



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, June 3, 2024 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Reverend Elizabeth Roles, St. Philips Episcopal Church

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. May 20, 2024 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

1. Oath of Office - Stephanie Holland, Planner
2. Proclamation 2024-14 Juneteenth
3. Proclamation No. 2024-15 Pride Month

I. Special Presentation(s)

1. Plusurbia Presentation of Architectural Visual Guidelines
 - a. Council Questions and Discussion

J. Public Hearing(s)

K. Consent and Information

1. Ordinance Declaring Road Closures for Special Event - 4th of July
2. Property Tax Releases - May, 2024
3. Bracken Preserve Maintenance Agreement with Pisgah Area SORBA

L. Unfinished Business

1. Personnel Policy Revisions
2. Adoption of FY 2024-2025 Budget and Ordinance
3. Ordinance - Voluntary Contiguous Annexation - Pisgah Hospitality, LLC / Intersection of Lambs Creek Road and US Hwy 64
4. 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

M. New Business

1. Authorize City Manager to Enter Into Lease Agreement for 132 Commerce Street
2. Burrell Mountain Water Tank Project Amendment and Funding Increase Resolution
3. Amendments to City Council Meeting Calendar

N. Remarks / Future Agenda Considerations**O. Closed Session(s)****P. Adjourn**

Agenda Posted, Website, Sunshine List (June 3, 2024)
D. Hodsdon, City Clerk

To review Agenda materials, go to the City's website 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
Regular Meeting
May 20, 2024 – 5:30 PM

The Brevard City Council met in regular session on Monday, May 20, 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, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Fire Chief Bobby Cooper, Public Works Supervisor Cliff Justus, Wastewater Treatment Plant ORC Emory Owen, Water Treatment Plant ORC Dennis Richardson, and Community Center Director Tyree Griffin

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 Brian Land of Grace Brevard 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. Baker moved, seconded by Ms. Holder to approve the agenda as presented. The motion carried unanimously.

F. Approval of Minutes

F-1. February 29, 2024 Strategic Planning Retreat – Mr. Wise moved, seconded by Mr. Danial to approve the minutes of the February 29, 2024 Strategic Planning Retreat. The motion carried unanimously.

F-2. May 6, 2024 Regular Meeting – Mr. Morrow moved, seconded by Ms. Holder to approve the minutes of the May 6, 2024 Regular Meeting as presented. The motion carried unanimously.

G. Public Comments

Jeff Adams, Transylvania County Transportation, Planning & Community Development Director said I wanted to announce and invite everyone to our Transylvania County 2050 Comprehensive Plan update meetings that we will be launching in June. We will start off with two kickoff events; one on June 4th at 6:00 PM at the Transylvania County Library for the City of Brevard, and one on June 6th at 6:00 PM at Rosman Town Hall. Those events will be followed by about a dozen community center based events across the county and one at El Centro and one at Mary C. Jenkins as well. We are hoping to get as many people involved in this process and, as you guys know very well that comprehensive plans are only as good as the input that you get from the community. We are excited to be building on the strength of your comprehensive plan and to work with you guys and your staff on this. We will be

meeting with your staff tomorrow to discuss this. We are going to have three community engagement phases; this one, which will be getting the kind of information out there – our community snapshot information we collected; then we will be putting out a survey in the middle of summer; and then we will be going back out in the fall with priority sessions with various communities. We hope to see everyone there.

Diane Moore said I have been harassed by the city. I have come in here and asked questions in 2022, but I couldn't ask questions. Number one, the city had harassed me about our property and lot. The beginning of my stakes start on James Street, which is the side of my house and it runs up 125 feet to Thomas Street. They started out with my address. I got a letter saying I don't live on West Main Street anymore; I live on James Street. I called them, picked up the phone, I said I do not live on James Street. I said that's the side of my house; my house faces West Main Street. This stress has been going on up until now. They got a project going, the city, and I don't want to stop the project, I just want them to leave me alone. And it's going on and on. The neighbors have a black car sitting on lot 29, but they are retired. And I said well who's car is this? When the neighbors moved in, Mr. Bartley Whitmire made a rigged-up driveway on lot 29 and it's still there with cars been on it ever since 2002. I want the harassment to stop and leave me alone. Mr. David Lutz sent a man to my house. He said he was going to have a man to come. Well the man said he came to my house, rung the doorbell, asked if they picked up the water meter and put it on the lot 29. Then he sent a guy to my house saying he came to take up the water meter. The water meter is still sitting on the lot 29. I just want it to stop and leave my land alone. When the guy said he came to take up the meter, I had a special appointment in Hendersonville because I'm still a sick person, but God said persevere and that's what I did.

Ashley Hart of Buckberry Lane said today I am here as a concerned citizen and to talk about what took place in Brevard over the weekend. Upcountry Brewing held a drag show outdoors very publicly where I witnessed a drag queen parading around in a thong. This is incredibly inappropriate and quite frankly it was hard to see. What's even worse is that they have another pride event coming up where there is no age restriction. I don't mind someone being gay, bisexual or a lesbian, but I respectfully ask that if you are going to celebrate your sexuality, please do it indoors without children present. I look to the city leaders for help. We all know this behavior will not help Brevard grow; it will only drag us down. Let's work together to put a stop to this. This is all I have to say for now, but I will be back to give a follow-up and review of my findings after the event takes place.

David Warren of 36 Downing Park Court said I moved here with my wife in June 2018. She used to be here with her grandmother back 50 to 60 years ago and she always wanted to come here, so we visited in 2016 and decided to move here in 2018. I was here during the snow of 2018, quite surprised at such a heavy snow and I was grateful that when I went downtown that I didn't have to worry about the curb, I knew it was a straight curb, so I could just park my car there. Now because of the changes to the downtown area, I know that the design according to the city plan was an attractive streetscape to serve as a gateway to the downtown, but I don't share your aesthetics on the changes. I liked the way it was and I think that anything that needs to be corrected or redone should be redone, but the loss of 17 or 19 parking spaces...I realized then and now other changes are taking place that maybe I should take a more active role. I was happy and content just to mind my own business here in Brevard. Maybe I'm in the minority, but there are a lot of people that I speak with and it's ordinary people that are not necessarily affluent people, they're in Ace Hardware or they're at Harmony Corner down on Rosman Highway or other places like that. They have concerns about Wilson Road. I thought the first time I drove down Wilson Road that it's beautiful. Yes, I know it involves the NCDOT, but I can't believe that they alone zeroed in with all the things going on – I-26 and everything else – they zeroed in on Wilson Road. I don't like people speeding behind me on Wilson Road. I go the speed limit and I respectfully stay back when people want to obey the cautionary speed, the yellow signs, and so they go slower than that. But, I spoke the other day, I think it was Saturday with Eric Morgan at 284 Wilson Road how they are going to tear out a whole section of trees. Just those changes; the roundabout; no one I spoke to approves of the roundabouts. I called you on the

phone back in September and I went down to your office. I'd seen an accident and I went down and I've seen more and heard of more. I went down to your office, you called me on the phone, I'm sure you don't remember the call or you don't remember me. But, I've seen studies since then that roundabouts are not necessarily safer; they cause a different kind of accident, fender benders, a lot more and I think we are going to really see them where 276 and 64 and 280 are right there and you're going to have 2 lanes and people don't always obey the laws; they're going to cross lanes and cut in traffic. When I go down Caldwell, I'm surprised people don't even go 20 mph down there; they're honking at me. Let me ask one other thing – there's a program that Sherry Phillips gave me and it doesn't indicate anybody involved in any accident, but it would help us as citizens if that was put online and we could see where accidents are and we could see whether there is an increase or decrease.

Cara Bradshaw of 183 Argyle Circle in Pisgah Forest said I am a member of the Brevard/Transylvania Housing Coalition and I am the Community Impact Director at Sharing House. I would like to applaud the City leadership and Council for its efforts to increase affordable housing in Brevard. The Housing Coalition is in full support of the partnership between the City and Brevard Davidson River Presbyterian Church to develop affordable housing in our community. I'd like to share a story from a Transylvania County resident to illustrate how the affordable housing crisis is affecting people: "My husband died during the Covid19 pandemic and I couldn't keep up with our mortgage on my own. I ended up losing my home and had to live out of my car. I never imagined this would happen to me. I accessed services from non-profits where I had previously volunteered. It has been incredibly humbling. I'm working and I'm staying with friends, but there is nowhere here for me to live independently in my own community." We know from the city's housing study last year one in four households in Transylvania County are cost burdened and 106 families faced an eviction within the last year. 45% of renters struggle with housing costs and despite recent efforts to increase housing availability, rental and home vacancy rates are below 1%. We need all types of housing in Brevard – workforce housing for teachers and other local employees, deeply affordable rentals, and permanent supportive housing for neighbors with disabilities. Investing in affordable housing is more cost-effective than managing the consequences of homelessness. Emergency healthcare, law enforcement and social services significantly increase public expenditures. Children in stable housing environments show a better academic performance and lower rates of absenteeism. Investing in affordable housing contributes to the educational and long-term success of the next generation. Though many people support affordable housing in general, they raise objections when it's in their backyard. I've spent the last decade of my career working on this issue nationally before transitioning to local work and I want to dispel some common concerns based on my experience and exposure to the national data and trends. Affordable homes do not dilute the market value of your personal investments. Adding affordable housing to a community does not lead to higher crimes or decreased safety. Data shows that well-planned affordable housing can incorporate traffic management solutions and minimize congestion. Green building practices and thoughtful planning ensure that affordable housing projects are environmentally sustainable. Affordable standards ensure high-quality construction contributing positively to the community's long-term health and aesthetics. As a teenager whose family moved into affordable housing after a crisis I can personally speak to its importance in every community, and I invite anyone opposed to it near their homes to take a moment to reevaluate the positive impact it can have for the future of Brevard.

Joe Kelly of 555 W. Probart Street said I am here tonight to express my support for the proposed Probart Street traffic calming which is on your FY2024 Supplemental Plan. I want to remind the Council that this issue truly is a safety issue, not only for the residents of Probart Street, but also for the rest of the community including cyclists and hikers, people on their way to use our Bracken Mountain Preserve, which is a great community asset; also for students and family members and residents and people going to the Mountain Sun School; and also attending events and traveling to and from the Music Center. I am here to support myself for the community and also to recognize other members of Probart Street and the community who also support this initiative

tonight. Thank you also to the Planning Board and the efforts of the Council so far to do a comprehensive evaluation of the situation and to get the support for this item.

Linda Gallo of 671 Probart Street said I want to echo what Mr. Kelly said and just thank the Council for considering this proactively instead of waiting for something tragic to happen before action is taken.

Monica Driscoll said I want to address some concerns I have about the Downtown Master Plan Committee's proposal to City Council for public art. I have concerns about it that I think are worthy of consideration. The plan is for a mural to honor a person who was born in Brevard and subsequently left to become rather famous with her profession. There is already a historical sign in her honor at Clemson Plaza and there is serious consideration of a statue to be erected at Mary C. Jenkins. I think that's terrific. But, I also am very loyal to the vast extensive history that we have in Transylvania County and Brevard since before we were a town, when people – parents, grandparents, children – played, and made music on the front porch and in backyards. We have a lot of musicians that have started in Brevard and they're from different races. I think it would be worthwhile to consider somehow the history of music and the progression of music in another situation than Clemson Plaza. I think the hope that "opportunities for public art to engage with Brevard's citizenry, inform visitors, and foster a sense of belonging" that are suggested are worthwhile and desirable functions of that space. But I also submit that this proposal, as it is, to paint a mural on Clemson Plaza is misguided at best and will not realize those very achievable opportunities. I think it deserves more consideration so that the opportunities that area espoused there can be reached. This is the third effort to do something at Clemson Plaza and I'd like you to do it right.

H. Certificates/Awards/Recognition

H-1. Proclamation No. 2024-13 National Public Works Week – Mayor Copelof read the proclamation aloud and presented it to Public Works Supervisor Cliff Justus.

**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 64th 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.

Attested: Denise Hodsdon, City Clerk

s/Maureen Copelof, Mayor

I. Special Presentations- None.

J. Public Hearing(s)

J-1. Proposed FY2024-2025 Budget and Ordinance – Mr. Hooper reviewed his FY 2024-2025 Recommended Budget. He explained that as recommended, this budget does the following:

- Funds 3 new full-time firefighters allowing Brevard Fire Department to have at least two full-time firefighters on every shift.
- Funds the relocation of the Brevard Police Department to a new facility at 132 Commerce Street, a move designed to increase the effectiveness and morale of the Police Department by moving them out of their cramped and deteriorating space in the basement of City Hall.
- Creates the City's first dedicated Stormwater Fund, which is designed to focus resources on the maintenance and upgrade of our city's stormwater conveyance system.
- Endows the Housing Trust Fund with an additional \$198,000, bringing its total available balance to over a half-million dollars.
- Increases employee compensation by 3.25% and budgets for a 4% contribution to all employees' 401K's rather than to the current up to 3% match.
- Maintains or enhances services in all other General Fund functions
- In the Public Works realm, it combines water distribution and wastewater collections into a single unit Water/Sewer Maintenance and adds one full-time maintenance position to that unit.

The Recommended Budget includes the following proposed revenue increases:

- 2% property tax increase which would take the millage rate from \$.48 to \$.50 per \$100 of valuation
- \$1 per month increase on residential and small commercial sanitation fees
- \$80 per month increase in commercial dumpster collection fees. This increase is intended to close the gap between the cost of service, which is nearly \$40 per collection, and its revenue, which currently is only \$2.50 per collection.
- The new Stormwater Fund would be funded by a 3-tier impervious surface fee and for the vast majority of residential properties and all commercial and other types of properties that have under 7,000 sq. ft. of impervious surface, the fee would be \$4 per month.
- Recommendation to continue with the regular 4% increase to the city's utility consumption rate in order to start saving money for large capital projects that we have on the horizon.
- A new consumption-based High Strength Waste Surcharge so that producers of high strength wastewater contribute extra to the cost of treatment of HSW.

Mr. Hooper noted that the cumulative effects of these increases are quite modest on most folks, but there are a few outliers. He referred to Pages 193-195 of the Recommended Budget for examples of the impact of these fee increases on various households and commercial entities.

Mr. Hooper then drew attention to the Addendum with the alternatives that Council offered at the last meeting. He said he hoped to hear comments on and perhaps have some discussion on the Addendum tonight. If there are additional alternatives that Council would like to consider at tonight's meeting, those will be published in the same way and be available for Council's deliberation at the next meeting.

Mayor Copelof opened the public hearing at 6:11 p.m.

Public Hearing Public Participation:

Harvey Sankey said my comments are going to be related to a safety issue here. You all know the City Manager prepares the budget for the Council to review. He goes to every department, talks to every manager and his staff also takes notes on what they need for this fiscal year. This was reviewed by City Council at a public meeting which I attended. Then they had another meeting which indicated some recommended changes would like to be made and apparently some of the City Council Members here want to make an alternative change. The City Manager recommended \$140,000 for the Police Department to replace two police cars, which is what they're going to be doing. The Estatoe Trail, you recommended \$25,000. Some City Council Members, from my understanding, indicate they only want to replace one police car, which would be \$70,000 and put it into the Estatoe Trail. What it comes down to, some of the City Council Members want the Police Department to have a budget of \$70,000 to replace one car and \$95,000 for the Estatoe Trail. As you know, the Estatoe Trail has been getting funds - in FY23, they got \$125,000, they got \$82,000 the next fiscal year, and this year our City Manager is recommending \$25,000. I found this alternative...this is a safety issue here. Some of the City Council Members want to take a car out of replacement. This is a major safety issue. The Police Department is supposed to protect all the residents here in Brevard, including businesses. Without that additional replacement car, you could have a problem when an issue arises. It's like the old sitcom "Car 54 Where are You?". If an issue arises, they are going to need all the cars that they can get. Where are you Car 54? Well, that car is out of order right now and it was one of the cars we were going to replace. So you have one less car, and what's the driver going to do? Is he going to run to these issues? No, he's not. So, what I'm saying is this is a need for the Police Department, for our safety in Brevard. It's not a want. Also, in the strategic planning that City Council brought together, there were 7 goals. Wilson went by those strategic goals when he brought this budget in. One of the strategic goals is community safety; that was the top priority. The 7th goal, the last one, was connect transportation network which includes the Estatoe Trail. So some City Council Members want to take Goal 7 and put it ahead of Goal 1. I have a problem with that. I think they should look this over and not make that change. We don't want to defund the Police Department, not in Brevard.

Rodney Locks said I did review the budget and it was very enlightening. It says to me we can't keep doing business the way we've been doing it. First, you want to raise the tax rate two cents to fund the full-time Fire Department. That's a good idea. Why? Because we need it, but you also need to negotiate with the County so that they can pay their fair share. Second, you're willing to run the commercial dumpster collection service at a loss. You already know that it was 40 cents per load, now you've got it down to \$27.30 a load, but you're still running it a loss. That's money that you're leaving on the table that can be used for the General Fund. Third, speaking about leaving money on the table, you tax the Municipal Service District and then you turn around and you give them the money back, maybe not all of it, but all but \$6,000. You can take that \$171,000, the Estatoe Trail \$25,000, the Downtown Planters \$20,000, the Downtown Master Plan \$33,000 and offset the \$264,000 and just add \$15,000 from the Fund Balance. And you don't have to raise taxes or take the car away from the Police Department. Raising the taxes by 4% doesn't solve your problem, it just highlights the fact that we have a wastewater treatment problem and a water/sewer problem. The 4% increase was to be added to the water/sewer capital fund to bring the total up to \$369,000, and then you would move the money to the wastewater treatment fund so that you can jumpstart it. You can't solve your problem when you need \$13M over here and \$65M over here to pay for all the capital problems that we have for both of those systems. My suggestion is you don't raise the water 4%, leave the \$171,000 in the water treatment fund and figure out a way to solve your wastewater treatment problem because you can't keep raising the rate 4% a time until you get to the millions of dollars that you need. Finally, fix the sidewalks and the streets, especially for us older people. If you want to be an age-friendly community, don't let us fall down and break our necks.

Ella Jones of 86 McMinn Avenue said my concerns tonight is the budget and more importantly, these particular areas: the property taxes is a main one and the reason why I bring that up is because in the Rosenwald Community, and I'm sure that

there are concerns throughout the Brevard community, that if the taxes are raised, we have senior citizens who are on special incomes. Their budget is limited. When we raise the taxes some have concerns about whether or not they will lose their properties because they are having difficulty paying those property taxes now. Moving along to the water and sewer – the water bills have skyrocketed. More importantly, I will talk personally about my own. I live alone and I had a water bill of \$253. After having the lines checked, both by the city and personal plumber, there were no leaks without explanation. Then I'll talk about sewer. On Washington Avenue, which is above where I live, there are no sewage lines and it's been like this for years and I don't know if the people on McMinn know that those sewer lines are coming down through the properties of the folks that live on McMinn. Case in point, I have had sewage come up in my yard at least three times and I've had to get someone to come and check it out. The city came and gave me the little droplets to put down in my commode. It did not reflect that it was coming from my sewage line, but from Washington. So that's a concern. In our community our senior citizens are living on this fixed income and they have concerns about this. We want to live in a beautiful community all around Brevard. While we do this the charge of \$50, and I just found out today that it may raise to \$75, for you all to come and pick up large amounts of garbage. If we're already having financial difficulties, how do we keep the city beautiful? If we set that stuff out on the road, it will be sitting there until somebody can muster up enough money to pay for it. That is a concern and is it going up to \$75? My question to you tonight is is there any hope for tomorrow or is taxes, water, sewage going to continue to climb? I want to be an advocate for those that don't have.

Reverend Frankie Gordon said I am an Associate Pastor at the New French Broad Baptist Church. I am here on behalf of myself and others. I want to add to what Sister Jones just got through talking about. You have many senior citizens here that are on fixed income and it is very difficult for them today to pay the bills, the taxes and living expenses that they are going through already. It's pretty high here in Brevard, I must say after living in other places. The water bill, sewage and all that is pretty expensive and many of them can't afford it as it is, so an increase would be devastating. We are asking the Mayor and the Council to vote no to this new budget that is coming out right now because many cannot afford to pay it. Then I have another comment to say – that you want to keep Brevard beautiful, but there are places in my neighborhood that have set stuff on the street that have been sitting there for 3 and 4 months because they have to pay extra money to have this picked up. Now, with all this that we are paying already, why do we have to pay extra money when we put stuff on the street? That should come within the budget of being picked up by the city period. But anyways, it sits there and I can name some places that I have located that stuff have been there and is still there today that need to be picked up. So, with this budget that's coming out I would ask the City, the Council, to vote no because you have people in this town that cannot afford this new budget. They're having trouble with what they are paying already. So, to put a more burden on people, you're taking a chance of people losing their property and a chance of a very upset community. So, I ask that you reconsider this budget and vote no.

Rebecca Wynn of 180 Duckworth Avenue said I am one of them senior citizens that she was referring to that is on a fixed income. There are also 491 of those here in Transylvania County. I just want to do this – I bring in \$26,706 a year. Out of that I pay \$2,424 for wastewater, \$2,050 for taxes, \$13,200 for rent, \$2,400 for gas, \$1,200 for lights, and I have \$5,632 left. Out of that I've got to buy food, medication, pay for my internet, my phone, my car transportation, gas, maintenance, and any other unexpected thing that comes up. To me, for my calculation, this is a plan for the rich to get richer and the poor to get poorer. We can't pay our taxes so that means we're going to lose our home or properties and if we don't have someone to help us, we're going to become homeless. That's already an issue here in Transylvania County. But, I notice you had something in there for affordable housing in the taxes – your affordable housing will not reach us. So, what are you going to do? You've got another problem. You got homeless people; nowhere to put them; and then you want to raise our taxes and everything. So, I'm just asking that y'all find another way to cut back and make this budget affordable for those of us that have lived here all our lives.

Public Hearing Closed – Mayor Copelof closed the hearing at 6:30 p.m and opened it up for Council questions or comments.

Council Questions/Comments: Mr. Daniel said I would like to address promises that were made in the past concerning the Downtown Master Plan, housing, and the Estatoe Trail. We have raised taxes for those express purposes in the past and we did that because we have had numerous public input sessions throughout the city that provide direction that these are the projects that people want to see completed. And not funding these projects seems disingenuous to me. The grants that we've received for these projects were not 100%; they are partial grants, either 50/50 or 20/80, and without additional funding from the city these projects will wither on the vine. The grants that we have received were because we had funds to contribute and none of these projects are finished. I have a proposition that we fund the Estatoe Trail and the Downtown Master Plan at \$100,000 each this year and that we reduce the police car to one this year. My conversation with the Police Chief is that that would be acceptable - not ideal and not a safety issue. Two would be a problem. I would suggest that we fund the one car from the Fund Balance. If the Fund Balance is to deal with emergencies and unexpected expenditures, then our need to move the Police Department should qualify for that I would think. I also think we need to take a look at the Fund Balance, as it exceeds our minimum percentage considerably. But if we need to raise that percentage, then we need to have that conversation. But I don't think we need to shortchange our projects without having that conversation. Although I am in favor of adding 3 full-time firemen, I am not willing to take on the additional financial burden without a better understanding of the long-term implications in our relationship with the County.

Mr. Baker said I am also not in favor of the 2-cent tax increase this year. We've got a lot of needs in the budget, but I believe we have the necessary funds to move forward with those. I agree with Mr. Daniel that the partnership that we're involved in with the County in funding the Fire Department is complex and there's no getting around it; that's not going away anytime soon. For us to go out on our own, representing the city residents and increase the funding for the Fire Department with no assurances from the County that they will help us with that seems incredibly misguided, particularly when that is attached to a tax increase; a tax increase that led the headlines in the paper. To me, if we're going to do that, we need to have done our due diligence with our partner in the County before we make that decision. I also quibble a little bit with how some of the budget was put together. In my mind there are ongoing expenses and there's one-time expenses. There's also expected expenses and unexpected expenses. A major part of the budget this year that we're all sort of finding ourselves dancing around is the unexpected cost of moving the Police Department. That is a safety need and something that unanimously we're all in favor of, but that is an unexpected cost. Within that unexpected cost there are both one-time costs of upfitting the new space and there's also a lot of ongoing costs with the rent on the new building. Just that one expense gives you a little window into how complex some of these issues are. And I'll agree with Mr. Daniel on mentioning the Fund Balance because in my mind we have put that money away for those unexpected expenses and we should be moving forward quickly on funding those things through things like our Fund Balance. Then when the budget rolls around, we can work hard to build that Fund Balance back up. That's a big chunk of the budget that we're having to deal with, but I'm not going to be in favor of the property tax increase connected with the Fire Department. I think we need to have the negotiation with the County and a long-term plan for how that funding split looks going forward. With the remaining budget, the Estatoe Trail is a promise that we've made; addressing the housing issue is also a promise that we made just last year and it doesn't sit well with me that we're already taking a step back from the housing fund. It also doesn't sit well with me that we're 25 years into a project in the Estatoe Trail and we're talking about reducing our contribution to that to the point where progress is going to be stalled out even further. And you could say the same for Downtown Master Plan funding. I think we can move some things around – I would be in favor of asking the Police Department to get by with the one vehicle in the next year and using some of those funds to maintain, as best we can, the funding for some of these ongoing projects that we have.

Mr. Morrow said I really like this budget because it covers so many things and it's complex. And as I've said before, with respect to the Fire Department, I don't think we have a choice. We need to ensure that our firemen met OSHA requirements and we need those extra folks to do that, so safety is an issue there. I also believe the Police Department deserves their two vehicles and a schedule that saves us down the road. Respective to the Estatoe Trail, we know in our budget that we have a \$352,467 balance in the Multi-use Path Fund and in addition to that we have \$786,062 that has not been spent of a \$1.5M budget. As I said last time, we are spending more than a penny. Just this year alone, we'll spend \$345,788 on Country Club; we just improved that intersection connected Gallimore to the high school. We're going to spend \$310,000 on the Davidson River pedestrian bridge that is going to be delivered next month. So, we are spending money and I don't think we need the \$125,000 to tell you the truth. I think this is a great year where the budgets that were set in 2022 and 2023 we're still working on projects. The fact that we're getting over \$500,000 from NCDOT to complete Tannery North this year, which complements what Public Works did in completing Tannery South this year. A lot of good things going on.

Mr. Wise thanked the public for coming out and speaking tonight. He said I want to thank the staff, especially Chief Cooper and Chief Jordan who helped me understand some of our real-world needs and making some very hard decisions moving forward. After talking to Chief Cooper I cannot support the 2-cent property tax raise for firemen for many of the reasons Mr. Baker pointed out. I went to the County budget meeting last week and they had brought up concerns with the overall fire departments, especially with the fit of Brevard having to handle a very rural district like Sylvan 2. I think there are places in that contract for us to discuss about what works and what doesn't moving forward and it's hard to say that we're responsible for medical first response, fire in the city and rural district where we have to buy and maintain special equipment without any room to kind of open a discussion with the County. On top of a 2-cent property tax increase, we have heard that it's going to be very burdensome. I think we have other increases in this budget that we have to have and are the only ways for us to move forward, but we don't need to also add a 2-cent property tax on top of that. I feel comfortable saying that after having a conversation with our head of departments. As for the police car, Chief Jordan and I had a good conversation about this and I agree that we need to have one car right now. I think that is important moving forward for the safety of our community. We did have a number of unexpected expenses by having to move the Police Department out of their current location. We all agree that was absolutely critical for the health, morale and safety of our police officers and I think I can speak for everyone that those guys are critical to us. However, that did place a burden upon us and we can find a way to move forward with just one car. Third, I also agree that we need to take a look at our Fund Balance. I know that we're over our minimum percentage. I don't know what the magic number there is, but I do think this might be a great time to look at that because, I wasn't on the Council when this happened, but we did make a promise to people in previous years to fund certain projects. Some of these projects have been around for more than 20 years and I think as a new member of City Council I have to honor those decisions. I take them as critical decisions, especially with things like housing, Downtown Master Plan; these are promises we made after numerous public input sessions with our public. Ultimately I think we are very close to getting there. I think the 2-cent property tax increase is a really big one that we can not place upon our public right now, renegotiate and talk to the County and look at what our options are.

Ms. Holder thanked everyone for being here and for their comments and interest. She said I kind of like the Locks budget. It was interesting, but it also gave me the inspiration to look at this a little bit deeper and a little bit harder. On the day that we were in the budget session I said then how much housing is important to me and how much I did not want to raise rates and taxes in four different areas – rates in three areas, taxes in another area. I too am against raising the taxes by 2 cents and I also agree that we need to negotiate more with the County before we hire 3 more fire personnel. I think that is possible and perhaps they are starting to see, as we are starting to see, that conversation/negotiation needs to happen. I also asked at the

budget meeting that there had been a new treatment cost that we're using now and that cost is down and so my question tonight is when will we know whether it is going to continue with the experiment that we've been doing, when will the decision be made that we can use that permanently? And, then how would that spill over into the public as far as that cost decrease? Regarding the Police Department and two cars, I too talked with Chief Jordan and he was very helpful in answering my questions. I like having protection and knowing that it's there. If we can manage with one car, that would be great, especially since as Mr. Wise said that we were having to endure the cost of moving into Commerce Place. That cost won't be there next year and so we could use that to buy the car next year. I don't want to however, raise taxes next year because we're saying we've got to buy three cars instead of two. So, can we just get one car this year and then pick up the schedule next year to get two from that point? As far as if we decrease by one car, I am not in a position to support taking the funds to Estatoe Trail. I'm not against the trail, it's just that I'm struggling with taking that money, putting it to the trail when we have housing crisis and we have people who are homeless. It about brings me to tears driving by or walking by people on a trail who don't have a home. I just can't put my head around that and I don't know how we can do that. So, if we took money out of the Police Department by getting one car, I would say put it in housing or put it in something that would help to support our houseless community, but not to put it on the trail. Yes, it's a 20-year project, but we've got something that involves people that don't know where they're going to sleep at night. I have watched a woman who has been living in the woods across the street from my house go from place to place with her tent and it's hard to watch. To think about that; they may have to end up staying on the trail. I can't do it; I'm sorry. If we could wait to get the car next year and use those funds to help with our housing and our houseless community I would be in full support of that. If we can't do that, then go ahead and get the two cars.

Mr. Hooper noted that Staff will take these additional alternatives and calculate the various trade-offs and put them in the addendum document. He said I would like to make a couple of comments and offer some advice on the Fund Balance proposal. All the signs are pointing to an economic slowdown and maintaining a healthy Fund Balance may help our organization have a soft landing should the economy tip into a recession. By dialing back on our voluntary spending and not tapping into our Fund Balance, we may help save our core services from cuts in the future. On the flip side, if the economy stays level or starts to improve, showing discipline and not using Fund Balance to fund what essentially is a recurring expense, a regular annual endowment to Downtown Master Plan and Estatoe Trail, makes it easier to borrow for future capital projects. When you avoid tapping into your Fund Balance to balance your budget the LGC looks at you more favorably and the banks that extend you credit for your capital projects deem you to be more creditworthy. Finally, it's called a rainy-day fund for a reason. Before the mill in Canton closed they were already dealing with a budget crunch because they were recovering from a flood. And, just this past week or so my previous town had a tornado come through. In both cases they are going to have to dip into their reserves to pay for recoveries from those two natural disasters. Indeed we have \$1.4M over our 25% minimum threshold for a total of \$3.6M. That puts us at 41.1%, but that's low. If you compared us to other cities like us we would be in the bottom half. It's not concerningly low, it's not low in the sense that the LGC is going to look at us and wag their finger, but it's low enough that it puts us in another category compared to our peers. The closest one that we are most familiar with due to some staff history there is Black Mountain and theirs is 56% and it's not considered particularly high either. I will write up that option and put it on the list of alternatives, but I would strongly discourage you from looking to the Fund Balance to balance the budget.

Mr. Daniel said I would suggest that my proposal of \$70,000 is a drop in the bucket of \$1.4M and I don't think it would affect our Fund Balance that much. I would not tap into the Fund Balance lightly, but if we are in a financial tight place, it seems appropriate that that small amount of money could be taken from the Fund Balance to alleviate some of our immediate needs without really jeopardizing that number.

~~ At 6:55 PM Mayor Copelof called for a ten-minute break ~~

J-2. Ordinance – Voluntary Contiguous Annexation – Pisgah Hospitality, LLC / Intersection of Lambs Creek Road and US Hwy 64 – Aaron Bland explained that Pisgah Hospitality, LLC has submitted a petition for voluntary contiguous annexation for multiple parcels located near the intersection of Asheville Highway and Lambs Creek Road. The subject parcels are within the City's ETJ adjacent to the corporate limits and other parcels are already inside the corporate limits. The applicant wishes to annex the rest of their properties so that the entire project site is inside the city limits and can have full city services. They are proposing a vacation rental development called The Station at Brevard that will have a lodge, cabin rental units, a restaurant and entertainment venue. The service delivery impacts are estimated to be minimal given that the site is already in the ETJ and City Fire District. The financial impacts are estimated to be a net positive for the City. The Planning Board discussed this request at their April 23rd meeting and unanimously recommended approval.

Mayor Copelof opened the public hearing at 7:09 p.m.

Public Hearing Public Participation – None.

Public Hearing Closed – Mayor Copelof closed the hearing at 7:09 p.m.

J-3. 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 – Emily Brewer explained that this is a staff-initiated text amendment that resolves a number of different challenges that we face with our subdivision regulations. The major changes are as follows:

1. Establishment of a Group Development regulation section and establishing different types of group developments that have different permissions and standards.
2. New Missing Middle Housing Type – Cluster home development which 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.
3. Location of Off-Street Parking in Group Developments which will allow for denser development with more creative site design and/or more appropriate site design that accommodates topographic and logistical challenges.
4. Types of Subdivisions – revised definitions of exempt, minor and major subdivisions to clarify the processes and submittal requirements.
5. Variances to Subdivision Regulations – 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 – Clarifies the review process and amends the subdivision regulations to be entirely administrative with Staff as the approval authority for all subdivision decisions, and appeals being sent to the Board of Adjustment.
7. Minimum Lot Size to clarify the density requirements.
8. Private Roads for Subdivisions – clarifies what constitutes a public street, but also adds stipulations for when a private street may satisfy road frontage requirements for new lots in the ETJ.
9. Plat Requirements and Certifications have been updated to reflect NCGS and clarify the administrative review items.
10. Connectivity Index Requirements – removes the connectivity index measurements for new neighborhoods found in Section 9.2.

Ms. Brewer presented a PowerPoint presentation explaining the proposed amendments regarding regulation of both subdivisions and group developments and the different types of each. A copy of her presentation is attached.

Mayor Copelof opened the public hearing at 7:32 p.m.

Public Hearing Public Participation – None.

Public Hearing Closed – Mayor Copelof closed the hearing at 7:32 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. Ms. Holder moved, seconded by Mr. Morrow to approve the consent agenda. The motion carried unanimously.

K-1. Tax Settlement Report – April, 2024

K-2. Capital Project Close Out – Main Street Water and Sewer Improvements

ORDINANCE NO. 2024-13

**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.

Attest: Denise Hodsdon, City Clerk

s/Maureen Copelof, Mayor

K-3. Council Parks, Trails & Recreation Committee Minutes – February 21, 2024

K-4. Council Parks, Trails & Recreation Committee Minutes – April 24, 2024

K-5. Council Downtown Master Plan Committee Minutes – March 18, 2024

K-6. Council Downtown Master Plan Committee Minutes – April 10, 2024

L. Unfinished Business

L-1. Proposed Amendment to City of Brevard Unified Development Ordinance, Chapter 15 – Board Roles – Aaron Bland recalled that Council held a public hearing on this proposed amendment at its May 6th meeting. This is a staff-initiated text amendment that will bring the roles of the Board of Adjustment and the Planning Board into compliance with the new land use statute 160D. It eliminates anything currently listed in the UDO for each of those boards that is not expressly authorized by the statutes. It ensures and makes clear each board’s required duties as they appear in the statutes and lists the optional responsibilities that they actually engage and eliminates others that they don’t. Additionally, it amends the makeup of the Planning Board to switch an ETJ seat to a City seat to better proportionally represent our citizens in the city limits versus the ETJ. Mr. Daniel moved, seconded by Mr. Wise to adopt the amendment. The motion carried unanimously.

**ORDINANCE NO. 2024-14
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 20th day of May 2024.

Attest: Denise Hodsdon, City Clerk

s/Maureen Copelof, Mayor

M. New Business

M-1. Approval of FY24 Supplemental Spending Plan and Related Budget/Project Amendments – Mr. Hooper explained that this spending plan supplements the FY25 Budget and essentially uses savings and other sources of FY24 funds to fund some projects and priorities that we couldn’t afford to put in FY25. This plan includes the following:

- City Hall Reconfiguration \$40,000
- 132 Commerce St. Upfits \$100,000 - \$150,000
- Internal Email Upgrade \$50,000
- Farmer’s Market Contribution \$18,200
- Fix HOB Walkability Study Concerns \$40,000 - \$43,000
- Probart Street Traffic Calming \$30,000
- Norton Creek Streambank Restoration Phase 2 \$72,000
- R5800 Trail Betterments Study \$12,000

Mr. Hooper noted that if Council passes the resolution approving the supplemental spending plan, it would simultaneously pass the appropriate budget and project amendments that are necessary to make this money available to spend, with the exception of the first three. He said he is requesting permission to move forward with those projects but the actual budget amendments won’t be ready for approval until next month because we need to know more about the timing of those projects before we move the money around. Mr. Morrow moved, seconded by Mr. Wise to approve the Supplemental Spending Plan and the related budget/project amendments. The motion carried unanimously.

RESOLUTION NO. 2024-19
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 BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BREVARD:

Section 1. The FY24 Supplemental Spending Plan, attached hereto, is hereby adopted; and

Section 2. All the appropriate budget and project amendments, also attached hereto, are hereby adopted.

Adopted and approved this the 20th day of May, 2024.

Attest: Denise Hodsdon, City Clerk

s/Maureen Copelof, Mayor

ORDINANCE NO. 2024-15
AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.
BUDGET AMENDMENT NUMBER 24-06

SUBJECT: Budget Amendment to increase revenues and expenditures in the to fund Farmers Market

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 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

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

ORDINANCE NO. 2024-16
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.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

ORDINANCE NO. 2024-17
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.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

ORDINANCE NO. 2024-18
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.

Attest: Denise Hodsdon, City Clerk s/Maureen Copelof, Mayor

ORDINANCE NO. 2024-19
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
82-4100-2920	Silversteen Park	\$144,000
TOTAL PROJECT APPROPRIATION		\$994,000

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
82-3250-0000	Transfer from General Fund	\$72,000
82-3300-0250	NCDEQ Grant	\$72,000
TOTAL PROJECT REVENUE		\$994,000

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

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

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

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

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

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 20th day of May, 2024.

Attest: Denise Hodsdon, City Clerks/Maureen Copelof, Mayor

M-2. Application for Public Art – Moms Mabley Mural in Clemson Plaza –

Paul Ray explained that this an application from the Heart of Brevard for a mural to be painted on the brick wall in Clemson Plaza. The request is to commission artist Scott Nurkin to paint a 15’ x 20’ mural of Loretta Mary Aiken “Moms Mabley” as part of the North Carolina Musician Murals Trail. The Downtown Master Plan Committee in conjunction with the Arts Advisory Subcommittee recommended in favor of approving the mural. No cost is expected to be incurred by the City, but if the application is approved Staff may seek funding from the WNC Community Enhancement grant to help support the implementation of the project. Mr. Baker moved, seconded by Mr. Wise to approve the resolution approving the mural. The motion carried unanimously.

**RESOLUTION NO. 2024-20
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 20th day of May, 2024.

Attest: Denise Hodsdon, City Clerk

s/Maureen Copelof, Mayor

M-3. Ground Lease with Brevard Davidson River Presbyterian Church for Workforce/Affordable Housing Project – Emily Brewer, Mr. Hooper and Attorney McKeller presented a PowerPoint presentation that explains what affordable housing is, what it looks like, why we are talking about it today, and how we got to where we are. A copy of their presentation is attached.

Ms. Brewer explained that this project is a partnership that started in late 2021 when the Brevard-Davidson River Presbyterian Church approached the City with approximately 4 acres of undeveloped land that is adjacent to their facilities. At the same time the City was launching its housing initiatives and considering how they might contribute to housing efforts in our community. Both the City and the Church have a shared goal of ensuring that Brevard’s workforce and its community members can afford to live here. This project was launched in 2022 when the City contracted with UNC School of Government’s Development Finance Initiative (DFI) to evaluate the housing opportunities on this and other sites in Brevard. DFI’s scope of services consists of two phases. DFI has completed Phase 1 which included conducting a housing needs assessment and identifying key sites. The proposed lease agreement

between the Church and the City will allow us to move forward with Phase 2 – site specific predevelopment analysis.

Attorney McKeller summarized the proposed lease between the Church and the City. The City has to have control of the property in order to engage DFI to do the analysis they need to do to proceed. The proposed lease is for 3 years at \$1.00 per year with an option to purchase the property at the end of that time if it can be established that it will be feasible to build some sort of affordable housing on the property. The only thing the City would be allowed to do during the term of the lease is to engage DFI to conduct the feasibility studies. The City would find a development partner to build at least 24 units, which must be completed within 5 years of the purchase or the land reverts back to the Church. If the City ends up buying the property, we would be required to use it in very specific ways for affordable housing purposes and those restrictions would transfer further to a development partner. He noted that per the Presbyterian Church rules, the purchases or sales of property can't be done until they are approved by the entire church. This lease has been approved by the Church's leadership group, called the Session, which has recommended that it be brought to the full congregation for their approval, but it is coming to the City first. If Council deems it appropriate to approve the lease it will be sent on to the full congregation for their final approval on June 9th.

Mr. Hooper explained that once the lease is approved and signed, we will send the geotechnical expert that we are about to hire out into the field to start his work. It will take him a couple of weeks to do the fieldwork and another couple weeks to put together his report about the condition of the site and what would need to be done to develop something there. We will pass that report onto the architecture firm which we haven't hired yet, but we do have proposals from three firms that we are currently reviewing. Hopefully by the end of summer they will have an initial plan of what a development on the site might look like and the cost. Then this fall or by next winter when we start developing the budget, Council will have to begin holding serious conversations about what our financial contribution to this project is going to look like. These kind of projects require gap financing from various sources and the City will need to be part of the funding team. Mr. Hooper added that public engagement is almost as important as the technical sitework for us in this project. Our public engagement will include both voluntary and legally required opportunities. This site will require a rezoning and there are a number of public input opportunities built into any rezoning process, but we will also have a handful of voluntary public input opportunities in the months to come.

Ms. Holder moved, seconded by Mr. Morrow to approve the resolution adopting the ground lease. Following discussion, the motion carried unanimously.

RESOLUTION NO. 2024-21
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 BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BREVARD:

Section 1. 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

Section 2. Maureen Copelof, the Mayor, is authorized to execute the document attached hereto on the City's behalf.

Adopted and approved this the 20th day of May, 2024.

Attest: Denise Hodsdon, City Clerk

s/Maureen Copelof, Mayor

N. Remarks/Future Agenda Considerations.

Mr. Wise said the Public Works Week should be the Public Works Month and Year because those guys are amazing. He encouraged everyone to go to the County's comprehensive plan workshops. He said that is important for all us; we're in the city, but we're part of the County and it will really help govern our whole path and direction.

Ms. Holder said I confirmed that Mrs. Jones' report that the fee for special collections is going from \$50 to \$75. What I was thinking is what if we had one free pickup per year per resident for big items. I don't think we have a lot of pickups as it is, so it's not a lot towards the budget to add to the budget and so it wouldn't take that much from it. But, I think that would help some of our residents if we give them one free pickup per year. As you can see I'm all for residents and doing whatever we can to help each other in this process of living life.

Mr. Morrow said I want to talk about Clemson Plaza and tonight's decision, if you will, moves us in a certain direction. But, let's not forget that the Frank D. Clement Building was an amazing \$600,000 building in 1926 that held the first jewelry store, photography shop, the home of First Citizens Telephone Company, Brevard Federal Savings & Loan, not to mention a state-of-the art movie theater that would be the first integrated theater in Transylvania County in 1939. Out of that, those businesses were sort of an incubator of civic leadership. The building was owned/built by Frank B. Clement and was called the Frank B. Clement Building. His son Verne who had just come back for WWI, he would build this movie theater for him because that was his interest. He had been the former manager of the auditorium which was the existing theater that was over what today is Highland Books. You've got to remember talking movies were the brand-new thing in 1926 and so my sense is that what I would really like to see is let's restore the name Clemson Plaza to honor that history. Let's do a rendering of the building and tell the story. John Ford built an addendum for Brevard Federal Savings & Loan and Fords Corner became an item and he became Mayor, just as did Verne Clement, Frank's son. So, there's a story there, but I do like the part that Moms Mabley's Dad owned the land before. So, there's a lot to be told. The story of the very first integrated movie *Parody to the West* written by Zane Grey, who it's been determined in some way is an illegitimate son born in Transylvania County. Interesting why they picked that movie. There's a lot to be told there and that's just one thing. I would like to see the Downtown Master Plan Committee, Staff or whoever, let's look at this thing holistically. I would like to ask Mr. Manager, in the budget we have \$74,000 for Franklin Pool, does that include swimming lessons? I would like to suggest that we ask the management company if they could provide swimming lessons, and if so what the impact might be. Mr. Luebbe said they are working on that, but they need lifeguards who can give them. Mr. Morrow added that he met with the RPO last week and there was a lot about Brevard in the meeting. They did approve the downtown circulation

last week, as well as announcing that the Davidson River bridge would be delivered next month.

Mr. Baker said I'll piggyback on something Mac said about the RPO. Several of us are members of outside boards and I've been thinking lately that we probably need a mechanism for reporting back to this body some of the activities of those boards, whether that's through the consent agenda and minutes that might be included in that or a biannual report from those groups. Things like the downtown circulation pattern, I would love to know what that is and what that approval means for Brevard and whether that is still the study of...is it the one-ways? Those are the types of things that I think we would be interested in knowing and just a way to stay up to date on the activities of these different boards. One more thing related to the budget that made me think of it when the housing topic discussed tonight came up – we can do big things as a small city, but it does take a level of dedication and focus that I think can be difficult for a small municipality. That's certainly been my experience in the last few years on Council and sometimes I feel like we're a bit like a golden retriever who's in a yard full of squirrels and we have a hard time planning ahead for a project that may take 20 years. One of the ways we do that is by creating funds that we then endow with monies over a multi-year period and that money can then be brought to bear for grants that duplicate the effort and make it bigger than it is, but it starts with the seed money from the city and a dedication from this Council on certain big things that we agree are priorities, and certainly housing is at the top of the list for me. But, the Estatoe Trail also and things like the Downtown Master Plan. I hope that we can maybe avoid being those golden retrievers too often and focus on some big priorities that we all have.

Mr. Hooper said I want to recognize Pastor Keith of Brevard Davidson River Presbyterian Church for his leadership role in the lease and holding the hand of his ad hoc committee and his Session through this very complicated and arduous process. He's a clergy so he's a peacemaker and he did it with a gentle hand. I just admired his leadership during this whole thing, and I hope it will continue forward as we work further on this project. So, thank you Keith. I feel very honored to be a part of this. Earlier I said something was serendipitous, well I think on this particular project, it's providential that the Church's discipleship and our public service aligned at this moment in time. I am very grateful for that, and I look forward to seeing it unfold over the next few years.

Mayor Copelof said you can see how busy and how dynamic our little town is. You can see how difficult it is for a Council wrestling with the budget on all of the priorities and all of the things we want to do, but we are moving forward in such important areas. I have to echo what everyone has said that I am so excited that we are moving forward with the Presbyterian Church's initiative. I want to thank Pastor Keith and I also want to thank Councilman Morrow because that's where it started; with these two gentlemen right here. They had the vision, they understand the potential, and they started this about two years ago. It took a lot of time and I know there have been a lot more staff involvement, but I am extremely excited that we are collaborating with one of our faith organizations on something that is so critical to the future of our community. The City cannot do these projects alone; we need our non-profits, our faith groups, we need people to step up and work with us to make this the community what we want in the future. Thank you Pastor Keith; thank you to the Presbyterians. I look forward to hearing from the full congregation and moving forward. And, also moving forward with Clemson Plaza now that we have approved one of our first pieces of public art. We've talked about this for years. Again, we are honoring our history; we are honoring what was in Clemson Plaza; we are honoring Moms Mabley; we are saying how much we value our downtown and how we want it to be a dynamic place that people come to, to not just enjoy but to learn about the history of Brevard. We are moving forward with Probart Street with the approval of the supplemental funding. We are putting in place traffic safety on one of our streets, another major accomplishment to see if we can get some of the speeding under control. A couple of reminders: White Squirrel Weekend starts Friday night through Sunday night; the pool is opening on Saturday and will be open on Memorial Day and on weekends until school gets out and then to our full schedule; our Memorial Day ceremony will be on Monday at 10:00 am in

front of the Courthouse; the next Meet the Mayor will be on June 11th from noon to 1:30 at the Mary C. Jenkins Community Center.

