submitted for development permit approval to occur in more than one phase; and~~

~~B. Subject to a master development plan with committed elements showing the type and intensity of use of each phase.~~

**Neighborhood development:** A residential group development designed as individual lots with shared stewardship of common areas and infrastructure. This definition shall apply to any predominately residential project with 8 or more lots and/or shared infrastructure.

**Nonconformities:** A lot, structure, use of land, or condition, which existed lawfully and was created in good faith prior to the adoption, revision, or amendment to this ordinance, and which conformed to applicable regulations in effect prior to the adoption, revision, or amendment to this ordinance in terms of size, area, dimension, location, intensity of use, or other condition, but which now fails to conform to the requirements of this ordinance by reason of such adoption, revision, or amendment. Nonconformities include, but are not limited to, the following:

- A. Non-conforming lots: lots of non-standard improper size, shape, or structural density; or lots with insufficient frontage lacking frontage upon a public street, in accordance with CHAPTER 4.
- B. Non-conforming structures: structures located within a right-of-way, or that exceed height or setback limitations, or that are located within setback areas, floodways, or streamside protection areas.
- C. Non-conforming uses of land: industrial activity within residentially zoned areas, hazardous chemical storage in flood-prone areas, open storage in a improperly zoned area.
- D. Non-conforming conditions: insufficient parking, landscaping, or buffering for an otherwise conforming use or structure; cleared vegetation in a streamside protection area; inadequate stormwater control measures.

~~**Out-parcel:** A parcel or land associated with and located within a shopping center, campus or multi-tenant non-residential development, which is designated on an approved site plan as a location for a structure.~~

**Parcel:** An area designated as a separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed as filed in the official records of Transylvania County, as maintained in the Transylvania County courthouse. The terms "lot," "lot record," "lot of record," "plot," "parcel," "property," or "tract," whenever used in this ordinance, are interchangeable.

~~**Pre-existing (or "existing") manufactured home park or manufactured home subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of this ordinance.~~

**Principal building or principal structure:** A building in which is conducted the principal use of the parcel on which it is situated. Also referred to as "principal building."

**Quasi-judicial decision:** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

**Reserve strip:** A narrow strip of land along a property line, typically at the edge of a subdivision, reserved to control access to abutting properties or public rights-of-way.





**Shopping center:** A form of non-residential or mixed-use development with dedicated at least two commercial, recreational, and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.

**Story:** The habitable level of a building, extending from finished floor to finished floor or ceiling.

**Street:** Any alley, avenue, circle, highway, lane, road, street, or other way, whether public or private.

**Street, public:** Any street situated within a dedicated public right-of-way and which has been accepted by the appropriate governmental agency for continuing maintenance and upkeep. ~~A public street is any road or street that is under the ownership, control, and maintenance of the City of Brevard, the State of North Carolina, or the United States of America.~~

**Subdivision:** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but this definition shall not include exempt subdivisions under Section 4.3 or N.C.G.S. 160D-802. ~~the following shall not be included within this definition nor be subject to subdivision regulations in accordance with G.S. 160D-802:~~

~~The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations:~~

- ~~A. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.~~
- ~~B. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.~~
- ~~C. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.~~
- ~~D. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.~~

**Major subdivision, major:** The division of an established parcel of land that: ~~into more than 25 parcels of land.~~ This term includes the establishment of condominium lots.

1. Creates more than 8 lots, including the residual or parent lot;
2. Involves the creation, expansion, or dedication of any public street or right-of-way; or
- 4.3. Is not otherwise exempt under Section 4.3 or deemed a minor subdivision.

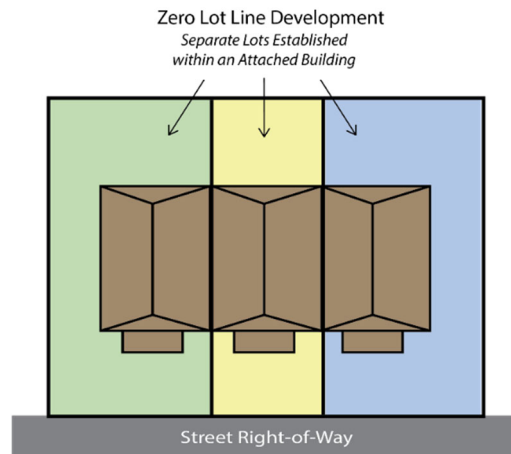
**Minor subdivision, minor:** The division of an established parcel of land that: ~~into 25 or fewer parcels of land.~~ This term shall also include the establishment of condominiums, townhomes, and any other subdivision proposing common area, condominium space, or zero lot line development that, when completed, would result in less than ~~100,000 square feet of combined ground floor surface area, that would not require the issuance of any special use permit.~~

1. Creates a maximum of 8 lots, including the residual or parent lot;
2. Does not involve the creation, expansion, or dedication of any public street or right-of-way;
- 4.3. Is not otherwise exempt under Section 4.3.



**Zero lot line development:** A development approach in which a building with attached units is located on separate lots where the common walls are along the interior lot lines.

**FIGURE 19.3-X. ZERO LOT LINE DEVELOPMENT**





## UNIFIED DEVELOPMENT ORDINANCE

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# CHAPTER 1. PURPOSE AND APPLICABILITY

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### 1.12. Interpretation.

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- A. In the interpretation and application of this ordinance, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and,
  3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- B. *Fractional requirement:* When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit and a fraction of less than one-half shall be disregarded.

# CHAPTER 2. DISTRICTS AND GENERAL PROVISIONS

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### 2.1. General intent and establishment of districts.

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#### 2.1.3. Establishment of conditional zoning districts.

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- A. In addition to the base districts established above, and as authorized under G.S. 160D-703 the following conditional districts are established which correspond to the above-referenced districts but which require the submission of a master plan as a prerequisite to any development.
1. Institutional Campus Conditional Zoning District (IC CD).
  2. General Industrial Conditional Zoning District (GI CD).
  3. Downtown Mixed-Use Conditional Zoning District (DMX CD).
  4. Corridor Mixed-Use Conditional Zoning District (CMX CD).
  5. Neighborhood Mixed-Use Conditional Zoning District (NMX CD).
  6. Residential Mixed-Use Conditional Zoning District (RMX CD).
  7. General Residential Conditional Zoning District (GR CD).
- B. These districts are intended to provide an effective means for the city to manage the impacts of large-scale developments; to manage developments in sensitive contexts; to provide developers with the flexibility for creative design approaches; to allow for the establishment of specific land uses not otherwise permitted in the underlying base district; to allow for changes in the density, dimensional, and setback requirements of CHAPTER 2. The districts are subject to applicable conditions of the approving authority. If the ordinance creating a conditional zoning district fails to provide specific standards, any development in the district shall comply with the applicable standards for the corresponding base district contained in this Ordinance and the



Brevard City Code. These districts are not intended to relieve hardships that should be resolved by means of a variance. The procedure for the establishment of these districts is found in Section 16.7 of this Ordinance.

- C. The conditional zoning district classification allows projects of innovative design and layout that would not otherwise be permitted under this ordinance because of the strict application of zoning district or general development standards. Conditional zoning encourages innovative land planning and design concepts by:
1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards that were designed primarily for individual lots;
  2. Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;
  3. Allowing greater freedom in providing a mix of land uses in the same development, including a mix of housing types, housing prices, lot sizes, densities, and non-residential uses in a conditional zoning district;
  4. Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses; and
  5. Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities when such increases can be justified by superior design or the provision of additional amenities such as public and/or private open space.
- D. In return for greater flexibility in site design requirements, conditional zoning districts are expected to deliver exceptional quality community designs that preserve critical environmental resources, provide above-average open space amenities, incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure.
- E. General use and development standards for Conditional Zoning Districts.
1. Uses allowed. A development may contain only those uses specified in the ordinance creating the conditional zoning district. Such uses may include any of the uses indicated in the use matrix contained in Section 2.2.C, provided such uses are consistent with the Comprehensive Land Use Plan.
  2. Mixed-uses encouraged.
    - a. Mixed-use developments are strongly encouraged in conditional zoning districts, including the mixing of principal residential uses with principal non-residential uses. Mixed-use development may occur by having two or more principal uses located in the same building (e.g., retail on ground floor, office space above) or by having two or more principal uses located in different buildings sited on the same lot or parcel (e.g., freestanding child day care center located on the same parcel as an office building).
    - b. Developments containing both residential and non-residential uses shall be designed, located, and oriented on the site so that non-residential uses are directly accessible to residents of the development. For the purposes of this section, "directly accessible" shall mean pedestrian and vehicular access by way of improved sidewalks or paths and streets that do not involve leaving the planned development or using a major thoroughfare. "Directly accessible" does not necessarily mean that non-residential uses need to be located in a particular location, but that the siting of such uses considers the accessibility of the residential component of the development to the non-residential use.
  3. Unless the ordinance creating a conditional zoning district specifies otherwise, conditional zoning districts which contain residential uses shall incorporate the following design principles:
    - a. All neighborhoods shall have identifiable centers and edges.



- b. Edge lots shall be readily accessible to retail and/or recreation by non-vehicular means (a distance not greater than  $\frac{1}{4}$ — $\frac{1}{2}$  mile).
  - c. Uses shall be mixed and in close proximity to one another.
  - d. Street networks shall be interconnected and blocks small.
  - e. Sidewalks and other pedestrian infrastructure shall be interconnected and comprehensive.
  - f. The entire land area of the development shall be divided into blocks, streets, lots and open space areas.
  - g. Similar land categories shall generally front across streets. Dissimilar categories should abut at rear lot lines. Corner lots which front on streets of dissimilar use should be set back the same as the adjacent use with the lesser setback.
  - h. Open space shall be centrally located so that it is within walking distance ( $\frac{1}{4}$ — $\frac{1}{2}$  mile) from all locations within the conditional zoning district. All required open space shall be in accordance with the provisions of [CHAPTER 7](#).
  - i. Dimensional standards shall be established in accordance with neighborhood design but shall be generally consistent with those found in the RMX, NMX and DMX Districts.
- F. The ordinance creating the conditional zoning district shall specify whether phasing is proposed as well as the process, if applicable, for the review and approval of such phases, including any future subdivision of the property. Any references to the final master plan in this section or Section [16.7.E](#) may apply to the entire planned development or an individual phase of such development.

#### 2.1.4. Overlay districts.

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In accordance with G.S. 160D-703, the following overlay districts are established. These overlay districts impose additional requirements on properties within one or more underlying base or conditional districts.

- 1. **Manufactured Home Overlay District (MHD).** The purpose of the MHD is to allow for the continued placement of manufactured homes "by right" in areas where manufactured housing is a historical housing form.
- 2. **Highway 64 Corridor Sign Overlay District.** The purpose of the Highway 64 Corridor Sign Overlay District is to provide standard signage requirements for the commercial corridor along the Asheville and Rosman Highway commercial corridors of US Highway 64.
- 3. **Downtown Development Overlay District.** The purpose of the Downtown Development Overlay District is to ensure that new development in the core of downtown is consistent with the community's character and promotes a human-scaled, pedestrian-friendly environment.

## 2.2. Use categories and tables of permitted uses.

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- A. All uses permitted in this Code have been divided into 10 general categories as detailed below and are generally defined as follows:
- 1. *Residential:* Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.
  - 2. *Lodging:* Premises available for short-term human habitation for a fee, including daily and weekly rental.
  - 3. *Commercial:* Premises available for the transaction of general business, the provision of services, the commercial sale of merchandise, and/or food and drink consumption, but excluding manufacturing.



4. *Civic/institutional*: Premises available for organizations dedicated to religion, education, government, social service, health care, and other similar functions.
5. *Entertainment/recreation*: Premises for the gathering of people for purposes such as arts and culture, amusement, and recreation.
6. *Agriculture*: Premises primarily used to grow crops, produce, flowers, etc., raise animals, harvest timber, or other similar functions.
7. *Manufacturing/wholesale/storage*: Premises available for the creation, assemblage, storage, and repair of items including their wholesale or retail sale.
8. *Infrastructure*: Uses and structures dedicated to transportation, communication, information, and utilities.
9. *Accessory*: Uses of land or of a building or structure or portion thereof, which is incidental and subordinate to a principal use on the same lot.
10. *Temporary*: Uses of land which, having met certain requirements and conditions, that may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.

**B. Interpretation of use matrices.**

1. The use matrix is not intended to be a comprehensive list of all possible uses, but rather a list of more common uses likely to be proposed within the city.
2. In the event that a particular use is not listed in the use matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the administrator shall determine whether a materially similar use exists in this chapter.
  - a. Should the administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing pursuant to G.S. 160D-403.
  - b. Should the administrator determine that a materially similar use does not exist, this chapter may be amended to establish a specific listing for the use in question in accordance with the provisions set forth for text amendments in [CHAPTER 16](#).
3. When determining whether a proposed use is materially similar to a listed use, the administrator may consider the following criteria:
  - a. The actual or projected characteristics of the proposed use;
  - b. The relative amount of site area or floor area and equipment devoted to the proposed use;
  - c. Relative amounts of sales;
  - d. The customer type;
  - e. The relative number of employees;
  - f. Hours of operation;
  - g. Amount and frequency of deliveries;
  - h. Building and site arrangement;
  - i. Types of vehicles used and their parking demands;
  - j. The number of vehicle trips generated;
  - k. Signs;



- l. How the proposed use is advertised;
  - m. The likely impact on surrounding properties; and
  - n. Whether the activity is likely to be found independent of the other activities on the site.
4. Prohibited uses within the applicable zoning district or uses for which the administrator determines there is not a materially similar use in the matrix may be permitted through the application of a conditional zoning district in accordance with the provisions set forth in [CHAPTER 16](#).
- C. *Use matrix.* The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.
1. "P" denotes those uses that are permitted "by right."
  2. "—" denotes those uses that are not permitted within the given district.
  3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in [CHAPTER 16](#). Additional standards for certain uses requiring a special use permit are set forth in [CHAPTER 3](#) and [CHAPTER 5](#) of this ordinance.
  4. "PS" denotes those uses that are permitted with additional standards, which are set forth in [CHAPTER 3](#).
  5. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

| TABLE 2.2A: LAND USE MATRIX |                |                                                      |                  |     |     |     |     |     |    |
|-----------------------------|----------------|------------------------------------------------------|------------------|-----|-----|-----|-----|-----|----|
| CATEGORY                    | SECTION<br>(a) | USE                                                  | ZONING DISTRICTS |     |     |     |     |     |    |
|                             |                |                                                      | GR               | RMX | NMX | DMX | CMX | IC  | GI |
| Residential                 |                |                                                      |                  |     |     |     |     |     |    |
| Household Living            | 3.5.1          | Dwelling—Single-Family                               | P                | P   | —   | —   | —   | P   | —  |
|                             |                | Dwelling—Duplex                                      | P                | P   | P   | —   | —   | P   | —  |
|                             |                | Dwelling—Multifamily 3—4 units/bldg.                 | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Dwelling—Multifamily more than 4 units/bldg.         | —                | P   | P   | P   | P   | P   | —  |
|                             |                | Dwelling—Townhome                                    | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Manufactured Home                                    | MHD              | MHD | MHD | MHD | MHD | MHD | —  |
|                             |                |                                                      |                  |     |     |     |     |     |    |
|                             |                | Live-Work Units                                      | PS               | PS  | PS  | PS  | —   | PS  | —  |
|                             |                | Mixed-Use Residential Unit                           | —                | —   | PS  | PS  | PS  | PS  | —  |
| Group Living                | 3.5.2          | Family Care Home                                     | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Housing Services for the Elderly                     | SUP              | P   | P   | P   | P   | P   | —  |
|                             |                | Rooming or Boarding House                            | P                | P   | P   | P   | P   | P   | —  |
| Social Services             | 3.5.3          | Group Care Facility                                  | P                | P   | P   | P   | P   | P   | —  |
|                             |                | Shelter                                              | SUP              | P   | P   | P   | P   | P   | —  |
| Lodging                     |                |                                                      |                  |     |     |     |     |     |    |
| Overnight Accommodations    | 3.6.1          | All overnight accommodations, except as listed below | —                | —   | —   | P   | P   | P   | —  |
|                             |                | Bed and Breakfast                                    | PS               | PS  | PS  | PS  | PS  | PS  | —  |
|                             |                | Short-Term Rental (STR)                              | —                | PS  | PS  | PS  | PS  | PS  | —  |



**TABLE 2.2A: LAND USE MATRIX**

| CATEGORY                           | SECTION<br>(a) | USE                                                                                 | ZONING DISTRICTS |     |     |     |     |     |     |
|------------------------------------|----------------|-------------------------------------------------------------------------------------|------------------|-----|-----|-----|-----|-----|-----|
|                                    |                |                                                                                     | GR               | RMX | NMX | DMX | CMX | IC  | GI  |
| Camping                            | 3.6.2          | Campground/Recreational Vehicle Park                                                | SUP              | SUP | SUP | —   | —   | SUP | —   |
|                                    |                | Rental Cottage/Cabins                                                               | PS               | PS  | PS  | —   | —   | —   | —   |
|                                    |                | Seasonal Camp                                                                       | PS               | —   | —   | —   | —   | PS  | —   |
| Commercial                         |                |                                                                                     |                  |     |     |     |     |     |     |
| Eating and Drinking Establishments | 3.7.1          | All restaurants and other eating and drinking establishments except as listed below | —                | —   | P   | P   | P   | P   | —   |
|                                    |                | Bar/Night Club                                                                      | —                | —   | PS  | P   | P   | —   | —   |
| Personal Services                  | 3.7.2          | All personal services, except as listed below                                       | —                | P   | P   | P   | P   | P   | —   |
|                                    |                | Day Care Center                                                                     | PS               | PS  | PS  | PS  | PS  | PS  | PS  |
| Professional Services              | 3.7.3          | All professional services, except as listed below                                   | SUP              | P   | P   | P   | P   | P   | P   |
|                                    |                | Adult Establishment                                                                 | —                | —   | —   | —   | —   | —   | SUP |
|                                    |                | Banks, Credit Unions, Financial Services, and ATMs                                  | —                | —   | P   | P   | P   | P   | P   |
|                                    |                | Funeral Homes and Services                                                          | —                | —   | P   | P   | P   | P   | —   |
|                                    |                | Human Crematories and Crematoriums                                                  | —                | —   | PS  | PS  | PS  | PS  | PS  |
|                                    |                | Indoor Animal Services                                                              | —                | —   | P   | P   | P   | P   | P   |
|                                    |                | Kennels and Outdoor Animal Services                                                 | —                | —   | SUP | —   | PS  | —   | PS  |
|                                    |                | Landscaping and Contractor Services                                                 | SUP              | SUP | SUP | —   | —   | —   | P   |
|                                    |                | Vehicle Services—Major Repair/Body Work                                             | —                | —   | —   | —   | PS  | —   | PS  |
|                                    |                | Vehicle Services—Minor Maintenance/Repair                                           | —                | —   | SUP | SUP | PS  | PS  | PS  |
| Retail                             | 3.7.4          | All retail and sales establishments except as listed below                          | —                | —   | P   | P   | P   | P   | —   |
|                                    |                | Alcoholic Beverage Sales Store                                                      | —                | —   | SUP | P   | P   | —   | —   |
|                                    |                | Auto/Mechanical Parts Sales                                                         | —                | —   | —   | P   | P   | —   | P   |
|                                    |                | Gas Station                                                                         | —                | —   | SUP | SUP | PS  | —   | PS  |
|                                    |                | Gunsmiths and Weapon Sales                                                          | —                | —   | SUP | PS  | PS  | —   | PS  |
|                                    |                |                                                                                     |                  |     |     |     |     |     |     |
| Civic/Institutional                |                |                                                                                     |                  |     |     |     |     |     |     |
| Educational                        | 3.8.1          | All educational uses except as listed below                                         | SUP              | P   | P   | P   | P   | P   | —   |
|                                    |                | Colleges/Universities                                                               | —                | —   | SUP | P   | P   | P   | —   |
|                                    |                | Schools—Vocational/Technical                                                        | —                | SUP | P   | P   | P   | P   | P   |





**TABLE 2.2A: LAND USE MATRIX**

| CATEGORY                           | SECTION<br>(a) | USE                                                                       | ZONING DISTRICTS |     |     |     |     |     |     |
|------------------------------------|----------------|---------------------------------------------------------------------------|------------------|-----|-----|-----|-----|-----|-----|
|                                    |                |                                                                           | GR               | RMX | NMX | DMX | CMX | IC  | GI  |
| Government                         | 3.8.2          | All government uses, except as listed below                               | —                | P   | P   | P   | P   | P   | P   |
|                                    |                | Correctional Facilities                                                   | —                | —   | SUP | SUP | P   | P   | P   |
|                                    |                | Public Safety Station                                                     | SUP              | SUP | P   | P   | P   | P   | P   |
| Medical                            | 3.8.3          | All medical offices and facilities except as listed below                 | —                | P   | P   | P   | P   | P   | —   |
|                                    |                | Hospital                                                                  | —                | —   | —   | —   | P   | P   | —   |
| Places of Worship                  | 3.8.4          | All religious institutions or places of worship                           | SUP              | P   | P   | P   | P   | P   | —   |
|                                    |                | Cemeteries                                                                | PS               | PS  | PS  | PS  | PS  | PS  | —   |
| Entertainment/Recreation           |                |                                                                           |                  |     |     |     |     |     |     |
| Indoor Recreation                  | 3.9.1          | All indoor recreation facilities, except as listed below                  | SUP              | P   | P   | P   | P   | P   | P   |
|                                    |                | Cultural or Community Facility                                            | SUP              | P   | P   | P   | P   | P   | —   |
|                                    |                | Indoor Amusements                                                         | —                | —   | SUP | P   | P   | SUP | P   |
|                                    |                | Indoor Firing Range                                                       | —                | —   | —   | —   | SUP | SUP | SUP |
|                                    |                | Live Performance Theater                                                  | —                | SUP | SUP | P   | P   | P   | —   |
|                                    |                | Movie Theater                                                             | —                | —   | —   | P   | P   | —   | —   |
|                                    |                | Special Event Venue                                                       | SUP              | SUP | PS  | PS  | PS  | PS  | —   |
|                                    |                | Studios, Galleries and Workshops - High Impact                            | —                | —   | SUP | SUP | P   | P   | P   |
|                                    |                | Studios, Galleries and Workshops - Low Impact                             | —                | P   | P   | P   | P   | P   | —   |
| Outdoor Recreation                 | 3.9.2          | All outdoor recreation facilities, except as listed below                 | SUP              | P   | P   | P   | P   | P   | P   |
|                                    |                | Non-Residential Swimming Pool or Pond                                     | —                | SUP | SUP | PS  | PS  | PS  | —   |
|                                    |                | Outdoor Amusements                                                        | —                | —   | SUP | SUP | P   | —   | P   |
|                                    |                | Outdoor Firing Range                                                      | —                | —   | —   | —   | —   | —   | SUP |
|                                    |                | Parks, Open Space, and Greenways                                          | P                | P   | P   | P   | P   | P   | P   |
| Agriculture                        |                |                                                                           |                  |     |     |     |     |     |     |
| Agriculture                        | 3.10.1         | All agricultural uses                                                     | PS               | —   | —   | —   | PS  | PS  | PS  |
| Manufacturing/Wholesale/Storage    |                |                                                                           |                  |     |     |     |     |     |     |
| Light Industrial and Manufacturing | 3.11.1         | All light industrial and manufacturing activities, except as listed below | —                | —   | —   | —   | SUP | —   | P   |
|                                    |                | Brewery, Distillery, Winery, Cider - High Impact                          | —                | —   | —   | —   | P   | —   | P   |
|                                    |                | Brewery, Distillery, Winery, Cider - Low Impact                           | —                | —   | SUP | PS  | PS  | —   | PS  |



**TABLE 2.2A: LAND USE MATRIX**

| CATEGORY                     | SECTION<br>(a) | USE                                                                 | ZONING DISTRICTS |     |     |     |     |    |     |
|------------------------------|----------------|---------------------------------------------------------------------|------------------|-----|-----|-----|-----|----|-----|
|                              |                |                                                                     | GR               | RMX | NMX | DMX | CMX | IC | GI  |
|                              |                | Laboratory                                                          | —                | —   | —   | —   | P   | P  | P   |
|                              |                | Laundry, Dry Cleaning Plant                                         | —                | —   | —   | —   | SUP | P  | P   |
|                              |                | Manufacturing Research and Development                              | —                | —   | —   | —   | P   | P  | P   |
|                              |                | Media Production                                                    | —                | —   | P   | P   | P   | P  | P   |
| Heavy Manufacturing          | 3.11.2         | All heavy manufacturing activities, except as listed below          | —                | —   | —   | —   | —   | —  | SUP |
|                              |                | Metal Products Fabrication, Machine or Welding Shop                 | —                | —   | SUP | SUP | P   | —  | P   |
| Storage and Disposal         | 3.11.3         | All storage and disposal uses, except as listed below               | —                | —   | —   | —   | SUP | —  | P   |
|                              |                | Chemical Storage Facility                                           | —                | —   | —   | —   | —   | —  | P   |
|                              |                | Solid Waste Disposal Facilities                                     | —                | —   | —   | —   | —   | —  | PS  |
|                              |                | Junkyard / Salvage Yard                                             | —                | —   | —   | —   | —   | —  | SUP |
| Wholesaling and Distribution | 3.11.4         | All wholesaling and distribution activities, except as listed below | —                | —   | —   | —   | P   | —  | P   |
|                              |                | Equipment Rental                                                    | —                | —   | —   | —   | P   | —  | P   |
|                              |                | Indoor Vehicle/Heavy Equipment Sales                                | —                | —   | PS  | PS  | PS  | —  | PS  |
|                              |                | Outdoor Vehicle/Heavy Equipment Sales                               | —                | —   | —   | —   | PS  | —  | PS  |
| Extractive Industries        | 3.11.5         | All extractive industries, except as listed below                   | —                | —   | —   | —   | —   | —  | P   |
|                              |                | Extractive industries involving blasting                            | —                | —   | —   | —   | —   | —  | SUP |
| Infrastructure               |                |                                                                     |                  |     |     |     |     |    |     |
| Utilities                    | 3.12.1         | Utilities—Class 1                                                   | P                | P   | P   | P   | P   | P  | P   |
|                              |                | Utilities—Class 2                                                   | P                | P   | P   | P   | P   | P  | P   |
|                              |                | Utilities—Class 3                                                   | —                | —   | —   | —   | —   | —  | P   |
| Telecommunications           | 3.12.2         | All wireless telecommunication facilities, except as listed below   | PS               | PS  | PS  | PS  | PS  | PS | PS  |
|                              |                | Wireless Telecommunication Facility—Tower                           | —                | —   | —   | —   | SUP | —  | PS  |
| Transportation               | 3.12.3         | Parking Lot                                                         | SUP              | PS  | PS  | PS  | PS  | PS | PS  |
|                              |                | Passenger Vehicle Terminals                                         | —                | —   | P   | P   | P   | —  | P   |
| Accessory                    |                |                                                                     |                  |     |     |     |     |    |     |
| Residential Accessory        | 3.13.1         | All residential accessory uses, except as listed below              | PS               | PS  | PS  | PS  | PS  | PS | PS  |
|                              |                | Day Care Home                                                       | PS               | PS  | PS  | PS  | PS  | PS | —   |
|                              |                | Dwelling—Accessory Unit (ADU)                                       | PS               | PS  | PS  | PS  | PS  | PS | —   |



**TABLE 2.2A: LAND USE MATRIX**

| CATEGORY                                                                                                           | SECTION<br>(a) | USE                                                            | ZONING DISTRICTS |     |     |     |     |     |    |
|--------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------------------------------------|------------------|-----|-----|-----|-----|-----|----|
|                                                                                                                    |                |                                                                | GR               | RMX | NMX | DMX | CMX | IC  | GI |
|                                                                                                                    |                | Home Occupation                                                | PS               | PS  | P   | P   | P   | P   | —  |
|                                                                                                                    |                | Keeping Bees                                                   | PS               | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Keeping Domestic Fowl (Chickens)                               | PS               | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Swimming Pool or Pond                                          | PS               | PS  | PS  | PS  | PS  | PS  | —  |
| Non-Residential<br>Accessory                                                                                       | 3.13.2         | All non-residential accessory uses,<br>except as listed below  | —                | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Accessory Retail                                               | —                | —   | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Drive-Thrus                                                    | —                | —   | SUP | —   | PS  | —   | —  |
|                                                                                                                    |                | Mobile Food Vendor Site                                        | —                | SUP | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Recycling - Small Collection                                   | —                | —   | —   | —   | SUP | SUP | P  |
|                                                                                                                    |                | Rooftop Amenity Space                                          | —                | —   | SUP | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Taproom / Tasting Room                                         | —                | —   | SUP | P   | P   | —   | P  |
| Temporary                                                                                                          |                |                                                                |                  |     |     |     |     |     |    |
| Events and Structures                                                                                              | 3.14.1         | All temporary events and structures,<br>except as listed below | PS               | PS  | PS  | PS  | PS  | PS  | PS |
|                                                                                                                    |                | Carnivals or Circus                                            | —                | —   | —   | —   | PS  | PS  | PS |
|                                                                                                                    |                | Farmers Market                                                 | —                | —   | PS  | PS  | PS  | PS  | —  |
| Vendors                                                                                                            | 3.14.2         | All temporary vendors, except as<br>listed below               | —                | —   | PS  | PS  | PS  | —   | —  |
|                                                                                                                    |                | Vending Pushcarts                                              | —                | —   | —   | PS  | —   | —   | —  |
| (a) This column refers to the section of this ordinance that contains the use definition and additional standards. |                |                                                                |                  |     |     |     |     |     |    |

## 2.3. Principal structures.

- A. No development shall contain more than one principal building per lot, unless:
  1. As part of an approved group development;
  2. As part of a conditional zoning district;
  3. As part of an approved special use permit; or
  4. As part of a pre-existing nonconforming use.
- B. A multi-unit structure, such as duplexes, townhomes, and mixed-use buildings, within a single lot will be treated as a single primary structure for the purposes of compliance with the dimensional standards of this ordinance.
- C. For separate lots within a zero-lot line development, such as those for some types of townhomes and mixed-use buildings, the individual units will be considered a primary structure for each lot.
- D. The maximum ground floor area for principal structures varies by zoning district and shall be measured in accordance with the following table.



**TABLE 2.3A: GROUND FLOOR AREA**

| District                            | Maximum Ground Floor Area Each Principal Structure |
|-------------------------------------|----------------------------------------------------|
| GR4                                 | 10,000 sq. ft.                                     |
| GR8                                 | 8,000 sq. ft.                                      |
| RMX—Single-family home and duplex   | 8,000 sq. ft.                                      |
| RMX—Multi-family and nonresidential | 25,000 sq. ft.                                     |
| NMX                                 | 30,000 sq. ft.                                     |
| DMX                                 | 25,000 sq. ft.                                     |
| CMX                                 | 75,000 sq. ft.                                     |
| IC                                  | 100,000 sq. ft.                                    |
| GI                                  | 100,000 sq. ft.                                    |

*Note: Projects of developments that do not meet the above standards apply for conditional zoning in accordance with Section 2.1.C.*

## 2.4. Group development.

### 2.4.1. General group development requirements.

#### A. **Applicability:**

- Group development review is applicable to any land development subject to a site plan that includes 2 or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future).
- Other individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

#### B. **Group development matrix:** The following matrix sets forth the manner by which certain types of group developments may be permitted within the various districts.

- "P" denotes those group development types that are permitted "by right."
- "—" denotes those group development types that are not permitted within the given district.
- "PS" denotes those group development types that are permitted with additional standards, which are set forth herein.
- "MHD" denotes those group development types that are permitted within a Manufactured Housing Overlay District.

**TABLE 2.4A: GROUP DEVELOPMENT TYPOLOGY MATRIX**

| CATEGORY           | GROUP DEVELOPMENT                                          | ZONING DISTRICTS |     |     |     |     |    |    |
|--------------------|------------------------------------------------------------|------------------|-----|-----|-----|-----|----|----|
|                    |                                                            | GR               | RMX | NMX | DMX | CMX | IC | GI |
| <b>Residential</b> | All residential group developments, except as listed below | PS               | PS  | PS  | PS  | PS  | PS | —  |
|                    | Cluster Home Development                                   | PS               | PS  | PS  | —   | —   | PS | —  |
|                    | Neighborhood Development                                   | PS               | PS  | —   | —   | —   | —  | —  |



**TABLE 2.4A: GROUP DEVELOPMENT TYPOLOGY MATRIX**

| CATEGORY        | GROUP DEVELOPMENT                                                           | ZONING DISTRICTS |     |     |     |     |     |     |
|-----------------|-----------------------------------------------------------------------------|------------------|-----|-----|-----|-----|-----|-----|
|                 |                                                                             | GR               | RMX | NMX | DMX | CMX | IC  | GI  |
|                 | Manufactured Home Park                                                      | MHD              | MHD | MHD | MHD | MHD | MHD | MHD |
| Non-Residential | All non-residential or mixed-use group developments, except as listed below | —                | PS  | PS  | PS  | PS  | PS  | PS  |
|                 | Shopping Centers                                                            | —                | —   | PS  | PS  | PS  | —   | —   |

**C. Submittal requirements:**

- Each application for a group development shall be accompanied by development plans as required by CHAPTER 17 that show compliance with all applicable regulations, including but not limited to landscaping, parking, stormwater management, and infrastructure improvements.

**D. Use limitations:**

- Unless otherwise provided by this section for a specific type, group developments must comply with the use matrix. No other uses may be permitted.
- The following uses are not permitted in group developments, unless explicitly allowed by this section:
  - Dwelling - Single-family
  - Dwelling - Duplex
  - Manufactured Home

**E. Connectivity and circulation:**

- The group development shall accommodate safe, efficient, and convenient vehicular, pedestrian, and bicycle circulation throughout the development.
- All principal structures within a group development shall be connected by a sidewalk.

**F. Street access:**

- Any building established as a part of a group development project, which cannot properly be served by emergency or service vehicles from an existing abutting street, shall be made accessible to such vehicles by a publicly-accessible road.
  - Typically, a building cannot be properly served if it is not within 500 feet of a fire hydrant, 150 feet from a publicly accessible road, or otherwise deemed unacceptable by the Technical Review Committee. Exceptions and/or alternatives to these minimum requirements may be considered by the Technical Review Committee.
- All interior roads shall be paved to City standards with a minimum width of 20 feet and adequately maintained for emergency or service vehicle access.

**G. Building separation:**

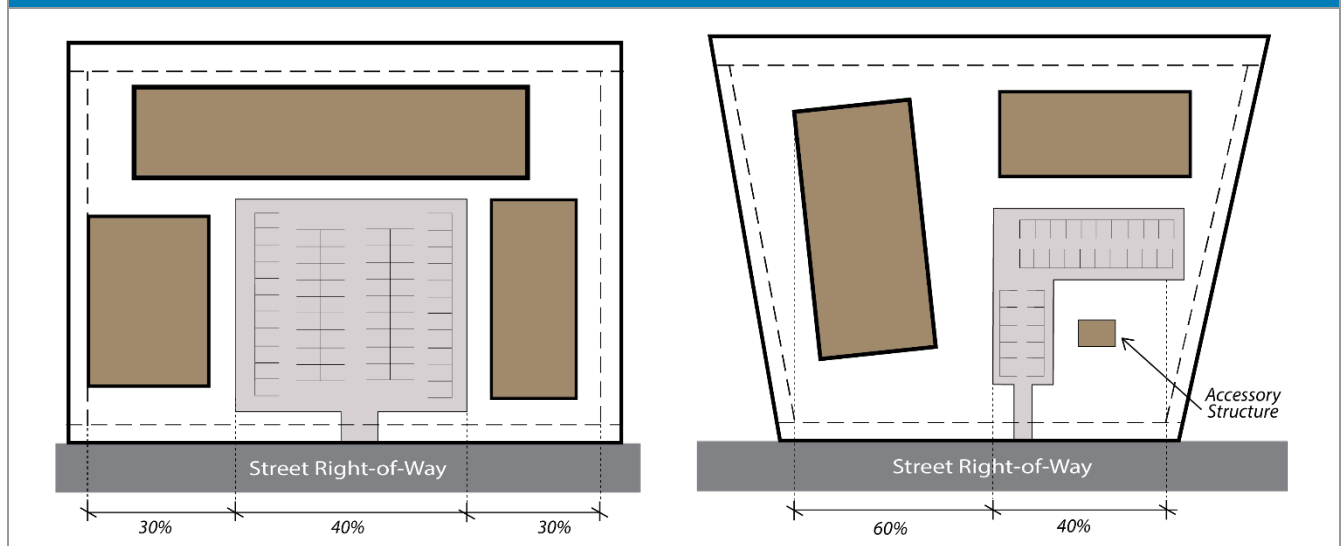
- All buildings established as part of a group development project shall be separated in accordance with North Carolina Building Code separation requirements.

**H. Parking:**

- The location of off-street parking may be permitted between a principal structure and the street within a group development. In such instances, no more than 40% of the street frontage, minus any required setback distances, shall be occupied by parking areas. Additional buffers and landscaping may be required to obscure parking adjacent to the street.



**FIGURE 2.4.1-A: ILLUSTRATIVE DIAGRAMS OF PARKING LOCATIONS IN A GROUP DEVELOPMENT**



**I. Setbacks:**

1. Unless otherwise provided by this section, each group development project shall comply with the setback requirements established for the zoning districts in Section 2.7.

**J. Ownership:**

1. When a group development is designed with individual lots with shared stewardship of the common areas, the following additional standards shall be met:
  - a. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final zoning inspection approval.
2. When a group development is designed as a multi-dwelling, multi-tenant or mixed-use development under single ownership, subject to the use limitations herein, the following additional standards shall be met:
  - a. If at any point in the future the owner intends to transfer individual lots into separate ownership, a plat meeting all requirements of this ordinance shall be submitted to Planning staff for review and approval. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final plat approval.

## 2.4.2. Cluster home development.

**A. Purpose:** A cluster home development allows for small lot residential development in a manner that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained in shared stewardship by residents.

**B. Applicability:**

1. Cluster home development may take one of the following forms:
  - a. A development may be designed with individual lots with shared stewardship of the common areas.



b. A development may be designed as a multi-dwelling development, subject to the use limitations below.

2. Cluster home development shall comply with the group development standards established herein and the following standards.

**C. Use Limitations:**

1. The following housing types are permitted in a cluster home development:

- a. Dwelling - Single-family
- b. Dwelling - Duplex
- c. Dwelling – Multifamily 3-4 units/building
- d. Dwelling – Townhome

2. Accessory dwelling units are prohibited within a cluster home development.

**D. Density and buildings:**

1. The maximum allowable density of a cluster home development shall be equal to 50% greater than the underlying base zoning district.
2. Cluster home developments shall have a minimum of three detached residential buildings.
3. All principal buildings within the cluster home development shall front on a street or a common open space.
4. Each principal building within the cluster home development is permitted one accessory structure less than 120 SF.
5. A maximum of two accessory structures shall be allowed within a cluster home development project for shared use. This includes any shared community buildings, storage sheds, etc. The maximum ground floor area for accessory structures shall not exceed 50% of the aggregate ground floor area of the principal structures. Gazebos and other structures that are amenities within the common areas are exempt.

**E. Setbacks:**

1. Individual lots or building sites within the cluster home development are exempt from the base zoning district setback requirements. However, the base zoning district setbacks apply to the cluster home development parcel.
2. Dwelling units oriented towards a common open space area shall provide a six feet minimum setback from the common area. Such setback does not count toward any required common area.

**F. Common open space:** Common open space areas shall meet the following standards:

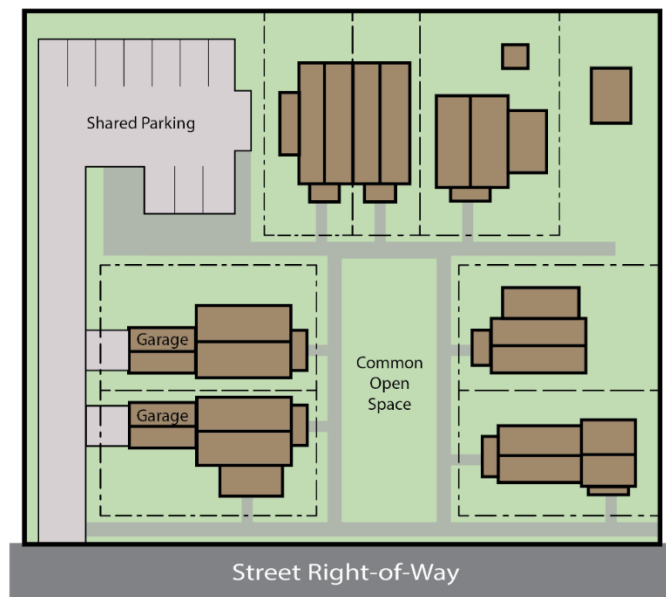
1. The common open space shall include a central green, lawn or garden areas, playground, plaza, or other greenspace / feature as a central focal point.
2. The minimum size of the common open space area is 3,000 square feet or 500 square feet per dwelling unit, whichever is greater. This requirement shall replace any open space required in accordance with CHAPTER 7.
3. The common open space area shall maintain a minimum width of 30 feet, shall be contiguous and centrally located, and shall front on a public street.
4. A maximum of 30% of the common open space may be hardscape.

**G. Parking:** In addition to the parking standards in CHAPTER 10, parking for a cluster home development shall meet the following standards:



1. Required off-street parking may be provided on individual development sites within the cluster home development or in a shared parking area serving multiple dwellings on site.
2. Parking shall not be located:
  - a. between principal structures,
  - b. between principal structures and the street,
  - c. between principal structures and the required common area, or
  - d. within any required common area.

**FIGURE 2.4.2-A: CLUSTER HOME DEVELOPMENT DIAGRAM**



### 2.4.3. Neighborhood development.

#### A. **Applicability:**

1. Neighborhood development standards shall apply to a predominately residential group development designed as individual lots with shared stewardship of common areas and infrastructure.
2. These standards shall apply to any project with 8 or more lots and/or shared infrastructure.
3. Neighborhood development shall comply with the group development standards established herein and the following standards.

#### B. **Use limitations:**

1. Neighborhood development shall be predominately residential, subject to the use matrix in Section 2.2.

#### C. **Street access:**

1. All lots intended for development are required to front on a road in accordance with the lot requirements of Section 4.2.





2. Roads and driveways shall meet the requirements of CHAPTER 13. If the roads are to be dedicated to the City of Brevard for maintenance, they shall be built in compliance with public road standards.

**D. *Density and buildings:***

1. The maximum allowable density of a neighborhood development shall be equal to the underlying base zoning district.

**E. *Setbacks:***

1. All lots established as part of a neighborhood development shall comply with the setback requirements of the base zoning district.

**F. *Parking:*** In addition to the parking standards in CHAPTER 10, parking for a neighborhood development shall meet the following standards:

1. Required off-street parking may be provided on individual development sites within the neighborhood development or in a shared parking area serving multiple dwellings on site.

#### **2.4.4. Manufactured home park.**

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**A. *Applicability:***

1. Manufactured home park standards shall apply to a residential group development with three or more manufactured homes or manufactured home spaces designed as a cohesive whole and maintained either by a single entity or in shared stewardship by residents.
2. Manufactured home park may take one of the following forms:
  - a. A development may be designed with individual lots with shared stewardship of the common areas.
  - b. A development may be designed as a multi-dwelling development, subject to the use limitations below.
3. Manufactured home parks shall comply with the group development standards established herein and the following standards.

**B. *Use limitations:***

1. The following housing types are permitted in a manufactured home park:
  - a. Manufactured home.
2. Accessory dwelling units are prohibited within a manufactured home park.

**C. *Density and buildings:***

1. The maximum allowable density of a manufactured home park shall be equal to 50% greater than the underlying base zoning district.
2. All principal buildings within the manufactured home park shall front on a street or interior road.
3. Each principal building within the manufactured home park is permitted one accessory structure less than 120 SF.
4. A maximum of two accessory structures shall be allowed within a manufactured home park for shared use. This includes any shared community buildings, storage sheds, etc. The maximum ground floor area for accessory structures shall not exceed 50% of the aggregate ground floor area of the principal structures. Gazebos and other structures that are amenities within the common areas are exempt.

