AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Monday, August 17, 2026 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Rev. Bob Renjilian, Unitarian Universalists of Transylvania County

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. August 3, 2026 Regular Meeting

G. Certificates / Awards / Recognition

H. Public Comments

I. Special Presentation(s)

J. Public Hearing(s)

1. Proposed Amendment to the City of Brevard Unified Development Ordinance Chapter 17; and the Code of Ordinances Chapter 70 - Fats, Oils and Grease (FOG) Regulations

K. Consent and Information

1. Tax Settlement Report - July 2026
2. Ordinance Declaring Road Closure for Brevard Plein Air Festival and HalloweenFest
3. Reaffirming Resolution - City of Brevard Official Depositories
4. Downtown Master Plan Committee Meeting Minutes - June 10, 2026 Meeting
5. Public Works and Utilities Committee Meeting Minutes - July 1, 2026 Meeting
6. Housing Committee Meeting Minutes - July 14, 2026 Meeting

L. Unfinished Business

M. New Business

1. Consider Updates to Brevard-Davidson River Presbyterian Church Lease Amendment for LMI Housing
2. Proposed Remote Participation Policy for Appointed Boards and Committees
3. Renaming of the "Downtown Master Plan Committee" to the "Downtown Master Plan Implementation and Downtown Advisory Committee"

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

1. Economic Development: NCGS 143-318.11(a)(4)

P. Adjourn

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Agenda Posted, Website, Sunshine List (August 13, 2026)
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
August 3, 2026 – 5:30 PM

The Brevard City Council met in regular session on Monday, August 3, 2026, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

Present – Mayor Maureen Copelof, Mayor Pro Tem Aaron Baker, and Council Members Gary Daniel, Pamela Holder, Lauren Wise and Dean Lytle

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant City Manager/Finance Director Dean Luebbe, Assistant City Manager David Todd, Assistant to the City Manager Shawnee Cummings, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Planning Director Paul Ray, Assistant Planning Director Aaron Bland, Senior Planner Emily Brewer, Police Chief Christy Wentzell, Deputy Police Chief Alan Bonanno, Police Officer Joshua Norton, Fire Chief Chase Owen, Public Works Operations Manager Cliff Justus, Water Treatment Plant ORC Dennis Richardson, Wastewater Treatment Plant ORC Aaron Winans, and Community Center Director Tyree Griffin

Press – David Bradley, *Transylvania Times* and Jonathan Rich, *Brevard Beagle*

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

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

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

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

E. Approval of Agenda – Mr. Hooper requested to remove Item M-1. Municipal Service District Task Force, and to add a new item regarding Cashiers Valley Road Sewer Extension as Item I-1. Ms. Holder moved, seconded by Mr. Wise to approve the agenda as amended. The motion carried unanimously.

F. Approval of Minutes

F-1. April 10, 2026 Budget Workshop – Mr. Baker moved, seconded by Mr. Lytle to approve the minutes of the April 10, 2026 Budget Workshop as presented. The motion carried unanimously.

F-2. July 20, 2026 Regular Meeting – Ms. Holder moved, seconded by Mr. Baker to approve the minutes of the July 20, 2026 Regular Meeting as presented. The motion carried unanimously.

G. Certificates / Awards / Recognition

G-1. Proclamation No. 2026-20 and Presentation of Key to the City to Carolyn Lemmond Winchester – Mayor Copelof read the proclamation aloud and presented it together with a Key to the City to Carolyn Lemond Winchester, who was accompanied by family members.

PROCLAMATION N0. 2026-20
HONORING CAROLYN LEMMOND WINCHESTER ON HER 100TH BIRTHDAY, DECLARING AUGUST 9, 2026 AS "CAROLYN LEMMOND WINCHESTER DAY", AND BESTOWING CAROLYN LEMMOND WINCHESTER A KEY TO THE CITY

WHEREAS, Carolyn Lemmond Winchester is celebrating a monumental milestone, reaching the extraordinary age of 100 years on August 9, 2026; and

WHEREAS, throughout a remarkable century of life, Carolyn Lemmond Winchester has witnessed profound changes in the world and has been a cornerstone of the Brevard community, embodying the values of resilience, wisdom, and grace; and

WHEREAS, Carolyn Lemmond Winchester has dedicated over 40 years of her life to serving the Transylvania County Schools system as a Biology and Spanish Teacher at Brevard High School, and after retirement she developed a Spanish Program for the County's elementary schools, and served as a member of the Transylvania County School Board, leaving a lasting, positive legacy in our community; and

WHEREAS, for the past 13 years Carolyn Lemmond Winchester has been honored by her family with the Carolyn Lemmond Winchester Scholarship which is awarded annually to deserving students of Brevard High School and Rosman High School, based on need and academic performance; and

WHEREAS, Carolyn Lemmond Winchester joined the Brevard-Davidson River Presbyterian Church in 1950 and has served in many leadership roles during the last 76 years, serving as the first director of the Church's Preschool in 1957 and served on its Board for many years; and

WHEREAS, Carolyn Lemmond Winchester was elected as the Worthy Grand Matron of the North Carolina Order of the Eastern Star by its 40,000-plus membership from 1983-1984 and has continued to be active for 80 years; and

WHEREAS, in recognition of her enduring contributions to the City of Brevard and Transylvania County, it is fitting and proper that the City honors this cherished resident.

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, on behalf of the City Council and the residents of Brevard, do hereby proclaim August 9, 2026 as **"CAROLYN LEMMOND WINCHESTER DAY"** in the City of Brevard, North Carolina, and commend its observance to all its residents.

AND FURTHERMORE, as a symbol of our city's highest esteem, admiration, and affection, I am proud to present Carolyn Lemmond Winchester with the **KEY TO THE CITY**. May your 100th birthday be filled with the same love, warmth, and happiness you have so generously shared with us all.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Brevard to be affixed on this 3rd day of August, 2026.

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

G-2. Certificate of Appreciation – Parks, Trails and Recreation Member Howie Granat – Mayor Copelof presented a Certificate of Appreciation and the Mayor's Challenge Coin to Howie Granat in recognition of his 6½ years of service on the Parks, Trails and Recreation Committee.

G-3. Oath of Office – Police Officer Joshua Norton – Joshua Norton was sworn in as a Law Enforcement Officer by City Clerk Denise Hodsdon. Officer Norton was accompanied by family members.

City of Brevard, North Carolina
Oath of Office

State of North Carolina
County of Transylvania
City of Brevard

I, Joshua Norton, 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 a Law Enforcement Officer for the City of Brevard, so help me God.

Oath Administered by: s/ Denise Hodsdon, CMC, NCCMC, City Clerk s/ Joshua Norton

H. Public Comments

Peter Offen said I come with a public comment of caution as you consider criminalizing certain civil offenses within the city. I urge you to consider how this will impact the unhoused population at large. I understand a small group has caused problems, but don't let that small group force your hand to negatively impact a much larger population. As you know, housing is a crisis here in Brevard, in the county, in our state and in our nation. As you work to address this crisis here by supporting affordable housing projects and bringing online numerous affordable units, do not undermine that progress by criminalizing and shutting out the unhoused. A simple criminal charge can create a barrier to getting an affordable housing unit, perpetrating a cycle of poverty that harms our entire community. Many of the ordinances you are considering tonight are targeted at very specific behavior that appears to already be criminal under state law. I would urge you to enforce those state laws instead of making new criminal offenses. I also urge that if you do pass these ordinances to provide significant oversight to ensure that they're not being used to target the unhoused unfairly. When applying for affordable housing, applicants face background checks where even a trespassing charge, something very small and petty in most instances, can be a barrier to eligibility for that unit that would get them off the street on a path to a better life. For that reason, I urge you to take extreme caution when moving forward with these criminal offenses. Do not undermine your own progress by targeting a larger population that you're working with and working on addressing for the whole county because of only a few people. Instead, work with the service providers and the community—The Haven and The Cove, and its leadership—to update and implement the plan that was put in place two or three years ago. These truly address the underlying causes of homelessness and the unhoused instead of simply arresting them and giving them a place to live for a day until they get out and are back on the street in a worse position than where they were previously. The other issue I want to mention and urge extreme caution on is license plate reader cameras. They are ripe for abuse and present a serious concern for our community, our privacy, and our immigrant neighbors. Data is only owned by the City until a subpoena is issued. The only way to protect that data is to never create it in the first place. Don't slide down that slippery slope.

Rodney Locks said one of the nicest things I like about Brevard is relaxing on the bench, talking to passersby, whether they are walking or in vehicles, giving advice about where to eat, places to go, giving directions, and even waving to total strangers—all things you can't do in most cities and towns. Just so I get it right and don't pass on misinformation, the way I understand it, in Brevard you can drink alcohol openly in the social district, but you need a permit outside of the district. The permit holder is solely responsible for ensuring the customer is in compliance with all city and state laws pertaining to the sale and consumption of alcoholic beverages. Where can I find the definition of "loitering", "public places", "habitual", "loafing"? Most people I talk to are confused. I consider myself a repeat loafer because as a retiree I have plenty of time to sit around and do nothing but talk to passersby and congregate with friends and strangers, whether they are on public or private property, or parking lots. I heard there will be no more cruising or hanging out in Brevard from midnight to 6am. Is that true? I've also heard there will be no more loitering in public because you can be mistaken for being a drug dealer or drug user. But, I also think it is interesting you can ride an e-scooter or bike on the sidewalk, but you can't assemble or collect or stand to obstruct the sidewalk on the public way. Is it true you cannot carry a concealed weapon in the city, but it appears it's alright on county property, like the courthouse, the library, or child development center. Finally, where can I find your city encampment policy?

Doug Powell said the odds are likely that many in this room have had to address some form of addiction, perhaps to help a friend or family member battle that particular demon. In the process, it becomes obvious that there is no hope of saving that life from certain destruction without a firm commitment to get clean and sober. Unfortunately, in many cases, this person has to hit rock bottom before realizing that a drastic change is needed. And more often than not, this shift happens only when confronted with law enforcement and given two options – seek treatment or go to jail. Otherwise, it is like

rearranging the deck chairs on the Titanic, and in turn, the community is enabling these bad habits and behaviors to continue. Living on the streets is not normal, and any community, including Brevard, should make it very uncomfortable for someone to perpetuate this lifestyle, not because we don't love our fellow man, but because we do. Without principled and steady law enforcement of behaviors that are unacceptable in any civilized society, there is no hope of: 1) helping those that are lost, and 2) providing the quality of life promised by civil government for those who do play by the rules. And no taskforce, commission, or committee will ever be effective if they are unwilling to address the real problem. In a previous life, based upon my experience in this arena, I was asked by a friend to help support his efforts to provide practical and proven solutions to his community. Part of this process was canvassing the local businesses and learning what kind of impact these out-of-control behaviors were having on tourism in general and the livelihoods of business owners in particular. One desperate plea was from a general manager at a local family restaurant located along the water. Despite repeated efforts to get the City government and the sheriff's department to engage and actually enforce the law, the boardwalk was continually overrun by persons committing lewd and dangerous acts. Many in the community thought it compassionate to ignore the problem and were also lulled into a false sense of security with dozens of government cameras positioned along the boardwalk. Just a few weeks after my conversation at the restaurant, a known deranged man spent his afternoon badgering and disturbing locals and tourists alike, with many lodging complaints. The sheriff's department monitored the man throughout the day on their many surveillance cameras but did nothing to stop the behavior. A few hours later, that same agitated man walked into the Aloha Steakhouse in Ventura, California and in a random act of violence, stabbed a 35-year old father named Anthony Mele in the neck while his 5-year old daughter sat in his lap. He died the next day. The transformation of Ventura from a safe and desirable tourist destination to a dangerous one happened quickly. The City of Brevard has put a lot of their eggs in the tourism basket, and it's a desirable place to live in and to visit for now, just like Ventura was. But ignoring this cautionary tale and pretending to address this issue by any other means than firm and equitable law enforcement will not end well.

James Veal said what a great meeting, what a great bunch of subjects that have come up, and it's really an example of how many different sides of the coin there are. I'd start with saying that the reason I'm here is because Brevard sucked me in—the trees, the quaintness, the smallness, the relaxness, the cleanness of the air, the things that Mr. Granat talked about walking up Bracken Trail—that's why I'm here. But, then I'm going to use the example of peeling back layers of the onion. There are some layers that need to be peeled back and talked about, because that's the reason you're here, is to fix problems. Also, don't be mistaken that I love the trail; Bracken Trail is amazing. Todd Branham is a magician—the integration of that trail with that geography stands out in a crowd. I'm well-versed in Brevard, fairly well-versed in Pisgah, and Bracken Trail is one for the books; it's a really fabulous deal, connecting to the forest even so. But some of you probably remember why I'm here. Because there are problems, and the lower 200 feet of Bracken is part of the problem, and it's interesting how you can be on how many different sides of the coin. You've probably been told that the City did nothing wrong when they did the eminent domain. Well, I have a different opinion. I think there's more to the story and I beg you all to not believe what you've been told and to dig a little deeper—peel back some of the layers of the onion. The fact of the matter is Bracken is accessed by Pinnacle Rd. Pinnacle Rd. used to be called Mackey Ridge Rd. because Jake and George Mackey settled up there with their family, next door to Isaac Bailey and they started having babies and they created this beautiful community called Pinnacle. That's why the road is now called Pinnacle. Up until the trail was built you could drive…there's 9 pieces of property up there. The City owns one, six of them are adversely affected by the trail because before the trail was built you could drive cars there. You could go to the grocery store, buy groceries, go back to your property and unload, but since the trail got built you can't. That's a fact. Please, I'm begging you, dig deeper, ask some questions, and you all are uniquely positioned to be able to solve the problem more than anybody else.