O. Closed Session

Closed Session – At 8:51 p.m. Mr. Baker moved, seconded by Mr. Wise to enter into closed session to discuss a pending litigation matter City of Brevard vs. Bauslaugh - Case No. 21-CVS-381 and to clear Council Chambers. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 9:16 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 9:16 p.m. Mr. Morrow moved, seconded by Ms. Holder, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: June 3, 2024

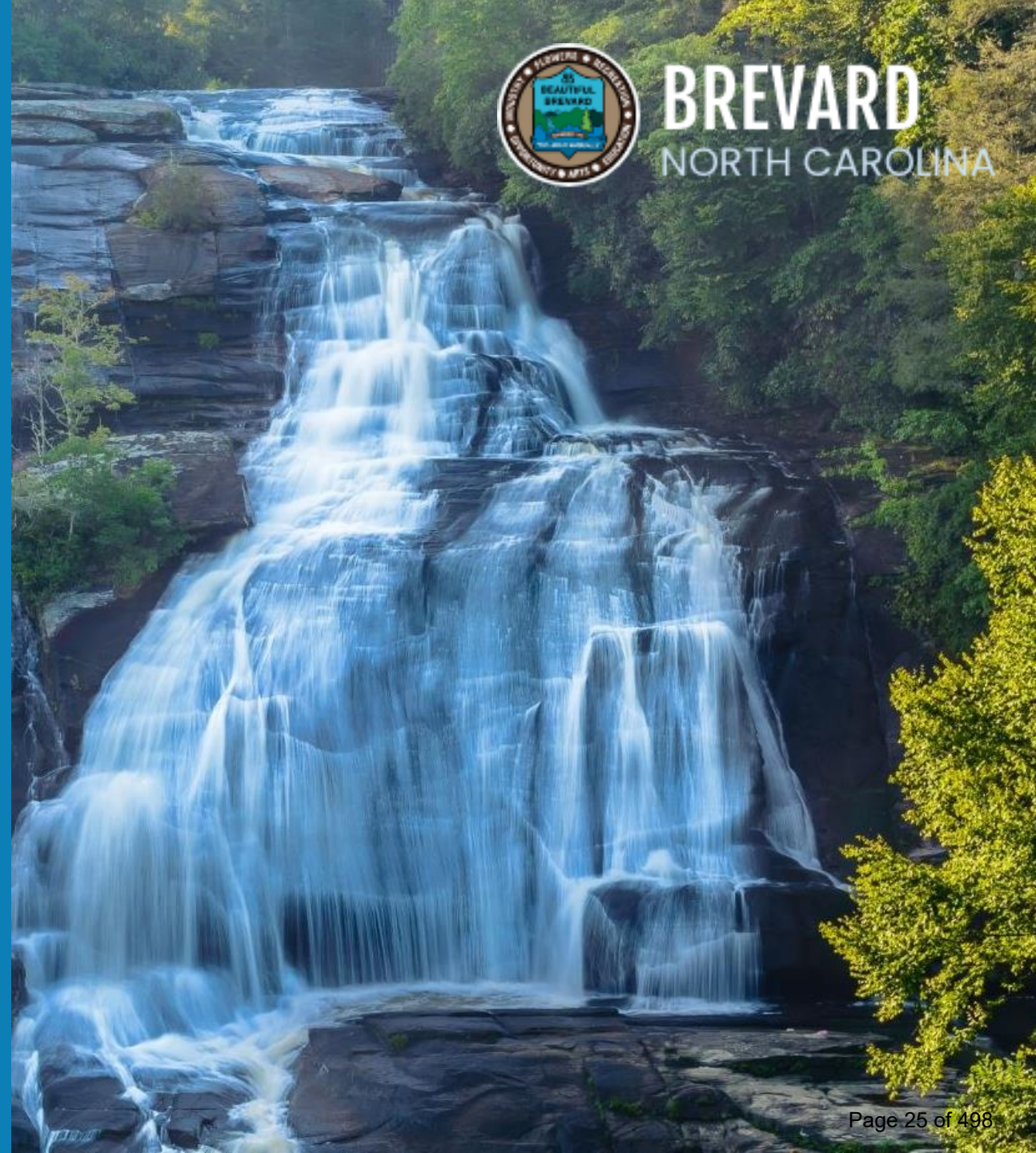
Subdivision & Group Development Public Hearing

City Council | May 20, 2024

Emily Brewer, AICP



BREVARD
NORTH CAROLINA

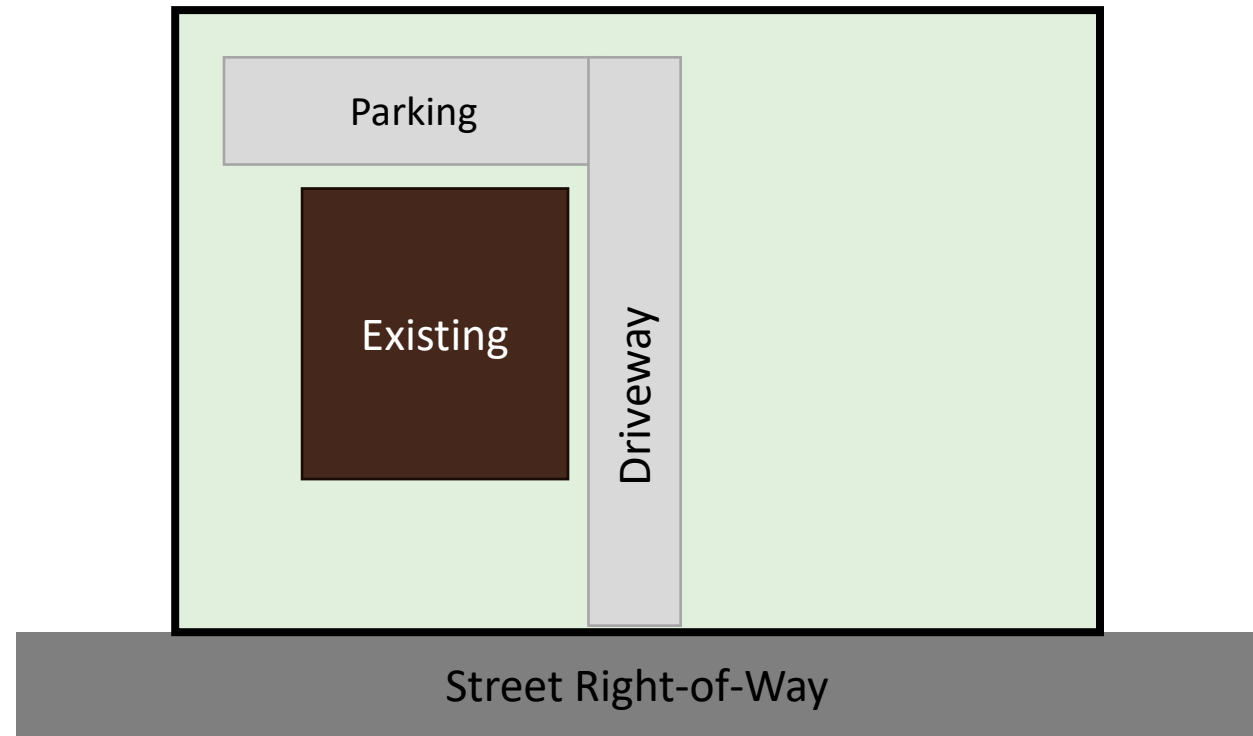


Purpose of Subdivision Regulations

- 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.

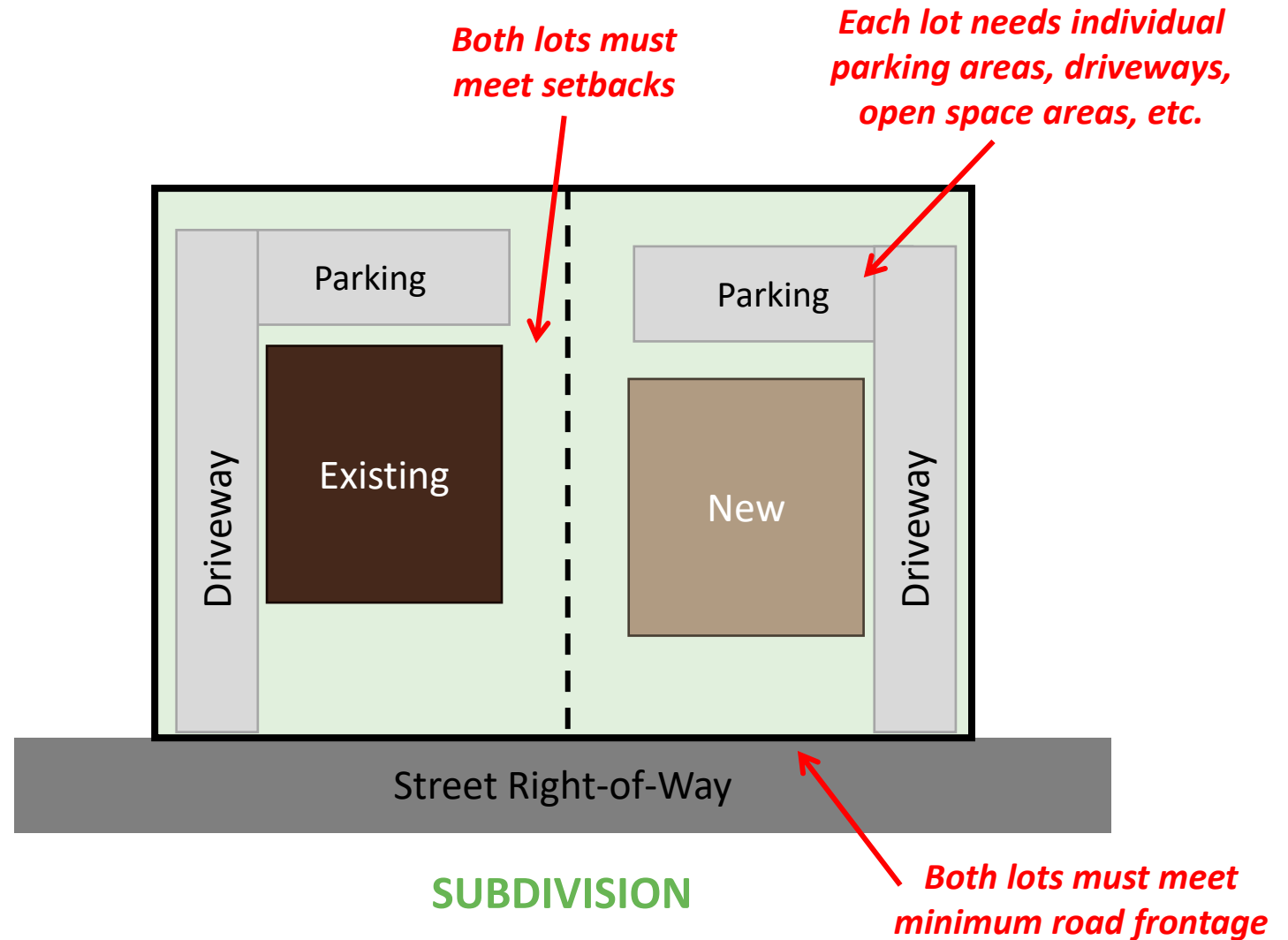
Illustration

- Business owner wants to add another building to the lot (could be an expansion or a new business)
- Do we want them to subdivide or allow multiple principal buildings on the same site?



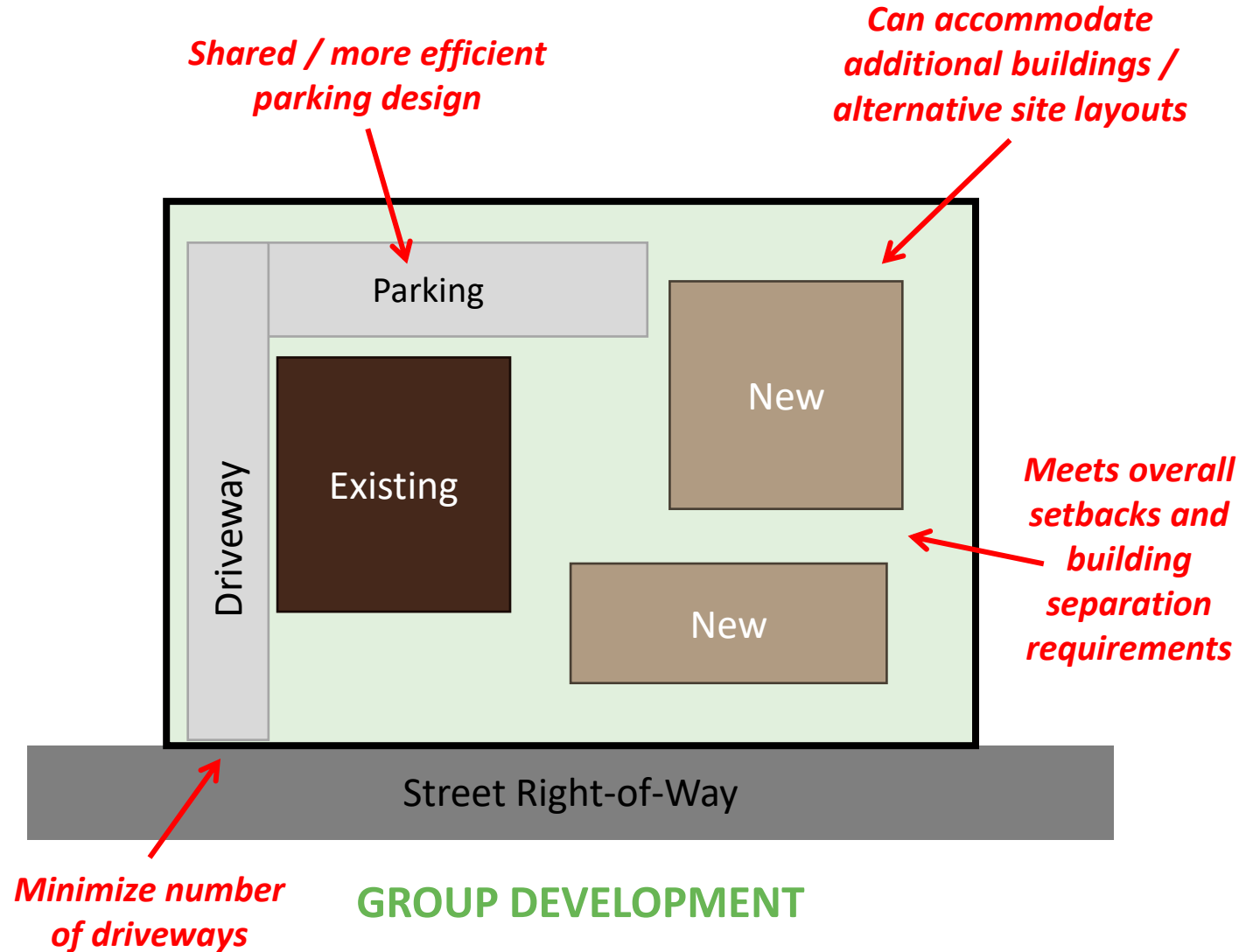
Illustration

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Illustration

- Business owner wants to add another building to the lot (could be an expansion or a new business)
- Do we want them to subdivide or allow multiple principal buildings on the same site?



Group Development or Subdivision?

GROUP DEVELOPMENT = ONE PARCEL*

- Higher density projects that can share development requirements (parking, driveways, landscaping, stormwater, etc.)
- Businesses / developments that require multiple principal buildings

SUBDIVISION = MULTIPLE PARCELS

- Large parcels that may not be fully utilized
- New infrastructure to meet development requirements (frontage, etc.)
- Lower density residential (single-family and duplex)

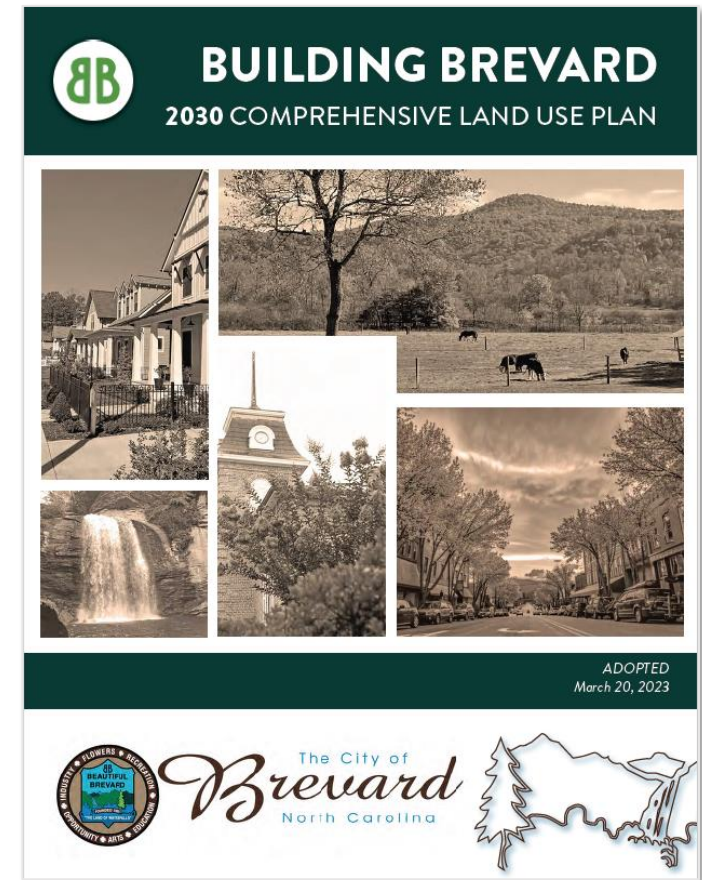
Amendments to regulations for both types of development!

**Or one parent parcel with other interior lots established depending on ownership model*

Building Brevard 2030 Policy Analysis

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

- **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**.



Amendment Development Timeline

- **October 24th:** Staff introduced the Planning Board to subdivision regulations, challenges and opportunities for improvement
- **January 23rd:** Staff presented a framework for the text amendment – subdivisions and group developments
- **February 27th:** The Board reviewed the draft of the group development regulations
- **March 26th:** The Board reviewed the full proposed text amendment and unanimously recommended in favor of adoption
- **April 23rd:** Some additional changes to the text amendment were presented and the Board recommended in favor of adoption.

Summary of Proposed Amendments

1. Group Development Regulations
2. New Missing Middle Housing Type – Cluster Home Development
3. Location of Off-Street Parking in Group Developments
4. Types of Subdivisions
5. Variances to Subdivision Regulations
6. Subdivision Approval Procedures
7. Minimum Lot Size
8. Private Roads for Subdivisions
9. Plat Requirements & Certifications
10. Connectivity Index Requirements

Group Development Regulations

- *“Any land development subject to a site plan that includes **two or more principal buildings** on a single parcel (or grouping thereof)”*
- Current ordinance has no specific regulations for this type of development
- Considerations included in amendments:
 - Use limitations (e.g., cluster home developments can only be 1 to 4 unit residential buildings)
 - Access (e.g., emergency access, interior roadway width)
 - Connectivity (e.g., all buildings and parking lots must be connected by pedestrian walkways)
 - Type of ownership (e.g., individual lots with shared ownership or a multi-tenant development) in single-ownership)
 - Other requirements (e.g., setbacks, shared common space)

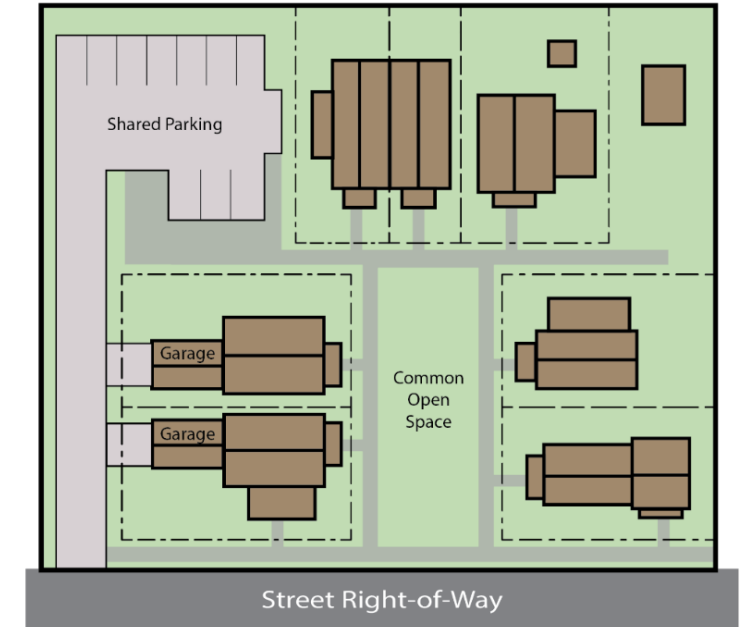
Group Development Regulations

- Establishes different types of group developments with different permissions and standards

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	—
	Neighborhood Development	PS	PS	—	—	—	—	—
	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	—	—

Cluster Home Development

- Small lot residential development where:
 - multiple dwellings clustered around a common open space
 - designed in a cohesive whole
 - maintained in shared stewardship
- Can be operated as a rental property under single ownership or as individual lots with shared ownership of common areas / infrastructure
- Opportunities:
 - More diverse housing options
 - Denser development at a community-scale
 - More efficient and creative uses of peculiar parcels (e.g., lacking adequate road frontage, topographic challenges)



Location of Parking in Group Developments

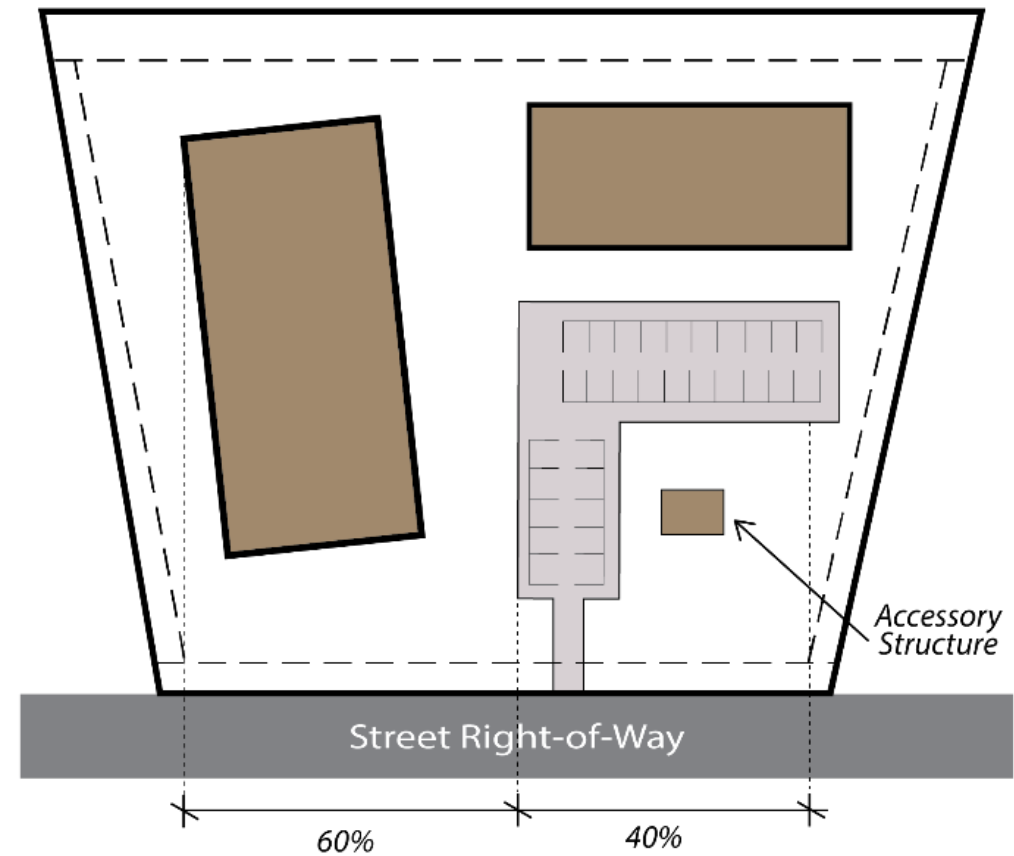
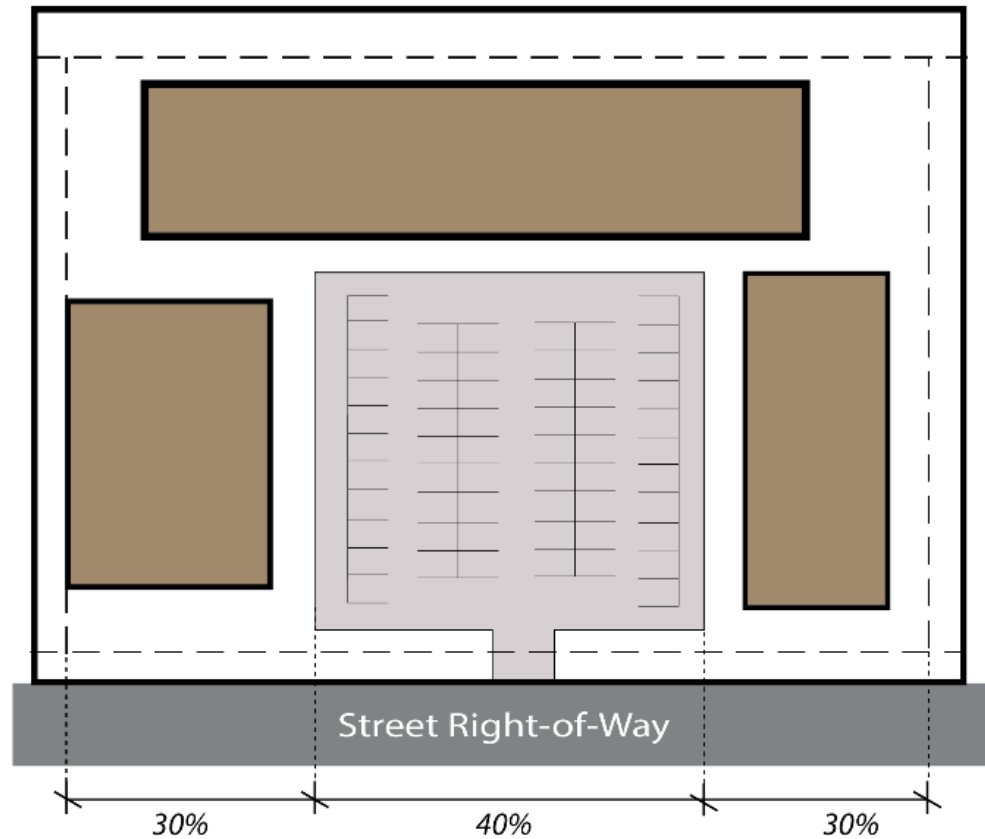
Current:

- UDO Section 10.7: off-street parking shall not be permitted between any principal structure and the street upon which such structure fronts.
 - Passed in response to a growing concern that the placement of parking for developments was hindering the view along major thoroughfares.
 - Did not consider placement of more than one principal structure on a lot or any other unique lot configurations.

Proposed:

- 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.
 - Allows for some buildings to be placed behind parking, but the primary view along frontage is not parking
 - Administrator may require additional landscape buffers and screening to further obstruct the view of the off-street parking areas

Location of Parking in Group Developments



Types of Subdivisions

New definitions and subsections for exempt, minor and major subdivisions to clarify the processes and submittal requirements

- **Exempt Subdivisions:** Defined by NC General Statutes
- **Minor Subdivision:** Creates a maximum of 8 lots and doesn't propose new public infrastructure
 - Expedited review (no Technical Review Committee or infrastructure)
- **Major Subdivision:** Creates more than 8 lots and/or proposes new public infrastructure
 - Required to go to the Technical Review Committee for review
 - Must submit a preliminary plat and install or guarantee requirement improvements before approval

Variances to Subdivision Regulations

- 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 (NCGS 160D-705)
- Many subdivision standards should not be varied because they are about health, safety, welfare and to ensure adequate provision of services
- But, current ordinance does not differentiate the zoning regulations and subdivision regulations
- Proposed amendments separate the subdivision regulations from zoning standards and establishes limited variance authority

Subdivision Approval Process

- Subdivision approval is a ***ministerial act*** → plat is required to be approved if it meets all requirements
- Administrative or quasi-judicial, depending on the content of the regulations
 - Administrative – clear, objective standards
 - Quasi-judicial – requires some level of judgement based on evidence
- Cannot be legislative or purely discretionary – even if the decision is made by City Council
 - *Guilford Financial vs. City of Brevard (2003)* – Council did not follow quasi-judicial procedures, denied a subdivision without sufficient evidence, and the Courts overturned
- Proposed amendments are entirely administrative (not quasi-judicial)

Summary of Proposed Amendments

1. Group Development Regulations
2. New Missing Middle Housing Type – Cluster Home Development
3. Location of Off-Street Parking in Group Developments
4. Types of Subdivisions
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BDRPC Property Lease: Partnership for Affordable Housing

City Council | May 20, 2024

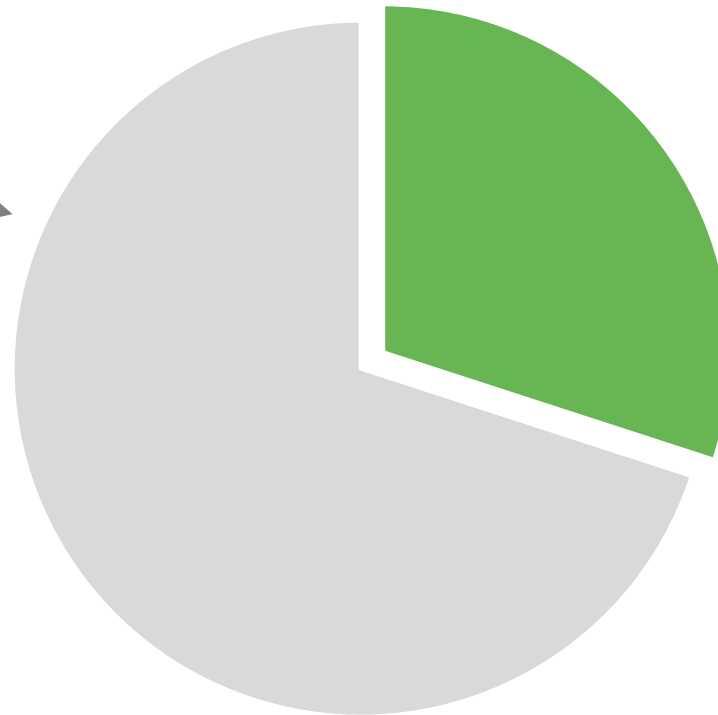


BREVARD
NORTH CAROLINA

What is affordable housing?

Housing is considered “affordable” if a family is paying less than **30%** of their annual income on **housing-related expenses**.

Families living in affordable housing have more income than cost burdened households to cover other expenses like childcare, health care, transportation, or food.

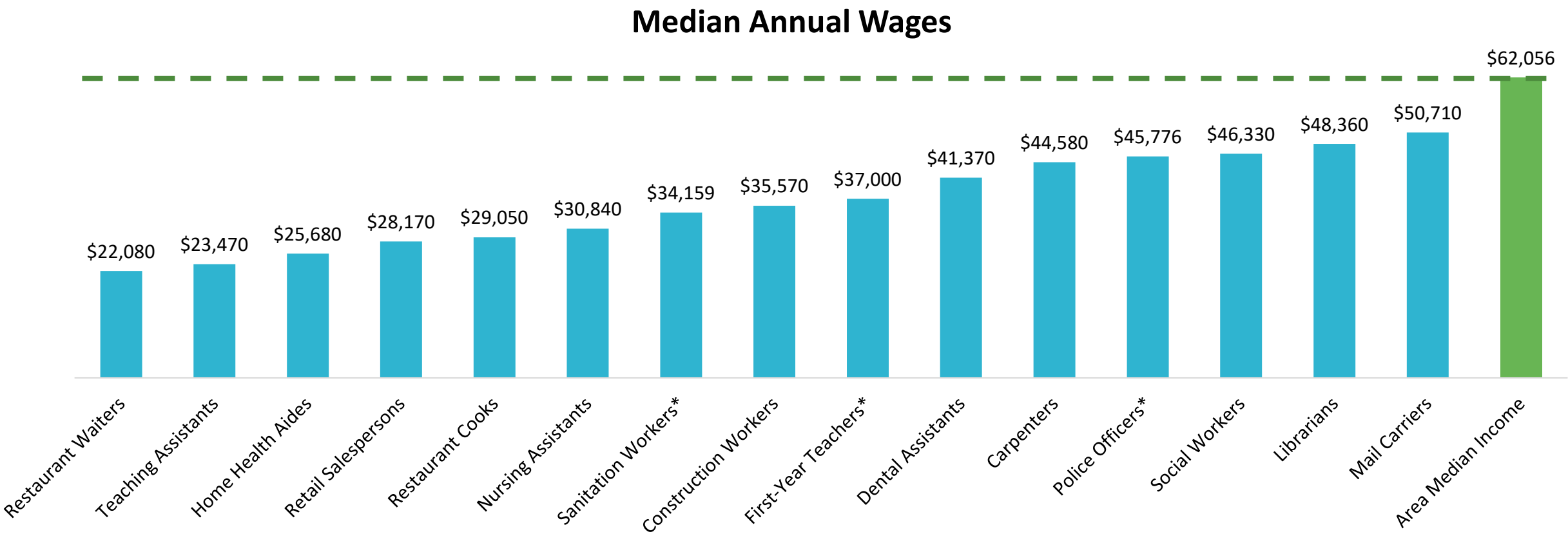


Housing expenses include rent plus utilities or mortgage, insurance, and property taxes plus utilities.

Income Limits in Transylvania County

Percent of Area Median Income (AMI)	1-person	2-person	3-person	4-person
30% Extremely Low Income	\$16,170	\$18,480	\$20,790	\$23,100
50% Very Low Income	\$26,950	\$30,800	\$34,650	\$38,500
60% Low Income	\$32,340	\$36,960	\$41,580	\$46,200
80% Low-to-Moderate Income	\$43,120	\$49,280	\$55,440	\$61,600

Who is Brevard's Workforce?



Source: US Bureau of Labor Statistics, Occupational Employment and Wage Estimates, Mountain North Carolina nonmetropolitan area, May 2022.

*Confirmed starting salaries with the City of Brevard or Transylvania County Schools

Who is Brevard's Workforce?

Transylvania County Area Median Incomes (AMI) – One Person Household*

	30%	50%	60%	80%
Income (annual)	\$16,170	\$27,000	\$32,340	\$43,120
1-BR Affordable Rent (per month)	\$430	\$670	\$860	\$1,080

Average current rental rate for a 1-BR unit is \$1,960/month.



Senior Resident
(Social Security Income)



Restaurant Server



Firefighter



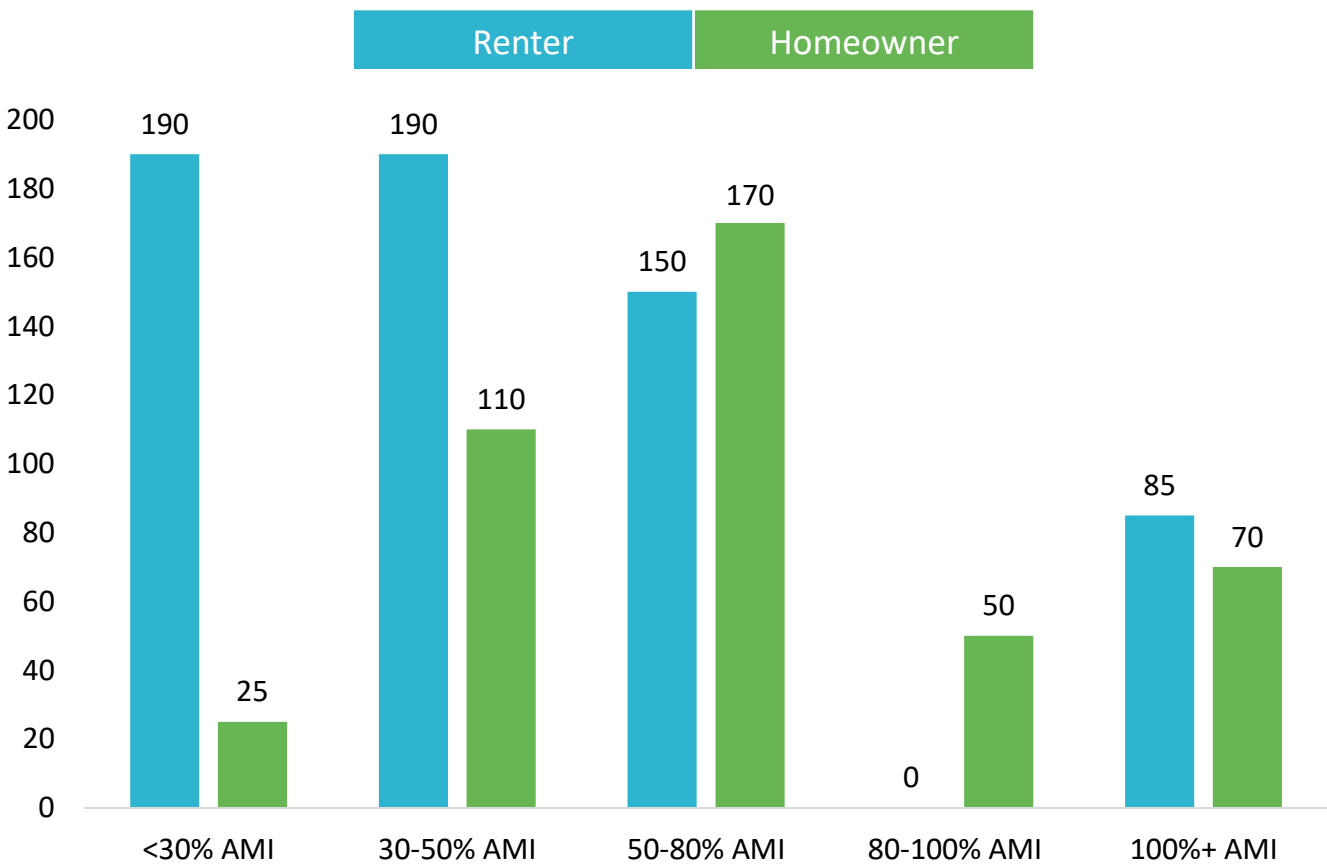
Elementary School Teacher

Source: DFI Analysis of HUD 2024 data.

The Need

- At least **530 LMI renters** and **305 LMI homeowners** have housing needs in Brevard.
- Of these households, approximately 50% are severely housing cost-burdened.
- The number of households with housing needs has likely grown post-pandemic.

Number of Households with Housing Needs by Income Level



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

Source: DFI Analysis of HUD CHAS (2020)

Housing Identified as Top Priority

- #1 Goal in *Building Brevard 2030* Comprehensive Land Use Plan is “Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods”
- Housing Policy Action / Funding categorized as “Category 1: Essential” in City Council’s FY23-24 and FY 24-25 Strategic Planning Retreats
- City Council elevated the Housing Committee to a Policy Committee and expanded it’s scope to beyond the Housing Trust Fund

Launching a Partnership for Housing

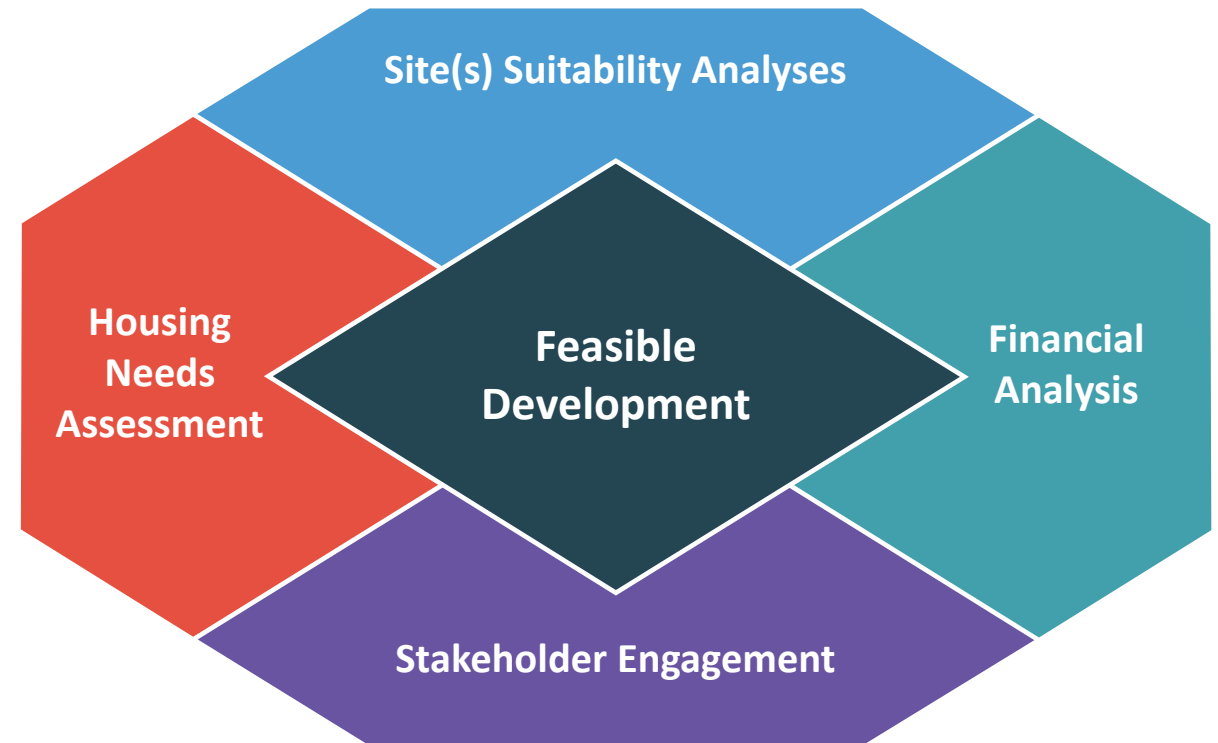
- Church approached City with **approximately 4 acres** of undeveloped land in late 2021
- City considering opportunities for public contributions for housing
- Shared priorities to support Brevard's workforce
- City engaged UNC's Development Finance Initiative to evaluate housing opportunities



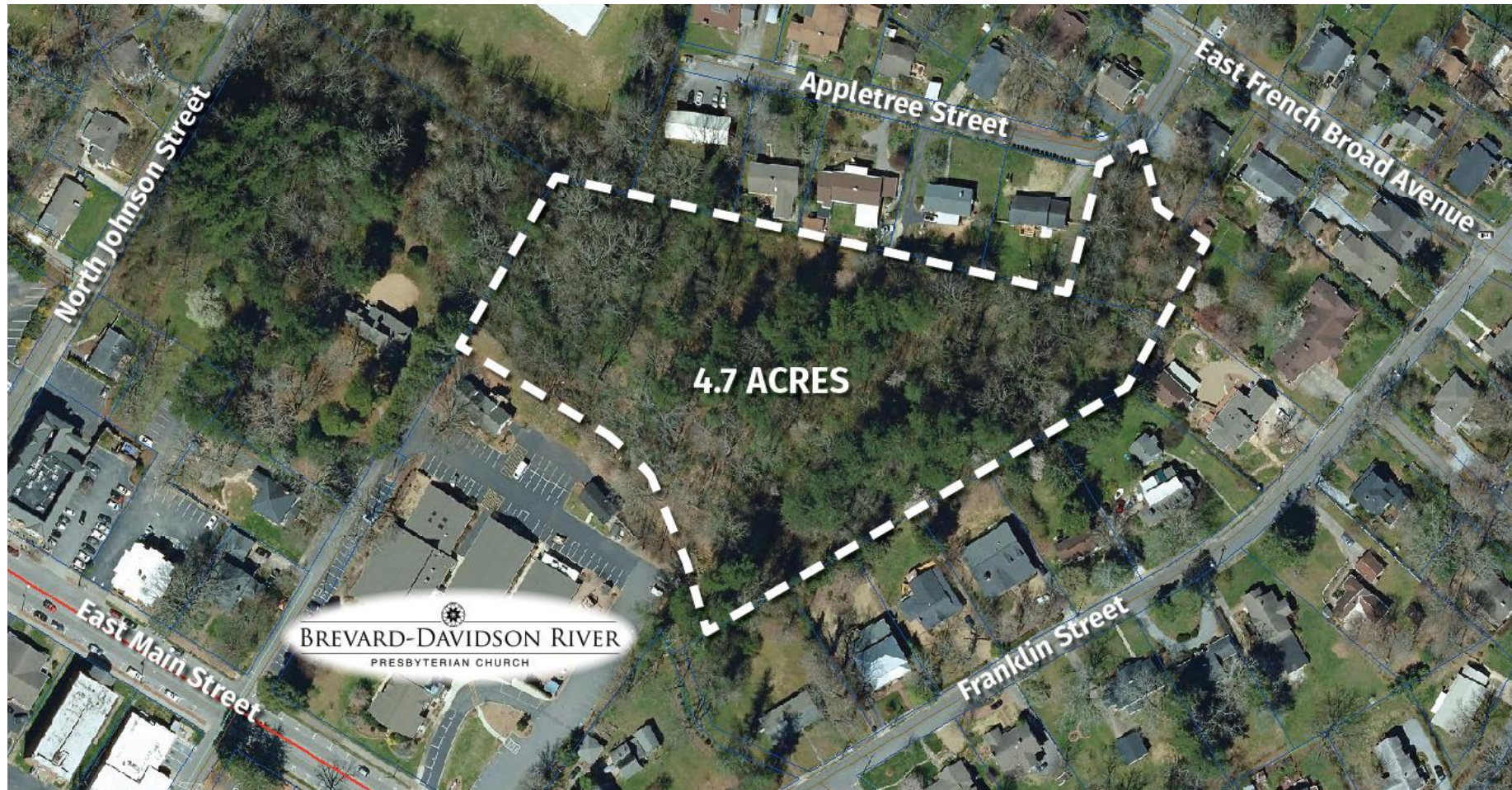
DFI Scope of Services

The City engaged the Development Finance Initiative (DFI) to support the city in:

1. Pre-development process:
 - ✓ **Phase 1: Opportunity site identification**
 - Phase 2: Site-specific pre-development analyses
2. Solicitation of private development partner(s)
3. Negotiating the development agreement with selected partner(s)



Launching a Partnership for Housing



Proposed Lease Summary

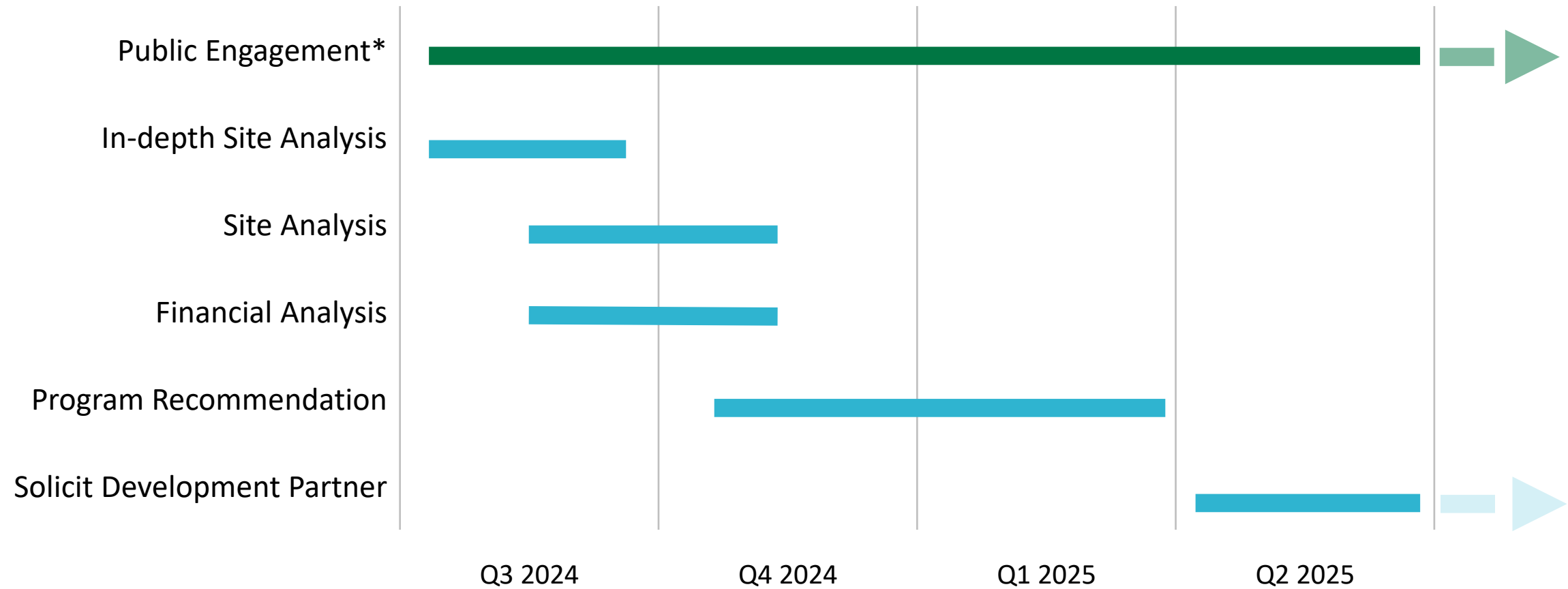
Brevard-Davidson River Presbyterian Church (Landlord) and City of Brevard (Tenant)

- **3-Year Lease with Option to Purchase**
 - Option to purchase is contingent on the City finding a qualified development partner
 - Deed restriction is in place to ensure the property is only used for affordable housing (80% or less of AMI)
- **Rent: \$1.00 per Year**
 - City pays or reimburses Church for taxes
- **Permitted Use During Lease:** City can only conduct feasibility studies in pursuit of a potential affordable housing project
- **Timeframe:** At least 24 units must be completed within 5 years of the purchase or the land reverts back to the Church

Review and Approval Process

- ✓ **April 9th** – City’s Housing Committee unanimously recommends approval of short-term lease
- ✓ **April 26th** – BDRPC Session / Leadership unanimously recommends approval and motion to bring lease for a full congregational vote
- **May 20th** – City Council vote on short-term lease of BDRPC land
- **June 6th** – BDRPC / City hold information sessions for congregation
- **June 9th** – BDRPC congregation votes on short-term lease of BDRPC land

Estimated Pre-Development Timeline



*Public engagement timing will occur throughout the pre-development process. Timing and frequency will be specified in close coordination with City staff.
Note: Timeline subject to change based on timing, type and scale of public engagement process, Council decision making, as well as private partner outreach strategy.



City of Brevard, North Carolina

Oath of Office

State of North Carolina
County of Transylvania
City of Brevard

I, Stephanie Holland, do solemnly and sincerely swear that I will support the Constitution and laws of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution and laws of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; and that I will faithfully discharge the duties of my office as Planner for the City of Brevard, North Carolina, so help me God.