**D. *Setbacks:***



1. Individual lots or manufactured home sites within the manufactured home park group development are exempt from the base zoning district setback requirements. However, the base zoning district setbacks apply to the manufactured home park parcel.
- E. **Parking:** In addition to the parking standards in CHAPTER 10, parking for a manufactured home park shall meet the following standards:
1. Required off-street parking may be provided on individual development sites within the manufactured home park or in a shared parking area serving multiple dwellings on site.
  2. Parking shall not be located:
    - a. between principal structures,
    - b. between principal structures and the street,
    - c. between principal structures and the required common area, or
    - d. within any required common area.

#### 2.4.5. Shopping centers.

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A. **Applicability:**

1. Shopping center regulations shall apply to large-scale non-residential or mixed-use group development with at least 2 commercial, recreational and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.
2. Shopping centers may be designed as multi-tenant commercial buildings, zero-lot line development of attached structure(s); as individual parcels with shared stewardship of the common areas; or a combination thereof.
3. Shopping centers shall comply with the group development standards established herein and the following standards.

B. **Use Limitations:**

1. The shopping center may contain uses permitted by the applicable zoning district.

C. **Setbacks:**

1. Individual lots or building sites within the shopping center group development are exempt from the base zoning district setback requirements. However, the base zoning setbacks apply to the shopping center parcel.

#### 2.5. Accessory structures.

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- A. **Principal buildings required.** The construction of an accessory structure or building is not permitted unless a principal building is located on the lot, except as set forth below or as otherwise provided in this ordinance. Accessory structures shall be incidental and subordinate to the principal structure(s). Accessory and principal buildings may be constructed concurrently.

1. Accessory structures utilized for agricultural purposes in association with bona-fide agricultural operations may be permitted in the absence of a principal structure.
2. Garden sheds may be permitted in the absence of a principal structure subject to the following requirements:
  - a. Garden sheds shall be no larger than 120 square feet in size;
  - b. Garden sheds shall be single-story;



- c. Garden shed shall not be connected to water, sewer, or electricity; and
- d. Garden sheds shall be utilized only for the storage of lawn equipment, garden utensils, and other implements necessary for the maintenance of gardens and grounds.

**B. Dimensional requirements.**

1. Accessory structures shall meet the yard and setback requirements of Section 2.7.
2. Accessory structures shall not exceed two stories in height.

**C. Accessory structures on lots with single-family dwellings and duplexes.**

1. Maximum number permitted. No more than two accessory structures shall be permitted per lot. Beehives and chicken coops shall not count toward the maximum number of accessory structures on a lot.
2. Accessory structures shall be located only in the side or rear yards, except for gazebos, private garages, and carports. Such structures shall comply with the front yard setbacks for primary structures in Section 2.7.2. The administrator shall make a determination as to the side or rear yard for accessory structures proposed to be located on lots fronting more than one street.
3. Under no circumstances shall the use of a shipping container be permitted for the purpose of providing permanent storage as an accessory use.

**D. Accessory structures on lots with non-residential uses, multi-family uses, and group developments.**

1. Maximum number permitted. No more than two accessory structures shall be permitted per lot, except in General Industrial (GI). In all other zoning districts, additional structures shall be considered as principal structures in a group development.
2. Accessory structures shall be located only in side or rear yards except for bona-fide agricultural enterprises.
3. Accessory structures shall comply with the applicable landscaping requirements of CHAPTER 8 of this ordinance.
4. Accessory structures shall be clad in materials similar in appearance to the principal structure in accordance with CHAPTER 5, except when such material is non-conforming with this ordinance.

**E. Exempt structures.**

1. Structures including but not limited to mailboxes, newspaper boxes, birdhouses, flagpoles, pump covers, garden boxes and planters, doghouses, and any other similar small or ornamental structures shall not be considered principal or accessory structures and shall not require a permit.

## 2.6. Density and dimensional requirements.

### 2.6.1. Density.

- A. Maximum density of dwelling units.** The maximum allowable dwelling unit density varies based on the zoning district.

| TABLE 2.6.1-A: MAXIMUM DWELLING UNIT (DU) DENSITY |                 |
|---------------------------------------------------|-----------------|
| District                                          | Maximum Density |
| GR-4                                              | 4 du/acre       |
| GR-8                                              | 8 du/acre       |
| RMX                                               | 15 du/acre      |



| TABLE 2.6.1-A: MAXIMUM DWELLING UNIT (DU) DENSITY                                                                                 |                  |
|-----------------------------------------------------------------------------------------------------------------------------------|------------------|
| District                                                                                                                          | Maximum Density  |
| NMX                                                                                                                               | 25 du/acre       |
| DMX                                                                                                                               | None             |
| CMX                                                                                                                               | 40 du/acre       |
| IC                                                                                                                                | 15 du/acre       |
| GI                                                                                                                                | DU not permitted |
| Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C. |                  |

## 2.6.2. Building height.

A. **Maximum building height.** The maximum building height for a structure varies based on the zoning district.

| TABLE 5.18A: MAXIMUM HEIGHT BY RIGHT                                                                                              |                 |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------|
| District                                                                                                                          | Height By Right |
| GR (4, 8)                                                                                                                         | 35 feet         |
| RMX                                                                                                                               | 35 feet         |
| NMX                                                                                                                               | 35 feet         |
| DMX                                                                                                                               | 50 feet         |
| CMX                                                                                                                               | 50 feet         |
| IC                                                                                                                                | 50 feet         |
| GI                                                                                                                                | 50 feet         |
| Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C. |                 |

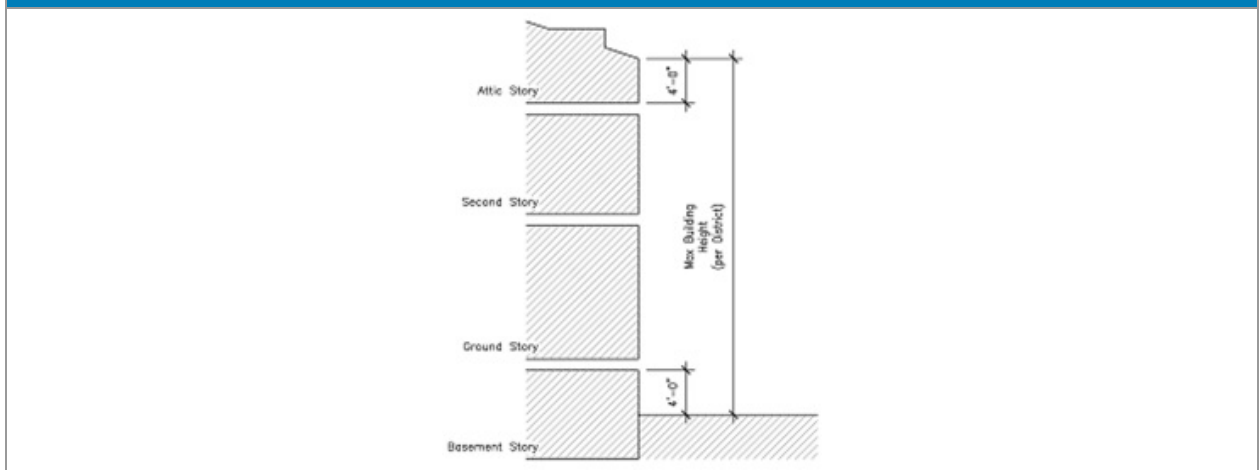
2. See the requirements for tall structures as set forth in Section 5.15.

### B. **Computation of building height.**

- "Building height" is measured as the vertical distance above a reference elevation measured to the parapet or roof line of a flat roof, the eave of a pitched roof, or the deck line of a mansard roof. The height of a terraced or stepped building is the maximum height of any segment of the building. The height limitations of this Code shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas; provided evidence from appropriate authorities is submitted to the effect that such building or structure will not interfere with any airport zones or flight patterns.
- The reference elevation shall be selected using the greater of either of the following:
  - The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten feet above the lowest grade; or,
  - An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in subsection B.1, above is more than ten feet above the lowest grade.



**FIGURE 5.18A: BUILDING HEIGHT MEASUREMENT**



3. *Items not included in calculation.* The height limitations of this section shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas; provided evidence from appropriate authorities is submitted to the effect that such building or structure will not interfere with any airport zones or flight patterns.

**C. Maximum story height.**

1. A building story shall not exceed 14 feet in height from finished floor to finished floor.
2. Basements that emerge less than four feet from grade or attics not exceeding four feet at the knee-wall shall not constitute a story.

**2.6.3. Project area by right.**

- A. **Minimum project area.** There is no minimum project size required, regardless of zoning district.
- B. **Maximum project area.** The maximum project size by right varies based on the zoning district.

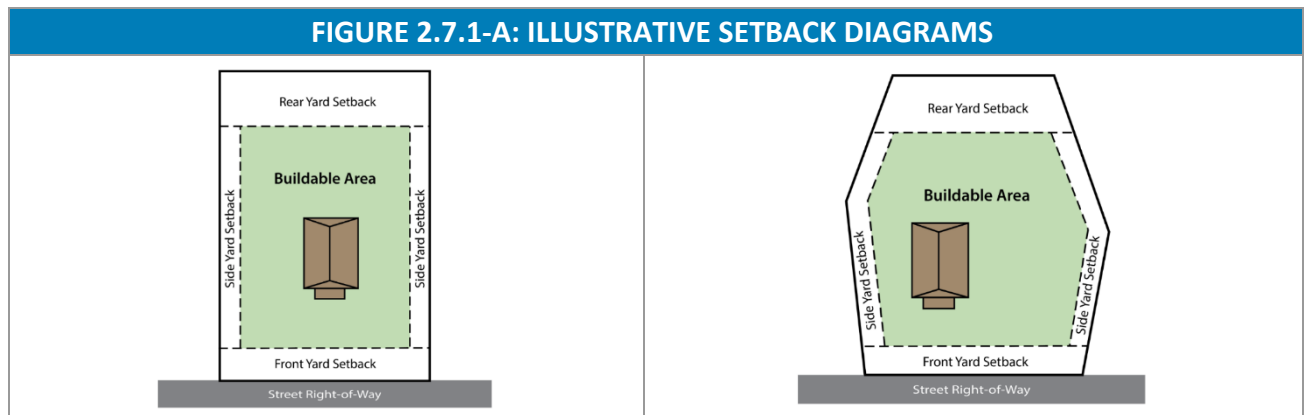
| TABLE 2.6.3-A: MAXIMUM PROJECT AREA BY RIGHT                                                                                      |                               |
|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| District                                                                                                                          | Maximum Project Area By Right |
| GR (4, 8)                                                                                                                         | 20 acres                      |
| RMX                                                                                                                               | 10 acres                      |
| NMX                                                                                                                               | 10 acres                      |
| DMX                                                                                                                               | 10 acres                      |
| CMX                                                                                                                               | 10 acres                      |
| IC                                                                                                                                | None                          |
| GI                                                                                                                                | None                          |
| Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C. |                               |



## 2.7. Yards and setbacks.

### 2.7.1. General standards for all yards and setbacks.

- A. A building, structure, lot, or sign shall not be developed, used or occupied unless it meets the minimum setback requirements set forth herein for the use or the zoning district in which it is located, except permitted encroachments in Section 5.17.
1. Landscaping requirements set forth in CHAPTER 8 of this ordinance may supersede setbacks listed herein.
  2. No portion of any structure shall be placed upon any parcel boundary or within any public or private right-of-way or easement, unless otherwise provided for by this ordinance. This provision shall not prohibit zero lot line structures with common walls situated on one or more lot lines.
- B. **Types of setbacks:**
1. Front yard setbacks shall apply to the portion of the lot adjacent to the right-of-way. All lots are required to have a front yard.
  2. Rear yard setbacks shall apply to the portion of the lot on the opposite side of the lot from the front yard setback. All lots are required to have a rear yard.
  3. Side yard setbacks shall be the required setback from any property line other than front or rear property lines.

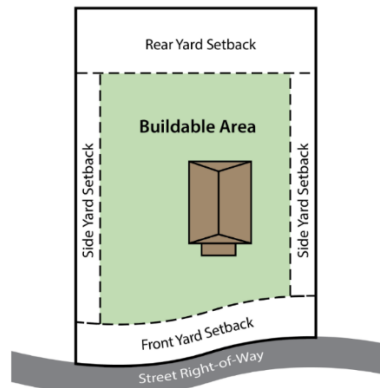


C. **Measurement of setbacks and building lines:**

1. Required yard setbacks and building lines are measured parallel to the applicable lot line or public right-of-way line.
  - a. Front yard setbacks and building lines shall be measured from the property line or the edge of the right-of-way, whichever is further from the centerline of the roadway.
  - b. Side yard and rear yard setbacks and building lines shall be measured from the property line(s).
2. When lot lines are curvilinear, setbacks and building lines shall be measured parallel to the curvilinear lot line.

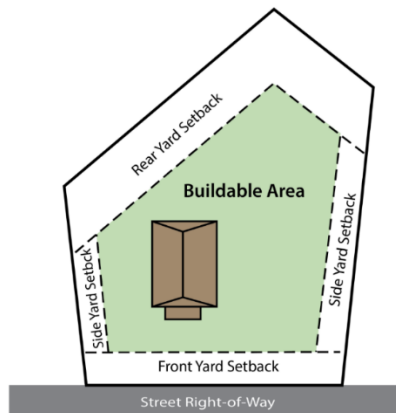


**FIGURE 2.7.1-B: SETBACKS FROM CURVILINEAR LOT LINES**



3. When there are multiple rear lot lines, the rear yard setback and building line must be measured from each of the rear lot lines.

**FIGURE 2.7.1-C: SETBACKS FROM MULTIPLE REAR LOT LINES**



#### **D. Administrative decisions for setbacks:**

1. The administrator may impose additional setbacks based upon specific guidance from the City of Brevard Comprehensive Plan, the City of Brevard Downtown Master Plan and other district or small area/master plans, the City of Brevard Comprehensive Pedestrian Plan, the City of Brevard Street Schedule, or other plans or policies of the city.
  - a. For private streets, a right-of-way in accordance with [CHAPTER 13](#) shall be assumed by the administrator.
  - b. When determining the edge of the right-of-way, the administrator shall account for existing or proposed additional automobile, bicycle, or pedestrian travel lanes, turn lanes, roundabouts, on-street parking, and other improvements that deviate from a standard street cross-section.
2. The administrator may approve deviations from required setbacks by up to 20 percent of the required area in accordance with [CHAPTER 16](#) in order to:



- a. protect existing or proposed rights-of-way and other infrastructure improvements
- b. ensure environmental protection of sensitive and/or conservation areas, including steep slope areas
- c. account for surface water protection and/or satisfy flood damage prevention requirements
3. For non-conforming lots without street frontage, the administrator shall designate a front yard for the purposes of setback measurement.
4. The administrator may grant exceptions to the setback requirements of this ordinance for infill developments where the average setback on already-built-upon lots located wholly or in part within the same block and zoning district, and fronting on the same street as such lot, is less than the minimum required setback.
  - a. In such cases, the front and side yard setbacks on such lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots.
5. The administrator may determine that in established neighborhoods the functional rear yard is not opposite the front yard based on the peculiar shape of the parcel or the development pattern. In these cases, the administrator may determine that another line shall be considered the rear lot line for setback purposes.

### 2.7.2. Setbacks for principal structures.

- A. The minimum setback distance for principal structures varies by zoning district and shall be measured in accordance with this section.

| TABLE 2.7.2-A: SETBACKS FOR PRINCIPAL STRUCTURES |                                         |                                             |                                             |
|--------------------------------------------------|-----------------------------------------|---------------------------------------------|---------------------------------------------|
| District                                         | Front Yard Setback                      | Rear Yard Setback                           | Side Yard Setback                           |
| GR (4, 8)                                        | 15 feet                                 | 25 feet                                     | 6 feet                                      |
| RMX                                              | 10 feet                                 | 25 feet                                     | 6 feet                                      |
| NMX                                              | Edge of right-of-way                    | 10 feet                                     | 0 feet / 10 feet from residential district  |
| DMX                                              | Edge of right-of-way                    | 0 feet                                      | 0 feet                                      |
| CMX                                              | 10 feet                                 | 10 feet / 25 feet from residential district | 0 feet / 10 feet from residential district  |
| IC                                               | 40 feet                                 | 40 feet                                     | 40 feet                                     |
| GI                                               | 15 feet                                 | 10 feet / 25 feet from residential district | 10 feet / 25 feet from residential district |
| CZD                                              | To be determined by approving authority |                                             |                                             |

### 2.7.3. Setbacks for accessory structures.

- A. Setbacks for accessory structures vary based on the size of the structure and the zoning district.

| TABLE 2.7.3-A: SETBACKS FOR ACCESSORY STRUCTURES |                   |               |                   |               |
|--------------------------------------------------|-------------------|---------------|-------------------|---------------|
| District                                         | Side Yard Setback |               | Rear Yard Setback |               |
|                                                  | < 120 sq. ft.     | ≥ 120 sq. ft. | < 120 sq. ft.     | ≥ 120 sq. ft. |
| GR (4, 8)                                        | 3 feet            | 6 feet        | 3 feet            | 10 feet       |
| RMX                                              | 0 feet            | 3 feet        | 0 feet            | 3 feet        |
| NMX                                              | 0 feet            | 3 feet        | 0 feet            | 3 feet        |





**TABLE 2.7.3-A: SETBACKS FOR ACCESSORY STRUCTURES**

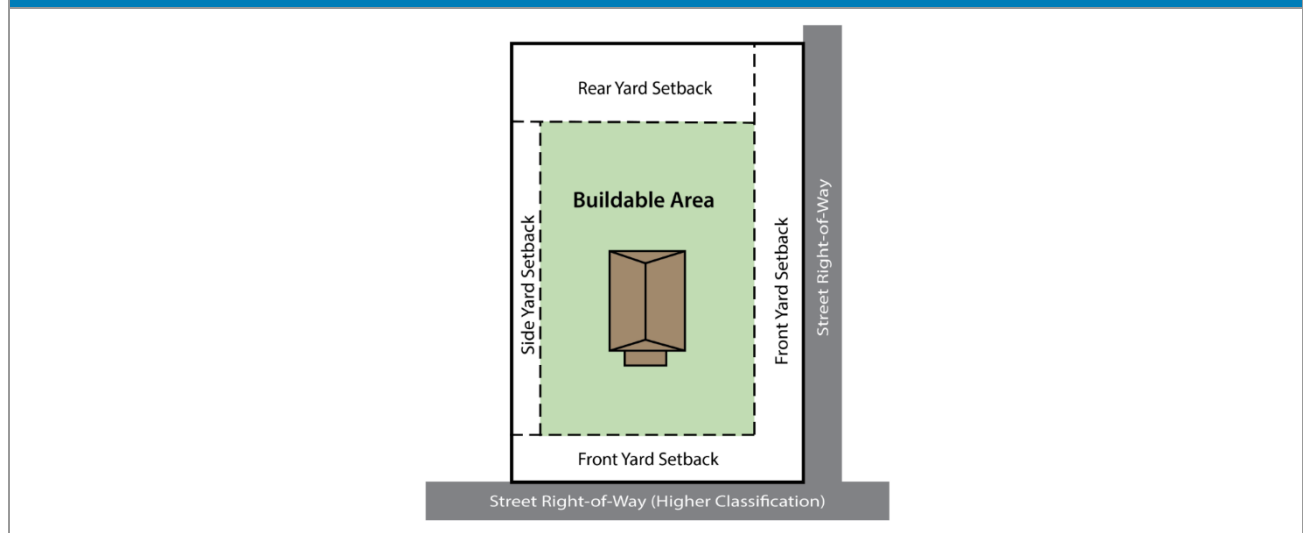
| District | Side Yard Setback                         |                                           | Rear Yard Setback                         |                                           |
|----------|-------------------------------------------|-------------------------------------------|-------------------------------------------|-------------------------------------------|
|          | < 120 sq. ft.                             | ≥ 120 sq. ft.                             | < 120 sq. ft.                             | ≥ 120 sq. ft.                             |
| DMX      | 0 feet                                    | 0 feet                                    | 0 feet                                    | 0 feet                                    |
| CMX      | 0 feet                                    | 0 feet                                    | 0 feet                                    | 0 feet                                    |
| IC       | 40 feet along all external boundaries     |                                           |                                           |                                           |
| GI       | 10 feet/25 feet from residential district | 10 feet/25 feet from residential district | 10 feet/25 feet from residential district | 10 feet/25 feet from residential district |
| CZD      | To be determined by approving authority   |                                           |                                           |                                           |

- B. Accessory structures to residential uses located within 6 feet of the principal structure are considered to be attached for the purpose of setbacks, and shall comply with the setback requirements of the principal structure.

#### 2.7.4. Setbacks for corner lots and multi-frontage lots setbacks.

- A. Any structure on any lot that fronts on more than one street shall comply with the minimum front yard setback requirement for each street upon which the lot fronts.
- B. Alleys, rear lanes, and commercial service lanes are not classified as streets for the purpose of determining corner or multi-frontage lot setbacks.
- C. The rear yard shall be determined as the portion of the lot on the opposite side of the lot from the front yard on the street with the higher classification.

**FIGURE 2.7.4-A: SETBACKS FROM MULTI-FRONTAGE LOTS**

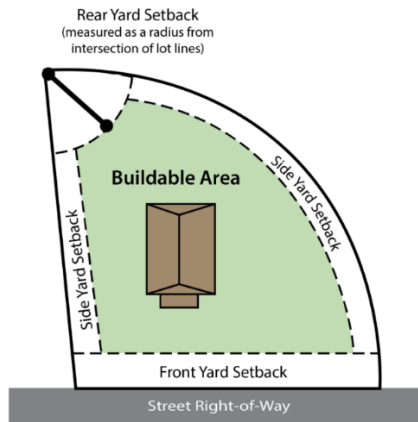


#### 2.7.5. Setbacks for triangle lots and other lots without a rear lot line.

- A. On properties where there is no rear lot line, the rear setback shall be measured as a radial distance from the intersection of side lot lines at the rear of the lot.



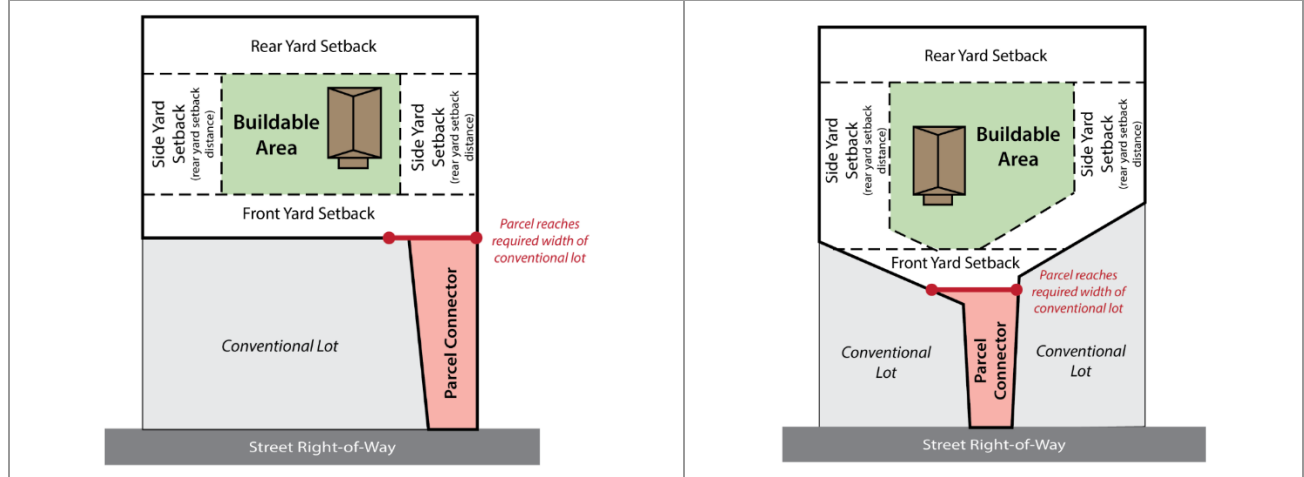
**FIGURE 2.7.5-A: SETBACKS FROM LOTS WITH NO REAR LOT LINE**



### 2.7.6. Setbacks for irregular lots.

- A. The location of required front, side and rear yards on irregularly shaped lots shall be determined by the administrator. This determination shall be based on the spirit and intent of this ordinance to continue the appropriate spacing and location of buildings and structures on individual lots.
- B. For irregular lots, the Zoning Administrator will determine the termination of the “parcel connector” based on the definition and will measure front yard setbacks from that point.
- C. All other setback distances (rear and side yards) shall be equal to the minimum rear yard setback for the district, unless:
  1. A newly-created irregular lot would convert an existing conforming secondary or accessory dwelling unit to a principal single-family structure. In this case, the setbacks for the principal structure may equal that of an accessory structure of that size in the zoning district.

**FIGURE 2.7.6-A: SETBACKS FROM IRREGULAR LOTS**

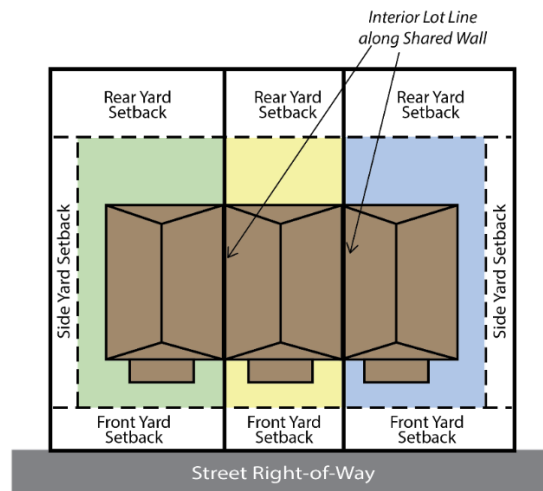




### 2.7.7. Setbacks for zero-lot line developments.

- A. Zero-lot line developments using shared firewalls or other type of separation as prescribed by NC Building Code are permitted with no setback requirements along the interior lot line, subject to other requirements as set forth in this ordinance.

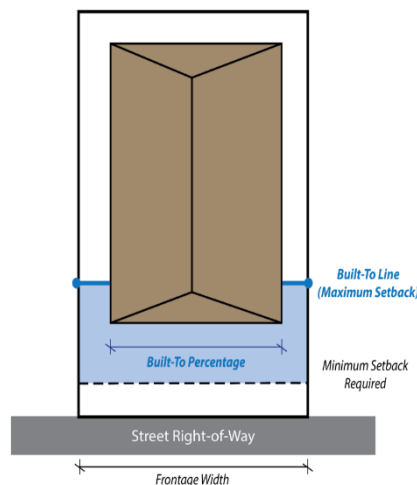
**FIGURE 2.7.7-A. ZERO LOT LINE DEVELOPMENT SETBACKS**



### 2.7.8. Lots within the Downtown Development Overlay District.

- A. 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.
- B. The build-to percentage may be reduced to 50 percent if the new building includes a public courtyard or plaza space.

**FIGURE 2.7.8-A: BUILD-TO LINE AND BUILD-TO PERCENTAGE**





## 2.8. Fences and walls.

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- A. All fences and walls shall be constructed so that the best face faces outward from the parcel upon which it is constructed and towards adjacent properties. The "best face" shall generally mean the side opposite to framing members.
- B. Fences and walls shall not be placed within public utility easements or public right-of-way without first securing an encroachment agreement from the City of Brevard, the North Carolina Department of Transportation, or other appropriate entity.
- C. Fence or wall height shall be measured from the side of the fence or wall that is exterior to the property as the vertical distance between the lowest adjacent ground level, natural or filled, and the top of the fence material. Fence heights are restricted as follows:
  - 1. In industrial districts, and public safety and other critical facilities. Fences or walls shall be no greater than six feet in height in the front yard(s) and no greater than eight feet in height in the side and rear yards.
  - 2. All other districts and uses. Fences or walls shall be no greater than four feet in height in the front yard(s) and no more than eight feet in the side and rear yards.
  - 3. No closed fence or wall shall be greater than two-and-a-half feet in height when placed within the sight triangle of any intersection as specified in Section 9.5 of this ordinance. Open fences are exempt from this provision.
- D. Fence and wall materials shall conform to the following requirements:
  - 1. *Residential districts:*
    - a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, except that chain link or woven wire may be used in the side and rear yards.
    - b. All other wire fences, including barbed wire or concertina wire, are prohibited.
    - c. Nothing in this chapter shall prevent the administrator from approving architecturally variant uses of material to allow creative fence design, such as the contemporary look of heavy-gauged welded wire panels framed in timber.
    - d. The use of plastic plumbing pipe is a prohibited fence material.
  - 2. *Commercial districts:*
    - a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability.
    - b. Chain link wire fences may be used as secure enclosures internal to the property or site subject to the following requirements:
      - i. Chain link fences shall not be visible from a public right-of-way,
      - ii. Chain link fences shall not serve as a perimeter fence or property line fence unless buffered by a type A buffer yard on all sides, and then only in the side or rear yard behind the front building line.
    - c. All other wire fences, including barbed wire or concertina wire, are prohibited.
    - d. All walls and fences shall be materially similar to other walls and fences in the same block or general vicinity.
  - 3. *Industrial districts, public safety facilities, and other critical facilities:*



- a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, and shall be materially similar to other walls and fences on the same block or general vicinity.
- b. Vinyl coated, chain link fencing may be approved by the administrator as perimeter fencing with additional filtering through openings using opaque or semi opaque slats or screening or by installing a type A landscaping buffer between incompatible uses, between different zoning districts or where visible from a public street.
4. *Barbed wire*: Barbed wire may be permitted within bona-fide agricultural operations within any zoning district.
- E. Retaining walls shall also conform to the following requirements:
  1. Retaining walls should minimize the impacts of cut and fill on a site.
  2. The height of any retaining wall should not exceed five feet unless required to be higher for engineering reasons.
    - a. An increase in retaining wall height may be allowed if the proposed design minimizes the cut and fill impacts and enhances the existing landscape.
  3. In areas where cuts are steeper, a stepped or terraced wall should be used. Large, unbroken retaining walls in a uniform plane should be avoided.

## CHAPTER 3. USE DEFINITIONS AND STANDARDS

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### 3.5. Residential uses.

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#### 3.5.1. Household living use category.

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##### A. *Household living.*

1. Definition: Residential occupancy of a dwelling unit by a household. Household living includes the following uses:
  - a. Dwelling – Single-family;
  - b. Dwelling – Duplex;
  - c. Dwelling – Multifamily 3-4 units/building;
  - d. Dwelling – Multifamily more than 4 units/building;
  - e. Dwelling – Townhome;
  - f. Manufactured Home (single unit);
  - g. Live-Work Units; and
  - h. Mixed-Use Residential Units

##### B. *Dwelling—Single-family.*

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



**C. Dwelling—Duplex.**

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

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

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

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

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

**F. Dwelling—Townhome.**

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

**G. Manufactured home.**

1. Definition: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:
  - a. It is at least eight feet in width and 32 feet in length;
  - b. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;
  - c. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and
  - d. It does not have any wheels or axles permanently attached to its body or frame.
2. Additional Standards:
  - a. This definition does not include recreational vehicles (RV), park model RVs, and other structures that are not constructed to the United States Department of Housing and Urban Development Standards or to North Carolina Building Code.
  - i. 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, 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.
  - b. Manufactured homes are permitted with standards in the Manufactured Home Overlay District.
  - c. Dwelling units built to, or utilizing any of, the following as primary construction standards are NOT considered manufactured homes suitable for use as permanent dwelling units: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5.

**H. Live-work unit.**



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

**I. *Mixed-use residential unit.***

1. Definition: A non-residential building type that consists of both a residential use and a non-residential use that is allowed in the applicable zoning district.
2. Additional Standards:
  - a. Location of residential unit:
    - i. In the Downtown Development Overlay District, the non-residential use shall be located on the ground floor with the residential unit or units above.
    - ii. In all other districts, the ground floor shall be primarily non-residential, with the residential unit or units encouraged to be above or behind the non-residential space.
  - b. Non-residential uses within a mixed-use residential unit must be listed within Section 2.2.C as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.

## 3.7. Commercial uses.

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## 3.13. Accessory uses.

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### 3.13.1. Residential accessory use category.

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**A. *Residential accessory use.***

1. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a residential or lodging principal use on the same lot.
2. Additional Standards:
  - a. Accessory uses shall be clearly incidental to the residential or lodging principal use and shall not change the essential character of the dwelling or the neighborhood.
  - b. Accessory uses shall adhere to the standards outlined in Section 2.5 and all other applicable sections.

**B. *Day care home.***

1. 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.



2. Additional Standards:

- a. 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).
- b. 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).
- c. 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.
- d. Client drop-off and pick-up areas shall be located on the site so as not to obstruct traffic flow on adjacent public streets.
- e. All day care establishments shall at all times be properly licensed by the State of North Carolina and all other appropriate governmental entities.
- f. All equipment shall be stored in the side or rear yard.
- g. 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.

**C. Dwelling— accessory unit (ADU).**

1. 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.
2. Additional Standards:
  - a. 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.
  - b. 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.
    - i. 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.
  - c. Structures for ADUs shall comply with the provisions of Section 2.5, except as provided below.
    - i. Not more than one ADU is permitted on any lot.
    - ii. An ADU shall be located in the side or rear yard unless an existing structure is being converted to an ADU.
    - iii. 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.
  - d. 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.
  - e. ADUs shall be constructed according to North Carolina Building Code.





- f. 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).

#### **D. Home occupation.**

1. 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.
2. Additional Standards:
  - a. 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.
  - b. 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.
  - c. The use shall employ no more than two persons who are not residents of the dwelling.
  - d. There shall be no business signage or visible display of stock in trade which is sold on the premises.
  - e. 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.
  - f. The existence and operation of the home occupation shall not be visible and/or audible to neighboring residents from a street.
  - g. Only non-commercial vehicles are permitted in connection with the conduct of the home occupation.
  - h. 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](#).
  - i. 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.
  - j. Responsibilities of the administrator and applicant(s):
    - i. 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.
    - ii. 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.



- iii. 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.
- k. Uses permitted as home occupations:
  - i. 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 Section 2.2 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.
  - ii. 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.
  - iii. 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.
- l. Duration of permit:
  - i. 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.
  - ii. Applicants may apply for renewal of home occupation permits. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.
  - iii. 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.

**E. *Keeping bees.***

- 1. Definition: The keeping of bees as an accessory use. This definition shall include any permanent or temporary structures related to beekeeping.
- 2. Additional Standards:



- a. Keeping bees shall be permitted following the standards set forth in the Brevard City Code, Section 14-9, Keeping bees.
- b. Movable frame hives may be permitted upon parcels of land where no principal structure is present.

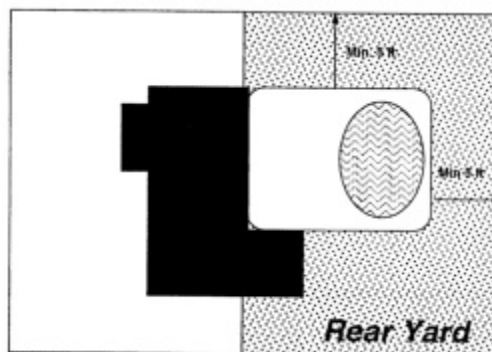
**F. Keeping domestic fowl (chickens).**

1. Definition: The keeping of geese, ducks, chickens or other domestic fowl as an accessory use. This definition shall include any permanent or temporary structures related to domestic fowl.
2. Additional Standards:
  - a. Keeping domestic fowl shall be permitted following the standards set forth in the Brevard City Code, Section 14-6, Keeping fowl.
  - b. Chicken coops and chicken runs, as defined in Section 14-1 of Brevard City Code, may be permitted upon parcels of land where no principal structure is present, subject to the requirements set forth in Brevard City Code, CHAPTER 14, Animals and Fowl; Article I, Generally; Sections 14-1, Definitions, and 14-6, Keeping fowl.

**G. Swimming Pool or Pond.**

1. Definition: A structure, in-ground or above ground, that contains water over 18 inches deep and is typically intended for swimming or recreational bathing. The definition of a pool includes all structures, walks or patio areas of cement, stone, or wood, at or above grade, built for, and used in conjunction with the pool.
2. Additional Standards:
  - a. All pools permitted as residential accessory uses and structures, whether above-ground or in-ground, shall be built only in side or rear yards.

**FIGURE 3.13A: SWIMMING POOL OR POND PLACEMENT**



- b. Pools and related structures, walks and patio areas shall be set back a minimum of five feet from all side and rear property lines. Patio areas at grade have no setback requirements from rear and side lot lines.
- c. All pools shall be designed to prevent unsupervised access by children. Pools shall be enclosed within a secured structure or by an unclimbable privacy fence (with lockable self-latching gate) with a minimum height of four feet and a maximum of eight.



### 3.13.2. Non-residential accessory use category.

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#### A. *Non-residential accessory use.*

1. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a non-residential principal use on the same lot.
2. Additional Standards:
  - a. Accessory uses shall adhere to the standards outlined in Section 2.5 and all other applicable sections.

#### B. *Accessory retail.*

1. Definition: The on-premises, retail sale of products directly to customers, where the retail use is incidental to a primary use conducted upon the same premises. Examples include but are not limited to the following: a furniture manufacturer who operates a show floor for the display and sales of furniture produced by the manufacturer or a bicycle manufacturer who operates a floor for the display and sales of bicycles produced by the manufacturer.
2. Additional Standards:
  - a. Accessory retail uses shall be directly related to and accessory to a conforming, principal use.
  - b. Products offered for sale within accessory retail uses shall be products which are produced or processed by the associated principal use, or which are directly related to, and offered in support of, products which are produced or processed by the associated principal use. For example, a manufacturer of bicycles may operate an accessory retail use wherein bicycles, which were manufactured within the principal use, are offered for direct, on-premises retail sale. Bicycle accessories (such as tires, helmets), which were not produced by the manufacturer but which clearly relate to and support products which are produced or processed by the principal use, may also be offered for sale. However, products that do not clearly relate to and support products which are produced or processed by the principal use (such as backpacking or rock-climbing gear in the case of the bicycle manufacturer) cannot be offered for retail sale.
  - c. Accessory retail uses shall comply with all applicable standards of federal, state or local law that would otherwise apply to retail oriented principal uses. For example, parking areas serving accessory retail uses within a General Industrial zoning district shall comply with the surfacing requirements of Section 10.6.A.
  - d. Accessory retail uses are limited to an area that is equivalent to 20 percent of the gross floor area of the structure(s) containing the principal use.
  - e. Accessory retail uses shall be indoors, and shall not include the outdoor display of products or merchandise.

#### C. *Drive-thru.*

1. Definition: A facility where food and other products or services may be purchased or obtained by motorists without leaving their vehicles. Examples include drive-through fast-food restaurants, coffee, photo stores, pharmacies, bank teller windows, convenience stores, and dry-cleaning pick-up stores without dry cleaning equipment. This term does not include gas stations or other vehicle services, which are separately defined.
2. Additional Standards:
  - a. Drive-through stacking lanes, windows, and associated equipment shall not be permitted within 50 feet of a residential district or residential use.



- b. Drive-through windows and services shall be located and accessed only at the rear or side of the building and shall not be located between the principal structure and a public street. Service lanes shall not be located between the building and the street.
- c. When situated at the side of the building, windows and services shall be located at least 20 feet back from the front façade of the building.
- d. Vehicle storage for drive-through uses shall be located outside of, and physically separated from, the right-of-way of any street. This area shall not interfere with the efficient internal circulation of the site, adjacent property, or adjacent street right-of-way.
- e. Service lanes shall be a minimum of 80 feet long for a single stacking lane or 80 feet per lane when there is more than one service lane. A service lane is measured from the curb cut to the service area or the order area if an outdoor order area precedes the service area. Service lanes do not have to be linear. Stand-alone automatic teller machines shall provide stacking distance for four vehicles outside of any right-of-way, parking area, or travel lane.
- f. Drive-through service lanes shall provide a minimum of ten stacking spaces on site for restaurant and food sale uses with drive-through facilities and a minimum of six stacking spaces on site for banking, pharmacies and similar non-food-related uses with drive-through facilities. Each stacking space shall be a minimum of nine feet by 18 feet.
- g. A service lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations. A service lane is required for full-service drive-through automobile cleaning establishments.
- h. Service lanes shall be designed so that they do not interfere with parking, parking access and vehicle circulation. Crossings shall be situated so as to minimize conflicts between pedestrians and vehicles. Where service lanes are traversed by pedestrian crossing areas, such crossings shall be clearly marked. Warning signage may be required at the discretion of the administrator in the interest of pedestrian safety.
- i. All service lanes shall be clearly identified by means of striping, landscaping, curbing, and the like.
- j. Site access and egress shall be shared by the drive-through and inside customer service functions.
- k. The drive-through service lane shall first exit into other circulation lanes within the same project, and then onto a public street via the same exit curb cut as the other circulation lanes within the same project.
- l. Service lanes shall be designed for a one-way traffic pattern only.
- m. The drive-through shall be limited to a maximum of two service lanes and one additional lane for an automated teller machine (ATM).
- n. Drive-through facilities shall be screened from off-site view from adjacent properties by a Type A buffer with a minimum width of ten feet.
- o. Speaker box sounds from the drive-through lane shall not unreasonably disturb the peace and quiet of abutting residential property.
- p. A traffic impact study may be required by the approving authority.

**D. *Mobile food vendor site.***

- 1. Definition: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale consumption.
- 2. Additional Standards:



- a. Mobile food vendors shall only vend at permanent locations permitted under this section.
- b. The owner, or authorized agent thereof, of any property upon which a mobile food vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile food vendor site.
- c. Mobile food vendors using the designated site shall secure all necessary permits required by the Transylvania County Health Department.
  - i. Mobile food vendors must follow all applicable rules and requirements of the Transylvania County Health Department and any other relevant agencies of Transylvania County or the State of North Carolina.
  - ii. In the issuance of permits for mobile food vendor sites and mobile food vendors, the administrator shall have broad discretion to assign such conditions as may be necessary to protect the health, safety, and welfare of the public
- d. Number of mobile food vendor sites:
  - i. In NMX and DMX zoning districts, only 1 mobile food vendor site shall be permitted per parcel.
  - ii. In CMX, IC, and GI zoning districts, each parcel is permitted up to 3 mobile food vendor sites, so long as all other separation and site requirements as set forth in this section are met.
  - iii. Additional mobile food vendor sites may be permitted with the issuance of a special use permit in accordance with [CHAPTER 16](#).
- e. Separation requirements:
  - i. Mobile food vendors shall be situated at least 10 feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space.
    - (A) This requirement shall not apply to special events approved by the city for placement upon public streets.
  - ii. Mobile food vendors shall be situated at least 20 feet from one another.
  - iii. Mobile food vendors shall be situated at least 25 feet from any permanent structures.
    - (A) The administrator may, upon recommendation of the fire marshal, approve the placement of mobile food vendors within 25 feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and other pertinent information. Such reductions shall be reviewed on a case-by-case basis, at the discretion of the administrator.
    - (B) There shall be no reduction in separation between mobile food vendors and permanent structures within the downtown fire district.
  - iv. Mobile food vendors shall be situated at least 200 feet from any residential structure that is located within GR zoning district.
  - v. Mobile food vendors must be set back a minimum of ten feet in all directions from fire hydrants.
- f. Power.
  - i. Outside of the Heart of Brevard district, generators may be used to power the vending unit. Within the Heart of Brevard only dedicated power supplies shall be used.
  - ii. For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicles needs while in operation.





- g. Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m., except during an approved special event, when other operating hours may be established as part of the event.
- h. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.
- i. Each food truck shall supply at least one waste receptacle which must be removed at the end of each day. All waste receptacles must be emptied at the end of each day and as necessary during the day. City trash receptacles shall not be used for the food truck operator's waste.
- j. Mobile food vendor signage shall be limited to the following:
  - i. Mobile food vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.
  - ii. Nothing in this Ordinance shall be construed to mean that mobile food vendor vehicles cannot be painted or decorated, or display menus affixed to the side(s) of the vendor vehicle.

**E. *Recycling—small collection.***

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

**F. *Rooftop amenity space.***

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

**G. *Taproom or tasting room.***

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

## CHAPTER 4. LOT AND SUBDIVISION REQUIREMENTS

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### 4.1. Authority and purpose.

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- A. In accordance with NCGS Section 160D-801 and 160D-804, the purpose of this Chapter is to establish procedures and standards for the subdivision of land within the planning jurisdiction of the City of Brevard, and to provide for orderly growth in a manner that facilitates the adequate provision of streets, water, sewage disposal, and other considerations essential to public health, safety, and the general welfare.



- B. In accordance with NCGS Section 160D-803, plats shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

## 4.2. Lot requirements.

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### 4.2.1. General provisions.