Adam Perkins, President of the Heart of Brevard spoke about the proposed MSD Task Force. He said while we appreciate the City's transparency in forming a task force to evaluate the future of MSD-funded services, and we respect Council's responsibility under the state law to periodically review this contract, we're here tonight simply to ask that the process include the organization that does this work the best. We ask that Council think about putting this task force together in two distinct phases. The first phase is defining downtown's needs and what shaping the bid document itself looks like—figuring out what services downtown requires, what's worked, what hasn't, what a strong scope of work looks like going forward. This is where Brevard's voice matters most and our preference would be for our Executive Director Nicole Bentley to be represented given her day-to-day work administering the MSD contract. If Council would prefer a different arrangement, we'd welcome consideration of another member of our executive committee. We've partnered with the City in downtown and revitalization for more than 30 years and we have administered the current MSD contract for the past four. We know this work inside and out and what it takes to deliver it well day in and day out. Leaving that expertise out of the room doesn't protect the process, it just makes the process less informed. We recognize the question that naturally comes up—does our role as the current service provider create a conflict of interest? We took that question seriously, which is why we didn't just assume our own answer, we raised it directly to the North Carolina Main Street Program and they confirmed directly to the City Manager that our involvement in shaping the needs and scope is standard best practice and does not represent a conflict. The second phase would be reviewing and scoring the actual bid application. That is a different matter, and we agree that this calls for a bit more distance. In general, if the Council decides that the Heart of Brevard should not hold a seat directly, we respectfully ask for the ability to appoint a representative to the task force ourselves, rather than going unrepresented altogether. That could be a non-profit partner with downtown and economic development experience such as the Transylvania County Tourism Development Authority or a significant downtown property owner or employer who has a real stake in downtown success. Either would help ensure the task force retains that on-the-ground perspective without having a direct role in the current contract. This isn't about second-guessing the process, only about making sure it reflects best practices and includes the perspectives needed to fully evaluate downtown's future. Brevard's small collaborative community and its balanced representation and transparency matter here, especially in a process that could affect the future contracting decisions. We're not asking for control over the process; we're just asking to be a part of it. Heart of Brevard's job for three decades now has been to know Brevard better than anyone else in the room, so we would just like to take our knowledge to help shape what comes next.

I. Special Presentations

I-1. Cashiers Valley Road Sewer Extension – Mr. Hooper explained that this is a follow-up conversation to the PRO Housing grant application for the Housing Assistance Corporation (HAC) affordable housing project. Staff is asking Council's approval to redirect approximately $88,000 from various sources to the Water & Sewer Fund to pay for the extension of utilities down Cashiers Valley Rd. from the vicinity of the Mary C. Jenkins Community Center parking lot to the foot of the HAC property next to the Public Works building. From there the County's pledged money will extend the utilities up the hill into the property where the houses will eventually be built.

In order to make the grant application as competitive as possible, Staff is asking for Council's permission to include this commitment in our application to help the project keep its momentum if the grant is awarded. No specific funding source needs to be identified this evening, only a commitment from Council to fund the project that can be included in the application due tonight. However, Staff's current recommended funding strategy is as follows:

Fund # (Fund Name)	Contribution	Remaining usable balance
Fund 35 (W/S Capital Reserve)	$29,622	$50,000*
Fund 82 (Rosenwald)	$25,000	$49,869
W/S Maintenance budget line 7400 (Capital Outlay)	$33,778	$366,222

Mr. Hooper noted that Staff will bring back funding options for Council's consideration at the next meeting.

Mr. Baker moved, seconded by Mr. Wise to approve and adopt the funding strategy. During discussion, Mr. Baker clarified that the motion was only to approve the commitment of $88,400 this evening, not where that funding would come from, with the understanding that that would come back as a budget amendment in two weeks. Following discussion, the motion carried unanimously.

J. Public Hearing(s) – None.

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

K-1. Property Tax Releases – July 2026

RESOLUTION 2026-40
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.

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

The Tax Collector is hereby authorized to remove July 2026 property values from the tax scroll in the amount of:

TAX YEAR 2025: $ 820.46

Adopted and approved this 3rd day of August 2026.

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

K-2. Public Safety Committee Meeting Minutes – June 22, 2026

K-3. Finance, Human Resources and Citizen Appointment Meeting Minutes – June 22, 2026

K-4. Finance, Human Resources and Citizen Appointment Meeting Minutes – July 14, 2026

L. Unfinished Business

L-1. Proposed Amendment to the City of Brevard Unified Development Ordinance Chapters 9 and 19, and the Code of Ordinances Chapter 38 – Sight Triangle Regulations – Aaron Bland briefly recapped the proposed amendments and recalled that Council held a public hearing at its July 20th meeting.

Mr. Wise moved, seconded by Mr. Baker to adopt the amendments as presented. The motion carried unanimously.

ORDINANCE NO. 2026-34
AN ORDINANCE AMENDING CHAPTERS 9 AND 19 OF THE CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE AND CHAPTER 38 OF THE CITY OF BREVARD CODE OF ORDINANCES TO AMEND AND CLARIFY REGULATIONS FOR SIGHT TRIANGLES

WHEREAS, the City of Brevard Planning Board has recommended that the City of Brevard Unified Development Ordinance Chapter 9 – Circulation and Connectivity and Chapter 19 – Definitions, and the City of Brevard Code of Ordinances Chapter 38 – Health and Sanitation be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following goals and objectives of the Building Brevard 2030 Comprehensive Land Use Plan:

- **Goal 4:** Create a built environment that prioritizes a safe, active, multi-modal transportation system and community health and wellness.
  and,

WHEREAS, a public hearing was conducted on Monday, July 20, 2026, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that the Unified Development Ordinance and Code of Ordinances be amended as outlined below.

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

SECTION 01. The City of Brevard Unified Development Ordinance and Code of Ordinances are hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

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

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

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

Adopted and approved this the 3rd day of August 2026.

Attest: s/ Denise Hodsdon, CMC, NCCMC, City Clerk s/ Maureen Copelof, Mayor
Approved as to Form: s/ Mack McKeller, City Attorney

L-2. Proposed Amendments to City of Brevard Unified Development Ordinance Chapters 6, 17 and 19, and the Code of Ordinances Chapter 38 – Stormwater Management Development Regulations – Emily Brewer briefly recapped the proposed amendments noting that this is a staff-initiated text amendment to improve the stormwater management requirements to be more equitable, effective and easier to administer. She recalled that Council held a public hearing on the proposed amendments at its July 20th meeting.

Mr. Baker moved, seconded by Mr. Wise to adopt the amendments as presented. The motion carried unanimously.

ORDINANCE NO. 2026-35
AN ORDINANCE AMENDING MULTIPLE CHAPTERS OF THE CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE AND THE CITY OF BREVARD CODE OF ORDINANCES TO REVISE THE STORMWATER MANAGEMENT REQUIREMENTS

WHEREAS, the City of Brevard has stormwater runoff requirements for development occurring within its Planning Jurisdiction in order to: (1) protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas; (2) to protect water quality and natural ecosystems by filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons; and (3) limit additional impervious surface areas to the greatest extent possible; and,

WHEREAS, the Brevard Planning Board considered revisions to City of Brevard Unified Development Ordinance Chapter 6 – Environmental Protection, Chapter 17 – Development Plan Requirements, and Chapter 19 – Definitions & the City of Brevard Code of Ordinances Chapter 38 – Health and Sanitation on May 26, 2026, and recommended in favor; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent nor inconsistent with the elements of adopted plans;

City of Brevard Building Brevard 2030 Comprehensive Land Use Plan

- **Goal 5:** Celebrate Brevard's natural resources through conservation of environmentally sensitive areas, improving access to recreation, and restoration of native ecosystems.
- **PNRC-5**: Require conservation design in areas with sensitive natural resources
- **EDIR-7:** Update City's stormwater management plan.
- **EDIR-8:** Encourage and incentivize the use of low-impact development and free stormwater infrastructure techniques to manage stormwater.
- **EDIR-10**: Consider/evaluate built-upon regulations to allow for adequate infiltration in different zoning districts.
- **EDIR-11**: Continue investment in upgrades to stormwater infrastructure downtown and in strategic growth areas.
- **EDIR-18:** Incorporate climate resiliency considerations into City strategic planning initiatives and investments with a focus on vulnerability to flooding, landslides, and extreme weather.

City of Brevard Green Growth Audit

- **Action 2.3.A**: Review and revise the City's stormwater management requirements to align with modern best practices.
- **Action 2.3.B:** Add definitions and illustrations of low impact development techniques to ensure it is clear they are allowed and encouraged.
- **Action 2.3.C**: Refine the types of development activities that are required to comply with the stormwater management provisions, including instituting an impervious surface-based threshold and all development in sensitive areas.
- **Action 2.3.D:** Consider amendments to the types of development activities that are exempt from stormwater management provisions.
- **Action 2.3.F:** Allow for and encourage the use of porous and semi-porous materials throughout the ordinance
- **Action 2.3.G:** Provide guidance and incentives for developers to use LID and site design to supplement stormwater management requirements by reducing stormwater runoff close to the source, requiring less structured treatment
- **Action 2.3.H:** Consider allowing variation to certain architectural standards for green infrastructure and LID techniques (e.g., alternative roof pitches to allow for green roofs or rain cisterns)

and,

WHEREAS, a public hearing was conducted on Monday, July 20, 2026, by the Brevard City Council.

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

SECTION 1. The City of Brevard Unified Development Ordinance and Code of Ordinances are hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 2. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 3. 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 4. 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 August 2026.

Attest: s/ Denise Hodsdon, CMC, NCCMC, City Clerk s/ Maureen Copelof, Mayor
Approved as to Form: s/ Mack McKeller, City Attorney

L-3. Proposed Amendments to the City of Brevard Code of Ordinances Chapter 42 – Loitering, Trespassing, Public Intoxication, and Hours of Operation – Mr. Hooper recalled that the proposed amendment would reattach misdemeanor penalties to certain offenses in the Code of Ordinances that up until now had been civil penalties. It is in response to an observed uptick in these offenses and some feedback from constituents that the civil tools have not been effective in deterring these behaviors, which have quality of life implications for residents and visitors. Mr. Hooper

recalled that following the public hearing at the July 20th meeting, Council asked Staff to bring back some data. He clarified that the data Chief Wentzell will present is not on homelessness in general but rather includes the number of these kinds of behaviors observed in the field and the kind of interactions that our Police have with presumed unhoused people. Council had also requested a comparison between local ordinances and state law, and where one might give us a tool that the other doesn't.

Chief Wentzell reviewed the following presentation:

PROPOSED AMENDMENTS

CITY OF BREVARD CODE OF ORDINANCES CHAPTER 42

SENATE BILL 300 (SESSION LAW 2021-138) CRIMINAL JUSTICE REFORM ACT OF 2021

- **Background**
  - Enacted by the North Carolina General Assembly in 2021 as part of a broader criminal justice reform package.
  - Included reforms related to law enforcement training, certification, body worn cameras, officer accountability, and local ordinance enforcement.
  - Changed the default penalty for most local ordinance violations from a criminal offense to a civil or administrative violation unless a municipality affirmatively restored criminal enforcement.
- **Purpose**
  - Encourage local governments to carefully evaluate which ordinances truly require criminal enforcement.
  - Reduce unnecessary criminalization of minor local ordinance violations while preserving local authority when appropriate.

N.C.G.S. § 14-4: Violation of local ordinances misdemeanor

- **"Except as provided... if any person violates an ordinance of a city or town, he or she shall be guilty of a Class 3 misdemeanor and may be fined up to $500, provided the ordinance expressly states the penalty."**
- **Council Action Required**
  - Amend the ordinances
  - Expressly adopt **N.C.G.S. § 14-4** penalty language
  - Designate the violation as a **Class 3 misdemeanor or infraction**

CHAPTER 42 ORDINANCES

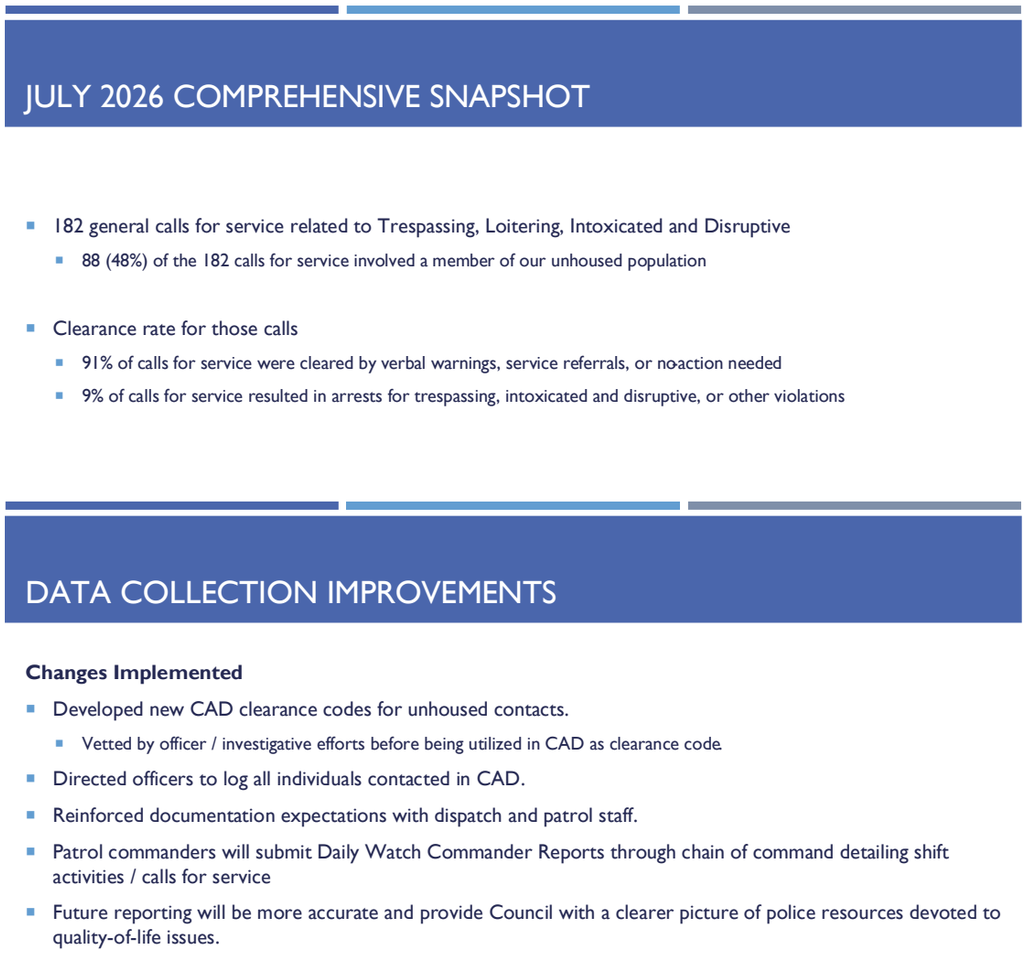
- **42-3. Consumption or possession of alcoholic beverages in public place.**
- **42-5. Trespass on posted property; loitering generally.**
- **42-6. Loitering for purpose of engaging in drug-related activity.**
- **42-14. Carrying concealed weapon on or near city property.**
- **42-17. Hours of Operation**

NC GENERAL STATUTE VS. LOCAL ORDINANCE

Issue	State Law	Why a Local Ordinance Helps
Trespassing	State law covers unlawful entry or remaining after notice.	Allows the City to establish and enforce operating hours for parks and city property.
Loitering and Panhandling	State law is limited, and peaceful solicitation is generally protected.	Can address specific behaviors such as blocking sidewalks, threats, unwanted touching, or aggressive conduct.
Intoxicated and Disruptive	N.C.G.S. 14-444 already addresses intoxication combined with disruptive behavior.	A local ordinance may not be needed when the state statute fully applies.
Open Containers	State law mainly addresses open containers in vehicles.	Allows the City to regulate alcohol in parks, sidewalks, streets, and other public spaces.
Concealed Weapons on City Property	State law regulates concealed weapons and certain prohibited locations.	Allows the City, within state law, to identify and properly post specific city facilities where weapons are prohibited.