Stephanie Holland

Oath Administered by:

Denise Hodsdon, CMC
City Clerk

Date



PROCLAMATION NO. 2024-14

JUNETEENTH

WHEREAS, President Abraham Lincoln signed the Emancipation Proclamation on January 1, 1863, declaring the slaves in Confederate territory free, paving the way for the passing of the 13th Amendment which formally abolished slavery in the United States of America; and

WHEREAS, word about the signing of the Emancipation Proclamation was delayed some two and one-half years, to June 19, 1865, in reaching authorities and African Americans in the South and Southwestern United States; and

WHEREAS, Emancipation Day observations are held on different days in different states in the South and Southwest, and in other parts of the nation; and

WHEREAS, June 19th has a special meaning to African Americans, and is called "JUNETEENTH" combining the words June and Nineteenth, and has been celebrated by the African American community for over 150 years; and

WHEREAS, the annual Juneteenth celebration in the City of Brevard this year will be a weekend-long celebration taking place on June 15th and 16th at the Mary C. Jenkins Community & Cultural Center and Silversteen Park; and a film screening commemorating Juneteenth on June 19th at the Mary C. Jenkins Community & Cultural Center; and

WHEREAS, beginning this year Juneteenth is an official City of Brevard holiday and City offices will be closed on June 19th.

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, North Carolina, do hereby declare June 19th, 2024, as JUNETEENTH in the City of Brevard, North Carolina, and urge all citizens to become more aware of the significance of this celebration in African American History and in the heritage of our nation and City.

Proclaimed this the 3rdth day of June, 2024.

ATTEST:


Denise Hodsdon, CMC
City Clerk


Maureen Copelof
Mayor



PROCLAMATION NO. 2024-15
LGBTQIA+ Pride Month

WHEREAS, the City of Brevard is committed to promoting equality, diversity, and inclusivity for all its residents; and

WHEREAS, the LGBTQIA+ community has made significant contributions to the social, cultural, and economic fabric of the City; and

WHEREAS, June is widely recognized as LGBTQIA+ Pride Month, commemorating the Stonewall Uprising in 1969, which marked a pivotal moment in the fight for LGBTQIA+ rights and liberation; and

WHEREAS, Pride Month serves as an opportunity to honor the LGBTQIA+ community, celebrate their achievements, and raise awareness about the challenges they continue to face; and

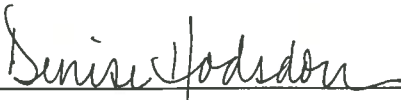
WHEREAS, the community needs to foster an environment of understanding, acceptance, and support for all individuals, regardless of sexual orientation or gender identity; and

WHEREAS, the City of Brevard embraces and values the principles of equality, justice, and respect for all its residents.

NOW THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, do hereby proclaim the month of June as **LGBTQIA+ Pride Month**. I encourage all residents to engage in educational opportunities and events that promote understanding, respect, and acceptance of the LGBTQIA+ community, and express support for LGBTQIA+ individuals, their families, and allies, and acknowledge the ongoing work needed to achieve full equality and justice.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Brevard to be affixed on this 3rd day of June, 2024.

Attest:


Denise Hodsdon, CMC
City Clerk


Maureen Copelof
Mayor

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Plusurbia Presentation of Architectural Visual Guidelines

Speaker: Paul Ray, Planning Director
Aaron Bland, Asst Planning Director
Emily Brewer, Senior Planner
Consultant team from Plusurbia

Prepared by: Emily Brewer, Senior Planner

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

Background

In December of 2023 City Council passed a resolution authorizing the City Manager to sign a contract with the planning and urban design consulting firm Plusurbia Inc to begin updating the City's architectural standards, which are found primarily in Chapter 5 of the City's Unified Development Ordinance (UDO).

Since that time, Plusurbia and Planning Staff have been working together researching and defining Brevard's architecture styles and vernacular. A big component of the process was community engagement. Staff and the Plusurbia team engaged with an estimated 400 individuals during public input process, which consisted of design workshops and open houses, a downtown walking tour, project website, online survey, and neighborhood meetings.

Discussion

Plusurbia's work is generally defined by two phases. The first is the creation of building design guidelines. These guidelines are found in a standalone document, the City of Brevard Architectural Visual Guidelines, which is the precursor to Brevard's new Architectural Standards in the UDO. The second phase is actual codification of the design guidelines into the UDO; this process will begin in the second half of calendar year 2024 pending passage of the FY25 budget.

These guidelines on the identity of Brevard and its Character Areas (Downtown, the Lumberyard District, Pisgah Gateway, US-64 Corridor, and the Rosenwald Neighborhood) are produced first to ensure that the forthcoming standards accurately direct new development and renovations to contribute to Brevard's desired character. Critically, this means all of the public engagement findings that directed these guidelines will also be translated into the codified Architectural Standards.

The guidelines have "General to All" best practices for introducing new buildings throughout Brevard and its zoning jurisdiction, including building elements, colors, and materials commonly found and recommended throughout the city. Additionally, five key character areas are described: Downtown, the Lumberyard District, Pisgah Gateway, US-64 Corridor, and the Rosenwald Neighborhood. Each character area is detailed for its unique

characteristics and includes variations from the “General to All” section specific to that district, neighborhood, or area.

On May 28th, Plusurbia presented the document to the Planning Board and had a discussion about the results of the community engagement process. Planning Board unanimously supported the document and offers a favorable recommendation to City Council. A member of the Board voiced concerns that the document may be misconstrued as a regulatory document instead of guidance for development of the standards. With that in mind, please note that pages 7 and 8 outline the purpose of the document and how the document is intended to be used.

The full Architectural Visual Guidelines, along with more information about the project, can be found at www.cityofbrevard.com/architecturalstandards. Hard copies of the document will also be provided to Councilmembers.

Policy Analysis

Updating the City's architectural and building design standards, particularly using a more form-based approach, is mentioned numerous times throughout the Building Brevard 2030 Comprehensive Land Use Plan, such as recommendations LUH-7, LUH-8, LUH-9, LUH-10, and ATCH-3.

Action

No formal action requested this evening. Plusurbia staff will be presenting the draft City of Brevard Architectural Visual Guidelines to City Council and the public. Following the presentation, Council is asked to discuss and make comments on the document.

Attachments:

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Ordinance Declaring Road Closures for Special Event - 4th of July

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Wilson Hooper, City Manager

Background

The North Carolina Department of Transportation (NCDOT) requires local approval for special events that involve the closing or repurposing of state-owned highways and roads.

Discussion

The NCDOT guidelines state the municipality must pass an ordinance for street closures of City-sponsored events. NCDOT will not approve or deny such closures, but will recommend alternative routes should they have a project scheduled for the same day as a special event.

The attached ordinance includes the following community events:

- July 4th Celebration
 - Thursday, July 4; 3:00 PM – 10:00 PM
 - East Main Street (U.S. 274) from Broad Street to Gaston Street
 - North Broad Street (U.S. 64/U.S. 276) from Main Street to French Broad Street

Policy Analysis

The City has been sponsoring and permitting special events for several years. The passing of an ordinance only applies to City-sponsored special events on state roads. Permits sponsored by individuals or non-profits are permitted differently and do not require an ordinance. Council has passed ordinances for City-sponsored festivals since 2015.

Action

City Council's options are as follows:

1. Approval of the attached road closure ordinance as presented.
2. Approval the ordinance with modifications.
3. Denial of the ordinance.

Attachments:

1. Road Closure Ordinance

ORDINANCE NO. 2024-XX

**AN ORDINANCE DECLARING A ROAD CLOSURE
FOR THE 2024 JULY FOURTH CELEBRATION**

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

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

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

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

SECTION 1. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

July 4th Celebration
Date: Thursday, July 4, 2024
Time: 3:00 PM – 10:00 PM
Route Description: East Main Street (U.S. 274) from Broad Street to Gaston Street
North Broad Street (U.S. 64/U.S. 276) from Main Street to French 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 3rd day of June 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Property Tax Releases - May, 2024

Speaker:

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

Approved by: Dean Luebbe, Assistant City Manager/Finance Director

DATE: June 3, 2024

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

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

General Statute 105-381(b)

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

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

Release Amount for May 2024: \$970.83

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

Attachments:

1. 05 Resolution Tax Releases May 2024

RESOLUTION 2024-XX

A RESOLUTION APPROVING PROPERTY TAX RELEASES

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

BE IT NOW, THEREFORE, RESOLVED THAT:

The Tax Collector is hereby authorized to remove May 2024 property values from the tax scroll in the amount of:

2023: \$ 970.83

Adopted this the 3rd day of June, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Bracken Preserve Maintenance Agreement with Pisgah Area SORBA

Speaker: Wilson Hooper, City Manager

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

The City of Brevard closed on the purchase of 34 additional acres for Bracken Preserve at the end of the last calendar year. Since that time, staff and volunteers from the Parks, Trails, and Recreation Committee have been preparing for phase 1 of the Bracken enhancement project, which consists of repairs and minor rerouting of the entrance trail to make it more accessible to users of varying ability levels.

At the same time, staff and volunteers from the committee have been taking stock of maintenance needs in the preserve. Committee member Howie Granat connected staff with representatives from Pisgah Area Southern Offroad Bicycle Association (PASORBA), who operate a volunteer-based program that performs minor maintenance and trail-repair services.

Representatives from PASORBA have attended the Parks, Trails & Recreation Committee on several occasions to make their pitch and discuss the terms of an agreement to perform minor maintenance and trail repair services. The committee agreed to move forward with the arrangement, negotiating specific terms over the course of three meetings. The committee gave final approval of a draft agreement at its May 15, 2024 meeting, which it referred to the full Council with a recommendation to approve this evening.

Discussion

The agreement sees minor trail maintenance and repair tasks delegated to PASORBA, who uses a network of outdoor enthusiasts and volunteers to monitor for and perform needed maintenance/repairs. PASORBA uses industry-accepted practices for trail design. Only trained users may operate equipment on PASORBA projects. And PASORBA indemnifies the city from liability assumed in the course of its work.

The agreement identifies under what conditions PASORBA may perform maintenance on its own, and under what circumstances it must coordinate with the city. The agreement permits PASORBA to seek sponsorship for its activities, but requires the city approve all potential sponsorships.

At the request of the committee, the contract specifies that PASORBA must hold at least two public work days with opportunities for people of various skill levels.

The term of the agreement is one year. The agreement shall automatically renew automatically for us to five additional one-year terms unless amended by the parties. The initial term shall begin on July 1, 2024.

Fiscal Impact

PASORBA offers its services for a \$10,000 donation from the city. This money is included in the FY25 budget. Staff believes that the value of the work received will easily exceed that amount.

Action

Council is asked to approve the attached resolution authorizing the City Manager to execute the agreement with PASORBA.

Attachments:

1. PASORBA-City of Brevard Bracken Maintenance Agreement
2. Resolution 2024-XX PASORBA Bracken Maintenance Agreement



Agreement by and between City of Brevard and Pisgah Area Southern Off-Road Bicycle Association

This agreement is entered into this day of July 1, 2024 by and between the City of Brevard (hereinafter called the “City”) and the Southern Off Road Bicycle Association NC Chapter-Pisgah Area d/b/a Pisgah Area SORBA, a registered North Carolina non-profit corporation (hereinafter called PAS).

The City and PAS are committed to building a collaborative, mutually beneficial relationship. The City has a developed trail system, Bracken Preserve, linking the City to the Pisgah National Forest region. PAS is renowned for its expertise in trail construction, maintenance, and reconstruction, as well as its work to enhance and protect great mountain biking experiences within the Pisgah Forest for all users.

The City and PAS desire to define the working relationship between the two organizations, to strengthen and sustain that partnership, and combine joint efforts to maintain, enhance, and improve parks and public lands within the City of Brevard, with a specific focus on Bracken Preserve, and do hereby agree as follows:

Purpose of Agreement:

- Build sustainable procedures and resources for maintaining and enhancing the city-owned Bracken Preserve through trail maintenance, erosion control, and upkeep; the systematic removal of dead and dying trees identified by the City.
- The City and PAS will work in collaboration to maintain the existing multi-user trails located at Bracken Preserve.
- Create shared priorities for maintenance and improvement of City property;
- Support effective planning and use of community resources to advocate for conservation and public access to City parks;
- Maximize recruitment, involvement, and recognition of community volunteers for overall park improvements, which include trail maintenance, erosion control, and removal of dead or dying trees in community parks to enhance recreational opportunities.
- To support opportunities and events for the health and wellness of the Brevard community specifically around the sport of mountain biking

General Scope of Agreement:

The City and PAS will develop an annual work plan to address:

- An inventory of trail features in need of repair or maintenance
- Shared priorities in maintaining the multi-use trails and Bracken Preserve.
- Repairs to multi-use trails (i.e., tread work, rolling grade dips or drainage, corridor clearing)
- Cleanliness of the Park
- Clarify and implement appropriate risk management and safety procedures for volunteers on City property.
- Payment costs associated with the Park.
- Park uses by PAS.

Responsibilities:The City agrees to:

- Provide donation of \$10,000 in FY25 with consideration for addl. donations in future fiscal years.
- Grant access to pre-approved City parks for trail maintenance, removal of identified dead or dying or hazard trees, erosion control and occasional invasive species removal.
- Allocate staff support for identified and approved projects and efforts as requested.
- Clarify and implement appropriate risk management and safety procedures for volunteers on City property.
- Allow use of designated meeting space or classroom for PAS, which may include a shelter at a park or room in a recreation facility for approved PAS trainings or workshops.
- Allow PAS to utilize designated park areas, including trails and trees, for the purpose of educating and training staff and volunteers on chainsaw safety, trail maintenance techniques, and erosion control methods;
- Assign designated liaisons to ensure effective coordination with City departments;
- Inform PAS of any changes in the availability of staff and other resources;
- Provide technical assistance as needed for agreed-upon projects on City property, including, but not limited to guidance on appropriate locations within a park for work to be completed.
- Work collaboratively with PAS to 1) identify projects that will occur on City property, 2) develop an annual work plan based on the projects, 3) minimize unplanned projects as much as possible, 4) meet annually to evaluate the annual work plan and prepare for the next year.
- Work collaboratively with PAS to conduct community mountain biking programs within the park.
- Allow storage in a designated area as available at Bracken Preserve during the period in which the facility is authorized for use.
- Pay utility costs associated with the park.

PAS agrees to:

- Work collaboratively with the City to 1) identify projects that will occur on the Bracken Preserve City property, 2) develop an annual work plan and calendar of events based on projects and events, 3) minimize unplanned projects as much as possible, 4) meet annually to evaluate projects and shared priorities and prepare for the next year, 5) make an annual report on the number of projects and events completed, volunteers involved and volunteer hours worked for projects on City property);
- Allocate resources and volunteer support for approved projects and efforts;

- Inform the City of any changes in project plans or timetables;
- Provide orientation and oversight for volunteers and to ensure their safety;
- Provide materials and equipment to complete the project;
- Require all volunteers to sign a release and waiver for work on City property.
- Recommend materials to be used for project improvements for City approval;
- In the event an unplanned project(s) should be considered, PAS will submit a project proposal application no less than fourteen (14) days for minor projects and 30 days prior to proposed projects that require City support and materials;
- Provide a schedule and calendar of events (programs, workdays, etc.) annually; changes to the calendar should be submitted no less than thirty (30) days prior to the event;
- Perform trail maintenance and erosion control on City-owned property that is pre-approved by the City;
- Take down dead, dying or hazard trees from City-owned property that have been specifically identified, marked, and approved for removal by the City Public Works Director or his/her designee;
- Utilize their own equipment for all projects, including the use of chainsaws and hand tools;
- Work collaboratively with the City to conduct community mountain biking programs within the park
- Promote and follow all appropriate Park rules and regulations within the parameters of official PAS activities.
- Become familiar with the findings of the following documents and comply with their recommendations/requirements
 - o Bracken Mountain Master Plan (2006)
 - o North Carolina Clean Water Management Trust Fund Conservation Easement: Bracken Mountain (2007)
 - o "Forest Management Plan: Bracken Mountain Recreation Area" (2013)

Program-Specific Scope of Agreement: See Exhibit A

General Terms and Conditions of Agreement

Administration. The City will designate representatives to administer this agreement and address issues that arise in the implementation of the activities outlined in the agreement. The City shall be the interpreter of the requirements of this agreement and work in conjunction with PAS to resolve issues.

Independent Contractor. PAS members and volunteers will be informed by PAS that, as volunteers on City Property, they are providing their services without compensation and will not be considered an employee, agent, or representative of the City and are therefore not entitled to any benefits of any kind, including, but not limited to, unemployment, workers' compensation or retirement benefits from the City.

Sponsorship Programs. PAS may create and manage sponsorship programs. The City shall pre-approve all sponsorship candidates, and any associated signage, its location and the lifespan/removal process for signage. Sponsorship agreements are solely between PAS and the Sponsor.

Grants and Donations. PAS may seek grants for the maintenance of trails without prior City approval. PAS will consult and gain approval from the City before applying for grants for the development of

new trails or significant enhancement of existing trails. PAS will consult with the City before applying for grants with a matching or in-kind requirement no matter the purpose.

PAS may solicit donations at PAS events and through current PAS channels, which may be used for specific trails as well as general use.

Reporting. PAS will provide information to be included in the City's annual volunteer report. The information will include total volunteer numbers and hours and any additional information or pictures that will help the City provide information on the positive impacts of this partnership agreement. PAS will provide the City with the total number of volunteer hours contributed via this agreement. PAS will encourage participation from youth aged 18-25 and other underserved populations and will assist the City in tracking participation levels of these populations.

Insurance: PAS agrees to keep and maintain for the duration of this Agreement at least a \$1,000,000 commercial general liability insurance policy and shall provide the City a certificate of insurance listing the City as certificate holder and as an additional insured under said policy. In the event of bodily injury or property damage loss caused by PAS negligent acts or omissions in connection with PAS services performed under this Agreement, PAS's Liability insurance shall be primary with respect to any other insurance which may be available to the City, regardless of how the "Other Insurance" provisions may read. In the event of cancellation, substantial changes, or nonrenewal, PAS shall give the City at least thirty (30) days prior written notice. No work shall be performed until PAS has furnished to the City the above-referenced certificates of insurance and associated endorsements, in a form suitable to the City. PAS will provide an updated copy of the liability policy no later than the 5th of March each year of this agreement (PAS annually renews insurance on March 1st).

Release and Hold Harmless: PAS, its board, and its volunteers agree to indemnify, release, defend, discharge, and hold harmless the City, its officers, employees, partners, and agents from any and all liability for personal injury and property damage arising out of or resulting from the acts or omissions of PAS, its volunteers or the actions of others, or from dangerous or defective property or equipment, known or unknown, now existing or which may arise in the future, on account of or in any way related to or arising out of participation in this volunteer service.

Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.

Waiver: PAS agrees to inform their volunteers that they are solely responsible for their health and safety, and made aware of the risks and dangers inherent in participating in this volunteer service. All volunteers shall sign the attached City of Asheville Volunteer Waiver and Release (Exhibit "B") to cover their participation.

Prior Approval: Volunteer activities organized by PAS will fall within those defined in the scope of this agreement. Volunteer activities that are either not specifically included in the agreement or fall into a medium or high level of risk will be entered into only after consultation with the designated City liaison and activities are approved.

Term: This agreement is in effect on the day and year it is authorized by the City and PAS and shall continue for one (1) year from the date of signing. The agreement shall automatically renew for up to five (5) additional one-year terms unless amended by the parties.

Term/Termination: This agreement may be terminated by either party for cause and/or violation of the Agreement upon thirty (30) days' notice in writing. If the agreement is terminated by PAS, permission to carry out projects and work on city-owned property will be suspended temporarily until a new agreement can be authorized.

Permits: PAS shall be responsible for obtaining and paying for all necessary permits (except that the City will secure tree removal permits) and ensuring compliance with all applicable Federal, State, and local government regulations.

Storage of Prohibited Items: PAS agrees that only items listed in **Exhibit "A. Permitted Use."** shall be stored and that no flammable liquids, hazardous materials, food, foodstuffs, or pesticides shall be stored on City property at any time. Any storage that is occupied during the agreement must be removed at the end of the agreement. Storage must be organized in a neat manner to not conflict with fire code, which includes keeping items clear from any electric panel or wiring; the City of Brevard has the right to remove any equipment or supplies being stored that are not in compliance.

Amendments: This agreement with the attached Exhibits "A" and "B" constitutes the entire agreement between the City and PAS. This agreement may be amended, supplemented, modified, or assigned only by duly executed written instruments as an amendment to this agreement.

Vehicular Access: No motorized vehicles are permitted on City property beyond designated vehicle-permitted areas without written authorization from the City. No vehicular standing or parking, except in designated areas, is permitted.

Damages: All damages to the site incidental to the performance of this Agreement shall be repaired or replaced by PAS. The City shall not be responsible for any damage, theft, and/or vandalism of materials provided by PAS.

Non-Discrimination: In accordance with State and Federal laws, the Parties shall not discriminate against any person on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familial status, pregnancy, veteran status, religious belief or non-belief, age, or disability in its program activities related to this Agreement.

Compliance with Laws: PAS shall comply with all state, federal, or local laws, ordinances, codes, rules, or regulations governing the performance of this Agreement. PAS shall provide a Drug-Free Workplace during the performance of this agreement. This agreement is entered into in North Carolina and shall be construed under the statute and laws of the State of North Carolina.

Assignability: This agreement is not assignable or transferable by either party.

E-Verify Employer Compliance: Employers and their subcontractors as defined in Article 2 of Chapter 64 of the NC General Statutes, must comply with E-Verify requirements to contract with governmental units. E-Verify is a Federal program operated by the United States Department of Homeland Security and other federal agencies or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. E-verify can be accessed via this link: <https://www.e-verify.gov/>

Iran Divestment and Israel Boycott: City of Brevard staff are responsible for verifying that PAS is not listed on the Iran Divestment List or the Companies Boycotting Israel Final Divestment list published by

the NC State Treasurer pursuant to N.C.G.S. 147-86.60 and 147-86.82. The City shall not enter into an agreement with any company or their affiliates listed on these divestment lists.

Severability: Should any provision or provisions contained in this agreement be declared by a court of competent jurisdiction to be void, unenforceable, or illegal, such provision or provisions shall be severable, and the remaining provisions hereof shall remain in full force and effect

Notification: If either party in this agreement needs or desires to provide any notice to the other, they shall provide the notice in writing to the contact listed here:

City contact:

PAS contact: Natalie Narburgh / Stacey Wierdrich
Pisgah Area SORBA *Executive Director / Interim Director*
513-470-1898 natalie@pisgahareasorba.org

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement as of the day and year above written.

CITY OF BREVARD

Pisgah Area Southern Off-Road Bicycle Association

Print Name

Print Name

Signature

Signature

Title

Executive Director, Pisgah Area SORBA _
Title

Date

Date

Exhibit A: PERMITTED USE

-
- PAS may have access to designated City-owned property to perform trail maintenance, erosion control, remove dead, dying & hazard trees as identified and approved by the Public Works Director or his/her designee once proper notification and permits have been acquired
 - Perform Trail maintenance- Trail work will include basic tread maintenance such as removing slough and berm, re-establishing out slope for improved drainage, reshaping, resetting, or cleaning drainage and rolling grade dips. Tread work in wet areas may include refilling and reshaping turnpikes and repairing or replacing rotted or damaged puncheon.
 - Special trail work projects identified by PAS should be brought to the attention of the designated City Public Works Director or his/her designee and will be approved on a case-by-case basis. (I. E Boardwalk and bridge repair)
 - Corridor clearing will include pruning or removing small trees and brush within the designated trail corridor (check with the City Public Works Director or his/her designee to determine appropriate dimensions, as they change with trail designation).
 - PAS will assist the City in identifying, preventing, and closing non-system trails. Any non-system trails identified by PAS will be reported to the City Public Works Director or his/her designee. Prevention activities will be limited to assisting with public education, and closure activities will take place on a case-by-case basis in coordination with the City Public Works Director or his/her designee.
 - There will be no work performed outside of the designated trail corridor without written permission from the City of Brevard Public Works Director or his/her designee. This includes but is not limited to rerouting of existing trails, realignment of existing trails, and moving trails onto user-created trails instead of designated trails. There will be no maintenance on non-system trails or decommissioned roads without prior approval from the City.
 - All projects will be pre-planned and approved by City Public Works Director or his/her designee
 - PAS will complete and submit volunteer waivers for all volunteers to the designated City staff with Brevard Public Works Department.
 - Projects should be added or adjusted in writing to the City Public Works Director or his/her designee assigned to work with PAS with at least thirty (30) days notice whenever possible.
 - proposals will be accepted in written form only
 - project proposals must include the date, time, and specific needs for the trainings/workshops
 - The city will secure permits needed for tree removal at no cost to PAS
 - The City understands that at times, PAS trail crews may be available to perform trail maintenance, erosion control, and remove dead, hazardous, and dying trees as identified by the City Public Works Director or his/her designee with shorter notice due to changes in non-city-related project timelines. To allow for greater potential project opportunities, the following exceptions to notice may be considered.

- Project proposals and workshops for trail, erosion control, and tread work and workshops at City-owned parks may be requested with at least three (3) days notice prior to a training/workshop at a park or other City-owned property. A notice of at least fourteen (14) days is preferred whenever possible.
- Chainsaw trainings that involve tree work only requiring bucking and limbing down trees or cutting corridor (non-felling) from City-owned property could be done with three (3) days' notice. A notice of at least fourteen (14) days is preferred whenever possible.
 - The use of chainsaws is only approved by individuals who have successfully completed at least one chainsaw safety class.
- Chainsaw trainings that involve the takedown of dead, dying, or hazard trees from City-owned property that has been specifically identified and marked by the City Public Works Director or his/her designee will require at least fourteen (14) days' notice. A notice of at least thirty (30) days is preferred whenever possible.
 - Training must be led by a properly authorized chainsaw safety instructor.
- Tree debris will be cut up and left in areas that are off-trail to decompose naturally.
- Piles of tree and brush debris will be created in areas where such debris needs to be removed.
- The City will secure resources to remove debris and brush on site with at least 30 days' notice; piles of brush and debris must have an approved plan for removal before they are created.
- PAS may use equipment needed to perform trail maintenance, tree removal, erosion control, and invasive plant species removal, including but not limited to picks, axes, chainsaws, and other equipment providing that certified instructors, trainers, and certification holders are actively engaged and supervising all projects or trainings on City-owned property.
 - Volunteers utilizing equipment must hold the appropriate certifications and must actively participate in all projects
 - PAS will submit certifications for members and volunteers and supply the City documentation of appropriate trainings and workshops held regarding the use of equipment and appropriate techniques taught
 - The designated volunteer(s) with current certification must attend and supervise each work day or activity
- Any privately owned equipment, used in the accomplishment of the tasks under the agreement will be considered donated to the City for the duration of the time it is used under the agreement. It is the responsibility of PAS to ensure equipment is in proper working order and maintained to the manufacturer's recommendations. The City does not assume any liability or responsibility for privately owned equipment. PAS and the City recognize the equipment listed below may be used by volunteers serving under this agreement
 - Hand Tools (including but not limited to Pulaskis, McLeods, hoes, shoves/spades, rakes, loppers, pruners, machetes and other bladed tools, picks, pick mattocks, axes, slate bard, tampers, hammers, and saws)
 - Power Tools (including but not limited to powered trimmers/pole saws, leaf blowers, drills, hand saws)
 - Powered Transport (included but not limited to assisted wheelbarrows, dumpers)
 - Trail Machines (i.e. Dingo) must be approved by the City prior to use

- Non-routine powered heavy equipment, including but not limited to mini excavators, trenchers, mowers, plows, ski loaders, front-end loaders, backhoes, and compaction rollers require separate written permission from the City and may require additional scrutiny for safety.
- Appropriate personal protective equipment will be used while performing trail work. PAS crew leaders should follow all PAS policies for appropriate safety sessions before work begins.
- PAS, in cooperation with the City, should establish appropriate group sizes. Unless otherwise agreed to, an appropriate group size is defined as no more than 12 persons per Crew Leader.
- Recruit, Train, and Manage Volunteers- PAS will seek to create a positive, fun, and compelling image of the PAS volunteer program throughout the community. Whenever possible PAS will encourage involvement from the community members in the management of their public lands, either through this agreement or through other volunteer efforts. PAS will establish procedures to train and manage volunteers engaging via this agreement such that they can serve, safely, be productive and have a great experience.
- PAS will organize and conduct at least two (2) public workdays per year. The events shall be open for participation by the general public, with participation opportunities for people of various skill levels and abilities.

Tools / Material Storage (i.e., PAS tool trailer):

The City agrees to:

- *Allow short term storage / parking of PAS tool trailer(s) and / or materials within the standard parking region of Bracken Preserve as well as on trail side (materials).*

PAS agrees to:

- *Use authorized / designated storage area(s) only. No equipment or supplies will be stored outside of the designated areas. No equipment or supplies may be stored in restrooms, mechanical rooms, or unauthorized areas in the park. The storage area must be kept neat and clean at all times.*
- *Limit storage to equipment and supplies needed to maintain the multi-use trails. No food or beverages may be stored. No fuel, hazardous materials or machines that may contain flammable or hazardous materials may be stored. No merchandise or items intended for resale may be stored.*

Exhibit B VOLUNTEER WAIVER AND RELEASE

City of Brevard standard form.

Exhibit C SPECIFICATIONS FOR SPONSORSHIP SIGNAGE

To be defined

RESOLUTION NO. 2024-XX

**RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH PISGAH AREA
SOUTHERN OFF-ROAD BICYCLE ASSOCIATION FOR BRACKEN PRESERVE
MAINTENANCE**

WHEREAS, the City of Brevard is desirous to enhance the maintenance and upkeep of the trails and recreational areas at city-owned Bracken Preserve; and

WHEREAS, the Pisgah Area chapter of the Southern Off-Road Bicycle Association (PASORBA) is a non-profit organization dedicated to preserving outdoor opportunities by maintaining and improving trail systems in the Pisgah Ranger District and surrounding region; and

WHEREAS, PASORBA has offered to enter into an agreement with the City of Brevard to practice their maintenance and improvement activities to trails at Bracken Preserve; and

WHEREAS, PASORBA and the City's Parks, Trails & Recreation Committee have negotiated the terms of an agreement that each deem to be mutually beneficial; and

WHEREAS, the Parks, Trails & Recreation Committee endorsed the agreement attached hereto at its May 15, 2024 meeting.

NOW, THEREFORE, THE *CITY COUNCIL OF THE CITY OF BREVARD* RESOLVES:

The terms of the agreement attached hereto and presented to the City Council at its June 3, 2024 meeting are hereby endorsed; and

The City Manager or his designee is authorized to make minor adjustment as needed and execute this document on the City's behalf; and

This resolution shall be effective upon adoption.

Adopted and approved this the _____ day of _____, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Personnel Policy Revisions

Speaker: Kelley Craig, Human Resources Director

Prepared by: Kelley Craig, Human Resources Director

Approved by: Wilson Hooper, City Manager

Background

In coordination with the annual budget process, staff have been reviewing the City's Personnel Policy to identify any updates and/or amendments that may be recommended or necessary. This year there are a few policy changes for City Council to consider, along with some minor language changes throughout the policy to update and clarify the language.

The Finance/HR and Citizen Appointment Committee held a discussion on these items at its March 25, 2024 meeting and these changes were presented to Council for feedback and review at the May 6, 2024 meeting.

Discussion

The following highlights the changes which have a budgetary impact or are a substantial change from the existing policy:

On-Call Pay increase from the rate of \$0.90 per hour to \$2.00 per hour.

- This applies to employees in the Police Department and Public Works who are responsible for being on-call 24 hours a day/7 day a week.

Floating Holiday

- As a result of the inquiry into adding another paid holiday like 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.

Paid Parental Leave Policy revisions

- This policy was approved in 2023 and required employees to be employed for a period of one year to be eligible for this leave.
- The revised recommendations would provide paid leave for those with less than a year (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

The amount of leave eligibility is determined at the date of the qualifying event (birth, adoption, foster, or other legal placement).

Fiscal Impact

The budgetary impact is approximately \$15,000 (including taxes and benefits) and this is related to the increase in on-call pay. The increased cost is already factored into the FY25 recommended budget.

Recommendation

Staff recommend Council approve the resolution Amending the City of Brevard Personnel Policy.

Attachments:

1. Res_2024-XX_Amending the City of Brevard Personnel Policy
2. Personnel Policy Proposed for July 1, 2024

RESOLUTION NO. 2024-

A RESOLUTION AMENDING THE CITY OF BREVARD PERSONNEL POLICY

WHEREAS, the City of Brevard is a governmental entity employing many persons for the purpose of carrying out the operations of local government, AND

WHEREAS, the rules, regulations, mandates, court interpretations and laws governing personnel administration have changed since the last amendment to the Personnel Policy on July 1, 2023; AND

WHEREAS, to keep the Personnel Policy current with the revised rules, regulations, laws, etc., and to incorporate voluntary provisions for the employees of Brevard, those responsible for the maintenance of the policy recommend that the Personnel Policy dated December 7, 2020 be repealed and replaced with the updated Personnel Policy effective July 1, 2023.

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

Section 1. The Personnel Policy dated July 1, 2023 is repealed and the updated Personnel Policy will become effective July 1, 2024 as the official policy governing the appointment, classification, salary, benefits, and conditions of employment of the employees of the City of Brevard.

Section 2. This resolution shall become effective upon its adoption and approval on this the 3rd day of June, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk



CITY OF BREVARD

PERSONNEL POLICY

Adopted May 2, 2005

Revised & Adopted October 1, 2007

Revised & Adopted October 5, 2009

Revised & Adopted June 17, 2013

Revised & Adopted May 19, 2014

Revised & Adopted December 7, 2020

Revised & Adopted July 1, 2023

Revised & Adopted July 1, 2024

CITY OF BREVARD

PERSONNEL POLICY

BE IT RESOLVED by the City Council of the City of Brevard that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the City of Brevard.

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ARTICLE I. GENERAL PROVISIONS

SECTION 1. PURPOSE OF THE POLICY

It is the purpose of this policy to establish a fair and uniform system of personnel administration for all employees of the City of Brevard, under the supervision of the City Manager. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

The City retains the right, in its sole discretion and at any time, to change, modify, suspend, interpret differently, or cancel, in whole or in part, any of the policies or procedures herein even though not previously communicated to employees or reprinted, provided that notice of any such change to the published personnel policies or procedures is posted in a place accessible to the employees prior to the effective date thereof.

SECTION 2. AT WILL EMPLOYMENT

The City of Brevard is an “at will” employer. Nothing in this policy creates an employment contract or a guarantee of employment for any period of time or term between the City and its employees. No person has the authority to grant any employee any contractual rights of employment. The provision of the benefits described in this Personnel Policy are subject to availability of funds and the approval of the City Council in the City’s annual budget. The provisions of this Personnel Policy may be changed at any time, with or without notice to the Employees, at the discretion of the City Council.

SECTION 3. MERIT PRINCIPLE

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of that such individual’s race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, or age.

SECTION 4. RESPONSIBILITIES OF THE CITY COUNCIL

The City Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits at their discretion, with or without prior notice to Employees. They also shall make and confirm appointments when so specified by the general statutes.

SECTION 5. RESPONSIBILITIES OF THE CITY MANAGER

The City Manager shall be accountable to the City Council for the administration and technical direction of the personnel program. The City Manager shall appoint, suspend, and remove all City employees except those whose appointment is otherwise provided for by law. The City Manager shall make appointments, dismissals and suspensions in accordance with the City charter and other policies and procedures spelled out in other Articles in this Policy.

The City Manager shall supervise or participate in:

- a) recommending rules and revisions to the personnel system to the City Council for consideration;
- b) making changes as necessary to maintain an up to date and accurate position classification plan;
- c) preparing and recommending necessary revisions to the pay plan;
- d) determining which employees shall be subject to the overtime provisions of FLSA;
- e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
- f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- g) performing such other duties as may be assigned by the City Council not inconsistent with this Policy; and
- h) appointing an employee to the role of Human Resources Director.

The City Manager must authorize any action that has the effect of changing the status of any city employee as outlined by this policy.

SECTION 6. RESPONSIBILITIES OF THE HUMAN RESOURCES DIRECTOR

The responsibilities of the Human Resources Director are to make recommendations to the City Manager on the following:

- a) recommending rules and revisions to the personnel system to the City Manager for consideration;
- b) recommending changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommending necessary revisions to the pay plan;
- d) recommending which employees shall be subject to the overtime provisions of FLSA;
- e) maintaining a roster of all persons in the municipal service;
- f) establishing and maintaining a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- g) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- h) developing and coordinating training and educational programs for City employees;

- i) periodically investigating the operation and effect of the personnel provisions of this Policy;
- j) assist the City Manager and Department Heads by ensuring adherence to this policy; and
- k) performing such other duties as may be assigned by the City Manager consistent with this Policy.

SECTION 7. APPLICATION OF POLICIES, PLAN, RULES, AND REGULATIONS

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all City employees. The City Manager, City Attorney, members of the City Council and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

SECTION 8. DEPARTMENTAL RULES AND REGULATIONS

Because of the particular personnel and operational requirements of the various departments of the City, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the City Manager and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. In the event of any conflict or perceived conflict, the provisions of this Policy shall control. A copy of any such Departmental Rules and Regulations must be provided to the Human Resources Director to be filed.

SECTION 9. DEFINITIONS

For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Full-time employee. An employee who is in a position for which an average work week equals at least 30 hours per week and continuous employment of at least 12 months, are required by the City.

Grievance. A claim or complaint by an employee based on an event, term, or condition which adversely affects the circumstances under which an employee works, allegedly caused by the misinterpretation, unfair application, or lack of an established policy pertaining to employment conditions.

Part-time employee. An employee who is in a position for which an average work week of at least 20 hours and less than 30 hours and continuous employment of at least 12 months are required by the City.

Regular employee. An employee appointed to a full or part-time position who has successfully completed the designated probationary period.

Probationary employee. An employee appointed to a full or part-time position who has not yet successfully completed the designated probationary period.

Temporary employee. An employee appointed to a position for which either the average work week required by the City over the course of a year is less than 20 hours, or continuous employment required by the City is less than 12 months.

Trainee employee. An employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

ARTICLE II. POSITION CLASSIFICATION PLAN

SECTION 1. PURPOSE.

The position classification plan provides a complete inventory of all authorized and regular positions in the City service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities.

SECTION 2. COMPOSITION OF THE POSITION CLASSIFICATION PLAN

The classification plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b) class titles descriptive of the work of the class;
- c) written specifications for each class of positions; and
- d) an allocation list showing the class title of each position in the classified service.

SECTION 3. USE OF THE POSITION CLASSIFICATION PLAN

The classification plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;
- c) in determining salary to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

SECTION 4. ADMINISTRATION OF THE POSITION CLASSIFICATION PLAN

The Human Resources Director shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Director shall periodically review portions of the classification plan and recommend appropriate changes to the City Manager

- Department heads shall be responsible for bringing it to the attention of the Human Resources Director when there have been substantial and/or material changes in the nature of duties, responsibilities, or working conditions that affect the classification of a position. When the Human Resources Director finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the Human Resources Director shall make a

recommendation to the City Manager for one of the following; Direct that the existing class specification be revised.

- Reallocate the position to the appropriate class within the existing classification plan, or
- Amend the classification plan to establish a new class to which the position may be allocated.

SECTION 5. AMENDMENT OF THE CLASSIFICATION PLAN

Classes of positions shall be added to, modified within, and deleted from the classification plan by the City Manager, but shall be approved by the City Council as part of the annual review and approval of the budget.

SECTION 6. AUTHORIZATION OF NEW POSITIONS

New regular positions shall be established upon recommendation of the City Manager and approval of the City Council. New positions shall be recommended to the City Council with a recommended class title after which the City Manager shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated. The City manager may authorize the hiring of temporary staff during the budget year to meet workforce demands, and if there is a need for ongoing employment in a regular position, Council should review the request for a regular position at a regularly scheduled meeting and/or during the annual budget process.

ARTICLE III. THE PAY PLAN

SECTION 1. DEFINITION

The pay plan includes the basic salary schedule and the *Assignment of Classes to Grades* adopted by the City Council. The salary schedule consists of minimum or beginning, midpoint, and maximum rates of pay for all classes of positions, and a designation of the standard hours in the work week for each position.

SECTION 2. ADMINISTRATION AND MAINTENANCE

The City Manager, assisted by the Human Resources Director, shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification, except for employees in probationary status, trainee status, or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

The pay plan is intended to provide equitable compensation for all positions with consideration to differences in the duties and responsibilities, comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, each budget year the Human Resources Director shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and may recommend to the City Manager such

changes in salary ranges as appear to be pertinent. Periodically, the City Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class subject to the approval of the City Council.

SECTION 3. STARTING SALARIES

All persons employed in positions approved in the position classification plan shall be compensated at a rate within the approved pay range for the position classification. When a Department Director wishes to hire someone greater than five percent above the grade minimum, they must get the approval of the Human Resources Director and the City Manager.

SECTION 4. TRAINEE DESIGNATION AND PROVISIONS

Applicants being considered for employment or City employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the City Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head. "Trainee" salaries shall be at least 5% below the minimum salary rate established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as being in a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the City Manager, the trainee shall be transferred, demoted, or dismissed. If the trainee successfully meets the required qualifications and completes the probationary period, the employee shall be moved to the minimum of the pay grade for which the employee is assigned. Trainees expected to have a probationary period beyond 6 months may have negotiated pay increases during the trainee period as long as the pay rate remains below the minimum for the assigned pay grade.

SECTION 5. PROBATIONARY PAY INCREASES

Employees hired at or promoted into the minimum rate of the pay range may receive a salary increase within the pay range of approximately 5% upon successful completion of the probationary period. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment if recommended by the Department Director and approved by the City Manager.

Employees hired at or promoted to a rate equal to or above the minimum for the pay range are not automatically eligible for a pay increase upon completion of probation. Employees may be eligible if so determined at the time of hiring and/or promotion and with the approval of the Human Resources Director and City Manager.

SECTION 6. PERFORMANCE PAY

Upward movement within the established salary range for an employee is not automatic. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the City Manager.

Each fiscal year, the City Manager shall issue an administrative memorandum, based on approval of the budget, giving guidance to the Department Heads on the availability of funds for performance pay increases or performance pay bonuses and in what percentage amounts may be allotted.

Employees who are at the maximum amount of the salary range for their position are eligible to be considered for a performance bonus. Performance bonuses may be awarded when appropriate and subject to availability of funds, based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are within the salary range. This bonus shall be awarded in lump sum payments and do not become part of base pay.

SECTION 7. SALARY EFFECT OF PROMOTIONS, DEMOTIONS, TRANSFERS, AND RECLASSIFICATIONS

All promotions, demotions, transfers and reclassifications must be submitted to the Human Resources Director to make recommendations to the City Manager. The City Manager will make the final decision on all requests.

Promotions. The purpose of the promotional pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of approximately 5% per pay grade increase with a maximum of 15% increase whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the City Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the City, taking into account the range of the position and the relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the City shall consider internal comparisons with other employees in the same or similar jobs.

Demotions. When an employee is demoted to a position for which they are qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to perform the job and consistent with the placement of other employees within the same classification in that salary range when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased at least 5%. Salaries of demoted employees may be no greater than the maximum of the new range. In setting the salary, the City shall consider internal comparisons with other employees in the same or similar jobs.

Transfers. The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment.

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately 5% per pay grade (with a 15% increase maximum) or an increase to the minimum rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least five percent above the minimum of the minimum rate in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

SECTION 8. SALARY EFFECT OF SALARY RANGE REVISIONS

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately 5% per increase in range, or to the minimum rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to 5% above the minimum in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

SECTION 9. TRANSITION TO A NEW SALARY PLAN

The following principles shall govern the transition to a new salary plan:

- a) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- b) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised at least to the new minimum rate for their classes. For employees who have completed probation, the employee's salary shall be advanced to five (5) percent above the minimum for the new salary rate in the new plan.
- c) All employees being paid at a rate below the maximum rate established for their respective classes shall maintain their current rate of pay unless the transition includes pay adjustments approved by City Council.
- d) All employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

SECTION 10. EFFECTIVE DATE OF SALARY CHANGES

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period. Performance Pay increases or bonuses will become effective the first

day of the first full pay period of the new fiscal year, or at such specific date as may be provided by procedures approved by the City Manager.

SECTION 11. PAYROLL AND TIMESHEETS

The pay week for all City departments will begin Monday and end Sunday night. However, exceptions may be made by the City Manager based on the needs of each department. Documentation shall be maintained by Human Resources and shall be reviewed annually by Human Resources as part of the budget process. Payroll is processed on a bi-weekly schedule and time cards are to be turned in following the weeks worked with signatures from both the employee and Department Head for the accurate time worked and/or any sick, vacation or holiday pay which has been approved.

If an employee willfully records time that was not worked in order to be paid these actions will be grounds for disciplinary action as outlined in Article IX.

Except for extenuating circumstances, any employee's failure or refusal to submit a signed time card will result in an employee's time not being processed for that pay week. Time worked will be paid upon completion of and the signing of the time card. Such actions may be grounds for disciplinary actions as outlined in Article IX.

Payroll will be run once a month for the City Council and the Mayor. Other council appointed boards that are eligible for meeting stipends, as designated by the City Council, will be paid semiannually during the year.

SECTION 12. OVERTIME PAY PROVISIONS

Employees of the City can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the City and determined by the Department Head. Overtime work should normally be approved in advance by the Department Head or City Manager.

To the extent that local government jurisdictions are so required, the City will comply with the Fair Labor Standards Act (FLSA). The City Manager and the Human Resources Director shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours worked up to the FLSA established limit for their position (40 hours in a 7-day period; 86 hours for police, in a 14 day period, and 212 hours for Fire personnel in a 28 day period). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate.

In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, compensatory time used, or holidays be included in the computation of hours worked for FLSA purposes.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime or compensatory time.

When time off within the work period cannot be granted, overtime worked will be paid or compensatory time will be accrued at 1 ½ times the regular rate of pay, in accordance with the FLSA.

Employees that accrue compensatory time shall be required to use compensatory time prior to using vacation leave. Compensatory time balances may not exceed a maximum of 80 hours without City Manager approval. Any employee who has a comp time balance exceeding 80 hours, will be required to work with their department to schedule time off to reduce the compensatory time balance to below 80 hours.

Department Heads will carefully review each employee's comp time earned, comp time paid and/or comp time "banked" request with each payroll. Departments will receive bi-weekly leave reports showing the amount of hours earned and banked for each employee's comp time.

All employees comp time must be recorded on timesheets for recordkeeping in the payroll system. Comp time reflected in the payroll system supersedes any comp time records established or maintained by departments or individuals.

Employees in positions determined to be classified as "exempt" by the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees, due to the nature of their work and pay classification, will not receive compensation time for these hours. Exempt employees will be granted one week of exempt flex time at the beginning of each calendar year. Flex-time must be used prior to any vacation time. Flex time cannot be converted to regular vacation and/or sick time and will not be paid out at the time of separation. Flex time cannot be carried over from one calendar year to the next. Any time not used by December 31st of each year will be lost. An exempt employee hired after the first of the calendar year will be granted a prorated amount of flex time.

State of Emergency. When the Governor declares a State of emergency, overtime will be paid or compensatory time will be granted at straight-time to FLSA exempt employees when the following conditions occur:

- a) A gubernatorial declaration of state of emergency,
- b) Requirement by management for employees to work overtime for purposes of response and/or recovery during the emergency, and
- c) Funds are available. The City Manager shall determine if funds are available to cover the overtime payments. The City shall distribute any overtime pay consistently with a pre-defined standard that treats all employees equitably.

SECTION 13. ON-CALL PAY

The City provides a continuous twenty-four hour a day, seven day a week service to its citizens. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any

hour of the day or night. One of the conditions of employment with the City is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position.

Each applicable department has an established rotation where different employees share responsibility for being ready to return to work for a specified period of time when called. On-call status in a department must be regularly shared by more than one employee on a rotating basis. The employee must be in touch by pager, radio, or telephone numbers left available at all times of assignment, wherever he or she goes. On-call status means being fit and able to report to work within an acceptably short period of time, as designated by the department.

Departments may also establish procedures where employees may request in advance to have a substitute cover for him/her for a designated portion of the on-call time for reasons acceptable to and approved by the supervisor. The hours which were covered by the substitute would be deducted from the total on-call hours of the primary employee, and would be paid to the substitute.

If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the City Manager.

SECTION 14. ON-CALL COMPENSATION AND CALL-BACK PAY.

When designated on-call employees are not performing work duties, the City will provide compensation in appreciation for the commitment of being on-call. Compensation will be paid to non-exempt employees at the rate of ~~\$2.00-90 (90-cent)~~two dollars per hour of on-call time.

When a non-exempt employee is actually called back to work or a worksite because of special needs or emergencies, non-exempt employees will be paid for a minimum of two hours of work, even if their actual work time was shorter. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

SECTION 15. PAYROLL DEDUCTION

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the City Manager as to capability of payroll equipment, associated increase in workload and appropriateness of the deduction.

It is the City's policy to comply with the provisions of the FLSA with regard to deductions from exempt employees' salaries. Accordingly, improper deductions from exempt employees' salaries are specifically prohibited. If an employee believes that an improper deduction has been made, immediately contact your supervisor and the Human Resources Director. Any exempt employee who believes that an improper deduction has been made from their salary may also file a grievance in accordance with the provisions of Article X.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, reimbursement for that deduction will be provided.

SECTION 16. LONGEVITY PAY

Full-time employees of the City may be compensated for years of continuous service by payment of a longevity supplement based on the following table. Annual longevity amounts are based on years of service and amount listed as outlined below. The date of eligibility will be set as of January 1st of each year. Payments shall be made the week of Thanksgiving.

Employees hired **after** July 1, 2014 will use the following guidelines:

Years of Service	Longevity Amount
5 -9	\$500.00
10-14	\$750.00
15-20	\$1000.00
21 yrs. and over	\$1250.00

Maximum longevity payment shall have a ceiling of \$1,250.00.

Employees hired **before** July 1, 2014 will maintain a grandfathered status and will use the following guidelines:

Years of Service	Longevity Amount
0-4	\$150.00
5 -9	\$500.00
10-14	\$750.00
15-20	\$1000.00
21 yrs. and over	\$1250.00

Maximum longevity payment shall have a ceiling of \$1,250.00.

Longevity pay is not guaranteed, but rather is subject to the approval of the City Council and may or may not be approved each fiscal year depending upon the financial conditions of the City and other factors. Longevity pay would not be considered a part of the annual base pay. Appropriate federal state, retirement, etc. deductions will be made.