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- A. **City of Brevard review:** No final plat of any subdivision (major, minor, or exempt) within the planning jurisdiction of the City of Brevard shall be filed or recorded by the Transylvania County Register of Deeds until it has been prepared, submitted to, reviewed, and approved by the appropriate authority, in accordance with this Chapter, and such approval entered in writing on the plat.
- B. **Sale of lots prohibited:** Lots shall not be offered for sale until final subdivision approval has been granted.
- C. **Conformity with ordinance required:**
1. All lots must comply with the standards of this section, except as expressly provided in this ordinance. This prohibition shall not be construed to prevent the purchase or condemnation of land for public utilities, substations, street right-of-way, pedestrian facilities, recreational facilities, stormwater management or similar public purposes.
  2. New subdivisions of land shall be designed to prevent the placement of a structure on any parcel boundary or within any street right-of-way. This provision shall not prohibit zero lot line structures with common walls situated on one or more lot lines.
- D. **Variances to lot and subdivision regulations:**
1. Unless explicit authority is granted herein, subdivision regulations shall not be varied by the Board of Adjustment nor shall the administrator grant any exceptions.
  2. When authority is granted, variances of lot and subdivision regulations shall proceed in accordance with Section 16.8 of this ordinance and all applicable North Carolina General Statutes regarding quasi-judicial proceedings for variances.

### 4.2.2. Minimum lot size.

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- A. There is no minimum lot size for any newly established lots within the City of Brevard's jurisdiction. This provision shall not exempt lots from complying with all other applicable lot requirements (i.e., street frontage) established herein and all applicable zoning standards (i.e., setbacks).
- B. However, no subdivision (exempt, minor, or major) of land shall create more lots than the underlying zoning district's residential density (e.g., a one-acre parcel with a maximum allowable density of 8 dwelling units per acre cannot be subdivided into more than 8 lots, including any residual or parent lot).
1. Additional lots may be created above this threshold, provided they are protected from any future development, such as lots reserved for the provision of open space, shared infrastructure, or conservation of environmentally sensitive areas.

### 4.2.3. Street frontage required.

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- A. All newly created parcels, lots, tracts, or other subdivisions of land, shall directly abut and have direct frontage upon a public street, except:





1. Interior lots within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites (see Section 4.2.5).
  2. Air lots (see Section 4.2.6).
  3. Environmental containment and conservation lots (see Section 4.2.7).
- B. Street frontage for conventional lots shall meet the minimum requirements set forth below at the right-of-way line:

| TABLE 4.2.2-A: STREET FRONTAGE REQUIREMENTS FOR CONVENTIONAL LOTS                                                               |                         |
|---------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| District                                                                                                                        | Minimum Street Frontage |
| GR (4, 8)                                                                                                                       | 30 feet                 |
| RMX                                                                                                                             | 30 feet                 |
| NMX                                                                                                                             | 20 feet                 |
| DMX                                                                                                                             | 0 feet                  |
| CMX                                                                                                                             | 0 feet                  |
| IC                                                                                                                              | 60 feet                 |
| GI                                                                                                                              | 60 feet                 |
| <i>Note: The dimensional requirements for irregular lots, including minimum street frontage, can be found in Section 4.2.4.</i> |                         |

- C. The following shall not be considered a public street for the purposes of satisfying street frontage requirements:
1. Access, utility, service, or other easements under the ownership, control, or maintenance of the City of Brevard, the State of North Carolina, or the United States of America;
  2. Public rights-of-way under the ownership and control of the City of Brevard, the State of North Carolina, or the United States of America, which are not open and operable as a travel lane for motorized vehicles
- D. Private streets, in lieu of public streets, may satisfy street frontage requirements if the following provisions are met:
1. The lots are not located within the corporate limits of the City of Brevard;
  2. The private street is either:
    - a. 150 linear feet or less in length may satisfy frontage requirements for up to three single-family lots;
    - b. Maintained in perpetuity by a property owner's association or development agreement.
  3. The private street consists of a drivable surface of at least 20 feet in width and remains adequately maintained to afford a reasonable means of ingress and egress of emergency vehicles.
- E. The private street is designed and built in accordance with public street standards set forth in [CHAPTER 13](#) of this ordinance. *Reserve strips:* There shall be no reserve strips or any other means of limiting the accessibility of parcels platted in any subdivision.

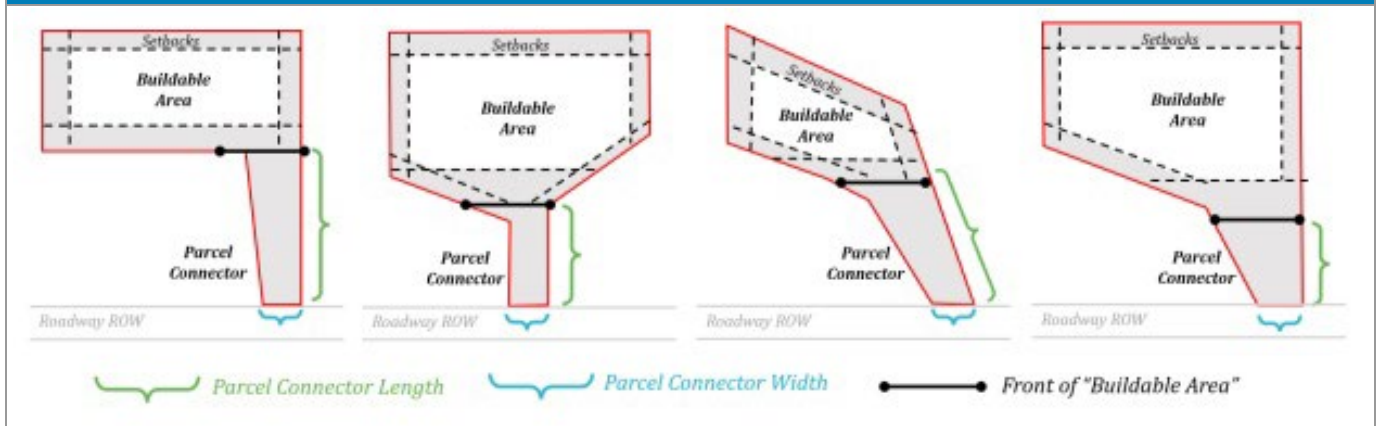
#### 4.2.4. Irregular lots.

##### A. *Applicability:*



1. Irregular lots standards apply to a lot where the functional access for ingress, egress, and utilities is provided along a long narrow strip of property ("parcel connector") and the portion of the lot where development is intended ("buildable area") is typically situated, at least in part, behind adjoining lots which front on a public street.

**FIGURE 4.2.3-A: ILLUSTRATIVE DIAGRAMS OF IRREGULAR LOTS**



2. An irregular lot shall only be permitted if necessary to allow a property owner reasonable use and benefit from their land or to alleviate situations which would otherwise cause a hardship as determined by the Zoning Administrator, including but not limited to the following:
  - a. Where necessary to eliminate access onto arterials
  - b. To reasonably utilize irregularly shaped land
  - c. To reasonably utilize land with extreme topography
  - d. To reasonably utilize land with limited sites suitable for septic tank nitrification fields
  - e. Where it is unlikely that a road created in lieu of an irregular lot would ever be extended, or otherwise needed to provide access to adjoining parcels
  - f. To provide for the protection of significant natural or cultural resources
3. Irregular lots shall not be permitted:
  - a. If the dimensional requirements or other elements of the definition are not met
  - b. If the irregular lot does not appear to have reasonable development potential
  - c. If the irregular lot is a clear circumvention of other provisions of this ordinance.

**B. Street frontage and dimensional requirements:**

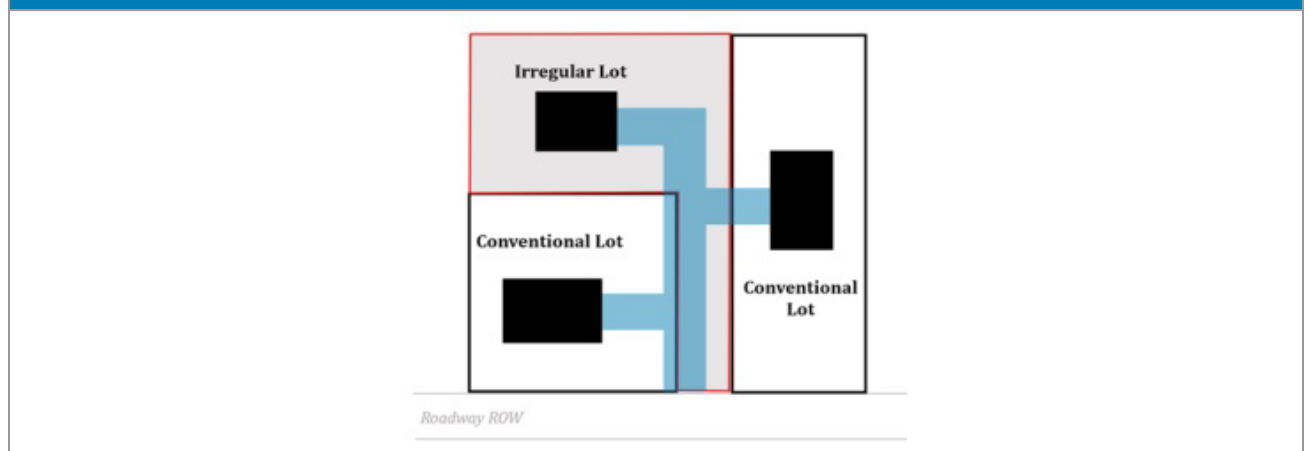
1. Irregular lots are permitted to have the reduced minimum lot width at the right-of-way line if the lot width reaches the minimum lot width for a conventional lot within the maximum allowable parcel connector length.
  - a. The width of the "parcel connector," measured along the right-of-way line, shall be no less than 20 feet and shall not exceed the minimum street frontage required for conventional lots in the zoning district (see Section 4.2.3).
  - b. The length of the "parcel connector," measured from the right-of-way until the property width reaches the minimum lot width for conventional lots in that zoning district, and shall not exceed 300 feet.



### C. *Other types of access:*

1. The administrator may grant exceptions to the requirement that the “parcel connector” provide functional access with an exclusive access easement for ingress, egress, and utilities. This easement must be at least the width of the minimum lot width for irregular lots at the right-of-way. All other requirements for irregular lots shall be fulfilled by the exclusive access easement. This exemption may only be granted in instances where:
  - a. The property is located in zoning districts where the minimum road frontage required for conventional lots is less than the minimum road frontage required for irregular lots.
  - b. The administrator determines that an easement is necessary to reduce the number of driveways on a public street where the posted speed limit is 25 miles per hour or greater.
  - c. The administrator determines that extreme site conditions preclude the property owner from reasonably achieving functional access.
2. Use of a shared private drive to serve an irregular lot and adjoining lot(s) is permitted and encouraged. The shared private drive shall be constructed in accordance with Section 9.3.B.

**FIGURE 4.3A: ILLUSTRATIVE DIAGRAM OF SHARED PRIVATE DRIVES**



## 4.2.5. Interior lots.

### A. *Applicability:*

1. Individual lots within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites.
2. Lots established to separate a cemetery or other similar use that requires permanent preservation from the remainder of the parcel shall also be considered interior lots.

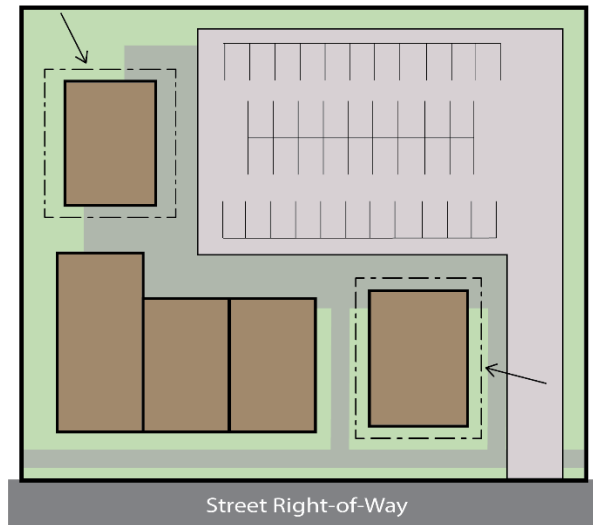
### B. *Street frontage.*

1. Unless explicitly required in Section 2.4, lots within a group development are exempt from the street frontage requirements, provided they can be adequately served by emergency or service vehicles from a street or publicly-accessible road, as determined by the Technical Review Committee.



2. Interior lots that are separated from a public street by common space shall be serviced by a private access easement, private right-of-way, or other means of permanent access that connects to the nearest public street.

**FIGURE 4.2.5-A: ILLUSTRATIVE DIAGRAM OF INTERIOR LOTS IN A GROUP DEVELOPMENT**



#### 4.2.6. Air lots.

**A. Applicability:**

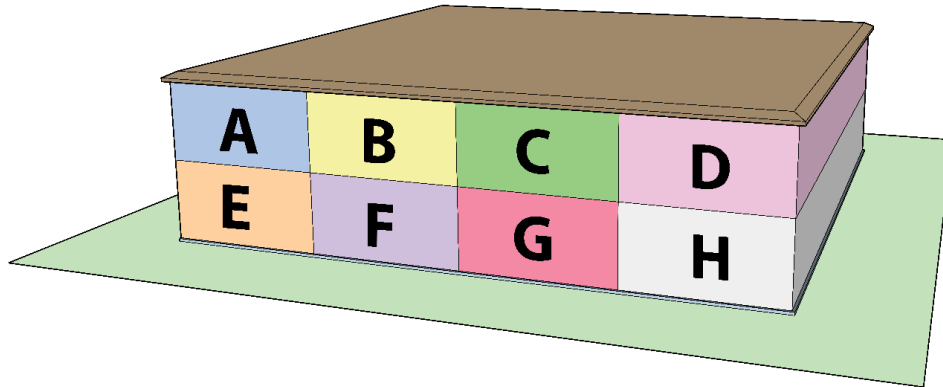
1. Air lots shall be considered any condominium unit or lot containing both horizontal and vertical dimensions and established as part of a shared structure.

**B. Street frontage.**

1. Air lots established as part of a permitted group development are exempt from the street frontage requirements, provided they can be adequately served by emergency or service vehicles from a street or publicly-accessible road, as determined by the Technical Review Committee.



FIGURE 4.2.6-A: ILLUSTRATIVE DIAGRAM OF AIR LOTS



#### 4.2.7. Environmental containment and conservation lots.

**A. Applicability:**

1. Environmental containment and conservation lots may be permitted as a stand-alone parcel of land under the review procedures for minor subdivisions of land, or permitted as part of a broader plan of subdivision under the procedures for minor or major subdivisions of land.
2. The applicant shall provide such evidence as may be required by the administrator to confirm the conservation purpose of the parcel. Examples of such evidence include but are not limited to conservation easement documents, deed restrictions, contracts with federal or state agencies, and similar.

**B. Street frontage and dimensional requirements:**

1. Environmental containment and conservation lots are exempt from the road frontage requirements.

**C. Structures.**

1. Structures shall not be permitted upon environmental containment or conservation lots.
2. This requirement shall be included as restriction upon the deed, conservation easement, contract or other document that is binding upon the property owner.
3. However, structures that are necessary to carry out the stated purpose of the environmental containment or conservation parcel may be permitted. Examples include but are not limited to agricultural structures upon working farms that are the subject of agricultural conservation easements, or structures upon properties that are subject to a conservation easement wherein recreation is a stated use and purpose of such easement. This provision shall not be construed to allow the establishment of residential, commercial or other uses upon environmental containment or conservation lots.
  - a.

### 4.3. Exempt subdivisions.



**A. Applicability:** In accordance with NCGS Section 160D-802, the following activities are considered exempt subdivisions. Such plat is not exempt from any zoning requirements and other applicable local, state, and federal ordinances.

**1. Combination, Recombination or Adjustment**

- a. The combination, recombination, or adjustment of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the lot standards of the local government as shown in its subdivision regulations.

**2. Divisions Greater than 10 Acres**

- a. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.

**3. Public Dedication**

- a. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- b. Dedication of public improvements shall be subject to the acceptance process in Section 4.9.

**4. Two into Three Lots**

- a. The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the lot standards of the local government as shown in its subdivision regulations.

**5. Court-Ordered Survey**

- a. The division of land into parcels in accordance with the terms of a probated will, a court-order or with intestate succession under NCGS Chapter 29.
- b. Unless the lots in the estate exclusion meet the standards of this ordinance, a development permit shall not be issued.
- c. No further subdivision of the inherited property will be allowed unless or until the owners all comply with all subdivision requirements applicable to the property but for this ordinance.

**6. Easement Establishment**

- a. Access and utility easements may be platted and recorded as exemptions from these subdivision regulations.

**7. Easement / Right-of-way Abandonment**

- a. Abandonment of access and utility easements may be platted and recorded as exemptions from these subdivision regulations.

**8. Annexation**

- a. Annexation of a previously recorded lot may be platted and recorded as exemptions from these subdivision regulations.

**B. Submittal requirements:** The exempt subdivision application shall be submitted in conformance with:

1. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
2. Demonstrated compliance with the standards in NCGS Section 47-30; and
3. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.



## 4.4. Minor subdivisions.

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- A. **Applicability:** Minor subdivision means a subdivision that:
1. Creates a maximum of 8 lots, including the residual or parent lot;
  2. Does not involve the creation, expansion, or dedication of any public infrastructure;
  3. Is not otherwise exempt under Section 4.3.
- B. **Review process:** The approval process for a minor subdivision shall consist of the following steps:
1. Initial consultation and/or pre-application meeting with administrator;
  2. Plat submittal;
  3. Administrator review and decision;
  4. Record approved plat with Transylvania County Register of Deeds.
- C. **Submittal requirements:** The minor subdivision application shall be submitted in conformance with:
1. All applicable subdivision requirements;
  2. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
  3. Demonstrated compliance with the standards in NCGS Section 47-30; and
  4. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.

## 4.5. Major subdivisions.

---

- A. **Applicability:** Major subdivision means a subdivision that:
1. Creates more than 8 lots, including the residual or parent lot;
  2. Involves the creation, expansion, or dedication of any public infrastructure; or
  3. Is not otherwise exempt under Section 4.3.
- B. **Review process:** The approval process for a major subdivision shall consist of the following steps:
1. Initial consultation and/or pre-application meeting with administrator;
  2. Sketch Plan review by Administrator and Technical Review Committee;
  3. Preliminary plat submitted;
  4. Administrator review and action;
  5. Required improvements (installed or guaranteed);
  6. Final plat submittal;
  7. Administrator review and decision;
  8. Record approved plat with Transylvania County Register of Deeds.
- C. **Sketch plan requirements:**
1. Before submitting an application for preliminary plan approval, the applicant must submit a sketch plan of the proposed subdivision. The submission shall include one digital copy and one printed copy.
  2. The sketch plan of a major subdivision shall be submitted in conformance with:
    - a. All applicable subdivision requirements;



- b. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2; and
  - c. Compliance with the specifications in Section 17.4.
3. Following a review of the sketch plan and other materials by the planning staff and Technical Review Committee, the administrator must advise the applicant of the results of the sketch plan review.

**D. Preliminary plat requirements:**

1. A preliminary plat application may not be submitted until after the Technical Review Committee has provided the applicant with its comments and recommendations based on the sketch plan review.
2. The developer shall initiate the preliminary plat approval process by submitting the preliminary plat and, if applicable, construction documents for the required improvements, illustrating their layouts and connections to existing systems.
3. The preliminary plat for a major subdivision shall be submitted in conformance with:
  - a. Comments received by the planning staff and Technical Review Committee, if applicable;
  - b. All applicable subdivision requirements;
  - c. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
  - d. Demonstrated compliance with the standards in NCGS Section 47-30; and
  - e. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.
4. The plat shall clearly state that this is a preliminary plat and not for recording.
5. *Approval duration:* Approved preliminary plats are valid for one year from the date of approval by the City of Brevard. Upon expiration of approval prior to final plat approval and recordation, a new application for subdivision will be required in accordance with the process before development can recommence.
  - a. The administrator may approve reasonable and necessary extensions if a written request by the developer is made to the administrator 45 days prior to the one-year anniversary of preliminary plat approval.
6. *Multiple phases not approved:* Approval of a preliminary plat constituting an individual phase of a multi-phase project, which has not been entirely approved, does not constitute approval by the city of any remaining phases.
  - a. For approved preliminary plats consisting of multiple phases, only the phase that is to be developed immediately shall be submitted for final plat approval. This prohibition shall not apply to multiphase developments as defined in [CHAPTER 19](#). The requirements for the establishment of vested rights for multiphase developments are outlined in Section [16.9.G](#) of this ordinance

**E. Improvement requirements:**

1. *Notice to proceed with construction activity:* Only after receiving preliminary plat approval for a major subdivision and other written approval and necessary permits from the appropriate regulating agencies, shall the developer begin grading, soil erosion, and infrastructure construction for the development.
2. *Infrastructure required within one year:* All required infrastructure improvements for the preliminary plat shall be in place within one year of issuance of a land development permit unless the improvement has been guaranteed in accordance with this ordinance.
  - a. If circumstances beyond the control of the developer do not allow for the commencement of the required work within the one-year period or the size of the phase is such that one year is





insufficient time to commence all required work, then the developer may file a written request for an extension with the administrator no later than 45 days prior to the one year anniversary of land development permit approval by the city as provided above.

- b. If infrastructure work is not commenced within one year and/or no extension request is filed with the administrator and approved, land development permit approval becomes null and void on the day of the one year anniversary and a new application will be required.

**F. *Final plat requirements:***

1. The final plat shall constitute all portions of the preliminary plat site, which the subdivider proposes to record, and develop at the time.
2. The developer shall initiate the final subdivision plat approval process by submitting the final plat and:
  - a. Copies of any required surety or performance guarantees to the administrator or other departments as required, and/or
  - b. As built drawings and plans of all required infrastructure, including water, sewer, and storm drainage system facilities, illustrating their layouts and connections to existing systems.
    1. Such plans shall show all easements and rights-of-way, to demonstrate that the facilities are properly placed and the locations of all fire hydrants, blow-off valves, manholes, pumps, force mains, and gate valves are indicated.
    2. This information shall not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
3. The final plat for a major subdivision shall be submitted in conformance with:
  - a. The approved preliminary plat;
  - b. Demonstrated compliance with the standards in NCGS Section 47-30; and
  - c. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.
4. Upon receipt of the complete final plat review application, the administrator will have 60 calendar days to approve or deny the final plat, in accordance with this chapter.
  - a. If substantial errors are found, including inconsistencies with the approved preliminary plat, the plat shall not be approved and the review period suspended until the applicant has corrected such errors. A list of the needed corrections shall be provided to the applicant. Any conditions placed by the city on the approval of the final plat shall be addressed by the developer within 45 days. Failure of the developer to meet the 45-day response period shall cause the conditional approval of the city to be null and void. Once complete, the final plat shall be approved or denied by the administrator within 30 calendar days of the date of final completed submission.
5. After recordation, the developer shall provide a digital copy (of a format to be approved by the administrator) of the registered plat to the city for distribution to the various state and local government agencies and public utilities and for file in the planning department.

## **4.6. Plat requirements.**

- A.** All plats presented to the City for review before recording at the Transylvania County Register of Deeds shall be:
1. Prepared by a registered land surveyor, licensed to practice in the State of North Carolina;



2. Drawn to a scale no less than one inch = 150 feet; and
3. Meet the requirements of NCGS §47-30 and the Transylvania County Register of Deeds Office.

**B.** The plat shall contain the following:

1. A title block that includes the following:
  1. Property designation or name of subdivision
  2. The type of plat (minor subdivision plat, preliminary major subdivision, etc.)
  3. Name of the property owner
  4. Township, County, and State
  5. Scale denoted in words and bar graph
  6. The name and address of surveyor preparing the plat, including the firm name and license number
  7. Date the survey was prepared and any revision dates
2. An accurately positioned north arrow coordinated with any bearings shown on the plat.
3. The exact boundary of the tract of land being subdivided showing clearly the disposition of all portions of the tract.
4. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every property line, street, existing building or structure, easement, and/or other boundary lines. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second.
5. The accurate locations and descriptions of all corners, monuments, markers, and control points.
6. A vicinity map showing the location of the property with respect to adjacent streets and properties.
7. Where applicable, , the location of all protected areas or required open space (surface water protection areas, floodways and non-encroachment areas, etc.), the special flood hazard area, and areas dedicated to public purpose with notes stating their purposes.
- 8.
9. The parcel identification number of the lot(s) to be subdivided and of adjacent properties;
10. The zoning classification of the lot(s) to be subdivided and of adjacent properties, if applicable;
11. All applicable certifications and statements, as identified in Section 4.7.

## 4.7. Certifications and statements.

**A. *Certifications and statements matrix:*** The following table identifies the certifications and statements required on plats to be filed under this ordinance. The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "R" denotes that the certification or statement is required.
2. "A" denotes that the certification or statement is required if applicable.
3. "—" denotes that the certification or statement is not required.



**TABLE 4.7-A: CERTIFICATIONS AND STATEMENTS MATRIX**

| Certification / Statement                                                                                     | Exempt Plat | Minor Plat | Major Prelim. Plat | Major Final Plat |
|---------------------------------------------------------------------------------------------------------------|-------------|------------|--------------------|------------------|
| Certificate of Survey Accuracy                                                                                | R           | R          | —                  | R                |
| Certificate of Purpose of Plat                                                                                | R           | R          | —                  | R                |
| Review Officer Certification – Transylvania County                                                            | R           | R          | —                  | R                |
| Certificate of Ownership                                                                                      | R           | R          | —                  | —                |
| Certificate of Ownership and Dedication                                                                       | —           | —          | R                  | R                |
| Certificate of Exemption and Zoning Approval                                                                  | R           | —          | —                  | —                |
| Certificate of Minor Subdivision Plat Approval                                                                | —           | R          | —                  | —                |
| Certificate of Major Subdivision Preliminary Plat Approval                                                    | —           | —          | R                  | —                |
| Certificate of Major Subdivision Final Plat Approval                                                          | —           | —          | —                  | R                |
| Flood Hazard Disclosure                                                                                       | A           | A          | A                  | A                |
| Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements | —           | —          | —                  | R                |
| Acceptance of Public Infrastructure                                                                           | A           | —          | —                  | A                |
| Certificate of Warranty                                                                                       | —           | —          | —                  | A                |
| Certification of Approval of Water Supply and Sewage Disposal Systems                                         | —           | —          | —                  | A                |
| NCDOT Division of Highways District Engineer                                                                  | —           | —          | —                  | A                |
| Disclosure of Private Roads                                                                                   | —           | —          | —                  | A                |
| Disclosure of Court-Ordered Subdivision                                                                       | A           | —          | —                  | —                |

**B. Certification statements:**

**1. Certificate of Survey Accuracy**

I, \_\_\_\_\_, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book \_\_\_\_\_, page \_\_\_\_\_, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_\_\_\_, page \_\_\_\_\_; that the ratio of precision or positional accuracy as calculated is \_\_\_\_\_; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, license number and seal this \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_.

Seal or Stamp of Surveyor

\_\_\_\_\_  
Professional Land Surveyor

\_\_\_\_\_  
License Number



2. **Certificate of Purpose of Plat:** The final plat shall contain one of the following statements, signed and sealed by the plat preparer:

- i. This survey creates a subdivision of land within the jurisdictional area of the City of Brevard, Transylvania County, North Carolina and that the City has an Ordinance that regulates parcels of land.
- ii. This survey is located in a portion of a County or Municipality that is unregulated as to an Ordinance that regulates parcels of land.
- iii. Any one of the following:
  1. This survey is of an existing parcel or parcels of land or one or more existing easements and does not create a new street or change an existing street. For the purpose of this section, an “existing parcel” or “existing easement” is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.
  2. This survey is of an existing feature, such as a building or other structure, or natural feature, such as a watercourse.
  3. This survey is a control survey. For the purposes of this section, a “control survey” is a survey that provides horizontal or vertical position data for support or control of other surveys or for mapping. A control survey, by itself, cannot be used to define or convey rights or ownership.
  4. This survey is a proposed easement for a public utility as defined in G.S. 62-3.
- iv. This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exemption or exception to the definition of subdivision.
- v. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor’s professional ability as to provisions contained in (i) through (iv) above.

Seal or Stamp of Surveyor

\_\_\_\_\_  
Professional Land Surveyor

\_\_\_\_\_  
Date

3. **Review Officer Certification – Transylvania County**

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

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

4. **Certificate of Ownership**

I hereby certify that I am the owner of the property shown and described hereon, which is located within the subdivision jurisdiction of the City of Brevard, North Carolina, and that I hereby freely adopt this plan.

\_\_\_\_\_

\_\_\_\_\_



Owner(s)

Date

**5. Certificate of Ownership and Dedication**

I hereby certify that I am the owner of the property shown and described, which is located in the subdivision jurisdiction of the City of Brevard and that I hereby adopt this plan of subdivision with my free consent. Furthermore, I hereby dedicate all required improvements, streets, alleys, walks, parks, open spaces, and other sites and easements, to public or private uses as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines that are located in public utility easements or rights-of-way to the City of Brevard.

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Date

**6. Certificate of Exemption and Zoning Approval**

I hereby certify that the subdivision plat shown is exempt from the subdivision provisions of the Brevard Unified Development Ordinance. The plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

**7. Certificate of Minor Subdivision Plat Approval**

I hereby certify that the subdivision shown on this plat does not involve the creation of new public infrastructure or any change in existing public streets or change in existing utilities, that the subdivision shown is in all respects in compliance with the subdivision provisions of the Brevard Unified Development Ordinance. The plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

**8. Certificate of Major Subdivision Preliminary Plat Approval**

I hereby certify that the subdivision shown is in compliance with the subdivision provisions of the Brevard Unified Development Ordinance for preliminary plats. The preliminary plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance. Preliminary approval is valid for a period of 12 months from the below date or as established under the vested rights procedure, if applicable.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

**9. Certificate of Major Subdivision Final Plat Approval**



I hereby certify that the subdivision shown is in compliance with the subdivision provisions and zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

**10. Flood Hazard Disclosure**

Areas delineated upon this plat as a protection area or Special Flood Hazard Areas is subject to limitations upon development as set forth [CHAPTER 34](#) of Brevard City Code, and any development, disturbance, or encroachment is prohibited except in accordance therewith.

**11. Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements**

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to City of Brevard Specifications and Standards or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the City of Brevard has been received.

\_\_\_\_\_  
Planning Director, City of Brevard

\_\_\_\_\_  
Date

\_\_\_\_\_  
Public Works Director, City of Brevard

\_\_\_\_\_  
Date

**12. Acceptance of Public Infrastructure**

I hereby certify that the City of Brevard, North Carolina accepts the public infrastructure dedicated on this plat, in accordance with the dedication agreement dated \_\_\_\_\_.

\_\_\_\_\_  
City Manager, City of Brevard

\_\_\_\_\_  
Date

**13. Certificate of Warranty**

I hereby certify that I know of no defects from any cause and will fully warrant all improvements which have been installed to be free from defects in material and workmanship for a period of three years from this date. Any improvements yet to be installed I shall fully warrant in the same manner for a period of three years from the date of the release of guarantees. If defects are discovered in any such improvement during the warranty period, I shall replace and/or repair the defective improvements at my own expense.

\_\_\_\_\_  
Subdivider

\_\_\_\_\_  
Date

**14. Certificate of Approval of Water Supply and Sewage Disposal**



I hereby certify that the water supply and sewage systems installed or proposed for installation in this subdivision meet necessary public health requirements and are hereby approved.

\_\_\_\_\_  
County Health Officer or Authorized Representative      Date

**15. NCDOT Division of Highways District Engineer Certification**

I hereby certify that the streets as depicted hereon are consistent with the requirements of the North Carolina Department of Transportation, Division of Highways.

\_\_\_\_\_  
District Engineer      Date

**16. Disclosure of Private Roads**

This disclosure is given in accordance with North Carolina General Statutes 136-102.6.

This statement is to advise that the roads serving this subdivision are designated as private roads, not public roads. All owners of property within the subdivision have easements with one another to travel over and across such roads. The responsibility for maintenance of such private roads falls solely upon the property owners within the subdivision. No representation is made that the private roads within this subdivision meet the minimum requirements necessary to allow such roads to be included in the state road system or that the City of Brevard or North Carolina Department of Transportation will eventually assume maintenance such roads. Moreover, if such private roads are not adequately constructed and maintained, emergency service providers and public service vehicles may be unable to provide adequate service to the residents of the subdivision.

\_\_\_\_\_  
Subdivider      Date

**17. Disclosure of Court-Ordered Subdivision**

This division of land into parcels is executed in accordance with the terms of a court-order, probated will or with intestate succession under NCGS Chapter 20. No further subdivision of the inherited property will be allowed unless or until the owners comply with all applicable subdivision requirements of City of Brevard Unified Development Ordinance. Additionally, no development permit may be issued if the parcels established herein do not adhere to the regulations of the City of Brevard Unified Development Ordinance.

- C. Nothing in this section shall prohibit the administrator from requiring additional certifications and/or adjustments to the verbiage of the certifications provided herein, so long as the intent of the section is upheld.

## 4.8. Approval review procedure.

- A. Planning department staff, also referred to as the administrator, and the approving authority shall have the discretion to refer any subdivision application to a body of greater authority for consideration and approval or denial consistent with this section.



- B. The administrator may determine that additional review is required and request review and/or a recommendation by a board beyond the required process described herein.
- C. *Designation of approving authority:*

| TABLE 4.8-A: SUBDIVISION REVIEW, APPROVAL, AND APPEAL AUTHORITIES |                            |                     |                     |
|-------------------------------------------------------------------|----------------------------|---------------------|---------------------|
| Development Activities                                            | Review / Recommendation    | Approving Authority | Appeal Authority    |
| Major Subdivisions                                                | Technical Review Committee | Staff               | Board of Adjustment |
| Minor Subdivisions                                                | -                          | Staff               | Board of Adjustment |
| Exempt Subdivisions                                               | -                          | Staff               | Board of Adjustment |

- D. *Quasi-judicial approval of subdivisions:* In accordance with NCGS 160D-102, if the approval of the subdivision plat is deemed quasi-judicial in nature with generally-stated standards requiring a discretionary decision, the Board of Adjustment shall serve as the approving authority.
- E. *Plats to be recorded:* Approved plats must be filed by the applicant for recording with the Register of Deeds of Transylvania County within 30 days of the date of approval by the administrator; otherwise, such approval shall be null and void.
- F. *Development permits required:* Plat approval does not confer any approvals for individual site plans. All development activities require a permit in accordance with CHAPTER 16 and other relevant provisions of this ordinance.

## 4.9. Public improvements dedication and acceptance.

- A. All dedications shall be indicated on the face of the plat.
- B. The approval of a plat shall not be deemed to constitute or affect an acceptance by the public for maintenance purposes of the dedication of any road, ground, or other improvements shown upon the plat.
- C. The city manager, in consultation with the public works director and the planning director, shall have the authority to accept dedication of public improvements to the City of Brevard. Improvements shall only be considered on a determination that any required improvements have been properly installed and all applicable conditions met, as set out in this ordinance.

## 4.10. Placement of monuments.

Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying, as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors under provisions of Chapter 89 of the General Statutes of North Carolina, shall apply when conducting surveys of subdivision; in order to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.





#### 4.11. Re-subdivision.

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- A. No portion of land that has been the subject of subdivision activity (major or minor) shall be the subject of additional subdivision activity for a period of two years from the most recent subdivision.
- B. However, additional minor subdivision activity may be considered in accordance with the review procedure for major subdivisions in the following circumstances:
  - 1. It proposed within a phase of a previously approved major subdivision; and
  - 2. It has been clearly reserved for future development on a properly approved and recorded major subdivision plat.
- C. These provisions shall also apply to proposals for the creation of condominium lots.
- D. These provisions shall not prevent the recombination of parcels recently the subject of a minor subdivision.
- E. For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.
- F. The provisions of this section may be varied by the Board of Adjustment in accordance with quasi-judicial proceedings for variances.

## CHAPTER 5. BUILDING TYPES AND ARCHITECTURAL STANDARDS

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#### 5.15. Requirements for tall structures.

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The following requirements shall apply to those structures for which a special use permit is required in order to exceed the maximum "by right" height requirements as set forth in [Section 2.6.2](#).

- A. Applicants shall submit a profile of the proposed structure and a rendering of the relationship between the proposed structure and the surrounding skyline formed by existing structures within 500 feet of the proposed structure.
- B. Variations in front rooflines shall be used to reduce the scale of buildings. Roof features shall be required which complement the character of adjoining and nearby structures.
- C. All other applicable requirements of this ordinance shall apply.
- D. The board of adjustment (or city council when considered as part of a conditional zoning district) may impose other conditions as may be necessary to protect the health, safety, and welfare of the general public and the character of the surrounding neighborhood.

## CHAPTER 6. ENVIRONMENTAL PROTECTION

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#### 6.4. Steep slope area requirements.

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In accordance with G.S. 160D-703(d), the provisions contained in this section shall apply to all areas within the planning jurisdiction of the City of Brevard that are classified as "moderately steep slope areas" and "steep slope areas". These provisions do not limit or negate the effect of other provisions of this ordinance which may apply to steep slope areas.

**A. Applicability:**

1. This section shall apply to any land-disturbing activity, building permit, or any other development proposal on a parcel located at or above 2,250 feet in elevation above mean sea level and with an average slope of 25% or greater.
  - a. "Moderately steep slope" areas are defined as those areas with a slope of 25% to 34%.
  - b. "Steep slope" areas are defined as those areas with a slope of 35% or greater.
  - c. A parcel is considered at or above the elevation if any area within the parcel boundaries is at or above the stated elevation.
2. The provisions in this section are intended to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the community.

**B. Determining slope:** Slope shall be determined in accordance with the methods and procedures contained herein.

1. Prior to commencing any development or land-disturbing activity and prior to issuing any permits and/or other approvals, the calculated slope for the parcel(s) shall be approved by the Planning Department.
  - a. Parcels where no portion of the lot is located at or above 2,250 feet in elevation above mean sea level are exempt from this requirement.
  - b. Incidental improvements and additions to existing structures, accessory structures less than 1,000 square feet in ground floor area, and interior renovations are exempt from this requirement.
2. Calculations and supporting documentation shall be submitted to the Planning Department for review prior to or in conjunction with the applicable submittals. The administrator shall: (a) request additional information; (b) request revisions to the slope calculation submittal; or (c) issue written concurrence with the determination of slope, as submitted.
  - a. Each slope calculation and supporting documentation submitted to the Planning Department for review shall include a scaled map, accurately showing the topography for the entire land tract and the parcel boundaries.
  - b. In cases where the applicant or property owner does not agree with the determination made by the administrator, the alternative slope analysis shall be heard and decided on by the Board of Adjustment, following a notice of appeal filed with the City Clerk.
3. Slope shall be determined through use of one of the following methods:
  - a. The approved contour interval formula:



**FIGURE 6.4A: SLOPE CONTOUR INTERVAL FORMULA**

Slope (**S%**) is equal to the total length (**L**) of contour lines in feet within a given parcel, multiplied by the contour interval (**I**) of said parcel, then multiplied by .0023, divided by the area (**A**) of the parcel.

Or,

$$S\% = (L \times I) \cdot 0023 / A$$

*The calculation shall use the smallest contour interval for which maps are available or at a minimum of five-foot intervals. .0023 is the product of two constants, one of which converts feet into acres and one of which converts a decimal fraction into a percentage, the value of .0023 is the percentage of one square foot of one acre.*

- b. Analysis conducted and sealed by a professional surveyor, engineer, or landscape architect using recognized, industry-accepted methods.
  - i. The administrator may require slope calculations to be sealed by a professional surveyor, engineer, or landscape architect for projects with over an acre of disturbed area.
4. Slope shall be rounded to the nearest whole number and noted on all development plans required by this ordinance.
5. Areas placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities may be removed from the calculation of parcel slope.
  - a. The applicant shall provide the legal documentation for permanent protection and a closed perimeter line delineating the revised boundaries for calculating slope.
  - b. Nothing shall limit the ability of moderately steep slope areas, steep slope areas, conservation easements, or other means of permanent land protections to be included in the total parcel area for the means of calculating density.
- C. *Geotechnical analysis:*
  1. Development in steep slope areas shall be required to undergo geotechnical analysis by a registered professional engineer to determine the stability of the underlying geology and soils to support the proposed project. The geotechnical analysis report shall be required to be submitted prior to the issuance of a zoning permit.
  2. If a geotechnical analysis has been performed for subdivision approval that includes building pad analysis of the individual lots, it is unnecessary to submit a new analysis for each lot, provided the location of structures on each lot does not change by more than 20 feet in any one direction.
- D. *General standards for development projects with moderately steep slope areas and/or steep slope areas:*
  1. Development plans shall be designed to minimize disturbance to the natural landform and should not destroy the visual quality and community character.
    - a. To the extent possible given topographic and other physical constraints, land disturbance should be confined to portions of the lot not considered to be steep slope areas.
    - b. Developers shall make reasonable efforts to preserve and protect existing natural features of the slope, such as trees and other plant materials, and rock outcroppings which may help to stabilize the slope.
    - c. Buildings, parking, and other improvements should be clustered on less steep and less sensitive areas of the site to reduce the amount of grading.



- d. Projects are encouraged to demonstrate terrain-adaptive design and construction techniques.
2. Proposed land-disturbing activity shall meet all applicable local and State regulations relating to soil erosion and sedimentation control.
3. Land disturbance shall be limited to the minimum required for building foundations, driveways, stormwater management measures and immediate areas surrounding these elements as required by this ordinance.
  - a. With the exception of approved stockpiling or restoration efforts, substantial earth moving beyond that required for the installation or construction of approved buildings, structures, driveways, or stormwater management measures shall not be permitted.
4. When grading is necessary, it should be blended with the natural land form as much as possible. Rigid contouring should be avoided, and contours should be rounded to appear undulating and natural.
5. The approving authority shall have the right to impose such conditions as are necessary to protect public health, safety, and welfare for projects in moderately steep slope or steep slope areas as authorized under the provisions of this section because the minimum standards set forth in this ordinance are insufficient given the exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding development.
  - a. Such conditions shall be reasonable and shall be limited to the minimum additional improvements necessary to protect the public health, safety or welfare. Such conditions may, without limitation, pertain to the following:
    - i. The retention and planting of vegetation;
    - ii. Sedimentation and erosion controls;
    - iii. Cut and fill slope design and stabilization;
    - iv. The degree of land disturbance;  
The location, form and design of proposed structures and driveways so as to minimize land disturbance and ensure structural integrity; and
    - v. The location, form and design of streets and utilities, so as to minimize land disturbance and ensure structural integrity.
  - b. The administrator may reduce the required setbacks in accordance with Section 2.7 in order to facilitate compliance with this section.

**E. Conditional zoning districts with steep slope areas:**

1. It is strongly encouraged that any proposed development project containing extensive steep slope areas be considered in accordance with the procedures for conditional zoning districts, which process allows for creative designs that may enhance development potential while achieving the steep slope protection requirements of this section.
2. City Council may allow development on steep slope areas by means of a conditional zoning district. Council may require the clustering of structures and impose any other necessary condition upon the design of the development in order to minimize impacts and uphold the intent of this section.

**F. Grading extent:**

1. The maximum extent of grading on a property with moderately steep or steep slope areas shall be reduced to support the goals and objectives of this section. This shall be governed by the following table:



**TABLE 6.4A: MAXIMUM GRADING EXTENT BY SLOPE OF PARCEL**

| Average Existing Slope | Maximum Percent of Site Graded |
|------------------------|--------------------------------|
| 25% - 29%              | 70%                            |
| 30% - 34%              | 60%                            |
| 35% - 39%              | 50%                            |
| 40% - 44%              | 35%                            |
| 45% or greater         | 20%                            |

2. Additional grading may be awarded to projects on steep slope areas if any of the following conditions are met. The credits may accumulate to equal the total reduction outlined herein.