DATA COLLECTION CHALLENGES

- Data is dependent on accurate CAD documentation by both dispatchers and officers.
- Inconsistent documentation can affect the accuracy of statistics and trend analysis.
- Common issues identified include:
  - Names entered with different spellings or aliases
  - Subjects not documented in CAD
  - Radio traffic not fully logged by dispatch
  - Officers not documenting contacts or adding case notes
- These documentation inconsistencies make it difficult to accurately identify repeat contacts and quantify resource utilization.



During questions and comments, Councilmembers had several questions for Chief Wentzell. Mr. Baker had a specific question for Attorney McKeller regarding the interpretation of the wording in Section 42-5(C) Trespass on posted property; loitering generally. He said he was uncomfortable with "habitually loaf or loiter on the streets" because it opens the City and our officers up for potential liability. Following discussion, Mr. Baker moved, seconded by Mr. Wise to approve the amendment as presented with the change to Section 42.5 by removing in the title "generally" and amending Section C to read "It shall be unlawful to loiter or to congregate on the streets or sidewalks of the city in such a way as to obstruct or interfere with the free passage into or out of any public business or private property." The motion carried unanimously.

ORDINANCE NO. 2026-36
AN ORDINANCE AMENDING THE CITY OF BREVARD CODE OF ORDINANCES
CHAPTER 42 – OFFENSES AND MISCELLANEOUS PROVISIONS

WHEREAS, due to an uptick in certain types of offenses, the City of Brevard wishes to amend its Code of Ordinances to affix misdemeanor penalties to the following offenses:

- Consumption or possession of alcoholic beverages in public place;
- Trespassing on posted property; loitering in general;
- Loitering for the purposes of engaging in drug-related activity;
- Assemblages obstructing street;
- Carrying concealed weapons on or near city property;
- Failing to vacate City-owned property when properly notified by a city agent;

and

WHEREAS, the amendment also updates the list of City-owned properties where the carrying of concealed weapons is prohibited; and

WHEREAS, a public hearing was conducted on July 20, 206, by Brevard City Council, and after review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Section 42 – Offenses and Miscellaneous Provisions, of the Brevard City Code of Ordinance be amended as outlined below; and

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

SECTION 01. Chapter 42 of the City of Brevard Code of Ordinance is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

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

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

Adopted and approved on the 3rd day of August, 2026.

Attest: s/ Denise Hodsdon, CMC, NCCMC, City Clerk s/ Maureen Copelof, Mayor
Approved as to Form: s/ Mack McKeller, City Attorney

~~ At 7:32 p.m. Mayor Copelof called for a 5-minute break. ~~

M. New Business

M-1. Municipal Service District (MSD) Task Force – REMOVED.

M-2. Letter of Interest to County re Old Courthouse – By way of background, Mayor Copelof explained that the County is in the process of building the new court-house with construction expected to begin in the fall and an estimated 2-year construction period. They have recently been considering plans for reuse of the old courthouse, which is the most iconic building in the county, and for the last 150 years has symbolized the civic life of the county. As the City considers the future need for a new City Hall, she asked Council to endorse sending a letter to the County expressing the City's interest in the possibility of occupying the old courthouse upon completion of he new courthouse facility. A draft letter of interest was included in the agenda packet for Council consideration. Mr. Wise moved, seconded by Ms. Holder to transmit this official letter to the Transylvania County Board of Commissioners concerning our interest in the courthouse building and interest in a feasibility study moving forward. The motion carried unanimously.

M-3. Appointment of Member to Parks, Trails and Recreation Committee – Finance, Human Resources and Citizen Appointment Committee Chair Dean Lytle reported that at its July 27th meeting, the committee reviewed applications for appointment to the Parks, Trails, and Recreation Committee to fill a vacancy until May 2027. The Committee recommends the appointment of Shanna Powell to the Parks, Trails and Recreation Committee.

Mr. Baker moved, seconded by Mr. Wise to approve the resolution appointing Shanna Powell to the Parks, Trails and Recreation Committee. The motion carried unanimously.

RESOLUTION NO. 2026-41
A RESOLUTION APPOINTING A MEMBER TO THE
PARKS, TRAILS AND RECREATION COMMITTEE

WHEREAS, in Fall 2022 the Brevard City Council held a work retreat to reform its committee structure, and initiated a new system for making appointments that would apply to every body to which the Council makes appointments; and

WHEREAS, the terms of citizen members appointed to advisory committees were set at two years with all terms expiring on May 31st of odd-numbered years; and

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

WHEREAS, City Council appoints five Citizen Members to the Parks, Trails and Recreation Committee, and there is currently one vacancy until May 31, 2027; and

WHEREAS, under the direction of the Finance, Human Resources and Citizen Appointment Committee, city staff conducted an open recruitment for citizens interested in serving on the Parks, Trails and Recreation Committee; and

WHEREAS, the applications received during the recruitment period were reviewed by the Finance, Human Resources and Citizen Appointment Committee at their July 27, 2026 meeting; and

WHEREAS, at that meeting the Committee recommended that Shanna Powell be appointed as a member of the Parks, Trails and Recreation Committee.

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

1) The Brevard City Council does hereby appoint Shanna Powell as a Member to the Parks, Trails and Recreation Committee, for a term to be effective immediately and expiring in May 2027.

Adopted and approved this the 3rd day of August, 2026.

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

N. Remarks/Future Agenda Considerations.

Mr. Lytle said I echo Mr. Baker's comments regarding the codes and the unhoused, and I think that it is an issue and a crisis that has to be attacked from all ends. One of those is giving our law enforcement officers the ability to act in the moment, and another would be putting those things in place to make sure that we give those persons help after the fact so that there is no repeat. We want to make sure they've got somewhere to sleep, somewhere to congregate and be a part of the community here in downtown. That change and this vote tonight in no way diminishes our commitment to make sure that we tackle what is a crisis and that I take it very seriously, but I know the rest of the council does as well.

Mr. Daniel said I would like to address a vote that we took at our last meeting concerning the food trucks, particularly the one in the Jordan St. parking lot. I voted for that measure, but I thought about that and I think my comment was we'll see how it works, and if it doesn't work we'll deal with it. But, my concern is that by the time you know that a food truck in the Jordan St. parking lot is going to adversely affect one of the restaurants there, that restaurant could possibly be out of business. I feel like I voted for that without giving it full thought, so I would like to raise that concern.

Mr. Baker asked a follow-up question regarding the HAC discussion—if we do not receive the grant, will we build that sewer regardless? Mr. Hooper and Ms. Brewer confirmed that we would because they are pursuing other options to be able to put together a funding stack to support this project. In order to build on that site, they do need sewer connection, and that was part of the development agreement with them.

Ms. Holder shared a personal note regarding her daughter's cancer journey over the past year and said that her cancer treatments are complete and on Tuesday she will ring the bell. She thanked everyone for their prayers and support.

Mr. Hooper offered congratulations to Brevard Music Center for a great special anniversary season, capped off by the Yo-Yo Ma concert last night—probably one of the most significant classical musicians in history was in Brevard. The fact Brevard Music Center's reach is comparable to the largest university in our state is really saying something. Their presence is one of the things that drew me here and I am so grateful that I get to take my kids to see not only famous musicians like him, but future famous musicians that are training there, and expose them to music of all sorts. I look forward to attending more of their events next year.

Mayor Copelof added that the Music Center is one of the things that makes this community so special. Also, what makes it so special are our two awardees today who have given back to this community. That is the type of community that Brevard is—

caring about everybody, regardless of their housing situation, and doing everything we can within our power to help people when they need it. She complimented the Police and Fire Departments for a successful blood drive. She shared that Brevard is hosting the Main Street Conference this week and Main Street managers from across the state will be in town. She asked Chief Wentzell to share information about tomorrow's National Night Out event.

O. Closed Sessions – None.

P. Adjourn – There being no further business, at 8:01 p.m. Ms. Holder moved, seconded by Mr. Baker, to adjourn the meeting. The motion carried unanimously.

_____ _____

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: August 17, 2026

STAFF REPORT
City Council, Monday, August 17, 2026

Title:	Proposed Amendment to the City of Brevard Unified Development Ordinance Chapter 17; and the Code of Ordinances Chapter 70 - Fats, Oils and Grease (FOG) Regulations
Speaker:	David Todd, Assistant City Manager Aaron Winans, Wastewater Treatment Plant Superintendent Emily Brewer, Senior Planner
Prepared by:	David Todd, Assistant City Manager
Approved by:	Wilson Hooper, City Manager

Background
The City's Wastewater Collection System is permitted through North Carolina Department of Environmental Quality (DEQ). This permit requires that "The Permittee shall develop and implement an educational fats, oils and grease (FOG) program that shall include at least semiannual distribution of educational material targeted at both residential and non-residential users. The Permittee shall also develop and implement an enforceable fats, oils and grease program for non-residential users under which the Permittee can take enforcement against users who have not properly installed, operated and maintained grease traps or grease interceptors as directed or otherwise violated the terms of the enforcement program pertaining to fats, oils and grease. [15A NCAC 02T.0108(b)] ".

The current Code of Ordinances addresses the permit requirement but does so in a very minimal fashion as it does not specify specifically how the City will provide the educational component nor how the City would enforce a violation. As a result, DEQ issued the City a Compliance Finding in April of 2025. The finding specified that an "Enforceable grease control program: Per section I.4 of the permit, the permittee shall develop and implement a Fat's, Oils and Greases (FOGs) enforcement program for non-residential users. Brevard's Sewer Use Ordinance (SUO) does allow the City to take enforcement action against violators who introduce prohibited substances to the collection system per Section 70-141 A. While the permit does not explicitly require routine inspection of grease traps, the City should establish a method for documenting and checking non-residential users' compliance per Section III.1 of the permit. If any of these responsibilities are delegated to another entity, this should be outlined within the City's policy and kept on file for future inspections."

The current FOG program primarily consists of outreach and education and does prohibit the introduction of FOG into the sewer system but lacks inspection and enforcement protocols. For example, previously the City had mailed FOG flyers with customer water bills, but this has not happened for a few years. Our permit requires semiannual distribution of educational materials to both residential users and nonresidential users. Another example is that the Code of Ordinances states that "Any waste or water containing

fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil" is a restricted discharge but the Code of Ordinances fails to spell out inspection protocols or failure to comply enforcement measures.

In addition, the City's current UDO is silent on FOG.

Text amendments are needed to both the UDO and the Code of Ordinances to bring the City into full compliance with our Wastewater Collection System permit. Public Hearings are required for updates to the City's codes.

Discussion

After much discussion with Public Works Staff, Planning Staff, the PW Committee, and DEQ, the attached proposed text amendments to both the UDO and Code of Ordinances are being recommended to City Council for approval. In short, the UDO would add language referring to the Code of Ordinances, Chapter 70, Utilities to address FOG. The Code of Ordinances would be revised to more specifically define FOG and methods and requirements to prevent it from entering the Wastewater Collection System, add language to better address and define the educational component, add language to define the City 's inspection requirements and enforcement measures, along with language describing how enforcement actions could be appealed.

It should be noted that the current North Carolina Building Code requires grease interceptors (Traps, Interceptors and Separators) or automatic grease removal devices on all commercial food preparation areas, restaurants, cafeterias, bars, hospital kitchens, and hotel kitchens. This is interpreted to include areas like day care facilities and churches.

The FOG program will have the least amount of impact on new construction. The program will likely find, through inspections, that many existing food service establishments (FSEs) have the required grease traps but are not maintaining them as required, resulting in an enforcement action, that if not corrected, could lead to a financial penalty. Lastly, much older establishments may find it necessary to modify their plumbing to add interceptors for pot sinks, pre-rinse sinks, wok stations, soup kettles, automatic hood wash units, dishwashers lacking a pre-rinse sink, and floor drains located in kitchens and food preparation areas.

If the FOG Program as proposed is approved by Council, Staff intends to start with a soft implementation consisting of notification of the program in water bills. The notification would be followed by questionnaires sent to all know FSEs. Next steps would include personal follow up by staff to remind FSEs of the program and offer assistance in completing the questionnaire. Starting 4- 6 months after program approval, staff, via the FOG Program Coordinator, will begin conducting inspections of FSEs and other suspected FOG contributors. Initial inspections will result in a Tier 1, No Civil Penalty, Notice of Violation. Consecutive inspections over the following 6 months to a year could result in higher Tier Enforcement Actions if no effort or inadequate effort is being made to resolve

the finding. No Civil Penalties would occur with in the first 12 months of the program conception with the expectation of blatant violations they may be endangering the public health and safety of the environment.

City staff also hopes to work in conjunction with the County Health Inspector and Building Inspector to identify where issues are or might occur.

The PW Committee has reviewed the proposed FOG Program along with the proposed/recommended text amendments and recommended their approval. The Planning board has reviewed and approved the proposed/recommended text amendments to the UDO.