Former employees returning to the City of Brevard for employment will be subject to the new Longevity Pay schedule and will not receive credit for prior service.

The Human Resources Department will maintain records of those employees who qualify as grandfathered and those who will follow the new Longevity Pay schedule.

An employee must be in active status through November 30th in order to be eligible for payment. Any eligible employee in a leave without pay status will not receive payment until they have returned to work and in an active pay status.

SECTION 17. BONUS FOR TEMPORARY PERSONNEL AND PART-TIME FIRE PERSONNEL

In lieu longevity, Temporary Personnel and Part-time Fire Personnel are eligible for a \$75 bonus if they meet the following eligibility requirements:

1. Employed prior to January 1 of the year of the bonus.
2. Worked over 200 hours during the current year and are still active on the department's roster.

Payments shall be made the week of Thanksgiving.

These bonuses are not guaranteed, but rather are subject to the approval of the City Council and may or may not be paid as approved for each fiscal year depending on the financial conditions and other factors. These Bonuses are not to be considered a part of annual base pay. Appropriate federal and state, retirement etc. deductions will be made.

An employee must be in active status through November 30th in order to be eligible for payment. Any eligible employee in a leave without pay status will not receive payment until they have returned to work and in an active pay status.

SECTION 18. PAY FOR ACTING IN A HIGHER LEVEL CLASSIFICATION

An employee who is formally designated to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification may receive an increase for the duration of the "Acting" assignment. The employee may receive a salary adjustment to the minimum level of the job in which the employee is acting or an increase of 5% increase per grade (with a 15% maximum increase), whichever is greater. Any such salary increase shall be temporary and upon completion of the assignment, the employee shall go back to the salary he or she would have had if not assigned in the "Acting" role, taking into account any increases the employee would have received if they had not been placed in the "Acting" role.

If a cost of living adjustment (COLA) increase is given during this time then the increase will be based on the original position. In the event a performance increase is given it will be based on the original position.

Department Heads who work in a capacity other than their department, along with assigned duties, for a temporary time frame will receive a minimum increase of 5% at the discretion of the City Manager.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

SECTION 1. EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the City to foster, maintain and promote equal employment opportunity. The City shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), political affiliation, marital status, disability or genetic information. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of duties with or without reasonable accommodation.

SECTION 2. IMPLEMENTATION OF EQUAL EMPLOYMENT OPPORTUNITY POLICY

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), political affiliation, marital status, disability or genetic information. Notices with regard to equal employment matters shall be posted in conspicuous places on City premises in places where notices are customarily posted.

SECTION 3. RECRUITMENT, SELECTION AND APPOINTMENT.

When full-time and part-time position vacancies occur the Human Resources Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary to establish a diverse and qualified applicant pool.

Job Advertisements.

Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment.

All persons expressing interest in employment with the City shall be given the opportunity to file an application for positions which are currently vacant and open for applications.

Selection.

Department Heads, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience

qualifications required for the position, including criminal history where job-related using the DCI when needed. All selection devices administered by the City shall be valid measures of job performance.

Appointment.

Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Human Resources Director including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Director and Department Head shall recommend approval of appointments and the starting salary for all applicants to the City Manager. The City Manager will make the final decision on all internal and external applicants.

SECTION 4. PROBATIONARY PERIOD

An employee appointed or promoted to a regular position shall serve a probationary period of six-months, except that employees in sworn police, entry level fire, and Department Heads positions shall serve a twelve-month probationary period. Employees hired as "trainees" shall remain on probation until the provisions of their trainee status are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months. The probationary period for employees of the fire department and sworn police officers may be shortened (but to no less than 6 months) for employees based on experience and qualifications upon the recommendation of the Department Head and approval of the Human Resources Director and City Manager.

Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. The City Manager, upon a recommendation from the Department Head and Human Resources Director may extend the probationary period for a maximum of six additional months

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this Policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed.

While serving in a probationary status, regular employees shall receive all benefits provided in accordance with this policy except that such employees may not take vacation leave (unless the denial of such leave will create a hardship) and shall not be entitled to utilize the appeal or grievance procedures established by this Policy.

SECTION 5. PROMOTION

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the City's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is the best suited of all applicants, that applicant shall be appointed to that position. The City will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in rare situations where previous City experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the City will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions by submitting an internal application.

SECTION 6. DEMOTION AND REASSIGNMENT

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position.

Voluntary Demotion: When an employee wishes to be considered for a position with less complex duties and reduced responsibilities, they may apply by contacting Human Resources and submitting an Internal Application. A voluntary demotion is made without using disciplinary procedures.

Involuntary Demotion: A disciplinary demotion shall follow the disciplinary procedures outlined in this Policy.

SECTION 7. TRANSFER

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual internal application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Director to the City Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this Policy.

An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

SECTION 1. WORK SCHEDULE

Department Heads shall establish work schedules in consultation with the Human Resources Director and may implement with the approval of the City Manager which meet the operational needs of the department in the most cost effective manner possible. Any alterations to employee schedules or shifts must be submitted to the Human Resources Director. Recommendations will be made by the Human Resources Director and Department Head to the City Manager for final approval.

Attendance with respect to these work schedules are the responsibility of all City employees. Excessive absenteeism and tardiness over a period of time are grounds for disciplinary action as outlined in Article IX.

SECTION 2. POLITICAL ACTIVITY

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

- a) Engage in any political or partisan activity while on duty;
- b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- d) Coerce or compel contributions from another employee of the City for political or partisan purposes;
- e) Use any supplies or equipment of the City for political or partisan purposes; or
- f) Be a candidate for nomination or election to office under the City Charter;

Any violation of this section shall subject the employee to disciplinary action including dismissal.

SECTION 3. OUTSIDE EMPLOYMENT AND ACTIVITIES

The work of the City shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the Department Head. The Department Head Human Resources Director and the City Manager will review such employment for possible conflict of interest and then submit a record of the employment and review to the personnel file.

Conflicting or unreported outside employment, or the use of City resources for such employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file. In some cases, non-compensated activities may also create a conflict of interest. Employees are encouraged to report such activities and to use good judgment when determining whether such activities are appropriate when considering their position with the City.

Examples of conflicts of interest in outside employment and/or activities *include but are not limited to*:

- a) employment/positions with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment/positions with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's City duties.

SECTION 4. DUAL EMPLOYMENT

A full or part-time employee of the City may simultaneously hold another position with the City if the temporary position is in a different department and clearly different program area from that of the full or part-time position. The work of the temporary position must also be performed on an occasional or sporadic basis as identified in Fair Labor Standards Act regulations. However, the work of the full or part-time position shall take precedence over the temporary position, and such temporary work will not ordinarily count toward the calculation of overtime for pay or time off.

SECTION 5. EMPLOYMENT OF RELATIVES

The City prohibits the hiring and employment of immediate family or those with a close personal relationship in positions if such employment will result in one being in the chain of supervision of the other, nor where one member occupies a position which has influence over the others employment, promotion, salary administration, or other related management or personnel considerations. Employment of immediate family members or those with a close personal relationship in shall be prohibited within the same department, unless approved by the City Manager. This policy is intended to avoid circumstances that could create problems within the work unit or could undermine the public's perception of fairness in providing equal opportunity. For these reasons the city has limitations on the employment of relatives. This policy is not intended to prohibit relatives from working for the City.

DEFINITIONS:

- a) "Immediate Family" is defined as: Spouse, parents, guardian, children, siblings, grandparents, great-grandparents, grandchildren, aunts, uncles, nieces and nephews, plus the various combination of half, step, in-law and adopted relationships that can be derived from the relationships above.
- b) "Close Personal Relationship" for the purposes of this policy will include any relationship where the degree of closeness may suggest that problems might be created within the work unit, or

that the public's perception of fairness in providing equal opportunity for employment to all qualified individuals would be violated. This may include couples, roommates, other relatives who grew up together, or similar relationships.

The City also prohibits the employment of any person into a regular position who is an immediate family member or has a close personal relationship of individuals holding the following positions: Mayor, Mayor Pro Temp, City Council Member, City Manager, or Human Resources Director.

RULES AND PROCEDURES

- a. An employee who fails to report any existing relationship as defined above on his/her employment application will be subject to corrective action up to and including dismissal.
- b. Employees shall report any existing relationships as defined above when applying for other positions within the City of Brevard.
- c. An employee who has, or develops, a relationship as defined above must report that relationship and/or any changes to those relationships to the Department Head, who shall notify Human Resources.
- d. An employee must notify the Department Head in those cases where the degree of closeness of a relationship would suggest that problems might be created as defined above. The department will determine, in collaboration with the Human Resources Director, whether the closeness would result in a restriction on the position or job assignment.
- e. If the reported relationship would require a restriction or job assignment, the Human Resources Director will work with the department to affect changes whenever possible. If changes are not possible to comply with this policy, one of the relatives may be required to resign from City employment.
- f. Failure of an employee or supervisor to report any relationships that might be restricted by this policy to the Human Resources Director will result in corrective action, up to, and including dismissal.
- g. Department Directors shall be responsible for ensuring compliance with this policy.

SECTION 6. INCLEMENT WEATHER AND EMERGENCY CLOSINGS

The City of Brevard recognizes there may be instances of inclement weather or emergency conditions that may prevent or modify its ability to provide full services to the community. This policy sets forth guidelines for determination of modification in operating hours and services, designation of essential employees, and how employees shall account for their time when released from their regular work schedule due to inclement weather or emergency conditions.

Definitions:

Inclement Weather: Adverse weather or other conditions that may prohibit some employees from reporting to work, but do not necessitate the closing of facilities or curtailment of operations.

Emergency Closing Condition: Conditions that may be hazardous to life or safety and necessitate the closing of a City facility or curtailment of operations such as: catastrophic life-threatening weather (i.e. snow, ice, hurricane, tornado, earthquake, flood, pandemic, or other natural disaster), fire, equipment failure, disruption of power and/or water, contamination by hazardous agents, terrorist acts, or forced evacuations from the work site.

Essential Employees: Employees whose nature of work/job duties and responsibilities are required for the essential operations of the City. Essential employees will be required to report for work per their regular schedule or may be called in to work on an unscheduled workday, despite an official closing, delay, or cancellation. Essential employees who are required to remain at work during hazardous times may be relieved of duties for the period necessary to assure the safety of their families.

Non-essential Employees: Employees whose nature of work/job duties and responsibilities are not generally required for the essential operation of the City. Non-essential employees are excused from work during an official closing, delay, or cancellation unless they are notified by an appropriate supervisor that they must report for work to support the necessary operations of the City government in spite of a closing, delay, or cancellation. Such determinations and notifications are made on a situation-specific basis and will not necessarily result in a permanent change to the non-essential employee designation for the position or require a change to the position description.

It is the general policy of the City that offices and facilities are open to provide regular services to the public during periods of inclement weather or other conditions of a non-emergency nature. However, the City Manager, or designee, shall determine when conditions exist that warrant the modification of operational hours such as a late opening, closing for the full day, or closing early.

Mandatory Operations and Essential Employee Designation:

Some City departments and operations must continue to provide services during periods of inclement weather and emergency conditions. These include Police, Fire, Public Works, Water Treatment, and Wastewater Treatment, and other internal service department staff needed as designated by the Department Head and/or City Manager.

The department head or City Manager shall pre-determine, as much as possible, services required and designate employees for provision of mandatory operations. It must also be determined if additional non-essential employees will be needed to support City functions on a case-by-case basis. An essential employee's late reporting or failure to report will result in review by the department head and can result in adjustment in leave hours, leave without pay, or disciplinary action as circumstances warrant.

Administrative Leave and Accounting for Time:

When the City Manager closes a facility and/or department for an entire day, non-essential employees will be required to use accrued time (compensatory time or vacation leave, in that order), or leave

without pay. Department heads may authorize employees to work from home under certain circumstances. If such work is authorized, any hours worked will be counted as normal work hours. Employees unable to work remotely may request to be reassigned to assist with essential functions and if work is available will be allowed to report and be paid for any hours worked.

Department Heads may also authorize employees to make up some of the missed hours during the same work week if work is available.

When the City Manager modifies operational hours (delayed opening or closing early) eligible non-essential employees may be granted paid Administrative Leave.

In order for a non-essential employee to be considered for Administrative Leave

- 1) The employee must be a full-time or part-time employee (regularly scheduled at least 20 hours per week).
- 2) The day in which operational hours are altered must be a day on which the employee would normally work.
- 3) The hours during which the City offices are altered must fall within the employees normally scheduled work day.
- 4) Employees already scheduled off work due to vacation or sick leave are not eligible for paid Administrative Leave.
- 5) Employees must report to work during the hours designated as open. An employee who does not report to work, reports later than scheduled opening or leaves earlier than scheduled closing will be not be eligible for any Administrative Leave.
- 6) Paid Administrative Leave hours cannot be used to take an employee's hours above their scheduled work day and/or work week.
 - a) If an employee has already exceeded the hours of his/her standard workweek, the employee does not receive Administrative Leave for hours the City offices are closed.
 - b) If actual hours worked on the day in which operational hours are altered are greater than the employee's scheduled work day, the employee does not receive Administrative Leave.

The City Manager may authorize additional pay to exempt employees at straight time for additional hours worked when all the following conditions occur:

- The Mayor has declared a state of emergency.
- Exempt employees are required to work additional hours for purposes of response and/or recovery
- during the emergency.
- Funds are available, and the department head has obtained approval from the Town Manager to use such funds for this purpose.

Auxiliary and Temporary employees are not eligible for paid Administrative Leave.

Any deviation from this policy in any way will only be on the authority of the City Manager, or his designee.

SECTION 7. WORKPLACE HARASSMENT

The City believes that all employees are entitled to work in an environment free from harassment, intimidation and coercion, allowing each employee to reach his or her full potential. The City prohibits any form of harassment, discrimination or intimidation based on age, color, disability, national origin, race, religion, sex, sexual orientation, or other characteristic or activity protected by federal, state or local law. Forms of harassment under this policy would include, but are not limited to:

- Racial slurs, ethnic jokes, sexual remarks;
- Posting of offensive statements, posters or cartoons, offensive material downloaded from the internet;
- Solicitation of sexual favors, unwelcome physical contact, sexually explicit telephone, text message or e-mail communications.

Any employee who believes they have personally experienced or directly observed an act of harassment should report the incident to their supervisor/manager or a member of the Human Resources department immediately.

An employee may skip a level(s) in the management chain in order to seek an impartial, uninvolved party with which to lodge their complaint.

Supervisor/managers or Directors who receive a complaint, or who personally observe harassing conduct, should inform the Human Resources Department immediately.

The City will not retaliate in any way against an individual who makes a report of harassment, nor will it permit any other employee to do so. Retaliation is a serious violation of this policy and should be reported immediately to those persons involved in investigating the initial complaint.

The Human Resources and/or Legal departments will conduct an investigation and will be required to report the findings to the appropriate Executive for further action.

The privacy of the employee filing the report and the employee under investigation shall be respected at all times, consistent with the obligation to conduct a fair and thorough investigation.

In the event Human Resources does not establish probable cause or determines the event did not occur, the parties involved will be notified and the findings of the investigation communicated on a need-to-know basis.

Any substantiated intentional act of harassment or proven retaliation in response to a complaint of harassment is considered to be a serious violation of this policy and will be dealt with accordingly through the City's Disciplinary procedures. Additionally, any employee proven to have falsely accused another employee of an act of harassment as defined under this policy will be subject to disciplinary action.

Although the City encourages and expects prompt reporting of harassment claims so that rapid responses and appropriate actions may be taken, no limited time frame will be instituted for reporting such claims. The late reporting of a claim will not in and of itself preclude the City from investigating and/or taking remedial action.

SECTION 8. SOLICITATION AND ACCEPTANCE OF GIFTS AND FAVORS

- 1) No official or employee may accept any gift, favor, or thing of value from any person who, to the knowledge of the official or employee, is interested directly or indirectly in any manner whatsoever in business dealings with the City, or who stands to derive some financial benefit by any action or decision of the City, under circumstances where such acceptance may have or may reasonably appear to have a tendency to influence that official or employee in the discharge of duties.
- 2) No official or employee may grant in the discharge of duties any improper favor, service, or thing of value.
- 3) No official or employee may use his position with the City to secure a contract for the purchase of goods or services from any firm or organization in which he has a direct financial interest.
- 4) No elected official may be employed by the City in any capacity. If an employee is elected or selected to an official position, then he or she forfeits his or her employment with the City upon assuming that office.

SECTION 9. SAFETY

Safety is the responsibility of both the City and its employees. It is the policy of the City to establish a safe work environment for employees. The City shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads, Supervisors, and the Safety Committee are responsible for ensuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal. The City Manager is responsible for the administration of a comprehensive safety program or his designee.

SECTION 10. SOCIAL MEDIA

The City of Brevard recognizes that social media has become a common form of communication in the workplace and the community at large. Social media includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal website, social networking or affinity website, web bulletin board or a chat room.

The City has adopted this Social Media Policy to provide guidance to City of Brevard employees when using social media in order to prevent violations of existing City policies and protect against inappropriate social media content. Employees who fail to conduct themselves in a manner consistent

with this policy are subject to discipline, up to and including termination.

Employee Guidance for Participating In Social Media

- 1) Follow all copyright and privacy protection and disclosure laws that might apply to the City or your functional area.
- 2) Whenever possible and wherever content deems it appropriate, make it clear you are speaking for yourself and not on behalf of the City. Be mindful of your posts as you represent the City of Brevard, both on and off the clock. It is recommended that when commenting on City-related posts on non-City platforms or sites, in the spirit of transparency, that you identify yourself as a City employee.
- 3) The City advises that employees use discretion when using social media sites. Remember that what you write is public, may be public for a long period of time, and may spread to large audiences. Refrain from posting information that you would not want your supervisor or other employees to read or that you would be embarrassed to see in the newspaper or on television.
- 4) The City expects its employees to be truthful, courteous, and respectful toward supervisors, co-workers, citizens, customers, and other persons associated with the City. Employees shall not engage in inappropriate postings that may include discriminatory remarks, harassment, and threats of violence or similarly inappropriate or unlawful conduct.
- 5) Employees should be mindful when posting photos on their personal social media accounts that could be deemed questionable in nature.
- 6) City employees shall not divulge private, non-public, and confidential information gained by reason of their authority or position. This includes personal information (social security numbers or home addresses) about your co-workers without their consent, information that may put your co-workers in harm's way, and Human Resources investigations. Any posts outside of these parameters are subject to review by Brevard Human Resources.
- 7) Employees shall not post any material that could impair the effective delivery of public service or seriously disrupt the normal operation of any branch of the City government.
- 8) Employees shall not post photographs or other depictions of departments' uniforms, badges, patches, marked units and City, Police Department and/or Fire Department logos in a manner not befitting of and/or clearly harmful to the City's reputation unless pre-approved by the City Manager.
- 9) Brevard public safety employees shall not like, share or post any information about on-going criminal investigations, confidential departmental affairs or active emergency scenes. Where applicable, police and fire personnel should be mindful of the possible adverse consequences of postings regarding cross-examination in criminal cases.

When in doubt employees are encouraged to seek the guidance of supervisors regarding any posting that may adversely reflect upon either the department or upon the professionalism or integrity of the employee.

City employees should expect that any information created, transmitted, downloaded, exchanged or discussed in a public online forum may be accessed by the City at any time without prior notice. The City

reserves the right to monitor social media activities of employees, whether or not such activities are conducted with City resources, to the extent permitted and in accordance with applicable law.

Any employee who becomes aware of or has knowledge of any posting, website, or web page in violation of the provisions of this policy should notify his or her supervisor immediately for appropriate action.

As with checking personal email or personal use of Internet browsing on City equipment or technology, employees should limit participation for personal use on social networking or through websites or services such as Twitter, Facebook, or similar sites/services or posting to a blog or website, during working time. Personal use must not interfere with the employee's or other employees' ability to perform their jobs. Such personal use will be kept to a minimum and abuse of this privilege can result in disciplinary action up to and including termination.

SECTION 11. SUBSTANCE ABUSE POLICY

In order to ensure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations, the City is committed to providing a drug and alcohol free workplace for all employees.

No employee may use, possess, manufacture, distribute, dispense or sell alcohol or any controlled substance or illegal drug in the workplace or on the City's property, while on duty, on-call or while operating a City vehicle. In addition, no employee may report to work, remain on duty, or be placed on an on-call status while under the influence of or impaired by any illegal drug, controlled substance, or alcohol.

The City has procedures for pre-employment screenings, reasonable suspicion screenings, random screenings, and post-accident screenings in order to facilitate this policy. These procedures are implemented by the Human Resources Director.

All employees are responsible for helping assure that we maintain a safe, drug and alcohol free workplace. If any employee has a reasonable suspicion of any violations of this policy, the employee must immediately report this issue to their supervisor or Human Resources.

The City will investigate thoroughly and promptly all claims of violations of this policy, WITHOUT CONSEQUENCE TO THE EMPLOYEE REPORTING THE CONDUCT, so long as the report is made in good faith and the information provided is truthful to the best of the employee's knowledge. However, if, after investigating any allegation of a violation of this policy, the City determines that the report was not bona fide and was not made in good faith, or that any employee has provided false information, disciplinary action may be taken against the employee who filed the improper report or who gave the false information.

Retaliation against employees who make reports under this section is expressly prohibited.

VIOLATIONS OF THIS POLICY OR RETALIATION AGAINST EMPLOYEES FOR MAKING BONA FIDE REPORTS UNDER THIS POLICY, WILL SUBJECT AN EMPLOYEE TO DISCIPLINARY ACTION UP TO AND INCLUDING IMMEDIATE DISMISSAL.

SECTION 12. DISRUPTION OF THE WORK PLACE

The City has a responsibility to maintain a productive and professional work environment conducive to conducting the City's business. To that end, employees are expected to keep any work place disruptions and distractions to a minimum. This includes personal visits and phone calls, receiving personal mail or packages, charitable solicitations, or other activities that distract an employee or coworkers from the work of the City. Supervisors will provide feedback to employees on any actions that are becoming distracting.

SECTION 13. WORK PLACE VIOLENCE

The City of Brevard is committed to the safety of its employees and the public. The City's mission is to maintain a workplace that is free of violence. Violence by employees or anyone else against an employee or visitor on City property will not be tolerated.

All employees are responsible for helping assure that we avoid incidents of workplace violence in the workplace. It is the responsibility of every employee to contribute to the safety of our work environment by refraining from threats, violence or activities that may provoke violence, and conducting City business with respect for all City employees and its citizens.

Workplace violence includes, but is not limited to, the following:

- Harassment; stalking; physical violence; the use of weapons of any kind; the direct or implied threat of physical violence toward any employee or member of the public during working hours or by an employee on City premises or in City uniform.
- This list of behaviors, while not inclusive, provides examples of conduct that is prohibited by this policy:
 - a) Causing physical injury to another person
 - b) Making threatening remarks
 - c) Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress
 - d) Intentionally damaging employer property or property of another employee
 - e) Committing acts motivated by, or related to sexual harassment or domestic violence

Any potentially dangerous situation must be reported immediately to a supervisor/manager and if necessary, the Police Department. Reports or incidents warranting confidentiality will be handled appropriately and confidentiality will be maintained to the farthest extent possible.

To promote this safe workplace, the City has developed reporting guidelines for possible internal and external threats. If any employee receives, overhears or becomes aware of any threatening communications from an employee or outside third party, the employee must report it to his/her

supervisor or the Department Head, immediately and follow the City's reporting guidelines. An employee's failure to report such conduct or to fully cooperate in the City's investigation of such conduct could result in disciplinary action.

Employees should not engage in or encourage another employee to engage in either physical or verbal confrontation with a potentially violent individual. If any employee encounters any individual who is threatening immediate harm to the employee, themselves or any other person, contact the police immediately.

The City reserves the right to seek a civil "no-contact" order in accordance with the provisions of the North Carolina General Statutes on behalf of any City employee who has been the victim or target of workplace violence or other unlawful conduct in the workplace in violation of this policy.

Anyone with questions in regards to potential violence or threats should contact his/her Department Head, Human Resources Director or the City Manager.

VIOLATIONS OF THIS POLICY AGAINST WORKPLACE VIOLENCE WILL SUBJECT AN EMPLOYEE TO DISCIPLINARY ACTION UP TO AND INCLUDING IMMEDIATE DISMISSAL.

SECTION 14. VEHICLE OPERATION

All employees driving City vehicles or driving personal vehicles for work related reasons must adhere to all traffic laws, speed limits, and pedestrian courtesies. When an incident warrants investigation one will be conducted by the Department Head, Supervisor, Human Resources Director, Finance Director and other resources as needed. A recommendation will be forwarded to the City Manager upon evaluation of the investigation and actions could warrant disciplinary actions outlined in Article IX.

SECTION 15. APPROPRIATE PERSONAL APPEARANCE, CLEANLINESS & UNIFORMS

All City employees will be advised of the appropriate dress for each department. It is the responsibility of all employees to adhere to the appropriate personal appearance for that work area.

In some departments uniforms may be provided along with professional cleaning service for these items. Uniform items provided by the City for employees include the following: appropriate safety shoes, work shirts, pants & jackets (when needed and budgeted by department), and safety equipment. These items must be purchased by the Department Head or Supervisor. In the event an individual makes purchases for uniform items and requests reimbursement the Finance Department may ask for additional receipts or information in regards to those items purchased. Items in question may be forwarded to the Department Head and City Manager for clarification prior to any reimbursement for items purchased.

In addition to personal cleanliness, all employees should keep their work unit clean and free of safety hazards.

Concerns regarding personal appearance or cleanliness should be forwarded to Department Heads and the Human Resources Director.

SECTION 16. PROHIBITION OF WEAPONS

Under no circumstances are weapons permitted on any City property, including parking areas, including but not limited to the following: firearms, switchblade knives, knives with a blade longer than four (4) inches, dangerous chemicals, explosives, including blasting caps, chains and other object carried for the apparent use of injuring or intimidating another.

Provided however that this section shall not be applicable to Police and/or Fire Department personnel with respect to such items which are issued for use in the performance of their official duties.

SECTION 17. ADHERENCE TO ADOPTED SECURITY POLICIES

In order to ensure the safety and security of the City of Brevard employees, city officials and the public, all employees are required to adhere to the City Hall Security Policy and such other Security Policies as may be adopted by the City Council from time to time.

SECTION 18. COMPUTER AND ELECTRONIC COMMUNICATION POLICY

ELECTRONIC COMMUNICATIONS

The City may maintain electronic communication systems (e.g. voice mail, e-mail, internet access), and may provide computers and other electronic devices (e.g. cell phones, personal data assistants) for employees' use. These systems and electronic devices are provided to assist employees in the conduct of City business, and should be used only for those purposes. Employees are responsible to check for and respond to messages in a timely manner.

Employees are authorized to use only the computer software and hardware licensed by the City. A City employee is authorized to use these systems ~~then~~ when they/he/she has ~~ve~~ been given a user name and

password and has read and signed ~~the Computer and Electronic Communication Policy~~the Personnel Policy acknowledgement. -

Unauthorized reading or listening to other employee's voice or electronic communications by other employees is expressly prohibited except where necessary for the conduct of City business; however these systems and electronic devices are not private. All such systems and electronic devices and the data stored on them are and remain at all times the property of the City. All electronic communications and/or messages composed, sent and received on personal computers or other electronic communication systems or devices are and remain the property of the City, and no employee has an expectation of privacy with regard to their use of any of these systems or devices. The City reserves the right to retrieve, read, monitor, randomly audit and/or retain any message or information transmitted, composed, sent, received or accessed on any such system or device, including but not limited to for the purpose of enforcing the City's No-Harassment/No-Discrimination policy and other policies.

Usage of these systems and electronic devices is a privilege and good judgment should be exercised at all time. Examples of prohibited/inappropriate uses of electronic communication systems (including e-mail) by City employees include, but not are limited to: Illegal activities, Threats, Harassment, Slander, Defamation, violations of the City's workplace violence policy, ~~p~~Political endorsements, commercial activity (defined as buying/selling items or services for personal gain), chain letters, violations of copyright laws, violation of City policy, or for any purpose which would compromise the integrity of the City in any way. Under no circumstances may any electronic communication systems or other electronic devices provided by the City be used to send, receive or retrieve any material that may be reasonably considered offensive or disruptive to any employee. Examples of prohibited material would include, but not be limited to: sexual comments or images, racial slurs, pornographic material or any words or images which could reasonably be considered to be in violation of the City's No-Harassment/No-Discrimination Policy.

These systems are subject to public records laws in many cases. Electronic message procedures are recommended as the following. If messages have reference of administrative value and meet the definition of a Public Record, these should be printed and the hard copy, including transmission and receipt date, be placed in the corresponding case/project file. Messages that do not hold any administrative or reference value should be deleted immediately. Messages that are subject to the Public Records Law should be deleted according to the municipal records retention policy.

Employees who learn of any misuse or violations of this electronic communications policy should notify their supervisor, department head, the HR Director or the City Manager immediately.

Violations of this electronic communications policy may result in discipline, up to and including discharge.

SECTION 19. WORKPLACE INSPECTIONS AND PRIVACY NOTICE

In order to safeguard the property of the City and our employees, maintain a safe working environment for our employees, and to help prevent the possession, sale and/or use of illegal drugs on City property,

the City reserves the right to search any employee's office, desk, files, locker, sleeping areas, City owned vehicles or any other area or article which is on City property. Inspections may be conducted at any time, when the City Manager or department head determines that a search is appropriate.

Please be aware that all offices, desks, files, lockers, sleeping areas, City owned or maintained vehicles etc. are considered City property, and are provided for employee's use in their employment. The City will maintain a master key and/or a record of any combination/passcode for any locks installed in or on such areas. No employee should have an expectation of privacy with respect to any items or information located on or in City property, including but not limited to the areas listed above. As such, information and items which any employee considers private and/or personal should not be maintained on or in City property.

Refusal to cooperate or permit any inspection pursuant to this policy may result in disciplinary action, up to and including termination.

This policy regarding workplace searches shall be posted in conspicuous places on City premises where notices are customarily posted.

ARTICLE VI. EMPLOYEE BENEFITS

SECTION 1. ELIGIBILITY

All full-time employees of the City are eligible for employee benefits as provided for in this Article to the extent such benefits are made available to other similarly situated employees. The provision of the benefits described in this Personnel Policy are subject to availability of funds and the approval of the City Council in the City's annual budget, which is subject to change at the City's discretion with or without notice to the Employees. Temporary employees are eligible only for workers' compensation and FICA.

Regular Part-Time employees are eligible solely for the North Carolina Local Government Employee Retirement System, if they work the minimum number of hours to qualify, workers compensation, social security, unemployment compensation as prescribed by law and the Employee Assistance Program. Part-Time employees are also eligible to participate in any supplemental insurance or retirement plans.

SECTION 2. GROUP HEALTH AND DENTAL INSURANCE

The City provides group health and dental insurance programs for eligible full-time employees and their dependents. The provision of this benefit is subject to change and contingent upon the approval of the City Council.

Employees who meet the eligibility requirements may, if they so desire, purchase available group health and group dental through the City for themselves or for themselves and qualified dependents.

Employees shall be enrolled in the programs in accordance with the provision of the insurance contracts. Current employees enrolled in the group health plan and/or dental plan may make qualifying

event changes only during the plan year and will have the opportunity to make election changes during Open Enrollment.

Information concerning cost and benefits will be available to all employees in the Human Resources office.

Continuation of benefits will be extended to all employees upon termination of employment, as required by law, and administered by the City's third party administrator for health benefits. The former employee will be responsible for the total premium amount for the type coverage designated on a timely basis.

SECTION 3. GROUP LIFE INSURANCE, SHORT-TERM DISABILITY, DEPENDENT LIFE INSURANCE

The City provides group life insurance, short-term disability, and dependent life insurance for each full-time employee subject to the stipulations of the insurance contract. Life insurance, short-term disability, and dependent life insurance will be provided on an annual basis to City employees based upon an outline of benefits recommended by the City Manager and approved by the City Council.

SECTION 4. OTHER OPTIONAL SUPPLEMENTAL INSURANCE PLANS

The City may make other supplemental insurance plans available to employees upon authorization of the City Manager or City Council. Upon this authorization the supplemental insurance options are up to the discretion of the employee and funded completely by the employee.

SECTION 5. RETIREE BENEFITS: HEALTH INSURANCE, DENTAL INSURANCE & NCLGER SYSTEM

The provision of Retiree Benefits described in this Personnel Policy are subject to the applicable provisions of the various benefits plans which may be available over time, the availability of funds and the approval of the City Council in the City's annual budget. All such benefits are subject to change at the City's discretion with or without notice to the Employees and/or Retirees.

Health & Dental Insurance. Employees who retire with the City under the North Carolina Local Government Employees' Retirement System may currently elect to stay on the group health and/or group dental policy until they are Medicare and/or Medicaid eligible; however the retirees must pay for the full cost of the coverage. Retired employee's premiums must be paid by the first of each month based on a system established by the Finance Director. Failure to pay the required premium will result in loss of coverage. Retirees may elect to retain dental insurance even after becoming Medicare and/or Medicaid eligible.

Upon retirement the former employees must elect all health, dental, and life insurance benefits for themselves and any of their dependents. Once these elections are made, the retirees may not be eligible for coverage's that weren't elected at the time of retirement, meaning coverage's that were dropped will not be extended to a retiree upon this election to drop the coverage.

NCLGERS. Each employee who is expected to work for the City more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System on the first day of employment as a condition of employment. Newly hired employees, who are current members of the

NC Local or State Government Employees' Retirement Systems, shall be covered under the retirement system by the City on their first day of employment.

Employee and employer contributions are mandated by the Retirement System. Employee contributions are paid as payroll deductions. Employer contributions are not paid as a match; this is the required amount for an employer to enroll an employee in the retirement plan.

SECTION 6. LAW ENFORCEMENT SEPARATION ALLOWANCE

The City of Brevard provides a separation allowance to retired sworn law enforcement officers, as defined by N.C. Gen Stat. 128-21(11d) or N.C. Gen Stat 143-166.50, and as required and provided by N.C. Gen Stat 143-166.42. Eligibility and continuation of these benefits shall be subject to the conditions outlined in N.C. Gen Stat. 143-166.42.

SECTION 7. SUPPLEMENTAL RETIREMENT BENEFITS

The City may make other supplemental retirement plans available to employees upon authorization of the City Manager or City Council. These can include but are not limited to 401K plans, 457 deferred compensation plans, and Roth IRA's. Upon this authorization the supplemental retirement options are up to the discretion of the employee and funded completely by the employee.

SECTION 8. SOCIAL SECURITY

The City, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees.

SECTION 9. WORKERS' COMPENSATION

All employees of the City (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once. The HR Director must be notified within 24 hours of any injury, illness or incident. Upon return to work, the employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Department Head and the Human Resources Director will assist the employee in filing the claim.

SECTION 10. UNEMPLOYMENT COMPENSATION

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. City employees who are terminated due to a reduction in force or released from City service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

SECTION 11. TUITION ASSISTANCE PROGRAM

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the City service. Tuition, registration fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed for eligible expenses for one class per academic semester or quarter.

Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review by the Human Resources Director and approval of City Manager, subject to availability of funds. The City will require a certificate of satisfactory completion of the course prior to reimbursement.

SECTION 12. EMPLOYEE ASSISTANCE PROGRAM

The City provides an Employee Assistance Network designed to help employees and their families deal with financial difficulty, family or marital conflicts, substance abuse, etc. This is an extremely confidential benefit. An employee, or family member residing in the same household, who is experiencing a personal crisis should feel free to contact the Employee Assistance Network. Contact information is available online at the City's website or with the Human Resources Director.

In the event a Department Head or supervisor identifies a problem with job performance or personal conduct issues on the job a management referral can be made to the Employee Assistance Network. This referral can be completed by contacting the Human Resources Director. Upon evaluation of the situation and approval by the City Manager this referral to the Employee Assistance Network can be considered a condition of employment. This decision will be made on a case by case basis and clearly communicated to the employee.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

SECTION 1. POLICY

The policy of the City is to provide vacation leave, sick leave, and holiday leave to all full-time and part-time employees. Employees shall accrue leave proportionately with each payroll. Part-time Fire Department personnel, or temporary personnel are not eligible for holidays, sick or vacation leaves under this policy.

SECTION 2. HOLIDAYS

The following days, and other such days as the City Council may designate, are holidays with pay for regular full-time and part-time employees of the City:

Month	Holiday	Observed
January	New Year's Day	January 1 st
January	Martin Luther King, Jr. Day	Third Monday in January
March/April	Good Friday	Friday Preceding Easter
May	Memorial Day	Last Monday of May
June	Juneteenth	June 19 th
July	Independence Day	July 4 th
September	Labor Day	First Monday in September
November	Veteran's Day	November 11 th
November	Thanksgiving	Fourth Thursday in November (2 days – Thursday and Friday)
December	Christmas	December 25 (3 days – see schedule below)

If Christmas day falls on the day of the week indicated below, the days set forth will be observed as holidays:

<u>Day of the Week</u>	<u>Days Off</u>
Sunday	Friday, Monday and Tuesday
Monday	Monday, Tuesday and Wednesday

Tuesday	Monday, Tuesday and Wednesday
Wednesday	Tuesday, Wednesday and Thursday
Thursday	Wednesday Thursday and Friday
Friday	Thursday, Friday and Monday
Saturday	Thursday, Friday and Monday

When any recognized holiday (except Christmas), falls on Saturday, the preceding Friday will be the designated holiday. When any other recognized holiday (except Christmas), falls on Sunday, the following Monday will be the designed holiday.

Eligibility: In order to receive a paid holiday, the employee must have been in a paid status (including the use of approved leave accruals) the day before and the day after the holiday (working at least 50% of regular working week). Employees will not be paid for a holiday if he or she is on leave without pay.

-Part-time employees will also receive these holidays, provided that they are regularly scheduled to work on the day of the holiday. The amount of time for which the employee receives holiday pay will be based on the average scheduled hours per week.

Employees required to work on any of these holidays shall receive the equivalent time off or receive the 8 hours of holiday pay in addition to hours worked. The City Manager may at his discretion work with departments to adjust schedules as needed when work is required on one of these holidays.

Employees will also be granted one day of Floating Holiday per calenda year (starting in January 2025). This leave is provided to support diversity and offer flexibility by giving employees discretion to choose a holiday, event or paid day off that is significant to them.

- The Floating Holiday must be scheduled and approved in advance by the employee's supervisor.
- Every effort will be made to approve the requested holiday as work demands allow as long as approval does not adversely affect City services.
- Department Heads may rescind approval of an employee's Floating Holiday in the event of emergency/unforeseen situations that may arise, in order to meet work demands. In that situation, the impacted employee shall be allowed to submit a request for a different day to be utilized before the end of the calendar year.
- Eligible employees must submit Floating Holiday requests in full day increments.
- No Floating Holiday leave balance will be carried over to subsequent years.
- All unused Floating Holiday leave shall end and terminate without compensation when the employee resigns or is separated from the City.
- All other rules and conditions of Holiday Pay outlined in this policy apply to Floating Holiday.

SECTION 3. HOLIDAYS: EFFECT ON OTHER TYPES OF LEAVE

Regular holidays which occur during a vacation, sick or other type of paid leave period of any employee shall not be considered as vacation, sick, or other leave.

SECTION 4. HOLIDAYS: COMPENSATION WHEN WORK IS REQUIRED OR REGULARLY SCHEDULED OFF FOR SHIFT PERSONNEL

Employees that work in departments that do not close for holidays (i.e. Police Department, Water Treatment and Wastewater Treatment) shall be compensated for the holidays designated as a legal holiday in the following manner:

- 1) Work performed on the holiday shall be paid at the normal rate for the hours actually worked; unless hours worked meet or exceed overtime provisions.
- 2) Additional eight hours holiday paid will be paid for holiday pay.
- 3) An employee in one of these departments, similar to all other City employees, who are scheduled off on both the actual holiday and the day celebrated shall be entitled to pay for eight hours holiday pay.

Employees required to work on any of these holidays shall receive the equivalent time off or compensation as outlined above.

Departments may have additional policies regarding scheduled holiday time. These policies must be uniformly applied to everyone in that department and approved by the Human Resources Director.

SECTION 5. VACATION LEAVE

Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the City. Employees who wish to use leave for religious observances must request leave from their respective Department Heads. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the City.

SECTION 6. VACATION LEAVE: USE BY PROBATIONARY EMPLOYEES

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment. Exceptions may be approved by the Department Head and/or the City Manager.

SECTION 7. VACATION LEAVE: ACCRUAL RATE

Each full and part-time employee of the City shall earn vacation at the following schedule, prorated by the average number of hours in the workweek (Section 16):

Years of Service	Days Accrued Per Year	Hours Per Pay Period (80 hrs)
0-4	12	3.692
5-9	15	4.65
10-14	17	5.230
15-19	20	6.153
20-24	22	6.77
25 plus	24	7.384

Accruals will be made on a bi-weekly period basis. Accruals may be adjusted/pro-rated when an employee does not work a full two weeks.

ANNUAL LEAVE ACCRUAL WITH PRIOR LOCAL GOVERNMENT SERVICE.

The City of Brevard will allow each new employee with prior service in the North Carolina Local Government Employees Retirement System (LGERS) to accrue vacation accruals based on years of contributing service to the LGERS when there has not been more than a one-year break in service. Employees must provide Human Resources with documentation that shows their total years of service in the LGERS within 60 days of hire. Years of service that have been withdrawn and/or purchased will not be eligible for consideration in calculating total years of service. Failure to provide proof of years of service within 60- days after the hire date will result in forfeiting this benefit.

This benefit will be made available for 60 days for any current City of Brevard employee who is earning annual leave at a rate less than the rate which equals their total years of service in the North Carolina Government Employee Retirement System (LGERS) prior to employment with the City of Brevard. Current employees will have 60 days from the adoption of this policy to provide Human Resources with notification either in person or via email that they have additional years of service in the LGERS.

Human Resources will verify an employee's total service years. Accrual rates will be adjusted after the verification is complete and will not be retroactive but will take effect once verification has occurred. The new Annual Leave accrual rate will be effective beginning January 1, 2021.

This benefit of recognizing additional service years, not earned in the City of Brevard, does not affect an employee's qualification for longevity pay or seniority.

SECTION 8. VACATION LEAVE: MAXIMUM ACCUMULATION

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 240 hours.

Effective with the last payroll in the calendar year, any employee with more than 240 hours of accumulated leave shall have the excess accumulation removed so that only 240 hours are carried

forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken. At the end of the calendar year any employee with more than the designated number of vacation leave shall have the excess accumulation converted to sick leave. Converted sick leave shall be used in the same way as accrued sick leave.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

SECTION 9. VACATION LEAVE: REQUESTING USE OF VACATION LEAVE

Employees should request vacation leave in advance of the proposed leave period and leave shall be granted at those times designated by the Department Head which will least obstruct the normal operations of the City. Department Heads are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Requests should be made in advance to provide Department Heads with the maximum opportunity to evaluate the request and ensure the workplace is adequately staffed.

SECTION 10. VACATION LEAVE: COORDINATION OF LEAVE

- 1) Pay in lieu of vacation shall not be an option.
- 2) The City does not advance vacation time. Employees must have earned vacation leave before the leave may be used.
- 3) Vacation leave shall not be used to complete a resignation period after the last day of actual work.
- 4) If an employee is on vacation and becomes hurt or ill, that person may exercise the option to use sick time; the Department Head may request medical verification.
- 5) After having used all eligible sick leave, an employee may request to use accrued vacation leave or compensatory time off for a qualified Family and Medical Leave event.

SECTION 11. VACATION LEAVE: PAYMENT UPON SEPARATION

An employee who has successfully completed the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 240 hours, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation, four weeks in advance of the effective date for Department Heads. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the City Manager when deemed to be in the best interest of the City.

Employees who are involuntarily separated may receive payment for accumulated vacation leave subject to the 240 hours maximum. Employees dismissed for criminal conduct or detrimental personal conduct, as defined in Article IX, may be determined ineligible to receive vacation pay.

The estate of an employee who dies while employed by the City shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the 240 hour maximum established.

SECTION 12. SICK LEAVE

Sick leave with pay is not a right which an employee may demand but a privilege granted by City Council for the benefit of an employee.

Full-time and regular part-time employees may be granted sick leave for an absence due to the following reasons:

- 1) Sickness or bodily injury that prevents the employee from performing his/her regular duties.
- 2) Medical or dental appointments.
- 3) Exposure to a contagious disease when continuing to work might jeopardize the health of others,
- 4) To care for a member of the immediate family who is ill,
- 5) Absences related to the death of an immediate family member, but not to exceed three days for any one occurrence, and
- 6) To supplement Workers' Compensation and Short Term Disability leave.

Immediate Family: Spouse, parents, guardian, children, siblings, grandparents, great-grandparents, grandchildren, aunts, uncles, nieces and nephews, plus the various combination of half, step, in-law and adopted relationships that can be derived from the relationships above.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

SECTION 13. SICK LEAVE: ACCRUAL RATE AND ACCUMULATION

Each full-time employee shall earn sick leave on a bi-weekly basis at the equivalent of 12 days per year, based on the average work week. Sick leave for part-time employees shall be prorated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City, except as stated for employees retiring or terminated due to reduction in force.

SECTION 14. TRANSFER OF SICK LEAVE FROM PREVIOUS EMPLOYER

The City will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the City of Brevard. The sick leave amount must be certified by the previous employer, and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon successful completion of the probationary period.

The same standards shall apply for an individual who is re-employed with the City of Brevard and has a prior documented sick leave balance that was not transferred to another employer.

SECTION 15. SICK LEAVE: MEDICAL CERTIFICATION

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or employee's family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.
- 3) Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

SECTION 16. LEAVE PRORATED

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic work week shall be determined by the following formula:

- 1) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours)
- 2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
- 3) The number of hours in step 2 divided by 26 shall be the number of hours of leave earned biweekly.

SECTION 17. BEREAVEMENT LEAVE

A full-time or regular part-time, employee who has a death in the Immediate Family (as defined in Section 12 of this Article) is eligible for up to 3 days of paid bereavement leave. An employee who wishes to take time off due to the death of an immediate family member should notify his or her supervisor as soon as possible. If more leave time is desired or needed, or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken with the approval of the supervisor. Bereavement leave pay cannot duplicate any other compensation for the same time period or be used to pay an employee more than their regularly scheduled hours for the workweek. Employees out on approved Family Medical Leave, Workers' Compensation, or Leave without pay are not eligible for Bereavement Leave.

SECTION 18. PAID PARENTAL LEAVE

Regular full-time and regular part-time employees are eligible for up to six (6) weeks of paid parental leave following the birth of an employee's child or the placement of a child with an employee in connection with adoption or foster care. The purpose of paid parental leave is to enable the employee to care for and bond with a newborn or a newly adopted or newly placed child. This policy will run concurrently with the Family and Medical Leave Act (FMLA) Policy, as applicable. This policy will be in effect for births, adoptions, or placements of foster children occurring on or after July 1, ~~2023~~2024.

Coverage and Eligibility

An employee's eligibility for Paid Parental Leave shall be made based on the employee's months of continuous service and hours worked as of the date that the child is born or placed via adoption, foster or other legal placement.

~~as of the date of the qualifying life event. Employees who become parents via birth, adoption, foster or another legal placement are eligible if:~~

~~Employee is a regular full-time or regular part-time position.~~

~~Employees who have completed at least 30 days of employment but less than 6 months of employment immediately preceding the date of the event, are eligible for 2 weeks of Paid Parental Leave.~~

~~Employees who have completed six months but less than 1 year of employment immediately preceding the date of the event, are eligible for 4 weeks of Paid Parental Leave.~~

~~Employees who have completed at least 12 months of service immediately preceding the date of the event will be eligible for 6 weeks of Paid Parental Leave.~~

~~Employees do not gain additional weeks of paid leave during the 12 months following the event, eligibility is based on the service time as of the date of the event.~~

~~Employee has been continuously employed by the City of Brevard for the immediate 12 preceding months.~~

- ~~• Employee has worked at least 1,250 hours during the 12 consecutive months immediately preceding the date the leave would begin.~~

~~Eligibility determinations are made as of the date that the child is born or placed via adoption, foster or other legal placement.~~

In addition, employees must meet one of the following criteria:

- Have given birth to a child.
- Have adopted a child or been placed with a foster child (in either case, the child must be age 17 or younger).

- Note: Other legal placement does not include parental custody cases or legal assignments as a Guardian ad Litem (GAL). This provision does not apply to the adoption of a stepchild by a stepparent or similar circumstances.
- Surrogate mothers and sperm donors are not eligible for parental leave.

Amount, Time Frame and Duration of Paid Parental Leave

- Eligible employees will receive a maximum of six (6) weeks of paid parental leave per birth, adoption, or placement of a child/children. The fact that a multiple birth, adoption, or placement occurs (e.g., the birth of twins or adoption of siblings) does not increase the six-week total amount of paid parental leave granted for that event. In addition, in no case will an employee receive more than six weeks of paid parental leave in a rolling 12-month period, regardless of whether more than one birth, adoption or foster care placement event occurs within that 12-month time frame.
- Each week of paid parental leave is compensated at 100 percent of the employee's regular, straight-time weekly pay (to exclude overtime, on-call, or any supplemental pay types). Paid parental leave will be paid on a biweekly basis on regularly scheduled pay dates. Employees who work alternate schedules (police, fire, Water, Wastewater, etc.) will only receive six consecutive calendar weeks, regardless of schedule.
- Approved paid parental leave may be taken at any time during the 12-month period immediately following the birth, adoption, or placement of a child with the employee. Paid parental leave may not be used or extended beyond this 12-month time frame.
- Employees must take paid parental leave in one continuous period of leave and must use all paid parental leave during the 12-month time frame indicated above. Any unused paid parental leave will be forfeited at the end of the 12-month time frame.
- Upon termination of the individual's employment, he or she will not be paid for any unused paid parental leave for which he or she was eligible.
- If the employee requires leave before the actual birth, adoption, or placement due to medical reasons or to fulfill legal obligations, other available leave balances shall be utilized in accordance with the city's policy. Paid parental leave shall not be used prior to the qualifying event.