**TABLE 6.4B: MAXIMUM GRADING EXTENT CREDITS**

| Credit | Conditions                                                                                                                                                                                                                                                                                                                            |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10%    | Buildings and parking areas are properly screened by vegetation to minimize the visual impact from key viewing areas, which include downtown, public parkland and other public recreational areas, and major streets and highways.                                                                                                    |
| 10%    | The steepest portions and/or most visible portions of the lot are placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities. |
| 10%    | Exterior colors for new buildings and structures, including roofs, are coordinated with the predominate colors of the surrounding landscape to minimize contrast between the structure and the natural environment.                                                                                                                   |

3. Additional grading may also be permitted as part of a conditional zoning district.

**G. Density:**

1. Densities of residential development shall be reduced in steep slope areas to support the goals and objectives of this section. This shall be governed by the following table:

**TABLE 6.4C: MAXIMUM RESIDENTIAL DENSITY BY SLOPE OF PARCEL**

| Average Existing Slope | Residential Density                         |
|------------------------|---------------------------------------------|
| 35% - 39%              | 20% reduction of underlying zoning district |
| 40% - 44%              | 50% reduction of underlying zoning district |
| 45% or greater         | 70% reduction of underlying zoning district |

2. Additional density may be awarded to projects on steep slope areas if any of the following conditions are met. The credits may accumulate to equal the total reduction outlined herein.
  - a. The maximum residential density shall not exceed the maximum residential density permitted in the underlying zoning district as outlined in Section 2.6, unless such provisions are specified in a conditional zoning district.



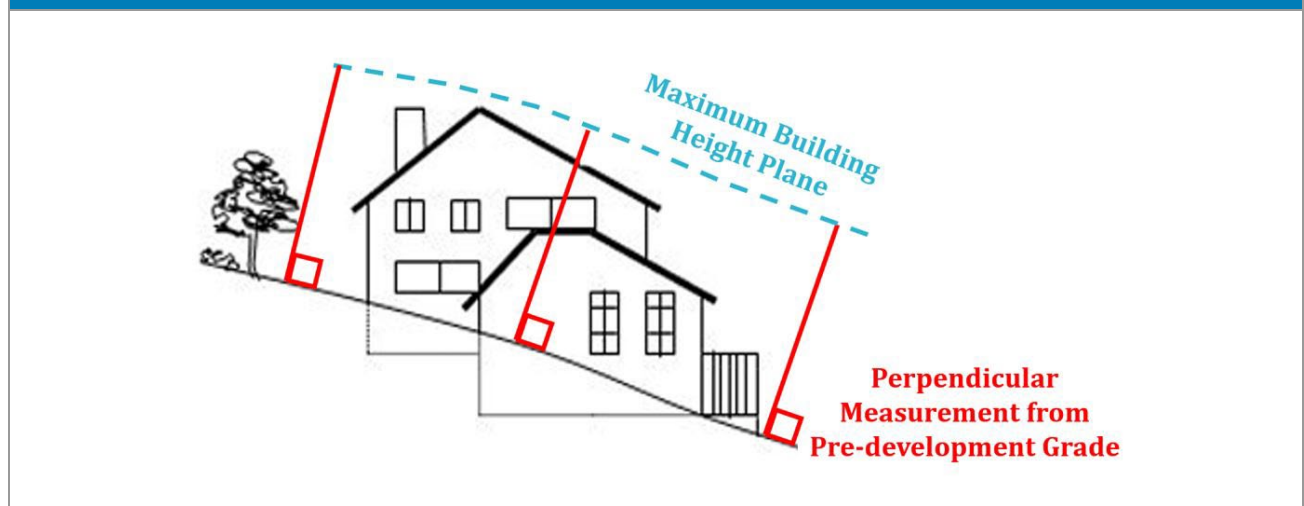
**TABLE 6.4D: MAXIMUM RESIDENTIAL DENSITY CREDITS**

| Credit | Conditions                                                                                                                                                                                                                                                                                                                            |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10%    | Grading is limited to 10% of more under the maximum allowed under this section                                                                                                                                                                                                                                                        |
| 10%    | Buildings and parking areas are properly screened by vegetation to minimize the visual impact from key viewing areas, which include downtown, public parkland and other public recreational areas, and major streets and highways.                                                                                                    |
| 10%    | The steepest portions and/or most visible portions of the lot are placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities. |
| 10%    | Exterior colors for new buildings and structures, including roofs, are coordinated with the predominate colors of the surrounding landscape to minimize contrast between the structure and the natural environment.                                                                                                                   |

**H. Building height:**

1. The maximum height of principal structures in steep slope areas shall be limited to 35 feet measured perpendicular from the pre-development grade to the top of the built structure.

**FIGURE 6.4A: ILLUSTRATION OF MAXIMUM BUILDING HEIGHT IN STEEP SLOPE AREAS**



2. The property owner is encouraged to utilize step-back or terraced building approach to reduce the visual bulk of the structure.
3. Accessory structures shall not exceed 15 feet in height on any side.
4. Applicants shall provide architectural plans and building elevations to demonstrate compliance with this section.

**I. Tree and vegetation preservation:**

1. Landscaping / vegetation preservation plans, in accordance with Section 17.9, shall be required for all development projects on steep slopes to ensure compliance with this section.



2. Plant materials should be used that blend with the hillside. Landscape schemes that are rough, natural, and/or subdued in character are encouraged.
3. All trees and other specified vegetation shall be preserved except in the area approved for grading or within 20 feet of the building footprints.
  - a. Non-native or invasive species may be removed.
4. In the event a property owner desires to remove trees and other protected vegetation required to be preserved in this section, they may submit an alternative landscape plan for consideration by the Brevard Planning Board.
  - a. This alternative landscape plan must contain:
    - i. a tree survey of the property showing which trees and other protected vegetation will be removed and which will remain;
    - ii. the location of any structures, driveways, and other impervious surfaces; and
    - iii. an explanation of the reason(s) for removal of required trees and other protected vegetation, including a statement of how the removal of the required trees and other protected vegetation supports the purposes of this section or how such removal can be mitigated consistent with the purposes of this section.
  - b. The Planning Board may approve, approve with conditions, or deny the alternative landscape plan. If conditions are established, they shall be enforceable in accordance with the provisions of the development permit.

**J. *Infrastructure:***

1. Infrastructure shall be installed in steep slope areas in accordance with the provisions of this section and any other applicable provisions in [CHAPTER 13](#).
2. Roads and driveways created on parcels with steep slopes should follow the natural terrain, unless necessary to accomplish the purpose.
3. The approving authority shall have the authority to modify infrastructure requirements and impose such conditions as are necessary to minimize the disturbance caused by the installation of infrastructure in steep slope areas.
  - a. Modifications and conditions shall be intended to minimize disturbance and increase the safety and stability of infrastructure, and shall not be granted or imposed to reduce cost to the developer.
  - b. Modifications and conditions may relate but shall not be limited to pavement width, sidewalk width, curb and gutter design and width, and shoulder design. The maximum road grade requirement shall not be modified.
4. *Culs-de-sac:*
  - a. The required turnaround on a dead-end street in a steep slope area shall have a roadway diameter of not less than 50 feet.
  - b. If the street length does not exceed 300 feet and if construction difficulties will not permit a turnaround, the use of a "Y" or "T" or other turning space of a design such as will allow a vehicle with a wheel base of at least 20 feet to complete a turning movement with a maximum of one backing movement may be permitted.
5. *Grading:*





- a. Grading shall not be required for the full right-of-way in steep slope area if the administrator determines that full grading will prevent convenient access to adjoining property or will destroy the natural beauty of the site by excessive cut and fill.
- b. Shoulder fill slopes shall not be steeper than 40%.

## CHAPTER 8. TREE PROTECTION AND LANDSCAPING

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### 8.4. Buffers and screening.

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#### 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.

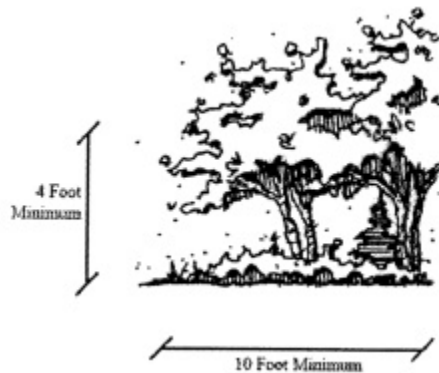
#### B. *Buffer yard types:*

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.





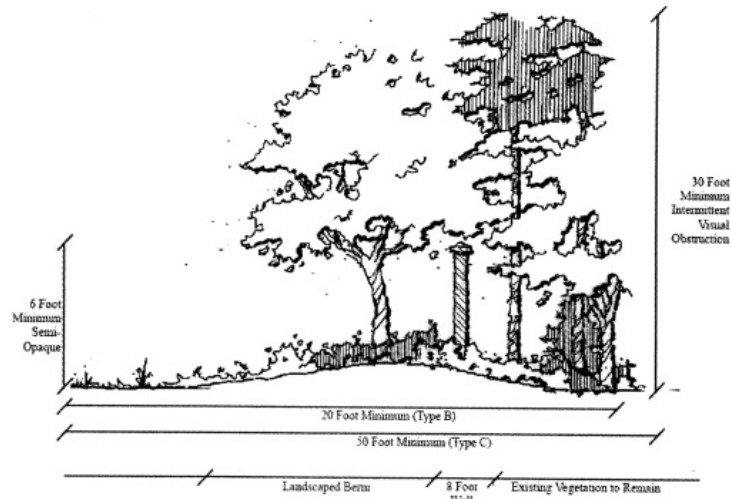
FIGURE 8.4A: TYPE A BUFFER YARD



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 height 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.

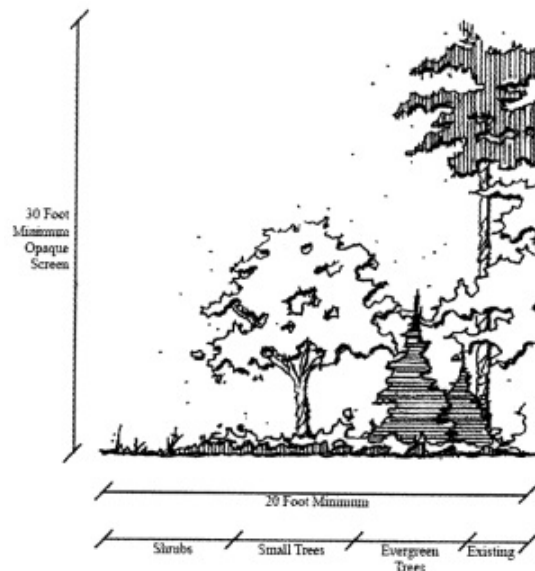


**FIGURE 8.4B: TYPE B AND TYPE C BUFFER YARDS**



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**

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

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**



## 8.5. Street tree plantings.

- A. Street trees shall be required along all public and private streets for the following categories of development:
  1. All non-residential and mixed-use development.
  2. All projects approved as a conditional zoning district, special use permit, planned development, or group development.
  3. All major subdivisions.
- B. Large canopy trees shall be installed at a minimum average distance of 40 feet on-center in a planting strip a minimum of six feet in width. Such trees shall be a minimum of 1½ inches in caliper at planting. Where overhead utilities exist prior to development, ornamental trees may be substituted.
- C. Street trees shall be placed at least eight feet from light poles and ten feet from electrical transformers in order to allow these utilities to be safely serviced (ornamental trees may be placed within five feet of such devices). A minimum of 300 square feet of pervious ground area per canopy tree shall be provided unless they are planted in irrigated tree wells.



- D. Street trees shall be deciduous hardwoods and shall meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen as well all applicable standards of this ordinance.

## CHAPTER 9. CIRCULATION AND CONNECTIVITY

### 9.2. Reserved.

### 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<br>(mph)               | Minimum Distance Between<br>Driveways | Minimum Distance Between<br>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 private access, when all frontage requirements are met:* The administrator may permit the establishment of additional private rights-of-way or access easements to properties that otherwise conform to public street frontage requirements of this ordinance.
- D. *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 a one-way drive aisle that are required to have at least two driveways in accordance with Section 10.8 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.

## 9.4. Traffic impact studies (TIS).

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The TIS is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. It is an essential part of the development review process to assist developers and government agencies in making land use decisions involving annexations, rezonings, special land uses, and other development reviews. The TIS helps identify where the development may have a significant impact on safety, traffic and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIS can be used to evaluate if the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow.





- A. A TIS may be required for a rezoning, conditional zoning district, group development, special use permit, or any other proposed development with an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five day national average as defined in the ITE Trip Generation Manual.

*Trip Generation: The sum of the number of inbound and outbound vehicle trips that are expected for the type and size of the proposed land use. For purposes of determining the requirement to submit a TIS, no adjustments such as modal split, pass-by trips, and internal capture rates will be allowed to the site traffic calculation.*

*Note: Typically the following developments meet or exceed the 2,000 vehicles per day threshold:*

- 50,000 sf Retail.
  - 200 Single family homes.
  - 150,000 sf Office.
  - 250,000 sf Industrial.
  - 300 room Hotel.
- B. A traffic impact analysis report shall address the impact of projected horizon year(s) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.
- C. Based on the findings of the analysis, if a proposed development does not meet the applicable service level standards, the applicant shall be required to upgrade the facilities in accordance with the adopted level of service program. Mitigation measures may involve strategies other than roadway construction or other physical improvements such as changes to traffic signal timing or phasing, and transportation management strategies.
- D. A TIS will vary in range and complexity depending on the type and size of the proposed development. When mutually agreed by the city the requirements as described in Section 17.12 may be modified. The need for a TIS may be waived by the administrator.

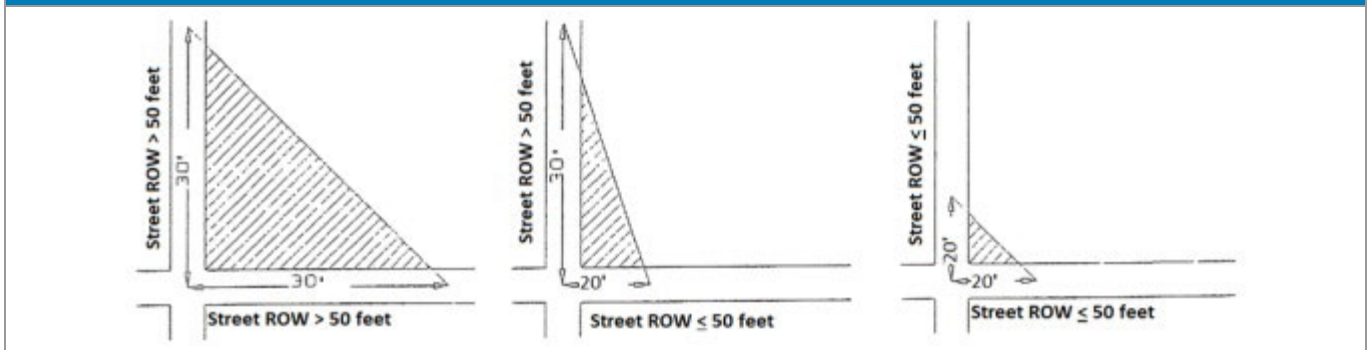
## 9.5. Visibility at street intersections and driveways; sight triangle.

- A. On corner lots in all districts, no planting shall be placed or maintained and no closed fence, building, wall or other structure shall be constructed if such planting or structure thereby obstructs vision at any point between a height of two-and-a-half and ten feet above the upper face of the nearest curb (or street centerline if no curb exists) and within the sight triangle area bounded on two sides by the two street right-of-way lines and on the third side by a straight line connecting points on the street right-of-way lines measured as follows:
1. On streets having a right-of-way width of 50 feet or less, a point located 20 feet from the intersection of the right-of-way lines.
  2. On streets having a right-of-way width of more than 50 feet, a point located 30 feet from the intersection of the right-of-way lines.



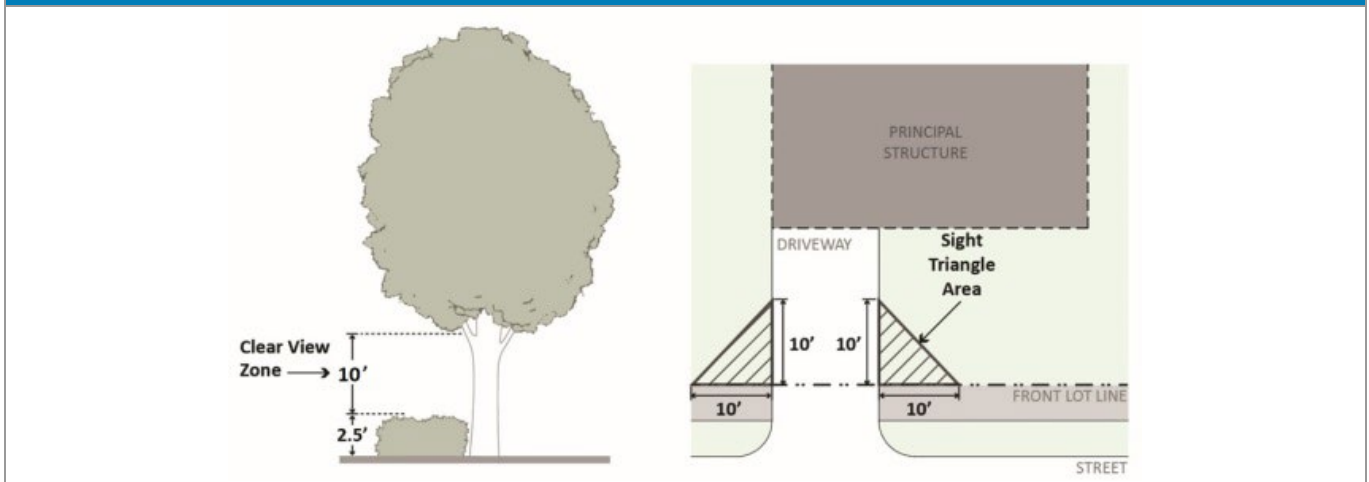


**FIGURE 9.5A: SIGHT TRIANGLES AT RIGHT-OF-WAY INTERSECTIONS**



- B. At the intersection of any private drive, entrance or exit with a public street, no closed fence, wall, hedge, or other planting or sign forming a material impediment to visibility over a height of two-and-a-half feet shall be erected, planted, placed or maintained within the sight triangle area bounded by the street right-of-way, the edge of the private driveway, and a straight line connecting points ten feet from the intersection of the right-of-way and driveway.

**FIGURE 9.5B: OTHER SITGHT TRIANGLE DIMENSIONS**



- C. Required sight distances for driveway connections along state-maintained roadways shall be approved by NCDOT. Where the NCDOT Driveway Manual conflicts with these standards, the stricter of the two standards shall prevail.



## CHAPTER 10. PARKING STANDARDS

### 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                                                                         |
|--------------------------|------------------------------------------------------------------------------------------|
| <b>Tier 1</b>            | General Residential (GR) and General Industrial (GI)                                     |
| <b>Tier 2</b>            | Residential Mixed-Use (RMX), Neighborhood Mixed-Use (NMX), and Institutional Campus (IC) |
| <b>Tier 3</b>            | Downtown Mixed-Use (DMX) and Corridor Mixed-Use (CMX)                                    |

#### B. Off-street parking 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 / d.u. |         | 1 / d.u. | 2 / d.u. |         | 2 / d.u. |
|                  | Dwelling - Single-family                          | 2 / d.u.   |         | 1 / d.u. | 2 / d.u. |         | 2 / d.u. |
|                  | Manufactured Home                                 | 2 / d.u.   |         | 1 / d.u. | 2 / d.u. |         | 2 / d.u. |



**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                                                        |
| <b>Group Living</b>                       | All group living uses, except as listed below                | 1 / d.u. or rooming unit                                       |         | 1 / d.u. or rooming unit                                       | 3 / d.u. or rooming unit                                       |         | 3 / d.u. or rooming unit                                       |
|                                           | Rooming or Boarding House                                    | 0.5 / rooming unit                                             |         | 0.5 / rooming unit                                             | 1.5 / rooming unit + 1 additional space                        |         | 1.5 / rooming unit + 1 additional space                        |
| <b>Social Services</b>                    | Group Care Facility                                          | 1 / d.u., rooming unit, or bed                                 |         | 1 / d.u., rooming unit, or bed                                 | 3 / d.u., rooming unit, or bed                                 |         | 3 / d.u., rooming unit, or bed                                 |
|                                           | Shelter                                                      | 2 spaces                                                       |         | 2 spaces                                                       | 6 spaces                                                       |         | 6 spaces                                                       |
| <b>Lodging</b>                            |                                                              |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Overnight Accommodations</b>           | All overnight accommodations, except as listed below         | 1 / room or suite                                              |         | 0.5 / 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                                                |
| <b>Camping</b>                            | Campground / Recreational Vehicle Park                       | 0.25 / campsite or RV parking site                             |         | 0.2 / campsite or RV parking site                              | 1 / campsite or RV parking site                                |         | 1 / campsite or RV parking site                                |
|                                           | Rental Cottage / Cabins                                      | 1 / room or suite                                              |         | 0.5 / 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                                     |
| <b>Commercial</b>                         |                                                              |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Eating and Drinking Establishments</b> | All restaurants and other eating and drinking establishments | 1 / 750 SF                                                     |         | 1 / 750 SF                                                     | 1 / 200 SF                                                     |         | 1 / 200 SF                                                     |
| <b>Personal Services</b>                  | All personal services                                        | 1 / 500 SF                                                     |         | 1 / 600 SF                                                     | 1 / 300 SF                                                     |         | 1 / 300 SF                                                     |
| <b>Professional Services</b>              | 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 |



**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                                                        |
| <b>Retail</b>                            | 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                                           |
|                                          |                                                             |                                                                |         |                                                                |                                                                |         |                                                                |
| <b><i>Civic / Institutional</i></b>      |                                                             |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Educational</b>                       | 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                                     |
| <b>Governmental</b>                      | All government uses                                         | 1 / 750 SF                                                     |         | 1 / 1,000 SF                                                   | 1 / 200 SF                                                     |         | 1 / 200 SF                                                     |
| <b>Medical</b>                           | 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                                               |
| <b>Places of Worship</b>                 | 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 |
| <b><i>Entertainment / Recreation</i></b> |                                                             |                                                                |         |                                                                |                                                                |         |                                                                |
| <b>Indoor Recreation</b>                 | 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                                                    |



**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                                                                                 |
|                                            | 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                                                              |
| <b>Outdoor Recreation</b>                  | 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                                                              |
| <b>Agriculture</b>                         |                                                   |                                                                                         |         |                                                                                         |                                                                                         |         |                                                                                         |
| <b>Agriculture</b>                         | All agricultural uses                             | 1 / 500 SF of retail or administrative space                                            |         | 1 / 750 SF or retail or administrative space                                            | 1 / 300 SF of retail or administrative space                                            |         | 1 / 300 SF of retail or administrative space                                            |
| <b>Manufacturing / Wholesale / Storage</b> |                                                   |                                                                                         |         |                                                                                         |                                                                                         |         |                                                                                         |
| <b>Light Industrial and Manufacturing</b>  | All light industrial and manufacturing activities | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Heavy Manufacturing</b>                 | All heavy manufacturing activities                | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Storage and Disposal</b>                | All storage and disposal activities               | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Wholesaling and Distribution</b>        | All wholesaling and distribution activities       | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space |         | 1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |         | 1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space |
| <b>Extractive Industries</b>               | All extractive industries                         | Varies, See Section 10.3.D                                                              |         | Varies, See Section 10.3.D                                                              | Varies, See Section 10.3.D                                                              |         | Varies, See Section 10.3.D                                                              |



**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 |
| Infrastructure          |                                                 |         |         |         |         |         |         |
| Utilities               | All utilities                                   | N/A     |         | N/A     | N/A     |         | N/A     |
| Telecommuni-<br>cations | All wireless<br>telecommunication<br>facilities | N/A     |         | N/A     | N/A     |         | N/A     |
| Transportation          | All transportation<br>uses                      | N/A     |         | N/A     | N/A     |         | N/A     |

Note: All square footage in gross square feet. d.u. = dwelling unit.

**C. Calculation of off-street vehicle parking spaces:**

1. 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.
2. When measurements of the number of required spaces result in a fractional number, the result is rounded to the nearest whole number.
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 (some types of 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.

**E. Minimum off-street vehicle 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.

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

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**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:

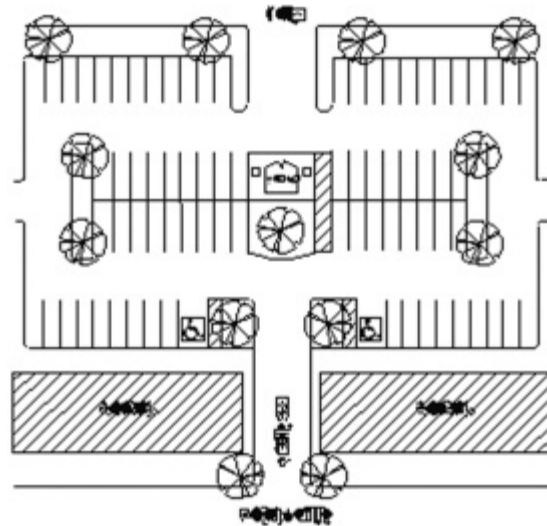
1. Ensure the safety of pedestrians and motorists;





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 a 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. Structures developed as a permitted group development, provided the parking conforms with the relevant subsections of Section 2.4.
      - v. 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.
    - b. The approving authority, in consultation with the Technical Review Committee, may waive this requirement if it deems that compliance would be impractical due to existing site constraints, provided the development comes into compliance to the greatest extent possible.
  4. Off-street parking shall not be permitted within any required open space or common areas.
- 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. Poured concrete or asphalt.
    - b. Masonry or concrete pavers; or
    - c. Porous or semi-porous monolithic or paver materials;
  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*:



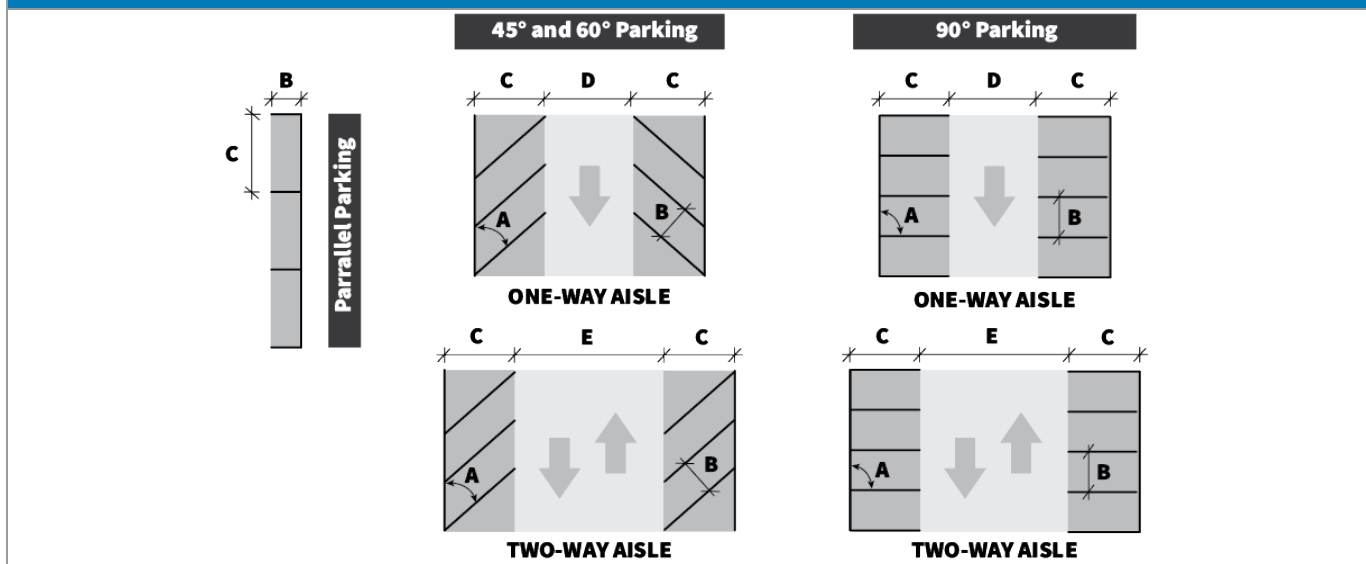
1. Parking areas shall meet the following minimum dimensional requirements

**TABLE 10.7A: MINIMUM PARKING STALL AND AISLE DIMENSIONS**

| Parking Angle<br>(A) | Stall Width<br>(B)            | Stall Depth<br>(C)                | One-Way Aisle Width<br>(D) | Two-Way Aisle Width<br>(E) |
|----------------------|-------------------------------|-----------------------------------|----------------------------|----------------------------|
| 0 / Parallel         | 8'                            | 22'                               | N/A                        | N/A                        |
| 45                   | 9' (Standard)<br>8' (Compact) | 17'6" (Standard)<br>16' (Compact) | 16'                        | 22'                        |
| 60                   | 9' (Standard)<br>8' (Compact) | 18' (Standard)<br>15' (Compact)   | 18'                        | 22'                        |
| 90                   | 9' (Standard)<br>8' (Compact) | 18'6" (Standard)<br>16' (Compact) | 22'                        | 24'                        |

Note: Refer to Figure 10.7B below.

**FIGURE 10.7B: PARKING STALL AND AISLE DIMENSIONS DIAGRAM**



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, and at least two driveways, permitted in accordance with Section 9.3.
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:
  - i. The development is a Household Living Use and does not contain more than 4 dwelling units per building.



- ii. Both spaces are assigned to one dwelling unit.
- iii. The two vehicle parking spaces in tandem must have a combined minimum dimension of 9 feet in width by 36 feet in length.
- iv. The proposed layout is functional and will not create pedestrian or traffic hazards.
- v. 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 parking areas 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. 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.



## CHAPTER 12. SIGNS

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### 12.5. General standards for all signs.

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**A. Maintenance of signs:**

1. Repainting. Nonconforming painted signs may be repainted so long as the new coat of paint is for maintenance purposes and the design of the sign is not altered in any fashion. If, during repairing, the design of the sign or structure is altered in any way, then the entire structure shall comply with the provisions of this ordinance.
2. Vandalism and adverse weather. Signs destroyed by vandals or adverse weather events shall be allowed to be replaced even if such signs do not conform to this ordinance provided they existed before the date of enactment of this ordinance and they are replaced in the exact same location, in the exact same manner, and with the exact same advertising copy and graphics of the same size as the previously destroyed sign. However, if a sign is allowed to deteriorate over time due to exposure to the weather elements, then it shall not be deemed as replaceable under this section.
3. Any maintenance action that alters or modifies the location, area, height, or illumination of a sign, shall require a permit and full compliance with this chapter.

**B. Permitting:**

1. *Permits required.* A permit, issued by the administrator, shall be required for all signs unless otherwise exempted herein. No permit shall be issued until the administrator inspects plans for such signs and determines that they are in accordance with the requirements contained in this chapter. The fee schedule for sign permits shall be determined by city council. When a permit is required, a permit shall be issued prior to the installation or placement of such sign.
2. *Inspections.* Preliminary and final site inspections may be required by the Administrator as necessary.
3. Only those signs which meet all of the requirements established by this chapter for the particular type of sign may be permitted.
4. Failure to obtain a permit for any sign that is required to be permitted prior to displaying it is a violation of this ordinance.

**C. Removal of obsolete signs:**

1. Signs identifying establishments no longer in existence, products no longer being sold, and services no longer being rendered shall be removed from the premises within 30 days from the date of termination of such activities, except that ground sign supports, braces, and guys which are not easily dismantled and are to be sold as a portion of the business assets or property may remain.
2. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the administrator may order their removal, subject to the terms of this article and [CHAPTER 18](#) of this ordinance, and any expense of removal shall be billed to the owner or lessee of said sign(s).

**D. Signs on public property forfeited:** Any sign installed or placed on public property or within a public right-of-way, except in conformance with the requirements of this section, shall be forfeited and is subject to confiscation. In addition to other remedies in [CHAPTER 18](#), the administrator shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

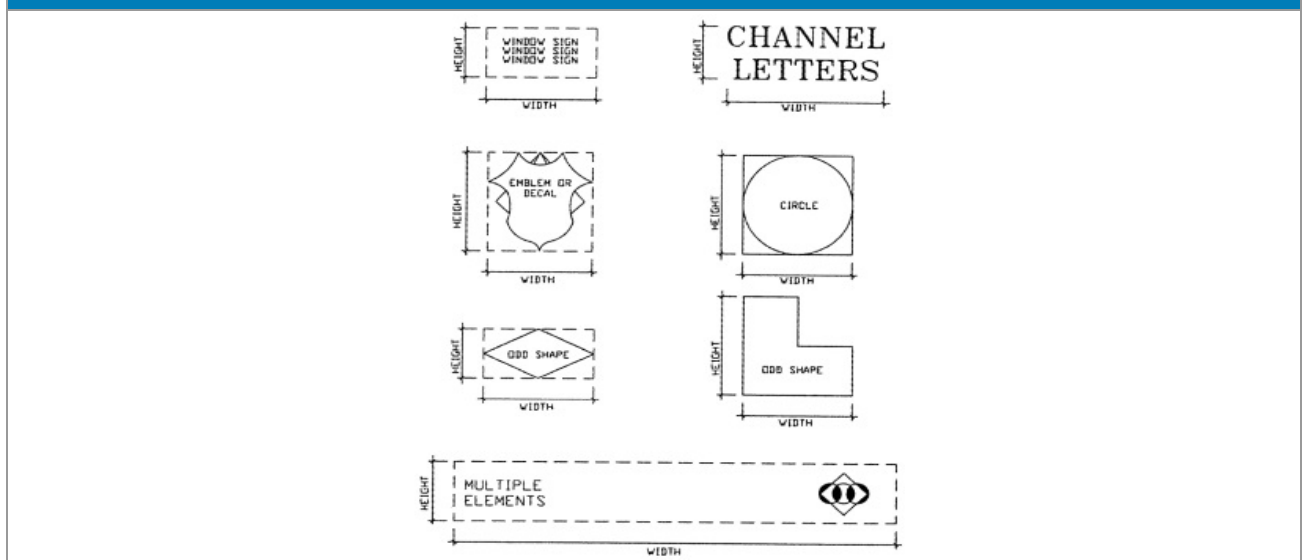
**E. Sign area computations:** The following principles shall control the computation of sign area and sign height:



## 1. Area.

- a. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed but not including any supporting framework, base, bracing, or decorative fence or wall when such fence or wall otherwise meets the regulations of this chapter and is clearly incidental to the display itself.
- b. For a single wall on a single-occupant building, all pieces of information or other graphic representations on that wall shall be measured as though part of one sign, encompassed within one rectangle, which may not exceed the permitted total wall area to which the sign is affixed. For a single wall on a multi-occupant building, the area of signs shall be computed using these principles and each individual sign shall not exceed the permitted total wall area for the facade area of the space occupied by the tenant requesting the sign.
- c. Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face. In all other cases, the areas of all faces of a multi-faced sign shall be added together to compute the area of the sign. Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point should be considered in measuring that side of the sign.
- d. Spherical, cylindrical, or other three-dimensional signs not having conventional sign faces shall be computed from the smallest three-dimensional geometrical shape or shapes which will best approximate the actual surface area of such faces.

**FIGURE 12.5A: COMPUTATION OF SIGN AREA**

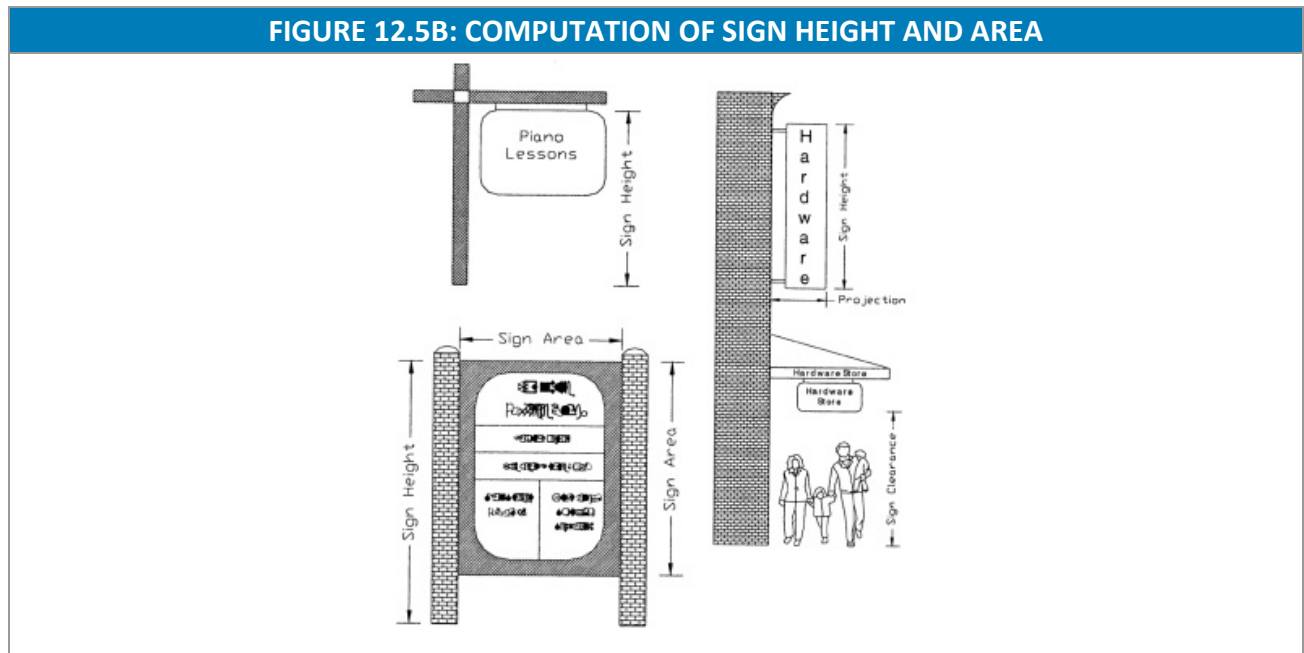


## 2. Height.





- a. Sign height shall be measured from the street grade of the closest point in the street the sign is located along or the grade at the base of the sign, whichever is higher, to the highest point of the sign structure.



- F. *Clear sight distance at street intersections required:* Signs shall be located outside of the required sight triangle as detailed in Section 9.5.
- G. *Building code compliance:* All signs and support structures shall comply with all applicable State of North Carolina Building Code requirements.
- H. *Enforcement:* Violations of this ordinance shall be subject to the enforcement provisions of CHAPTER 18.

## CHAPTER 13. INFRASTRUCTURE IMPROVEMENT REQUIREMENTS

### 13.1. Purpose and intent.

It is hereby declared to be the policy of the City of Brevard that the development of land shall be guided and regulated in such a manner as to meet the following requirements for orderly and harmonious growth:

- A. Land to be developed shall be of such character that it can be used safely without danger to health, or peril from fire, flood, erosion, excessive noise, air and/or water pollution, or other menace. Proper provisions shall be made for drainage, water supply, sewerage, and other appropriate utility services.
- B. The proposed streets shall provide a safe, convenient and functional system for vehicular circulation and shall be properly related to the land use plan of the area. Streets shall be of such width, grade, and location as to





accommodate prospective traffic, as determined by existing and probable future land uses. Streets shall be detailed to compliment neighborhoods and commercial centers and shall be pedestrian in scale.

- C. Developments shall be so arranged as to afford adequate light, view, and air, and to facilitate fire protection.
- D. Land shall be developed with due regard to topography so that the natural beauty of the land and vegetation shall be protected and enhanced.

### 13.3. General provisions.

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- A. *Approving authority:* The administrator shall be the approving authority for all public infrastructure proposed within any new or existing development. The city manager shall have the authority to accept or reject all dedications of public infrastructure consistent with city standards and approved development plans. The administrator shall have the authority to impose such conditions and make such allowances as are necessary in order ensure the adequate provision of public services and to ensure the sound installation and maintenance of public infrastructure.
- B. *Conformity to existing maps or plans:* The master plan and development plan for any other development shall conform to any applicable adopted plans of the City of Brevard, including but not limited to the *Comprehensive Transportation Plan*, the *Comprehensive Pedestrian Plan*, the adopted *Comprehensive Land Use Plan*, the *Downtown Master Plan*, any adopted recreation plan, corridor plan, master plan or small area plan, and any adopted transportation plans or policies of Transylvania County that are not in conflict with adopted plans or policies of the city.
- C. *Continuation of adjoining street system:* The proposed street layout shall be coordinated with the existing street system of the surrounding area and shall conform to the requirements of [CHAPTER 9](#) of this ordinance. Where possible, proposed streets shall be the extension of existing streets.

Whenever connections to existing or proposed streets on adjoining property are required, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the existing or proposed street is expected.

In addition, the administrator may require temporary turnarounds to be constructed at the end of such streets pending their extension. The administrator may require extension or connection where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons.

### 13.4. General infrastructure design requirements.

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- A. *Connection to city sewer system required.*
  - 1. All developed property within the city limits and located within 300 feet of a city sewer line shall be connected therewith, and the property owner shall be charged the prescribed tap fee and system development fee for all such connections. Such connection shall be made in accordance with the provisions of this article within 90 days after the date of official notice to connect.
  - 2. Improved property served by wells and annexed by the city shall be connected to the city sewer systems within five years of the effective date of annexation; provided, however, that no connection to the sewer system shall be permitted without also connecting to the city's water system.



3. New development within the city limits shall, in all cases, connect to a city sewer line. Sewer line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City sewer is not required but may be permitted for new development within the city's extraterritorial jurisdiction. The owner of any property within the city's extraterritorial jurisdiction who requests connection to the city sewer system shall request voluntary annexation into the City of Brevard. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the county health officer.
5. Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

**B. *Connection to city water system required.***

1. All developed property within the city limits shall be connected therewith and the property owner shall be charged the prescribed tap fee and system development fee for all such connections.
2. Improved property served by wells and annexed by the city shall be connected to the city water system, if within 300 feet, within five years of the effective date of annexation.
3. New development within the city limits shall, in all cases, connect to a city water line. Water line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City water is not required but may be permitted for new development within the city's extraterritorial jurisdiction. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved wells and must be approved in writing by the county health officer.
5. Any development served by the city water system shall install fire hydrants in accordance with city standards. Fire hydrant spacing and placement shall be determined by the public works director in consultation with the fire marshal. For any development within the city's ETJ without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system, the type and the location of which is to be determined by the fire marshal. A road and easement to the water source providing permanent all-weather access to the water source that is adequate for fire-fighting equipment shall be constructed and dedicated to the city, if applicable.

**C. *Sewer and water connections and infrastructure.***

1. Sewer and water connections and infrastructure shall occur in accordance with [CHAPTER 70](#) of Brevard City Code and the City of Brevard *Standard Design and Specifications Manual for Public Improvements*, and any necessary conditions of the public works director.

**D. *Utility easements.***

1. Sewer, water, storm water, and other utility easements shall be required within all new development (including developments within the ETJ for which no public sewer or water is proposed), and may be required within existing developments undergoing improvements at the discretion of the administrator.
2. The precise location and width of easements shall be determined by the administrator. However, unless otherwise specified, underground utilities should be located in alleys and lanes. If no alley or lane is provided, then a five-foot (minimum) utility easement shall be provided behind the sidewalk located



within either the right-of-way or a public utility easement. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the approving authority and shall be at least 30 feet in width.

3. Where a development is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as may be adequate for the purpose of drainage.
  4. Lakes, ponds, creeks, and similar areas within a development will not be accepted for maintenance by the city except as provided for in [CHAPTER 6](#).
  5. Easements shall be accurately depicted upon all plats and plans, and dedicated to the city by means of a plat of dedication in accordance with procedures established by Section 4.9.
  6. No structure shall be placed upon any easement. Fences and other impermanent obstructions may be permitted by the administrator in consultation with the public works director.
- E. *Sewer and water.* Sewer and water shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat or development plan unless a performance guarantee is provided to the administrator in accordance with city Code, this ordinance, and procedures established by the administrator. Sewer and water infrastructure shall be installed by the developer and dedicated to the city prior to the issuance of any Certificates of Occupancy for any building within that phase or along that line, as applicable to the particular development.

## 13.5. Street design.

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A. *Streets required:*

1. New development and substantial improvements to existing development with frontages on existing public streets shall be required to upgrade all their frontages to meet the standards of this chapter.
2. New development without frontages upon a public street shall, in all cases, extend and connect to a public street. Public street extensions and improvements required for new development, including those beyond the development boundary, are the sole responsibility of the developer. Such improvements must be provided in accordance with the requirements of the [CHAPTER 62](#) of Brevard City Code and this ordinance. This section shall apply to all subdivisions, the development of which is subject to the control of the city, both inside and outside the city limits.
3. Streets shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat or development plan unless a performance guarantee is provided to the administrator in accordance with City Code, this ordinance, and procedures established by the administrator. Streets shall be installed by the developer and dedicated to the city prior to the issuance of any certificates of occupancy for any building within that phase or on that street, as applicable to the particular development.
4. City streets shall be built to the minimum specifications of this chapter and [CHAPTER 62](#) of Brevard City Code, and shall comply with all standards and specifications of the public works director. New streets in the ETJ shall meet all standards and requirements of the North Carolina Department of Transportation.