Fiscal Impact
The FOG Program Coordinator position was created by reclassifying a position at the WWTP in FY26. This reclassification will had an approximate $5,000 impact on the FY27 Budget. Staff are in the process of upfitting the FOG Program Coordinator position with some inspection equipment and testing tools and providing additional FOG related training. In total these items are estimated to cost less than $10,000 and will be funded by the WWTP Operating Budget.

Action
No action requested; for information and Public Hearing only.

Attachments:
1. FOG Program Updates Power Point for Council Presentation 8-13-2026
2. Proposed Unified Development Ordinance Chapter 17 Text Amendments 8-13-2026
3. Proposed Code of Ordinances Capter 70 Utilities Text Amendments 8-13-2026

FOG Program Updates

Fats, Oils and Grease

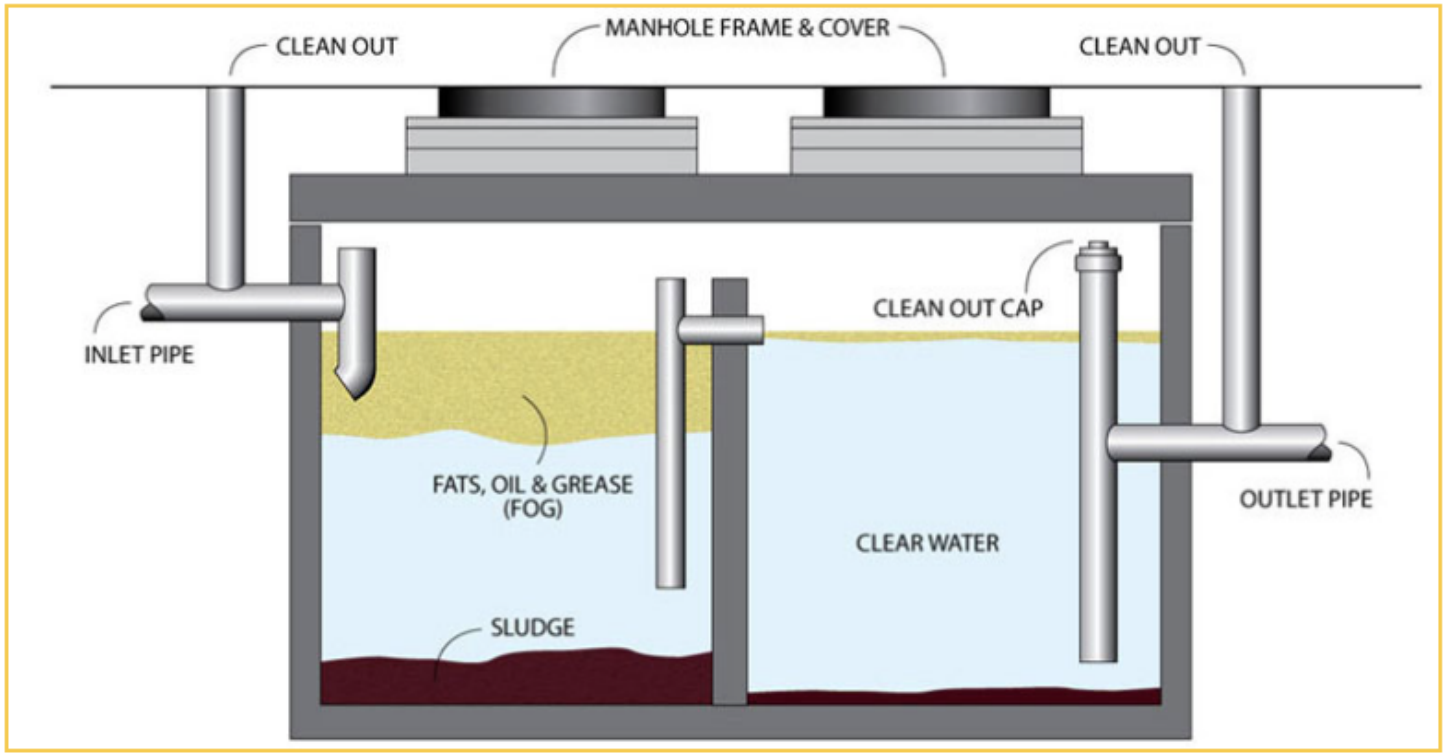
NC DEQ Mandatory Updates to Our Program

Must be an Enforceable Program

What does FOG do to our Sewer Collection System?

How do you prevent FOG?

- Don’t put fats, oils or grease down the drain!
- Install grease traps or interceptors to catch any residual, sundry or accidental spills of FOG, **commercial applications only does not apply to reside**



Why update our FOG Program now?

Our permit says we are required to have a FOG program and DEQ had a compliance finding in April of 2025

What our Permit Says:

The Permittee shall develop and implement an educational fats, oils and grease program that shall include at least semiannual distribution of educational material targeted at both residential and non-residential users. The Permittee shall also develop and implement an enforceable fats, oils and grease program for non-residential users under which the Permittee can take enforcement against users who have not properly installed, operated and maintained grease traps or grease interceptors as directed or otherwise violated the terms of the enforcement program pertaining to fats, oils and grease. [15A NCAC 02T.0108(b)]

DEQ Compliance Finding of April 2025:

Enforceable grease control program: Per section I.4 of the permit, the permittee shall develop and implement a Fat's, Oils and Greases (FOGs) enforcement program for non-residential users. Brevard's Sewer Use Ordinance (SUO) does allow the City to take enforcement action against violators who introduce prohibited substances to the collection system per Section 70-141.A. While the permit does not explicity require routine inspection of grease traps, the City should establish a method for documenting and checking non-residential users' compliance per Section III.1 of the permit. If any of these responsibilities are delegated to another entity, this should be outlined within the City's policy and kept on file for future inspections.

What does our UDO and Code of Ordinances currently say?

Unified Development Ordinance

The current UDO is silent on FOG.

PART II: CODE OF ORDINANCES

CHAPTER 70. UTILITIES

Cross reference(s)—Buildings and building regulations, CHAPTER 18; poles, wires and conduits, § 62-91 et seq.

State law reference(s)—Municipal authority to operate public utilities, G.S. 160A-312.

ARTICLE III. SEWER SYSTEM

State law reference(s)—Wastewater systems, G.S. 130A-333 et seq.

70-92. Restricted discharges.

No person shall discharge or cause to be discharged the following described prohibited substances, materials, waters or wastes if it appears likely in the opinion of the manager that such wastes can harm either the sewers, wastewater treatment process or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the manager will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

A. Any liquid or vapor having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or that causes wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

B. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.

Our Current FOG Program

- Our current FOG Program primarily consist of outreach/education.

- In the past we have mailed FOG pamphlets with Water bills, but this has not been done in the last several years. Per our permit and current compliance finding this should be done twice per year.

- Our primary outreach/education component at present is on the City's website City of Brevard Fats Oils and Grease Program

Revised UDO Language

This language has been approved by the Planning Board and is pending City Council Approval on 8/3/2026

Code of Ordinances and UDO

CHAPTER 17. DEVELOPMENT PLAN REQUIREMENTS

17.6. Construction document requirements.

The construction documents for site plans, conditional rezoning plans, special use plans, major subdivisions, vested rights, and master plans shall be submitted in accordance with the specifications of this section except where specifically noted. Construction documents shall constitute the complete submittal requirements for site plans and preliminary plats required prior to construction.

The size and number of completed application submittal copies required shall be set by the administrator. No certifications other than the certificate of survey and accuracy as in Section 17.7.J and the seal of the professional designer must be provided in connection with the submission.

Construction drawings must be drawn to the following specifications and must contain or be accompanied by the applicable information listed below. All plans shall be submitted at a scale not less than one inch = 50 feet unless otherwise authorized by the administrator. No processing or review of construction documents will proceed without all of the following information:

V. Supplemental plans as applicable:

1. Landscape plan in accordance with Section 17.9.
2. Tree preservation plan in accordance with Section 17.9.
3. Lighting plan in accordance with Section 17.10.
4. Architectural plans in accordance with Section 17.11.
5. Traffic impact analysis (if required) in accordance with Section 17.12.
6. Floodplain development information (if required) in accordance with Section 17.13.
7. Stormwater management concept plan in accordance with Section 17.13.
8. Fats, oils, and grease (FOG) control plan in accordance with CHAPTER 70 of Brevard City Code of Ordinances.

Revised Code of Ordinances Language

Approved by the PWUIC on 8/5/2026

- Current Code of Ordinance https://online.encodeplus.com/regs/brevard-nc/doc-viewer.aspx#secid--1

- Proposed Revised Code of Ordinance with FOG Program Updates

Newly Adopted Fee Schedule as part of the FY 26-27 Budget

Tier	Administrative Penalty
Tier 1	No Civil Penalty; Notice of Violation (NOV)
Tier 2	Up to $500 Civil Penalty; NOV
Tier 3	$750 to $1,500.00 Civil Penalty; NOV; Consent Agreement;
Tier 4	$1,500.00 to $3,000.00 Civil Penalty; NOV; Consent Order or Administrative Order
Tier 5	$3,000.00 to $10,000.00 Civil Penalty; NOV; Administrative Order; Public Notice
Tier 6	$10,000.00 to $25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Possible Termination of Services
Tier 7	$10,000.00 to $25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Termination of Services
SSO	In addition, to the civil penalties stated above the District may recover any operational cost associated with the removal and cleanup of an SSO. If any penalties or fines are assessed against the District by the State of North Carolina or EPA as a result of a SSO, the penalties or fines may be passed along to the perpetrator.

Roll Out and Communication Plan

- New FOG Coordinator position was created and filled in April of 2026. This position was created by taking and existing position and redefining the job duties.
- In the process of purchasing needed tools and test equipment as well as repurposing a vehicle dedicated to the FOG Coordinator.
- Work with Wastewater Collection System ORC to identify low hanging fruit by concentrating on specific basins of concern first.
- Developed a “customer” questionnaire to help us understand current level of FOG compliance with individual businesses and prioritize these concerns. The questionnaire will serve as a heads up that inspections are coming.

What does the updated FOG Program implementation and enforcement look like in action??

Update UDO

Update Code of Ordinances

Updated Fee Schedule, already in place

More robust communication plan consisting of mailing FOG brochures twice a year

Distribution of FOG Questionnaires to current “customers”

Based on priority finding develop and inspection schedule and begin inspections within 6 months but postponing full utilization of the Fee Schedule for 1 year.

Work with ”customers” to reduce or eliminate their FOG contribution to the collection system by ensuring systems are both installed and maintained.

Nurture relationship with Transylvania County Department of Health as they are responsible for restaurant inspections and may find issues we can help address.

Develop a list resources related to grease trap installation, maintenance and repair and coordinate distribution with the County Building Inspection and Health Department

Possible Outcomes

- Reduction of Sanitary Sewer Overflows (SSOs aka DEQ Findings) due to blockage, backups and overflows of the wastewater collection system.
- Reduction of BOD and TSS at the WWTP
- Reduction of odor from reduction of FOG which produces hydrogen sulfide aka….smells bad…
- Labor cost savings to the City due to fewer blockages in the collection system and problems at the lift stations
- Fewer Health Department inspection violations….possibly resulting in cleaner restaurants
- Possible costs to business owners for revitalizing, cleaning, maintaining or installing FOG collection systems

Next Steps

- PWUI Committee recommends City Council adopt the proposed UDO and Code of Ordinance Changes
- City Council to adopt UDO and Code of Ordinance revisions of suggest revisions to the plan
- Begin implementation of the new “Enforceable FOG Program

CHAPTER 17. DEVELOPMENT PLAN REQUIREMENTS

17.6. Construction document requirements.

The construction documents for site plans, conditional rezoning plans, special use plans, major subdivisions, vested rights, and master plans shall be submitted in accordance with the specifications of this section except where specifically noted. Construction documents shall constitute the complete submittal requirements for site plans and preliminary plats required prior to construction.

The size and number of completed application submittal copies required shall be set by the administrator. No certifications other than the certificate of survey and accuracy as in Section 17.7.J and the seal of the professional designer must be provided in connection with the submission.

Construction drawings must be drawn to the following specifications and must contain or be accompanied by the applicable information listed below. All plans shall be submitted at a scale not less than one inch = 50 feet unless otherwise authorized by the administrator. No processing or review of construction documents will proceed without all of the following information:

A. The boundary, as determined by survey, of the area to be subdivided with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements, bridges, floodplains, or other significant features of the tract.

B. Scale in feet denoted both graphically and numerically with north arrow and declination.

C. A sketch vicinity map at a scale no smaller than one inch equals 1,200 feet showing the relationship between the proposed subdivision and surrounding area.

D. Environmental survey in accordance with Section 17.3.

E. Existing topography and finish grading with contours drawn at two foot intervals. This requirement may be waived for developments smaller than one acre or where insufficient topographic changes warrant such information.

F. Corporate limits and extraterritorial jurisdiction boundaries (where applicable).

G. The proposed names of the development and streets, the owner's name and address, signature of the owner or owner's duly authorized agent, the surveyor's name, the names of existing and proposed adjoining subdivisions or property owners, the names of the city, county, and state in which the development is located, the date of preparation, and the zoning classification of the tract to be developed and of adjoining properties.

H. Proposed lot lines, lot and block numbers, and exact dimensions.

I. The future ownership (dedication or reservation for public use to a governmental body; for owners to duly constituted home owners' associated, for tenant's remaining in subdivider's ownership of recreation and open space lands).

J. A statement from the City of Brevard regarding the availability of adequate water and sewer capacity for the proposed development.

K. The plans for utility layouts, including sanitary sewers, storm sewers, and water lines, illustrating connections to existing systems. All systems shall conform to current city standards.

L. The location and size of all utility lines, easements, and rights-of-way. Easements shall be provided on all construction documents as follows:

1. *Utility easements:* Easements for underground or above ground utilities shall be provided for and centered along rear or side lot lines, and shall be a minimum of ten feet in width. Easements for water lines, sanitary sewers, and storm drains shall be centered on the pipe and a minimum of 20 feet in width or as required by design manual.
2. *Drainage easements:* Where a development is crossed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as shall be adequate to maintain the overall integrity of the drainage area and provide for its periodic maintenance.
3. *Landscape easements:* Landscape easements along streets should be designed in accordance with the provisions of CHAPTER 6 and CHAPTER 8. The city may require landscape easements for developments where industrial or commercial uses abut residential uses.
4. *Public access easements:* Public access easements shall be provided for sidewalks, trails, greenways, and other pedestrian and bicycle facilities that provide connections other than within public rights-of-way.