Coordination with Other Policies

- Paid parental leave taken under this policy will run concurrently with leave under the FMLA; thus, any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or placement of a child due to adoption or foster care, the leave will be counted toward the 12 weeks of available FMLA leave per a 12-month period. All other requirements and provisions under the FMLA will apply. In no case will the total amount of

leave—whether paid or unpaid—granted to the employee under the FMLA exceed 12 weeks during the 12-month FMLA period. Please refer to the Family and Medical Leave Policy for further guidance on the FMLA.

- After the paid parental leave has been exhausted, any employee requesting additional leave that may be available still under the FMLA (if balance exists) will be compensated through employees' accrued sick, vacation and compensatory time. Upon exhaustion of accrued sick, vacation and compensatory time, any remaining leave will be unpaid leave. Please refer to the Family and Medical Leave Policy for further guidance on the FMLA.
- The city will maintain all benefits for employees during the paid parental leave period just as if they were taking any other city paid leave such as paid vacation leave or paid sick leave.
- If a city holiday occurs while the employee is on paid parental leave, such day will be charged to holiday pay; however, such holiday pay will not extend the total paid parental leave entitlement.
- If the employee is on paid parental leave when the city offers administrative leave (known as an "admin day"), that time will be recorded as paid parental leave. Administrative leave will not extend the paid parental leave entitlement.
- An employee who takes paid parental leave that does not qualify for FMLA leave will be afforded the same level of job protection for the period of time that the employee is on paid parental leave as if the employee were on FMLA-qualifying leave.
- Paid ~~Family-Parental~~ Leave cannot be paid concurrently with any other leave or any applicable Short Term Disability.

Employee Responsibility

- The employee will provide his or her supervisor and the human resource department with notice of the request for leave at least 30 days prior to the proposed date of the leave (or if the leave was not foreseeable, as soon as possible).
- The employee must complete the necessary HR forms and provide all documentation as required by the HR department to substantiate the request. Official documents may include FMLA certification paperwork, Birth Certificate or Report of Birth, Adoption Order, Proof of Placement, etc.

SECTION 19. FAMILY AND MEDICAL LEAVE POLICY

Eligible Employees are regular full-time and part-time employees who: (1) have been employed with the City for at least 12 months; (2) have worked at least 1,250 hours during the 12 months immediately prior to the commencement of the leave; and (3) are employed at a worksite where 50 or more employees are located within 75 miles of the worksite.

Basic FMLA Leave

Eligible Employees may take up to 12 weeks of unpaid leave during any 12-month period for any one or a combination of the following reasons:

- to care for the employee's child after birth or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter or parent with a serious health condition;
- for the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) which makes the employee unable to perform one or more of the essential functions of his/her job; and/or
- because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on active duty or has been notified of an impending call or order to active duty in support of a contingency operation.

Rules and definitions pertaining to basic FMLA Leave.

- **Serious Health Condition.** A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider (generally within 30 days of the first day of incapacity) or one visit and a regimen of continuing treatment under the supervision of the health care provider; incapacity due to pregnancy or for prenatal care; incapacity or treatment due to a chronic serious health condition; permanent or long-term conditions; or conditions which require multiple treatments. Other conditions may also meet the definition of continuing treatment.

- The amount of basic FMLA Leave an eligible employee is entitled to will be calculated based on a rolling 12-month period. This means that any FMLA Leave an eligible employee has used during the preceding twelve (12) months will be counted to determine the amount of available FMLA Leave remaining. Thus, each time an employee uses FMLA Leave, the amount of FMLA Leave which the employee has available is the balance of the twelve (12) weeks that the employee has not used during the immediately preceding twelve (12) months.
- FMLA Leave for the birth, placement for adoption or foster care of a child is available only during the first twelve (12) months after the birth or placement of the child for foster care or adoption.
- When both spouses work for the City and are both Eligible Employees, the total leave in any 12-month period for both spouses will be limited to 12 weeks if the leave is taken for the birth, care after birth, placement for adoption or foster care of a child, or to care for a sick parent.
- In the case of FMLA Leave for the birth, placement for adoption or foster care of a healthy child, intermittent leave or working reduced hours is not ordinarily permitted.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Rules Applicable to Special Injured Service member Leave

- A Covered Service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is (1) undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness or (2) A covered veteran is an individual who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.
- An employee may take up to 15 days of qualifying exigency leave related to the military member's Rest and Recuperation.
- Leave to care for a Covered Service member must be taken within the single 12 month period following the date the Eligible Employee first commences leave to care for a Covered Service member. Any leave remaining after the single 12 month period expires is forfeited.
- Leave to care for a Covered Service member, when combined with another FMLA qualified leave may not exceed 26 weeks during the single 12 month period.
- When both spouses work for the City and are both Eligible Employees, the total leave in any single 12-month period for both spouses will be limited to a combined total of 26 weeks if the leave is taken for the birth, care after birth, placement for adoption or foster care of a child, to care for a sick parent, or to care for a covered service member with a serious injury or illness.

Intermittent and Reduced-Schedule Leave

Intermittent leave and reduced work schedules may be permitted: (1) when medically necessary due to the employee's serious medical condition; (2) when medically necessary to care for a parent, son, or daughter with a serious health condition; (3) when medically necessary to care for a Covered Service member with a serious injury or illness; (4) to provide care of psychological comfort to a covered family member with a serious health condition or a Covered Service member with a serious injury or illness; or (5) due to a Qualifying Exigency.

Rules Applicable to Intermittent/Reduced Leave Schedule

- In the case of FMLA Leave for the birth, placement for adoption or foster care of a healthy child or care of a parent, intermittent leave or working reduced hours is not ordinarily permitted.
- If an eligible employee requests intermittent leave or leave on a reduced work schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt City operations.

- If an eligible employee requests intermittent leave or leave on a reduced hours basis, the City reserves the option in the City's sole discretion, to require the employee to transfer, at their current pay and benefit level, to an alternative job for which the employee is qualified and which better accommodates the employee's need for intermittent leave or reduced hours than the employee's regular job.

General Rules for FMLA Leave

Employee Obligations

- All requests for FMLA Leave should be submitted to the Human Resources Director, and all questions regarding potential FMLA leaves of absence, eligibility, availability, etc. should be directed to the Human Resources Director. If FMLA Leave is planned in advance (expected or foreseeable) the employee must submit a request for leave at least thirty (30) days before the leave is expected to begin.
- If FMLA Leave is unexpected, or if an employee has less than thirty (30) days before the leave is scheduled to begin, the employee should notify his/her Supervisor and the Human Resources Director as soon as the employee is aware they will need leave. In this case an employee should submit their request for leave as soon as possible. Except in emergency situations, all employees will be expected to comply with the City's normal call-in policies for absences.
- If an employee fails to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or fails to comply with the City's call-in requirements, the employee's FMLA leave request may be denied or delayed.
- Employees must provide the City with sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. An employee may do this by either requesting FMLA leave specifically or explaining the reasons they need leave sufficiently so that the City can ascertain that the leave is FMLA qualifying.
- An employee must advise the City if the reason they are requesting leave is for a reason for which FMLA leave was previously taken or certified.
- Employees must also respond to questions and provide requested information to Human Resources to enable us to determine if they qualify for FMLA leave.
- It is the employee's responsibility to provide the City with complete and sufficient medical certification to support their need for leave because of their own or a covered relative's serious health condition. Calling in "sick" without providing the reasons the employee needs leave, is not sufficient. Failure to provide the information requested or to authorize your health care provider or family member's health care provider to provide the required information may result in denial of the employee's request for leave.
- The City reserves the right to require an employee to obtain a second opinion from a health care provider selected by the City if we deem it appropriate. If there is disagreement between the health care providers with respect to an employee's need for leave, the City may require the opinion of a third, mutually agreed upon health care provider. In certain circumstances the City

may also contact an employee's health care provider for clarification or authentication of the employee's leave certification form.

- It is the employee's responsibility to provide the City with complete and sufficient certification and supporting documentation supporting the employee's need for military family leave. This may include copies of relevant active duty orders or other documentation issued by the military, a certification from the employee setting forth the reasons the leave is needed and /or certifications completed by an authorized health care provider of the Covered Service member.
- If the City determines that the reason an employee is out on leave is FMLA qualified, the City will designate the leave as FMLA leave at the City's discretion even if the employee has not specifically requested FMLA leave. In some cases, the City may designate this leave retroactively as FMLA leave with written notice to the employee of this designation.
- Employees should initiate a discussion with the Human Resources Director if the employee questions whether any absence should have been considered as a FMLA leave.

While an Employee is on FMLA Leave:

- The City may require the employee to report periodically on the employee's status and intention to return to work, and the City may also require periodic reports from the employee or the employee's family member's health care provider.
- Employees should notify the Human Resources Director as soon as they become aware of any change in the circumstances of the original FMLA Leave request, (i.e., the employee is able to return to work earlier than expected, or the employee will require FMLA Leave for longer than originally expected). Additional health care provider certifications/recertification may be required for extensions of FMLA Leave or situations where an employee will be returning to work prior to the expiration of your original certification.
- An employee will be required to use all of their accrued and unused sick, vacation, and compensatory leave as a part of their twelve (12) weeks of FMLA leave, unless they are out on worker's compensation leave. Once the employee's accrued leave time has been exhausted, the balance of FMLA Leave will be unpaid unless the employee is eligible for paid leave such as worker's compensation.
- Any share of health and dental premiums, along with any elected voluntary benefits, normally paid by the employee prior to leave must continue to be paid by the employee during the leave period. If the employee goes into an unpaid FMLA status, they must work with the Human Resources Department and make arrangements to pay those premiums. If the employee's failure to make the premium payment leads to a lapse in coverage, the City shall upon the employee's return to work, restore the health coverage equivalent to that which the employee would have had if leave had not been taken and the premium payments had not been missed. If an employee is out on FMLA Leave as a result of a Worker's Compensation injury, the employee's FMLA Leave and Worker's Compensation leave will run concurrently (i.e., Worker's Compensation leave will count against the employee's FMLA Leave entitlement).
- Employees will be eligible to receive Holiday pay while the employee is on FMLA Leave as long as they have accrued leave to use for the day prior to and after the holiday. Employees will not be eligible for Holiday pay if they are in an unpaid FMLA status. ***The City's Obligations***

- The employee is entitled to receive written notice telling the employee: 1) whether the employee is eligible for FMLA leave; 2) the amount of leave to which the employee is entitled; 3) any additional information that will be required; 4) the employee's rights and responsibilities; and 5) if the City has determined the employee is not eligible for FMLA leave, the reasons why.
- During an employee's FMLA leave, all of the employee's group health benefits (e.g., major medical, hospitalization, and dental insurance) will continue, provided the employee continues to make the regular employee contributions to these plans, if any. Other benefits, such as pension, 401(k), life insurance, and long-term disability, will be governed in accordance with the terms of each benefit plan.
- Vacation, other employment benefits and seniority will accrue during periods of paid FMLA Leave and for purposes of vesting in pension or other retirement plans, an employee's service will be treated as continuing without a break during paid FMLA Leave. When an employee is in an unpaid FMLA leave status, leave accruals and retirement contributions will not continue.
- When an employee returns from FMLA Leave, the employee is entitled to be reinstated to his/her former or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Exceptions to this provision may apply: (a) if business circumstances have changed during the FMLA Leave (e.g. the employee's job is no longer available due to a downsizing or job elimination); (b) the employee is a highly compensated employee; (c) the employee's leave has exceeded the amount of FMLA leave to which the employee was entitled; or (d) the employee has been on light duty in excess of 12 months.

Conditions on Return to Work/Failure to Return after Leave.

- In the case of FMLA Leave taken for an employee's own serious health condition, before the employee will be permitted to return to work from FMLA Leave, the employee will be required to present the City with a medical certification that he/she is capable of returning to work. (No certification will be required in the case of intermittent leave unless there are safety concerns or physical restrictions).
- If an employee is able to return to work earlier than expected, the employee will be required to give the City at least two business days' notice prior to the date the employee intends to report back to work if feasible, and the employee will be required to present the City with a medical certification that he/she is capable of returning to work on that date.
- If an employee fails to return to work after the expiration of his/her FMLA Leave, the employee will be required to reimburse the City for the full premiums for group health benefits premiums paid on his/her behalf during the FMLA Leave, unless the reason for the employee's failure to return to work is the continuation or presence of a serious health condition or circumstances beyond the employee's control.

Enforcement Information.

Under the FMLA, it is unlawful for any employer to interfere with, restrain or deny the exercise of any right provided under the FMLA or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

An employee may file a complaint with the United States Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

In the event of any conflict between the provisions of the FMLA and this policy or any other leave policy of the City, the FMLA shall prevail.

SECTION 19. LEAVE OF ABSENCE WITHOUT PAY

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the City Manager. The leave shall be used for reasons of personal disability, sickness or disability of immediate family members, continuation of education, special work that will permit the City to benefit by the experience gained or the work performed, or for other reasons deemed justified by the City Manager.

A leave of absence is a discretionary benefit to regular full and part time City employees. The City has no obligation to approve an unpaid leave of absence. The City will consider certain factors in making determination, some, but not all of which are included below:

- a) Length of employment
- b) Operational needs of the department
- c) Prior performance and employment records
- d) The reason for the leave of absence.

Leave of Absence requests are considered only after an employee has exhausted, or will have exhausted, all other leave that can be used for the situation under consideration. This may include, but is not limited to, compensatory time, holiday leave, annual leave, sick leave or donated leave.

Requests for a leave of absence are to be submitted in advance and in writing to the employee's Department Head, stating the anticipated start date, anticipated date of return, and the reason for the leave. An employee should not begin an unpaid leave of absence before it is approved. The City will consider extraordinary circumstances with appropriate documentation.

Approval: A Department Head may approve an unpaid leave of absence request of five (5) days or less. For requests of more than five (5) days, the requests must be approved by the Human Resources Director and City Manager.

The employee is obligated to return to duty within or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified

immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

Effect on Benefits. An employee on unpaid leave may continue his or her participation in the City's insurance or other benefit plans at his or her expense, subject to any regulations approved by the City and any regulations of the insurance carrier. In addition, any employee on unpaid leave ceases to accrue vacation and sick leave and paid holiday benefits on the date that the leave without pay begins.

SECTION 20. WORKERS' COMPENSATION LEAVE

North Carolina Workers' Compensation law provides medical and disability compensation including a weekly compensation benefit for time lost from work, which is a percentage of the employee's average weekly wage up to a maximum established annually by the NC Industrial Commission. Benefits are provided to employees through the workers compensation insurance provider if the injury/illness meets their eligibility guidelines.

There is a seven (7) calendar day waiting period where no compensation for lost time will be provided. During the seven (7) day waiting period, employees may elect to use their accumulated compensatory time, vacation or sick leave. If the employee has exhausted his/her leave hours, he/she will be placed on Workers' Comp leave without pay immediately.

The City allows eligible employees the option to use previously accrued leave (compensatory time, sick or vacation) as a supplement to the payments provided by workers compensation. This optional supplement can only be used to cover payroll deductions such as medical, dental, vision, etc. and the remaining one-third of salary. At no time shall the combination of the supplemental leave benefit and the weekly workers' compensation payments exceed the employees' normal net compensation after taxes. Supplemental leave benefits are subject to withholdings such as state and federal income taxes, Social Security and Medicare. Supplemental leave benefits will not be subject to retirement system contributions or 401k contributions per retirement system guidelines.

When an employee is placed on Workers Comp leave without pay, the employee will cease to earn vacation and sick leave accruals and holiday pay for any week in which they are on leave without pay. Employees receiving Workers' Compensation benefits shall cease contributing to the North Carolina Local Governmental Employees' Retirement System. Upon returning to work, employees may purchase credit for the period of time they received Workers' Compensation benefits. Additional information on purchasing service credits can be obtained from the State Retirement System.~~In addition, employer/employee contributions to the NC Retirement system will not be reported when on unpaid leave status, nor will the employee receive retirement service credit. Contributions for 401(k) will cease while an employee is on unpaid leave status.~~ Temporary and part-time employees will go directly into leave without pay status and will receive all eligible benefits under the Worker's Compensation Act.

Return to Work

When an injured employee is released to return to work by the authorized treating physician and the employee has not been separated, the employer should act as follows:

1. If an injured employee has reached maximum medical improvement and has been released to return to work without restrictions or with restrictions that can be accommodated, the City shall return the employee to the same position held prior to the period of workers' compensation leave.
2. If an injured employee has reached maximum medical improvement and has been released to return to work by the authorized treating physician but has been assigned work restrictions

which cannot be accommodated in the previous position, the City shall attempt to place the employee in another position that is suitable to the employee's capacity.

3. If an injured employee has not reached maximum medical improvement but is able to return to work with restrictions assigned by the authorized treating physician, the City shall provide a work assignment suitable to the employee's capacity and approved by the treating physician if such work is available.

Refusal of Suitable Employment

If an employee who is released to return to work by written statement of the authorized treating physician refuses suitable employment or work assignment, the employer shall request termination of ~~disability~~ compensation payments and implement separation procedures.

SECTION 21. MILITARY LEAVE

Regular employees who are members of the National Guard or Armed Forces Reserve have all leave and job rights under applicable state and federal law.

In addition to their rights under law, the City provides the following benefits:

Regular employees who are members of the National Guard or Armed Forces Reserve will be allowed fifteen (15) calendar day of military training leave annually with full Pay. If military duty is required beyond this fifteen (15) day period, the employee shall be eligible to elect to take accumulated vacation leave, or be placed in a leave without pay status once accrued vacation leave is exhausted. While on military leave – either with or without pay – the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the City during this period, to the full extent permitted under the City's benefit policies and applicable law.

SECTION 22. CIVIL LEAVE

A City employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the City any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

SECTION 23. PARENTAL SCHOOL LEAVE

A City employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three following conditions:

- a) The leave must be taken at a time mutually agreed upon by the employee and the City;
- b) The City may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- c) The City may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time or compensatory time) taken by an employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the City.

SECTION 24. SHARED LEAVE

The City's Shared Leave policy provides the opportunity for an employee to donate vacation leave to another employee on an "employee to employee" basis. This is a benefit supported solely by the contribution of vacation leave and is designed to provide extended sick leave benefits due to a serious medical condition of the employee or a member of the employee's family who lives in the employee's place of residence, or children, stepchildren, parents or spouse, regardless of place of residence; and will require the employee's absences for an extended period of time (at least 4 weeks).

In order to be eligible to receive voluntary shared leave an employee must have complied with the existing leave policies and:

- a) Recipient must work in a regular full-time position for at least one (1) year, serving at minimum of 30 hours per week.
- b) Have a prolonged serious medical condition (or a member of the employee's family as described above) that requires the employee's absence for a prolonged period of time.
- c) Have exhausted all accrued leave (vacation, sick, compensatory time)

- d) Short term, incidental, non-critical medical situations, including normal pregnancies not requiring bed rest, and absences for well-baby care are not considered *Verifiable Medical Emergencies*.
- e) Absences covered by worker's compensation shall not be considered under this policy.
- f) Employees who have given notice that they are resigning or retiring from the City, shall not be eligible to donate leave under this policy.
- g) Apply to become a recipient.
- h) Produce medical certification documenting the need for the leave beyond the available accumulated leave including the estimated length of time needed, and
- i) Be approved by the City Manager.

Upon approval, any additional unused donated leave shall be returned to the donor on a prorated basis and credited to the leave account from which it was donated. If a recipient separates from employment, participation in the program ends and donated leave will be returned to the donor on the same prorated basis.

An employee on short-term disability will only be allowed to use shared leave in increments to supplement short-term disability payments. At no time shall the combination of the shared leave and the short-term disability payments exceed the employees' normal net compensation after taxes.

The Human Resources Director will establish a system of leave accountability and record keeping.

No employee will be allowed to intimidate, threaten, or coerce any other employee for the purpose of interfering with any right which the employee may have with respect to donating, receiving, or using leave under this program. Any such action may be grounds for disciplinary action.

Federal and State privacy laws require that medical information remain confidential. Therefore, when disclosing information on an approved recipient (employee or family member), only a statement that the recipient has a prolonged medical condition can be made. If the recipient wishes to make either his or her identity or his or her medical status public, then he or she must sign a release to allow the information to be known.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

SECTION 1. TYPES OF SEPARATIONS

All separations of employees from positions in the service of the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

SECTION 2. RESIGNATION

An employee may resign by submitting the reasons for resignation and the effective date in writing to their immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks; four weeks for Department Heads. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notice is waived upon recommendation of the Department Head and approval by the City Manager.

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

SECTION 3. REDUCTION IN FORCE

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

SECTION 4. DISABILITY

An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the City. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The City may require an examination, at the City's expense, performed by a physician of the City's choice.

SECTION 5. RETIREMENT

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

SECTION 6. DEATH

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

SECTION 7. DISMISSAL

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

SECTION 8. REINSTATEMENT

An employee who is separated because of a reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department Head, and upon approval of the City Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

SECTION 9. REHIRING

An employee who resigns while in good standing may be rehired with the approval of the City Manager, and may be regarded as a new employee, subject to all of the provisions of the rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Because the City aspires to high standards of performance and behavior from its employees, it has established a progressive discipline policy. This policy is intended for guidance and does not entitle employees to progressive discipline in all situations. This discipline policy does not alter the at-will nature of employment.

SECTION 1. DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance. Ordinarily, the procedure outlined below should be followed; however it is within the Department Head's discretion, with the concurrence of the Human Resources Director, to bypass any or all of the below procedures when this is deemed to be in the best interest of the City.

The City Manager may delegate the responsibility to Department Heads in all cases of disciplinary suspension, demotion or dismissal. Department Heads must work closely with the Human Resources Director in all cases of disciplinary suspension, demotion or dismissal to ensure compliance with all applicable policies.

SECTION 2. UNSATISFACTORY JOB PERFORMANCE DEFINED

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or City Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of City property or equipment;
- 3) Physical or mental incapacity to perform duties after reasonable accommodation;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Improper use of leave privileges;
- 7) Failure to report for duty at the assigned time and place;
- 8) Failure to complete work within time frames established in work plan or work standards;
- 9) Failure to meet work standards over a period of time; or
- 10) Failure to follow the chain of command to address work-related issues.
- 11) Violation or neglect of safety rules, including unsafe actions, failure to promptly report a work-related injury or accident.
- 12) Conduct that discredits the employee or the City or willful conduct resulting in the misrepresentation of the City.
- 13) Failure to adhere to traffic laws while operating City vehicles or conducting work related business in personal vehicles.
- 14) Failure to comply with the Computer Usage Policy.

Provision to follow the chain of command DOES NOT apply in the following circumstances:

- a) an employee may discuss any concerns he/she has with the Human Resources Director at any time;
- b) an employee may contact the City Manager directly concerning a harassment complaint;
- c) an employee may contact the City Manager directly concerning a discrimination complaint.

SECTION 3. COMMUNICATION AND WARNING PROCEDURES PRECEDING DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor. These counseling sessions should be communicated to the Human Resources Director by the supervisor.

An employee whose job performance is unsatisfactory over a period of time should normally, but not necessarily, receive at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the Department Head; however it is within the Department Head's discretion, with the concurrence of the Human Resources Director, to bypass any or all of the below procedures when this is deemed to be in the best interest of the City.

Where such meetings occur, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should ordinarily use the following steps:

- 1) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- 2) If performance does not improve, a written recommendation should be sent to the Department Head for disciplinary action such as suspension, demotion, or dismissal.

In the event that a supervisor is not present within a Department, the Department Head will assume the role of the supervisor in the above stated outline. During all stages of the process the Department should be communicating with the Human Resources Director. The City Manager assumes the role of the supervisor in the above stated outline for Department Heads in regard to disciplinary action for unsatisfactory job performance.

Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job but shows promise and commitment to performing successfully in a lower level job. If no other options are available, dismissal is appropriate.

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

SECTION 4. DISCIPLINARY ACTION FOR DETRIMENTAL PERSONAL CONDUCT

Upon agreement between the Department Head and the Human Resources Director, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to City service in order to 1) avoid undue disruption of work; 2) to protect the safety of persons or property; or 3) for other serious reasons.

The City Manager is responsible for any disciplinary action for Department Heads regarding detrimental personal conduct as defined below.

SECTION 5. DETRIMENTAL PERSONAL CONDUCT DEFINED

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the City may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud or theft;
- 2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of City funds or inappropriate personal use of equipment, supplies or computers;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;
- 8) Brutality or excessive force in the performance of duties;
- 9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary and does not impair job performance and the supervisor is notified;
- 10) Engaging in incompatible employment or serving a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this Policy;
- 13) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
- 14) Harassment of an employee or the public with threatening or obscene language and/or gestures;
- 15) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work;
- 16) Unauthorized release of confidential information or official records;
- 17) Failure to follow the grievance procedure set forth herein in reporting a grievance;
- 18) Gross negligence in operating City vehicle or personal vehicle while conducting City business.

SECTION 6. CONFERENCE

Before suspension, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Department Head, with the Human Resources Director will conduct a conference with the employee. At this conference, the employee in attendance may present any response to the proposed disciplinary action. The Department Head will consider the employee's response, if any, to the proposed disciplinary action and will, within three working days following the conference; notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and employee's appeal rights.

The City Manager, in cases for Department Heads, will hold a conference consistent with the outline above.

SECTION 7. ADMINISTRATIVE LEAVE

With the approval of the City Manager, a department head may impose administrative leave (with or without pay) on any employee who has been accused of some action which, if the accusation is substantiated, would constitute a cause for disciplinary action. There may be no appeal from an Administrative leave period.

If administrative leave is imposed, the employee shall be notified in writing that the leave is non-disciplinary and temporary in nature (for example, pending the outcome of an investigation). Additionally, the employee will be told what the accusations or allegations are that triggered the leave and why an administrative leave has been imposed in the particular case. If the allegations or accusations are the subject of an internal investigation, such investigation shall be completed within 90 days of the commencement of the leave period unless prevented by events beyond the control of the City. If it is determined (through criminal trial, internal investigation or otherwise) that the charges are not substantiated, then the employee shall be reinstated with full recovery of any lost wages or benefits. If it is determined that the charges are substantiated, then appropriate disciplinary action may be taken in accordance with City policy. If an employee has been suspended without pay pending the outcome of the investigation and the employee is not dismissed and the discipline imposed is less severe than the suspension without pay the employee has already experienced, the employee may be entitled to partial recovery of lost wages or benefits according to the discipline imposed.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

SECTION 1. POLICY

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from City service.

SECTION 2. GRIEVANCE DEFINED

A grievance is a claim or complaint by a current or a former employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

SECTION 3. PURPOSES OF THE GRIEVANCE PROCEDURE

The purposes of the grievance procedure include, but are not limited to:

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- 3) Promoting better understanding of policies, practices, and procedures which affect employees;
- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
- 6) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
- 7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the City or its leaders, thus freeing up employee motivation, productivity, and creativity.

SECTION 4. PROCEDURE

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the City Manager after a recommendation from the Department Head and Human Resources Director.

The grievance procedure may be altered by deletion of step 1 with the following qualifying events:

- 1) In the case of dismissal, the former employee has five working days to submit an appeal to the City Manager and begin the procedure at Step 2 upon notification to the Human Resources Director.
- 2) In the event a situation is present that has been formally discussed and documented with an employee, Department Head and Human Resources Director, the steps outlined in number one are void. The employee who wishes to file a grievance can submit an appeal to the City Manager, outlined in Step 2, upon notification to the Human Resources Director.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from a local mediation service or other qualified parties to resolve the conflict, upon approval of the Human Resources Director. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant City supervisor or Manager. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to their Department Head in writing. The grievance must be presented within five (5) working days of the event or learning of the event or condition. Upon receipt of this notification the Department Head will alert the City Manager and the Human Resources Director. The Department Head shall respond to the grievance within five working days after receipt of the grievance. The Department Head should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the Department Head is required to cooperate to the fullest extent possible.

The response from the Department Head for each step in the formal grievance process shall be in writing and signed by the Department Head. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resources Director.

Step 2. If the grievance is not resolved to the satisfaction of the employee at the end of Step 1, the employee may appeal, in writing, to the City Manager within five (5) working days after receipt of the response from Step 1. The City Manager shall respond to the appeal, stating the determination of decision within ten (10) working days after receipt of the appeal.

The City Manager's decision will be final.

Grievance Accountabilities: Any grievance not processed in accordance with the time limits provided above shall be considered abandoned conclusively. Any grievance not answered by management in the time limits provided above automatically advances to the next higher step of the grievance procedures.

SECTION 5. ROLE OF THE HUMAN RESOURCES DIRECTOR

Throughout the grievance procedure, the role of the Human Resources Director shall be as follows:

- 1) To advise parties (including employee, supervisors, Department Head, and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- 2) To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
- 3) To give notices to parties concerning timetables of the process, etc.;
- 4) To assist employees and supervisors in drafting statements; and
- 5) To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- 6) To help locate mediation or other resources as needed.

SECTION 6. GRIEVANCE AND ADVERSE ACTION APPEAL PROCEDURE FOR DISCRIMINATION

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the City Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant must appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action.

ARTICLE XI. RECORDS AND REPORTS

SECTION 1. PUBLIC INFORMATION

In compliance with GS 160A-168, the following information with respect to each City employee is a matter of public record: name; age; date of original employment or appointment to the service; the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or a record of the oral contract in its possession; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City may adopt.

SECTION 2. ACCESS TO CONFIDENTIAL RECORDS

All information contained in a City employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

- 1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A city employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- 5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail,

information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

- 7) The city manager, with concurrence of the council, may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action. Before releasing the information, the manager or council shall determine in writing that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written determination shall be retained in the office of the manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file.
- 8) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:
- 9) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the city's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
- 10) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.
- 11) Information that might identify an undercover law enforcement officer or a law enforcement informer.
- 12) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

The city council may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the city as long as each personnel file examined is retained.

Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees.

SECTION 3. PERSONNEL ACTIONS

The Human Resources Director, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of

the personnel system. There shall be one set of official personnel files, centrally located as designated by the City Manager, normally in the Human Resources office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, Disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

SECTION 4. RECORDS OF FORMER EMPLOYEES

The provisions for access to records apply to former employees as they apply to present employees.

SECTION 5. REMEDIES OF EMPLOYEES OBJECTING TO MATERIAL IN FILE

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

SECTION 6. INTERNAL INVESTIGATION RECORDS

Records relating to internal investigation into the conduct of an employee shall be kept separate from the personnel files. Such records shall be kept confidential, and no person may have access to such records or disclose any information contained therein without the written approval of the City Manager.

If an internal investigation is undertaken in response to a complaint by a citizen, then the City Manager may disclose to the complainant that an investigation was made and whether the charge was founded or unfounded. The City may not disclose the nature of any disciplinary action taken except to the extent authorized by Section 7 of this Article.

SECTION 7. PENALTIES FOR PERMITTING ACCESS TO CONFIDENTIAL RECORDS

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to information contained in a personnel file, except as is permitted by the general statutes, is guilty of a Class 3 misdemeanor and upon conviction shall be fined in an amount specified by the general statutes.

SECTION 8. EXAMINING AND/OR COPYING CONFIDENTIAL MATERIAL WITHOUT AUTHORIZATION

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

SECTION 9. DESTRUCTION OF RECORDS REGULATED

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or

destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Policy 132.3 of the General Statutes.

Destruction of any public record(s) shall be coordinated with the City Clerk and disposed of in compliance with the Records Retention Schedule as adopted by Council. A complete list of records to be destroyed shall be filed with the City Clerk prior to destruction.

CITY OF BREVARD

PERSONNEL POLICY ACKNOWLEDGMENT FORM

I have received a copy of the City of Brevard's Personnel Policy.

I am agreeing to work under these standards and guidelines as outlined in the policy.

I understand these policies are a guide for procedures, benefits, and general information only and are in no way contractual in nature.

I understand the City reserves the right to make changes to these policies and procedures upon the approval of the City Council.

My signature indicates I understand the above statements.

Employee Name (Printed): _____ Date: _____

Employee Signature: _____

Department: _____

HR Director Signature: _____ Date: _____

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Adoption of FY 2024-2025 Budget and Ordinance

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

The proposed FY25 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 soon after that. The City Council held its priority setting retreat in late February, which guided staff's work creating the budget proposal. Council reviewed options at its April 12 budget workshop. The City Manager presented his recommended budget on May 6, and a Public Hearing was held on May 20. At both the May 6 and May 20 meetings City Council offered possible alternatives to the recommended budget.

The proposal is available to view here:

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

Discussion

The City Manager's 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 approved this plan at its May 20, 2024 meeting.

During the May 6 and May 20 meetings, Council offered a number of alternatives to the proposed budget. A number of council members expressed concern about the \$.02 tax increase. Others wished to tap into alternative funding sources to endow reserve funds 78 (Multi-Use Path Fund) and 83 (Downtown Master Plan Fund). Those alternatives, summarized below, are captured in detail in Attachment 1

- Alternative 1 - No \$.02 tax increase; maintain current tax rate.
- Alternative 2 - Remove funding for one police vehicle (\$70,000); increase endowment to fund 78 (Multi-Use Path Fund) to \$95,000
- Alternative 3 - Remove funding for downtown planters (\$20,000); increase endowment to fund 83 (Downtown Master Plan Fund) to \$53,000
- Alternative 4 - Remove FY25 funding for two police vehicles (\$140,000); increase endowments to funds 78 and 83 by \$70,000 apiece. Designate unobligated fund balance to purchase 1 police vehicle.
- Alternative 5 - Remove FY25 funding for one police vehicle (\$70,000); split savings evenly between funds 78 and 83
- Alternative 6 - No stormwater fund and associated impervious surface fee

- Alternative 7 - No 4% water/sewer fee increase
- Alternative 8 - No High Strength Waste Surcharge

Action

Council may take one of the following actions:

1. Approve the Manager's Recommended budget as presented.
2. Approve an amended budget with one or more of the alternatives listed above.
3. Approve an amended budget with a new, unlisted alternative.
4. Take no action. If option 4 is exercised Council must approve a budget at its June 17, 2024 meeting.

Attachments:

1. UPDATED FY25 Budget Addendum with Alternatives
2. Budget Ordinance Alternative #2
3. Budget Ordinance Alternative #4
4. Budget Ordinance Alternative #5

UPDATED FY25 Budget Addendum with Alternatives

This document contains alternative budget proposals offered by Council at the May 6 and 20, 2024, Brevard City Council meetings.

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

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

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

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

Alternative 4: Remove funding for two police vehicles and allocate those funds to the Downtown Master Plan and Estatoe Trail; allocate unobligated fund balance for the purchase of one police vehicle.

Department	Acct Number	Acct Name	Description	Beginning Budget	Add/(Sub)	Final Budget
Police	10-5100-7400	Police Capital Outlay	One Police Car	\$140,000	(\$140,000)	\$0
Non-Departmental	10-6600-9259	Fund 78	Estatoe Trail	\$25,000	\$70,000	\$95,000
Non-Departmental	10-6600-9251	Fund 83	Downtown	\$33,000	\$70,000	\$103,000

Department	Acct Number	Acct Name	Description	Beginning Budget	Add/(Sub)	Final Budget
*Fund Balance		Unobligated Fund Balance	Unobligated Fund Balance	\$1,356,949	(\$70,000)	**\$1,286,949
Police	10-5100-7400	Police Capital Outlay	One Police Car	\$0	\$70,000	\$70,000

*Unobligated fund balance represents surplus funds not yet assigned to specific expenses or projects. These funds should be prudently reserved for one-time purchases rather than reoccurring expenses to ensure fiscal stability and prevent future budget shortfalls.

** The beginning unobligated fund balance includes a reduction of \$72,000 for the Norton Creek Streambank Project, as adopted in the supplemental spending plan at the May 20, 2024, Council Meeting. The final unobligated fund balance is subject to change due to potential expenses associated with the renovations at 132 Commerce St.

Alternative 5: Remove funding for one police vehicle and allocate those funds to the Downtown Master Plan and 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	\$35,000	\$60,000
Non-Departmental	10-6600-9251	Fund 83	Downtown	\$33,000	\$35,000	\$68,000

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 6: 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 7: 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 8: 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

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	\$ 6,493,600
OTHER TAXES	2,546,850
UNRESTRICTED REVENUES	920,500
RESTRICTED INTERGOVERNMENTAL	271,200
SALES AND SERVICES	1,518,300
MISCELLANEOUS	1,284,805
FUND BALANCE APPROPRIATED	-
TOTAL	\$ 13,035,255

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	3,949,600
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	1,604,245
TOTAL	\$ 13,035,255

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	-
TOTAL	\$ 7,432,800

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

City of Brevard FY2024-2025 Budget Ordinance

Ordinance No. 2024-XXXX

NON DEPARTMENTAL		2,723,500
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	\$ 789,745
FIRE DISTRICT TAX	646,155
OTHER REVENUES	6,000
FUND BALANCE APPROPRIATED	-
LOAN PROCEEDS	1,550,000
TOTAL	\$ 2,991,900

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	2,991,900
TOTAL	\$ 2,991,900

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	\$ 13,035,255
STORMWATER FUND	244,000
WATER & SEWER FUND	7,432,800
FIRE DISTRICT FUND	2,991,900
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	\$ 26,010,655

City of Brevard FY2024-2025 Budget Ordinance**Ordinance No. 2024-XXXX**

Section 20. There is hereby levied a tax at the rate of forty eight cents (\$0.4800) 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:

Denise Hodsdon
City Clerk

Maureen Copelof
Mayor

Mack McKeller
City Attorney

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	\$ 6,493,600
OTHER TAXES	2,546,850
UNRESTRICTED REVENUES	920,500
RESTRICTED INTERGOVERNMENTAL	271,200
SALES AND SERVICES	1,518,300
MISCELLANEOUS	1,284,805
FUND BALANCE APPROPRIATED	70,000
TOTAL	\$ 13,105,255

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	3,949,600
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	1,674,245
TOTAL	\$ 13,105,255

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	-
TOTAL	\$ 7,432,800

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

City of Brevard FY2024-2025 Budget Ordinance

Ordinance No. 2024-XXXX

NON DEPARTMENTAL		2,723,500
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	\$ 789,745
FIRE DISTRICT TAX	646,155
OTHER REVENUES	6,000
FUND BALANCE APPROPRIATED	-
LOAN PROCEEDS	1,550,000
TOTAL	\$ 2,991,900

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	2,991,900
TOTAL	\$ 2,991,900

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	\$ 13,105,255
STORMWATER FUND	244,000
WATER & SEWER FUND	7,432,800
FIRE DISTRICT FUND	2,991,900
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	\$ 26,080,655

City of Brevard FY2024-2025 Budget Ordinance**Ordinance No. 2024-XXXX**

Section 20. There is hereby levied a tax at the rate of forty eight cents (\$0.4800) 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:

Denise Hodsdon
City Clerk

Maureen Copelof
Mayor

Mack McKeller
City Attorney

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	\$ 6,493,600
OTHER TAXES	2,546,850
UNRESTRICTED REVENUES	920,500
RESTRICTED INTERGOVERNMENTAL	271,200
SALES AND SERVICES	1,518,300
MISCELLANEOUS	1,284,805
FUND BALANCE APPROPRIATED	-
TOTAL	\$ 13,035,255

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	3,949,600
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	1,604,245
TOTAL	\$ 13,035,255

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	-
TOTAL	\$ 7,432,800

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

City of Brevard FY2024-2025 Budget Ordinance

Ordinance No. 2024-XXXX

NON DEPARTMENTAL		2,723,500
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	\$ 789,745
FIRE DISTRICT TAX	646,155
OTHER REVENUES	6,000
FUND BALANCE APPROPRIATED	-
LOAN PROCEEDS	1,550,000
TOTAL	\$ 2,991,900

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	2,991,900
TOTAL	\$ 2,991,900

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
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RETIREE PREMIUMS	44,000
TOTAL	\$ 1,832,900

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

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

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City of Brevard FY2024-2025 Budget Ordinance

Ordinance No. 2024-XXXX

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HEART OF BREVARD FUND	171,000
HOUSING TRUST FUND	200,000
TOTAL	\$ 26,010,655

City of Brevard FY2024-2025 Budget Ordinance**Ordinance No. 2024-XXXX**

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

ATTEST:

Denise Hodsdon
City Clerk

Maureen Copelof
Mayor

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, June 3, 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.

Council held a public hearing regarding this request at their May 20, 2024 meeting; no one from the public spoke.

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

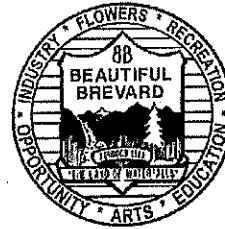
Council's options are:

1. Approve the annexation as requested.
2. Deny the annexation.
3. Table the matter for further consideration.

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 _____

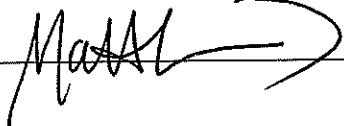
b. Name _____
Address _____
Telephone _____ Email _____
Signature _____

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 & 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 20 day of AM 8-23-22
 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 Estate of Esther M. Severs	PISGAH HOSPITALITY, LLC, a South Carolina limited liability company
35 North Gaston Street Brevard, NC 28712	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.

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.

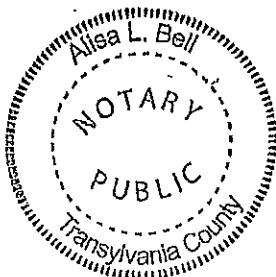
Estate of Esther M. Severs

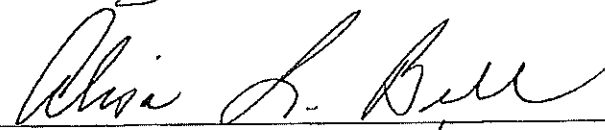
By:  (SEAL)
GAYLE E. RAMSEY, Executor

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\ Severs Estate\Ex. A Severs Estate.wpd



2022006615

TRANSYLVANIA CO, NC FEE \$26.00

NO TAXABLE CONSIDERATION

PRESENTED & 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.
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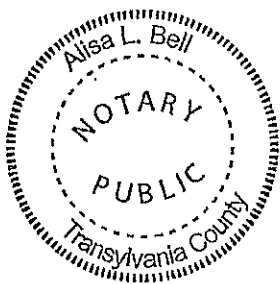
Estate of Esther M. Severs

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 ¹	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. 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.

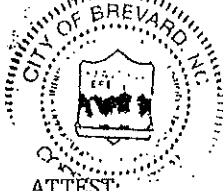
Section 5. The Planning Director is hereby authorized and directed to modify the City's Official Zoning Map and the Future Land Use Map consistent with this Ordinance.

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.

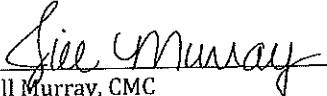
Section 7. All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

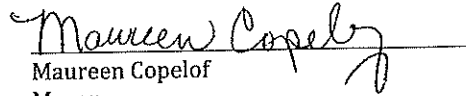
Section 8. This ordinance shall be in full force and effect from and after the date of adoption.

Adopted and approved this the 20th day of June 2022.

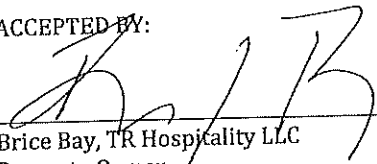


ATTEST:


Jill Murray, CMC
City Clerk

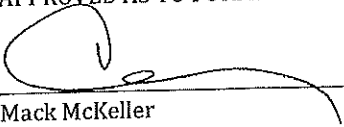

Maureen Copelof
Mayor

ACCEPTED BY:

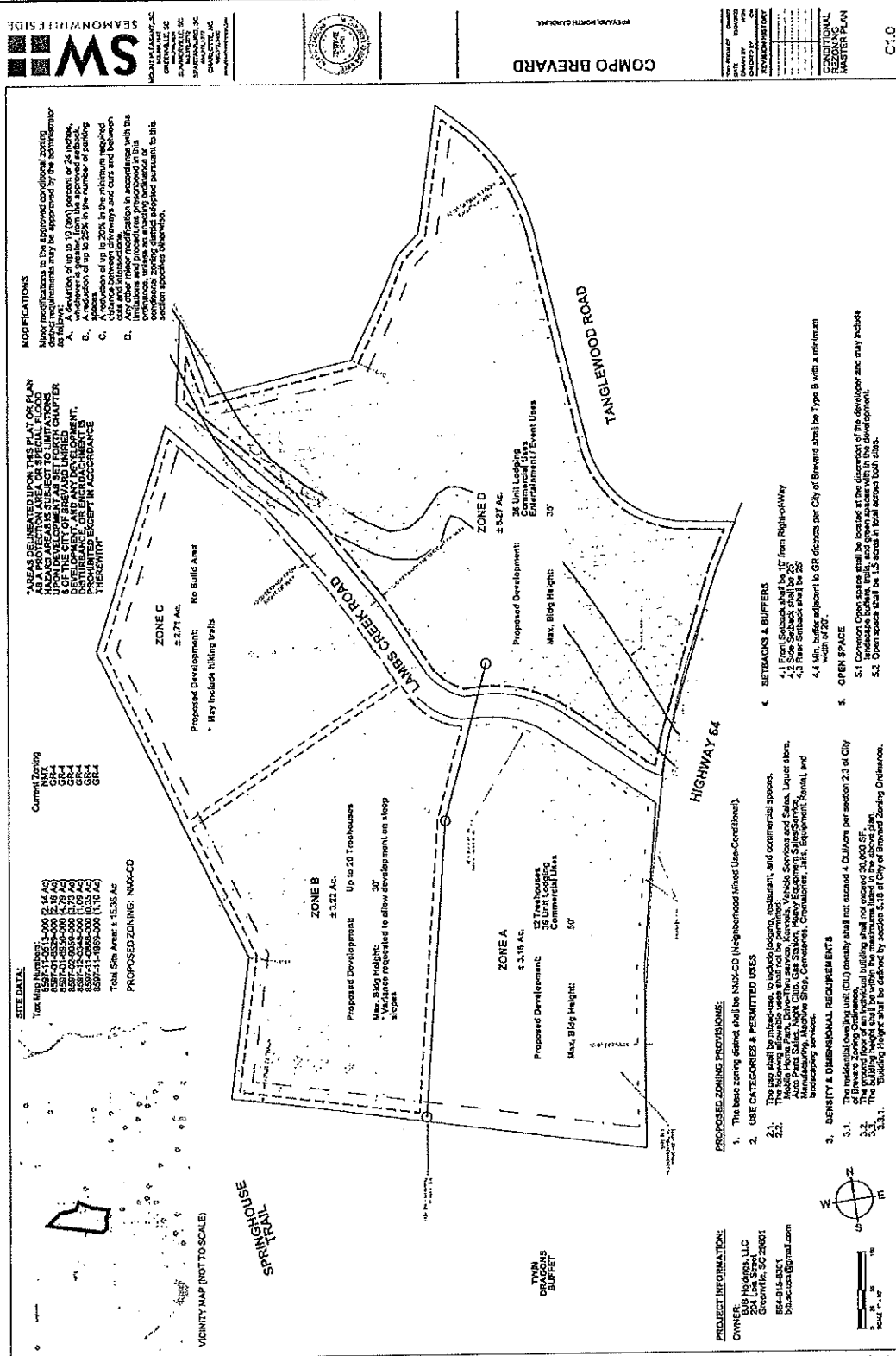


Brice Bay, TR Hospitality LLC
Property Owner

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.

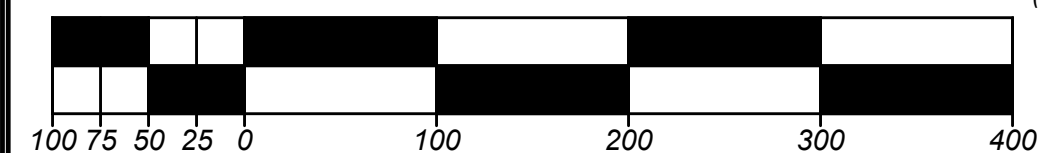
State of North Carolina, County of Transylvania

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.

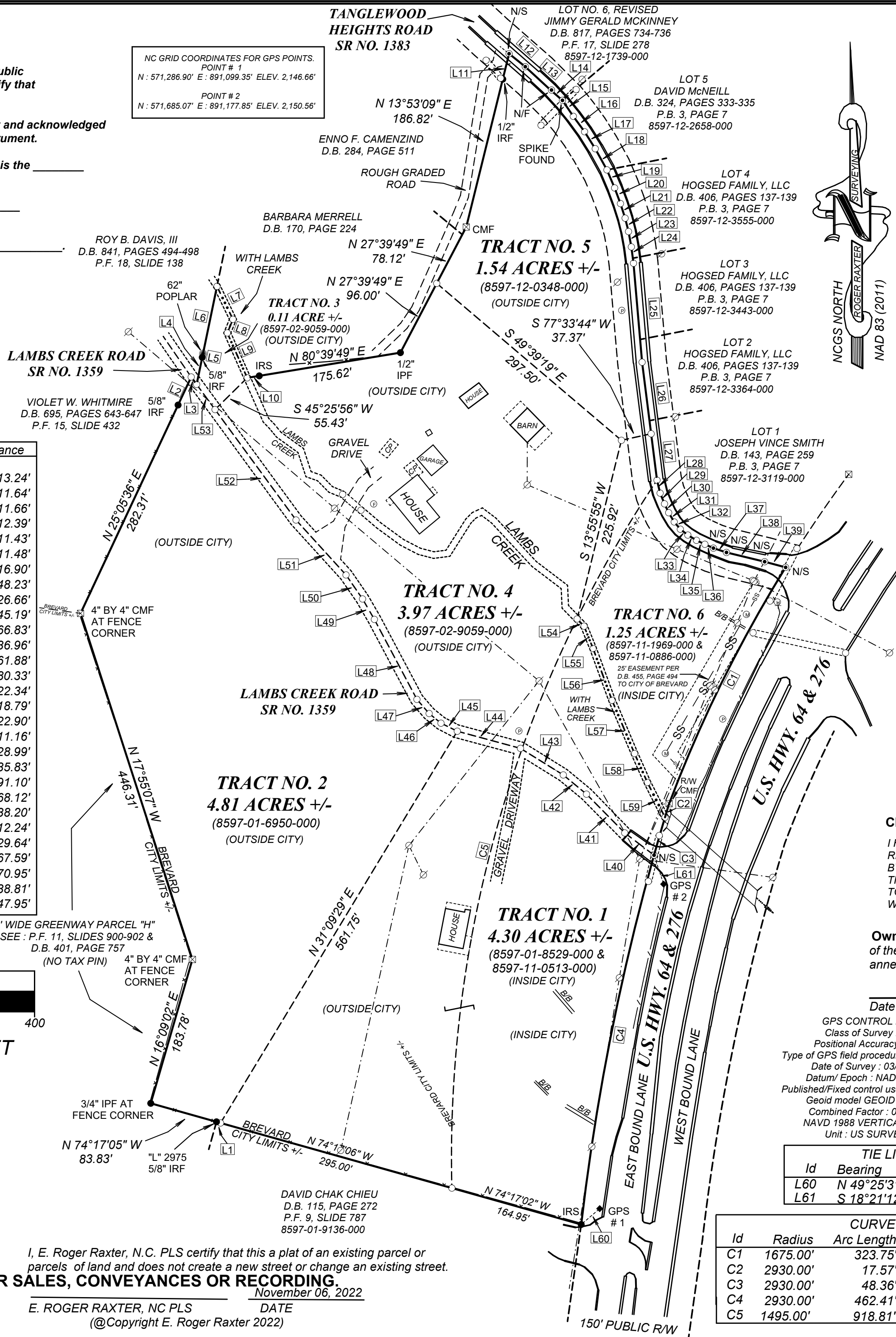
E. ROGER RAXTER
NC PLS L-2938

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. 2,150.56'



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.