- B. *Streets to connect:* Streets shall interconnect within a development and with adjoining development in accordance with [CHAPTER 9](#) and [CHAPTER 10](#) of this ordinance. Culs-de-sac are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs shall be provided with development adjacent to open land to provide for future



connections at the discretion of the administrator. Streets shall be planned with due regard to the designated corridors shown on adopted plans and policies of the city or Transylvania County.

- C. *Pedestrian and bicycle infrastructure:* Pedestrian and bicycle infrastructure shall be required as set forth within this chapter and conformance with adopted plans and policies of the city or Transylvania County.
- D. *Topographic considerations:* Wherever possible, street locations should account for difficult topographical conditions, paralleling excessive contours to avoid excessive cuts and fills and the destruction of significant trees and vegetation outside of street-rights-of way on adjacent lands.
- E. *Infrastructure in steep slope areas:* Infrastructure shall be installed in steep slope areas in accordance with the provisions of this chapter and any other applicable provisions in [CHAPTER 6](#).
- F. *On-street parking:*
  - 1. On-street parking may be required by the administrator.
  - 2. When required, all on-street parking provided shall be parallel. Curb or angle parking is permitted upon approval of the administrator when the fronting buildings are more than 22 feet in height to provide spatial definition and when the posted speed limit is less than 25 mph.
  - 3. When required, minimum right-of-way widths shall be modified to account for on street parking.
- G. *Traffic calming devices:* The use of approved traffic calming measures is encouraged as alternatives to conventional traffic control measures on Neighborhood Streets and within circulation areas of commercial and mixed-use developments.
- H. *Flood elevations:* No street in an area subject to flooding shall be approved if it is more than one foot below the elevation of the 100-year flood. The administrator may require, where necessary, profiles and elevations of streets for areas subject to flooding. Fill may be used for streets in accordance with [CHAPTER 34](#) of Brevard City Code. Drainage openings shall be so designed as to not restrict the flow of water and unduly increase flood heights.
- I. *Storm drainage:* Stormwater shall not be discharged into any stream and shall be retained and treated accordance with [CHAPTER 6](#) of this ordinance, except that streets and related retention/treatment infrastructure shall be designed to accommodate a 25-year, 24-hour storm drainage standard.
- J. *Street names:* Streets shall be named and property addressing assigned in accordance with Brevard City Code, Chapter 62, Streets, Sidewalks and Other Public Ways, Article VII, Property Addressing and Road Naming. The administrator shall require evidence that road names and property addresses have been approved and assigned by the Transylvania County Property Addressing Coordinator prior to approving any development.
- K. *Blocks:*
  - 1. The lengths, widths, and shapes of blocks shall be determined with due regard to:
    - a. The provision of adequate building sites suitable to the special needs of the type of use contemplated, and adequate public open spaces accessible and visible to residents.
    - b. District requirements and design criteria.
    - c. Needs of non-vehicular and vehicular traffic circulation and traffic control and safety.
    - d. Opportunities and constraints of topography, with convenient access to important physical and topographical features such as lakes and rivers, significant areas of trees and other natural features, and areas of high ground offering scenic views.
  - 2. Blocks shall not be less than 200 feet nor more than 660 feet ( $\frac{1}{8}$ -mile), as measured from edge of right-of-way, unless site and topography or other special circumstances are present as determined by the



administrator. Where deemed necessary by the administrator, a pedestrian crosswalk of at least ten feet in width may be required.

3. Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from another type of use, or when abutting a perennial stream or lake.

**L. Landscaping:**

1. Streets shall be landscaped with street trees. Commercial streets shall have trees which compliment the face of the buildings and which shade the sidewalk. Residential streets shall provide for an appropriate canopy, which shades both the street and sidewalk, and serves as a visual buffer between the street and the home.
2. All street trees shall be installed in accordance with [CHAPTER 8](#) of this ordinance. Large canopy trees shall be planted in a planting strip at a minimum average distance of 40 feet on-center.
3. The minimum width of all planting strips shall be six feet. For large canopy trees such as Willow Oaks and Red Maples, a minimum of eight foot planting strip is suggested. Refer to [CHAPTER 8](#) of this ordinance for additional information on landscaping.

**M. Street markers and traffic control signs:** Street markers and traffic control signs shall be required and posted in accordance with city standards and the Manual of Uniform Traffic Control Devices. Such infrastructure shall be installed by the developer prior to the issuance of any Certificates of Occupancy for any building on that street.

**N. Pedestrian and bicycle infrastructure:** Sidewalks, multi-use paths, or other pedestrian/bicycle infrastructure shall be constructed in accordance with the following requirements:

1. In determining the type of pedestrian/bicycle infrastructure that shall be required the Administrator shall refer to any adopted plan or policy of the city for guidance. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan*, *City of Brevard Comprehensive Pedestrian Plan*, *City of Brevard Street Schedule*, *City of Brevard Comprehensive Land Use Plan*, *City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
2. Sidewalks, multi-use paths, and other pedestrian and bicycle improvements shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat, or issuance of final zoning approval or certificate of occupancy for any development plan. Pedestrian and/or bicycle infrastructure shall be constructed within the street right-of-way. The approving authority shall require the dedication of additional street right-of-way or a pedestrian easement when sufficient right-of-way does not exist to comply with this requirement. The approving authority may accept the dedication of additional right-of-way or a pedestrian easement in order to accommodate alternative routes and designs that do not follow streets.
3. Streets shall be bordered by pedestrian/bicycle infrastructure on both sides. Exceptions to this requirement and modifications to the design of pedestrian/bicycle infrastructure may be granted by the TRC for developments in steep slope areas and where warranted by environmental or topographic conditions, or where this requirement would serve no useful purpose.
4. Without exception, pedestrian/bicycle infrastructure shall be required along all new public and private streets within new subdivisions or developments, and within new phases of existing subdivisions and any other form of development.
5. Without exception, pedestrian/bicycle infrastructure shall be required along existing streets within or abutting new subdivisions and any other form of development (except subdivisions in GR districts



establishing less than eight dwelling units); or along existing streets within or abutting any form of existing development undergoing substantial improvement (except single-family and duplex residential structures in GR districts).

6. Pedestrian/bicycle infrastructure shall be required along the same side of the street upon which the development fronts, except that when a development project is located on both sides of the same street the approving authority may require that infrastructure be installed on both sides of the street.
7. When site characteristics and/or traffic patterns are such that the construction of pedestrian/bicycle infrastructure in accordance with this section would be a hardship and would not result in useful pedestrian walkways, the administrator, upon recommendation from the TRC may allow the applicant to pay the designated cost of constructing such infrastructure into the city sidewalk fund in lieu of requiring construction of the infrastructure. In determining whether to accept a fee in lieu of construction of infrastructure, the administrator shall refer to any adopted plan or policy of the City for guidance. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan*, *City of Brevard Comprehensive Pedestrian Plan*, *City of Brevard Street Schedule*, *City of Brevard Comprehensive Land Use Plan*, *City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
8. The administrator may accept a performance guarantee for the construction of sidewalks on behalf of the city in situations where no other public infrastructure is proposed in accordance with [CHAPTER 16](#) of this ordinance.
9. Multi-use paths and other infrastructure:
  - a. Multi-use paths, and other pedestrian and bicycle infrastructure shall be provided instead of or in addition to sidewalks wherever called for on an adopted plan or policy of the city. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan*, *City of Brevard Comprehensive Pedestrian Plan*, *City of Brevard Street Schedule*, *City of Brevard Comprehensive Land Use Plan*, *City of Brevard Recreation Plan*, other master plans and small area plans, and other plans and policies.
  - b. When a multi-use path is required in an area not adjacent to a public or private street, then such facility shall be credited towards the satisfaction of the open space requirements as set forth in [CHAPTER 7](#) of this ordinance.
  - c. All required multi-use paths shall be dedicated to the City of Brevard by means of right-of-way or pedestrian easement.
  - d. On-street bicycle lanes shall be required when called for upon an adopted plan or policy of the city.
10. Pedestrian and bicycle improvements shall be as follows:

**TABLE 13.5A: PEDESTRIAN AND BICYCLE IMPROVEMENT WIDTHS**

| Zoning District            | Facility Width                                     |                        |
|----------------------------|----------------------------------------------------|------------------------|
|                            | City Streets                                       | NCDOT Streets*         |
| GR                         | 5 feet                                             | 5 feet                 |
| RMX, NMX, CMX, DMX, GI, IC | 5 feet                                             | 8 feet                 |
| Public Streets             | City Streets Required; Dedication to City Required | NCDOT Streets Required |





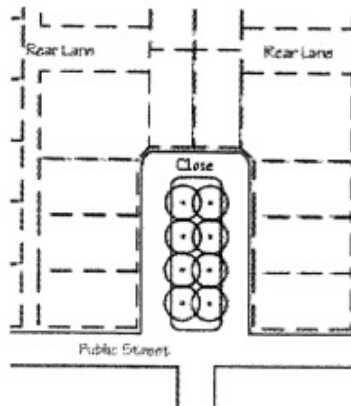
**TABLE 13.5A: PEDESTRIAN AND BICYCLE IMPROVEMENT WIDTHS**

| Zoning District                      | Facility Width                        |                                        |
|--------------------------------------|---------------------------------------|----------------------------------------|
|                                      | City Streets                          | NCDOT Streets*                         |
| Street Rights-of-Way                 | Required; Dedication to City Required | Required; Dedication to NCDOT Required |
| Multi-Use Path (where required)      | 10 feet                               | 10 feet                                |
| On-Street Bike Lane (where required) | 5 feet                                | 5 feet                                 |

\*Sidewalks are not required along alleys and commercial service streets except when required as a condition of a Conditional Zoning District, Group Development, or special use permit.

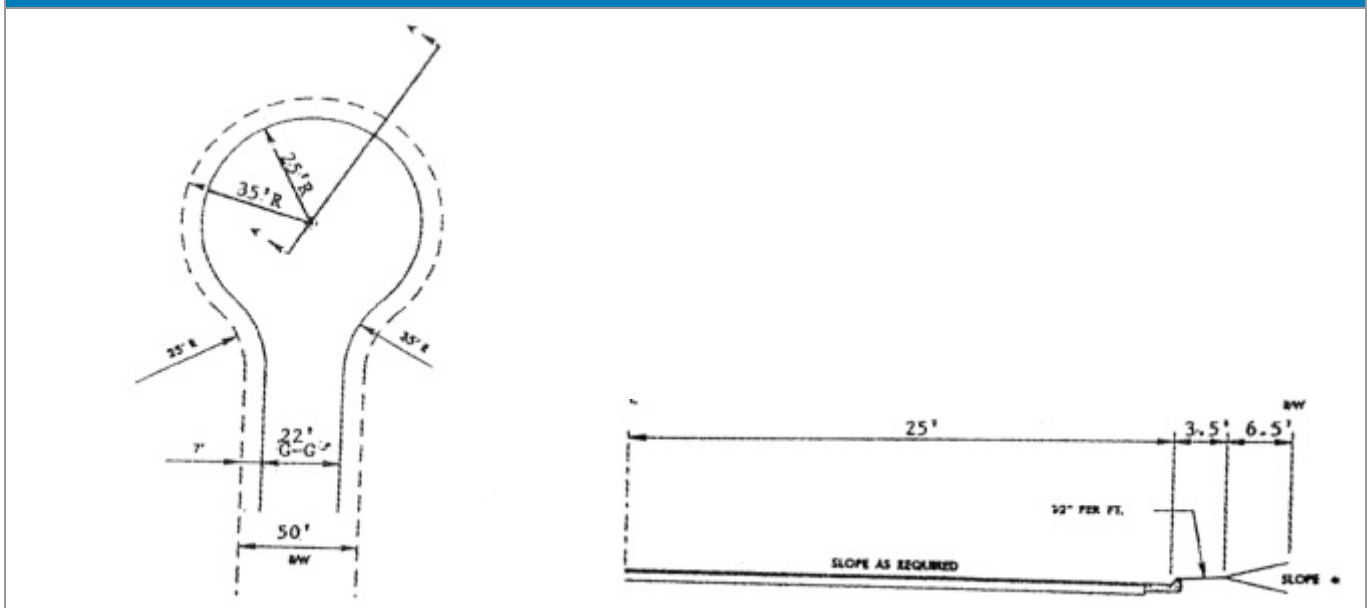
11. All pedestrian/bicycle infrastructure shall comply with the minimum requirements for handicapped accessibility in compliance with the North Carolina Accessibility Code or other federal, state, or local regulations. During the construction of pedestrian/bicycle infrastructure, whether new or replacement, handicapped ramps shall be placed in the sidewalk where it intersects with streets and other pedestrian and vehicular travel ways.
  12. All sidewalks shall be made of 4,000 PSI concrete with a minimum depth of four inches, except that street and driveway crossings shall be a minimum of six inches in depth. Bike lanes and multi-use paths shall be made of asphalt, designed according to the North Carolina Bicycle Planning and Design Guidelines published by the NCDOT and shall include all appropriate signage and pavement markings. Alternative materials and designs may be approved by the TRC in consultation with the public works director.
- O. *Culs-de-sac and closes.* Where practical, a close (see graphic, below) shall be used in place of a cul-de-sac. Culs-de-sac and closes shall be designed to facilitate the turning radius of emergency vehicles.

**FIGURE 13.5A: ILLUSTRATION OF CLOSE**





**FIGURE 13.5B: ILLUSTRATION OF CUL-DE-SAC WITH CURB AND GUTTER SECTION**



**P. Intersections:**

1. All streets shall intersect at right angles as nearly as possible and no street shall intersect at less than 60 degrees.
2. Where practical, intersections should be aligned to create four-way intersections.
3. Off-set intersections for local streets and neighborhood collectors should be at least 125 feet apart measured from centerline to centerline. A larger spacing in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards may be required for all other streets.
4. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection of less than 90 degrees, a greater radius may be required.
5. Proper sight lines shall be maintained at all intersections of streets to permit adequate sight distance. Where the posted speed limit is less than 20 mph, the intersection sight distance may be reduced to 105 feet.
6. Bulb-outs are discouraged on narrow streets (less than 30 feet face-of-curb to face-of-curb) but encouraged on wider streets.
7. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. Where a street intersects a state highway, the design standards of the state department of transportation shall apply.

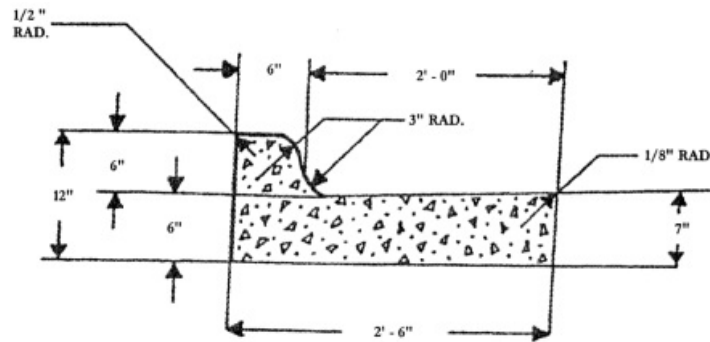
**Q. Curb radii:** Curb radii shall be designed to reduce pedestrian crossing times along all streets requiring sidewalks. In general, curb radii should not exceed 20 feet except along NCDOT-maintained roads.

**R. Curbs and drainage for city streets:** The following requirements shall apply to streets within the city. Streets within the ETJ shall meet all applicable requirements of the North Carolina Department of Transportation.



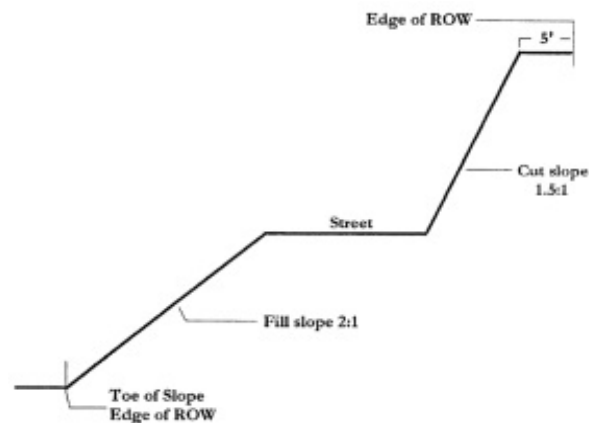


**FIGURE 13.5C: STANDARD VERTICAL FACE CURB AND GUTTER**



1. Curb and gutter shall be required on all new residential and commercial streets constructed within the city.
2. Standard vertical face curb and gutter within the city shall be two-foot, six-inch concrete with a height of six inches (see graphic, above). All curbing shall be properly backfilled.
3. Exceptions to this requirement may be made by the administrator subject to circumstances in the area under study. Such circumstances shall relate to the topography of the area, future maintainability of the streets, or other factors deemed relevant by the administrator.
4. Vertical face curbing is required along all streets with on-street parking and around all required landscaping areas and parking lots.
5. All drainage gates must be safe for bicyclists. Bicycle-safe drainage grates are types E, F, and G as approved by the NCDOT.
6. City street culvert dimensions shall be subject to the requirements of the public works director.
7. The right-of-way shall extend from a point five feet outward from the top of the bank of any cut slope to the toe of any fill slope. Maximum slope of any cut slope shall be at a ratio of no greater than 1.5 feet of horizontal run to one foot of vertical rise (1.5:1 slope), and the maximum slope of any fill slope shall be at a ratio of no greater than two feet of horizontal run to one foot of vertical rise (2:1 slope).

**FIGURE 13.5D: RIGHT-OF-WAY MAXIMUM SLOPE CROSS SECTION**





- S. *Centerline radius:* A 90-foot minimum centerline radius shall be used for local streets, parkside drives, and minor streets between reverse curves though they may be reduced to 45 feet for design speeds less than 20 mph. All other streets shall be in accordance with AASHTO standards.
- T. *Street lights:* Street lights shall be installed by the developer on all streets in accordance with [CHAPTER 12](#) of this ordinance.
- U. *Posted speed limits:* All streets shall be posted in accordance with the Manual of Uniform Traffic Control Devices and the City of Brevard Traffic Schedule.
- V. *Street grades:* The maximum permissible street grade shall be 18 percent.
- W. *Design standards:* Design standards not specifically addressed in this ordinance must comply with the minimum design and construction criteria of the N.C. Department of Transportation.
- X. *Minimum right-of-way:* The administrator shall determine right-of-way widths based upon the characteristics of the proposed development. However, unless otherwise specified, the minimum right-of-way for all new streets within the city shall be 50 feet, and shall satisfy minimum requirements of the North Carolina Department of Transportation in the ETJ.

## 13.7. Containment areas for trash and recyclables.

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All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. Sub-grade dumpsters shall be exempt from the provisions of this section. All containment areas shall meet the following standards:

- A. All containment areas shall be enclosed to contain windblown litter.
- B. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
- C. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall, or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
- D. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support, allows for positive drainage, and conforms to the Transylvania County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access.
- E. Enclosures shall contain gates to allow for access and security.
- F. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
- G. Enclosures shall be landscaped in accordance with [CHAPTER 8](#) of this ordinance.

# CHAPTER 14. NONCONFORMITIES

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## 14.6. Nonconforming lots.

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- A. Except as provided herein, a nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the district in which it is located, provided that the use meets all applicable yard and setback requirements for the district in which the lot is located.



1. In such cases the administrator shall require evidence of the presence of a deeded right-of-way or other access easement prior to the issuance of any permit.
- B. A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot owned by the same entity on or after the effective date of these regulations in order to create a single lot. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.
- C. A nonconforming lot may be developed if, at the effective date of this ordinance, the lot is located in:
  1. A subdivision in which the lot is located has received preliminary plat approval; or
  2. A subdivision in which the lot is located has received final plat approval.
- D. The administrator may permit the establishment of a private right-of-way or access easement in order to facilitate access to pre-existing land-locked parcels. However, the provision of such private access shall not be considered satisfactory of the street frontage requirement unless it fully complies with the requirements of Section 4.2.3.
- E. No subdivision activity shall be permitted on parcels of land that do not meet the street frontage requirements of this ordinance. This requirement shall apply regardless of the size of the landlocked or otherwise non-compliant parcel.

## 14.9. Nonconforming street improvements.

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- A. A lot (excluding those containing one pre-existing single-family structure), group development, or planned development shall fully comply with all street improvement requirements of [CHAPTER 13](#) along the fronting streets including, but not limited to, turning and traffic storage lanes, sidewalks, multi-use paths, bike lanes, and curb and gutter, if any of the following activities occurs within the same lot or project:
  1. An expansion of the heated square footage of an existing primary structure.
  2. The construction of a new primary structure.
  3. Significant or substantial damage or improvement to a principal structure.
  4. A change to a more intensive use of an existing structure.
  5. The establishment of additional primary uses.
  6. Approval of any application for the establishment of a special use, conditional zoning district, or group development.
  7. Expansions to the parking area or loading areas which increase the total area more than 40 percent shall be required to comply with all applicable parking and loading area landscaping and screening.

# CHAPTER 16. ADMINISTRATION

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## 16.6. Development approval review procedure in general.

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- A. Planning department staff, also referred to as the administrator, and the approving authority shall have the discretion to refer any land development permit application to a body of greater authority for consideration and approval or denial consistent with this section.



- B. The administrator shall provide advisory review and comment to all boards and city council regarding the application's compliance to this section. The administrator may determine that additional review is required and request review and/or a recommendation by a board beyond the required process described herein.
- C. *Designation of approving authority:*

| TABLE 16.6A: DEVELOPMENT REVIEW, APPROVAL, AND APPEAL AUTHORITIES |                                                                              |                                               |                     |                     |
|-------------------------------------------------------------------|------------------------------------------------------------------------------|-----------------------------------------------|---------------------|---------------------|
| Category                                                          | Development Activities                                                       | Review / Recommendation                       | Approving Authority | Appeal Authority    |
| <b>Annexation &amp; Dedication</b>                                | Annexations                                                                  | Planning Board                                | City Council        | Superior Court      |
|                                                                   | Dedication / Acceptance of Infrastructure                                    | Technical Review Committee                    | Staff               | Board of Adjustment |
|                                                                   | Street / Right-of-Way/Easement Abandonment                                   | Technical Review Committee                    | City Council        | Superior Court      |
| <b>Land Use &amp; Development</b>                                 | All Land Use and Development Activity for which No Higher Review is Required | -                                             | Staff               | Board of Adjustment |
|                                                                   | Group Developments                                                           | Technical Review Committee                    | Staff               | Board of Adjustment |
|                                                                   | Temporary Uses                                                               | -                                             | Staff               | Board of Adjustment |
|                                                                   | Special Use Permits                                                          | -                                             | Board of Adjustment | Superior Court      |
|                                                                   | Development Agreements                                                       | -                                             | City Council        | Superior Court      |
|                                                                   | Vested Rights Determination                                                  | -                                             | City Council        | Superior Court      |
| <b>Regulations</b>                                                | Adoption, Amendment, or Repeal of Development Regulations                    | Planning Board                                | City Council        | Superior Court      |
|                                                                   | Official Zoning Determinations and Other Interpretations of this Ordinance   | -                                             | Staff               | Board of Adjustment |
| <b>Zoning</b>                                                     | Rezoning / Zoning Map Amendments                                             | Planning Board                                | City Council        | Superior Court      |
|                                                                   | Conditional Zoning Districts                                                 | Technical Review Committee and Planning Board | City Council        | Superior Court      |
|                                                                   | Final Master Plan Approval for Conditional Zoning Districts                  | -                                             | Planning Board      | Superior Court      |
|                                                                   | Variances                                                                    | -                                             | Board of Adjustment | Superior Court      |
| <b>Modifications</b>                                              | Minor Modifications                                                          | -                                             | Staff               | Board of Adjustment |
|                                                                   | All Other Modifications                                                      | Original Approval Process                     |                     |                     |

- D. In addition to any findings that may be otherwise required by this chapter, the approving authority shall only approve a land development application upon determination that the application meets the following requirements:
1. All applicable requirements of this ordinance and Brevard City Code are satisfied.



2. All other applicable federal, state, and local requirements and plans are satisfied.
  3. All applicable policies and plans of the City of Brevard are satisfied.
  4. All required system development fees, performance guarantees, or other dedications have been or will be secured.
  5. Approval of the application will not otherwise endanger the health, safety, or welfare of the public.
  6. The applicant agrees to adhere to all reasonable conditions and requirements imposed in accordance with this chapter.
- E. The approving authority shall consider impacts upon traffic conditions, public safety, public infrastructure and services, and other relevant factors, including any proposed project's likely effect on the public health or safety in determining whether to approve or reject any land development application, and may impose such reasonable conditions as are allowed under G.S. 160D noting the applicable approval process. Findings as to such factors made by any reviewing entity shall not bind the city officer, committee, board, or council acting as the approving authority, which shall consider such factors de novo.
- F. If the administrator or approving authority requires the application to be reviewed by the technical review committee (TRC) in accordance with Section 15.1, its members shall provide written comments to the planning director within 15 days of having received notification from the planning director of a land development application requiring their review, unless otherwise stated in this Chapter.
- G. A permit or development approval shall be in writing, and may be issued in print or electronic form pursuant to G.S. 160D-403. Any permit or approval issued exclusively in electronic form shall be protected from further editing once issued. The permit or approval may contain a provision that the development shall comply with all applicable state and local laws. If an application is denied, the reasons for denial shall be stated in writing.
- H. Typical procedures following issuance of land development permit:
1. Upon issuance of a land development permit, the applicant may proceed to the Transylvania County Health Department and/or Transylvania County Building Permitting and Enforcement for any necessary permits.
  2. Upon creation of structural footers or the pouring of the first-floor slab of any building or structure, the applicant shall contact the administrator for a preliminary setback inspection. The administrator shall inspect for compliance with applicable dimensional requirements and shall issue preliminary setback approval or require modifications, as applicable.
  3. Upon completion of all land development activity and the installation of all approved improvements the applicant shall contact the administrator to arrange for a final inspection. As authorized by G.S. 160D-403(e) and -1113, the administrator shall inspect for compliance with all applicable requirements of this ordinance and Brevard City Code. The administrator shall deny final inspection approval if full compliance with this ordinance and Brevard City Code, approved development plans, and all other requirements, is not observed. The administrator may issue conditional approval. Conditional approval shall be extended for a defined period of time and all conditions shall be clearly set forth in writing. The administrator may require the submission of final "as built" construction documents as a condition of final written approval.
  4. Upon issuance of final approval by the administrator, the applicant shall contact the Transylvania County Building Inspection Department to request issuance of a certificate of occupancy in accordance with G.S. 160D-403(g).
  5. The administrator shall, from time to time, inspect the building, structure, use, or other approved activity for continued compliance with this ordinance, Brevard City Code, the approved land development plan,



and any other applicable requirement, and shall take such action as is necessary to ensure continued compliance, including any remedy as set forth in [CHAPTER 18](#) of this ordinance.

**I. Final zoning approval and certificate of occupancy:**

1. No structure shall be used or occupied until final zoning approval has been issued by the City of Brevard and a certificate of occupancy has been issued by the Transylvania County Building Inspection Department pursuant to G.S. 160D-403(g). Such approval shall be issued with the presumption that the structure or portion of a structure is in compliance with Brevard City Code, all applicable provisions of this ordinance, any specific conditions and requirements of the city, and the information stated on the development permit.
2. A record of all final zoning approvals shall be kept on file in the office of the administrator, and a record of all certificates of occupancy shall be kept on file in the office of the Transylvania County Building Inspection Department. Copies shall be furnished, on request, to all interested parties.
3. If final zoning approval or a certificate of occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant.
4. Where certain infrastructure elements have not been installed (i.e. landscaping due to time of year), a temporary final zoning approval may be issued by the administrator, and a final certificate of occupancy may be issued by Transylvania County with permission from the administrator.

**J. Right of appeal:**

1. If a request for a development permit is denied or if a ruling of the administrator is questioned, any aggrieved party may appeal such ruling to the board of adjustment (hereafter, "BOA") in accordance with this chapter and G.S. 160D-405.
2. Appeals of a ruling of the BPB, the BOA, or city council shall be heard by the Superior Court of Transylvania County. In accordance with G.S. 160D-1402, the aggrieved party may request a stay of execution or enforcement of the decision of the quasi-judicial board pending superior court review. If in the absence of a stay, an applicant proceeds with development, the person does so at his or her own risk.

## 16.7. Legislative decisions.

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- A.** The purpose of this section is to establish uniform procedures for legislative decisions. In accordance with G.S. 160D-102(1), a legislative decision is the adoption, amendment, or repeal of a development regulation. It also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Section [16.11](#).
- B.** Outline of review procedures for legislative decisions.



**FIGURE 16.7A: REVIEW PROCEDURES FOR LEGISLATIVE DECISIONS**



- C. General procedures for amending development regulations. Before adopting amending, or repealing any ordinance or development regulation, the city council shall hold a legislative hearing pursuant to the procedures outlined below, in G.S. 160D Article 6, and in Sections 16.7.D, 16.7.E, and 16.7.F when applicable.
1. *Application required.* An adoption, amendment, or repeal of a development regulation may be initiated by the city council, the BPB, the planning department, the city manager, or any private citizen filing an application with the administrator.
    - a. Applicants shall submit a description or narrative stating why the proposed amendment or conditional zoning district is requested.
    - b. In accordance with G.S. 160D-601, no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the city. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
      - i. By decreasing the development density of the land to be less dense than was allowed under its previous usage.
      - ii. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
    - c. Amendments to zoning ordinances shall not be initiated, applicable or enforceable without consent of the owner with regard to buildings and uses for which either:
      - i. Building permits have been issued pursuant to G.S. 160D-403 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired unrevoked pursuant to G.S. 160D-403, or
      - ii. A vested right has been established and remains valid and unexpired pursuant to Section 16.10.
  2. *Administrative review procedure:*





- a. The applicant shall submit the completed application, pursuant to Section 16.5, at least 60 calendar days prior to the meeting of the BPB at which the petition is to be heard. For urgent matters, the administrator may request the BPB to review the application at an earlier meeting if processing time permits.
  - b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.
  - c. The administrator shall forward the petition to the BPB for review and recommendation to the city council.
3. *Brevard Planning Board review and comment:* The BPB shall review and make recommendations to city council on any development regulations assigned to city council in Section 16.6.B, pursuant to G.S. 160D-604.
  - a. All proposed amendments to the development regulations or zoning map shall be submitted to the BPB for review and comment. If no written report is received from the BPB within 30 days of referral of the amendment to that board, the city council may act on the amendment without the BPB report. The city council is not bound by the recommendations, if any, of the BPB.
  - b. When conducting a review of proposed zoning text or map amendments, the BPB shall consider the Comprehensive Land Use Plan and other adopted plans and policies when making a recommendation and shall submit a consistency statement with their findings whether the application complies with the applicable plans.
  - c. All recommendations shall be by majority vote.
  - d. The BPB shall make one of the following recommendations with regard to a petition to amend the text of a development regulation:
    - i. Adoption of the amendment as written;
    - ii. Adoption of the amendment as revised by the BPB; or
    - iii. Rejection of the amendment.
4. *Notification requirements:* A notice of the legislative hearing shall be published in a newspaper having general circulation in the city once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing.
5. *Citizen comments:*
  - a. Development regulations may from time to time be amended, supplemented, changed, modified, or repealed. Citizens shall be provided an opportunity to comment, in writing, upon such proposed amendment, modification, or repeal. No comment on or protest against any change in or amendments to a development regulation shall be valid or effective for the purposes of G.S. 160D-603 unless it be in the form of a written statement bearing the signatures of property owners. The statement shall be submitted to the city clerk at least one week prior to the date established for the legislative hearing on the proposed change or amendment. The city clerk shall deliver such written statement to city council.
  - b. The city council may by ordinance require that all citizen comments be on a form prescribed and furnished by the city, and such form may prescribe any reasonable information deemed necessary to permit the city to determine sufficiency and accuracy of the commentors.
  - c. A person who has signed a written statement may withdraw his or her name from the protest at any time prior to the vote on the proposed development regulation amendment.





6. *Legislative hearing:* Once the BPB has made a recommendation on an application for a text amendment or rezoning, the city council shall hold a legislative public hearing on the application. Due to the legislative nature of those applications for which council is the approving authority, council may choose to table, approve, approve with conditions, or deny such applications at its discretion. However, council shall approve, approve with conditions, or deny any land development application for which it is the approving authority by means of referral in accordance with Section 16.6.A within 90 days of having first considered such application. Legislative decisions for development regulations may be finally adopted, by affirmative simple majority vote, on the date on which the regulation is introduced. For purposes of this section, an application shall be deemed to have been introduced on the date the subject matter is first voted on by council.
  - a. The city council shall consider the Comprehensive Land Use Plan and other adopted plans and policies when making a decision and must adopt a consistency statement indicating whether the application complies with the approved plans in accordance with G.S. 160D-605(a).
  - b. A decision concerning a petition to amend the text of this ordinance shall be as follows:
    - i. Adoption of the amendment as written;
    - ii. Adoption of the amendment as revised by the BPB or by city council;
    - iii. Rejection of the amendment;
    - iv. Send the application back to the BPB for further study and consideration; or
    - v. Call for additional public hearings on petitions brought before them.
  - c. In the instance of a failure to vote by a member who is physically present in the council chamber, or who has withdrawn due to a conflict-of-interest without being excused by a majority vote of the remaining members present, the failure to vote shall not be included as an affirmative or negative vote.
7. *Rehearing:*
  - a. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the city council decision.
  - b. Specific information to enable the city council to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically.
  - c. A rehearing shall be denied by the city council, if in its judgment a prima facie case for such change has not been alleged.
  - d. A legislative hearing shall not be required to be held by the city council to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four voting members. In the event that the city council finds that a rehearing is warranted, it shall then proceed as in the original hearing except that the application fee shall be waived.
  - e. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.
  - f. Every decision of the city council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision of the board is filed in the office of the city clerk, or after a



written copy is delivered to an aggrieved party who has filed a written request for such copy with the administrator at the time of the hearing of the case by the city council, whichever is later.

8. *Application withdrawal:*

- a. The petitioner may withdraw his or her application before submission of the public notice to the newspaper announcing the legislative hearing.
- b. After submission of such notice, an application may be withdrawn at the discretion of city council at the legislative hearing.
- c. No more than one withdrawal may occur on the same parcel or portion of land within a one-year period
- d. No application shall be filed on the same parcel or portion of land within a one-year period after the date of the second withdrawal.

D. Procedures for zoning map amendments. Applications for zoning map amendments shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.C except at provided below:

1. *Notification requirements:* Hearings on proposed zoning map amendments require additional public notices in accordance with G.S. 160D-602. Additional notification of the public hearing shall be as follows:

- a. A notice of a proposed change to the official map shall be sent by first-class mail by the administrator to the affected property and to all abutting property owners. For the purpose of this section, properties are "abutting" even if separated from the subject property by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the hearing.
- b. The first-class mail notice required under subsection (a) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice procedures provided that the advertisement shall not be less than one-half newspaper page in size. The local government will publish the notice of a hearing in a newspaper having general circulation in the city once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing. The notice shall only be effective for the property owners who reside in the area of general circulation of the newspaper which published the notice. Property owners who reside outside of the city's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the city council that fact, and the certificates shall be deemed conclusive in the absence of fraud.
- c. One or more prominent signs with the notice of the hearing shall be posted on the subject property or properties beginning not less than ten days nor more than 25 days prior to the date established for the hearing. Such notice shall state a phone number to contact during business hours for information. The sign shall remain until after the city council has rendered its final decision.
- d. When a zoning map amendment is proposed and if substantial impact on the neighborhood can be anticipated, the administrator shall have the right to require a neighborhood compatibility meeting in order to gather neighborhood feedback, and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents. A substantial impact on the neighborhood includes but is not limited to applications for zoning map



amendments affecting multiple parcels with separate owners and for conditional zoning districts that request modifications to the density, dimensional and setback requirements enumerated in [CHAPTER 2](#).

2. *Brevard Planning Board review and comment:*

- a. In place of the recommendations outlined in Section 16.7.C, the BPB shall make one of the following recommendations with regard to a petition for a zoning map amendment:
  - i. Grant the zoning map amendment as requested;
  - ii. Grant the zoning map amendment with a reduction of the area requested;
  - iii. Grant the zoning map amendment to a more restrictive general zoning district or districts; or
  - iv. Deny the application.
- b. The BPB shall submit a statement analyzing the reasonableness of any proposal for a zoning map amendment. The statement of reasonableness may consider, among other factors:
  - i. The size, physical conditions, and other attributes of any area proposed to be rezoned;
  - ii. The benefits and detriments to the landowners, the neighbors, and the surrounding community;
  - iii. The relationship between the current actual and permissible development and the development permissible under the proposed amendment;
  - iv. Why the action taken is in the public interest; and
  - v. Any changed conditions warranting the amendment.

3. *Legislative hearing:*

- a. In addition to the general procedures outlined in Section 16.7.C.7, when adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning must be approved by the city council in accordance with G.S. 160D-605. The statement of reasonableness and the plan consistency statement may be approved as a single statement.
- b. In place of the decisions outlined in Section 16.7.C.7(b), a decision concerning a petition for a zoning map amendment shall be as follows:
  - i. Grant the zoning map amendment as requested;
  - ii. Grant the zoning map amendment with a reduction in the area requested;
  - iii. Grant the zoning map amendment to a more restrictive general zoning district;
  - iv. Grant the zoning map amendment with a combination of (i) and (ii) above;
  - v. Deny the application;
  - vi. Send the application back to the BPB for further study and consideration; or
  - vii. Call for additional legislative hearings on petitions brought before them.
- c. In accordance with G.S. 160D-605, if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and shall be required. A plan amendment and a zoning amendment may be considered concurrently, and does not require a separate application fee for a plan amendment.



- E. Procedures for conditional zoning districts. Applications for conditional zoning shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.D for zoning map amendments, except as provided below:
1. *Application required:*
    - a. A conditional zoning district application shall be considered only upon request of the owner of the affected property or a duly authorized representative of the property owner. When applying for conditional zoning, the owner shall specify the nature of the proposed development and shall propose conditions to ensure compatibility with the surrounding uses and consistency with adopted plans.
    - b. The applicant shall submit a final master plan or a preliminary master plan, pursuant to Section 17.5. If the applicant submits a final master plan as part of the initial application, subsection 5 below shall not be applicable.
    - c. The applicant shall submit a recent survey of the parcel(s) completed within three years of the application submittal.
    - d. The administrator may request an environmental survey.
    - e. The administrator may require any other documentation, such as building elevations, deemed necessary by the administrator in order to provide a complete and accurate description of the proposed development.
  2. *Administrative review procedure:* The administrator may require that the application be circulated to any relevant city, county, and state agencies, committees and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.
  3. *Brevard Planning Board review and comment:*
    - a. The BPB shall make one of the following recommendations with regard to a petition for a conditional zoning district:
      - i. Grant the creation of the district as request;
      - ii. Grant the creation of the district with a reduction of the area requested;
      - iii. Include recommended conditions for the district;
      - iv. Continued BPB consideration of the application in order to receive further information; or
      - v. Deny the application.
  4. *Legislative hearing:*
    - a. During the adoption of a conditional zoning district, specific conditions may be proposed by the applicant, city council, BPB, technical review committee, or administrator, but only those conditions mutually approved in writing by city council and the applicant shall be incorporated into the zoning regulations and permit requirements. Conditions and site specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use of the site to city ordinances, the adopted Comprehensive Land Use Plan or other plans, or the impacts reasonably expected to be generated by the development or use of the site.
    - b. The conditions agreed upon pursuant to the conditional zoning approval may include but are not limited to:
      - i. Allocating and/or limiting the land uses which are permitted on the property;
      - ii. Specifying locations on the property of the proposed structure(s);



- iii. The number of dwelling units and density;
  - iv. The location and extent of supporting facilities such as parking lots, driveways, and access streets;
  - v. The location and extent of buffer areas and other special purpose areas;
  - vi. The timing of development;
  - vii. The height of structures;
  - viii. The location and extent of rights-of-way and other areas to be dedicated for public purposes; and
  - ix. Other such matters as may be identified as appropriate for the proposed development.
- c. City council may approve the preliminary master plan provided that the enacting ordinance sets forth specific requirements to be satisfied by a master plan and subsequent site plans, construction documents, and subdivision plats.
- d. A decision concerning a petition for a conditional zoning district shall be as follows:
- i. Grant the creation of the district as requested with agreed upon conditions;
  - ii. Grant the creation of the district with a reduction in the area requested with agreed upon conditions;
  - iii. Deny the application;
  - iv. Send the application back to the BPB for further study and consideration; or
  - v. Call for additional legislative hearings on petitions brought before them.
- e. Upon adoption of an enacting ordinance establishing a conditional zoning district, the official zoning map of the City of Brevard shall be amended to add the district.
5. *Procedures following preliminary master plan approval.* Unless a final master plan was approved at the time of creation of a conditional zoning district, then within one year of the enactment of the ordinance creating the district, or such other period, not to exceed five years, specified in said ordinance, the applicant shall submit a final master plan for development, or any phase thereof, meeting the requirements of Section 17.5. The provisions contained herein relating to submittal of final master plans may be modified by means of a development agreement between the developer and the City of Brevard, pursuant to Section 16.11.
- a. Upon receipt of a final master plan, the planning director shall review it for completeness and for compliance with the conditions and standards imposed in the enacting ordinance if the planning director determined that the plan is complete and does not constitute a major modification of the enacting ordinance pursuant to Section 16.9, including all conditions attached thereto and the approved preliminary master plan, he or she shall forward it to the BPB for its consideration. City council may require, as a condition at the time of creation of the conditional zoning district, that council be the approving authority for final master plan approval.
  - b. If the approving authority determined that the final master plan complies with the enacting ordinance, including all conditions attached thereto, and with the approved preliminary master plan and with all applicable regulations, it shall grant final master plan approval for the development or a phase thereof, as applicable.
6. *Modifications.* Modifications to approved conditional zoning districts, including the enacting ordinance, an approved preliminary master plan, or the final master plan shall be in accordance with Section 16.9.
7. *Issuance of permits:*



- a. Demolition permits may be issued based upon an approved preliminary master plan. However, no permit shall be issued for the construction, remodel, or rehabilitation of any structure within the area of a conditional zoning district, nor shall any structure be approved within the area of a conditional zoning district, until a master plan has been approved by the approving authority and, subsequently, site plans, construction documents, and/or subdivision plats, as applicable, have been approved by the administrator. No subdivision of land within a conditional zoning district shall be permitted prior to final master plan approval unless the ordinance creating the district provides otherwise.
  - b. Following approval of the final master plan of any conditional zoning district, the applicant shall submit to the administrator applications for subdivision and/or development approvals within one year of the date of final master plan approval. The administrator shall follow the applicable procedures in this chapter for subdivision and development approvals, and shall verify that all applicable requirements of the ordinance and conditions of city council are satisfied prior to granting approval. The administrator shall require any additional construction documents needed for permitting and evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDEQ permits, Army Corps of Engineers permits, etc.).
8. If for any reason any provision of an enacting ordinance of a conditional zoning district is found to be illegal or invalid, or if the applicant should fail to provide written consent to any condition, the entire ordinance enacting the applicant's individual conditional zoning district shall be null and void. If the applicant shall fail to adhere to any condition set forth in the enacting ordinance for a conditional zoning district, the administrator may employ the remedies set forth in [CHAPTER 18](#) or may initiate appropriate action to rezone the affected property to another zoning classification. The applicant's failure to adhere to one or more conditions shall constitute a rational basis for rezoning of the land contained within a conditional zoning district.
9. If no action has been taken to begin development of the property in accordance with a conditional zoning ordinance within 24 months of its approval by city council or such other period, not to exceed five years, specified in the conditional zoning ordinance, the administrator may initiate appropriate action to rezone the affected property to any other classification. Such failure to begin development shall constitute a rational basis for rezoning the land contained within a conditional zoning district.
10. If the use or uses commenced pursuant to an enacting ordinance of a conditional zoning district section are abandoned or discontinued for a period of 180 days, the administrator may initiate appropriate action to rezone the affected property to any other classification. Such abandonment or discontinuance shall constitute a rational basis for rezoning of the land contained within a conditional zoning district.
- F. Procedures for extension of the Extraterritorial Jurisdiction (ETJ). Applications for extending the ETJ shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.C except as provided below:
  1. Notification requirements: A notice of a proposed extension of the ETJ shall be sent by first-class mail by the administrator to the last address listed for the affected property owners. The notice shall be mailed at least 30 days prior to the date of the hearing by following the procedures and containing information in accordance with G.S. 160D-202(d). In the instance of a single hearing for both a zoning map amendment and an ETJ extension, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice.