M. The location of proposed buildings, parking and loading areas, streets, alleys, lots, parks or other open spaces, reservations (i.e. school sites), property lines and building setback lines with street dimensions, tentative lot dimensions, and the location of any building restriction areas (i.e. flood hazard areas, watershed protection districts, and/or jurisdictional wetlands. Buildings shown for the purpose of measuring setbacks must reflect these elements when applicable.

N. Site calculations shall include total acreage of tract, acreage in parks and other non-residential uses, total number and acreage of parcels, the total number of housing units, area of all mixed-use and non-residential buildings, gross project density per acre, linear feet of streets, and the accurate locations and descriptions of all monuments, markers, and control points.

O. The location and dimensions of all off-street parking and loading spaces, and walkways indicating the type of surfacing, size, angle of stalls, width of aisles, and a specific.

P. Development permit and certification application with supporting documentation as required by the flood hazard prevention requirements of CHAPTER 34 of Brevard City Code.

Q. The location and dimensions of any sidewalks, curb cuts, curb and gutters to be installed along public street frontages, and other required street improvements designated in CHAPTER 11 of this ordinance, or as called for in the Brevard Transportation Plan, the Rural Planning Organization Thoroughfare Plan or Transportation Improvement Program, or other plan or policy of the city. Required right-of-way shall be drawn in the location shown on any official plan at the width specified in this ordinance.

R. Typical cross sections of proposed streets showing rights-of-way, pavement widths, grades, and design engineering data for all corners and curves. 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 subdivision abuts a tract of land that adjoins the subdivision 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.

S. The location of any existing or proposed demolition landfills in the site. Such sites shall not be used for building.

T. A copy of the full soil erosion and sedimentation permit application including forms, plans, and calculations to be submitted to the North Carolina Department of Environmental Quality-Erosion and Sediment Control Office, and a copy of the approval letter prior to site plan or preliminary plat approval.

U. Final proposed elevations of all non-single family and duplex buildings proposed for construction as part of this site plan approval. Subsequent buildings within the development may be handled as separate site plans. Such elevations shall include all facades visible from public streets.

V. Supplemental plans as applicable:

1. Landscape plan in accordance with Section 17.9.
2. Tree preservation plan in accordance with Section 17.9.
3. Lighting plan in accordance with Section 17.10.
4. Architectural plans in accordance with Section 17.11.
5. Traffic impact analysis (if required) in accordance with Section 17.12.
6. Floodplain development information (if required) in accordance with Section 17.13.
7. Stormwater management concept plan in accordance with Section 17.13.
8. Fats, oils, and grease (FOG) control plan in accordance with CHAPTER 70 of Brevard City Code of Ordinances.

W. The following statement shall be placed upon all final construction 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."

In addition to the above required information, the following additional information may be necessary for specific sites as determined by the administrator:

X. Where a proposed water and sewer system does not contemplate the use of facilities owned and operated by the city, the proposed facility plans as approved by the appropriate agency, shall be submitted with the construction documents.

Y. Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the Transylvania County Health Department shall be submitted with the construction documents indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal.

CHAPTER 70. UTILITIES

Cross reference(s)—Buildings and building regulations, CHAPTER 18; poles, wires and conduits, § 62-91 et seq.

State law reference(s)—Municipal authority to operate public utilities, G.S. 160A-312.

ARTICLE I. IN GENERAL

70-1. Management and control of water and sewer systems.

A. *Generally.* The management and control of the water and sewer systems is vested in the city manager, to be governed by the provisions of this chapter and of CHAPTER 2, Article V, Division 3, and the policies established from time to time by the city council.

B. *Distribution and collection systems.* The city manager shall appoint a superintendent who shall have operational control of the water and sewer distribution and collection systems under the general supervision of the city manager.

C. *Treatment plants and pumping facilities.* The city manager shall appoint superintendents who shall have operational control of the water and wastewater treatment plants and pumping facilities under the general supervision of the city manager.

D. *Financial operation.* The finance director of the city is authorized, under the supervision of the city manager, to administer the financial operation of the water and sewer systems. Any person aggrieved by a decision of the finance director shall have the right of appeal to the city manager, who shall have authority to make a final decision on any appeal.

(Code 1980, § 17-1)

70-2. Pertinent provisions of Code to be part of terms of service.

All pertinent provisions of this chapter and of CHAPTER 2, Article V are hereby made a part of the terms and conditions whereby the city shall provide water, sewer and/or garbage and refuse collection service to any consumer, or whereby the city shall make any water or sewer connection or perform work of any kind in connection with the providing of such services.

(Code 1980, § 17-3)

70-3—70-30. Reserved.

ARTICLE II. WATER SYSTEM

70-31. Created.

The city, by virtue of the authority granted by its Charter and by the General Statutes of the state, is authorized and empowered to acquire, provide, construct, establish, maintain and operate a water system for the city and to extend those systems beyond the corporate limits. In accordance with such authority, there is hereby created a water supply and distribution system for the city.

(Code 1980, § 17-21)

70-32. Connection to city system required.

A. All developed property within the city limits and located within 300 feet of a city water line shall be connected therewith and the property owner shall be charged the prescribed tap fee for all such connections. Request for relief from this requirement for the construction of one single-family home may be made in writing to the city manager. Such relief shall be granted only in situations of demonstrated hardship by the property owner.

B. 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.

(Code 1980, § 17-22; Ord. No. 2018-27, § 1(Att. A), 9-17-18)

70-33. Application for connection.

Any person desiring connection to be made with the city water system shall make application in writing to the finance director, stating the name of the owner of the lot, the location of the lot, the number of the building if there is a number, the number and kind of connections desired and the character of the surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee. Approval of an application for connection shall be issued in the form of a service permit.

(Code 1980, § 17-23)

70-34. Installation of connections; connections to substandard property.

A. All connections to water lines and the installation of lateral connections to the edge of the public right-of-way in which the main line is located shall be performed only by city personnel or, if specifically approved by the city manager, by a licensed contractor under the supervision of the superintendent of the water and sewer department.

B. Water connections will not be made to any existing vacant substandard property or any substandard property becoming vacant until such time as the property has been inspected and brought into compliance with the city codes and a certificate of occupancy issued.

(Code 1980, § 17-24)

70-35. Connection charges.

A. Applicable water tap, meter setting, and capacity system development fees, which are set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, shall be paid in advance of the tapping of any water main. The specific policies and procedures for the assessment and collection of such fees shall be established by the city manager.

B. All residents of areas statutorily annexed to the city shall qualify for waiver of the foregoing standard water tapping fees and charges provided such residents make proper application and complete connections within 12 calendar months of the date water utilities are available for tapping. The public ~~services~~works director shall provide written certification to city council of the date such utility lines become available for connection, thereby, fixing the date from which residents are allowed to connect without payment of connection charges. All residents who do not connect within the 12-month waiver period must pay all fees and charges as prescribed herein.

C. Water capacity system development fees are to be deposited in the city's capital reserve fund to recover costs associated with water system capacity development.

D. For purpose of assessing water capacity system development fees, the assumed usage for a residential unit shall be 375 gallons per day. The term "residential unit" shall be deemed to be an individual single family living unit whether such unit shall be a freestanding house, an apartment, a condominium or any other residential structure.

E. Non-residential users will be assessed water capacity system development fees based on the number of 375 GPD units of water consumed and will pay the full cost for any fraction of a residential equivalent. Water capacity system development fees may be assessed utilizing the best available information, including but not limited to historical use data for similar uses, and an engineer's signed and sealed estimate of projected water use. In the absence of such information, the administrator shall base sewer capacity impact such fees upon North Carolina Administrative Code 15A NCAC 02T.0114 Wastewater Design Flow Rates.

(Code 1980, § 17-25; Ord. No. 6-97, § 2, 3-3-97; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11; Ord. No. 2013-08, § 01(Exh. A), 8-19-13; Ord. No. 2014-02, § 01, 2-17-14; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20)

70-36. System extensions.

Extensions of the water system shall be in accordance with CHAPTER 2, Article V, Division 3. Connections shall be in accordance with CHAPTER 2, Article V, Division 3, or as elsewhere set forth in this article.

(Code 1980, § 17-26)

70-37. Meters.

A. *Required.* A water meter shall be installed at every point of delivery of water from the city water system, the meter to be of such size and type as will most nearly meet the requirements of the service in which it is to be installed. Individually metered service connections shall be required for each individual living unit, whether in a single- or multiple-unit building or mobile home park, and for each commercial or business unit, whether situated in a single- or multiple-unit building.

B. *Master meters.* However, when a multiunit building or development cannot reasonably accommodate individually metered service connections, master metered service connections may be permitted if the applicant for service can show evidence from the state utilities commission that the proposed multiunit building or development is exempt from state building code requirements prohibiting master meters for utilities. Where master metered service connections are permitted, the applicant for service shall be responsible for all costs associated with master metered connections as determined by the city manager or his designee, all meters shall become the property of the city, all consumption of water and treatment of wastewater shall be paid for by the applicant in accordance with this article, and all utility lines beyond the master meters shall be considered service lines not owned or maintained by the city except that city requirements for fire protection shall be enforced.

(Code 1980, § 17-27)

70-38. Deposit required; amount.

A. *Deposit required.* Upon receipt of the required application for connection, the applicant shall be required to pay a utility deposit or satisfactorily establish credit with the city before utility service will be approved. Customer utility deposits shall be required as set forth in this section.

B. *Schedule.* Utility deposit fees shall be set forth in the Schedule of Taxes, Fees and Charges.

C. *Residential deposits.*

1. The city may waive the payment of a cash deposit in lieu of and based upon an applicant establishing credit with the city in such cases whereby:
    a. The applicant owns the premises to be served or other real estate within the city utilizing city utilities, unless the applicant is an unsatisfactory credit risk;
    b. The applicant demonstrates that he is a satisfactory credit risk by appropriate means which may be quickly and inexpensively confirmed by the city;
    c. The applicant has been a customer of the city for a similar type of service within a period of 24 consecutive billings preceding the date of application and during the last 12 consecutive billings for that prior service has not had service discontinued for nonpayment of bill or had more than two occasions in which a bill was not paid when it became due; provided the average periodic bill for such previous service was equal to at least 50 percent of that estimated for the new service; and provided further that the credit of the applicant is unimpaired; or
    d. The applicant furnishes a satisfactory guarantor agency acceptable to the city council to secure payment of bills for the service requested in an amount as prescribed in the city's utility deposit rate fees. If an applicant elects to offer a guarantor agency in lieu of paying a deposit, the city will require a written commitment from the guarantor agency in an amount as mentioned in this subsection. If an applicant becomes delinquent in his utility payments and he is utilizing a guarantor agency, payment will be required of the guarantor agency within 15 days from notice to the guarantor agency that the customer has been delinquent.
2. The establishment of credit under the provisions of this section shall not relieve the applicant for service or customer from compliance with the reasonable regulations of the city, including but not limited to the prompt payment of bills and the rules for discontinuance of service for the nonpayment of bills due for service furnished. Other applicants for new residential utility service shall be required to make a deposit guaranteeing payment of charges for utility service as provided in this section.
3. The city shall require a deposit from a customer who was not required to make a deposit when he applied for the obtained new residential utility service if during any consecutive 12 billings for that prior service the customer:
    a. Had service discontinued for nonpayment of bill;
    b. Had more than two occasions in which a bill was not paid when it became due; or
    c. Had one of his checks given in payment of a bill dishonored.

    The city may require any customer who has had a check dishonored in payment of a bill to pay all utility bills in cash only.

D. *Business, commercial and industrial deposits.* Applicants for new business, commercial or industrial utility service shall be required to make a deposit guaranteeing payment of charges for utility service or for reestablishment of service. In accordance with subsection (b) of this section, the city shall have the right to require such customers to adjust such deposits after the expiration of any four consecutive billing periods to reflect actual rather than estimated usage.

E. *Exemptions.* Colleges, public schools, hospitals and public agencies customers shall be exempt from furnishing deposits.

(Code 1980, § 17-28; Ord. No. 32-97, § 1, 8-18-97; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-39. Refund of deposits.

A. Existing residential customers may apply for and receive refunds of their deposit, or have their deposits credited to their accounts, if such customer during the last 12 consecutive billing periods for prior service has not:

1. Had service discontinued for nonpayment of bill;
2. Had more than two occasions in which a bill was not paid when it came due; or
3. Had one of his checks given in payment of a bill dishonored.

The deposits of existing residential customers who are not entitled to a refund of their deposit under this section shall continue to be held by the city until such customer qualifies for refund or until service is discontinued or terminated.

B. The city shall have the right to refund the deposits of residential customers who qualify for refunds but who do not apply for such refunds or to credit their accounts with the amount of the deposit. The deposits of existing business, commercial or industrial customers shall not be subject to refund and shall continue to be held by the city until service is discontinued or terminated.

(Code 1980, § 17-29)

70-40. Disposition of deposits.

Utility deposits shall be placed and kept in a separate account by the finance director and deposited in a separate bank account, and the deposit so made by each person shall be returned to the user whenever the use of city water shall be discontinued; provided, however, that the deposit so made shall be as security to the city for any unpaid water service charges, and, upon discontinuing the use of water or the water being cut off for failure to pay water rent as prescribed in this article, the finance director shall be authorized to pay over to the collector of water rents from the sum so deposited an amount equal to the charges due the city for water. When service is terminated and the account satisfactorily closed, the deposit shall be returned to the person in whose name the account is recorded. The city shall not pay interest on funds held as deposits.

(Code 1980, § 17-30)

70-41. Consumption basis of charges.

All charges for water delivered to any consumer from the city water system shall be based upon the number of gallons per month delivered to the consumer at the point of connection to the city distribution system.

(Code 1980, § 17-31)

70-42. Service charge schedule; billing.

A. The schedule of water and sewer rates, including service outside the corporate limits, shall be set forth in the schedule of taxes, fees and charges. The specific policies and procedures for the collection of water and sewer rates shall be established by the city manager.

B. Meters shall be read in accordance with the schedule of taxes, fees and charges. Bills shall be submitted monthly and shall be payable by the tenth of the month in which the bill is due.