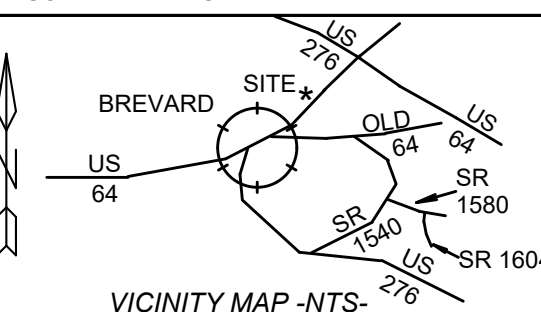
Date _____ Owner _____

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 FUND	WATER & SEWER FUND	FIRE DEPT SPECIAL REVENUE FUND	TOTAL ALL 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, June 3, 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 24th, Staff introduced the challenges in administering the subdivision regulations and opportunities for improvement.
- On January 23rd, 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 27th, 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 26th, the Board reviewed the proposed changes and unanimously recommended in favor of adoption.
- On April 23rd, the Board reviewed some additional changes to the proposed amendments and recommended in favor of adoption.

City Council held a public hearing on these amendments on May 20th.

Proposed Amendments

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

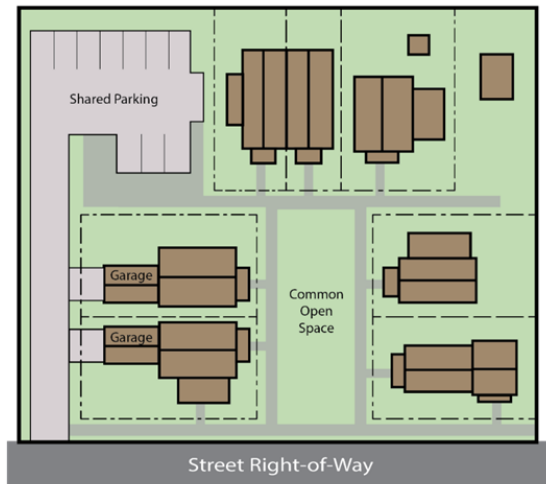
1) Group Development Regulations

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.

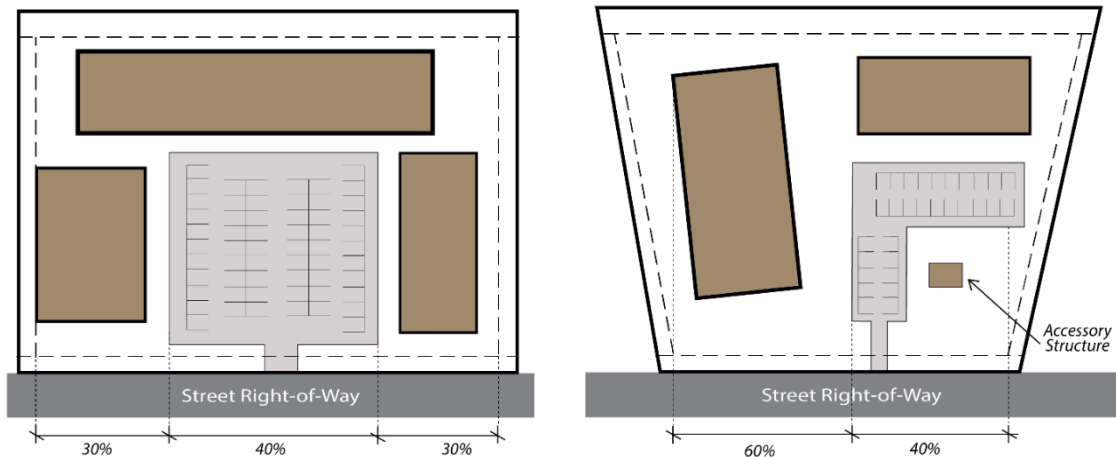
2) New Missing Middle Housing Type – Cluster Home Development

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.

Since the public hearing, Staff made one minor change in response to a Council member's concern about the potential for circumvention. The proposed amendments now include the caveat that developments creating interior lots for development (i.e., not environmental containment and conservation lots) are required to follow the same submittal / review process as major subdivisions. This change ensures the subdivision is subject to review by the Technical Review Committee and shared improvements are reviewed at this stage of the development process.

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

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
4. Draft Enacting Ordinance



UNIFIED DEVELOPMENT ORDINANCE

CHAPTER 1. PURPOSE AND APPLICABILITY

1.12. Interpretation.

- 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

2.1. General intent and establishment of districts.

2.1.3. Establishment of conditional zoning districts.

- 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.

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.

- 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 (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 (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 (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 (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 (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.

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.



A.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	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	<u>All residential group developments, except as listed below</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>—</u>
	<u>Cluster Home Development</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>—</u>	<u>—</u>	<u>PS</u>	<u>—</u>



TABLE 2.4A: GROUP DEVELOPMENT TYPOLOGY MATRIX

CATEGORY	GROUP DEVELOPMENT	ZONING DISTRICTS						
		GR	RMX	NMX	DMX	CMX	IC	GI
	Neighborhood Development	PS	PS	=	=	=	=	=
	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, as outlined in Chapter 9.
- ~~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:

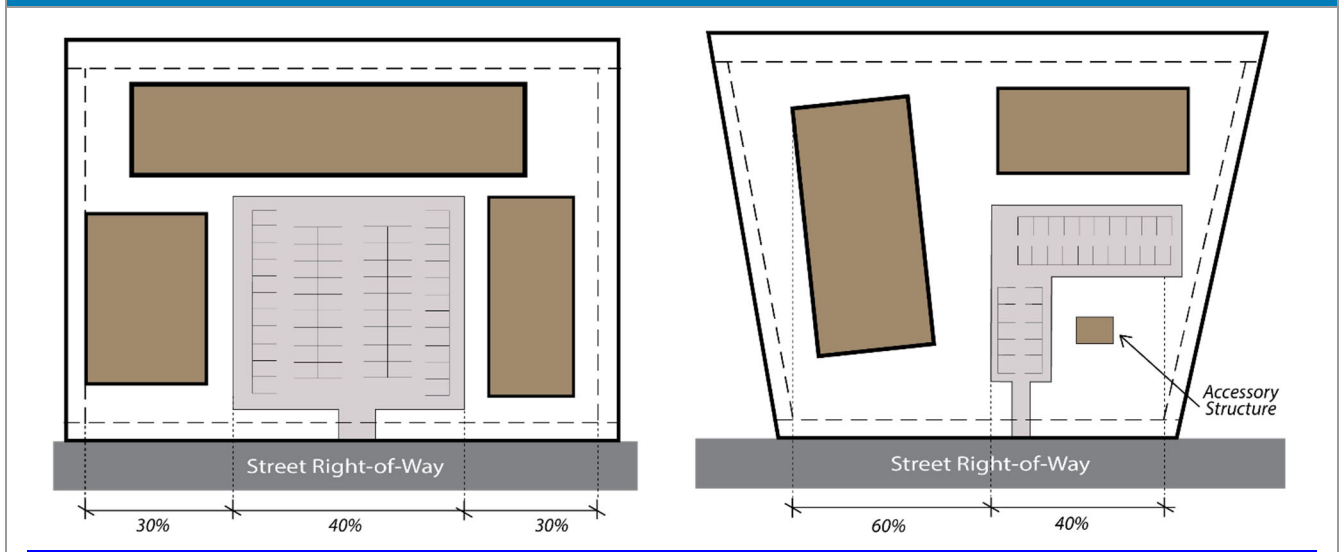
- All buildings established as part of a group development project shall be separated in accordance with North Carolina Building Code separation requirements.

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.

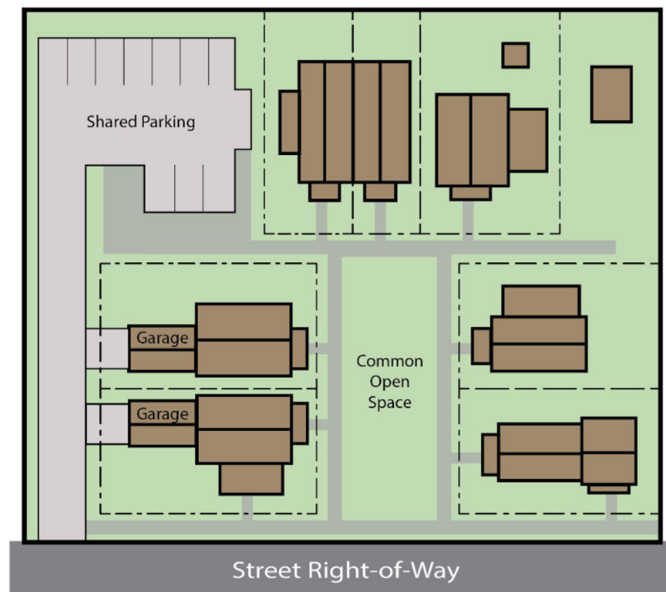


4. A maximum of 30% of the common open space may be hardscape.

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.~~

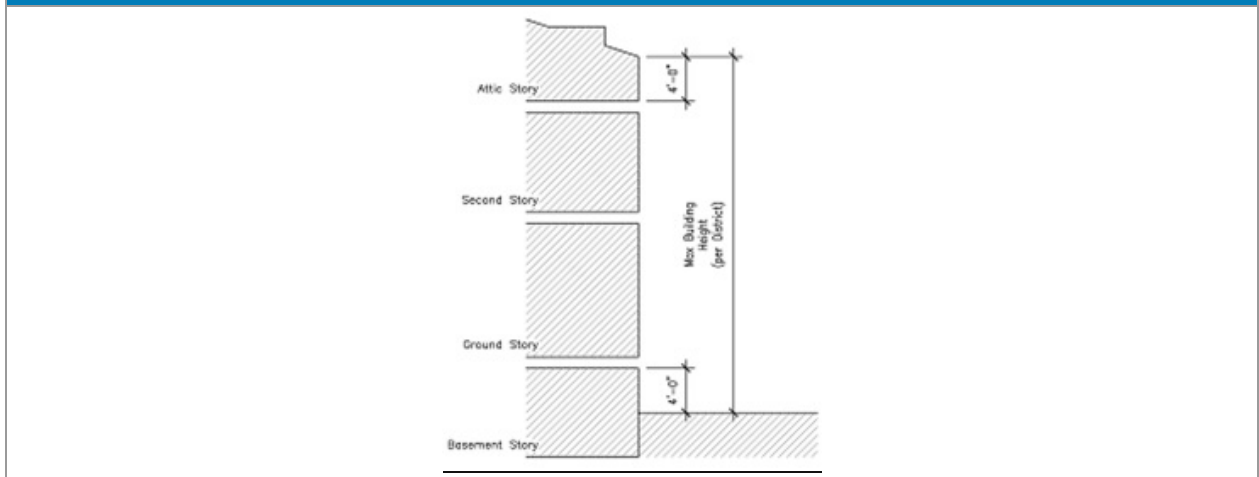
B. **Computation of building height.**

- "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
GR (4, 8)	<u>20 acres</u>
RMX	<u>10 acres</u>
NMX	<u>10 acres</u>
DMX	<u>10 acres</u>

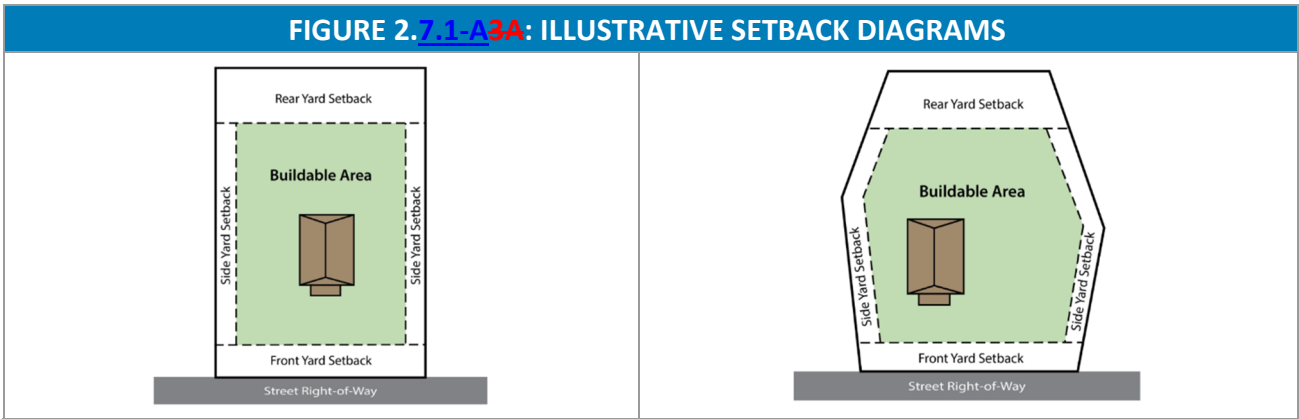


TABLE 2.6.3-A: MAXIMUM PROJECT AREA BY RIGHT	
District	Maximum Project Area By Right
CMX	10 acres
IC	None
GI	None
Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C.	

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.



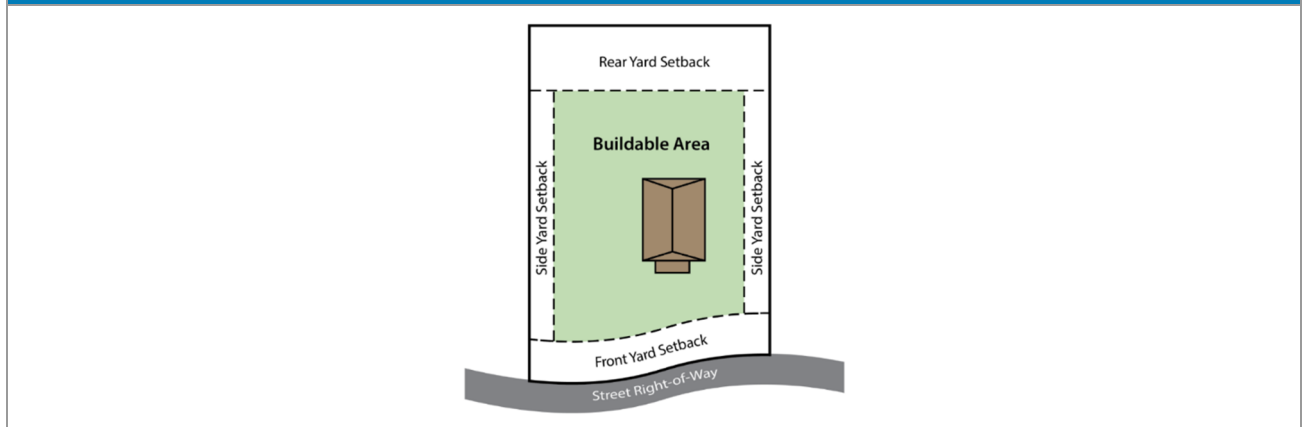
C. **Measurement of setbacks and building lines:**

- Required yard setbacks and building lines are measured parallel to the applicable lot line or public right-of-way line.



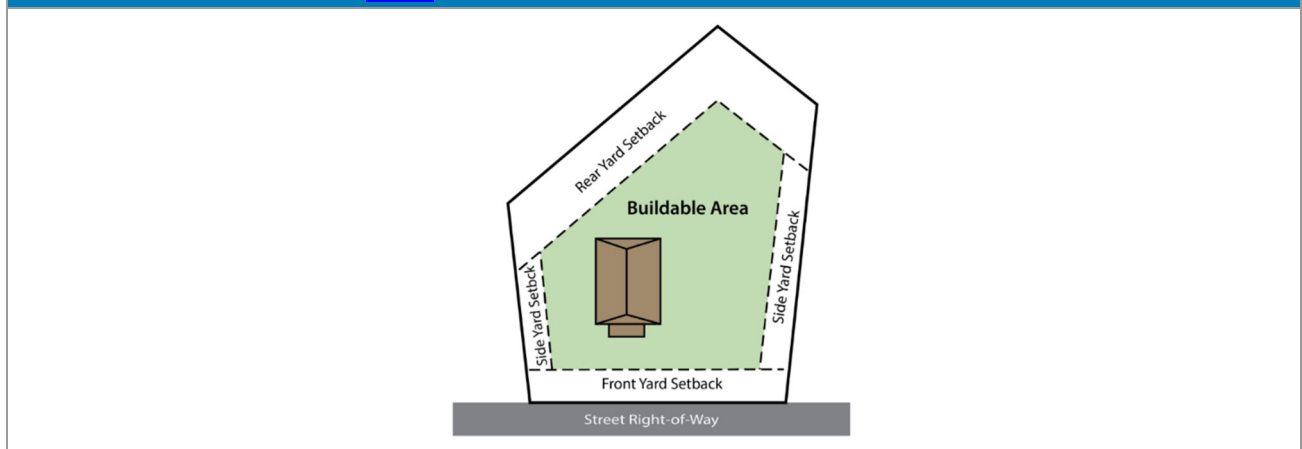
- a. Front yard setbacks and building lines shall be measured from the property line or the edge of the right-of-way, whichever is further from the centerline of the roadway.
 - b. Side yard and rear yard setbacks and building lines shall be measured from the property line(s).
2. When lot lines are curvilinear, 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,~~ [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.

~~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~~ 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 AC: SETBACKS FOR ACCESSORY STRUCTURES

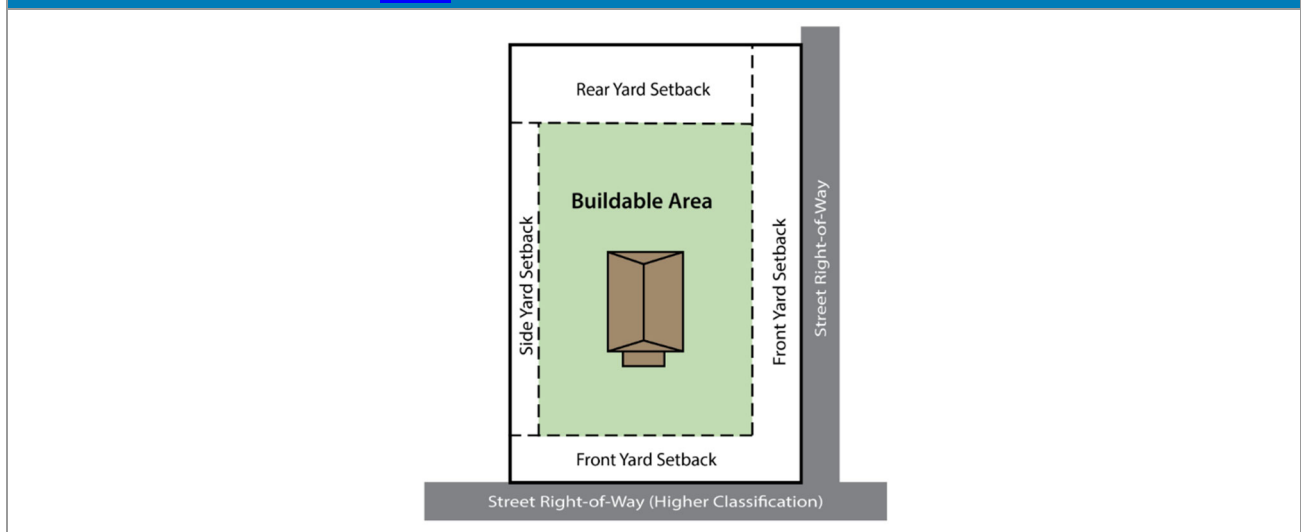
District	Side Yard Setback		Rear Yard Setback	
	< 120 sq. ft.	≥ 120 sq. ft.	< 120 sq. ft.	≥ 120 sq. ft.
GR (4, 8)	3 feet	6 feet	3 feet	10 feet
RMX	0 feet	3 feet	0 feet	3 feet
NMX	0 feet	3 feet	0 feet	3 feet
DMX	0 feet	0 feet	0 feet	0 feet
CMX	0 feet	0 feet	0 feet	0 feet
IC	40 feet along all external 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

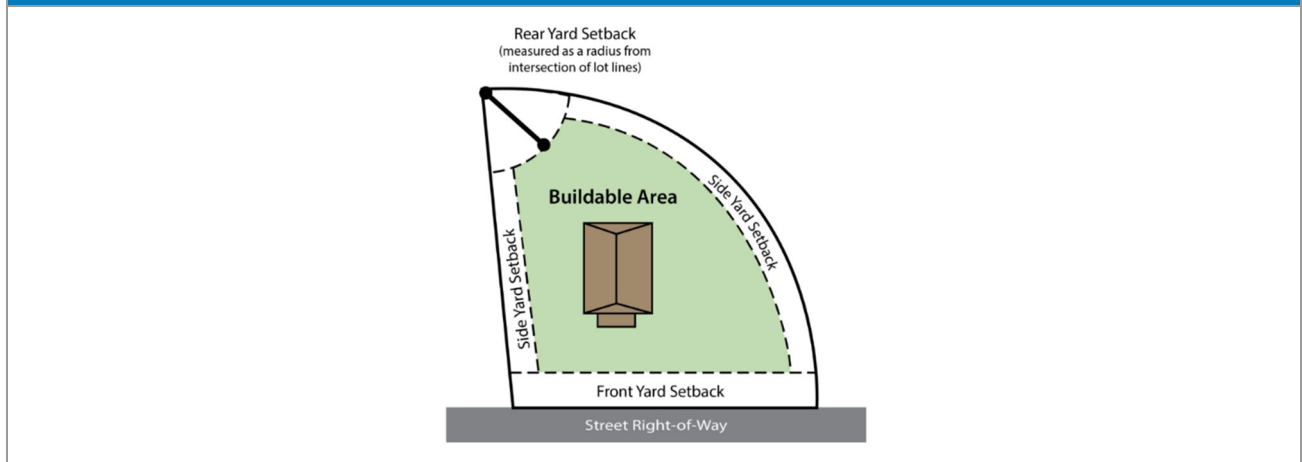


2.7.5. Setbacks for triangle lots and other lots without a rear lot line.

- 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.



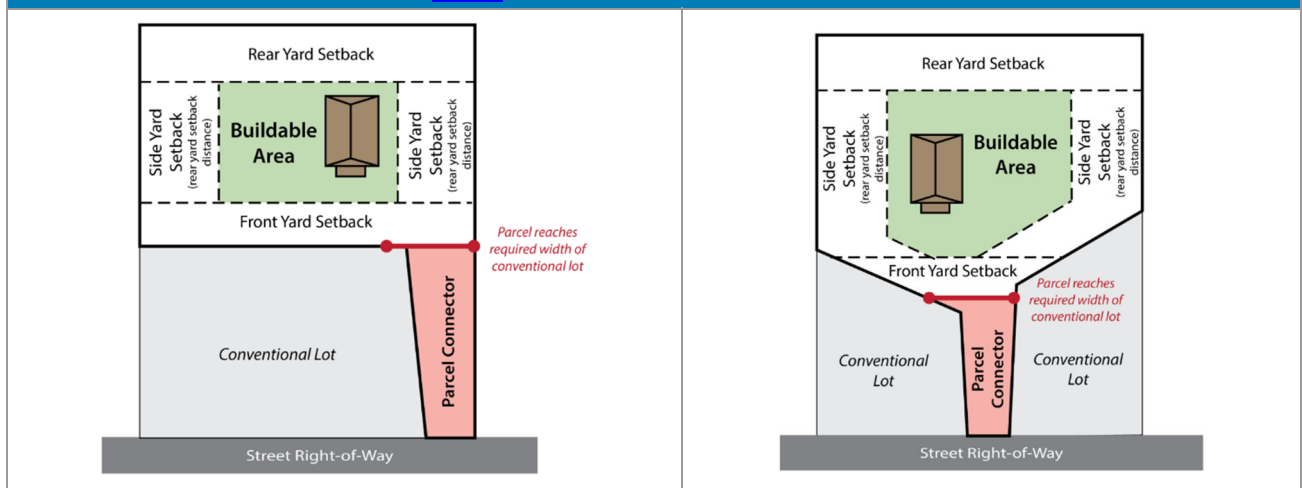
FIGURE 2.7.5-A3E: SETBACKS FROM LOTS WITH NO REAR LOT LINE



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

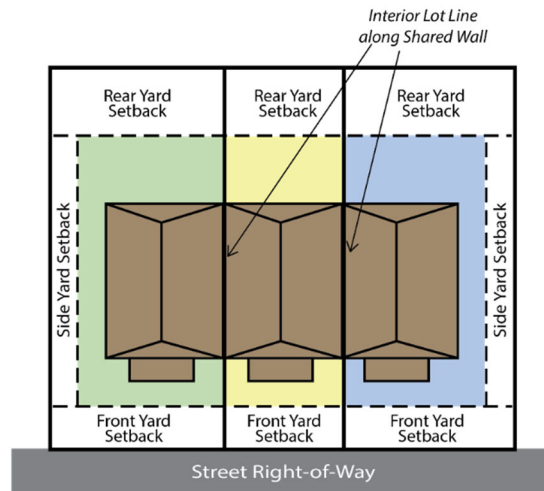




2.7.7. Setbacks for zero-lot line developments.

- 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

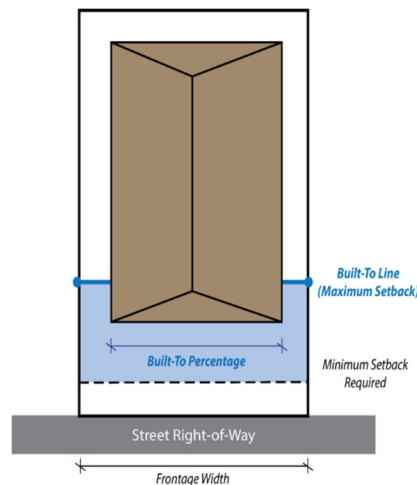


2.7.8. Lots within the Downtown Development Overlay District.

- 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.

~~3.7.5. Shopping center use category.~~

~~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.

3.13.1. Residential accessory use category.



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 ~~4-8~~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 ~~4-8~~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 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).*

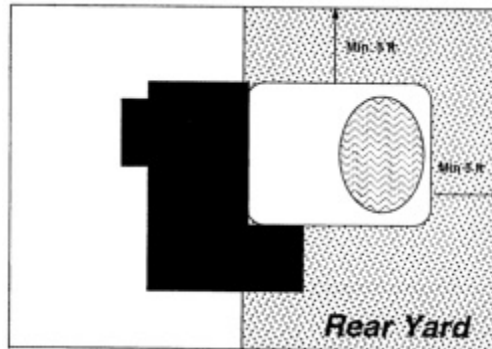
1. Definition: The keeping of geese, ducks, chickens or other domestic fowl as an accessory use. This definition shall include any permanent or temporary structures related to domestic fowl.
2. Additional Standards:
 - a. Keeping domestic fowl shall be permitted following the standards set forth in the 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

4.1. ~~Applicability~~ Authority and purpose.

~~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.

4.2.1. General provisions.

- 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.



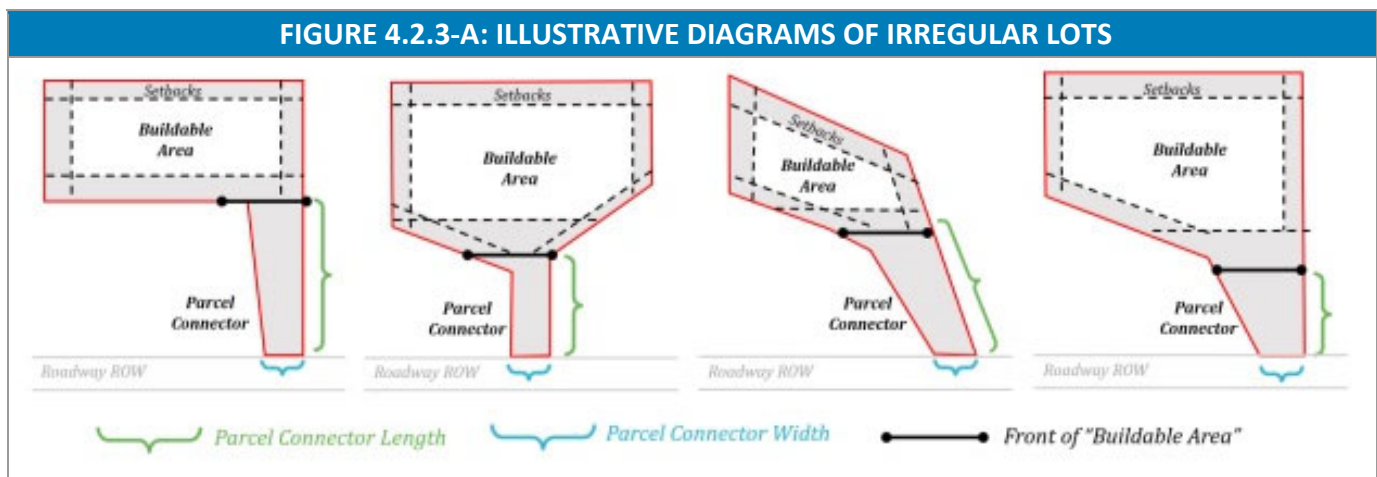
~~E. Exceptions to street frontage requirements: Following are standards whereby certain uses are excepted from the street frontage requirements contained herein:~~

- ~~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:

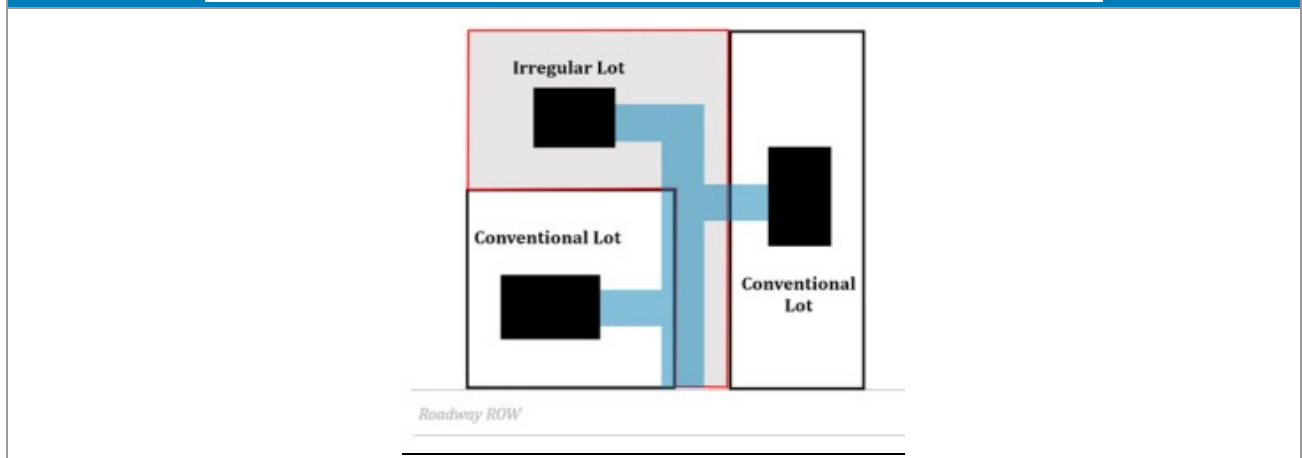
1. Irregular lots are permitted to have the reduced minimum lot width at the right-of-way line if the lot width reaches the minimum lot width for a conventional lot within the maximum allowable parcel connector length.
 - a. The width of the "parcel connector," measured along the right-of-way line, shall 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.

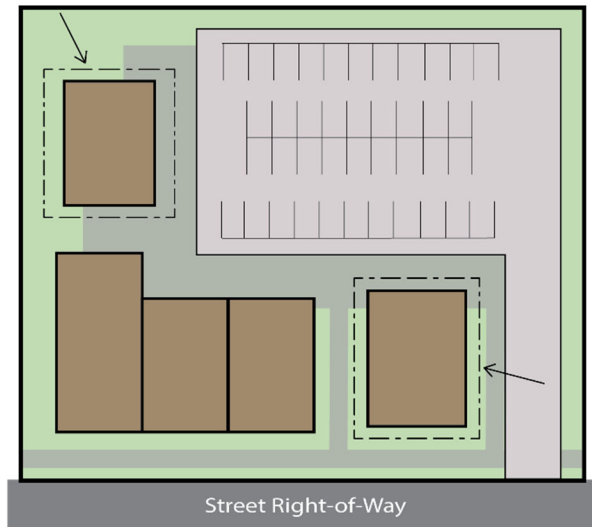
Condominium lots and condominium buildings:

- ~~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.

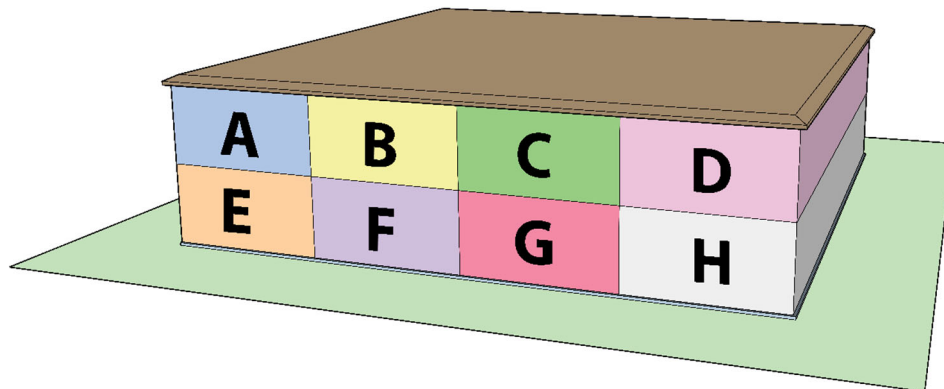
A. Applicability:

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:

1. Major subdivision means a subdivision that:
 - a. Creates more than 8 lots, including the residual or parent lot;
 - b. Involves the creation, expansion, or dedication of any public infrastructure; or
 - c. Is not otherwise exempt under Section 4.3.



2. Subdivisions that create interior lots for the purpose of development and are not otherwise exempt shall also be subject to the review process and requirements of this section.

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. ~~C~~opies 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;
 - 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 then have 60 calendar days to approve or deny the final plat, in accordance with this chapter. During the review period, the administrator will confirm the accuracy of the final plat.~~
 - ~~b.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 20 copies 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 along with one certified mylar copy and one digital copy (of a format to be approved by the administrator) and for permanent file in the planning department.

~~17.7 Final plat~~ 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. ~~The final plat shall be p~~Prepared by a registered land surveyor, licensed to practice in the State of North Carolina;
 2. ~~and must be d~~Drawn to a scale no less than one inch = ~~100~~ 150 feet; and
 3. ~~shall m~~Meet the requirements of NCGS §47-30 and the Transylvania County Register of Deeds Office.

~~The size and number of completed applications shall be set by the administrator.~~

~~No final plat shall be approved unless and until the subdivider has installed in the platted area all improvements required by this ordinance or has posted performance guarantees in accordance with CHAPTER 11.~~

~~A.B.~~ The final 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
 - ~~1.4.~~ Township, County, and State
 - ~~2.5.~~ Scale denoted in words and bar graph
 - ~~3. Scale denoted both graphically and numerically with north arrow and declination.~~
 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. The name of the city in which the subdivision is located, the name of the subdivision, the name of the owner, the name, registration number, and seal of the registered surveyor under whose supervision the plat was prepared, and the date of the 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				
Certification / Statement	Exempt Plat	Minor Plat	Major Prelim. Plat	Major Final Plat
<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>



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 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>
<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 Council <u>Staff</u>	Superior Court <u>Board of Adjustment</u>



TABLE 4.8-A: SUBDIVISION REVIEW, APPROVAL, AND APPEAL AUTHORITIES

Development Activities	Review / Recommendation	Approving Authority	Appeal Authority
Minor Subdivisions	-	Staff	Board of Adjustment
Recombination Plats <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

5.15. Requirements for tall structures.

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

6.4. Steep slope area requirements.

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.

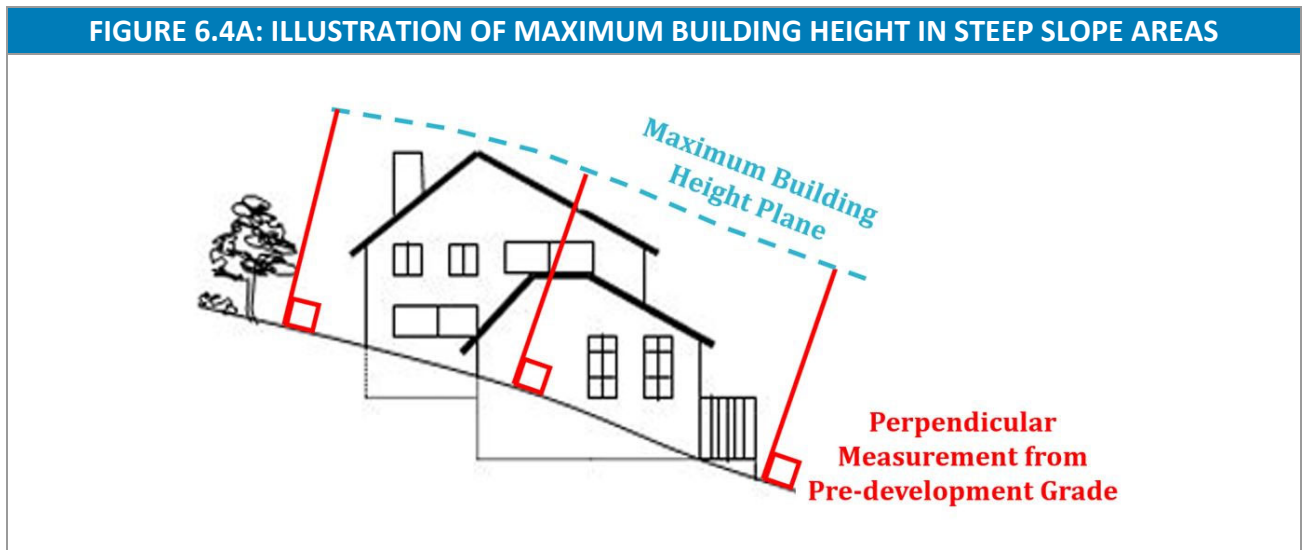
- a. The maximum residential density shall not exceed the maximum residential density permitted in the underlying zoning district as outlined in Section [2.36](#), unless such provisions are specified in a conditional zoning district.



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.



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:

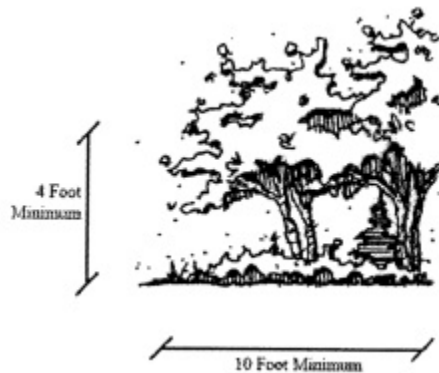
1. These regulations shall apply to the following:
 - i. All newly developed properties
 - ii. When expansions or changes in use result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25 percent, and any property containing an existing structure undergoes 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.



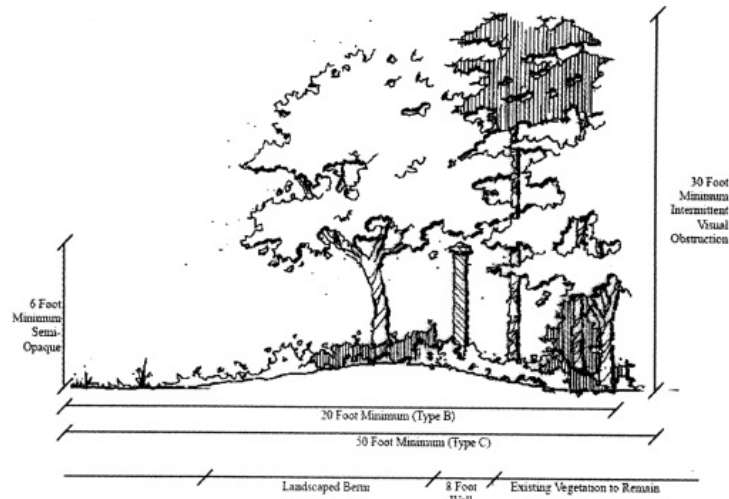
FIGURE 8.4A: TYPE A BUFFER YARD



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)	Mixed-Use/Non-Residential Subdivision and Non-Residential / <u>Mixed-Use</u> Group Development	Special Use Permit (b)
District in Which Development is Located	GR	B	B	B
	RMX	B	B	B
	NMX	B	B	A
	DMX	B	B	A
	CMX	B	D	B
	IC	B	C	B
	GI	NA	E	B

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

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

4. The approving authority may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.
5. Buffer yards are intended to be constructed along the perimeter of the property or project; however, when there are irregular topographic conditions (such as the perimeter of the property is at a lower grade than the use being screened) the approving authority may require the relocation of the required buffer yard in order to better serve its purpose.
6. Natural vegetation, vegetation required for tree protection, riparian buffer areas, and other forms of existing vegetation may be utilized to satisfy these requirements when such natural and existing vegetation clearly satisfies the purpose of this section.
7. Off-site vegetation:
 - a. Existing plant material on adjacent property may be credited toward buffer requirements, provided that such material is in a permanently protected area such as a conservation easement or similarly preserved area.
 - b. Plant material, existing or proposed, on an adjacent property may be credited toward buffer requirements through use of a landscape easement.
8. Buffer requirements may be reduced or waived by the approving authority in the following circumstances:
 - a. Such requirements would pose a safety hazard.



- b. The plantings or planting area would conflict with utilities, easements, or overhead power lines, or encroach upon city trees, as recommended by the city horticulturalist.
 - c. Special use permits based solely upon building height or building ground floor square footage size, where such requirement would serve no useful purpose.
 - d. When projects to which these requirements apply exhibit unifying architectural and landscape design characteristics that integrate the project into surrounding development, and when the landscape design of such a project clearly meets and exceeds the goal of these requirements such that these requirements become unnecessary.
9. Fences, walls and berms in buffers
- a. Where walls and berms are built within any required project boundary buffer, they shall meet the following requirements.
 - i. Walls and berms within a buffer may be used to permit a reduction in the buffer up to 25 percent of the required width.
 - ii. Walls and berms shall not be permitted within surface water protection areas, floodplains, and floodways.
 - iii. Walls and berms shall conform to other applicable requirements of this ordinance.
 - iv. All walls, when located within a buffer, shall be planted on the face towards the adjacent property with at least one upright shrub for every six feet of wall length.
 - (v) Berms shall have side slopes of not less than three feet horizontal for each one foot vertical and a minimum crown width of two feet.
 - vi. Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within three to five years.
 - vii. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall, berm, or fence structure at the time of landscape plan approval.
 - viii. Chain link and concertina wire fences shall be buffered by a Type A buffer yard on all sides.

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



8.5. 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).



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.

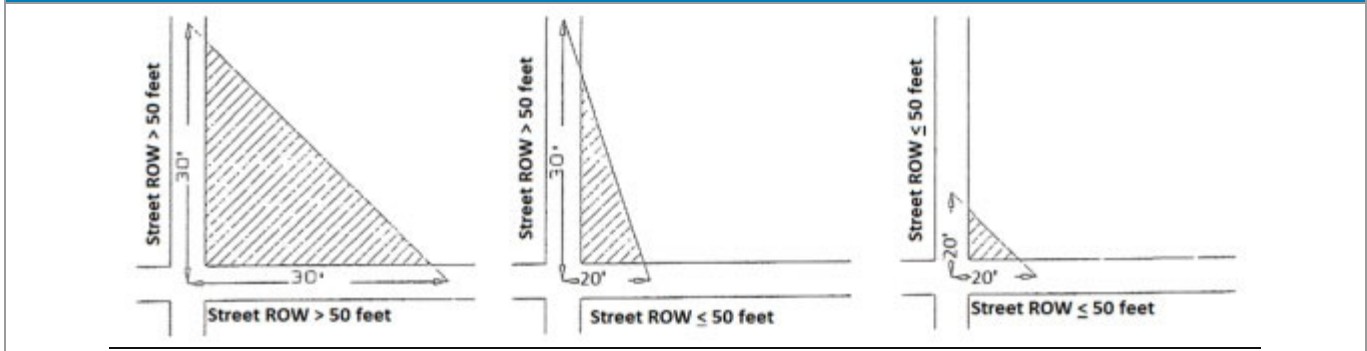
4.59.5. Visibility at street intersections and driveways; sight triangle.

- 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.



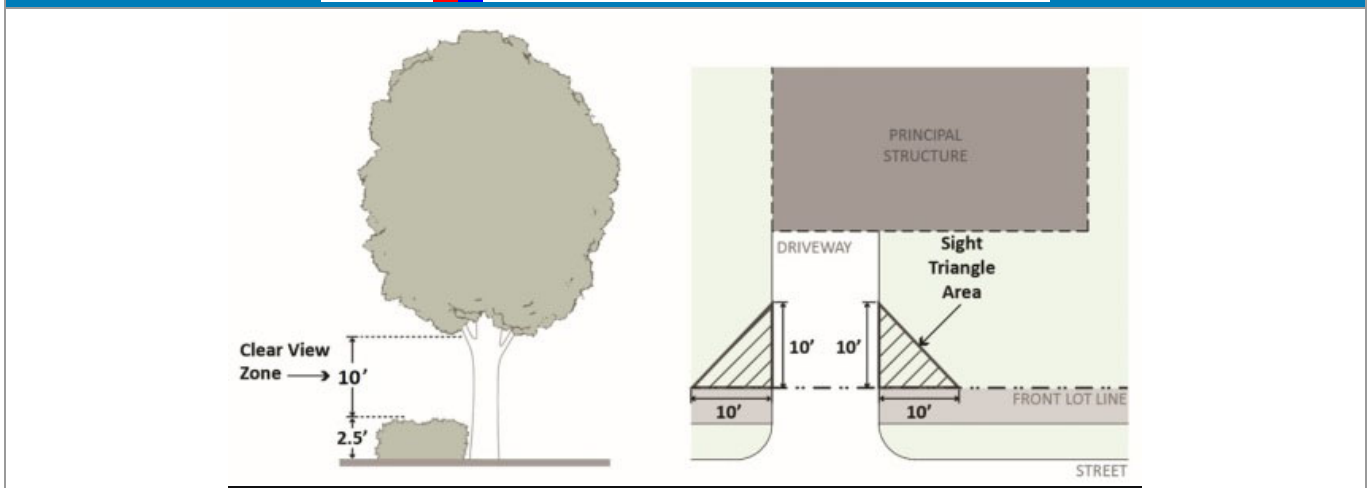
2. On streets having a right-of-way width of more than 50 feet, a point located 30 feet from the intersection of the right-of-way lines.

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

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
Group Living	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
Social Services	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
Lodging							
Overnight Accommodations	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
Camping	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
Commercial							
Eating and Drinking Establishments	All restaurants and other eating and drinking establishments	1 / 750 SF		1 / 750 SF	1 / 200 SF		1 / 200 SF
Personal Services	All personal services	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
Professional Services	All professional services, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Funeral Homes and Services	1 / 4 seats in main assembly area + 1 / 500 SF of office space		1 / 4 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space



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
Retail	All retail and sales establishments, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Gas Station	1 / 500 SF of retail		1 / 500 SF of retail	1 / 400 SF of retail		1 / 400 SF of retail
Shopping Centers	All shopping centers	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Civic / Institutional							
Educational	All educational uses, except as listed below	2 / classroom		2 / classroom	None		None
	Colleges / Universities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
	Schools - Vocational / Technical	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Governmental	All government uses	1 / 750 SF		1 / 1,000 SF	1 / 200 SF		1 / 200 SF
Medical	All medical offices and facilities, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Hospital	2.5 / patient room		2 / patient room	5 / patient room		5 / patient room
Places of Worship	All religious institutions or places of worship	1 / 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
Entertainment / Recreation							
Indoor Recreation	All indoor recreation facilities, except as listed below	1 / 500 SF		1 / 750 SF	1 / 250 SF		1 / 250 SF
	Cultural or Community Facility	1 / 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
	Live Performance Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Movie Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats



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
Outdoor Recreation	All outdoor recreation facilities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Agriculture							
Agriculture	All agricultural uses	1 / 500 SF of retail or administrative 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
Manufacturing / Wholesale / Storage							
Light Industrial and Manufacturing	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
Heavy Manufacturing	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
Storage and Disposal	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
Wholesaling and Distribution	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
Extractive Industries	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- cations	All wireless telecommunication facilities	N/A		N/A	N/A		N/A
Transportation	All transportation uses	N/A		N/A	N/A		N/A
Note: All square footage in gross square feet. d.u. = dwelling unit.							

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.