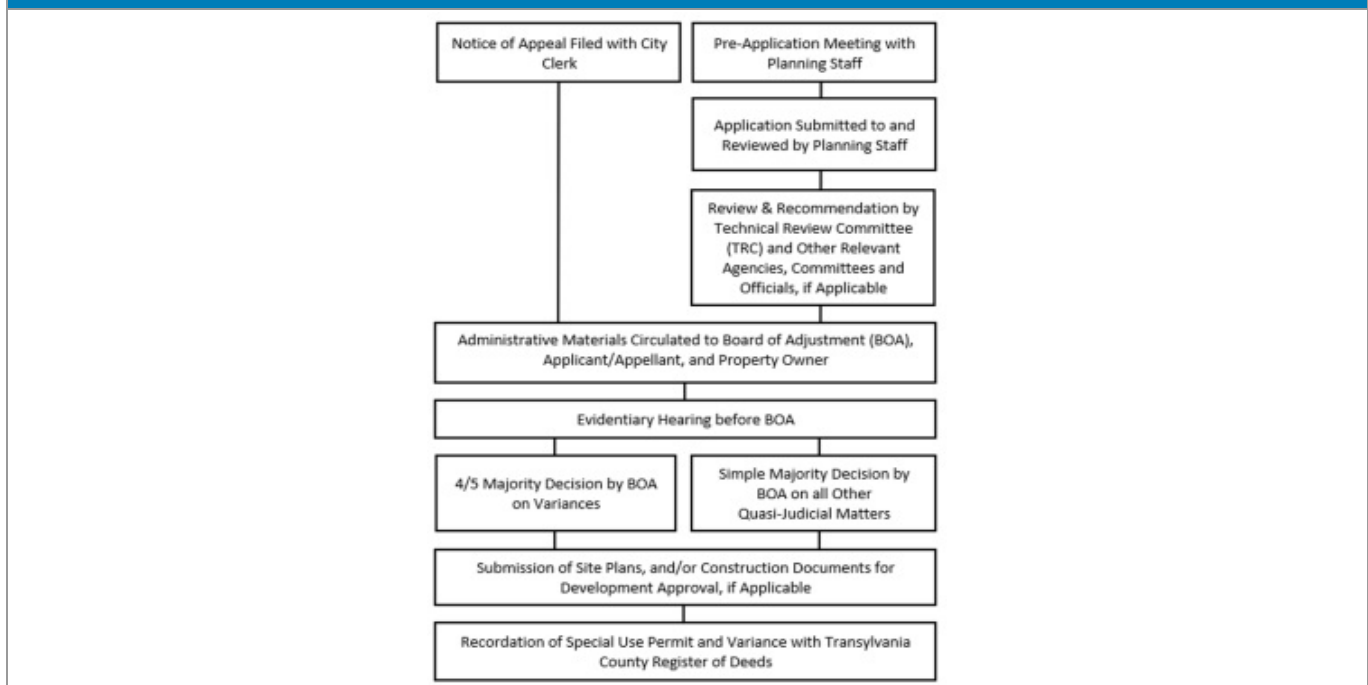


2. Legislative hearing: In accordance with G.S. 160D-202(a), if a zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction, a single hearing on the zoning map amendment and the boundary amendment may be held.
3. The city shall take any other measures consistent with G.S. 160D-204 in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

## 16.8. Quasi-judicial decisions.

### A. Outline of review procedures for quasi-judicial decisions.

**FIGURE 16.8A: REVIEW PROCEDURES FOR QUASI-JUDICIAL DECISIONS**



**B. General procedures.** In accordance with G.S. 160D-102, a quasi-judicial decision is a process that involves the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative decisions that are final and binding. Pursuant to G.S. 160D-406, the board shall follow quasi-judicial procedures for all quasi-judicial decisions.

1. *Procedure for filing appeals and applications.* Notices of appeal shall be filed with the city clerk. Applications for variances, special use permits, and architectural special use permits shall be filed with the administrator in accordance with Section 16.5. Certificates of appropriateness are outlined in CHAPTER 20 of this Ordinance.
2. *Notice of evidentiary hearing.* Notice of evidentiary hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal or application is the subject of the hearing; to the owner of the property that is the subject of hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons



entitled to receive notice as provided by these regulations. In the absence of evidence to the contrary, the city may rely on the Transylvania County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

3. *Administrative materials.* The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
4. *Hearings.* The board shall conduct an evidentiary hearing on the appeal or application. It shall determine contested facts and make its decision within 45 days of the conclusion of hearing. The board's decision shall be based upon competent, material, and substantial evidence in the record of the hearing.
  - a. The applicant, the city, and any person who would have standing to appeal the decision under G.S. 160D-1402 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value, traffic impacts, or other matters about which only expert testimony would generally be admissible under the rules of evidence.
  - b. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal, the inclusion or exclusion of administrative material, or the standing of a party, may be made to the board. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.
  - c. Witnesses shall testify under oath. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
  - d. The official who made the decision, or the person currently occupying that position if the decision-maker is no longer employed by the city, shall be present at the hearing as a witness. The appellant shall not be limited at the evidentiary hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the BOA shall continue the hearing.
  - e. When hearing an appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160D-1402(j).
  - f. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of members shall be required to decide any other quasi-judicial matter or to determine an appeal in the nature of certiorari. For the purposes of this paragraph, vacant positions on the board and





members who are disqualified from voting on a quasi-judicial matter under Section 15.5 shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

- g. The decision shall be reduced to writing and reflect the board's findings of contested facts, if any, the facts' application to applicable standards, and conclusions of law. The written decision shall be approved by the board and signed by the chair or other duly authorized member of the board. The decision of the board shall be effective upon filing such decision with the clerk to the board. The clerk shall see that the decision is delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, any entity granted party status at the hearing, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective and shall certify that proper notice has been made.

5. *Burden of persuasion.* In all quasi-judicial hearings, the applicant or appellant, as the case may be, shall have the burden of persuasion.

6. *Rehearings.*

- a. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the board's decision. In addition, specific information to enable the board to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the board, if, in its judgment, a prima facie case for such change has not been alleged. A quasi-judicial hearing shall not be required to be held by the board to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four-fifths of the board for a variance and a simple majority for all other matters. In the event that the board finds that a rehearing is warranted, it shall proceed as in the original hearing except that the application fee shall be waived.

- b. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

7. *Appeals of the BOA's decisions.* Every quasi-judicial decision of the BOA under this section shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. A petition for review shall be filed with the clerk of superior court within the times specified in G.S. 160D-1405(d).

- C. *Procedures for special use permits.* Special uses are generally compatible with the land uses permitted by right in a zoning district but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses enumerated as special uses in a zoning district shall be authorized by the BOA. Applications for special use permits shall be processed, considered, and decided upon using the same procedures and subject to the same requirements as those established in Section 16.8.A, except as provided below.

1. *Application required.*

- a. The applicant shall submit a sketch plan, in accordance with Section 17.4.
- b. The applicant shall submit a description or narrative stating why the special use is requested.
- c. The administrator may request an environmental survey.



- d. The administrator may require any other documentation, such as construction documents and building elevations, deemed necessary by the administrator in order to provide a complete and accurate description of the proposed use.
2. *Administrative review procedure.*
  - a. The applicant shall submit the completed application, pursuant to Section 16.5 at least 45 days prior to the BOA meeting at which it will first be reviewed. For urgent matters, the administrator may request the BOA to review the application at an earlier meeting if processing time permits.
  - b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.
  - c. The administrator may require that the application and supporting materials be reviewed by the technical review committee (TRC) in accordance with Section 15.1.
  - d. The administrator may require that the application be circulated to other relevant city, county, and state agencies and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.
  - e. The administrator may require a neighborhood compatibility meeting in order to gather neighborhood feedback, and may require the person proposing the special use permit to report on any communication with neighboring property owners and residents.
  - f. Once the administrator has reviewed the application and circulated it to other relevant agencies, committees, and officials, the administrator shall transmit the application to the BOA for action.
3. *Hearings.*
  - a. The evaluation and approval of the special use permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following findings of fact:
    - i. The use meets all requirements and specifications of the ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
    - ii. The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and
    - iii. The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.
  - b. The BOA may require a traffic impact study, an environmental survey or impact statement, and any other additional information or evidence as necessary to properly consider the application.
4. *Permit approval.*
  - a. In approving an application for a special use permit, the BOA may attach reasonable and appropriate conditions on the location, nature, and extent of the proposed use, which support the required findings of fact. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. These conditions shall not include requirements for which the city does not have the statutory authority to impose or for which the courts have held to be unenforceable if imposed directly the city. Only those conditions mutually approved in writing by the BOA and the applicant shall be incorporated into the permit requirements.
  - b. The BOA may not require the landowner to waive a vested right as a condition of the special use permit approval. The burden of proof of producing evidence to support these findings and to



overcome any challenges that approval of the plan would be contrary to one or more of these findings shall rest entirely with the applicant or landowner.

- c. Following the approval of the special use permit by the BOA, the applicant shall submit to the administrator all construction documents and any other documents specified by [CHAPTER 17](#) for project development approval and administration. The administrator shall require evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDENR permits, Army Corps of Engineers permits, etc.).
5. *Effect of approval.* If an application is approved, the special use permit that is established and all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. The approved special use permit shall be recorded with the Transylvania County Register of Deeds and a copy of the recordation be submitted to the city, pursuant to G.S. 160D-705(c).
6. *Modifications.* Modifications to an approved special use permit shall be in accordance with Section [16.9](#).
7. *Revocation of special use permits.*
  - a. Revocation of special use permits shall be conducted pursuant to Section [16.13](#).
  - b. In addition to the reasons for revocation outlined in Section [16.13](#), the applicant must secure a valid building permit within a 12-month period from date of approval of the special use permit unless otherwise specified.
- D. *Procedures for administrative appeals.* Appeals of administrative decisions and development approvals shall follow the same procedures and be subject to the same requirements as those established in Section 16.8.A except as provided below:
  1. *Applicability.* In accordance with G.S. 160D-405, the BOA shall hear and decide appeals of final and binding decisions made by administrative officials charged with enforcement of any development regulations, including administrative modifications and denials of development permits. Any person who has standing under G.S. 160D-405 or the city may appeal a decision to the BOA. The owner of the property or any other party with standing shall have 30 days from receipt of notice, pursuant to Section [16.4](#), within which to file a notice of appeal stating the grounds for appeal.
  2. *Stays.*
    - a. An appeal of a notice of violation or other enforcement order stays enforcement of the decision appealed from and accrual of any fines assessed unless the official who made the decision certifies to the BOA after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulations. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.
    - b. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulations shall not stay further review of an application for development approvals to use such property; in these situations the appellant or city may request, and the BOA may grant, a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.



3. *Hearings.* The board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all powers of the official who made the decision.
4. *Alternative dispute resolution.* The parties to an appeal may agree to mediation or other forms of alternative dispute resolution.
- E. *Procedures for variances.* Except as limited herein, the board of adjustment shall have the authority to vary provisions of the UDO in accordance with this section. Applications for variances shall follow the same procedures and be subject to the same requirements as those established in Section 16.8.A except as provided below.
  1. *Administrative review procedure:*
    - a. The applicant shall submit the completed application, pursuant to Section 16.5 at least 45 days prior to the BOA meeting at which it will first be reviewed. For urgent matters, the administrator may request the BOA to review the application at an earlier meeting if processing time permits.
    - b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.
    - c. The administrator may require that the application and supporting materials be reviewed by the technical review committee (TRC) in accordance with Section 15.1.
    - d. The administrator may require that the application be circulated to other relevant city, county, and state agencies and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.
    - e. Once the administrator has reviewed the application and circulated it to other relevant agencies, committees, and officials, the administrator shall transmit the application to the BOA for action.
  2. *Standards for granting variances.* Except as limited by subsection 16.8.D.4, below, when unnecessary hardships would result from carrying out the strict letter of the UDO, the BOA shall vary such regulations upon a showing of all of the following:
    - a. Unnecessary hardship would result from the strict application of the regulations. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
    - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
    - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
    - d. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.
  3. *Guiding principles.* In judging a request for a variance, the BOA shall be guided by the following principles:
    - a. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
    - b. The hardship relates to the applicant's land, rather than personal circumstances;



- c. The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- d. The hardship is not the result of the applicant's own actions; and
- e. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not constitute an unnecessary hardship.
- f. Hardships for the following regulations are shared across many properties, are broadly required for public safety and general welfare, and are unlikely to create a situation warranting a variance.
  - i. To provide relief from the requirements of Section 9.5 for visibility at street intersections and driveways. In order to ensure that the requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured and substantial justice is achieved, the following additional requirements shall apply:
    - (A) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, ordinances.
    - (B) The variance shall only be issued upon the inclusion of the following determinations:
      - (1) The variance will not pose a danger to the public safety based on competent evidence. As used in this subsection, competent evidence shall not be deemed to include the opinion testimony of lay witnesses as to vehicular safety resulting from the reduction of visibility of the sight triangle.
      - (2) The variance is the minimum necessary to afford relief.
  - ii. To provide relief from the surface water protection requirements of Section 6.7 pertaining to encroachments into surface water protection areas other than that portion lying in the regulatory floodway may be considered. In order to ensure that the requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured and substantial justice is achieved, the following additional requirements shall apply:
    - (A) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, ordinances.
    - (B) Variances shall only be issued upon the following determinations:
      - (1) The granting of the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws ordinances.
      - (2) The variance is the minimum necessary to afford relief.
    - (C) Variances shall only be issued prior to floodplain development approval.
- 4. *Conditions.* The BOA, in granting a variance, may prescribe appropriate conditions and safeguards on any variance, provided that the conditions are reasonably related to the variance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this ordinance and shall be punishable as prescribed in [CHAPTER 18](#).
- 5. *Limitations on board's authority.* The BOA shall not have authority to grant variances in the following situations:
  - a. To change the permitted uses for any property.
  - b. To provide relief from the environmental protection requirements in [CHAPTER 6](#) including, but not limited to, steep slope, sedimentation and erosion prevention, stormwater runoff, surface water protection, and flood damage prevention, except those surface water protection areas of Section 6.7 outlined in subsection 3 above.



- c. To provide relief from the water, sewer, and utility requirements of Section 13.4.
6. *Conformance with City Code.* Structures and uses permitted by means of a variance from a provision of this ordinance shall otherwise conform to all other applicable provisions of this ordinance and the Brevard CITY CODE OF ORDINANCES.
7. The approved variance shall be recorded with the Transylvania County Register of Deeds and a copy of the recordation be submitted to the city, pursuant to G.S. 160D-705(c).

## 16.10. Vested rights—Site-specific vesting plans.

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### A. General procedures:

1. Pursuant to G.S. 160D-108 and notwithstanding any other provision or amendment, a landowner may apply for approval of a site-specific vesting plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.
2. All requests for vested rights shall be accompanied by a copy of the approved development plan in accordance with the provisions of this chapter. A request to extend vested rights to a previously approved development plan shall be reviewed and approved by the city council after notice and public hearing pursuant to Section 16.7.D.

### B. Administrative review procedure:

1. The applicant shall request a meeting with the administrator and submit an application and a master plan as defined in CHAPTER 17. Upon determination of completeness of the application, the administrator shall authorize the applicant to submit the master plan for formal review.
2. The administrator shall review and make comment on the master plan. If the master plan is denied, the reasons for denial shall be stated in writing and the applicant may resubmit the development for further review.
3. The administrator shall require evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDENR permits, Army Corps of Engineers permits, etc.).
4. The administrator may require that the application be circulated to other relevant city, county, and state agencies, committees, and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended. The applicable agencies, committees, and officials shall transmit any recommendations to the technical review committee (TRC).
5. When the administrator determines that the application is complete and complies with this ordinance, the administrator shall transmit submitted application materials along with any recommendations to the TRC.
6. The TRC shall review and make comment on the application. The TRC may require a Traffic Impact Study, and Environmental Impact Statement, and any other additional information as necessary to properly consider the application.
7. The TRC shall, within 30 days of receipt of all necessary application materials and additional information, take action to recommend approval, approval with conditions, or deny the application.

- C. *Legislative procedure:* If a site-specific vesting plan is based on an underlying legislative or quasi-judicial approval, such as a special use permit or a conditional zoning district, the administrator shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If





the site-specific vesting plan is not based on such an approval, a legislative hearing with BPB recommendation and notice pursuant to Section 16.7.D shall be held.

**D. City council action:**

1. The city council shall determine whether or not to grant or establish a vested right after the review and consideration of the application by TRC and the BPB in accordance with the aforementioned procedures.
2. The city council may not require the landowner to waive his or her vested right as a condition of development approval.
3. The city council may approve the vested rights for a period greater than two years where it is found that due to:
  - a. The sizing and phasing of the development; or,
  - b. The level of investment; or,
  - c. The need for the development; or,
  - d. Economic cycles; or,
  - e. Market conditions.
4. Building permits for all phases of the development cannot be secured within two years, provided the total period does not exceed five years from the date of plan approval of the site.

**E. Effect of approval of vesting:**

1. The effect of the city council approving a vested plan shall be to vest such site plan for a period of two years to five years as approved by the city council from the date of approval.
2. A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved site-specific vesting plan as provided for in this section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the previously granted or established vested right.
3. A vested right, once established shall preclude any zoning action by the city which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property in accordance with the approved site-specific development plan except under the following conditions where such rights are terminated and revoked:
  - a. The affected landowner provides written consent to the city of his or her desire to terminate the vested right; or,
  - b. The city determines after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the plan; or,
  - c. Compensation is made by the city to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,
  - d. The city determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the city council of the plan; or,
  - e. Upon the enactment of a state or federal law or regulations which precludes development as shown in plan. In such case the city may, after having advertised and conducted a public hearing, modify



the affected provisions upon a finding that this change in state or federal law has a fundamental effect on the plan.

4. Once a vested right is granted to a particular plan, nothing in this section shall preclude the city from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are consistent with the original approval.
5. The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the city from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this ordinance.
6. Upon issuance of a development permit, the granted statutory vesting is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to Section 16.13.

**F. *Establishment of common law vesting plans:***

1. Previously approved site-specific vesting plans shall be reviewed for compliance and consistency and subsequently approved by the administrator or designee in accordance with the provisions of this chapter, providing the proposed preliminary plat for the major subdivision does not deviate from, and is subdivided in accordance with the previously approved site-specific plan.
2. Preliminary plats for major subdivisions with previously vested site-specific plans shall be reviewed for compliance and consistency and approved by the administrator or designee, providing the proposed preliminary plat for major subdivision does not deviate from, and is subdivided in accordance with the previously approved site-specific plan. Substantial financial investment must be determined and a good faith effort made to develop proportionate to the approved statutory vested plan.

**G. *Revocation or expiration of a vested right:***

1. The vested right, resulting from the approval of a site-specific vesting plan, may be revoked by the city council if the city council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this ordinance. As prescribed under the provisions of G.S. 160D-308, the vested right shall otherwise expire at the end of the approval period established by the city council. A building permit issued by the Transylvania County Building Inspector pursuant to G.S. 160D-403 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.

**H. *Establishment of multiphase development vesting plan:***

1. A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and **UNIFIED DEVELOPMENT ORDINANCES** in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development.

## **CHAPTER 17. DEVELOPMENT PLAN REQUIREMENTS**

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### **17.4. Sketch plan requirements.**

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Sketch plans shall be required as part of the major subdivision review process and may be required by the administrator for other land development activities. A sketch plan shall show in simple sketch form the proposed layout of streets, lots, buildings, public open spaces and other features in relation to existing conditions based upon the size of the tract proposed for development or subdivision. All plans shall be submitted at a scale not less than one inch = 150 feet unless otherwise authorized by the administrator. It shall also include the following information:

- A. A sketch vicinity map, including north arrow, showing the location of any proposed building(s) or subdivision in relation to neighboring tracts, subdivisions, roads, and waterways.
- B. The name, address, and telephone number of the property owner.
- C. The name of the proposed development project.
- D. The boundary lines of the property.
- E. The total acreage.
- F. The existing and proposed land uses and the existing land uses of adjacent properties.
- G. The existing topographic conditions of the property, which may include contours not exceeding five foot intervals. City of Brevard, Transylvania County, or State of North Carolina topographic information may be used to fulfill this requirement.
- H. The location, names, and private and recorded right-of-way widths of any existing streets on or within 300 feet of the land to be subdivided.
- I. Lots of adjacent developed or platted properties.
- J. Zoning classification of the land and adjacent properties.
- K. Illustrative building elevations denoting general design elements and materials.
- L. Watershed classification, if any.
- M. Floodway, non-encroachment, and surface water protection area delineation.
- N. Floodplain delineation.

## 17.5. Master plan requirements.

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When required, the master plan shall be drawn to the following specifications and must contain or be accompanied by the information listed below. This section defines both preliminary and final master plans. A preliminary master plan may only be submitted as part of an application for a conditional zoning district. All plans shall be submitted at a scale not less than one inch = 50 feet unless otherwise authorized by the administrator.

- A. Processing or review of a preliminary or final master plan may not proceed without all of the following information:
  - 1. The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, perennial streams, wetlands, easements or other significant features of the tract.
  - 2. Scale denoted both graphically and numerically with north arrow.
  - 3. A vicinity map at a scale no smaller than one inch equals 1,200 feet showing the location of the development with respect to adjacent streets and properties.
  - 4. The proposed name of the development, street names, the owner's name and address, the names of adjoining property owners, the name of the city, county, and state in which the development is located,



the date of plan preparation, and the zoning classification of the tract to be developed, and of adjoining properties.

5. Corporate limits and extraterritorial jurisdiction boundaries (where applicable).
6. A timetable for estimated project completion for each phase proposed.
7. Original contours at intervals of not greater than five feet for the entire area to be subdivided or developed and extending into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property and 50 feet at all other points of common project boundaries. Transylvania County or City of Brevard digital topography may be used to satisfy this requirement but should be field-verified to ensure accuracy. This requirement may be waived for developments smaller than one acre or where insufficient topographic changes warrant such information.
8. The location of any building restriction areas (i.e. flood hazard areas, buffer locations, watershed protection districts, and/or jurisdictional wetlands), where applicable.
9. Site calculations shall include total acreage of tract, acreage in parks and other non-residential uses, total number and acreage of parcels, and the total number of housing units.
10. The following statement shall be placed upon all master plan documents, as applicable:

"Areas delineated upon this plan as a protection area or Special Flood Hazard Areas is subject to limitations upon development as set forth [CHAPTER 34](#) of Brevard City Code, and any development, disturbance, or encroachment is prohibited except in accordance therewith."

**B.** Requirements for preliminary master plans. A preliminary master plan may only be submitted as part of an application for a conditional zoning district. A preliminary master plan may be more conceptual in nature than a final master plan, and shall be sufficient to demonstrate deviations from the base zoning district and the scope of the project.

1. At a minimum, a preliminary master plan shall show the conditions both requested and offered that deviate from the base zoning district.
2. A preliminary master plan may divide the district into land use areas and specify proposed uses and other development standards which shall apply to such land use area. The preliminary master plan may also depict transition zones between any such land use areas which shall permit deferring the determination of the precise boundaries between land use areas until final master plan review.
3. Additional submittal requirements for the preliminary master plan shall be determined by the administrator in the pre-application meeting or during review. The approving authority may require additional submittals as deemed necessary due to the particulars of the project. A preliminary master plan may include the following information, as applicable:
  - a. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, site reservations (i.e. school sites), property lines and building setback lines with street dimensions, and tentative lot dimensions.
  - b. The traffic and circulation system demonstrating a safe and adequate on-site transportation system that addresses vehicular, bicycle, transit and pedestrian circulation. The on-site transportation system shall be integrated with the off-site transportation circulation system of the city.
  - c. The proposed limits of construction for all proposed development activity, including all required protected areas and open space.
  - d. Landscaping plan and/or vegetation preservation plan in accordance with [Section 17.9](#).
  - e. Lighting plan in accordance with [Section 17.10](#).



- f. Architectural plans in accordance with Section 17.11.
- g. Traffic impact analysis (if required) in accordance with Section 17.12.
- h. Stormwater management concept plan in accordance with Section 17.13.
- i. Conceptual utilities plan. Conceptual plans for utilities to serve the development, including sanitary sewers, storm sewers and water lines.
- j. Environmental impact statement, pursuant to Article 113A of the North Carolina General Statutes, if: the development exceeds two acres in area, and; if the BPB deems it necessary due to the nature of the land or peculiarities in the proposed design.
- k. Development permit and certification application with supporting documentation as required by the flood hazard prevention requirements of CHAPTER 6 of this ordinance.

**C. Requirements for final master plans.**

- 1. A final master plan shall include all of the following information, as applicable:
  - a. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, site reservations (i.e. school sites), property lines and building setback lines with street dimensions, and tentative lot dimensions.
  - b. The transportation and circulation system showing typical cross-sections of proposed streets. Where a proposed street is an extension of an existing street, the profile of the street shall include 300 feet of the existing roadway, with a cross section of the existing street. Where a proposed street within the development abuts a tract of land that adjoins the development and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
  - c. The proposed limits of construction for all proposed development activity, including all required protected areas and open space.
- 2. Additional submittal requirements for the final master plan shall be determined by the administrator in the pre-application meeting or during review. The approving authority may require additional submittals as deemed necessary due to the particulars of the project. A final master plan may include the following information and supplemental plans, as applicable.
  - a. Landscaping plan and/or vegetation preservation plan in accordance with Section 17.9.
  - b. Lighting plan in accordance with Section 17.10.
  - c. Architectural plans in accordance with Section 17.11.
  - d. Traffic impact analysis (if required) in accordance with Section 17.12.
  - e. Stormwater management concept plan in accordance with Section 17.13.
  - f. Conceptual utilities plan. Conceptual plans for utilities to serve the development, including sanitary sewers, storm sewers and water lines.
  - g. Environmental impact statement, pursuant to Article 113A of the North Carolina General Statutes, if: the development exceeds two acres in area, and; if the BPB deems it necessary due to the nature of the land or peculiarities in the proposed design.
  - h. Development permit and certification application with supporting documentation as required by the flood hazard prevention requirements of CHAPTER 6 of this ordinance.



## CHAPTER 19. DEFINITIONS

### 19.3. Definitions.

**Cluster home development:** A small lot residential group development that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained by a single entity or in shared stewardship by residents.

**Condominium:** The form of ownership of real property, and any interests therein in which individual owners own or lease separate units but together, or through an owners' association, own the common areas appurtenant to the units.

**Lot, conservation :** a parcel of land containing remnant vegetation to be protected through a conservation covenant.

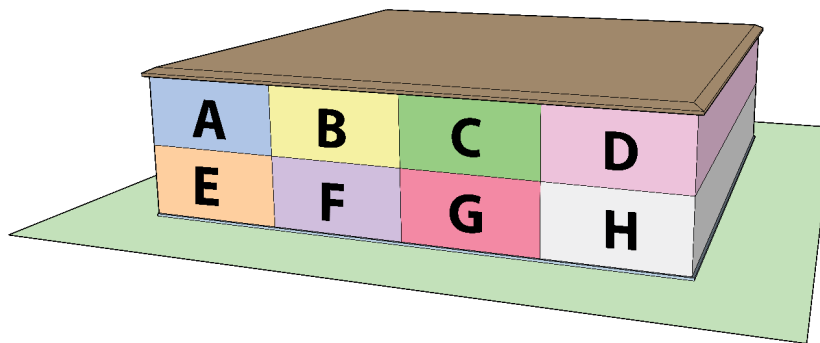
**Development regulation:** A [UNIFIED DEVELOPMENT ORDINANCE](#), zoning regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to G.S. 160D, or a local act or charter that regulates land use or development.

**Group development:** Any land development subject to a site plan that includes two or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future).

Other individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

**Lot, air:** A condominium unit or lot containing both horizontal and vertical dimensions and established as part of a shared structure. The air lot generally extends to the inner faces of the walls, floors and ceiling of the condominium unit.

**FIGURE 19.3-X: ILLUSTRATIVE DIAGRAM OF AIR LOTS**



**Lot, conventional:** Conventional Lot shall refer to any lot where the minimum lot width for conventional lots is met at the right-of-way line (see Section 4.2.3).



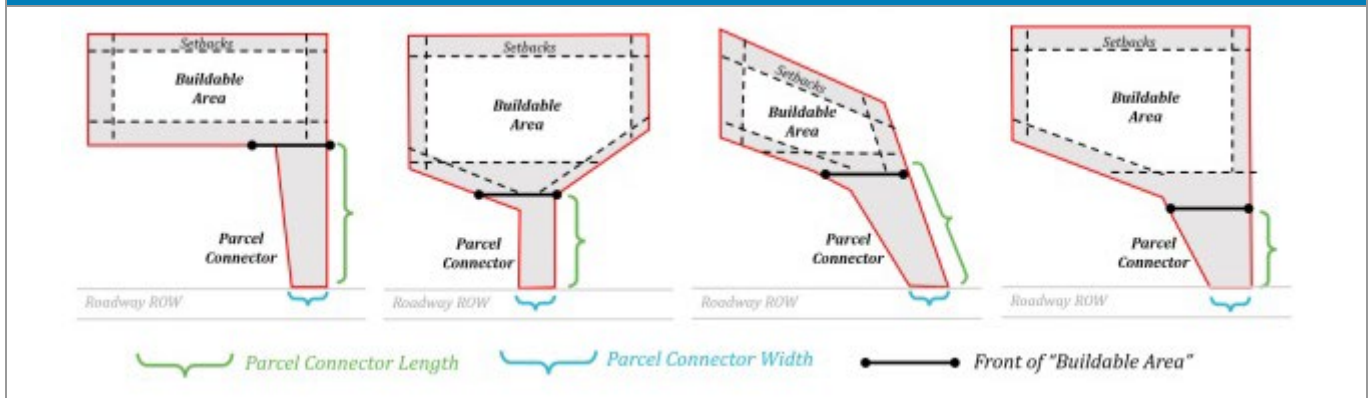
**Lot, environmental containment and conservation:** A parcel land that is shown on a recordable subdivision plat that is not intended for a building as a result of environmental constraints, and which is subject to limitations upon development by deed, contract or other binding agreement with the United States of America or any agency or subdivision thereof, or the State of North Carolina or any agency or subdivision thereof.

**Lot, interior:** An individual lot within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites. Also referred to as an “out-parcel.”

**Lot, irregular:** A lot where the functional access to a road is provided along a long narrow “parcel connector” and the “buildable area” is typically situated, at least in part, behind adjoining lots which front on a public street.

- A. “Buildable Area”: The largest portion of an irregular lot where development is intended.
- B. “Parcel Connector”: The long narrow strip of property that provides functional access for ingress, egress, and utilities.

**FIGURE 19.3C: ILLUSTRATIVE DIAGRAMS OF IRREGULAR LOTS**



**Lot, pre-existing:** Any parcel of land, the boundaries of which were on record within the Transylvania County

**Manufactured home park:** A residential group development with three or more manufactured homes or manufactured home spaces designed as a cohesive whole and maintained either by a single entity or in shared stewardship by residents.

**Multiphase development:** A development that is constructed in increments. Each increment would be capable of existing independent of the others, but the completed project would be a comprehensive design.

**Neighborhood development:** A residential group development designed as individual lots with shared stewardship of common areas and infrastructure. This definition shall apply to any predominately residential project with 8 or more lots and/or shared infrastructure.

**Nonconformities:** A lot, structure, use of land, or condition, which existed lawfully and was created in good faith prior to the adoption, revision, or amendment to this ordinance, and which conformed to applicable regulations in effect prior to the adoption, revision, or amendment to this ordinance in terms of size, area, dimension, location, intensity of use, or other condition, but which now fails to conform to the requirements of this ordinance by reason of such adoption, revision, or amendment. Nonconformities include, but are not limited to, the following:

- A. Non-conforming lots: lots of non-standard shape or lots with insufficient frontage street, in accordance with CHAPTER 4.



- B. Non-conforming structures: structures located within a right-of-way, or that exceed height or setback limitations, or that are located within setback areas, floodways, or streamside protection areas.
- C. Non-conforming uses of land: industrial activity within residentially zoned areas, hazardous chemical storage in flood-prone areas, open storage in a improperly zoned area.
- D. Non-conforming conditions: insufficient parking, landscaping, or buffering for an otherwise conforming use or structure; cleared vegetation in a streamside protection area; inadequate stormwater control measures.

**Principal structure:** A building in which is conducted the principal use of the parcel on which it is situated. Also referred to as “principal building.”

**Reserve strip:** A narrow strip of land along a property line, typically at the edge of a subdivision, reserved to control access to abutting properties or public rights-of-way.

**Shopping center:** A form of non-residential or mixed-use development with at least two commercial, recreational, and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.

**Story:** The habitable level of a building, extending from finished floor to finished floor or ceiling.

**Street:** Any alley, avenue, circle, highway, lane, road, street, or other way, whether public or private.

**Street, public:** Any street situated within a dedicated public right-of-way and which has been accepted by the appropriate governmental agency for continuing maintenance and upkeep.

**Subdivision:** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but this definition shall not include exempt subdivisions under Section 4.3 or N.C.G.S 160D-802.

**Subdivision, major:** The division of an established parcel of land that:

1. Creates more than 8 lots, including the residual or parent lot;
2. Involves the creation, expansion, or dedication of any public street or right-of-way; or
3. Is not otherwise exempt under Section 4.3 or deemed a minor subdivision.

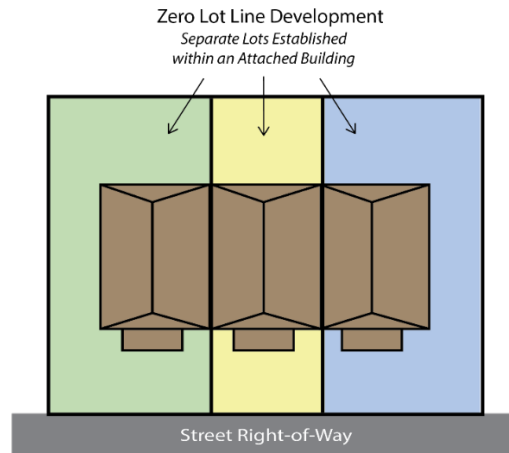
**Subdivision, minor:** The division of an established parcel of land that:

1. Creates a maximum of 8 lots, including the residual or parent lot;
2. Does not involve the creation, expansion, or dedication of any public street or right-of-way;
3. Is not otherwise exempt under Section 4.3.

**Zero lot line development:** A development approach in which a building with attached units is located on separate lots where the common walls are along the interior lot lines.



**FIGURE 19.3-F. ZERO LOT LINE DEVELOPMENT**



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

*NCGS 160D-605 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.*

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

Building Brevard Comprehensive Land Use Plan:

Goals

- **GOAL 2:** Encourage a **development pattern** that respects Brevard's sense of place and prioritizes **livable communities**.
- **GOAL 7:** Support economic vitality and **grow the tax base**, cultivate local businesses, and attract sustainable industry.
- **GOAL 8:** Plan **for efficient, equitable, and resilient infrastructure** and services that maintain and improve quality of life throughout the city.

Actions

- **LUH-4:** Identify areas across the city that are best positioned to accommodate future growth.
- **LUH-9:** Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.
- **LUH-19:** Enhance communication of land use planning efforts, policy development, approvals and processes.





# 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 APRIL 30, 2024

**Tina Tanner**  
**Certified Tax Collector**

CITY OF BREVARD TAX SETTLEMENT REPORT  
MONTH ENDING APRIL 30, 2024

UPDATED: 05.06.2024

| YEAR         | JULY          | AUGUST          | SEPTEMBER     | OCTOBER       | NOVEMBER      | DECEMBER      | TOTAL           |
|--------------|---------------|-----------------|---------------|---------------|---------------|---------------|-----------------|
| 2023         |               |                 |               |               |               |               |                 |
| 2022-2011    | \$ 8,264.83   | \$ 3,999,226.23 | \$ 423,200.72 | \$ 153,930.97 | \$ 103,115.62 | \$ 616,739.15 |                 |
| 2010 - Prior | \$ -          | \$ 22,421.57    | \$ 1,772.62   | \$ 2,221.69   | \$ 1,183.95   | \$ 312.17     |                 |
| TOTAL:       | \$ 8,264.83   | \$ 4,021,647.80 | \$ 424,973.34 | \$ 156,152.66 | \$ 104,299.57 | \$ 617,051.32 |                 |
| 2023         |               |                 |               |               |               |               |                 |
| 2022-2011    | \$ 506,950.24 | \$ 102,189.95   | \$ 40,655.56  | \$ 42,874.32  | \$ -          | \$ -          | \$ 5,988,882.76 |
| 2010 - Prior | \$ 3,161.49   | \$ 6,266.33     | \$ 2,853.22   | \$ 2,261.79   | \$ -          | \$ -          | \$ 50,719.66    |
| TOTAL:       | \$ 510,111.73 | \$ 108,456.28   | \$ 43,508.78  | \$ 45,136.11  | \$ -          | \$ -          | \$ 6,039,602.42 |

HEART OF BREVARD TAX SETTLEMENT REPORT  
MONTH ENDING, APRIL 30, 2024

UPDATED: 05.06.2024

| YEAR         | JULY | AUGUST       | SEPTEMBER   | OCTOBER     | NOVEMBER    | DECEMBER     |
|--------------|------|--------------|-------------|-------------|-------------|--------------|
| 2023         |      | \$ 84,666.91 | \$ 4,920.46 | \$ 2,272.69 | \$ 2,148.37 | \$ 11,868.43 |
| 2022-2011    |      | \$ 4,227.80  | \$          | \$ 535.70   | \$          | \$ 35.52     |
| 2010 - Prior | \$ - | \$ -         | \$ -        | \$ -        | \$ -        | \$ -         |
| TOTAL:       | \$ - | \$ 88,894.71 | \$ 4,920.46 | \$ 2,808.39 | \$ 2,148.37 | \$ 11,903.95 |

|              | JANUARY      | FEBRUARY    | MARCH       | APRIL       | MAY  | JUNE | TOTAL         |
|--------------|--------------|-------------|-------------|-------------|------|------|---------------|
| 2023         | \$ 19,913.88 | \$ 6,524.43 | \$ 1,321.17 | \$ 1,700.61 |      | \$   | \$ 135,336.95 |
| 2022-2011    |              |             |             |             |      | \$   | \$ 4,799.02   |
| 2010 - Prior | \$ -         | \$ -        | \$ -        | \$ -        | \$ - | \$ - | \$ -          |
| TOTAL:       | \$ 19,913.88 | \$ 6,524.43 | \$ 1,321.17 | \$ 1,700.61 | \$ - | \$ - | \$ 140,135.97 |

## **STAFF REPORT**

**City Council, Monday, May 20, 2024**

**Title:** Capital Project Close Out - Main Street Water and Sewer Improvements

**Speaker:** Dean Luebbe, Assistant City Manager/Finance Director

**Prepared by:** Dean Luebbe, Assistant City Manager/Finance Director

**Approved by:** Wilson Hooper, City Manager

### **Background**

The City of Brevard completed the Water and Sewer Improvements Project in July of 2023, and the Project can now be officially closed in the City's general ledger system. The Project rehabilitated degraded infrastructure on Main Street, including 1,300 linear feet of 8-inch sewer line and 18 water service lines. The original Project budget was \$600,000 and funded entirely from federal ARPA dollars. The Project budget was reduced by \$200,000 in June of 2023, as the Public Works Department was able to complete much of the water service line replacement, with the \$200,000 being transferred to the Norton Creek Streambank Restoration Project. The final invoice was paid in April of 2024, and total Project costs were \$340,315.

### **Recommendation**

Adopt Main Street Water and Sewer Project close out ordinance as presented.

### **Attachments:**

1. Capital Project Closeout - Main Street Water and Sewer
2. Main St Water and Sewer financial summary
3. Ord 2022-30 Capital Project Ordinance to Establish Project for Main Street Water and Sewer Improvements \$600,000

ORDINANCE NO. 2024-XX

CAPITAL PROJECT ORDINANCE TO CLOSE ORDINANCE  
NO. 2022-30 and 2023-26, MAIN STREET WATER AND SEWER IMPROVEMENTS  
PROJECT

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

**Section 1:** On June 6, 2022, project amendment 2022-230 was approved by the City Council in the amount of \$600,000, to rehabilitate degraded water and sewer infrastructure on Main Street ahead of the NCDOT repaving. The City repaired 1,300 linear feet of 8-inch gravity sewer and replaced 18 water service lines. As the Project progressed, the City Public Works Department was able to complete a large portion of the water service line replacement, which allowed the City to transfer \$200,000 of the budgeted funds of this Project to the Silversteen Park/Norton Creek Streambank Project, leaving the Project budget at \$400,000. Work was performed by Summit Engineering, Prism Contractors and Engineers and Carolina Specialties Construction, LLC. . The project was \$59,685 under the project budget.

**Section 2:** The project will be closed with actual revenues of \$400,000 and actual expenditures of \$340,315. Actual and budgeted revenues and expenditures will be reversed on the City financial software, and no further expenditures will be required on the project.

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

| Account Number              | Account Name                   | Budget Amount |
|-----------------------------|--------------------------------|---------------|
| 31-8540-4800                | Main Street Water/Sewer Improv | \$400,000     |
| TOTAL PROJECT APPROPRIATION |                                | \$400,000     |

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

| Account Number        | Account Name                 | Budget Amount |
|-----------------------|------------------------------|---------------|
| 31-3760-1650          | Transfer from ARPA – Main St | \$400,000     |
| TOTAL PROJECT REVENUE |                              | \$400,000     |

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

**Section 6:** The Finance Director will maintain a detailed analysis of all revenues and expenses associated with the project since its inception.

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

**ADOPTED** by the City Council of the City of Brevard, North Carolina, on this 20th day of May, 2024.

\_\_\_\_\_  
Maureen Copelof  
Mayor

ATTEST:

\_\_\_\_\_  
Denise Hodsdon  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mack McKeller  
City Attorney

**City of Brevard Capital Project - Water and Sewer Capital Project Fund**  
**Main Street Water and Sewer Upgrades**

|                    |         |           |           |
|--------------------|---------|-----------|-----------|
| Original Ordinance | 2022-30 | 600,000   | 6/6/2022  |
| Amendment          | 2023-26 | (200,000) | 6/19/2023 |

**TOTAL                      400,000**

|                          |                         | Budget         | Prior Year Expenditures | Current Year Expenditure FY24 | Total prior year plus current year |
|--------------------------|-------------------------|----------------|-------------------------|-------------------------------|------------------------------------|
| <b>As of May 3, 2024</b> |                         |                |                         |                               |                                    |
| <b>Expenditures</b>      |                         |                |                         |                               |                                    |
| 31-8540-4800             | Main St water and sewer | 400,000        | 324,717                 | 15,597                        | 340,314                            |
| <b>Revenues</b>          |                         |                |                         |                               |                                    |
| 31-3760-1650             | Transfer from ARPA Fund | 400,000        | -                       | 400,000                       | 400,000                            |
| <b>Total Revenues</b>    |                         | <b>400,000</b> | <b>-</b>                | <b>400,000</b>                | <b>400,000</b>                     |

| Expenditure Detail         | Contract Amount | Prior Year Expenses | Current Year Expenditure | Total prior plus current | Amount Remaining on Contract |
|----------------------------|-----------------|---------------------|--------------------------|--------------------------|------------------------------|
| 6998 Summit Engineering    | 126,500         | 126,014             | 11,000                   | 137,014                  | -                            |
| 7111 Carolina Spec (water) | 54,295          | 51,943              | 4,597                    | 56,540                   | -                            |
| 7228 Prism (sewer)         | 146,057         | 146,760             | -                        | 146,760                  | -                            |
|                            | <b>326,852</b>  | <b>324,717</b>      | <b>15,597</b>            | <b>340,314</b>           | <b>-</b>                     |

**Main Street Infrastructure Improvements** – This project was initiated by NCDOT ahead of its streets paving projects. NCDOT alerted the City of Brevard of its paving schedule to give the City an opportunity to address any degraded infrastructure in the project area prior to paving. The City elected to rehabilitate approximately 1,300 linear feet of 8-inch gravity sewer and associated sewer services, as well as replace 18 water services in the project area.

ORDINANCE NO. 2022-30

CAPITAL PROJECT ORDINANCE TO ESTABLISH PROJECT  
FOR MAIN STREET WATER AND SEWER IMPROVEMENTS

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

**Section 1:** The Main Street Water and Sewer Project will replace existing water and sewer service lines on Main Street between Oaklawn Avenue and Gaston Street.