(Code 1980, § 17-32; Ord. No. 40-96, § 1, 11-18-96; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-43. Basis of charges for multiple dwelling units on single connection.

Where more than one family dwelling unit is provided with service through a single service connection, the charges for service shall be the greater of:

A. The number of family dwelling units served times the minimum charge as shown in the current water rate; or

B. The actual charge determined for the quantity of metered water consumed.

(Code 1980, § 17-33)

70-44. Basis of charges for newly constructed condominiums.

For newly constructed condominiums, the total metered consumption serviced by one meter shall be divided by the number of units in the complex and each unit shall be figured separately at the regular metered rate with one total billing being mailed to the person in charge.

(Code 1980, § 17-34)

70-45. Responsibility for payment of charges for premises with multiple water connections.

A. Where there is not provided a separate service connection for each building situated on any given lot or parcel of land, the owner of such lot or parcel of land shall be responsible for the payment of charges for water supplied to all such buildings on the lot or parcel.

B. Where separate service connections are not provided to every occupancy unit or tenant with a multi-tenant building, the owner of the building shall be responsible for the payment of all charges for water service to the building.

(Code 1980, § 17-35)

70-46. Delinquent accounts; disconnection of service.

A. *Generally.* Water customers shall not be contacted personally in an effort to collect overdue bills; rather, on the 21st day of the month, if payment has not been received, the late payment fee approved by the city council and maintained in the office of the city clerk shall be added to the bill; on the 28th day of the month, if payment has not been received, the water shall be subject to being cut off. Water cut off under this section shall not be restored until all overdue bills are paid. Fees to disconnect or restore service shall be set forth in the schedule of taxes, fees and charges.

B. *Dispute of amount of bill.* Any customer disputing the correctness of his utility bill shall have a right to a hearing before the finance director, who shall have authority to delay cutoff and make a determination in any dispute. The customer shall be responsible for all water which passes from the city's water meter to the customer's service line, whether used or wasted. The finance director shall have the authority to adjust a customer's bill when a bona fide leak has occurred and the customer has corrected the malfunction. Before an adjustment is made, the finance director must receive written documentation acceptable to the city of the repair or correction of the malfunction, i.e., a copy of the repair bill for the subject repairs. Any adjustments shall apply to no more than the latest two-month period and be based upon an average bill determined by the finance director from the customer's previous 12-month consumption rate.

C. *Hardships.* The finance director is authorized to extend the time allowed for payment of a delinquent account to avoid cutoff for a period not to exceed 30 days in those instances where a bona fide hardship case exists. A bona fide hardship case shall be deemed to exist if an account holder obtains written confirmation of such hardship, addressed to the city finance director, from an established and recognized social welfare agency such as the county department of social services, church outreach programs, or local charity organizations.

D. *Disconnection fee; forgiveness of charges.*

1. When water service is disconnected due to nonpayment of charges, a cut-off fee shall be charged, which fee shall be set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The cut-off fee shall be charged and collected once the city has dispatched its service person for the purpose of disconnection of utility service, whether or not the service person is intercepted by the customer and whether or not the actual disconnection is performed. A separate returned check fee will further be made for any check received in payment of a utility bill which is dishonored by the bank upon which the check is drawn, which fee shall be set forth in the schedule of taxes, fees and charges.
2. When, upon the request of the customer, water service is discontinued and the customer account is temporarily closed, a cut-on fee shall be charged as approved by city council and maintained on file in the office of the city clerk, for the restoration of service, except that this fee shall not be charged when the temporary interruption of service is needed for repair of the water system on the customer side of the meter. Such fee shall be set forth in the schedule of taxes, fees and charges.
3. The city manager or finance director is hereby authorized to forgive charges for water, sewer or garbage that are less than $100.00.

(Code 1980, § 17-36; Ord. No. 22-96, § 1, 6-3-96; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-47. Turning on water without authority.

It shall be unlawful for any person to turn on the water to any premises when the premises has been cut off by the city for nonpayment of water charges, or for any other reason. All vacant buildings shall be presumed to have the water turned off by the authorities of the city for the purpose of this section, and any person using water in a newly occupied building without authority from the city shall be presumed to have turned the water on without authority from the city.

(Code 1980, § 17-37)

70-48. Unauthorized use of water.

Should any person use water from the city water system from other than a city-approved point of service, a bill will be made against the person or premises for the estimated water used, or the quantity shown to have been used by the meter, and the water turned off and not turned on until the bill is paid, together with applicable cut-off and cut-on fees as set forth in the schedule of taxes, fees and charges. This will apply to any property owner allowing water to be illegally used on his or her premises.

(Code 1980, § 17-38; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-49. Right of city to shut off water in mains.

The city reserves the right at any time to shut off water in the mains in case of accident, or for the purpose of making connections, alterations or repairs. The city will not be liable for any damage that may result to consumers for shutting off water service for any cause whatsoever, even in a case where no notice is given, and no reduction from water bills will be made therefor.

(Code 1980, § 17-39)

70-50. Trespassing on, injuring or polluting watershed or reservoir premises.

It shall be unlawful for any person to go upon the watershed or reservoir premises of the city without permission of the city council, to deposit any excreta or carcass of any dead animal or allow any animal to stray thereon, to set fire to any part thereof, to set fire to any adjoining territory so that such fire may spread and burn over such areas without giving prior notice thereof to the city manager, to damage or remove any post or fence around such areas, to throw any substance whatsoever in the reservoirs or the streams which feed the reservoirs, to go over or along the water line between the intake and the reservoirs without written permission of the city manager, or to interfere with or pollute or attempt to pollute any part of the watershed or water at any point or upon the watershed, the intake, the line between the intake and the reservoirs or the reservoirs. Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

(Code 1980, § 17-40; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

70-51. Damaging or tampering with facilities; obstructed meters.

It shall be unlawful for any person to damage, injure, destroy or tamper with any of the pipes, mains, valves, gates, hydrants, boxes, meters or other fixtures or appurtenances belonging to or connected to the city water system. Meters and meter boxes shall not be covered with dirt, trash or parked vehicles, or be obscured in any other way. Whenever it is necessary that city personnel must search for and uncover a meter box and meter in order to read the meter, a meter location charge as set forth in the schedule of taxes, fees and charges shall be automatically added to the monthly bill. Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

(Code 1980, § 17-41; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

70-52. Wells.

A. *Permit required.* Whenever a property owner desires to install a well within the city for any purpose whatsoever, a permit shall first be obtained from the Transylvania County Department of Environmental Health and the City of Brevard. The city permit fee shall be set forth in the schedule of taxes, fees and charges.

B. *Interconnections with city system.* It shall be unlawful to permit any connection whatsoever, including valved connections, between the well water system and the city water system. The public ~~services~~works director and the code enforcement officer shall have the right and authority to conduct periodic inspection of any well that is situated within 300 feet of any city water line to identify interconnections. Where an interconnection condition is found, water service will be terminated immediately and not restored until such time that the public ~~services~~works director is satisfied that the interconnection has been permanently eliminated.

C. *Compliance with section 70-32 required.* Properties served by wells shall maintain compliance with Section 70-32 of this chapter. Wells within the corporate limits of the City of Brevard, which are situated within 300 feet of any city water line, shall not be utilized for human consumption, which includes drinking, bathing, cooking, dishwashing and maintaining oral hygiene, or other similar uses.

(Code 1980, § 17-42; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-53. Cross connection control policy.

In compliance with the ~~federal~~Federal Safe Drinking Water Act of 1974, as amended, all cross connections and interconnections of the city water system shall be governed by applicable provisions of this article and the city's cross connection control policy. The city's cross connection control policy, as may be amended from time to time by the city council, is adopted by reference as though fully set forth within this article. This policy shall regulate all such connections and provide for backflow prevention into the system for purposes of protecting the public health of all citizens and utility customers of the city.

(Code 1980, § 17-43)

70-54—70-~~80~~60. Reserved.

ARTICLE ~~IV~~III. WATER SHORTAGE RESPONSE PLAN

70-~~127~~61. Declaration.

Whenever the water supply of the City of Brevard's public water system is low or declining due to conditions which may adversely affect the continued availability of water for human consumption, sanitation, health and fire protection, it will become necessary to declare a water shortage and implement conservation requirements under the standards set forth below. The procedures herein are written to reduce potable water demand whenever drinking water supplies are in danger of being inadequate to meet customer needs.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~128~~62. Authorization.

The City of Brevard City Manager is authorized to enact water shortage response provisions whenever the trigger conditions outlined in Section 70-~~132~~66 are met. In his or her absence the ORC (operator in responsible charge) of the water treatment plant will assume this role.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~129~~63. Notification.

The following notification methods will be used to inform water system customers and employees of a water shortage declaration: employee e-mail announcements and notification from supervisors when reporting for work, notices posted at city hall, notices on water bills, notice posted on city website, notice published in the Transylvania Times, public service announcements on local radio WSQL and via Comporium CATV.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~130~~64. Classification of water uses.

A. *Class I: Essential uses of potable water.*

1. *Domestic:* Water to sustain human and domestic pet life, maintain hygiene and sanitation standards.
2. *Patient care:* Patient care and rehabilitation, including swimming pools used for patient care and rehabilitation as prescribed by medical personnel.

3. *Public safety:* Firefighting and approved flushing of hydrants and sewer mains to ensure public health and safety.

B. *Class II: Socially or economically essential uses of potable water.*

1. *Domestic:* Minimal use for kitchen, bathroom and laundry; minimal watering of vegetable gardens needed to sustain them between the hours of one hour before sunset and one hour after sunrise.
2. *Patient care:* Patient care and rehabilitation, including swimming pools used for patient care and rehabilitation as prescribed by medical personnel.
3. *Public use:* Filling and operation of public swimming pools.
4. *Commercial:* Commercial vehicle washers, laundromats, restaurants, hotels/motels, minimal water usage by commercial nurseries required to sustain stock, minimum amounts required to sustain essential cooling operations.
5. *Agricultural:* Minimal amounts required to sustain crops, livestock and associated activities.
6. *Industrial:* Minimal use necessary to operate production facilities and sustain jobs, minimal amounts required to sustain essential cooling operations.
7. *Institutional:* Efficient use of water by schools, churches, and government facilities.

C. *Class III: Non-essential uses of potable water.*

1. *All:* Ornamental uses (fountains, reflecting pools, artificial waterfalls, etc.) residential and commercial lawn irrigation, non-commercial washing of motor vehicles, wash down of impervious surfaces, filling and operation of recreational swimming pools.
2. *Public use:* Gardens, lawns, parks, city/county playing fields and recreation areas.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~131~~65. Levels of response.

Three levels of response are included in this plan. These levels are: stage 1 water shortage advisory, voluntary restrictions/reductions. Stage 2 water shortage alert, mandatory restrictions/reductions. Stage 3 water shortage emergency, escalated mandatory restrictions/reductions and water rationing. A detailed description of each response level and corresponding water reduction measures are as follows.

A. *Stage 1 water shortage advisory:*

1. Water supply conditions indicate a potential for a shortage. Voluntary restrictions. Water users are encouraged to voluntarily reduce their water use and improve water use efficiency; however, there are no penalties for noncompliance. All water users are requested to adhere to class I and class II uses of potable water.
2. All water users who use in excess of 2,000 gallons during the billing period will be asked to reduce their normal water use by ten percent. Customer education programs (i.e., articles in local publications, city's website, city newsletter, public service announcements on local radio and cable system will encourage water conservation.

B. *Stage 2 water shortage alert:*

1. Water supply conditions are significantly lower than normal and conditions are expected to persist. Mandatory restrictions. Water users must abide by required water use restrictions and reductions. Penalties apply for noncompliance. All customers are required to reduce their water use by an additional

ten percent in comparison to their previous month's water bill. Only water usage as described in class I and class II uses is allowed.

2. Additionally, in stage 2 a water use surcharge of one and one-half times the normal water rate applies to any user (who exceeds 2,000 gallons usage for the billing period) who did not achieve the required ten percent reduction in usage.

C. *Stage 3 water shortage emergency:*

1. Water supply conditions are substantially diminished and pose an imminent threat to human health. Water users must continue actions from all previous stages and further reduce water use by ten percent compared to their previous month's bill. All non-essential uses of drinking water are prohibited. All customers must only use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use.
2. Water rationing, if deemed necessary by the city manager, will be to provide drinking water to protect public health. All customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use and pickup locations for distributing potable water will be announced by the city.
3. Additionally, in stage 3 a water use surcharge of two times the normal water rate applies to any user (who exceeds 2,000 gallons usage for the billing period) who did not achieve the required additional ten percent reduction.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~132~~66. "Triggers" and responses.

The following "triggers" for the city are listed below in relationship to the city's "run of the river" water supply system.

A. *Triggers.* If the city's water source, Cathey's Creek, experiences stream flow reductions as described below, then specific responses will take effect.

1. *Stage 1.* If the flow of water entering the raw water intake becomes inadequate for normal pump operation greater than 1,700 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain normal operation of its water system as determined by the city's manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage advisory.
2. *Stage 2.* If the flow of raw water entering the raw water intake becomes inadequate for normal pump operation greater than 1,500 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain normal operation of its water system as determined by the city's manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage alert.
3. *Stage 3.* If the flow of raw water entering the raw water intake becomes inadequate for normal pump operation greater than 1,300 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain adequate operation of its water system as determined by the city's

manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage emergency.