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

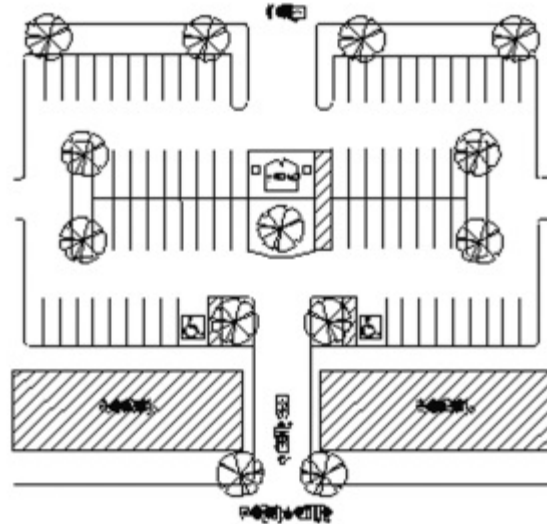
B. General: Internal parking area design and circulation shall be subject to the review and approval of the approving authority, who may impose such conditions as are necessary in order to:

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:



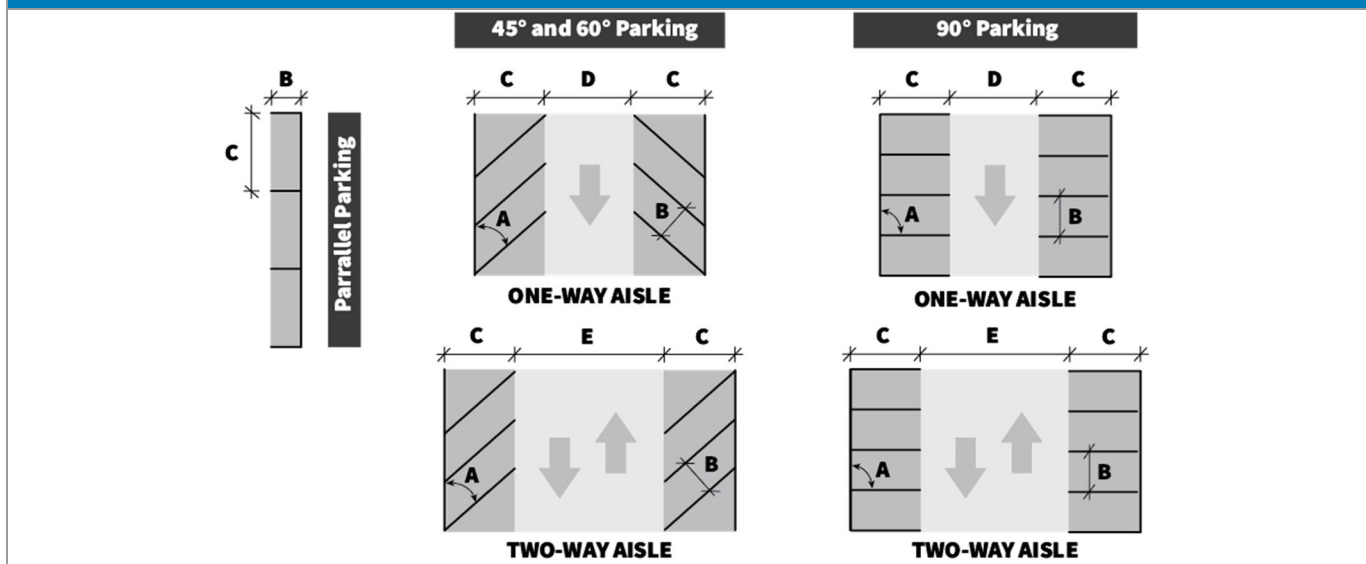
1. Parking areas shall meet the following minimum dimensional requirements

TABLE 10.7A: MINIMUM PARKING STALL AND AISLE DIMENSIONS

Parking Angle (A)	Stall Width (B)	Stall Depth (C)	One-Way Aisle Width (D)	Two-Way Aisle Width (E)
0 / Parallel	8'	22'	N/A	N/A
45	9' (Standard) 8' (Compact)	17'6" (Standard) 16' (Compact)	16'	22'
60	9' (Standard) 8' (Compact)	18' (Standard) 15' (Compact)	18'	22'
90	9' (Standard) 8' (Compact)	18'6" (Standard) 16' (Compact)	22'	24'

Note: Refer to Figure 10.7B below.

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

12.5. General standards for all signs.

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.

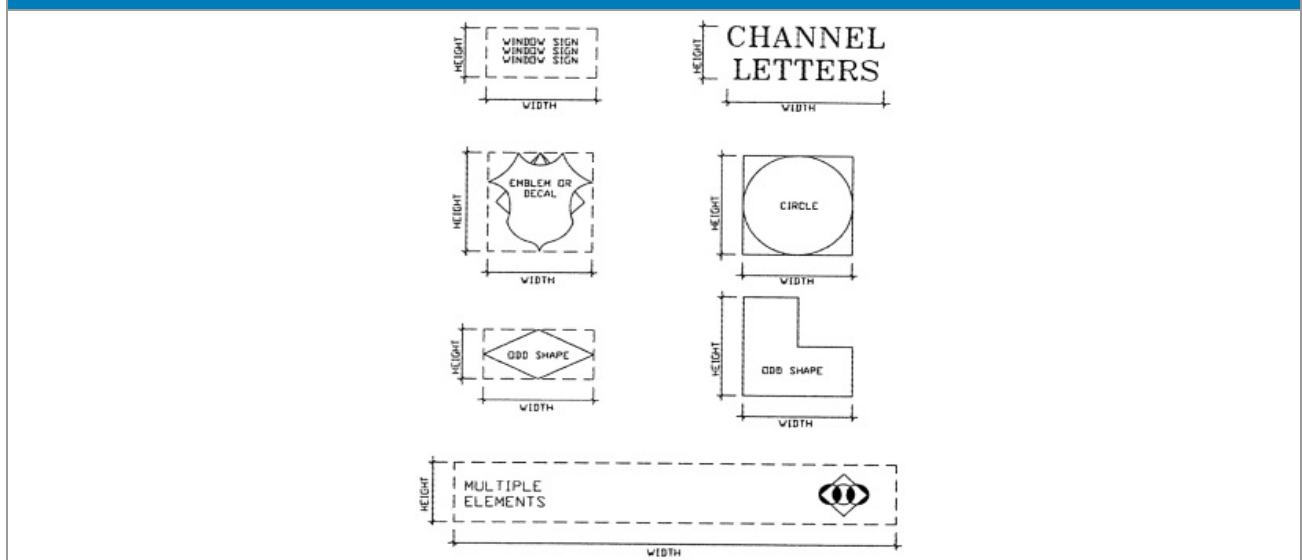
E. Sign area computations: The following principles shall control the computation of sign area and sign height:



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.

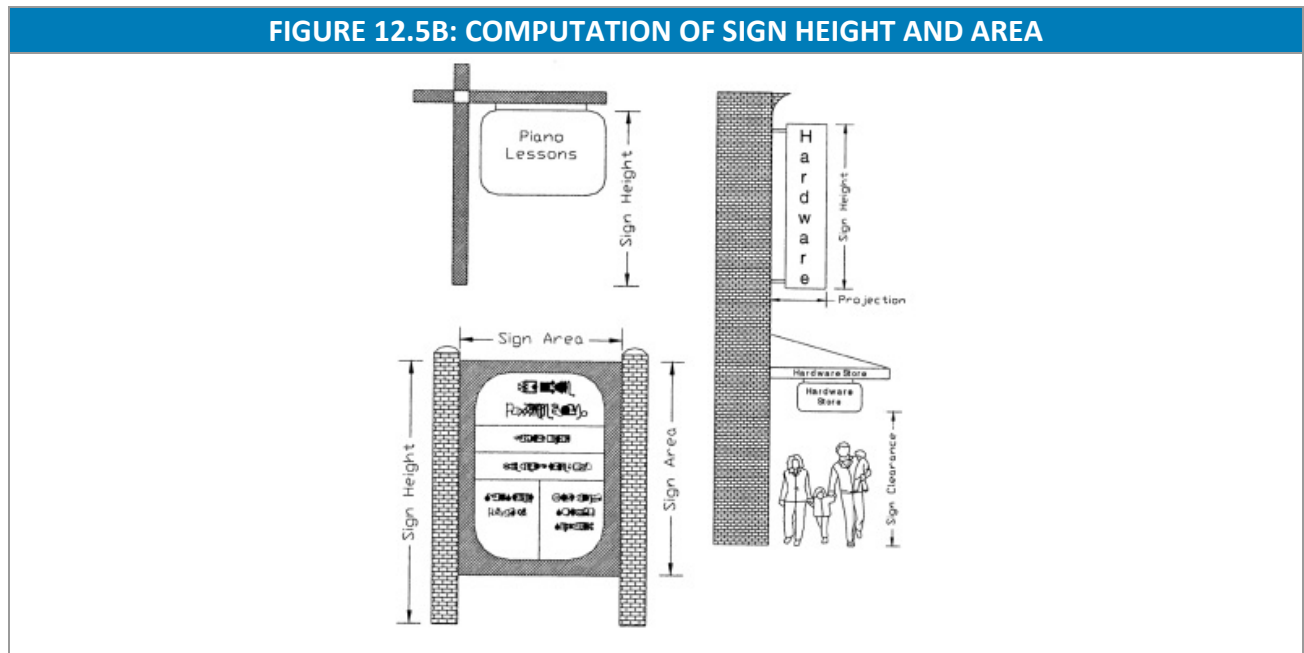
FIGURE 12.5A: COMPUTATION OF SIGN AREA



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.

- 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.

- 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

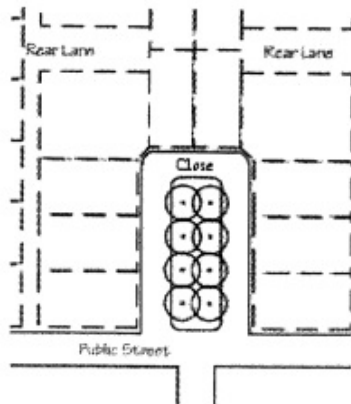
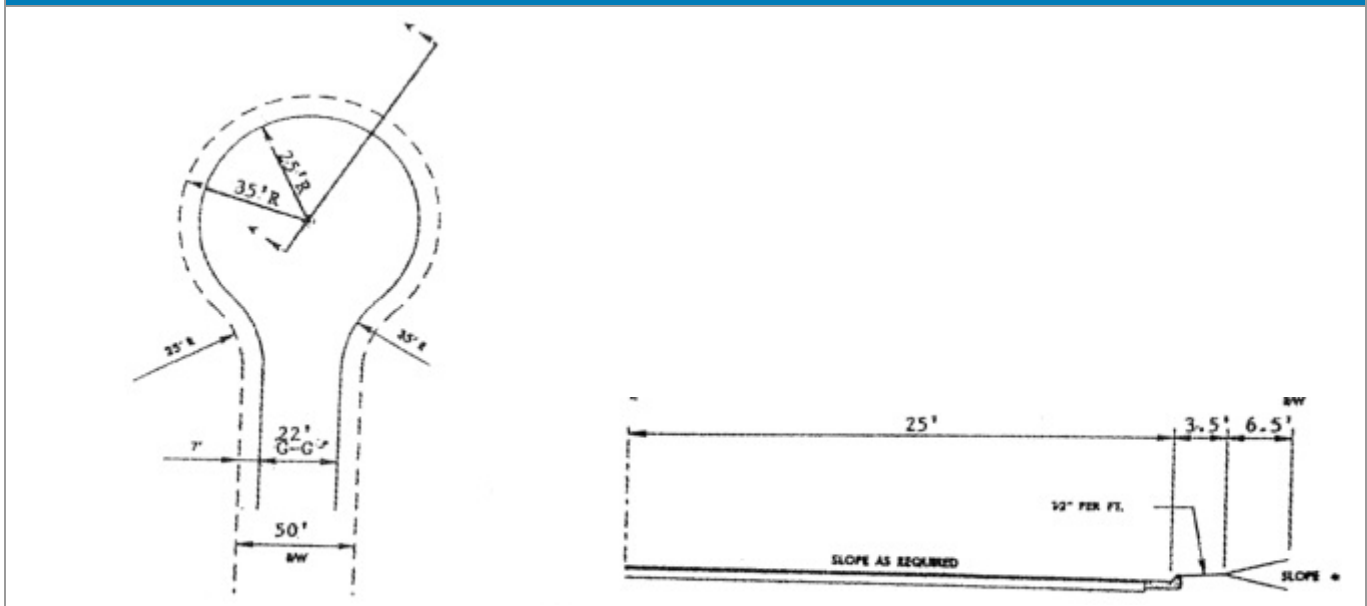




FIGURE 13.5B: ILLUSTRATION OF CUL-DE-SAC WITH CURB AND GUTTER SECTION



P. Intersections:

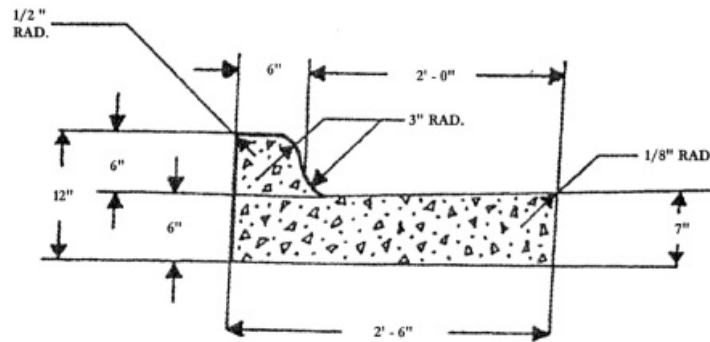
1. All streets shall intersect at right angles as nearly as possible and no street shall intersect at less than 60 degrees.
2. Where practical, intersections should be aligned to create four-way intersections.
3. Off-set intersections for local streets and neighborhood collectors should be at least 125 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.

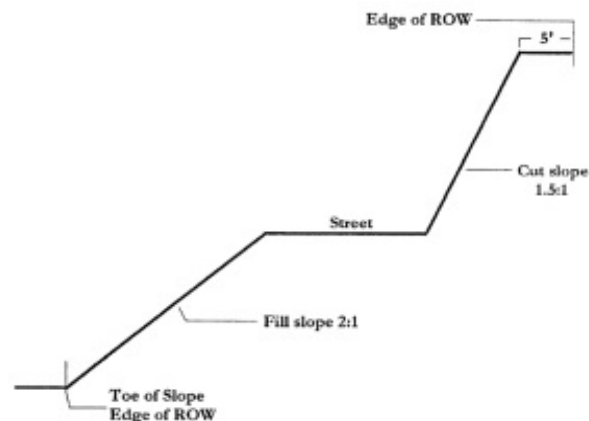


FIGURE 13.5C: STANDARD VERTICAL FACE CURB AND GUTTER



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.

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
	Plats of 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	Major Subdivisions	Technical Review Committee and Planning Board	City Council	Superior Court
	Minor Subdivisions for which New Public Infrastructure is Proposed	Technical Review Committee	Staff	Board of Adjustment
	Minor Subdivisions Creating No New Public Infrastructure	-	Staff	Board of Adjustment
	Recombination Plats	-	Staff	Board of Adjustment
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
Modifications	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.

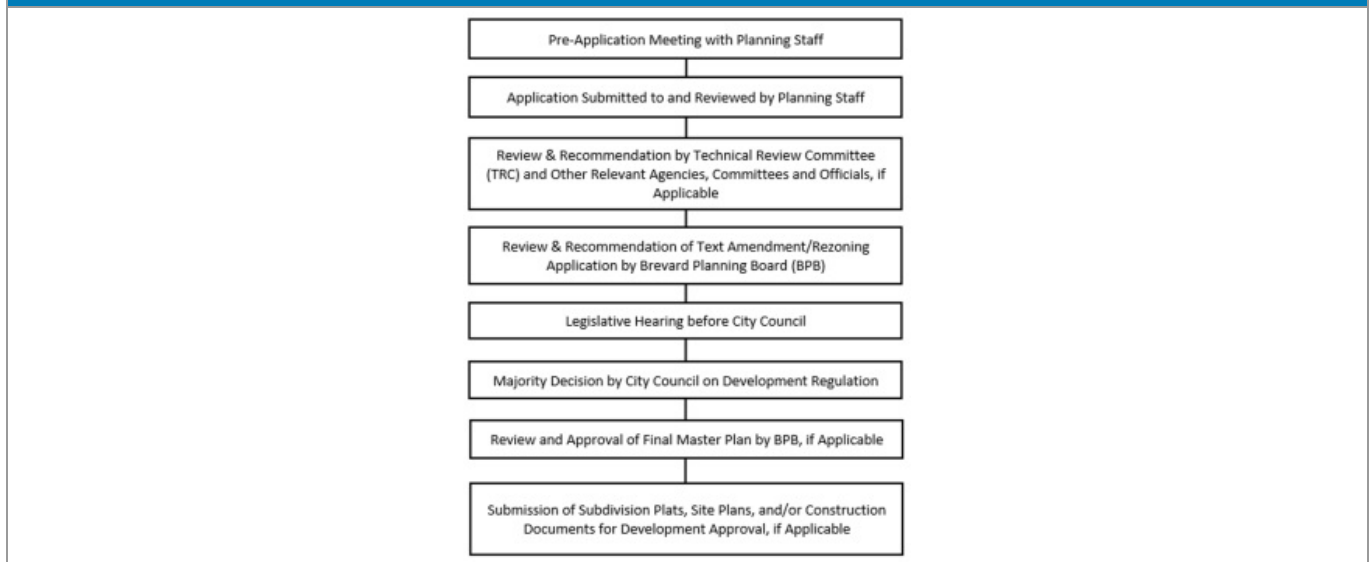
3. Upon completion of all land development activity and the installation of all approved improvements the applicant shall contact the administrator to arrange for a final inspection. As authorized by G.S. 160D-403(e) and -1113, the administrator shall inspect for compliance with all applicable requirements 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.



- 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.
- 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:

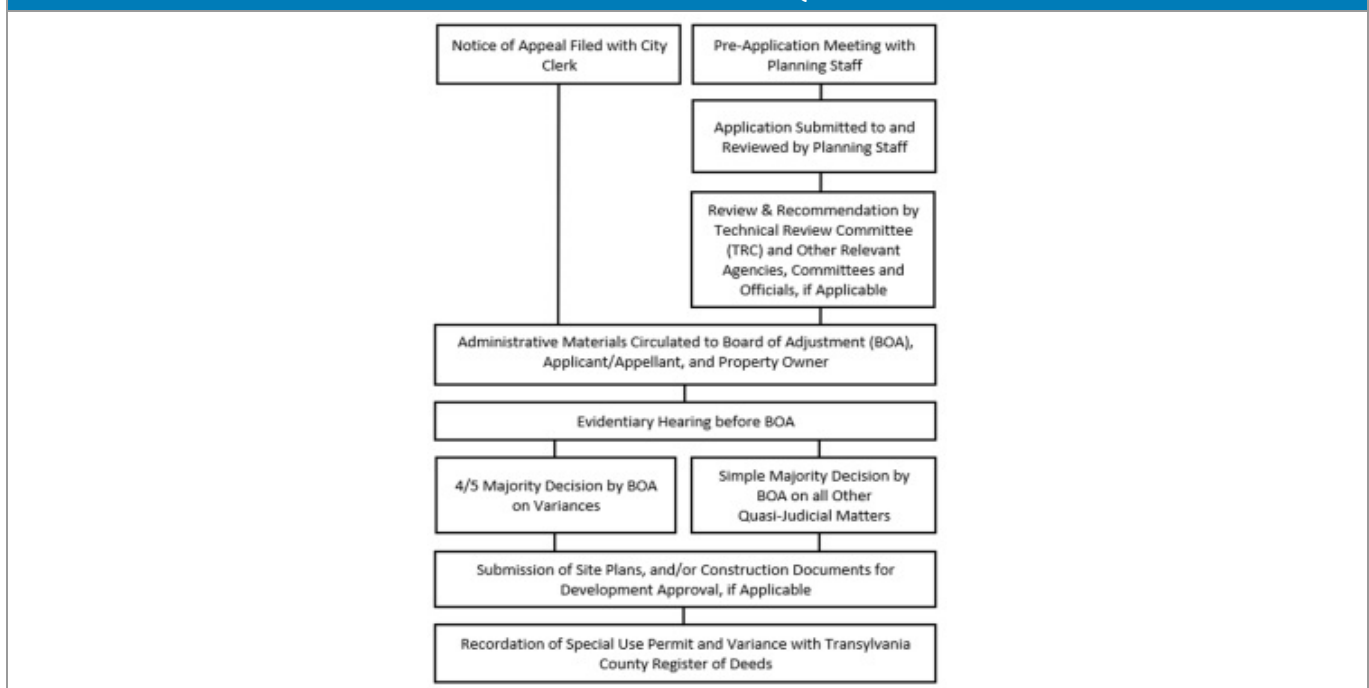


1. Notification requirements: A notice of a proposed extension of the ETJ shall be sent by first-class mail by the administrator to the last address listed for the affected property owners. The notice shall be mailed at least 30 days prior to the date of the hearing by following the procedures and containing 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.
- 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.

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

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:~~

~~**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.

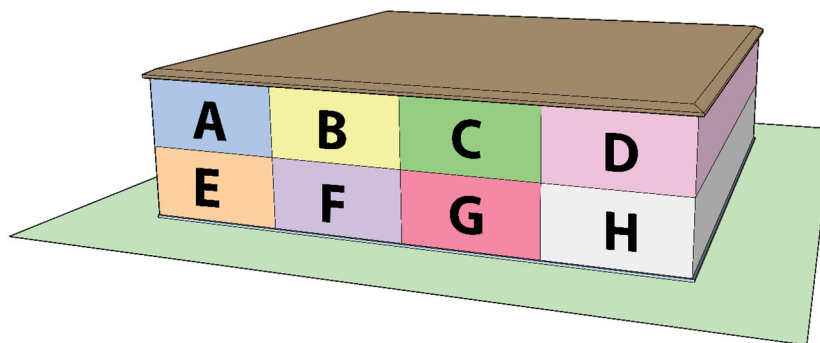
Inherited property:

~~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.

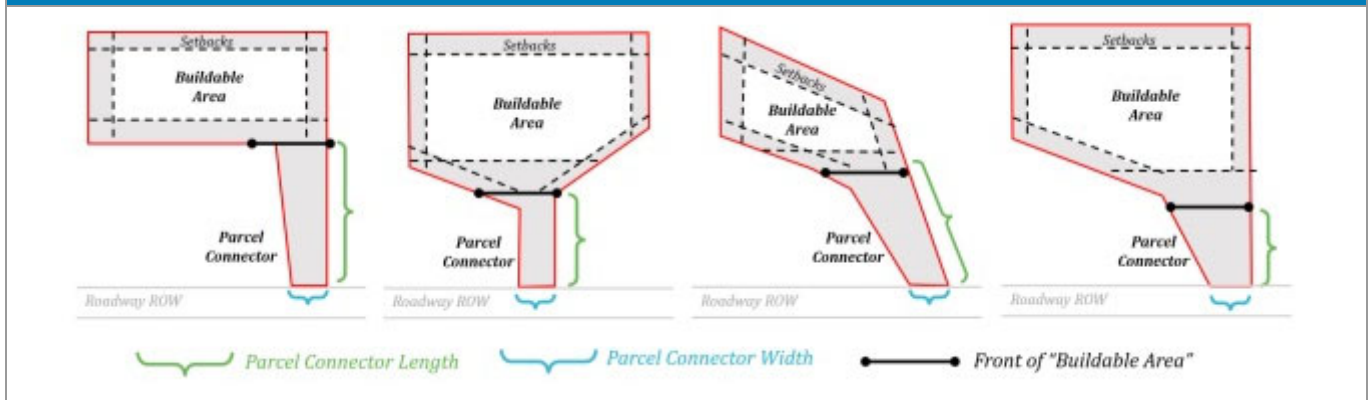
Lot, interior: An individual lot within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites. Also referred to as an "out-parcel."



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.

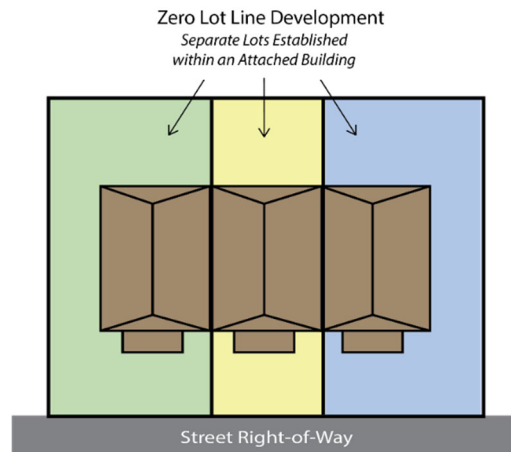
Minor subdivision, minor: The division of an established parcel of land that:~~into 25 or fewer parcels of land.~~ This term shall also include the establishment of condominiums, townhomes, and any other subdivision proposing common area, condominium space, or zero lot line development that, when completed, 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

CHAPTER 1. PURPOSE AND APPLICABILITY

1.12. Interpretation.

- 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

2.1. General intent and establishment of districts.

2.1.3. Establishment of conditional zoning districts.

- 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.

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.

- 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 (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 (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 (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 (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 (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 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.
- 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:**

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	—
	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, as outlined in Chapter 9.
- 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:

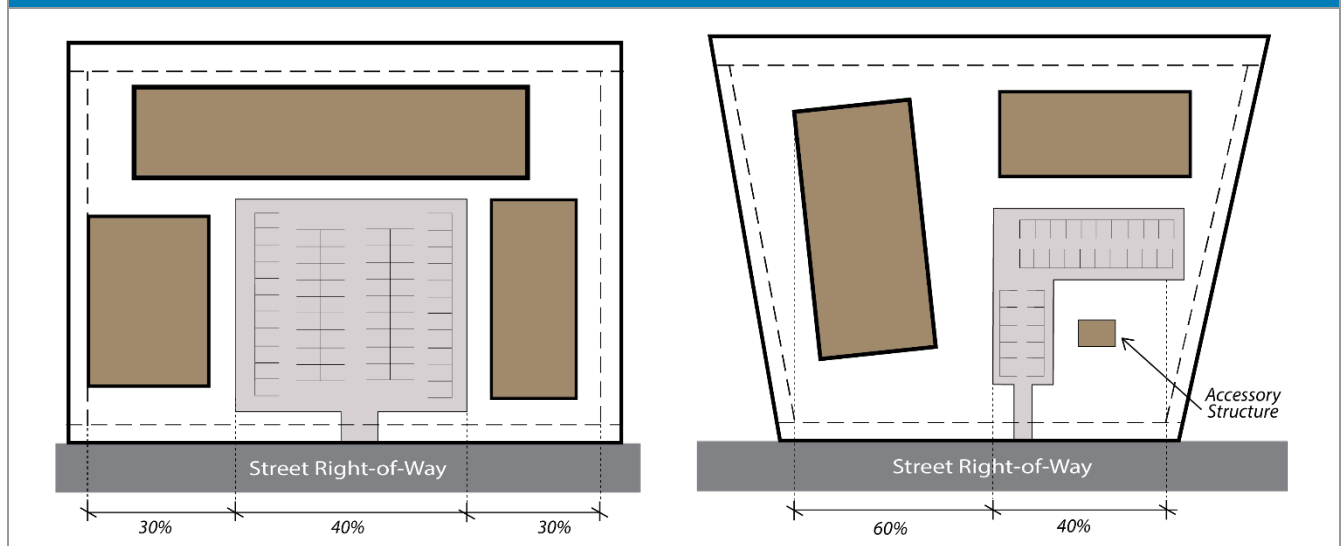
- All buildings established as part of a group development project shall be separated in accordance with North Carolina Building Code separation requirements.

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:

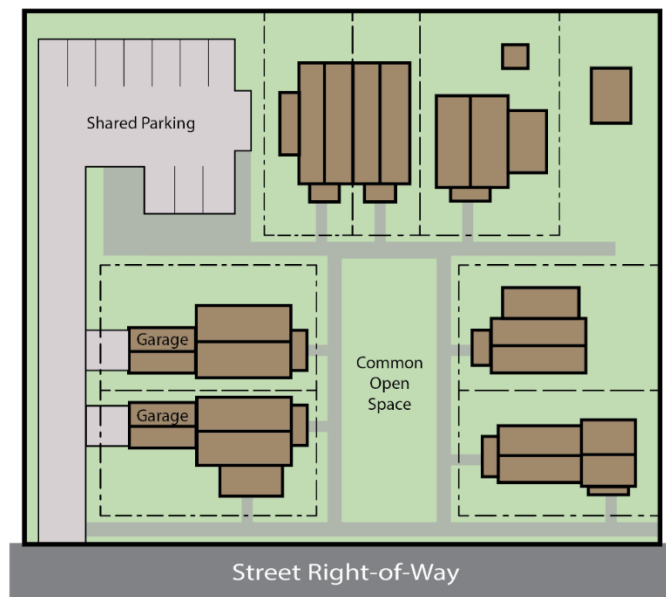
1. The common open space shall include a central green, lawn or garden areas, playground, plaza, or other greenspace / feature as a central focal point.
2. The minimum size of the common open space area is 3,000 square feet or 500 square feet per dwelling unit, whichever is greater. This requirement 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.

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:**

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.

- 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.	

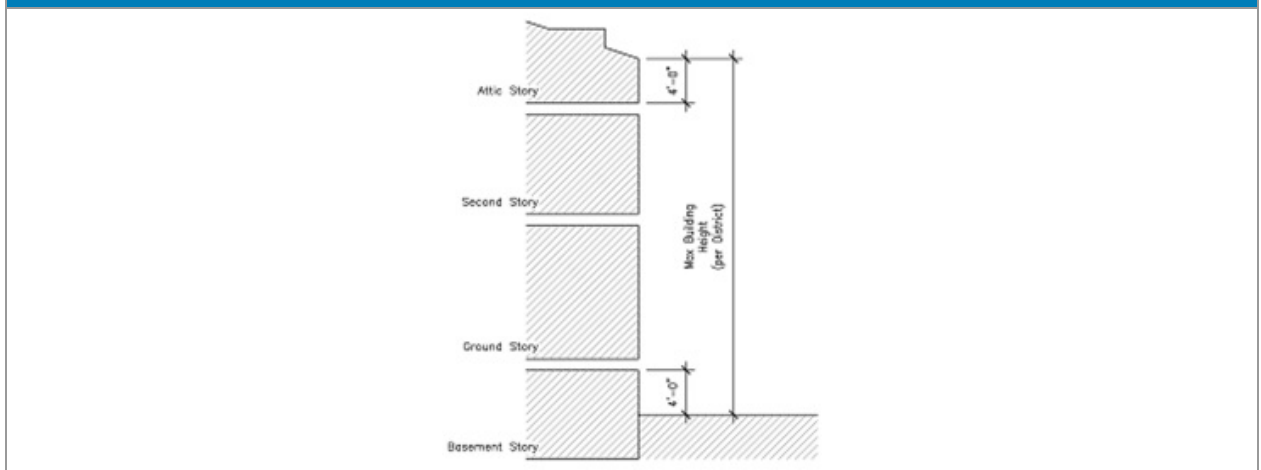
2. See the requirements for tall structures as set forth in Section 5.15.

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.

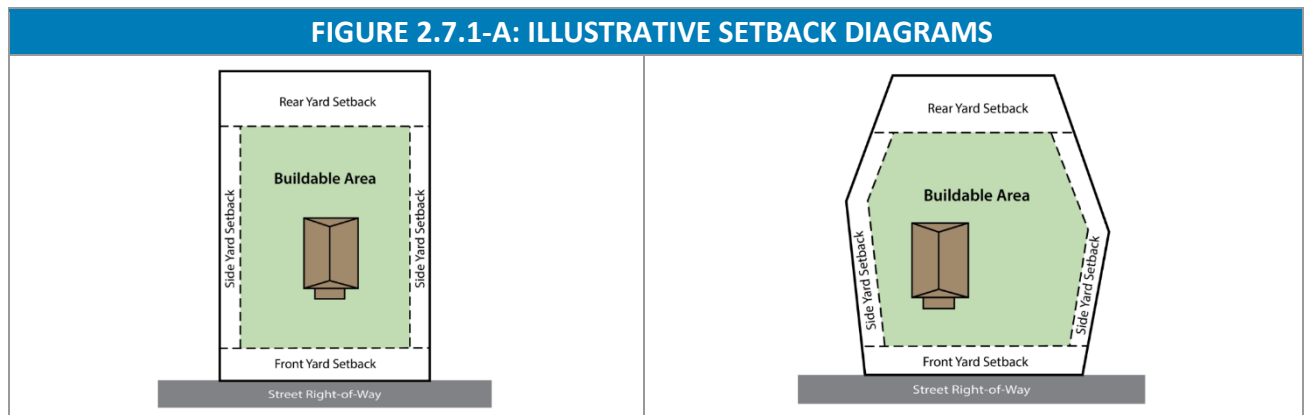
TABLE 2.6.3-A: MAXIMUM PROJECT AREA BY RIGHT	
District	Maximum Project Area By Right
GR (4, 8)	20 acres
RMX	10 acres
NMX	10 acres
DMX	10 acres
CMX	10 acres
IC	None
GI	None
Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C.	



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.

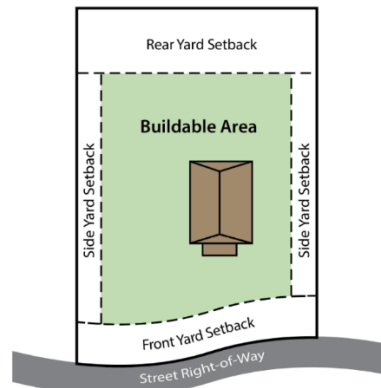


C. **Measurement of setbacks and building lines:**

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.

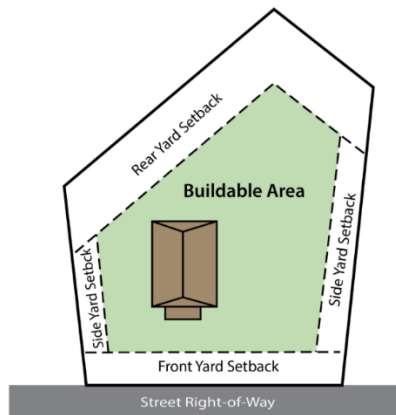


FIGURE 2.7.1-B: SETBACKS FROM CURVILINEAR LOT LINES



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

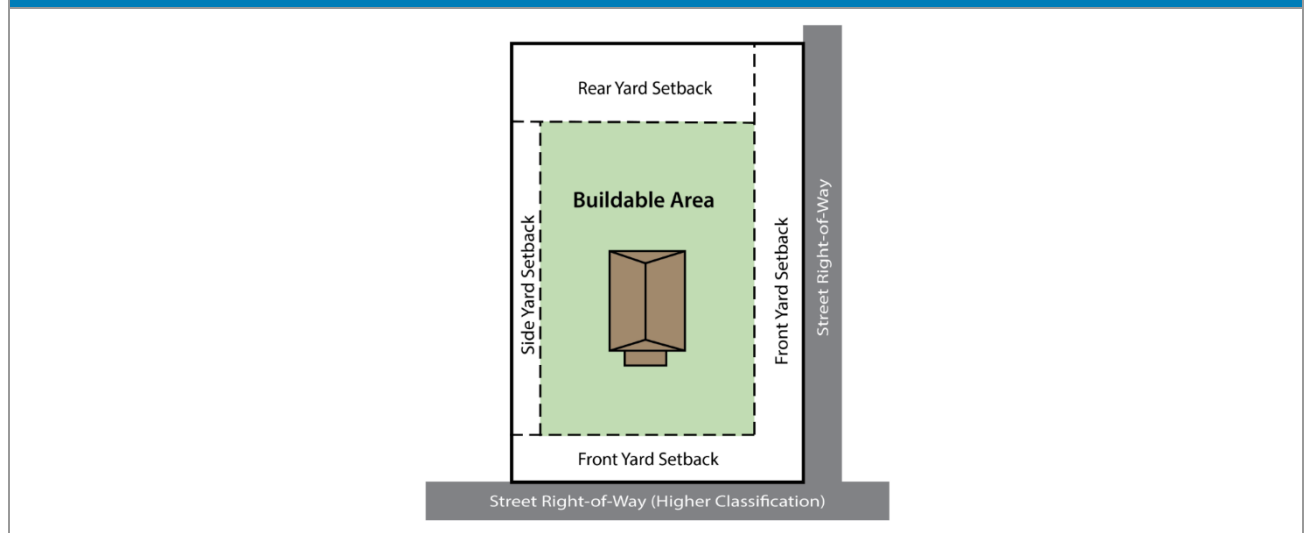
District	Side Yard Setback		Rear Yard Setback	
	< 120 sq. ft.	≥ 120 sq. ft.	< 120 sq. ft.	≥ 120 sq. ft.
DMX	0 feet	0 feet	0 feet	0 feet
CMX	0 feet	0 feet	0 feet	0 feet
IC	40 feet along all external boundaries			
GI	10 feet/25 feet from residential district	10 feet/25 feet from residential district	10 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

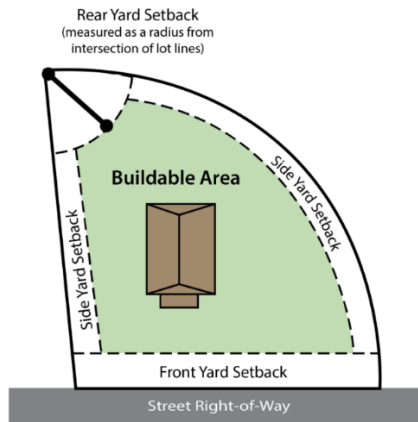


2.7.5. Setbacks for triangle lots and other lots without a rear lot line.

- 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.



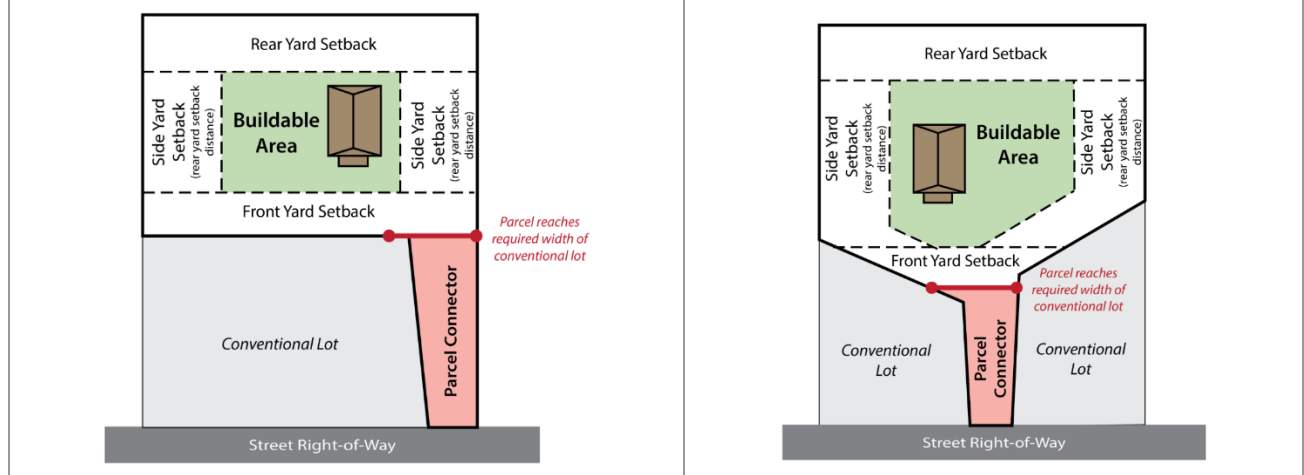
FIGURE 2.7.5-A: SETBACKS FROM LOTS WITH NO REAR LOT LINE



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

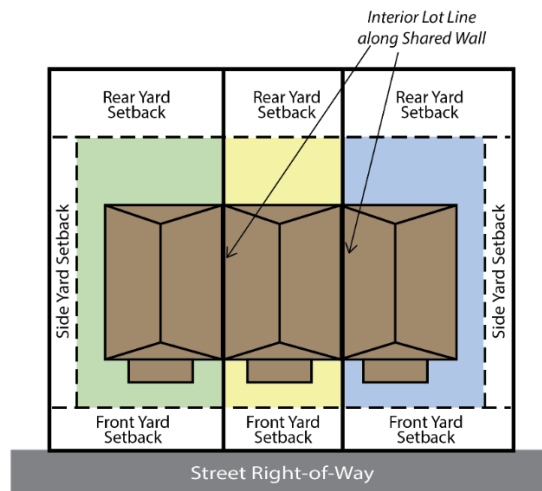




2.7.7. Setbacks for zero-lot line developments.

- 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.

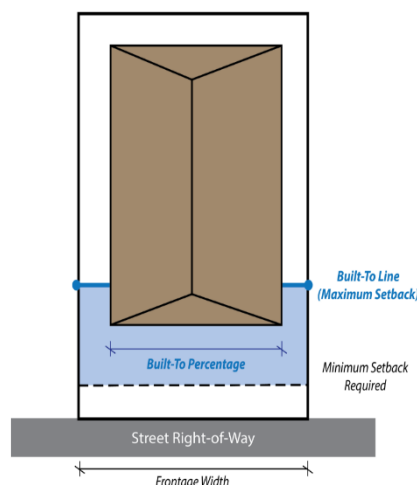
FIGURE 2.7.7-A. ZERO LOT LINE DEVELOPMENT SETBACKS



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.

- 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

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. 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.

3.13. Accessory uses.

3.13.1. Residential accessory use category.

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 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.

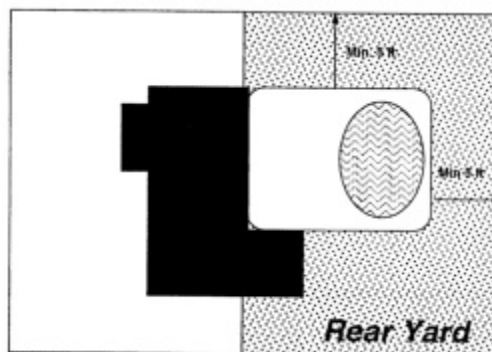
F. Keeping domestic fowl (chickens).

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 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

4.1. Authority and purpose.

- 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.

4.2.1. General provisions.

- 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.

- 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.

- 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.

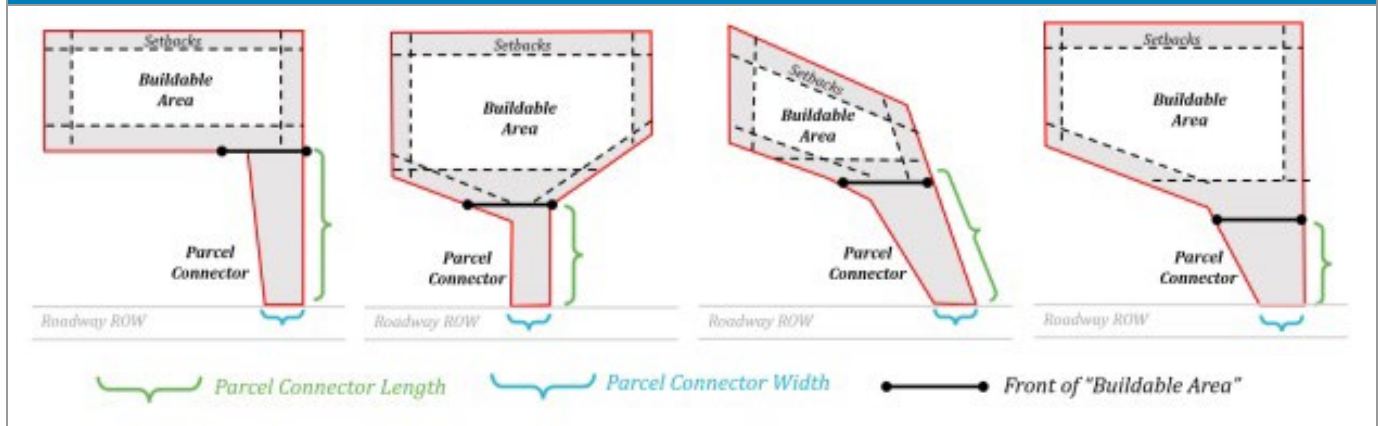
4.2.4. Irregular lots.

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:

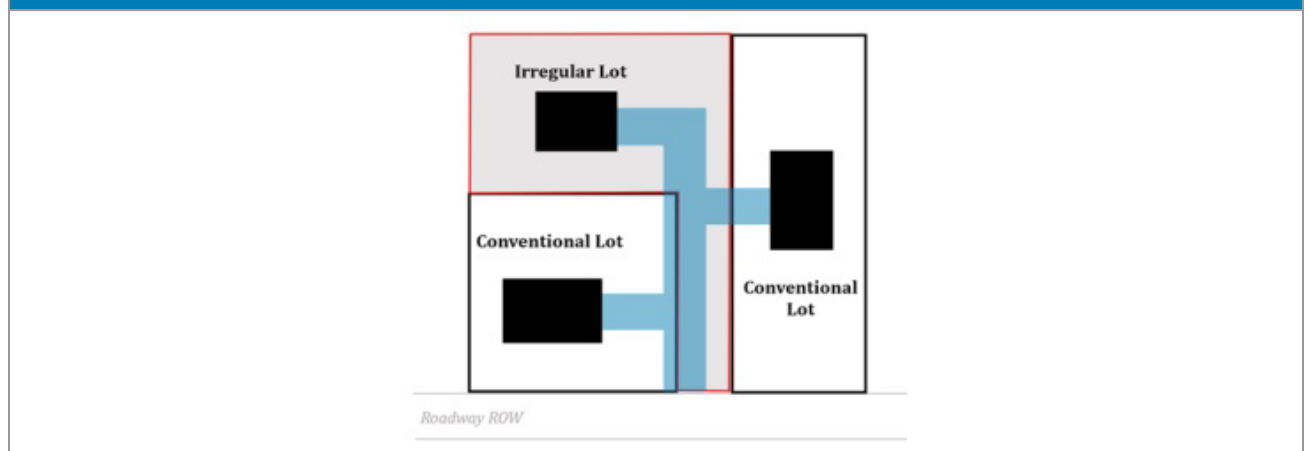
1. Irregular lots are permitted to have the reduced minimum lot width at the right-of-way line if the lot width reaches the minimum lot width for a conventional lot within the maximum allowable parcel connector length.
 - a. The width of the "parcel connector," measured along the right-of-way line, shall 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.

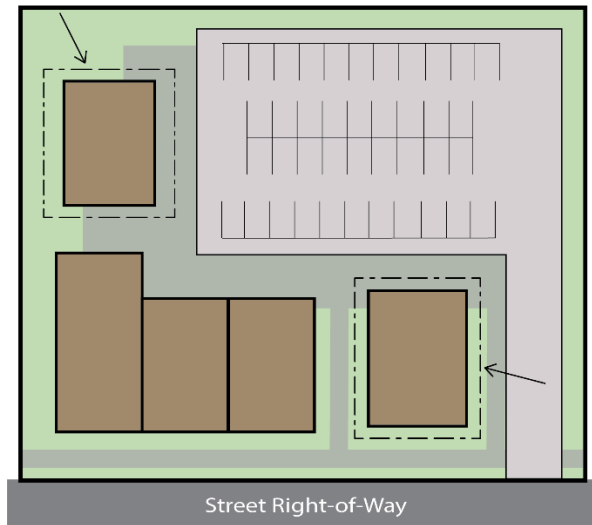
B. *Street frontage.*

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:**

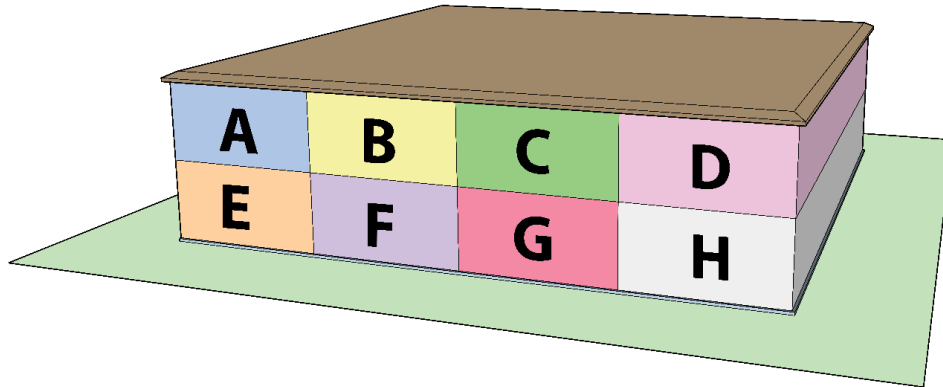
1. Air lots shall be considered any condominium unit or lot containing both horizontal and vertical dimensions and established as part of a shared structure.

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.

- 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:***
1. Major subdivision means a subdivision that:
 - a. Creates more than 8 lots, including the residual or parent lot;
 - b. Involves the creation, expansion, or dedication of any public infrastructure; or
 - c. Is not otherwise exempt under Section 4.3.
 2. Subdivisions that create interior lots for the purpose of development and are not otherwise exempt shall also be subject to the review process and requirements of this section.
- 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.

- 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

5.15. Requirements for tall structures.

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

6.4. Steep slope area requirements.



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,

$$S\% = (L \times I) .0023 / A$$

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.