**Section 2:** The project was initiated in September of 2021, and will coincide with the NCDOT repaving of Main Street. The City is expecting the project to be completed by August of 2023.

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

| Account Number | Account Name           | Budget Amount |
|----------------|------------------------|---------------|
| 31-8540-4800   | Main St. Water & Sewer | \$600,000     |

|                                    |                  |
|------------------------------------|------------------|
| <b>TOTAL PROJECT APPROPRIATION</b> | <b>\$600,000</b> |
|------------------------------------|------------------|

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

| Account Number | Account Name          | Budget Amount |
|----------------|-----------------------|---------------|
| 31-3760-1650   | Tr from ARPA -Main St | \$600,000     |

|                              |                  |
|------------------------------|------------------|
| <b>TOTAL PROJECT REVENUE</b> | <b>\$600,000</b> |
|------------------------------|------------------|

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

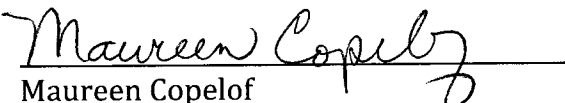
**Section 6:** Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

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

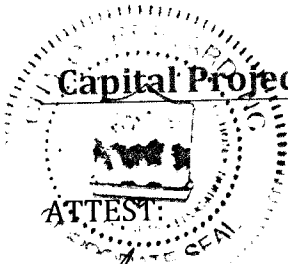
**Section 8:** The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

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

**ADOPTED** by the City Council of the City of Brevard, North Carolina, on this 6<sup>th</sup> day of June, 2022.

  
Maureen Copelof  
Mayor





Jill Murray  
Jill Murray, CMC  
City Clerk

APPROVED AS TO FORM:

Mack McKeller  
Mack McKeller  
City Attorney

# **MINUTES**

## **City Council Parks, Trails, & Recreation Committee**

**Wednesday, February 21, 2024 at 3:30 PM**  
Administration Conference Room

**Members Present:** Aaron Baker, Chair, Council Member  
Lauren Wise, Vice-Chair, Council Member  
Howie Granat, Citizen Member  
Nancy DePippo, Citizen Member  
Wyn Birkenthal, Citizen Member  
Reba Osborne, Citizen Member  
Mayor Maureen Copelof, Ex-Officio Member

**Staff Present:** Wilson Hooper, City Manager  
Wesley Shook, Acting Public Works Director  
Paul Ray, Planning Director  
Alex Shepherd, Assistant to the City Manager  
Aaron Bland, Assistant Planning Director  
Becky McCann, Communications Coordinator

**Guests:** Gary Lowden, Daniel Sapp

### **A. Welcome & Call to Order**

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

### **B. Certification of Quorum**

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

### **C. Approval of Agenda**

Motion by Mr. Wise, seconded by Mr. Granat, to approve the agenda as presented. The motion carried unanimously.

### **D. Approval of Minutes from January 17, 2024 Meeting**

Motion by Ms. DePippo, seconded by Mr. Granat to approve the minutes of the January 17, 2024 meeting as presented. The motion carried unanimously.

## **E. Bracken Preserve Maintenance Update**

Mr. Hooper informed the committee that he has learned about an agreement between the City of Asheville and Pisgah SORBA for a similar trail. By the next meeting, I should have a better idea of what the agreement between the City of Asheville and Pisgah SORBA looks like.

Mr. Lowden mentioned that in December, we submitted a draft MOU based on the City of Asheville agreement. The draft outlines the roles and responsibilities for maintaining Bracken Preserve. Our partnership with the City of Brevard can be whatever we want to make it. It can relate to existing and ongoing trail maintenance, reroutes of existing trails, creating new trails, marketing elements, and trail tool training and certifications. We are part of a national organization that includes a code of conduct and ethics, making our organization very professional.

Mr. Sapp stated that as an organization, Pisgah SORBA is interested in working in communities surrounding Pisgah National Forest to build and maintain healthy trail systems. Bracken Preserve is an important area because it is a gateway into Pisgah Forest.

Mr. Hooper asked what we should do to be a better partner to you if we are to build a partnership together.

Mr. Lowden replied that it is essential to recognize the value the City of Brevard sees in Bracken Preserve, along with the expansion possibilities and opportunities. Additionally, the willingness of the City to assist and be a genuine partner is crucial.

Mr. Sapp emphasized the importance of good communication, transparency, and a willingness to collaborate to find solutions that benefit the community and contribute to building a healthy community.

Mr. Baker mentioned that in terms of the next steps, Mr. Hooper is collaborating with the City of Asheville, and we have the draft MOU.

Mr. Hooper stated that he will receive the document from the City of Asheville and then work to craft an MOU that we can share with the committee and Pisgah SORBA.

Mr. Baker inquired about how the MOU works alongside Phase 1.

Mr. Granat stated that the Phase 1 trail work is contingent on whether it will be Conserving Carolina or the City of Brevard contracting Long Cane Trails. However, it will likely be Conserving Carolina. We will be able to involve Pisgah SORBA in some of the trail construction and maintenance. Then, it transitions into the trail maintenance that Pisgah SORBA will be assisting us with. He mentioned that we have the announcement for the American Trails Grant coming up during the first week of March. Additionally, there is a group of people discussing forming a Friends of Bracken

Preserve organization, and I have discussed with Mr. Hooper how exactly that would fit in.

#### **F. Pump Track Update**

Mr. Bland mentioned that last year, we retained a company under contract named Velo Solutions to design a pump track at Tannery Park North. There are two tracks: one that is more child and family-friendly and another for more advanced riders. It is something that can be used by cyclists of all ages and abilities and can accommodate anything with wheels. The pump track is built to the specs of the Red Bull World Cup races. It would be a beneficial amenity to install on a brownfield because it would encapsulate the contaminated soil. The price tag for the pump track construction is \$800,000. We are exploring substantial grants, but to become competitive, we need a large local match.

Mr. Sapp added that there are several grants we could potentially apply for, including the Great Trail State Fund, which was recently established through trail advocacy during the Year of the Trail. This grant allows for funding of up to \$500,000 with a minimum of \$100,000. The grant covers paved, natural surface, or any sort of trail feature. The administrators of the grant are seeking turnkey-ready projects, and after speaking with them, they seem interested in this project. Additionally, there are many private donations we could pursue from corporations in the outdoor recreation industry.

Mr. Bland mentioned that we shouldn't only focus on private donations from the Brevard and Transylvania County area. He stated that pump tracks are regional draws, so we could seek funding from outside of this area.

Mr. Granat asked if there would be the option to build a dirt BMX track as part of the overall plan.

Mr. Sapp replied that there has been some discussion about including dirt jumps.

Mr. Bland informed the committee that the survey results indicated people wanted dirt jumps, but that would increase the cost to build and maintain. He suggested a phase 2 where dirt jumps could be implemented.

Mr. Baker inquired if there is an outside organization that would spearhead this effort because the City has other priorities, such as the Estatoe Trail, where momentum is needed to build all the sections.

Mr. Sapp stated that we have a membership base enthusiastic enough to spearhead this effort. He offered to guide the project but noted his limited time resources. However, he believed it shouldn't be too difficult to share the workload.

Mr. Lowden stated that Pisgah SORBA's priorities this year are Butter Gap and Bracken Preserve, so this does leave some time and resources that we could devote to the pump track.

#### **G. Additional Comments**

Mr. Hooper stated that the issue we heard about last month concerning the easement request should have been directed to another committee. I made a mistake by sending it to this committee when I heard that Bracken Preserve was part of the discussion. He clarified that it is actually a policy discussion, and I will reassign the request to the Public Works and Utilities Committee. Mr. Hooper also mentioned that HomeTrust Bank has offered us additional parcels, but the City would have to continue paying the HOA dues on those extra parcels.

Ms. DePippo inquired about the bathrooms at the soccer field.

Mr. Hooper responded that it will be part of our budget discussion in the weeks to come.

Mr. Baker asked if there was any update on the Tannery North section of the Estateoe.

Mr. Ray replied that Mr. Watkins is still working on the environmental aspect of it and is getting close to completing that.

Ms. McCann mentioned that our top-performing posts from last year across the board were parks, trails, and recreation-related. The posts included the pump track, Estateoe, Tannery South completion post, and the Ecusta Trail Grants.

#### **H. Set Date for Next Meeting**

The next regular meeting of the Parks, Trails & Recreation Committee was scheduled for Wednesday, March 20, 2024 at 3:30 PM.

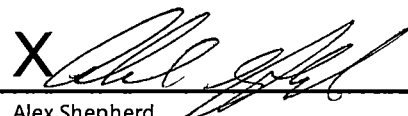
#### **I. Adjourn**

There being no further business, the meeting was adjourned at 4:48 pm.

X 

Aaron Baker  
Chair, Council Member

Minutes Approved: March 20, 2024

X 

Alex Shepherd  
Assistant to the City Manager

# **MINUTES**

## **City Council Parks, Trails, & Recreation Committee**

**Wednesday, April 24, 2024 at 10:00 AM**  
City Council Chambers

**Members Present:** Aaron Baker, Chair, Council Member  
Lauren Wise, Vice-Chair, Council Member  
Reba Osborne, Citizen Member  
Wyn Birkenthal, Citizen Member  
J.D. Powers, Citizen Member  
Mayor Maureen Copelof, Ex-Officio Member

**Staff Present:** Wilson Hooper, City Manager  
Wesley Shook, Acting Public Works Director  
Alex Shepherd, Assistant to the City Manager  
Aaron Bland, Assistant Planning Director

**Guests:** Nora Jane Montgomery, Natalie Narburgh Pisgah SORBA

### **A. Welcome & Call to Order**

Committee Chair Aaron Baker welcomed everyone and called the meeting to order at 10:00 am.

### **B. Certification of Quorum**

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

### **C. Approval of Agenda**

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

### **D. Approval of Minutes from March 20, 2024 Meeting**

Motion by Mr. Powers, seconded by Ms. Osborne to approve the minutes of the March 20, 2024 meeting as presented. The motion carried unanimously.

### **E. Bracken Preserve Maintenance Update**

Mr. Bland mentioned that we received American Chestnut seedlings last week and that we plan to have a workday with Conserving Carolina tomorrow to plant them.

Mr. Baker then inquired about any updates on the new trail construction.

Mr. Hooper responded that Mr. Granat would be able to provide those updates, but he is not in attendance.

#### **F. Pisgah SORBA MOU**

Mr. Hooper mentioned that since our last meeting, we've had discussions with the City of Asheville regarding their arrangement with Pisgah SORBA, which manages their Richmond Hill Park trail. He conveyed that we've received nothing but positive feedback about Pisgah SORBA, and the City encouraged us to enter into an agreement with them. However, there are a few items in the agreement that he would like to negotiate. One such item is the City's responsibility for an annual donation of \$10,000 to Pisgah SORBA. He recommended adjusting this to \$8,500 and adding a provision for the contribution to be voted on annually.

Ms. Narburgh informed the committee that the \$8,500 request was separate from the \$10,000 donation and was intended to cover the cost of purchasing a machine to help maintain trails. However, she expressed a preference for the donation and MOU over the request for the machine.

Mr. Baker inquired about the possibility of reallocating funds from the maintenance line item for Bracken to cover the cost.

Mr. Hooper clarified that legally, the \$8,500 cost of the machinery cannot be funded because the machine must exclusively benefit us and not other projects. He suggested either including the \$8,500 in the MOU or returning to the Council to request an increase in the amount to \$10,000 from the initial \$8,500 they had agreed to.

Mr. Baker proposed funding the \$10,000 and using additional funds from the Public Works budget to also give to SORBA.

Mr. Hooper explained that Public Works will continue to work at Bracken, so he doesn't recommend using their entire budget amount. He suggested funding the \$8,500 donation and potentially using Public Works funds to cover up to a total of \$10,000.

Ms. Narburgh asked if our funding could differ from competing with other nonprofits since we already have an MOU in place.

Mr. Hooper confirmed, stating that this would be changed next year. He then addressed the implementation of appropriate risk management and safety procedures and volunteers on City property, asking Ms. Narburgh if she needed guidance from the committee on this matter.

Ms. Narburgh stated that we currently utilize the US Forest Service's policy and guidelines, unless there are specific changes the committee wishes to implement.

Mr. Shook added that our policies closely align with those of the Forest Service, suggesting that ours may be more relaxed.

Mr. Hooper then informed the committee of his desire to modify the City's responsibility from allocating staff support to providing a reasonable amount of staff support.

Ms. Narburgh confirmed agreement with this change.

Mr. Hooper then inquired about Ms. Narburgh's process for arranging sponsorships.

Ms. Narburgh explained that sponsorship primarily pertains to trail adoption, where individuals or groups provide funds or in-kind donations to support a trail. She noted that individuals must undergo training before adopting a trail, and it becomes their responsibility to conduct a certain number of workdays annually.

Mr. Hooper addressed the committee, emphasizing that when the City allows trail sponsorships, it becomes a form of government speech. He proposed implementing a policy for sponsorships, requiring approval from the Council, and designating commitments for maintenance days.

Ms. Narburgh agreed with these suggestions, proposing flexibility in adjusting workdays based on weather and trail conditions.

Mr. Baker raised the question of which changes are being implemented.

Mr. Hooper confirmed that the committee appears to be in agreement with the \$10,000 request, with a proposed five-year agreement including annual renewals or renegotiations. He noted that the City would approve signage.

Ms. Narburgh asked if grant applications should be presented to the City first.

Mr. Hooper explained that if you apply for any grants that you would like us to match, then you should come to the City first for approval. However, if you are doing the work exclusively, then no.

Mr. Baker suggested including language in the agreement to coordinate grant applications to avoid duplication.

Mr. Bland informed the committee of a forest management plan for Bracken, proposing its inclusion in the agreement.

Mr. Hooper concluded the discussion, stating he would work on incorporating the proposed changes and present an updated draft for committee review.

## **G. Public Comment**

Ms. Montgomery asked if there are any updates regarding the Tannery section of the Estatoe Trail.



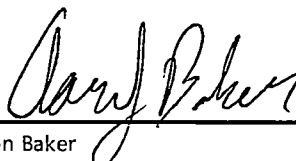
Mr. Bland replied that there is no update at the moment. However, NCDOT is still resolving some final engineering matters before commencing work on the project.

#### H. Set Date for Next Meeting

The next regular meeting of the Parks, Trails & Recreation Committee was scheduled for Wednesday, May 15, 2024 at 3:30 PM.

#### I. Adjourn

There being no further business, the meeting was adjourned at 11:09 am.

X 

Aaron Baker  
Chair, Council Member

Minutes Approved: May 15, 2024

X 

Alex Shepherd  
Assistant to the City Manager

# MINUTES

## COUNCIL DOWNTOWN MASTER PLAN COMMITTEE

**Monday, March 18, 2024 – 10:00 AM**

City Hall Council Chambers

Members Present: Gary Daniel, Chair, Council Member  
Pamela Holder, Vice Chair, Council Member  
Nicole Bentley, Exec Dir. Heart of Brevard  
Billy Parrish, HOB Representative  
Lee McMinn, Citizen Member  
Parker Platt, At-Large Member (Arrived 10:03 AM)

Staff Present: Wilson Hooper, City Manager  
Alex Shepherd, Assistant to the City Manager  
Becky McCann, Communications Coordinator  
Emily Brewer, Planner

Guests: Monica Driscoll, Kevin Gallo

### **A. Welcome & Call to Order**

Committee Chair Gary Daniel welcomed everyone and called the meeting to order at 10:00 AM.

### **B. Certification of Quorum**

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

### **C. Approval of Agenda**

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

### **D. Approval of Minutes of February 14, 2024 Meeting**

Motion by Mr. Parrish, seconded by Mr. McMinn to approve the minutes of the February 14, 2024 meeting as presented. The motion carried unanimously.

### **E. Times Arcade Alley Update**

Mr. Hooper informed the committee that Duke Energy has repeatedly canceled, causing the project to proceed out of order and in a manner more disruptive to alley residents. He noted that for two consecutive Mondays, Duke Energy had canceled their work.

Ms. Bentley mentioned that Duke Energy is considering rescheduling the work for nighttime, but they are encountering difficulty due to the temporary power pole obstructing the alley. She added that Mr. Shook has been coordinating with Square Root to provide a generator, and if the work occurs at night, it will be more challenging to coordinate these efforts.

Mr. Hooper reported water intrusion in the Platt Building due to rain, attributed to the project's incomplete status. He stated that the construction crew has promised to return and attempt to divert water away from the building's foundation. Despite this issue, the project is progressing well, and there have been no changes to the expected completion date.

Mr. Parrish asked when the completion date is.

Mr. Hooper said towards the end of May.

Mr. Parrish commented on the messy appearance of the job site, noting that cones were lying on their sides.

Ms. Bentley explained that the wind had blown the cones down and expressed concern about the amount of red clay being tracked into their business. She suggested contacting the construction company to discuss the possibility of pressure washing or cleaning up the red clay to prevent further tracking into the restaurant.

Mr. Hooper agreed to reach out to them regarding this matter.

#### **F. Bike Corral Update**

Mr. Hooper said NCDOT has pushed back on our request to place the bike racks in the hashed area. They cited a number of different concerns, including sightlines and whether the bike racks are breakaways. Mr. Hooper mentioned that one alternative we could pursue, although he is not recommending it, is to place a bike rack in a parking space instead.

Mr. Parrish asked if there was another spot where the bike corral could go, perhaps around the corner.

Mr. Hooper said he knows the committee previously had conversations about hiring a firm to consult with us on where we should place downtown amenities like bike racks, but after an investigation, we found out that it was too expensive. He said we are going to focus on the wayfinding signage portion of that proposal instead.

Mr. Parrish mentioned the interesting part regarding bike racks is that bicyclists want to see their bikes.

## **G. Sidewalk Usage Policy Update**

Ms. Brewer said we brought a discussion to the committee in February and received a lot of feedback. However, we still have some outstanding questions on insurance and liability that we are trying to work through. Mr. Luebbe and I are meeting with the North Carolina League of Municipalities to go over some of the more technical aspects. We think we are going to make some significant changes to our policy to ensure we are fully covered. This will include requiring every store to obtain a permit, even if they have merchandise on the sidewalk, to ensure they have the proper insurance. We will also review our hold harmless agreement to ensure it is fully up to date and comprehensive.

Mr. Daniel said he has always been a proponent of outdoor dining personally. He mentioned that one of our restaurants is having an issue with their outdoor dining tables and planters outside. His suggestion to them was to get rid of their planters, but he asked if there is any way we could have flexibility on outdoor dining.

Ms. Brewer said unfortunately, we have a strict agreement with NCDOT regarding sidewalk dining. While we don't have a strict agreement on sidewalk usage in general, for outdoor dining, we must follow their guidelines.

Mr. Parrish asked if the requirement is for five feet or four feet.

Ms. Brewer clarified that it's five feet.

Mr. McMinn mentioned that the tables have been there for twenty years and asked why they are just now a problem.

Ms. Bentley suggested if there's any way to grandfather them in.

Ms. Brewer explained that we can't grandfather them in because the restriction is in our agreement.

Mr. McMinn asked about the enforcement mechanism.

Ms. Brewer said there is a fine, but she couldn't remember the details.

## **H. Public Comment**

No comments were noted.

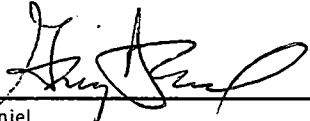
## **I. Set Date for Next Meeting**

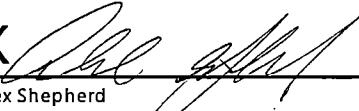
The next meeting of the Council Downtown Master Plan Committee was scheduled for Wednesday, April 10, 2024 at 4:00 PM.

**J. Adjourn**

There being no further business, the meeting was adjourned at 10:20 AM.

Minutes Approved - April 10, 2024

X   
\_\_\_\_\_  
Gary Daniel  
Chair, Council Member

X   
\_\_\_\_\_  
Alex Shepherd  
Assistant to the City Manager

# MINUTES

## COUNCIL DOWNTOWN MASTER PLAN COMMITTEE

**Wednesday, April 10, 2024 – 4:00 PM**

City Hall Council Chambers

Members Present: Pamela Holder, Vice Chair, Council Member  
Nicole Bentley, Exec Dir. Heart of Brevard  
Billy Parrish, Heart of Brevard Representative  
Lee McMinn, Citizen Member  
Parker Platt, At-Large Member  
Mayor Maureen Copelof, Ex-Officio Member

Staff Present: Paul Ray, Planning Director  
Alex Shepherd, Assistant to the City Manager  
Emily Brewer, Planner

Guests: Monica Driscoll

### **A. Welcome & Call to Order**

Committee Vice Chair Pamela Holder welcomed everyone and called the meeting to order at 4:00 PM.

### **B. Certification of Quorum**

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

### **C. Approval of Agenda**

Mayor Copelof requested that there be an item added to the agenda, I. Interactive Art Project for Clemson Plaza. Motion by Ms. Bentley, seconded by Mr. McMinn to approve the agenda as amended. The motion carried unanimously.

### **D. Approval of Minutes of March 18, 2024 Meeting**

Motion by Mr. McMinn, seconded by Ms. Bentley to approve the minutes of the March 18, 2024 meeting as presented. The motion carried unanimously.

### **E. Times Arcade Alley Update**

Ms. Bentley said Duke Energy is almost done, and then the contractor will need to place the conduit box. After that, Duke Energy will be completely finished. She also mentioned that Comporium should be done.

## **F. Sidewalk Usage Policy Update**

Ms. Brewer said that back in January, we had a discussion with the committee about what we wanted to regulate and what we wanted to allow regarding objects placed on the sidewalk. We have worked with the North Carolina League of Municipalities (NCLM) on this issue, and they have informed us that all objects placed on the sidewalks should have insurance. She mentioned that we have proposed text amendments to cover that, and we will require a permit from businesses. Currently, we have permits split into four categories: sidewalk dining, A-frame signs, permanent, and semi-permanent objects. However, in our proposed amendments, we will have three categories that include sidewalk dining, A-frame signs, and objects placed on sidewalks. There are no changes to sidewalk dining or A-framed signs if they meet the clearance requirements. The change is for sidewalk obstructions and to have a permit required for a space that immediately abuts a business themselves. We also will not allow anyone to place objects in the brick area. Items that are located within an indentation of a building or its facade would not require a permit because that is not within the right of way, but we would still recommend that the business have the same type of insurance.

Ms. Holder asked who will educate the businesses about this new rule and if the Chamber of Commerce would help.

Ms. Brewer mentioned that Ms. Bentley and the Heart of Brevard would help with educating businesses.

Mr. McMinn asked why the sidewalk dining furniture is required to be metal.

Ms. Brewer stated that it is required by our agreement with NCDOT.

Mr. Platt asked can I place a permanent object in front of the two feet of my building that is immovable so that basically I own it.

Ms. Brewer said that any object that you place there should be able to be moved once you leave.

## **G. Downtown Beautification Grant Discussion**

Mr. Ray said there is a small grant opportunity that has come our way, and I would like to have a discussion on what we should apply for. It is a collaboration between the Community Foundation of Western North Carolina and Dogwood Trust. It states a maximum amount of \$10,000 for projects not exceeding a total of \$50,000, but the foundation may make exceptions at its discretion. Some examples of items they will fund are pedestrian signals, decorative crosswalks, shade structures, benches, bicycle racks, and public art.

Mayor Copelof mentioned using the grant to install a bike rack that will bring people downtown from the Estatoe Trail, and we would not lose a parking space downtown.

Mr. Ray proposed another option to plant Silva Cells Downtown; however, we would need to study this further to ensure it meets the Downtown Master Plan. He said Silva Cells cost around \$20,000 each. Another option would be the Times Arcade Alley archway that we removed from the budget because it was \$30,000.

Mr. Parrish recommended that we implement items that we have already planned for and are searching for money for. He said that he does not see the bike community using the bike racks because unless they can see their bike, they most likely will not use the rack.

Ms. Bentley mentioned installing lighting in the alley by Cup and Saucer to allow for placemaking and allow people to use the area when it's dark.

Mr. Ray said that he will contact Mr. Shook and have him install lighting in the alley.

#### **H. Mural Painting Discussion**

Ms. Bentley informed the committee that the Hub for the Arts Committee has been discussing art in a public space for a long time. She said the original plans for Clemson Plaza called for public art that has local significance and a water feature. During the change of council leadership, who were part of the Downtown Master Plan Committee, felt at the time they could not make a decision. The Heart of Brevard started looking at the possibilities of mural projects and came across the North Carolina Music Murals Trail, which is a statewide initiative. The artist has done over seventeen murals that show murals of artists in their birthplace.

At 5:06 pm, a motion was made by Mr. McMinn, seconded by Mr. Platt, to pursue funding opportunities and to explore the possibility of installing a mural. The motion passed unanimously.

Mr. Platt said that Clemson Plaza is not finished, and this mural is a step towards that. However, it does not address the functionality of the plaza; it's about the decoration.

Mr. McMinn recommended that we should make incremental improvements to the plaza when the opportunity presents itself.

Mayor Copelof said she thinks the mural would bring an interest to Clemson Plaza that would draw people.

Ms. Driscoll mentioned that she does not like the location of the mural and would prefer that it be in another location.

Mr. Ray said the final proposal will have to be approved by the City Council.



**I. Interactive Art Project for Clemson Plaza**

Mayor Copelof informed the committee that this is not a permanent piece of art and that she is being approached by TC Strong, which is a non-profit organization that helps raise awareness for mental health. She stated that the art is a framed netting with the word "hope" outlined in green crochet and has a box of blank fabric where you can write a message that will then be woven into the netting. She said that she does not think that we need permission to place a non-permanent piece of art.

Ms. Bentley said that the policy does not address installations of items that are not permanent. She said the City Council would probably need to approve it.

**J. Public Comment**

No public comment.

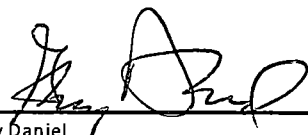
**K. Set Date for Next Meeting**

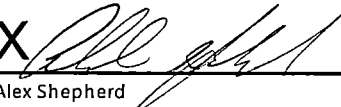
The next meeting of the Council Downtown Master Plan Committee was scheduled for Wednesday, May 8, 2024 at 4:00 PM.

**L. Adjourn**

There being no further business, the meeting was adjourned at 5:28 PM.

Minutes Approved - May 8, 2024

X   
\_\_\_\_\_  
Gary Daniel  
Chair, Council Member

X   
\_\_\_\_\_  
Alex Shepherd  
Assistant to the City Manager

## **STAFF REPORT**

**City Council, Monday, May 20, 2024**

**Title:** Proposed Amendment to City of Brevard Unified Development Ordinance, Chapter 15 - Board Roles

**Speaker:** Aaron Bland, Asst Planning Director

**Prepared by:** Aaron Bland, Asst Planning Director

**Approved by:** Wilson Hooper, City Manager

### **Background**

Section 15.1 of the City of Brevard Unified Development Ordinance (UDO) details the authorities and responsibilities for City's Planning Board (BPB) and Board of Adjustment (BOA). While statutory references in this section were updated following the adoption of General Statutes Chapter 160D, there was not a careful review of these enumerated authorities and responsibilities to conform with 160D. This is a staff-initiated text amendment that would do just that, bringing these listed roles of the two boards into compliance with the new general statutes that cover land use law in North Carolina. Another item in this section of the UDO that needs amending is the makeup of the Planning Board in terms of the number of members that represent the city and the extra-territorial jurisdiction (ETJ).

Council held a public hearing regarding these amendments at their May 6th meeting.

### **Discussion**

Throughout its many different subsections, Chapter 160D details both the required and potential duties of planning boards and boards of adjustment. This proposed text amendment does four things:

1. Eliminate anything listed that is not expressly authorized in the statutes
2. Ensure and make clear each board's required duties and responsibilities
3. List the optional responsibilities that each board actually engages in
4. Amend the makeup of the Planning Board city/ETJ membership for better proportional representation

North Carolina General Statutes state that the ETJ must have "proportional representation based on population for residents of the extraterritorial area" on city boards such as the BPB and BOA (GS § 160D-307). This proportionality is to be reviewed and adjusted following each decennial census; this has not yet been done following the 2020 census. The 2020 population of the city was found to be 7,818, and the population within the ETJ is estimated to be 3,129, which results in a city-to-ETJ ratio of 2.5. This ratio of 2.5 is the goal for the proportional representation on the BPB and BOA.

The current makeup of the BOA is 3 city and 2 ETJ members\* which equals a ratio of 1.5.

Changing the makeup of the BOA would result in the ratio becoming further from the goal of 2.5, so no change is recommended for the BOA.

The BPB, however, can improve its proportionality. The current makeup of 4 city and 3 ETJ members equals a ratio of 1.33. Changing the makeup to 5 city and 2 ETJ equals the ideal 2.5 ratio. Therefore, it is recommended that one of the ETJ members be switched to a city member.

\* The BOA also has city and ETJ alternate members, which only participate in the absence of a regular member and are not counted for calculating proportionality, since any alternate member can fill any regular seat.

### **Policy Analysis**

Ensuring the UDO and city board actions are consistent with state law is an obvious best practice and in the City's legal and procedural best interest.

### **Recommendation**

The Planning Board discussed these amendments at their February and March meetings, and recommended in favor. In accordance with NC General Statutes, the Planning Board also submits the attached statement of consistency.

### **Action**

Council's options for a decision concerning a proposal to amend the City's development regulations are as follows:

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

### **Attachments:**

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



## CHAPTER 15. BOARDS AND COMMISSIONS

### 15.1. Boards and commissions established.

The following boards and commissions are hereby established:

A. *Brevard Planning Board.* The authority to establish a Planning Board for the City of Brevard is granted under the authority of G.S. 160D-301 and 160D-307.

1. *Authority and responsibility.* The Brevard Planning Board (hereafter BPB) shall have the following duties and responsibilities:

- ~~a. Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions.~~
- ~~b. Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area.~~
- ~~c. Establish principles and policies for guiding action in the development of the area.~~
- ~~d. Prepare and recommend to the city council ordinances promoting orderly development along the lines indicated in the comprehensive plan.~~
- ~~e. Determine whether specific proposed zoning amendments developments conform to the principles and requirements of the adopted comprehensive plan for the growth and improvement of this area, as well as any other officially adopted plan that is applicable in accordance with G.S. 160D-604(d).~~
- ~~f. Keep the city council and the general public informed and advised as to these matters.~~
- ~~g. To review and make a recommendation on development activities and other requests as set forth in Section 16.6 of this ordinance in accordance with G.S. 160D-604(c).~~
- ~~h. To render opinions and make recommendations on all issues and petitions related to the City of Brevard Code of Ordinances and other land use plans and policies, transportation plans and policies, road closings, and other policies which may be adopted from time to time which require approval by the city council, pursuant to G.S. 160D-604(c).~~
- ~~i. To review with the city manager and other city officials and report its recommendations to the city council upon the extent, location and design of all public structures and facilities, on the acquisition and disposal of public properties, and on the establishment of building lines, mapped street lines and proposals to change existing street lines. However, in the absence of a recommendation from the board, the city council may, if it deems wise, after the expiration of 30 days from the date on which the question has been submitted in writing to the board for review and recommendation, take final action.~~
- a. Review and comment on all proposed amendments to the zoning regulations or zoning map in accordance with G.S. 160D-604(b).
- b. Advise and comment on whether any proposed amendment to the zoning regulations or zoning map action is consistent with any comprehensive or land-use plan that has been adopted, and any other officially adopted plan that is applicable, in accordance with G.S. 160D-604(d). The planning board shall provide a written recommendation to city council that addresses plan consistency and other matters as deemed appropriate by the planning board.
- c. Review and provide advice and consultation to the city council when adopting a new comprehensive



41 plan, in accordance with G.S. 160D-501(c).

42 d. Prepare, review, maintain, monitor, and periodically update and recommend to the city council a  
43 comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related  
44 research, data collection, mapping, and analysis to do so, in accordance with G.S. 160D-301(b).

45 e. Review and comment on the required investigative study and reports required for the changing of the  
46 boundaries of a historic district, or the creation of additional districts within the city.

47 f. Review and make a recommendation on development activities and other requests as set forth in  
48 Section 16.6 of this ordinance, in accordance with G.S. 160D-604(c).

49 j-g. Perform any other duties which may lawfully be assigned to itthe BPB by the city council or General  
50 Statutes.

51 2. *Membership and terms of office.*

52 a. The BPB shall consist of a total of seven members with ~~four~~five members residing within the city and  
53 ~~three~~two members residing in the extraterritorial jurisdiction. The members residing in the ETJ shall  
54 have equal rights, privileges and duties with other members of the board in all matters pertaining to  
55 the **UNIFIED DEVELOPMENT ORDINANCE** both within the corporate limits of the city and within its  
56 ETJ.

57 b. In accordance with G.S. 160D-307(a), the total membership of the BPB shall be proportional to the  
58 population of residents of the city and residents in the ETJ area. At a minimum, the membership of  
59 the board shall be examined following every decennial census, and changes shall be made as  
60 necessary to maintain an appropriate balance of city and ETJ board membership.

61 c. Representatives from within the corporate limits shall be appointed by the Brevard City Council.  
62 Representatives from the ETJ area shall be appointed by the Transylvania County Board of  
63 Commissioners.

64 d. The term of office shall be three years staggered. Vacancies occurring for reasons other than  
65 expiration of terms shall be filled as they occur for the period of the unexpired term.

66 e. The BPB shall elect the board chair and vice-chair from among its members. They each shall serve a  
67 one-year term.

68 **B. Board of adjustment.** The authority to establish a board of adjustment is granted under the authority of G.S.  
69 160D-302.

70 1. *Authority and responsibility.* The board of adjustment (hereinafter BOA) shall have the following duties  
71 and responsibilities:

72 a. To hear and decide appeals from any order, decision, determination, or interpretation made by the  
73 administrator pursuant to or regarding these regulations and in accordance with G.S. 160D-405, and  
74 G.S. 160D-705, or G.S. 160D-1008.

75 b. To hear and decide petitions for variances from the requirements of these regulations.

76 c. To hear and decide petitions for special use permits.

77 d. To make an interpretation of any portion of this ordinance.

78 ~~e. To change the use of, or expand certain nonconformities.~~

79 2. *Membership and terms of office.*

80 a. The BOA shall consist of a total of five members with three members residing in the city limits and  
81 two members residing in the ETJ. In addition, two alternate members residing in the city limits and  
82 one alternate member residing in the ETJ shall be appointed. Alternates shall serve on the board in  
83 the absence of any member and while serving shall have and may exercise all of the powers and  
84 duties of a regular member. The members residing in the ETJ shall have equal right, privileges and



duties with other members of the board in all matters pertaining to the **UNIFIED DEVELOPMENT ORDINANCE** both within the corporate limits of the city and within its ETJ.

- b. In accordance with G.S. 160D-307(a), the total membership of the BOA shall be proportional to the population of residents of the city and residents in the ETJ area. At a minimum, the membership of the board shall be examined following every decennial census, and changes shall be made as necessary to maintain an appropriate balance of city and ETJ board membership.
- c. Representatives from within the corporate limits shall be appointed by the Brevard City Council. Representatives from the ETJ area shall be appointed by the Transylvania County Board of Commissioners.
- d. The term of office shall be three years, although initial appointments shall be made for one, two and three years so the terms may be staggered. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.
- e. The BOA shall elect the board chair and vice-chair from among its members. They shall each serve a one-year term.

(Ord. No. 15-08, § 37, 12-5-08; Ord. No. 03-10, § 1(Exh. A), 2-15-10; Ord. No. 2014-25, § 05(Exh. E), 12-15-14; Ord. No. 2019-27, § 1(Exh. A), 11-18-19; Ord. No. 2020-23, § 1(Exh. A), 10-19-20; Ord. No. 2021-16, § 1(Exh. A), 4-19-21; Ord. No. 2023-06, § 1(Exh. A), 2-6-23)

**COMMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN  
AND ANY OTHER OFFICIALLY ADOPTED APPLICABLE PLANS  
TXT-24-003**

*NCGS 160D-605 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.*

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning ordinance amendment is **neither consistent nor inconsistent** with the City's adopted comprehensive land use plan. However, ensuring the UDO and city board actions are consistent with state law is an obvious best practice and in the City's legal and procedural best interest.

**ORDINANCE NO. 2024-\_\_\_\_**

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT  
ORDINANCE: CHAPTER 15 – BOARDS AND COMMISSIONS TO  
AMEND THE ROLES, RESPONSIBILITIES, AND MEMBERSHIP OF  
THE PLANNING BOARD AND BOARD OF ADJUSTMENT**

**WHEREAS**, the City of Brevard Planning Board has recommended that the Brevard City Code, Unified Development Ordinance be amended; and,

**WHEREAS**, the City Council of the City of Brevard finds that the proposed amendment is neither consistent nor inconsistent with the City's comprehensive land use plan or other adopted plans and policies of the City of Brevard; and,

**WHEREAS**, a public hearing was conducted on Monday, May 6, 2024, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard Unified Development Ordinance be amended as outlined below.

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

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

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

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

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

Adopted and approved this the 20<sup>th</sup> day of May 2024.

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Maureen Copelof  
Mayor

ATTEST:

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Denise Hodsdon, CMC  
City Clerk

APPROVED AS TO FORM:

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Mack McKeller  
City Attorney



## **STAFF REPORT**

**City Council, Monday, May 20, 2024**

**Title:** Approval of FY24 Supplemental Spending Plan and Related Budget/Project Amendments

**Speaker:** Wilson Hooper, City Manager  
Dean Luebbe, Assistant City Manager/Finance Director

**Prepared by:** Wilson Hooper, City Manager

**Approved by:** Wilson Hooper, City Manager

### **Background**

As growth in the city's main sources of revenue begins to flatten, the tradeoffs that were required to balance the FY25 proposed budget were more difficult than in previous years. The Council's priority list is extensive, and not all were able to be funded in the FY25 spending plan.

However, the City is fortunate to have several sources of reserves available for use. While the City Manager discourages the use of those reserves to balance the city's operating budget, he instead recommends using them to fund one-time expenses/projects.

### **Discussion**

The recommended FY24 Supplemental Spending Plan (attached) is a way to keep momentum going on several Council priorities without burdening the FY25 budget. It recommends tapping into four discrete existing funding sources to pay for projects that help further Council's priority goals 1, 2, 3, 6, and 7.

The proposal presented this evening incorporates feedback given by Council at its April 12 budget workshop.

Staff is requesting that the FY24 Supplemental Spending Plan be approved prior to approval of the FY25 budget so that staff may begin working on the projects, some of which are time-sensitive.

### **Action**

Staff requests that Council approve the attached resolution adopting the FY24 Supplemental Spending Plan. The resolution incorporates by reference all the necessary budget and project amendments needed to make the funds available to spend.

### **Attachments:**

1. FY24 Supplemental Spending Plan
2. Resolution 2024-XX FY24 Supplemental Spending Plan
3. Budget Amendment \$18,200 Farmers Market
4. Budget Amendment \$43,300 Downtown Walkability Improvements
5. Budget Amendment \$30,000 Probart Street Traffic Calming

6. Budget Amendment \$72,000 Transfer to Silversteen - Norton Creek
7. Capital Project Ordinance Amendment \$144,000 Norton Creek Improvements

FY24 Supplemental Spending Plan  
(May 2024)

| PROJECT                                                 | AMOUNT              | SOURCE                              | PRIORITY AREA | STATUS           | FISCAL YEAR     | ACTION                       | NOTE                                                                              |
|---------------------------------------------------------|---------------------|-------------------------------------|---------------|------------------|-----------------|------------------------------|-----------------------------------------------------------------------------------|
| City Hall reconfiguration                               | \$40,000            | FY24 operational savings            | Goal 6        | Mgr. Proposed    | Current         | Budget Amendment 6/3 or 6/17 | To accommodate additional staff                                                   |
| 132 Commerce St. upfits                                 | \$100,000-\$150,000 | Unobligated fund balance            | Goal 6        | Mgr. Proposed    | Current         | Budget Amendment 6/3 or 6/17 | Upfit leased space to accommodate Brevard Police Dept. needs                      |
| Internal Email Upgrade                                  | \$50,000            | FY24 operational savings            | Goal 6        | Mgr. Proposed    | Current         | Budget Amendment 6/3 or 6/17 | Removed from FY25 and added here to accomm conts. to Funds 78 and 83              |
| Farmer's Market contribution                            | \$18,200            | FY24 operational savings            | Goal 2        | Council proposed | Current         | Budget Amendment 5/20        |                                                                                   |
| Fix brick and concrete concerns in HoB walkability stdy | \$40,000-\$43,000   | Cash-in Pardee sidewalk fee-in-lieu | Goal 2        | Mgr. Proposed    | Current or next | Budget Amendment 5/20        |                                                                                   |
| Probart St. traffic calming Phases 1-3                  | \$30,000            | FY24 operational savings            | Goal 1        | Council proposed | Current         | Budget Amendment 5/20        |                                                                                   |
| Norton Creek streambank Phase 2                         | \$72,000            | Unobligated fund balance            | Goal 2        | Mgr. Proposed    | Current         | Budget Amendment 5/20        | Match for \$72,000 state grant endorsed by Council                                |
| R5800 trail betterments study Phase 1                   | \$12,000            | Multi-use path reserve fund         | Goals 3 and 7 | Mgr. Proposed*   | Current or next | No accounting action needed  | Phase 2 costs pending findings of Phase 1. Possible TDA contribution for Phase 2. |

\*Also endorsed by Parks, Trails & Recreation Committee, and Ecusta Trail Advisory Committee.

**RESOLUTION NO. 2024-XX**

**RESOLUTION ADOPTING FY24 SUPPLEMENTAL SPENDING PLAN**

WHEREAS, in February 2024 the Brevard City Council adopted seven goals where they wished for City resources to be applied in the coming year; and

WHEREAS, the City's FY25 budget cannot accommodate all resource requests on its own; and

WHEREAS, the City has several reserve funds with money available to spend;

WHEREAS, by utilizing these dollars the City can move a number of priorities forward without burdening the FY25 budget; and

WHEREAS, the City Manager has presented an FY24 Supplemental Spending Plan attached hereto; and

WHEREAS, the plan recommends several activities to be funded with reserve funds and the corresponding funding source for each activity; and

WHEREAS, the plan incorporates feedback given by the City Council at its April 12 budget workshop.

NOW, THEREFORE, THE *CITY COUNCIL OF THE CITY OF BREVARD* RESOLVES:

The FY24 Supplemental Spending Plan, attached hereto, is hereby adopted; and

All the appropriate budget and project amendments, also attached hereto, are hereby adopted.

Adopted and approved this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Maureen Copelof  
Mayor

ATTEST:

\_\_\_\_\_  
Denise Hodsdon, CMC  
City Clerk

# ORDINANCE NO. 2024-XX

**AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.**

**BUDGET AMENDMENT NUMBER 24-06**

**SUBJECT:** Budget Amendment to increase revenues and expenditures to fund the Farmers Market contribution.

## AGENDA INFORMATION

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

**BRIEF SUMMARY:** As highlighted in the FY24-25 Manager Recommended Budget and discussed at the budget work session on April 12, 2024, the City wishes to fund the Farmers Market for the FY24-25 budget year from excess revenues expected in the FY24 fiscal year. Prior year Ad Val taxes were budgeted at \$32,000 in the current fiscal year and are currently at \$51,100.

**MOTION FOR CONSIDERATION:** To approve Budget Amendment 24-06 as submitted, increasing the budget in expenditure account:

|                                         |          |
|-----------------------------------------|----------|
| 10-4100-5700 (Non Profit Contributions) | \$18,200 |
|-----------------------------------------|----------|

And increasing the budget in the revenue account:

|                                        |          |
|----------------------------------------|----------|
| 10-3010-0422 (Prior Year Ad Val Taxes) | \$18,200 |
|----------------------------------------|----------|

**ATTACHMENTS:** Budget Amendment 24-06.

**MANAGER'S RECOMMENDATION:** Adopt as presented

Approved and adopted this 20th day of May, 2024.

Maureen Copelof  
Mayor

ATTEST:

Denise Hodsdon, CMC  
City Clerk

APPROVED AS TO FORM:

Mack McKeller  
City Attorney

**ORDINANCE NO. 2024-XX**  
**AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.**  
**BUDGET AMENDMENT NUMBER 24-07**

**SUBJECT:** Budget Amendment to increase revenues and expenditures to fund improvements in Downtown Walkability.

**AGENDA INFORMATION**

**Agenda Location:** New Business  
**Department:** Finance  
**Contact:** Dean Luebbe, Assistant City Manager and Finance Director

**BRIEF SUMMARY:** On May 2, 2024, the City received \$43,263 from Pardee Memorial Hospital as payment related to a sidewalk fee in lieu. The City wishes to use these funds to allow for the Public Works Department to purchase materials needed to improve walkability in the Downtown Heart of Brevard District.