B. *Responses.*

1. In stage 1, water shortage advisory, all water users will be asked to reduce their normal water use by ten percent. Conservation and efficiency measures will be encouraged by outreach programs such as articles in the Transylvania Times, PSAs on local radio and cable TV and the city's website. Irrigating landscapes should be at the minimum required and should only be done between the hours of one hour before sunset and one hour after sunrise. Identify and repair all water leaks. Consider installing water-saving devices on showers. Avoid watering or washing impervious surfaces such as driveways and sidewalks. Minimize vehicle washing.
2. In stage 2, water shortage emergency, all water users are expected to reduce their water use by an additional ten percent in comparison to their previous month's water bill if that bill shows usage of more than 2,000 gallons. In addition to continuing the steps which were encouraged during the water shortage advisory, the following restrictions apply: Irrigation activities must be done at the minimum required to sustain plant life and must be done only between the hours of one hour before sunset and one hour after sunrise. Washing of vehicles is prohibited except at commercial car washes. Watering or washing impervious surfaces such as driveways and sidewalks is prohibited. All use of city fire hydrants will be limited to that required for public health and safety and done only by personnel authorized by the city manager or his representative. All customers are only permitted to use water at the minimum required for public health protection as outlined in class I and class II water uses. Additionally, in stage 2, a water use surcharge of one and one-half times the normal water rate will apply for all users who use more than 2,000 gallons during the billing period.
3. In stage 3, water shortage emergency, all water users must continue actions from all previous stages and further reduce water by ten percent compared to their previous month's water bill if that bill shows usage of more than 2,000 gallons. All non-essential uses of drinking water as outlined in class III are prohibited. Water rationing, if deemed necessary by the city manager, will be to provide drinking water to protect public health. All customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use. Additionally, in stage 3, a water use surcharge of two times the normal water rate will apply for all users who use more than 2,000 gallons during the billing period. "Essential uses of potable water" is defined as: water to sustain human and domestic pet life, maintain hygiene and sanitation standards; patient care and rehabilitation as prescribed by medical personnel; firefighting and approved flushing of hydrants and sewer mains to ensure public health and safety and comply with monitoring requirements.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~133~~67. Public comment.

Water users will have the opportunity to comment on the provisions of the water shortage response plan. Notices disclosing the locations where the draft plan may be viewed by the public will be published in the Transylvania Times and on the City of Brevard website (www.cityofbrevard.com). A public hearing will be scheduled with notice given as to the time and place of the hearing. All subsequent revisions to the plan will be published at least 30 days prior to an adoption vote by the City of Brevard Council.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~468. Variance protocols.

Applications for water use variance requests are available at Brevard City Hall. All applications must be submitted to the Brevard City Manager or his or her designee. A decision to approve or deny individual variance requests will be determined within two weeks of submittal after careful consideration of the following criteria: impact on water demand, expected duration of the shortage, alternative source options and social and economic importance.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~569. Effectiveness.

The effectiveness of the City of Brevard Water Shortage Response Plan will be determined by comparing the stated water conservation goals with observed water use reduction data. Other factors include, but are not limited to, the frequency of plan activation, desired reductions attained and evaluation of demand reductions compared to the previous year's seasonal data.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~670. Revision.

The water response plan will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand, following implementation of restrictions, and at a minimum of every five years, as required by G.S. 143-355(1). Further, a water response planning work group designated by the city manager, will review procedures following any change in restriction status. The city manager is responsible for initiating all subsequent revisions.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~771. Enforcement and penalties.

The provisions of the water shortage response plan will be enforced by the City of Brevard Police Department. Violators may be reported to the city by calling the police department at 883-2212. Citations are assessed according to the following schedule depending on the number of prior violations and the current level of water shortage:

A. *Stage 1:* None.

B. *Stage 2:*

1. *First:* Notice of violation (NOV).
2. *Second:* Disconnection of water service (24-hour shut-off period).
3. *Third:* Up to $250.00 fine and disconnection of water service (48-hour shut-off period).
4. Drought surcharge rates apply.

C. *Stage 3:*

1. *First:* Disconnection of water service (24-hour shut-off period).
2. *Second:* Up to $500.00 fine and disconnection of water service (48-hour shut-off period).
3. *Third:* Up to $500.00 fine and disconnection of water service (72-hour shut-off period).
4. Drought surcharge rates apply.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~72 -, 70-~~13~~980. Reserved.

ARTICLE ~~III~~IV. SEWER SYSTEM

State law reference(s)—Wastewater systems, G.S. 130A-333 et seq.

70-81. Created.

The city, by virtue and authority granted by its Charter and by the general statutes of the state, is authorized and empowered to acquire, provide, construct, establish, maintain and operate sewer systems for the city and to extend those systems beyond the corporate limits. In accordance with such authority, there is hereby created a sewage collection and disposal system for the city.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-82. Purpose and scope of article.

~~A. This article is adopted by the city in compliance with the terms and provisions of public funds used in the construction and installation of the city sewer system, and is intended to ensure beneficial service to users of such system, the prevention of abuse thereof, and a manner of equitably distributing the costs of services among the users thereof, recognizing that the physical facilities of the sewer system, including the trunk sewers, pump stations and force mains, the treatment plant and other support appurtenances are intended to transport, convey and treat sanitary wastewater and compatible industrial wastewater to produce a treated wastewater and byproduct sludge which may be released into the environment without adverse environmental impact.~~

A. This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city, and enables the county to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403). This article shall supersede all prior ordinances, but only to the extent that such prior ordinances are inconsistent herewith. To the extent this article conflicts with other ordinances related to the sewer use provisions herein, this article shall supersede such ordinances.

B. The objectives of this article and its elements are as follows:

~~1. Elimination from the sewer system of uncontaminated water, groundwater and stormwater which do not require extensive treatment and unnecessarily increase the operating cost of the sewer system.~~

~~2. To ensure a fair allocation of the cost among the users of the system, based upon voluntary contributions of wastewater of equal strength, and the recovery of capital cost contributions of public monies from industrial and commercial users of the system.~~

~~3.~~1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

~~4.~~2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;

~~5.~~3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;

~~6.~~4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

~~7.~~5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

~~8.~~6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

C. This article provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

D. This article shall apply to all users of the municipal wastewater system. Except as otherwise provided herein, the city manager shall administer, implement, and enforce the provisions of this article. Any powers granted to or imposed upon the city manager may be delegated by the city manager to other city personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the county limits agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder.

E. No statement contained in this section shall be construed as prohibiting any special agreement or arrangement between the city and other persons whereby an industrial waste of unusual strength or character may be admitted into the system.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-83. Reserved.

(Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the contents of this section to City Code § 1-2.

70-84. Connection to city system required.

A. 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 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. Request for relief from this requirement for the construction of one single-family home may be made in writing to the city manager. Such relief shall be granted only in situations of demonstrated hardship by the property owner.

B. Improved property served by wells and annexed by the city shall be connected to the city sewer systems, if within 300 feet, 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.

C. 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 wastewater.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14; Ord. No. 2018-27, § 1(Att. B), 9-17-18)

70-85. Application for connection.

Any person desiring connection to be made with the city sewer system shall make application in writing to the finance director, stating the name of the owner of the lot, the location of the lot, the number of the building if there is a number, the number and kind of connections desired and the character of the surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee. Approval of an application for connection shall be issued in the form of a service permit.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-86. Installation of connections; connections to substandard property.

A. *Connections to be made by city personnel or authorized contractor.* All connections to sewer main lines and the installation of lateral connections to the edge of the public right-of-way in which the main line is located shall be performed only by city personnel, or, if specifically approved by the city manager, by a licensed contractor under the supervision of the city manager's designee.

B. *Connections to substandard property.* Sewer connections will not be made to any existing vacant substandard property or any substandard property becoming vacant until such time as the property has been inspected and brought into compliance with the city codes and a certificate of occupancy issued.

C. *Unauthorized tampering.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance.

D. *Payment of costs of connection.* All costs and expenses incident to the installation and connection of a sewer service line shall be borne by the owner.

E. *Separate service line required for each building; exception.* Unless otherwise authorized by appropriate authority, a separate and independent sewer service line shall be provided for every building; except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the sewer service line from the front building may be extended to the rear building and the whole considered as one sewer service line.

F. *Use of old service lines.* Old sewer service lines may be used in connection with new buildings only when they are found upon examination and test by the city to meet all requirements of this article.

G. *Specifications for connections.* The size, slope, alignment and materials of construction of a sewer service line, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city and the state.

H. *Elevation of service line.* Whenever possible, the sewer service line shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the sewer service line.

I. *Connection to downspouts and sources of runoff.* No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a sewer service line or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

J. *Conformance with rules and regulations.* The connection of the sewer service line into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. All such connections shall be made watertight. Any deviation from the prescribed procedures and materials must be approved by the city manager or the city manager's designee.

K. *Inspection and supervision of connection.* The applicant for a sewer connection shall notify the building inspector when the sewer service line is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city manager or the city manager's designee.

L. *Excavations.* All excavations for sewer service line installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-87. System extensions.

Extensions of the sewer system shall be in accordance with Chapter 2, Article V, DIVISION 3. Extension connections shall be in accordance with Chapter 2, Article V, DIVISION 3, or as elsewhere set forth in this article.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-88 - , 70-8992. Reserved.

~~70-90. Permissive use of system; additional regulations.~~

~~**A.** Persons within or without the city are subject to regulations of the city, the county department of health, and the North Carolina Department of Environment and Natural Resources, for proper handling of wastes and wastewaters accepted into the public sewers.~~

~~**B.A.** Such persons may apply to the city for discharge of sanitary and compatible wastewaters into the sewerage system, by procedures outlined in this article.~~

~~(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)~~

~~70-91. Prohibited discharges.~~

~~No person shall discharge or cause to be discharged any incompatible wastewaters or wastes to any public sewers, including the following:~~

~~**A.** The discharge of sanitary wastewater into a storm sewer system.~~

~~**B.** Stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer. Unpolluted cooling waters may, upon written application and approval by the city manager, be discharged to storm sewers or storm drains.~~

~~**C.** Waters or wastes containing substances which are not amenable to treatment or removal by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent and sludge outputs cannot meet the requirements of the North Carolina Department of Environment and Natural Resources and applicable permits issued therefrom.~~

~~**D.** Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create a public nuisance.~~

~~**E.** Any gasoline, benzene, naphtha, fuel oil or other petroleum products or flammable or explosive liquids, solids or gases.~~

F. Any waters or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the city.

Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders

70-92. Restricted discharges.

No person shall discharge or cause to be discharged the following described prohibited substances, materials, waters or wastes if it appears likely in the opinion of the manager that such wastes can harm either the sewers, wastewater treatment process or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the manager

will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or that causes wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

b. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.

c. Any garbage other than ground residential garbage.

d. Any acidic or alkaline wastewaters having pH values outside the range of 5.0 to 10.0.

B. Heavy metals and toxic, refractory or organic chemicals in concentrations or quantities sufficient to limit treatment plant capability or efficiency, to adversely affect effluent quality by their presence or effects, or to limit the means of disposal or utilization of treatment plant sludge by their presence. The manager may issue lists of prohibited metals and toxic chemicals and guidelines and criteria for limiting their acceptance as required for operation of the treatment system.

C. Any radioactive wastes or isotopes of such half-life or concentration as may exceed public safety limits or cause the plant effluent or sludge to exceed any applicable state or federal regulations.

Any materials which exert or cause:

Unusual oxygen demand or chlorine demand in such amounts as to constitute a significant load or a problem with wastewater treatment plant operations.

b. Excessive discoloration of treatment plant effluent.

c. Unusual odors in the treatment plant effluent or unusual odors in the sewerage system.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-93. Limitations on compatible wastes.

A. No person may discharge large quantities of compatible ~~wastewaters~~wastewater to public sewers which, by reason of volume, flow rate, concentration or total load of compatible constituents, are in excess of the capacity of a part of the sewer system or are inconsistent with the most beneficial use of the system in the opinion of the ~~manager.~~wastewater treatment plant director. In consideration of these factors, the ~~manager~~wastewater treatment plant director will limit the following:

1. Volume and flow rate from any individual source to the capacity of sewers, pump stations and force mains and the treatment system, less the capacity committed to serve the general public and other users and the reserve capacity to serve anticipated needs of the general public until the time of a planned expansion of the facilities.
2. Loads of compatible pollutants, such as BOD, suspended solids, nitrogen and phosphorus, from any individual source, to the capacity of the treatment facilities, less the capacity committed to serve the general public and other users and the reserve capacity to serve the anticipated needs of the general public until the time of a planned expansion of the treatment facilities.
3. ~~The manager~~The wastewater treatment plant director may require flow equalization or pretreatment for load reduction as a condition of service or he may decline to receive high loads or highly concentrated wastewaters into the system if in his opinion this would not be the most beneficial use of the system, by reason of the cost of services, technical considerations relating to operation and maintenance of the system or conflicting alternatives for the provision of services.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-94. Compliance with federal and state standards; dilution of discharge.

A. *Applicability of federal pretreatment standards.* Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article.

B. *Applicability of state requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

C. *Dilution of discharge.* No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or the state.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-95. Accidental discharges.

A. *Facilities and procedures.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or ~~users~~users' own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review~~,~~ and shall be approved by the city before construction of the facility. No user shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of accidental discharge, it is the responsibility of the user to immediately telephone and notify the wastewater treatment

plant of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

B. *Written notice to ~~manager.~~wastewater treatment plant director.* Within five days following an accidental discharge, the user shall submit to the ~~manager~~wastewater treatment plant director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the system, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

C. *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent ~~place~~places advising employees whom to call in the event of an accidental or dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-96. User charges.

A. *General.* Sewer user charges are based upon the proposition that costs of service be distributed equitably among users of the services. This principle is embodied in the Federal Clean Water Act and underlies agreements between the city and the United States Environmental Protection Agency in funding the construction of facilities. According to these agreements, there will be two rates for payment for services by users, as follows:

1. Basic users rate.
2. High strength waste surcharges.

B. *Basic users rate.*

1. *Water and sewer users.* Persons discharging only normal sanitary wastewaters who are water customers of the city shall be charged such rates as the city council shall determine through water meter records. Such rates shall be stated in terms of cents per 1,000 gallons of wastewater and shall include any charge which the city may make to cover the costs, etc. Such rates shall be set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of water and sewer charges shall be established by the city manager.
2. *Sewer (no water meter).* Persons discharging only normal sanitary wastewater who are not water customers of the city will likewise be charged with an estimated volume of sewage at the domestic rates stated in terms of cents per 1,000 gallons of wastewater. If there is no meter or method of determining the amount of water consumed by such person, it shall be presumed that there will be a minimum of 60 gallons of wastewater per person residing in the household, per day, discharged into the system. The schedule of rates for basic users that are sewer users (no water meter) shall be the same as those rates set forth in subsection 70-96.B.1.
3. *Adjustments.* The volume of sewage will be estimated to be the same as the volume of water used for basic users if metered, or the assumed amount if unmetered unless it can be demonstrated that the two volumes are substantially different in a greater proportion than is normal. Metered water volume intake will be the usual value used for billing sewer use charges, where applicable. The finance director is authorized to make an adjustment in estimated flow when it can be demonstrated a substantial difference exists as described in this section.