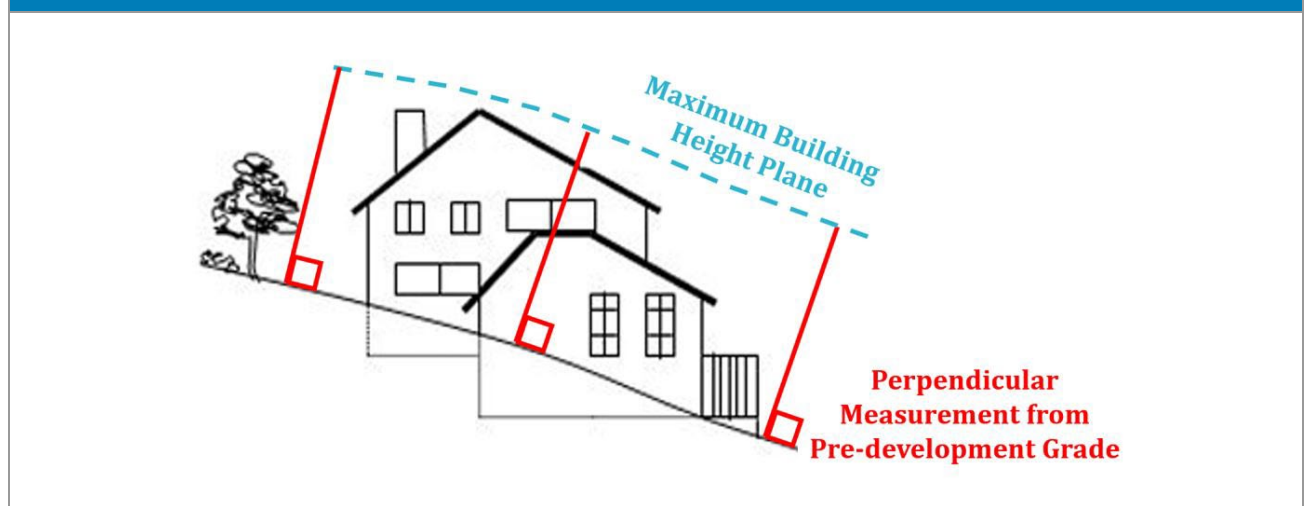
TABLE 6.4D: MAXIMUM RESIDENTIAL DENSITY CREDITS

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

8.4. Buffers and screening.

A. *Applicability:*

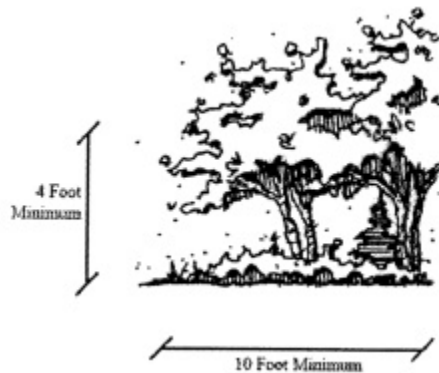
1. These regulations shall apply to the following:
 - i. All newly developed properties
 - ii. When expansions or changes in use result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25 percent, and any property containing an existing structure undergoes 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.



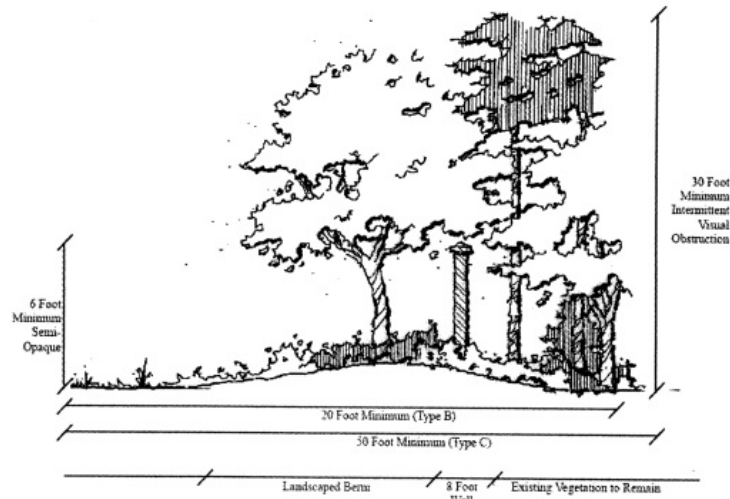
FIGURE 8.4A: TYPE A BUFFER YARD



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.

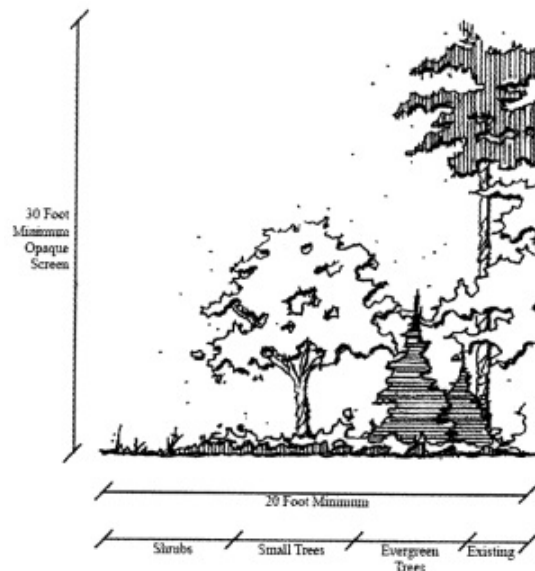


FIGURE 8.4B: TYPE B AND TYPE C BUFFER YARDS



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.)	Non-Residential / Mixed-Use Group Development	
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 (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.

9.4. Traffic impact studies (TIS).

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:

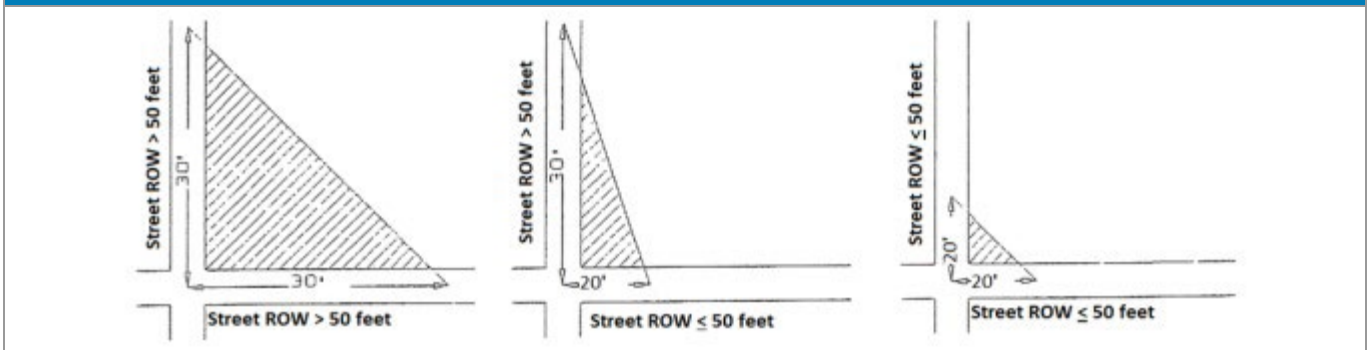
- 50,000 sf Retail.
 - 200 Single family homes.
 - 150,000 sf Office.
 - 250,000 sf Industrial.
 - 300 room Hotel.
- B. A traffic impact analysis report shall address the impact of projected horizon year(s) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak 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.

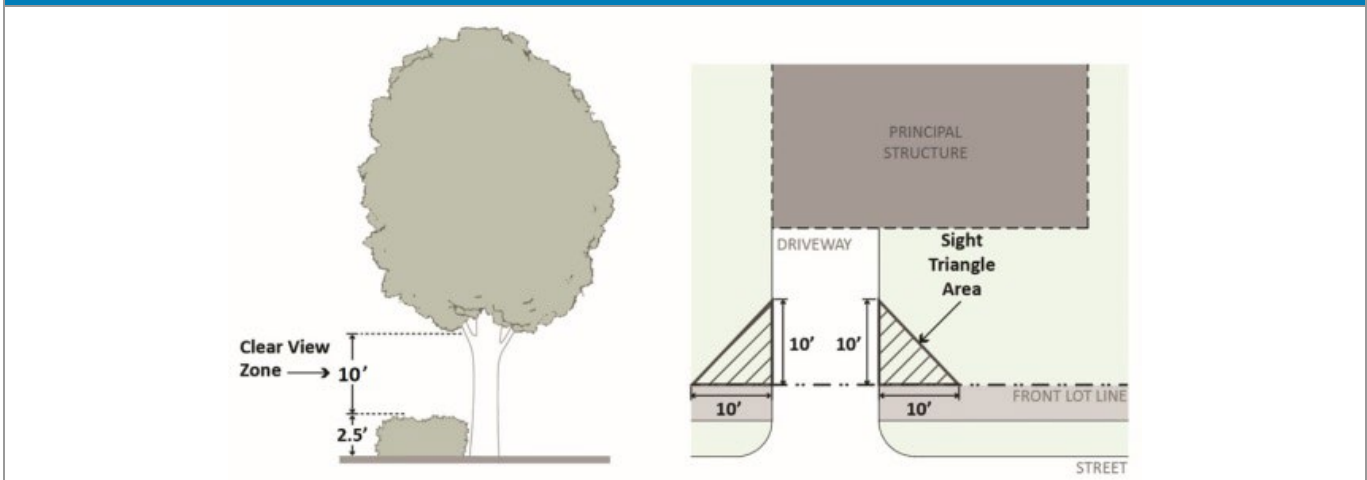


FIGURE 9.5A: SIGHT TRIANGLES AT RIGHT-OF-WAY INTERSECTIONS



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

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
Group Living	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
Social Services	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
Lodging							
Overnight Accommodations	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
Camping	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
Commercial							
Eating and Drinking Establishments	All restaurants and other eating and drinking establishments	1 / 750 SF		1 / 750 SF	1 / 200 SF		1 / 200 SF
Personal Services	All personal services	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
Professional Services	All professional services, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Funeral Homes and Services	1 / 4 seats in main assembly area + 1 / 500 SF of office space		1 / 4 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space



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
Retail	All retail and sales establishments, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Gas Station	1 / 500 SF of retail		1 / 500 SF of retail	1 / 400 SF of retail		1 / 400 SF of retail
<i>Civic / Institutional</i>							
Educational	All educational uses, except as listed below	2 / classroom		2 / classroom	None		None
	Colleges / Universities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
	Schools - Vocational / Technical	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Governmental	All government uses	1 / 750 SF		1 / 1,000 SF	1 / 200 SF		1 / 200 SF
Medical	All medical offices and facilities, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Hospital	2.5 / patient room		2 / patient room	5 / patient room		5 / patient room
Places of Worship	All religious institutions or places or 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
<i>Entertainment / Recreation</i>							
Indoor Recreation	All indoor recreation facilities, except as listed below	1 / 500 SF		1 / 750 SF	1 / 250 SF		1 / 250 SF
	Cultural or Community Facility	1 / 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
	Live Performance Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Movie Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats



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
Outdoor Recreation	All outdoor recreation facilities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Agriculture							
Agriculture	All agricultural uses	1 / 500 SF of retail or administrative 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
Manufacturing / Wholesale / Storage							
Light Industrial and Manufacturing	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
Heavy Manufacturing	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
Storage and Disposal	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
Wholesaling and Distribution	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
Extractive Industries	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- cations	All wireless telecommunication facilities	N/A		N/A	N/A		N/A
Transportation	All transportation uses	N/A		N/A	N/A		N/A

Note: All square footage in gross square feet. 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.

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

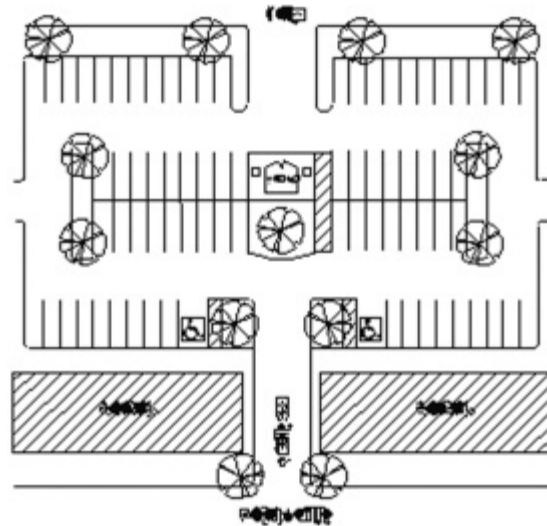
B. General: Internal parking area design and circulation shall be subject to the review and approval of the approving authority, who may impose such conditions as are necessary in order to:

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*:



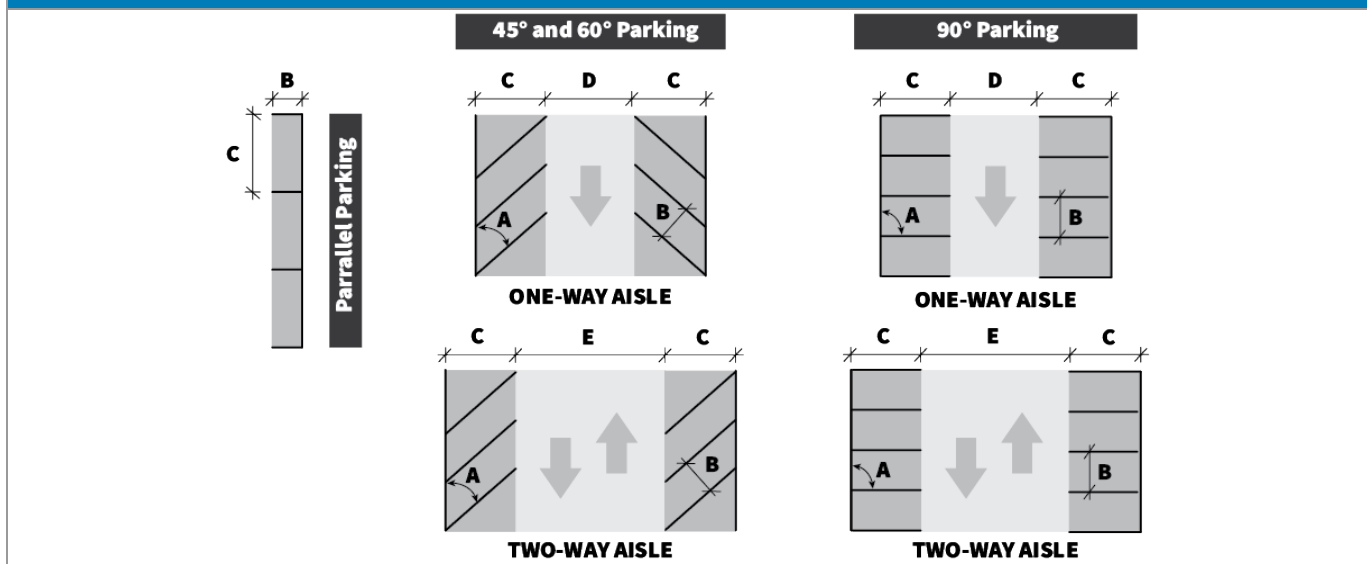
1. Parking areas shall meet the following minimum dimensional requirements

TABLE 10.7A: MINIMUM PARKING STALL AND AISLE DIMENSIONS

Parking Angle (A)	Stall Width (B)	Stall Depth (C)	One-Way Aisle Width (D)	Two-Way Aisle Width (E)
0 / Parallel	8'	22'	N/A	N/A
45	9' (Standard) 8' (Compact)	17'6" (Standard) 16' (Compact)	16'	22'
60	9' (Standard) 8' (Compact)	18' (Standard) 15' (Compact)	18'	22'
90	9' (Standard) 8' (Compact)	18'6" (Standard) 16' (Compact)	22'	24'

Note: Refer to Figure 10.7B below.

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

12.5. General standards for all signs.

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.

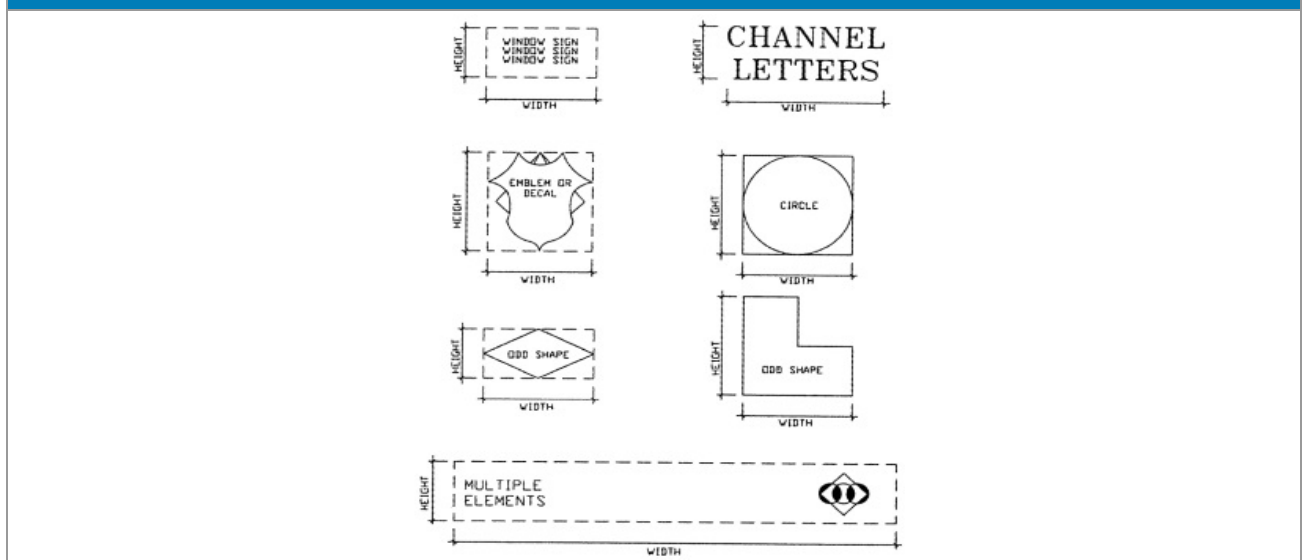
E. Sign area computations: The following principles shall control the computation of sign area and sign height:



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.

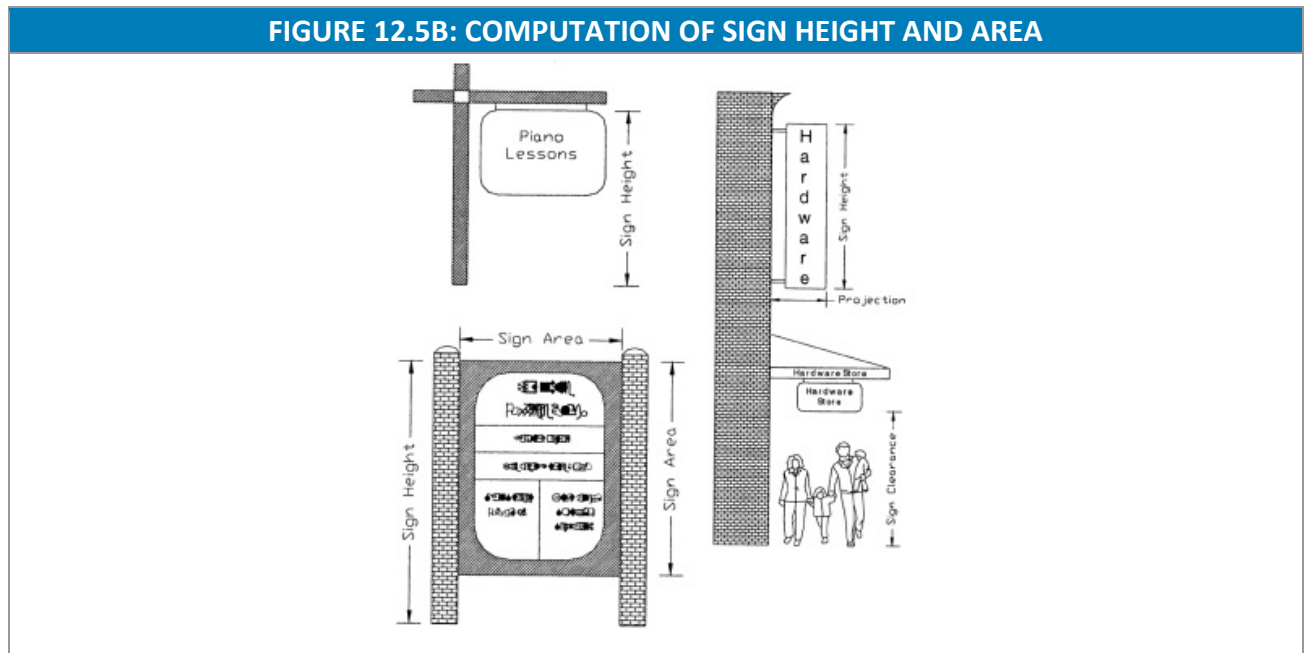
FIGURE 12.5A: COMPUTATION OF SIGN AREA



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.

- 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.

- 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.

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

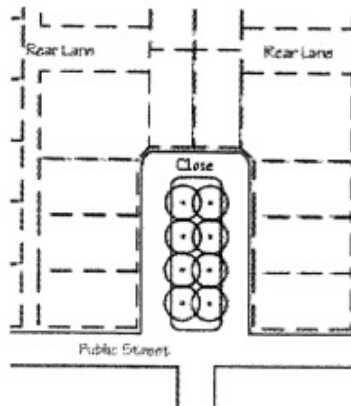
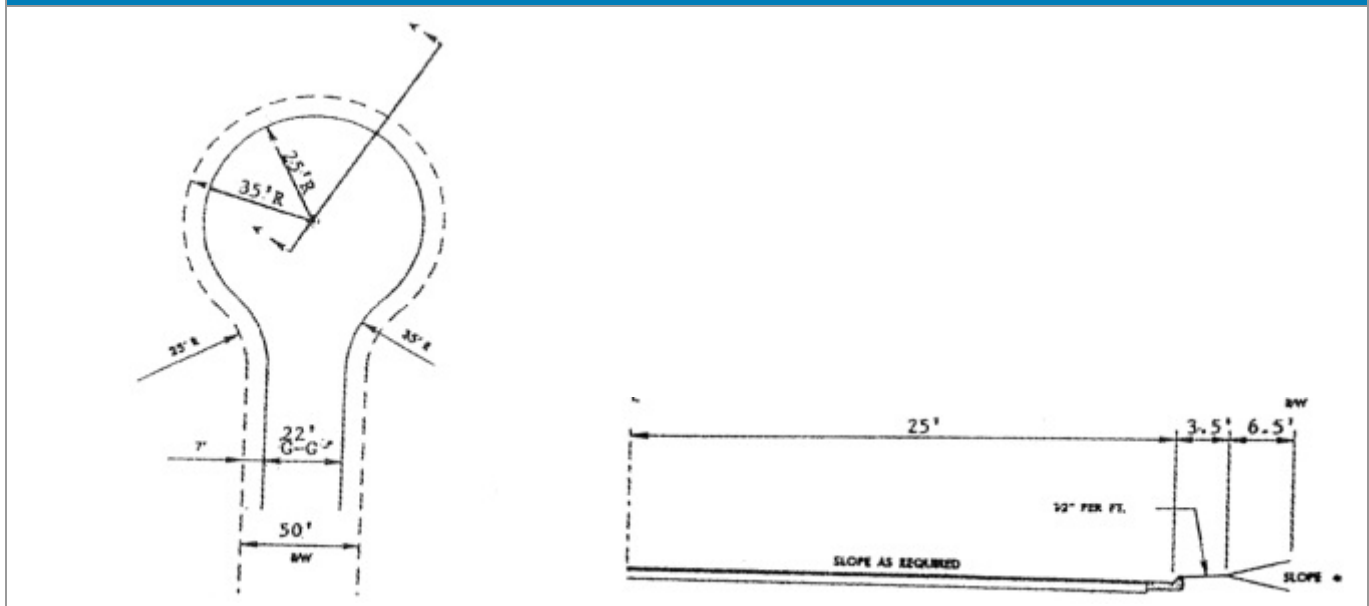




FIGURE 13.5B: ILLUSTRATION OF CUL-DE-SAC WITH CURB AND GUTTER SECTION



P. Intersections:

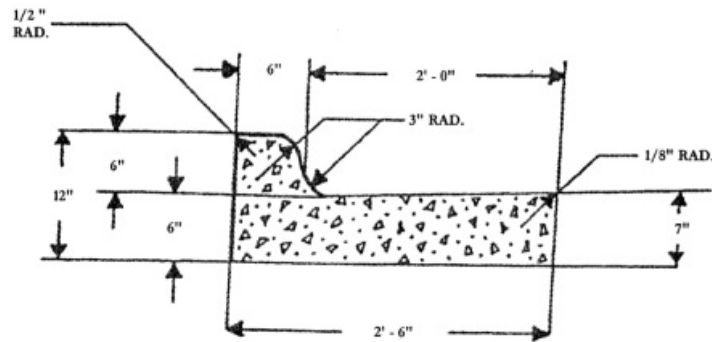
1. All streets shall intersect at right angles as nearly as possible and no street shall intersect at less than 60 degrees.
2. Where practical, intersections should be aligned to create four-way intersections.
3. Off-set intersections for local streets and neighborhood collectors should be at least 125 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.

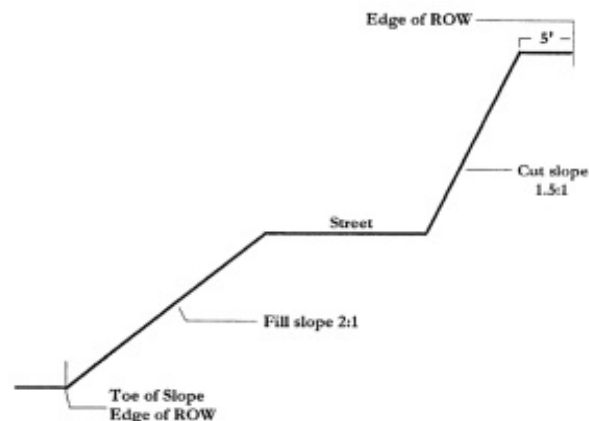


FIGURE 13.5C: STANDARD VERTICAL FACE CURB AND GUTTER



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.

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, 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.

- 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

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
	Dedication / Acceptance of Infrastructure	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
Zoning	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
Modifications	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.

- 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 [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.

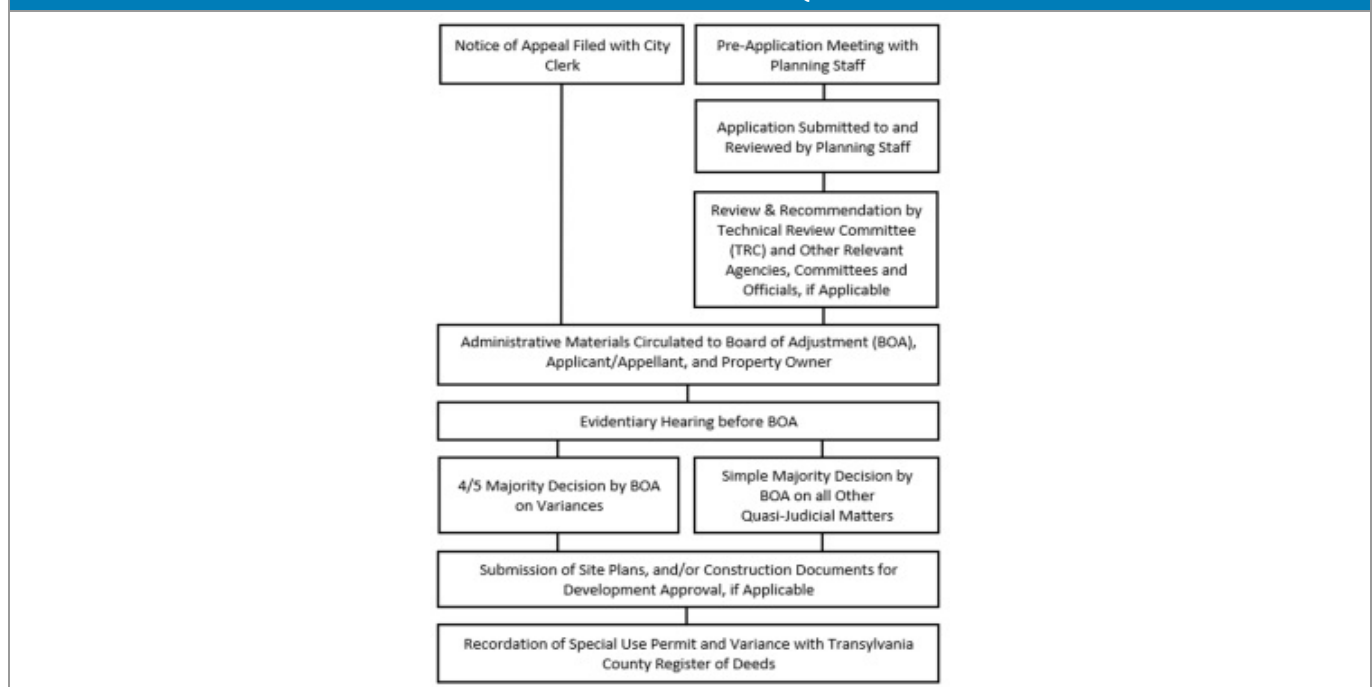


2. Legislative hearing: In accordance with G.S. 160D-202(a), if a zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction, a single hearing on the zoning map amendment and the boundary amendment may be held.
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.

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

17.4. Sketch plan requirements.



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.

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.

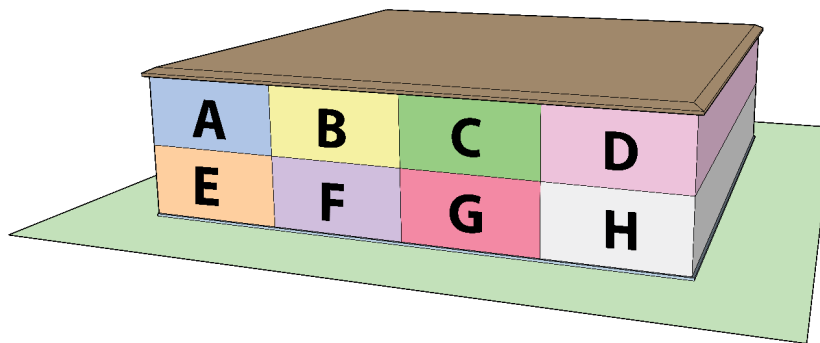
Development regulation: A [UNIFIED DEVELOPMENT ORDINANCE](#), zoning regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, housing code, State Building Code enforcement, or any other 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).



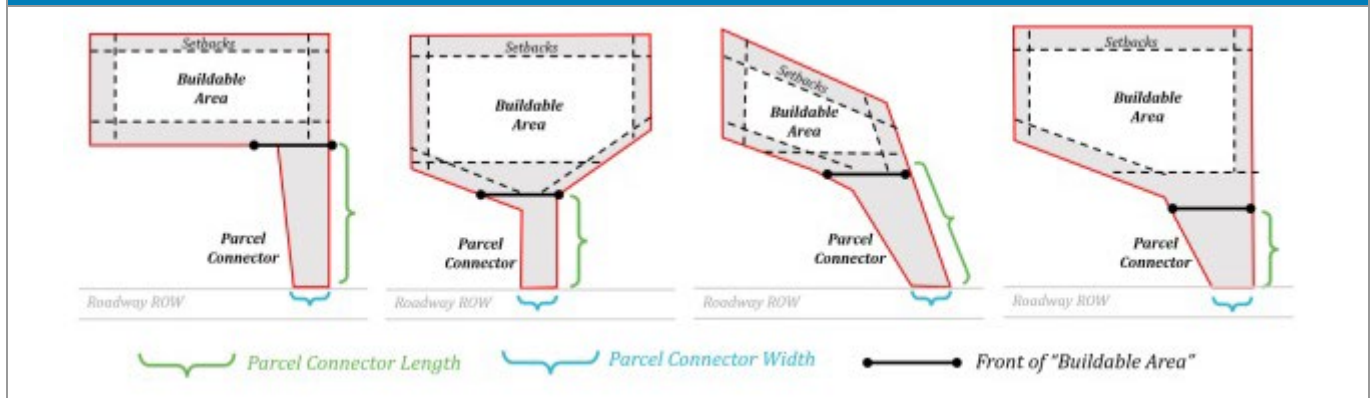
Lot, environmental containment and conservation: A parcel land that is shown on a recordable subdivision plat that is not intended for a building as a result of environmental constraints, and which is subject to limitations upon development by deed, contract or other binding agreement with the United 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.

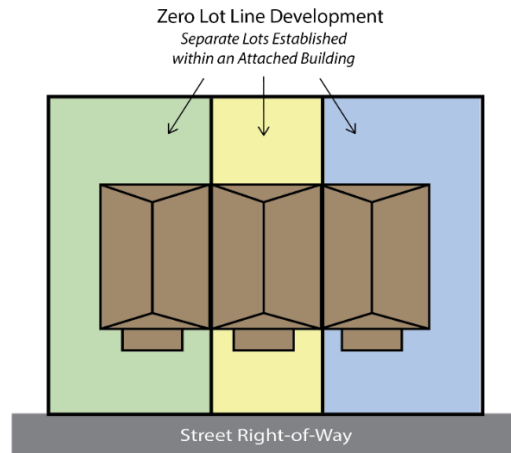
Subdivision, minor: The division of an established parcel of land that:

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.

ORDINANCE NO. 2024-____

AN ORDINANCE AMENDING MULTIPLE CHAPTERS OF THE
CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE TO AMEND
THE GROUP DEVELOPMENT AND SUBDIVISION REGULATIONS

WHEREAS, the City of Brevard Planning Board has recommended that the Brevard City Code, Unified Development Ordinance Chapter 1 – Purpose and Applicability; Chapter 2 – District Provisions; Chapter 3 – Use Definitions and Standards; Chapter 4 – General Lot and Structure Provisions; Chapter 5 – Building Types and Architectural Standards; Chapter 6 – Environmental Protection; Chapter 8 – Tree Protection and Landscaping; Chapter 9 – Circulation and Connectivity; Chapter 10 – Parking Standards; Chapter 12 – Signs; Chapter 13 – Infrastructure Improvement Requirements; Chapter 14 – Nonconformities; Chapter 16 – Administration; Chapter 17 – Development Plan Requirements; and Chapter 19 – Definitions be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following elements of the City of Brevard Comprehensive Land Use Plan *Building Brevard 2030*:

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.

WHEREAS, a public hearing was conducted on Monday, May 20, 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 3rd day of June 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Authorize City Manager to Enter Into Lease Agreement for 132 Commerce Street

Speaker: Wilson Hooper, City Manager
Tom Jordan, Police Chief

Prepared by: Tom Jordan, Police Chief

Approved by: Wilson Hooper, City Manager

Background

In December 2023, the City Manager notified Council of his intention to relocate Brevard Police Department from its current facility in the basement of City Hall to a leased facility located at 132 Commerce St. The move was necessitated by mold, bad air quality, and cramped conditions in the City Hall space. At the time, the City signed a short-term lease to temporarily relocate BPD while it investigated longer-term options and sought budgetary approval for a longer-term move.

Staff chose to focus their efforts on using 132 Commerce St. itself as the longer-term solution. Thus staff have engaged contractors to make critical unfits to the facility to make it suitable for law enforcement use, and negotiated a longer-term lease with the owners.

Discussion

The highlights of the lease are as follows:

- A five-year initial term with two optional two-year extensions.
- A regular monthly lease rate of \$6,666.67 and a TICAM (taxes, insurance, common area maintenance) charge of \$1,100/month.
- A 3% annual increase to the regular lease rate.
- Enumerated maintenance responsibilities for each party.
- Written exceptions to the building's condominium association requirements to accommodate the police department's unique needs.

Action

Approve a resolution authorizing the City Manager to negotiate and execute a long-term lease and other related documents for 132 Commerce St. for new Brevard Police Department headquarters.

Attachments:

1. Resolution Authorizing City Manager to Execute Lease

RESOLUTION NO. 2024-XX

**RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND
EXECUTE A LONG-TERM LEASE AND OTHER RELATED DOCUMENTS FOR
132 COMMERCE STREET FOR NEW BREVARD POLICE DEPARTMENT HEADQUARTERS**

WHEREAS, there is a need to relocate the Brevard Police Department from its current facility in the basement of City Hall; and

WHEREAS, the City has signed a short-term lease to temporarily relocate the Police Department to a facility located at 132 Commerce Street while investigating longer-term options; and

WHEREAS, Staff chose to focus their efforts on using the facility located at 132 Commerce Street as the longer-term solution and has engaged contractors to make upfits to the facility; and

WHEREAS, Staff has negotiated a longer-term lease with the owners of the 132 Commerce Street property.

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

Section 1. The City Manager is authorized to negotiate and execute a long-term Lease Agreement on behalf of the City of Brevard for the facility located at 132 Commerce Street for relocation of the Brevard Police Department, subject to final review and approval of the City Attorney.

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

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Burrell Mountain Water Tank Project Amendment and Funding Increase Resolution

Speaker: Dean Luebbe

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

Approved by: Wilson Hooper, City Manager

Background

The Burrell Mountain Water Tank Replacement was completed in December of 2023. On August 21, 2023, Jeffrey Brown spoke before the City Council explaining that the Project would be over budget primarily due to large amounts of substandard soil needing to be removed from the site. The Project was primarily funded from NCDEQ with 75% (\$2,143,538) being loan forgiveness and 25% (\$714,512) being a twenty year, 0% debt payable, with a total Project budget of \$2,915,211.

Discussion

At that time, Mr. Brown and the Finance Director, Dean Luebbe, received verbal communication from officials within NCDEQ, that any overage on the Project would have the same 75%/25% split between loan forgiveness and debt, and this information was relayed to the Council at that time. In December of 2023, Mr. Luebbe received notification from officials within NCDEQ, that any additional funding granted on the Project would be 100% debt funded, instead of the 75%/25% split that had been previously indicated. Since January of 2024, Mr. Luebbe has communicated with officials within NCDEQ in an attempt to have this decision reversed. This attempt has not been successful.

NCDEQ requires a City Council Resolution accepting the increase in loan funds from \$714,512 to \$947,597. If approved, debt payments on this Project will increase from an estimated \$35,800 per year to \$47,400 per year. The final FY24-25 budget ordinance will reflect this increase in the Burrell Mountain Water Tank debt amount, with a corresponding decrease of \$11,600 to the transfer to the Water Capital Reserve Fund.

Recommendation

Staff requests Council approve the Project Ordinance for the Burrell Mountain Water Tank as presented, and approve funding increase Resolution.

Attachments:

1. CPO Amendment \$250,000 Burrell Mountain Water Tank
2. Res_2024-XX_Accepting Increase in Loan Fund-Burrell Mountain Water Tank
3. Burrell Mtn Tank funding increase

ORDINANCE NO. 2024-XX

CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE
NO. 2021-37 BURRELL MOUNTAIN WATER TANK 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 2021-37 will be increased from \$2,915,211 to \$3,165,211.

Section 2: The Project replaced a one million gallon water tank on Burrell Mountain that was over sixty years old. The Project was completed in December of 2023

Section 3: The Project exceeded budget, mainly due to the removal of large amounts of substandard soil that was not anticipated.

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

Account Number	Account Name	Budget Amount
31-8540-1000	Burrell Mountain Water Tank	\$2,915,211
31-8540-1000	Burrell Mountain Water Tank	\$250,000
TOTAL PROJECT APPROPRIATION		\$3,165,211

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

Account Number	Account Name	Budget Amount
31-3250-0000	Transfer from Water Fund	\$57,161
31-3970-0420	NCDEQ Loan Forgiveness	\$2,143,538
31-3970-0420	NCDEQ Debt Payable	\$714,512
31-3970-0420	NCDEQ Debt Payable	\$233,085
31-3970-0000	Fund Balance Approp	\$16,915
TOTAL PROJECT REVENUE		\$3,165,211

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 3rd day of June, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

APPROVED AS TO FORM:

Mack McKeller
City Attorney

RESOLUTION NO. 2024-XX

**RESOLUTION BY CITY COUNCIL OF THE CITY OF BREVARD TO ACCEPT
INCREASE IN LOAN FUND ON BURRELL MOUNTAIN WATER TANK**

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, the City of Brevard has previously accepted \$2,143,538 in principal forgiveness and \$714,512 in State Revolving Loan for the construction of a new Water Tank on Burrell Mountain; and

WHEREAS, the Project expenditures have exceeded budgeted amounts, mainly due to unexpected change orders related to substandard soils, as highlighted by the engineer, Brown Consultants PA, at the August 21, 2023 City Council meeting; and

WHEREAS, the North Carolina Department of Environmental Quality has offered to increase the State Revolving Loan, from \$714,512 to \$947,597 to cover the change orders required for the construction of the Burrell Mountain Water Tank; and

WHEREAS, the City of Brevard has constructed said project in accordance with the approved plans and specifications.

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

1. That the City of Brevard does hereby accept the State Revolving Loan, offer of \$947,597.
2. That the City of Brevard does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer, Section II - Assurances 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 this 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 3rd day of June, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon, CMC
City Clerk

ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

SHADI ESKAF
Director



May 17, 2024

Wilson Hooper, City Manager
City of Brevard
95 West Main Street
Brevard, NC 28712

SUBJECT: Amended Funding Offer – Funding Increase
Project No. H-SRF-F-21-2000 (WIF-2000)
Finished Water Storage Tank

Dear Mr. Hooper:

The City of Brevard has been approved for a funding increase according to the subject funding offer. This offer is made subject to the Assurances and Conditions attached to this document.

Upon your acceptance, please submit the following items to the Division, via email at DEQ.DWI.FundingOffer@deq.nc.gov:

1. One (1) copy of the original Offer and Acceptance Document executed by the Authorized Representative for the project, along with the Conditions and Assurances. **Retain the other copy for your files.**
2. A resolution adopted by the governing body accepting the funding offer and making the applicable Conditions and Assurances contained therein. (Sample copy attached)

Please note that due to an increase in the loan amount the closing fee has increased. Closing costs for the current loan is 2% of the total loan amount, which is \$61,823. Please use the attached invoice and remit payment within 30 days of the date of this letter.

Disbursement requests are to be submitted via Laserfiche at the following link: <https://edocs.deq.nc.gov/Forms/DW-Document-Upload-Form>. A reference copy of the Disbursement Request Form (also found on the DWI website) has been enclosed for your convenience.



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

On behalf of the Department of Environmental Quality, I am pleased to make this funding offer. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this offer package, please contact Fred Oelrich at fred.oelrich@deq.nc.gov or (919) 707-9194.

Sincerely,

DocuSigned by:

8300A872077B4C5

Shadi Eskaf, Director
Division of Water Infrastructure, NCDEQ

Enclosures: Loan Offer and Acceptance Document (two copies)
Assurances & Conditions
Resolution to Accept Funding Offer (suggested format)
Increased Closing Fee Invoice

cc: Wilson Hooper, (wilson.hooper@cityofbrevard.com)
Jeffery Brown, P.E. (jtbrown@brownpa.net)
Mark Hubbard (Via DocuSign)
Fred Oelrich (Via DocuSign)
DWI Administrative Unit (Via DocuSign)
Carrie Short (Via DocuSign)
Teresa Tripp (Via DocuSign)
DEQ.DWI.FundingOffer@deq.nc.gov
FILE SRF Project File (COM_LOX)
Agreement ID#: 2000040881



North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE**

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

City of Brevard
95 West Main Street
Brevard NC 28712

Project Number(s): H-SRF-F-21-2000 (WIF-2000)

Assistance Listing Number: 66.468

Unique Entity ID Number: JDX5KBDP5QH8

Funding Program

Drinking Water	☒	Additional Amount for	Previous Total	Total Offered
Stormwater	☐	Funding Increases		
Wastewater	☐			
State Revolving Fund-Repayable Loan	☒	\$ 233,085	\$ 714,512	\$ 947,597
State Revolving Fund-Principal Forgiveness	☒		\$ 2,143,538	\$2,143,538
State Reserve Loan	☐			
State Reserve Grant	☐			
State Reserve Earmark (S.L. 2023-134)*	☐			
American Rescue Plan Act - <i>Choose an item.</i>	☐			

Project Description:

Finished Water Storage Tank

Total Financial Assistance Offer:

\$ 3,091,135

Total Project Cost:

\$ 3,097,980

Estimated Closing Fee:**

\$ 61,823

For Loans

Interest Rate:

0% Per Annum

Maximum Loan Term:

20 Years

* Federal requirements will also apply to S.L. 2023-134 projects co-funded with federal funds.

** Estimated closing fee calculated based on grant and loan amount.

Pursuant to North Carolina General Statute 159G:

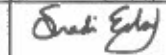
- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance.

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**

DocuSigned by:



6300A872077B4C5

Signature

5/17/2024

Date

On Behalf of:

City of Brevard

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the attached Assurances and the Standard Conditions.

Signature

Date

APPLICABLE STANDARD CONDITIONS***Project Applicant: City of Brevard****Project Numbers: H-SRF-F-21-2000 (WIF-2000)**

1. **Social Authorities:** Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, The Age Discrimination Act of 1975, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, and Equal Employment Opportunity (Executive Order No 11246, as amended) which prohibits activities that are intentionally discriminatory and/or have a discriminatory effect based on race, color, religion, sex, sexual orientation, gender identity, or national origin.
2. **Environmental Authorities:** National Environmental Act, National Historic Preservation Act, Archeological and Historic Preservation Act, Protection of Wetlands, Flood Plain Management, Farmland Protection Policy Act, Coastal Zone Management Act, Coastal Barriers Resources Act, Wild and Scenic Rivers Act, Endangered Species Act, Essential Fish Habitat and the Safe Drinking Water Act applicability will be determined upon submittal of an Environmental Information Document (EID) during the Engineering Report review process.
3. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.
4. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
5. Debarment and Suspension, Executive Order No. 12549: Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
6. The construction contract(s) requires the contractor to adhere to Davis Bacon and Related Acts Provisions and Procedures as listed in the Code of Federal Regulations Chapter 29 Part 5 Section 5 (29 CFR 5.5). Public Law pertaining to this is also enacted in Title 40, United States Code, Subtitle II Section 3141 through Section 3148.
7. As required by H.R. 3547, "Consolidated Appropriations Act, 2014" Section 436, Division G, Title IV, this project is subject to American Iron and Steel provisions. The State provides detailed requirements to be included in the construction contract specifications.
8. Section 603(d)(1)(E) of the Federal Water Pollution Control Act requires subject projects to develop and implement a Fiscal Sustainability Plan (FSP) for projects that involve the repair, replacement or expansion of publicly owned treatment works. Note that FSPs are not required for new treatment works. The certification provided must be submitted regarding compliance with this section of the Act.
9. Section 602(b)(14) of the Clean Water Act requires projects receiving CWSRF funding to comply with Federal engineering procurement guidelines. The State provides a certification form that must be completed prior to receiving funds for any engineering services covered under this funding offer.

10. Pursuant to 2 C.F.R. § 200.216, subrecipients cannot obligate SRF funds to: (1) procure or obtain; (2) extend or renew a contract to procure or obtain; or (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services (as described in Public Law 115-232, Section 889) as a substantial or essential component of any system, or as a critical technology as part of any system.

**Note: 1 does not require anything to be submitted. 8 and 9 apply to the CWSRF only. Details on all of these conditions can be found the EPA Cross-Cutter handbook.*

ASSURANCES

Project Applicant: City of Brevard

Project Numbers: H-SRF-F-21-2000 (WIF-2000)

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division.
The recipient acknowledges that in the event a milestone contained in the most recent Clean Water State Revolving Fund Intended Use Plan and/or the Letter of Intent to Fund is missed, the Department of Environmental Quality will rescind this Funding Offer.
2. The Applicant is responsible for paying for the costs ineligible for SRF funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. As of the acceptance of this Funding Award Offer, steps A-D in the SRF Guidance will be complete. These Assurances, likewise, incorporate the most recent version of the SRF Guidance, and the Applicant hereby certifies by accepting this Funding Award Offer that it will adhere to the subsequent steps in the SRF Guidance document. The remaining steps generally govern project design, bidding, contracting, inspection, disbursements, closeout and repayment.
5. The Applicant will provide and maintain adequate engineering supervision and inspection.
6. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
7. All SRF funds loaned shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
8. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
9. The applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.

STAFF REPORT

City Council, Monday, June 3, 2024

Title: Amendments to City Council Meeting Calendar

Speaker: Wilson Hooper, City Manager

Prepared by: Denise Hodsdon

Approved by: Wilson Hooper, City Manager

Background

The City Council's regular schedule includes meetings on the first and third Mondays of each month, though Council may amend the schedule to accommodate holidays and other conflicts when necessary.

Discussion

Staff recommends the following revisions to the meeting schedule:

1. Add an Ecusta Trail Workshop, to be held jointly with the Ecusta Trail Advisory Board and the Parks, Trails & Recreation Committee, on Wednesday, June 26, 2024 from 1:30 to 5:30 PM location TBD.
2. The calendar includes a regularly scheduled meeting for Monday, July 15, 2024, *if needed*. Staff recommends canceling this meeting;
3. Move the location of the August 19, 2024 Regular Meeting to the Mary C. Jenkins Community & Cultural Center.

Action

If so desired by Council, adopt the amendments to the City Council Meeting Schedule, adding an Ecusta Trail Workshop, canceling the July 15, 2024 Regular Meeting, and changing the location of the August 19, 2024 Regular Meeting to the MCJCCC.

Attachments:

1. 2024_Council_Mtg_Schedule_Amended 6-03-2024

Brevard City Council 2024 Meeting Schedule

Day / Date	Time	Type	Location
Tuesday, January 16, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, February 5, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, February 19, 2024	5:30 PM	Regular Meeting	Council Chambers
Thursday, February 29, 2024	8:30 AM	Strategic Planning Session	MCJCCC
Monday, March 18, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, April 1, 2024	5:30 PM	Regular Meeting	Council Chambers
Friday, April 12, 2024	8:30 AM	Budget Workshop	TBD
Monday, May 6, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, May 20, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, June 3, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, June 17, 2024	5:30 PM	Regular Meeting	Council Chambers
<u>Wednesday, June 26, 2024</u>	<u>1:30 PM</u>	<u>Ecusta Trail Workshop</u>	<u>Council Chambers</u>
Monday, July 15, 2024 (If Needed) <u>CANCELED</u>	5:30 PM	Regular Meeting	Council Chambers
Monday, August 5, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, August 19, 2024	5:30 PM	Regular Meeting	Council Chambers <u>MCJCC</u>
Tuesday, September 3, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, September 16, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, October 7, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, October 21, 2024	5:30PM	Regular Meeting	Council Chambers
Monday, November 4, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, November 18, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, December 2, 2024	5:30 PM	Regular Meeting	Council Chambers
Monday, December 16, 2024 (If Needed)	5:30 PM	Regular Meeting	Council Chambers

Amended: June 3, 2024

Amended: December 18, 2023

Adopted: December 4, 2023

Distribution: December 5, 2023

D Hodsdon, City Clerk