**MOTION FOR CONSIDERATION:** To approve Budget Amendment 24-07 as submitted, increasing the budget in expenditure account:

10-5600-3300 (Department Supplies) \$43,300

And increasing the budget in the revenue account:

10-3350-0500 (Sidewalk Fee in Lieu) \$43,300

**ATTACHMENTS:** None.

**MANAGER’S RECOMMENDATION:** Adopt as presented.

Approved and adopted this 20th day of May, 2024.

\_\_\_\_\_  
Maureen Copelof  
Mayor

ATTEST:

\_\_\_\_\_  
Denise Hodsdon, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mack McKeller  
City Attorney

**ORDINANCE NO. 2024-XX**  
**AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.**  
**BUDGET AMENDMENT NUMBER 24-08**

**SUBJECT:** Budget Amendment to increase revenues and expenditures to fund traffic calming measures on Probart Street.

**AGENDA INFORMATION**

**Agenda Location:** New Business  
**Department:** Finance  
**Contact:** Dean Luebbe, Assistant City Manager and Finance Director

**BRIEF SUMMARY:** As highlighted in the FY24-25 Manager Recommended Budget and discussed at the April 12, 2024 budget workshop, the City wishes to fund speedbumps and other traffic calming measures on Probart Street. Interest revenues are expected to exceed budgeted amounts in FY24 by over \$50,000, so this the City will utilize this overage as a source for the work.

**MOTION FOR CONSIDERATION:** To approve Budget Amendment 24-08 as submitted, increasing the budget in expenditure account:

10-4900-0925 (Professional Services) \$30,000

And increasing the budget in the revenue account:

10-3290-0000 (Interest Revenue) \$30,000

**ATTACHMENTS:** None.

**MANAGER’S RECOMMENDATION:** Adopt as presented.

Approved and adopted this 20th day of May, 2024.

\_\_\_\_\_  
Maureen Copelof  
Mayor

ATTEST:

\_\_\_\_\_  
Denise Hodsdon, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mack McKeller  
City Attorney

**ORDINANCE NO. 2024-XX**  
**AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.**  
**BUDGET AMENDMENT NUMBER 24-09**

**SUBJECT:** Budget Amendment to transfer \$72,000 to the Rosenwald Fund (Fund 83), Norton Creek Streambank Restoration Project, for the City portion of NCDEQ Grant.

**AGENDA INFORMATION**

**Agenda Location:** New Business  
**Department:** Finance  
**Contact:** Dean Luebbe, Assistant City Manager and Finance Director

**BRIEF SUMMARY:** As highlighted in the FY24-25 Manager Recommended Budget and discussed at the April 12, 2024 budget workshop, the City wishes to transfer \$72,000 of fund balance in the General Fund to the Norton Creek Upstream Stream Repair Project in the Rosenwald Fund. On April 10, 2024, the City received notification from the North Carolina Department of Environmental Quality that the City had been awarded \$72,000 in grant funding, and the City is responsible to match that amount.

**MOTION FOR CONSIDERATION:** To approve Budget Amendment 24-09 as submitted, increasing the budget in expenditure account:

|                                                   |          |
|---------------------------------------------------|----------|
| 10-6600-9266 (Transfer to Fund 83 – Norton Creek) | \$72,000 |
|---------------------------------------------------|----------|

And increasing the budget in the revenue account:

|                                          |          |
|------------------------------------------|----------|
| 10-3990-0000 (Fund Balance Appropriated) | \$72,000 |
|------------------------------------------|----------|

**ATTACHMENTS:** None.

**MANAGER’S RECOMMENDATION:** Adopt as presented.

Approved and adopted this 20th day of May, 2024.

\_\_\_\_\_  
Maureen Copelof  
Mayor

ATTEST:

\_\_\_\_\_  
Denise Hodsdon, CMC  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mack McKeller  
City Attorney



ORDINANCE NO. 2024-XX

CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE  
NO. 2020-36, 2022-28, AND 2023-26 SILVERSTEEN PARK IMPROVEMENT PROJECT

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

**Section 1:** The budgeted expenditures and revenues listed under the ordinance 2023-26 will be increased from \$850,000 to \$994,000. Funding will come from a \$72,000 Grant from NCDEQ and a \$72,000 transfer from the General Fund.

**Section 2:** The original project scope consisted of approximately 500 linear feet of streambank restoration and 600 linear feet of pedestrian pathway near the Silversteen playground and basketball court.

**Section 3:** The amended project scope consists of restoring approximately 70 linear feet of Norton Creek north of Hillview Street bound by Silversteen Park and a residential home. It will include stabilizing creek banks, reshaping the creek and the replacement of an existing stormwater culvert within the project area.

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

| Account Number                     | Account Name            | Budget Amount    |
|------------------------------------|-------------------------|------------------|
| 82-4100-2920                       | Silversteen Park        | \$850,000        |
| <b>82-4100-2920</b>                | <b>Silversteen Park</b> | <b>\$144,000</b> |
| <b>TOTAL PROJECT APPROPRIATION</b> |                         | <b>\$994,000</b> |

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

| Account Number               | Account Name                      | Budget Amount    |
|------------------------------|-----------------------------------|------------------|
| 82-3300-0000                 | Donations                         | \$27,000         |
| 82-3300-0150                 | Bethel A Church Donation          | \$10,200         |
| 82-3250-0000                 | Transfer from General Fund        | \$367,800        |
| 82-3300-0250                 | NCDEQ Grant                       | \$95,000         |
| 82-3990-0000                 | Fund Balance Approp               | \$150,000        |
| 82-3250-0200                 | Transfer from 31 – Main W/S       | \$200,000        |
| <b>82-3250-0000</b>          | <b>Transfer from General Fund</b> | <b>\$72,000</b>  |
| <b>82-3300-0250</b>          | <b>NCDEQ Grant</b>                | <b>\$72,000</b>  |
| <b>TOTAL PROJECT REVENUE</b> |                                   | <b>\$994,000</b> |

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

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

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

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

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

**ADOPTED** by the City Council of the City of Brevard, North Carolina, on this 20th day of May, 2024.

\_\_\_\_\_  
Maureen Copelof  
Mayor

ATTEST:

\_\_\_\_\_  
Denise Hodsdon  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Mack McKeller  
City Attorney

## **STAFF REPORT**

**City Council, Monday, May 20, 2024**

**Title:** Application for Public Art - Moms Mabley Mural in Clemson Plaza

**Speaker:** Paul C. Ray, Brevard Planning Director  
Nicole Bentley, HOB Executive Director

**Prepared by:** Paul Ray, Planning Director

**Approved by:** Wilson Hooper, City Manager

### **Background**

The Heart of Brevard (HOB) submitted an application for public art. The request is for HOB to commission artist Scott Nurkin to paint a mural of Loretta Mary Aiken, "Moms Mabley," on the side of the building at 79 W. Main Street in Clemson Plaza as part of the North Carolina Musician Murals Trail. This idea was first discussed at the Downtown Master Plan Committee on March 18, 2024. The DTMPC unanimously approved forwarding the application to the Arts Advisory Subcommittee, and on May 1, 2024, the subcommittee unanimously approved the image of Loretta Aiken depicted in the application.

### **Discussion**

Over the years, City Council and the Downtown Master Plan Committee have envisioned Clemson Plaza as a public gathering place for social interaction and to celebrate cultural activity. Clemson Plaza is a community square that provides opportunities for public art to engage with Brevard's citizenry, inform visitors and foster a sense of belonging. There is currently a historical sign in Clemson Plaza honoring Loretta Mary Aiken, which was awarded by the North Carolina Highway Historical Marker Program. If approved by Council, a twenty-foot by fifteen-foot wall mural would further highlight the importance of this local celebrity. Staff and the HOB envision future markers with literature elucidating the mural and commemorating Loretta Mary Aiken and her contributions, particularly within the realms of comedy and civil rights activism.

### **Policy Analysis**

The Downtown Master Plan Committee in conjunction with the Arts Advisory Subcommittee recommended in favor of approving the described mural on the side of the building at 79 W. Main Street in Clemson Plaza.

### **Fiscal Impact**

No cost is expected to be incurred by the City, but the City may seek grant funding to help support the implementation of the project.

### **Action**

Consider approving the attached Resolution granting permission for a mural.

### **Attachments:**

1. Resolution
2. Mural Application

**RESOLUTION NO. 2024-XX**

**A RESOLUTION APPROVING A MURAL ON  
THE EAST EXTERIOR WALL OF 79 W. MAIN STREET  
“CLEMSON PLAZA”**

**WHEREAS**, City Council has been presented with a proposal for the placement of a wall mural painted by artist, Scott Nurkin, and

**WHEREAS**, the mural shall illustrate Loretta Mary Aiken, “Moms Mabley” who was from Brevard, North Carolina and made significant contributions in comedy, entertainment, and civil rights activism, and

**WHEREAS**, City Council believes the proposed mural is consistent with the stated goals outlined in the Public Art Policy, and

**WHEREAS**, City Council recognizes the value of publicly displayed art and the importance of promoting public and private economic development efforts, and

**WHEREAS**, City Council also recognizes the value of fostering community pride and the need to be innovative and creative in developing ways of attracting residents and visitors to the central business district, and

**WHEREAS**, Local art, such as high-quality wall murals enrich the cultural landscape and enhance the urban experience for the residents of Brevard.

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

Section 1. City Council, in concurrence with a recommendation from the Downtown Master Plan Committee in conjunction with the Arts Advisory Subcommittee, hereby approve an application for a wall mural on the east side of the building at 79 W. Main Street, in accordance with Brevard City Code of Ordinances Chapter 42 and Brevard Unified Development Ordinance Chapter 12.

Section 2. The Resolution shall become effective upon its adoption.

Adopted and approved this the 20<sup>th</sup> day of May, 2024.

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Maureen Copelof  
Mayor

ATTEST:

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Denise Hodsdon, CMC  
City Clerk



## APPLICATION FOR PUBLIC ART

**APPLICANT:** Heart of Brevard

### Contact Information:

Mailing Address: PO Box 931 City: Brevard State: NC ZIP: 28712  
Email: nicole@brevardnc.org Phone: 828-606-6198

### Property Owner Information (Not applicable for artwork proposed on City Property):

Property Owner Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

**Location of Property:** 79 West Main Street

**Property Identification Number (PIN):** 8586-41-6061-000

### Type of Artwork:

- ☒ Mural ☐ Memorial ☐ Other: \_\_\_\_\_  
☐ Sculpture ☐ Functional Art (i.e. bike rack) \_\_\_\_\_

**Proposed location(s) for the art (side wall, rear yard, alcove, etc):** Large wall on Co-Ed Cinema on the corner of West Main and Caldwell Streets

### Following must be Included with All Applications:

- ☐ **Description and images or other illustrative graphics** of the artwork to be installed. Dimensions (height, width, etc.) must be included in these descriptions.
- ☐ **Narrative** describing the theme and design.
- ☐ **Photograph** of the proposed location (if specific location in mind).
- ☐ **Signed Maintenance Agreement** provided by the City.
- ☐ **Cost estimate:** \$25-30K
- ☐ **Project Installation Timeline:** September 2024, 7-10 days

### Following must be Included with Mural Applications:

- ☐ **Dimensions** of any logos, symbols or text within the mural.

### SIGNATURES

If the Applicant is other than the property owner, proof of the owner's consent is required, unless the property owner is the City of Brevard. Owner's signature proves consent. The applicant will be the liaison with the City and will be the party to receive official notice. Notice communicated to the applicant will be deemed communicated to the owner. By signing this application, the applicant is consenting to the designation for these purposes.

Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant: [Signature] Date: 5/8/2024

## Application for Public Art in Clemson Plaza

Submitted: May 8, 2024

Heart of Brevard and the Public Art Advisory Subcommittee, in collaboration with Heart of Brevard's HUB for the Arts workplace, propose a mural of Loretta Mary Aiken in conjunction with the North Carolina Music Mural Project. This mural, to be located at Clemson Plaza, a prominent public space in downtown Brevard (79 West Main Street, Brevard, NC), aims to celebrate diversity and promote community.

The mural would depict a monochromatic image (approximately 20ft x 15ft) of Loretta Mary Aiken dressed in a ballgown and pearls, with her name appearing next to her image in Carolina blue lettering (6ft). If approved, the installation is scheduled to take place during Heart of Brevard's fourth annual Brevard Plein Air Festival, held from September 9th to 14th, 2024.

Clemson Plaza has a rich history, having served as a theater and community gathering space since the 1930s. The Public Art Advisory Committee has worked for over a year to create a vision for an installation that celebrates Brevard's rich cultural history while incorporating the story of Clemson Plaza, while also acknowledging the original plans for public art in this space proposed by Destination by Design. The proposed mural is designed to be engaging, inviting, and to beautify Clemson Plaza. It also aims to attract tourism, promote arts and culture, and encourage business activity within our urban core.

The proposed mural reflects the unique history and culture of Brevard. The goal of the project is to create a space where residents and visitors can come together to celebrate diversity. We believe that this mural celebrates the richness of Brevard's culture, tying into a statewide project that celebrates musicians in North Carolina.

By honoring Aiken in such a prominent location, the mural not only celebrates her legacy but also adds to the historical significance of Clemson Plaza. As Loretta Aiken already has a historical marker on the same site, installed in fall 2023, the mural becomes a focal point for the community, drawing attention to Brevard's cultural heritage and serving as a commitment to diversity and artistic expression.

This mural project aligns with the vision of both the Public Art Subcommittee and Heart of Brevard's HUB for the Arts workplace, providing a platform for community engagement and cultural enrichment.

The placement of a mural depicting Loretta Aiken, also known as "Moms" Mabley, in downtown Brevard's Clemson Plaza, receives strong backing from the Clemson Plaza Public Art Subcommittee. All members of the committee, including:



- Nicole Bentley, Heart of Brevard
- Carol Clay (Local Artist and Chair of Heart of Brevard HUB for the Arts Committee)
- Tyree Griffin (City of Brevard)
- Billy Smith (Local Artist and TCARTS President)
- Victor Foster (Rosenwald Community)

have unanimously recommended the installation of the mural in Clemson Plaza. This endorsement by the subcommittee and the Heart of Brevard Board underscores the significance of Clemson Plaza as an ideal location for the mural, paying homage to Loretta Aiken's significant contributions to comedy and entertainment and enriching the cultural fabric of Brevard.

Additionally, we see the value in connecting this project to the NC Musical Mural Trail and the NC Department of Natural and Cultural Resources. Brevard can connect itself to a statewide initiative that promotes tourism and cultural exchange. Being part of a larger network of murals across North Carolina not only enhances Brevard's visibility but also positions it as a key destination within the state's cultural landscape. A mural associated with this project in downtown Brevard not only enhances the area's aesthetic appeal but also contributes to its economic vitality, connects it to a statewide cultural initiative, and fosters community engagement and pride. Such a mural has the potential to become a landmark, drawing visitors and locals alike to experience the unique charm and cultural richness of Brevard.

Heart of Brevard will continue to work closely with the NC Department of Natural and Cultural Resources and NC African American Heritage Commission to promote this work and create educational opportunities. We believe that a mural of Loretta Aiken in downtown Brevard can spark community pride and engagement, fostering a deeper connection to the town's identity and history. Additionally, the mural can serve as a catalyst for local events and initiatives, such as music festivals or educational programs, further enriching the cultural fabric of the community.

Learn more about the artists and the [NC Music Mural Project here](#).





*Loretta  
Mary  
Hiken*





## PUBLIC ART MAINTENANCE AGREEMENT

THIS Agreement is made as of the 15 day of May, 2024 by and between:

City of Brevard (hereinafter “City”)  
95 West Main Street  
Brevard, NC 28712

and

|                                     |                                 |
|-------------------------------------|---------------------------------|
| J. Nicole Bentley/ Heart of Brevard | (“Owner”).                      |
| 79 West Main Street                 | (“Physical Address of project”) |
| PO BOX 931, Brevard NC              | (“Mailing Address of Owner”)    |
| 828-884-3278                        | (“Telephone Number”)            |
| nicole@brevardnc.org                | (“Email Address”)               |

WHEREAS, the City has determined in order to beautify public areas, enhance the quality of life for Brevard citizens, attract tourism, promote arts and culture, and encourage businesses to locate within the city, thus expanding Brevard’s economic base, it is the policy of the City of Brevard to promote public art, where appropriate, through the implementation of a clarified process and design guidelines, and

WHEREAS, the Owner desires to facilitate this policy by installing public art as approved by the Brevard City Council pursuant to Ordinance 42-16 of the Brevard City Code and Chapter 12 of the Unified Development Ordinance;

WHEREAS, the Owner is aware that as a condition of being allowed to install any public art, the Owner must agree to certain maintenance and other requirements as set forth in the policy.

NOW THEREFORE, the Owner, subject to the approval of the said public art project by the Brevard City Council, agrees as follows:

1. Owner agrees to complete the installation work within one calendar year from the date of approval by City and all work shall be completed according to state and local building codes and ordinances, and approved, when necessary, by the proper authorities.
2. Owner accepts the sole responsibility of maintenance during the lifetime of the artwork and authorizes the City to perform such maintenance if these responsibilities are not fulfilled by the Owner. In the event the City is required to perform maintenance on the said project due to the Owners failure to maintain, the Owner shall reimburse the City for the reasonable costs of the maintenance. Maintenance shall include, but is not limited to, re-painting/touch-up painting to keep the art looking current and not faded, as determined by the DMPC, and abating graffiti, or other forms of vandalism, within 48 hours from the time the property owner has been notified. Owner maintenance may also include painting over the mural effectively ending its lifetime if no public funds were used in its creation and if there is no prior, conflicting agreement between the City and the property owner unless both parties are in agreement. Owner further agrees to follow the maintenance

guidelines set forth in Section VIII of the Public Art Policy and Application Process manual.

3. Once a project is complete, Owner shall apply an anti-graffiti coating to protect its surface if determined by the DMPC to be feasible.
4. The Owner agrees to allow images and video of the completed installation to be placed on the City of Brevard's web pages, social media, publications/videos, and local media.
5. Any disputes that arise between the parties with respect to the performance of this agreement shall be submitted to mediation prior to either party invoking the court system.
6. This agreement shall be governed by the laws of the State of North Carolina and shall be subject solely to the jurisdiction of the District or Superior Court of Transylvania County North Carolina.

IN WITNESS WHEREOF, the Owner hereto has signed this Agreement as of the date first above written.

OWNER, J. Nicole Bentley by:



(SEAL)

Owner Signature

## **STAFF REPORT**

**City Council, Monday, May 20, 2024**

**Title:** Ground Lease with Brevard Davidson River Presbyterian Church for Workforce/Affordable Housing Project

**Speaker:** Wilson Hooper, City Manager  
Mack McKellar, City Attorney  
Paul Ray, Planning Director  
Emily Brewer, Senior Planner

**Prepared by:** Wilson Hooper, City Manager

**Approved by:** Wilson Hooper, City Manager

### **Background**

In late 2022, the City of Brevard and Brevard Davidson River Presbyterian Church (BDRPC) pastor Keith Thompson began discussing a concept that would see the two entities collaborating to convert approximately 4 acres of wooded, undeveloped property owned by the church into affordable/workforce housing. Subsequently, analysis conducted by the UNC School of Government's Development Finance Initiative (DFI) at the request of the City confirmed that there was a significant housing shortage in the area, and that the church's property held good possibility for development into housing units.

Since that time, City staff under the oversight of the Housing Committee and an ad hoc group of the church's Session (e.g. governing board) have been negotiating a ground lease that would grant control of the wooded 4 acres to the City for further exploration, Control of the property is necessary for public involvement, and gives the City the ability to legally invest its own resources in organizing development of the property.

The terms of the lease were endorsed by Housing Committee on April 9, 2024, and the full church Session on April 26, 2024. The City Manager briefed each Council member of the basics of the agreement prior to April 26, 2024.

### **Discussion**

The ultimate goal of the collaboration is the creation of at least 24 affordable, multi-family rental units on the site.

The lease as drafted would give control to the City for a period of three years. The lease rate would be \$1 per year. The lease also offers the City an option to purchase the land at the expiration of the three-year period with deed restrictions that require the property be used for affordable, multi-family housing.

During the initial three-year lease period, the City will hire experts to analyze the developability of the site in more detail, and put together an estimated cost of converting the site. With this information in hand, the City (with input from the church) will turn to the open market to recruit a "Qualified Development Partner" (as defined in the lease) to

lead the financial and physical development of the site. The lease permits the City to transfer its option to purchase to the Qualified Development Partner, who would still be subject to the same deed restrictions.

Presbyterian governance requires that matters like this be subject to a vote of the congregation. If approved by the Council this evening, the documents will be distributed to the congregation in the days to come. Drop-in meetings for congregants who wish to learn more about the agreement are scheduled for 2 PM and 6 PM on Thursday, June 6, 2024. A congregational meeting is scheduled for June 9, 2024 to conduct the vote.

**Action**

Staff requests that Council approve the attached resolution adopting the Ground Lease and authorizing the Mayor to sign on the City's behalf.

**Attachments:**

1. City Letter to BDPRC Congregation\_Final Draft
2. BDRPC\_Ground Lease Summary
3. Shorter Term Ground Lease\_Reviewed by BDPRC Session
4. Resolution 2024-XX BDRPC Lease



The City of  
*Brevard*  
North Carolina

May 21, 2024

Brevard-Davidson River Presbyterian Church  
249 East Main St.  
Brevard, NC 28712

Dear Brevard-Davidson River Presbyterian Church congregants,

Over two years ago, Mayor Maureen Copelof and Pastor Keith Thompson began a collaboration on how to help with the housing shortage here in Brevard. At that time, both the City and the Church heard stories about employers losing workers because there was nowhere for them to live; multi-generational families living several people to a room because they could not afford a bigger place; and community members leaving town in order to find an affordable and safe place to live. The idea, which the congregation responded positively to in late 2022, was for the Church and the City to collaborate on converting the approximately 4 acres of wooded area on the Church campus into rental housing for low-to-moderate income (LMI) households. LMI households in our area include, for example, teachers, daycare workers, public safety professionals, nurses, service-industry workers, and other important professionals in our city who earn 80% or less than the area median income.

To kick-off the project, the City hired the Development Finance Initiative (DFI), a program of the University of North Carolina's School of Government, to quantify the extent of Brevard's housing need and assess how a collaboration between the City and Church may contribute to a solution.

After analyzing relevant data, DFI confirmed what we'd heard: the housing need is significant. In 2020, the most recent year of reliable data, nearly 800 LMI households in Transylvania County had housing needs. DFI's analysis of housing market changes through the pandemic years indicates that the number of households with need has likely grown. Brevard's housing market has limited supply, and during the pandemic, the highest-priced rental units doubled, and rental vacancy rates hit below 1%. In addition, the average sales price of homes increased by 30%. The economy has changed as well, and half of the county's workforce are employed in industries with an average wage of less than \$40,000/year. To afford a home in Brevard, however, a household must make at least \$133,000/year. Despite the limited and competitive housing market, the City and the Church believe that we can collaborate to further LMI households access to a quality, affordable place to live here in Brevard.

Alongside the market assessment, the City asked DFI to conduct a preliminary analysis of whether it was feasible to build housing units on the Church's wooded property. DFI found that building rental units is likely feasible, but additional analysis is needed to understand the constraints of the site.



To date, the City has invested financial resources to determine Brevard's housing need and is ready to invest in a more thorough review of the potential of the Church's site to help meet that need. For the City and the Church to pursue this idea and invest additional resources, we need to enter into a lease agreement for the wooded portion of the Church's property. This lease includes an option to purchase with a deed restriction that ensures the Church's intended use for the property can be guaranteed. This agreement is the preferred method because it binds the City and the Church together as we continue to work towards our shared goals. Please review the agreement for details on the terms included.

With your approval of this agreement, the City and DFI will perform a more technical assessment of the property, including detailed site and financial feasibility analyses to provide options for development. As a part of this process, the City and DFI will conduct input sessions with the Church and Brevard residents to inform the future development program for this site. You and your fellow Brevard residents' input will be necessary to ensure that clear and transparent public interests guide the next steps in this collaboration between the City and the Church.

The Church has been represented in these early phases by a group of Church members consisting of Pastor Keith Thompson, Janice Hiner, Danny Hollingsworth, and Larry Sitton. The City and this group have negotiated in good faith, and collectively brought the agreement to the Church Session for review at their meeting on April 26, 2024. The Session voted to bring this agreement to the congregation for approval on June 9, 2024.

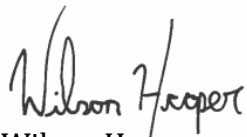
This agreement was also approved by Brevard City Council on May 20, 2024.

This letter is the City of Brevard's request to the congregation to enter into a lease agreement with the City to determine the appropriate type of development and to find a qualified housing partner to convert the wooded portion of the Church's property into new, affordable rental units for LMI households.

Per the traditions of Presbyterian governance, we now request congregational approval of the agreement.

The City's civic responsibilities and the Church's mission are now aligned, and we are fortunate to be in a position where each entity can help the other achieve its goals. I hope that you will approve this agreement and join with us in helping house the people of Brevard.

In Friendship,

A handwritten signature in black ink that reads "Wilson Hooper". The signature is written in a cursive, flowing style.

Wilson Hooper  
City Manager

Cc: Brevard City Council  
Maureen Copelof, Mayor  
Pastor Keith Thompson  
BDRPC Session Members

## **SUMMARY OF PROPOSED LEASE/OPTION TO PURCHASE**

**Landlord:** Brevard-Davidson River Presbyterian Church ("Church")

**Tenant:** City of Brevard ("City")

**Premises:** Approximately 4 acres of undeveloped property behind existing Church facilities

**Term:** 3 years

**Rent:** \$1.00 per year

**Taxes:** City pays or reimburses Church

**Insurance and Indemnity:** City carries liability insurance of at least \$5,000,000 and protects the Church from any claims or losses up to this amount

**Permitted Use during Lease:** City can only conduct feasibility studies to pursue a possible Affordable Rental Housing development

**Definition of Affordable Rental Housing:** Affordable Rental Housing is defined as rental housing for low-to-moderate income (LMI) households who earn 80% or less of the Area Median Income (AMI). See Table 1 below for a summary of LMI annual income limits by household size.

**Option to Purchase:** City may purchase Premises for \$1.00 before expiration of the Lease

- A. Conditions:** City must have development partner reasonably acceptable to Church that will develop the Premises only for multi-family Affordable Rental Housing units.
- B. Restriction in Deed:** The Property conveyed shall only be used for the development of Affordable Rental Housing
- C. Reverter:** At least 24 units must be completed in compliance with the Permitted Use within 5 years (with an additional 12-month cure period) or the Premises reverts to Church
- D. Access:** No access over Church's existing facilities

**Structure:** The City and Church, in conjunction with UNC School of Government's Development Finance Initiative (DFI), have discussed several different ways to structure this joint project, including: (1) a donation of the land to the City, (2) a long term ground lease to the City and sub-lease to a developer, in which case the Church would continue to own the underlying ground in perpetuity, or (3) a short-term lease to the City with an option to purchase the land for a restricted use. To determine the structure, the Church considered the following goals for the property: i) maintain some control over the Property until it is determined whether or not an Affordable Rental Housing development is feasible, ii) keep the responsibility/liability to the Church at a minimum in the future, and iii) make sure the Premises are used for the intended purpose in perpetuity: affordable rental housing. These goals are met by the structure detailed in the current agreement: a short-term lease to determine development feasibility with an option for the City to purchase the property subject to a restrictive covenant that the Premises must be used as Affordable Rental Housing.

**Table 1. U.S. Department of Housing and Urban Development, Annual Income Limits for Transylvania County, North Carolina, 2024**

| AMI                                     | 1-person | 2-person | 3-person | 4-person |
|-----------------------------------------|----------|----------|----------|----------|
| <b>30%</b><br>Extremely Low<br>Income   | \$16,170 | \$18,480 | \$20,790 | \$23,100 |
| <b>50%</b><br>Very Low Income           | \$26,950 | \$30,800 | \$34,650 | \$38,500 |
| <b>80%</b><br>Low-to-Moderate<br>Income | \$43,120 | \$49,280 | \$55,440 | \$61,600 |

## GROUND LEASE

**THIS GROUND LEASE** ("Lease"), dated \_\_\_\_\_, 202\_\_ (the "Effective Date"), is between BREVARD-DAVIDSON RIVER PRESBYTERIAN CHURCH, having an address of 300 East Main Street, Brevard, NC 28712 ("Landlord") and City of Brevard, having an address of 95 W Main Street, Brevard, NC 28712 ("Tenant").

**1. PREMISES:** Landlord, for and in consideration of the covenants contained in this Lease and made on the part of Tenant, demises and leases unto Tenant, and Tenant leases from Landlord, the parcel of land shown as the cross-hatched area on Exhibit A attached hereto and incorporated herein by reference (the "Premises"), which Premises consist of a portion of 8586-60-5685-000 & that lot known as PIN 8586-70-1817-000.

**2. LEASE TERM:** Tenant shall have and hold the Premises for a term commencing on the Effective Date and ending \_\_\_\_\_, 2027.

**3. RENT AND TAXES:**

A. **Rent:** Tenant's liability for rent shall commence on the Effective Date (the "Rent Commencement Date"). Tenant, in consideration of the covenants made by Landlord, promises to pay rent to Landlord at the address provided in the Notice section of this Lease (or such other address as Landlord may designate in writing from time to time) One Dollar Per Year.

B. **Taxes:** Except as provided below, Tenant shall pay promptly and before they become delinquent all general real estate taxes imposed at any time during the term or any extension of this Lease, on the Premises. If the tax bill does not separate out the Premises from the remainder of Landlord's tax parcel of which the Premises is a part, then Landlord shall pay the bill and Tenant shall reimburse Landlord for any taxes attributable to the Premises prorated based on acreage of the land and the portion of the tax bill relating to the land.

**4. TENANT'S COVENANTS:** Tenant covenants and agrees, during the Term:

A. **No Construction:** Tenant shall not build or improve the Premises in any way without Landlord's consent, except for feasibility studies as allowed by the Permitted Use defined below.

B. **Liens and Encumbrances:** Not to cause the estate of Landlord in the Premises to become subject to any lien, charge or encumbrance whatsoever, and to indemnify and keep indemnified Landlord against all such liens, charges and encumbrances.

C. **Insurance and Indemnity:** Tenant shall maintain and keep in force Comprehensive General Liability insurance, on an occurrence basis, insuring against claims for personal injury, death or property damage occurring in, on or about the Premises with a combined single limit of \$5,000,000.00 for Bodily Injury, Death and Property Damage Liability, and Tenant's indemnification obligations under this Lease, and shall name Landlord as an additional insured on said policy. Tenant shall deliver to Landlord, upon request, a certificate of insurance and of any renewals from time to time during the term of this Lease.

Tenant further agrees to indemnify, defend and save Landlord harmless from any liability, loss, cost, expense or claim of any nature resulting from this lease, and any damage to person or property arising out of Tenant's use of the Premises, including for losses, costs, expenses, damages, liabilities or attorney's fees that arise as result thereof up to a cap of \$5,000,000.00.

D. **Repairs:** To keep the Premises in a safe and good condition and repair, subject to ordinary wear and tear and to Landlord's obligations under this Lease, if any.

E. **Compliance with Law:** To comply with all governmental laws, rules and regulations applicable to the use, development or operation of the Premises for the Permitted Use.

G. Permitted Use. To only use the Premises for the purpose of conducting feasibility studies to pursue a possible Affordable Rental Housing development project, as defined below, ("Permitted Use") and for no other purpose without the express prior written consent of Landlord; provided, however, that Tenant shall not conduct any invasive testing of any nature without the prior express written approval of Landlord as to each specific invasive test intended to be conducted by Tenant. Affordable Rental Housing is defined as housing wherein the use thereof is restricted solely to rental housing for households which have a maximum income less than 80% of the Area Median Income for Transylvania County, North Carolina as defined by the United States Department of Housing and Urban Development (hereinafter "HUD"). Landlord makes no representation or warranty regarding the suitability of the Premises for or the legality (under zoning or other applicable ordinances) of the Permitted Use for the Premises. Tenant shall not cause or permit any waste to occur in the Premises. Tenant shall keep the Premises, and every part thereof, in a clean and wholesome condition, free from any objectionable noises, loud music, objectionable odors or nuisances. Tenant shall conduct all such on-site inspections, examinations, testing, timber cruises and surveying of the Property in a good and workmanlike manner, at Tenant's expense, shall repair any damage to the Premises caused by Tenant's on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Landlord's use and enjoyment of its adjacent property. In that respect, Tenant shall not undertake on-site inspections during the hours that Landlord is open to the public for worship, including but not limited to Sundays from 8am to 1pm. Tenant shall not disclose any information regarding the Premises unless required by law, and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Tenant shall obtain their agreement to maintain such confidentiality. Tenant assumes all responsibility for the acts of itself and its agents or representatives in exercising its rights under this Section and agrees to indemnify and hold Landlord harmless from any damages resulting therefrom. This indemnification obligation of Tenant shall survive the expiration of this Lease or its earlier termination.

H. Environmental Matters.

(A) Tenant shall not bring any Hazardous Materials onto the Premises.

(B) Tenant hereby indemnifies and holds harmless Landlord, its successors and assigns from and against any and all losses, liabilities, damages, injuries, penalties, fines, costs, expenses and claims of any and every kind whatsoever (including attorney's fees and costs) paid, incurred or suffered by, or asserted against Landlord as a result of any claim, demand or judicial or administrative action by any person or entity (including governmental or private entities) for, with respect to, or as a direct or indirect result of, the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Premises or the Property of any Hazardous Materials caused by Tenant or Tenant's employees, agents, invitees or contractors up to a cap of \$5,000,000.00. This indemnity shall also apply to any release of Hazardous Materials caused by a fire or other casualty to the Premises if such Hazardous Materials were stored on the Premises or the Property by Tenant, its agents, employees, invitees or successors in interest.

(C) For purposes of this Lease, "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (i) is defined as a hazardous substance, hazardous material or waste, or toxic substance pursuant to any Hazardous Materials Requirements, (ii) is regulated, controlled or governed by any Hazardous Materials Requirements, (iii) is petroleum or a petroleum product, or (iv) is asbestos, formaldehyde, a radioactive material, drug, bacteria, virus, or other injurious or potentially injurious material (by itself or in combination with other materials).

(D) The warranties and indemnities contained in this Section shall survive the termination of this Lease.

5. **ASSIGNMENT AND SUBLETTING:** Tenant may not, without the consent of Landlord, sublease the Premises or assign this Lease or its rights under this Lease. In any such event, Tenant shall remain liable for the payment of all rent required to be paid under this Lease and for the performance of all terms, covenants, and conditions undertaken by Tenant.

6. **EXTERIOR SIGNS:** Tenant shall place no signs upon the Premises, except with the express written consent of the Landlord in Landlord's sole discretion. Any consent given by Landlord shall expressly not be a representation of or warranty of any legal entitlement to signage at the Premises or on the Property. Any and all signs placed on the Premises or the Property by Tenant shall be maintained in compliance with governmental rules and regulations governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

7. **HOLDING OVER:** If Tenant remains in possession of the Premises after expiration of the term hereof, Tenant shall be a tenant at sufferance and there shall be no renewal of this Lease by operation of law.

8. **NOTICES:** All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease. Notices to Landlord shall be delivered or sent to the address shown at the beginning of this Lease. All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

9. **EVENTS OF DEFAULT:** The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay when due the rental as provided for herein; (b) Tenant abandons or vacates the Premises; (c) Tenant fails to comply with or abide by and perform any non-monetary obligation imposed upon Tenant under this Lease within thirty (30) days after written notice of such breach; (d) Tenant is adjudicated bankrupt; (e) A permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after written notice from Landlord to Tenant to obtain such removal; (f) Tenant, either voluntarily or involuntarily, takes advantage of any debt or relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred and such proceeding is not dismissed within sixty (60) days of the filing thereof; (g) Tenant makes an assignment for benefit of creditors; or (h) Tenant's effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

10. **REMEDIES UPON DEFAULT:** Upon the occurrence of Event of Default, Landlord may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law: (a) Landlord may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) Landlord may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated); or (c) Landlord, as Tenant's agent, without terminating this Lease, may enter upon and rent the Premises, in whole or in part, at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Landlord deems proper, with Tenant being liable to Landlord for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Landlord on reletting, provided however, that Landlord shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default and expressly shall have no duty to mitigate Tenant's damages. No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof.

11. **CONDEMNATION:** If the whole or any part of the Premises is taken or condemned by any competent authority for any public use or purpose during the Term, this Lease shall terminate, Tenant shall promptly remove its property from the Premises, and all condemnation awards shall belong to the Landlord, with Tenant having no claim thereto in any manner that would reduce Landlord's award.

12. **OPTION TO PURCHASE :** If and only if the following conditions are met prior to the expiration of the Lease Term, Tenant may have the option to purchase the Premises for \$1.00 prior to expiration of the Lease Term by providing notice and evidence that the conditions have been met to the reasonable satisfaction of Landlord:

i) Tenant is satisfied with its feasibility studies and has found a development partner reasonably acceptable to Landlord that will develop the Premises only for Affordable Rental Housing units for single family residential use. If Tenant has found no such development partner reasonably acceptable to the Landlord, then Tenant shall not have a right to purchase the Premises, and this Lease shall expire at the expiration date.

ii) The developer partner will be deemed to be reasonably acceptable to Landlord if either of the following are met:

- a) The development partner is an entity with demonstrated previous experience developing Affordable Rental Housing, identified in the City of Brevard's competitive solicitation process, and will develop the property in compliance with the Permitted Use described below , and/or
- b) The development partner has entered into a Development Agreement with the City of Brevard to develop Affordable Rental Housing in compliance with the Permitted Use described below.

iii) The Landlord will convey the Premises by Special Warranty Deed with the following restriction and the Tenant shall sign the deed in acceptance of the following restriction and obligations:

"The Property herein conveyed shall only be used for the development and after initial development, continuous use of multi-family apartments for at least 24 units, in which 100% of the units available for rent are for single family residential use Affordable Rental Housing, as defined below ("Permitted Use") and for no other purpose without the express prior written consent of Brevard-Davidson River Presbyterian Church, or its successors in interest ("Church"). For the avoidance of doubt, the above restriction is not intended to prohibit a multi-family apartment complex so long as the individual units are for single family residential use. Affordable Rental Housing is defined as housing wherein the use thereof is restricted solely to rental housing for households which have a maximum income less than 80% of the Area Median Income for Transylvania County, North Carolina as defined by the United States Department of Housing and Urban Development (hereinafter "HUD"). It is the intention of Church and Grantee that the foregoing restriction shall constitute a covenant running with the land enforceable by Church and benefitting Church's remaining adjacent property against Grantee or any successor owner of the Property herein conveyed. Church at any time in the future may unilaterally record an extension of this restriction in the public record or other such notification under the North Carolina Real Estate Marketable Title Act.

Further, it is the intention of the Church and Grantee that if no Affordable Rental Housing apartment complex for single family residential units of at least 24 units is completed and operating on the Property consistent with the use restriction in the paragraph above within five (5) years of ***[INSERT DATE DEED FROM CHURCH IS RECORDED]***, then Church shall give the owner of the Property conveyed herein notice and opportunity to cure the failure within twelve (12) months. If the failure has not been cured within said time period, then the Property and all improvements shall, at Church's election, revert to Church. The owner of the Property herein conveyed shall execute, deliver, and record any confirmatory instrument upon Church's request conveying title to the Property back to Church. In the event Grantee fails to execute or deliver such a confirmatory deed so requested by Church, then Grantee does hereby appoint Church as its true and lawful attorney in fact, with full power of substitution, to execute, delivery and record such a confirmatory deed.

Further, Church shall be entitled to pursue any remedy at law or in equity, available to it by North Carolina law, for any violation of the restrictive covenant described above, and/or the failure of the Property to be completed and operating as an Affordable Rental Housing apartment complex for single family residential use of at least 24 units within the time period specified above. The Grantee waives any immunity defenses that may be applicable under North Carolina law and otherwise waives any defenses challenging the validity of the above covenant or land use restriction. To the extent allowed by law, the Grantee shall not exercise any condemnation authority to remove the above covenant or land use restriction. The Grantee shall reimburse the Church for any reasonable attorney's fees that Church may incur as result of the Grantee's violation of this Agreement,

including fees that may be allowed under G.S. 6-21.7. The above covenants and terms are being agreed to and relied upon by the Church in return for the lower than market value sales or acquisition price.

**Grantee, and its successors and assigns, covenant and agree to repeat the three paragraphs above and this paragraph in any subsequent deeds of conveyance, it being the intent that these restrictions and covenants run with the land."**

iv) Tenant shall have prepared and had approved a subdivision plat survey acceptable to Landlord of the Premises in order to transfer the Premises by deed.

v) Access and utilities to the Property shall NOT be over Grantor's remaining Property.

vi) This option may not be assigned without the consent of the Landlord.

### 13. MISCELLANEOUS PROVISIONS:

A. Invalidity: If any term or provision of this Lease or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances other than those as to which it is held invalid or unenforceable, shall not be affected.

B. Successors, etc.: The terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties, their heirs, personal representatives, successors or assigns, and shall run with the land; and where more than one party shall be lessors under this Lease, the word "Landlord" whenever used in this Lease shall be deemed to include all lessors jointly and severally.

C. Writing: No waivers, alterations or modifications of this Lease or any agreements in connection with this Lease shall be valid unless in writing duly executed by both Landlord and Tenant.

D. Construction: The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such paragraphs of this Lease or in any way affect this Lease. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates. The use of singular shall be deemed to include the plural and, conversely, the plural shall be deemed to include the singular.

E. Whole Agreement: All negotiations, considerations, representations and understandings between the parties are incorporated in this document and may be modified or altered only by agreement in writing between the parties, and no act or omission of any employee or agent of the parties or any broker, if any, shall alter, change or modify any of the provisions of this Lease.

F. No Waiver: No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof. All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

G. Time: Time is of the essence in this Lease.



**LANDLORD AND TENANT**, by their execution below, indicate their consent to the terms of this lease.

**LANDLORD:**

**BREVARD-DAVIDSON RIVER PRESBYTERIAN CHURCH**

**By:** \_\_\_\_\_

**Print Name:**

**Print Title:**

**TENANT:**

**CITY OF BREVARD**

**By:** \_\_\_\_\_

**Print Name:**

**Print Title:**

Exhibit A: Approximate Lease Premises



## RESOLUTION NO. 2024-XX

### **RESOLUTION ENDORSING TERMS OF GROUND LEASE WITH BREVARD DAVIDSON RIVER PRESBYTERIAN CHURCH FOR DEVELOPMENT OF AFFORDABLE/WORKFORCE HOUSING AND AUTHORIZING ITS EXECUTION**

WHEREAS, the City of Brevard ("City") and Davidson River Presbyterian Church ("Church") wish to collaborate on the creation of a low-to-moderate income (LMI) housing project on approximately 4 acres of undeveloped property owned by the church; and

WHEREAS, the City has agreed to conduct an assessment of the property to determine whether it is suitable for development and, if so, take the lead on coordinating the development of LMI housing; and

WHEREAS, the Constitution of the State of North Carolina prohibits public resources from being used for the benefit of a private party; and

WHEREAS, therefore, the City must have legal control over the property to legally conduct its activities; and

WHEREAS, the Church wishes to ensure that the property be used for LMI housing in perpetuity; and

WHEREAS; City staff and representatives from the Church's governing body have negotiated a lease agreement that gives the City control of the property for three years with an option to purchase the property with deed restrictions limiting its use to LMI housing thereafter; and

WHEREAS, the City's Housing Committee endorsed these terms at its April 9, 2024 meeting, referring them to full City Council; and

WHEREAS, the full City Council heard a presentation on the lease at its May 20, 2024 meeting.

NOW, THEREFORE, THE *CITY COUNCIL OF THE CITY OF BREVARD* RESOLVES:

The terms of the draft Ground Lease attached hereto and presented to the City Council at its regular meeting on May 20, 2024 are hereby endorsed; and

Maureen Copelof, the Mayor, is authorized to execute the document attached hereto on the City's behalf.

Adopted and approved this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

---

Maureen Copelof  
Mayor

ATTEST:

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Denise Hodsdon, CMC  
City Clerk