C. *High strength waste surcharge.*

1. Persons discharging high strength wastes will be charged for loads of BOD and suspended solids in the wastewater in concentrations in excess of those normal for domestic sewage and allowed for ~~in~~ the basic users rate. For purposes of establishing the lower limits of the user charge surcharges, normal domestic wastewater shall be characterized according to the following concentrations for domestic waste parameters:
   a. BOD_5: 220 mg/l.
   b. Suspended solids: 220 mg/l.
2. Surcharge rates will be stated in terms of cents per pound for each parameter. Quantities of ~~surchargeable~~surcharge able materials will be determined by flow measurements (or estimates), sampling, analyses and calculations. Sampling and ~~analyses~~analysis will be done by the city using 24-hour composite samples, taken during a representative operating period of the user. Average results of sample analyses will be used for calculating surcharges for each parameter over the billing period.
3. Administration for the high strength waste monitoring program and billings to such accounts will be made by the city and will include statements of base rate billings, surcharge billings and the basis of billings.
4. A schedule of surcharge rates to be charged for the collection and treatment of high strength wastewater shall be set forth in the schedule of taxes, fees and charges. Rate schedules will be revised from time to time to reflect the changing number of users and the ~~varying~~varied operation costs.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-97. Sewer connection charges.

A. Applicable sewer tap and capacity system development fees, which are set forth in the schedule of taxes, fees and charges, shall be paid in advance of the establishment of any sewer connection, including, but not limited to, the extension of pipe, the tapping of a sewer main, or the establishment of a new use on an existing connection. The specific policies and procedures for the assessment and collection of sewer tap and capacity system development fees shall be established by the city manager.

B. All sewer tap fees shall be computed at the sum total of the cost of labor, materials and equipment necessary for completion of the work plus 35 percent of the direct labor charge.

C. No water from the city's water system shall be supplied to any person who has caused a sewer tap to be made until the tap fee has been received by the finance director.

D. All residents of areas statutorily annexed to the city shall qualify for waiver of the standard sewer tapping fees and charges provided such residents make proper application and complete connections within 12 calendar months of the date sewer utilities are available for tapping. The public ~~services~~works director shall provide written certification to city council of the date such utility lines become available for connection, thereby, fixing the date from which residents are allowed to connect without payment of connection charges. All residents who do not connect within the 12-month waiver period must pay all tapping fees and charges as prescribed herein.

E. Sewer capacity system development fees are to be deposited in the city's capital reserve fund for improvements at the sewer plant.

F. For purpose of assessing residential sewer capacity system development fees, the assumed usage for a residential unit shall be ~~375~~240 gallons per day. The term "residential unit" shall be deemed to be an individual

single-family living unit whether such unit shall be a freestanding house, an apartment, a condominium or any other residential structure.

G. Non-residential users will be assessed sewer capacity system development fees based on the number of ~~375~~240 GPD units of water consumed and will pay the full cost for any fraction of a residential equivalent. Sewer capacity system development fees may be assessed utilizing the best available information, including, but not limited to, historical use data for similar uses, and an engineer's signed and sealed estimate of projected water use. In the absence of such information, the administrator shall base sewer capacity impact such fees upon North Carolina Administrative Code 15A NCAC 02T.0114 Wastewater Design Flow Rates.

(Ord. No. 2013-08, § 02(Exh. B), 8-19-13; Ord. No. 2014-02, § 02, 2-17-14; Ord. No. 2014-11, § 01(Exh. A), 5-19-14; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20)

70-98. Responsibility for payment of charges for premises with multiple sewer connections.

A. Where there is not provided a separate service connection for each building situated on any given lot or parcel of land, the owner of such lot or parcel of land shall be responsible for the payment of charges for sewer to all such buildings on the lot or parcel.

B. Where separate service connections are not provided to every occupancy unit or tenant within a multitenant building, the owner of the building shall be responsible for the payment of all charges for sewer service to the building.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-99. Deposits.

Customer utility deposits shall not be required for sewer service apart from deposits required for the city's water system. The customer deposits set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, and the related regulations set forth in CHAPTER 70, Article II shall serve in all respects to satisfy deposit requirements for sewer service, including deposits, credit, exemptions, refunds, disposition and cutoff of service for delinquency.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-100. Consumption basis of charges.

All charges for wastewater collected from any consumer and discharged to the city sewer system shall be based upon the number of gallons per month delivered by the consumer at the point of connection to the city system. The number of gallons collected shall be determined by the readings of the customer's water meter as required by CHAPTER 70, ARTICLE II of this chapter.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-101. Basis of charges for multiple dwelling units on single connection.

Where more than one family dwelling unit is provided with service through a single service connection, the charges for service shall be the greater of:

A. The number of family dwelling units served times the minimum charge as shown in the current sewer rate; or

B. The actual charge determined for the quantity of metered water discharged.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-102. Basis of charges for newly constructed condominiums.

For newly constructed condominiums, the total metered consumption serviced by one meter shall be divided by the number of units in the complex and each unit shall be figured separately at the regular metered rate, with one total billing being mailed to the person in charge.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-103. Administrative procedures; enforcement; penalties; damaging or tampering with facilities.

A. *Duties and authority of inspectors.*

1. The wastewater treatment plant director or their designee ~~The city manager, his designee, the code enforcement officer and other duly authorized employees~~ properly identified by credentials of appointment and identification shall act as inspectors. Inspection shall also be allowed by appropriate state and federal agencies. It shall be the duty of the inspector to make inspections, observations, measurements, sampling and testing in accordance with the provisions of this article. Such inspector shall have no authority to inquire into any industrial process or to require or request the disclosure of any trade secrets beyond that point having a direct bearing on the kind or source of discharge to the sewers or waterways or other facilities of the city.

~~1.~~2. The inspector is hereby designated as the public officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed

~~2.~~3. Such inspectors shall have the right to enter upon real property over and through which the city has acquired an easement for the installation and maintenance of the sewer lines and facilities, and, in addition, they shall have, along with proper municipal inspectors, the right to go upon the property of individuals or industrial users of the system as provided in the service agreement mentioned in this article, for the purpose of determining compliance with the provisions of this article. All non-municipal sewer users shall execute, as a requirement for service, an agreement allowing sewer inspectors to enter upon the premises for the purpose of inspecting individual sewer collector lines, during reasonable times, so as to verify compliance with the terms and conditions of such service.

4. While performing the necessary work on private properties referred to in this section, any inspector shall observe all safety rules applicable to the premises established by any commercial or industrial user.

B. *Damaging or tampering with facilities.* It shall be unlawful and a violation of this article for any person to damage, destroy or tamper with any gauges, meters, lines, manholes and their covers, equipment, pumps, electrical connections, lift stations, or any appurtenances to the sewer lines of the city, and, in addition to the civil responsibility for any damage caused or occasioned by such person, such offender shall be liable for imposition of the penalties as provided in this section. It shall likewise be a violation of this section for any person to aid, assist, abet or permit a minor child to violate the provisions of this article, and such person shall be liable as a principal and subject to the identical penalties as to which any violator of this article would be liable.

C. *Penalties.* If any person shall violate the provisions of this chapter the wastewater treatment plant director, or their designee~~city manager, his designee or the code enforcement officer~~ shall give notice to the owner or to any person in possession of the subject property in writing and served by personal delivery or the most expeditious means possible, directing that all unlawful conditions existing thereupon be abated within ten days from the date of such notice; provided, that if, in the opinion of the wastewater treatment plant director or their designee ~~city manager, his designee, or the code enforcement officer~~ the unlawful condition is such that it is of imminent danger or peril to public, the public ~~services~~works department may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property.

~~The penalty for the violation of any provisions of this article shall be as prescribed by Section 1-8. In addition to the criminal penalty set forth in Section 1-8, there shall also be levied a civil penalty in the amount of $200.00 per separate offense plus any amount city council shall find appropriate in case of damage to the system or the environment for the purpose of repairs or cleanup.~~

D. *Additional rules and regulations.* In order to carry out the terms of this article, the city may promulgate such rules and regulations as deemed necessary, and the city manager of the city is likewise vested, subject to ratification of the city council, with authority to act on behalf of the city in providing for the safety, maintenance, good order and proper function of the facilities of the city.

E. *Application for connection; service permit.*

1. Potential connectors may be required to submit an application depending on the quantity and characteristics of the waster being produced.

~~1.~~2. Application for connection to the city sewer system shall be made on the city's form, together with supporting reports and data sufficient to ensure compliance with relevant terms of this article. The minimum requirement shall be that all information requested on the application be supplied, and all irrelevant information blanks be marked as "not applicable." The ~~manager~~wastewater treatment plant director may request any additional information he deems necessary, within the scope and intent of this article. Persons requiring guidance in making application may consult the wastewater treatment plant directo~~manager~~. The approval of a sewer connection application shall constitute the issuance of a service permit.

~~2.~~3. An approvable service permit or information necessary to support an approvable application must be submitted to the wastewater treatment plant director~~manager~~ before approval will be issued to any person proposing to discharge industrial wastewaters to public sewers.

~~3.~~4. Service permits shall specify quantities and characteristics of industrial wastewaters which may be sewered and shall be limiting where so specified. Service permits may specify special conditions and agreements between the user and the city. Service permits shall serve as a contract between the user and the city. If deviation from terms of a service permit is anticipated or experienced by the user or the city, each party shall immediately notify the other, in writing, specifying the nature and extent of the change in sufficient detail that a new or modified service permit may be issued, or the service permit cancelled, whichever may be appropriate.

~~4.~~5. Permits for any users, other than normal sanitary wastewater, shall be issued for a specified time period not to exceed five years. The user shall apply for permit reissuance a minimum of 180 days prior to expiration.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-104. Users obtaining water from well.

A. Whenever a property owner desires to install a well within the city for any purpose whatsoever, a permit shall first be obtained therefor as prescribed in article II of this chapter.

B. When any water obtained from a well is to be disposed of into the city sanitary sewer system, a suitable water meter shall be installed by city personnel at the well head and the owner of the well shall be charged the regular sewer charge based on the full amount of the water so metered. The prescribed water tap fee shall be charged for any such meter installation.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-105. Acceptance of wastewater from private or corporate wastewater companies.

A. *General.* Wastewater from private or corporate wastewater companies shall not be accepted for disposal into the city's system. Any discharge of such wastewater, ~~or~~ septage, or digested domestic sludge as defined by this article, into the city's system shall constitute a violation of this article and be subject to such penalties as set forth in Brevard City Code.

B. *Discharge at city septage pretreatment facility.* Notwithstanding the provisions of subsection (a) of this section, septage may be discharged by private or corporate wastewater companies into the city's system through the use of the city's septage and digested sludge pretreatment ~~facility~~facilities, constructed and operated for the purpose of receiving such wastes. Such discharges shall be governed by the provisions of this article and will only be permitted when such discharges do not jeopardize the operation of the city's system and its non-discharge permit, the city having sole authority and discretion to make such determinations.

1. All parties desiring use of the city's pretreatment facility shall be approved in accordance with procedures set forth by the director of the wastewater treatment plant. The director of the wastewater treatment plant shall have full authority and discretion in reviewing, approving or disapproving all requests for use of the septage and digested sludge pretreatment ~~facility~~facilities based upon his professional judgment of the chemical content and constituent composition of the proposed discharge.
2. Fees for the discharge of septage and digested sludge at the city's septage and digested sludge pretreatment ~~facility~~facilities shall be set forth within the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of such fees shall be established by the city manager or designee thereof.
3. All parties desiring use of the city's pretreatment ~~facility~~facilities shall indemnify and hold harmless the city for the user's discharges into the city's system. The user may also be required to indemnify the county, since the facility will be operated under an agreement between the city and county.
4. For the purpose of this section, no septage or digested sludge other than wastewater derived solely from domestic or residential service, containing no grease or fatty materials collected from grease traps or holding tanks, will be permitted for discharge into the septage pretreatment facility.
5. Discharges at the septage and digested sludge pretreatment ~~facility~~facilities shall be made only under the supervision of wastewater treatment plant personnel, with all such discharges are to logged and recorded for volume and ordination location of discharges via electronic pin code access monitored by plant personnel. Plant personnel may, at their discretion, take samples of the wastewater being discharged for laboratory testing to determine and confirm chemical and constituent content of the waste being discharged. Any discharges found to be in noncompliance with the provisions of this article shall be cause for termination of authorization to discharge and further penalties as prescribed by this article.
6. While it is the intent of this section to provide for the use of the city's septage and digested sludge pretreatment ~~facility~~facilities for the disposal of wastewaters purely from domestic sources, principally

septic tanks, and package plant it is recognized that special circumstances may exist whereby wastewaters originating from commercial sources should be eligible for disposal at the pretreatment facility. Therefore and notwithstanding the applicable provisions of subsection (b)(4) of this section, the director of the wastewater treatment plant and the city manager are authorized upon a case-by-case basis to permit the disposal of wastewaters from commercial sources; provided such wastewaters conform to all other requirements of this chapter and the disposal of the wastewater may adequately be treated by the wastewater treatment plant without negative impact upon the city's non-discharge permit for the plant. Otherwise, the disposal of wastewaters at the septage pretreatment facility shall at all times conform to the rules, regulations and restrictions applied by this section and this chapter.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-106. Private sewage disposal systems.

A. *General.* Where a public sanitary sewer is not available, the sewer service line shall be connected to a private sewage disposal system complying with the provisions of this section.

B. *Permit.* Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the county health sanitarian. The application for such permit shall be made on a form furnished by the county, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the sanitarian.

C. *Inspection.* A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the sanitarian. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the sanitarian when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the sanitarian.

D. *Specifications.* The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department ~~of natural resources and community development~~of environmental quality, division of environmental management. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer, open drain, ditch, stream or well penetrating water-bearing formations.

E. *Connection to public sewer.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 70-84, a direct connection shall be made to the public sewer in compliance with this article at the first malfunction of the private system; and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

F. *Operation and maintenance.* The owner shall always operate and maintain the private sewage disposal facilities in a sanitary manner ~~at all times~~, at no expense to the city.

G. *Additional requirements.* No statement contained in this section shall be ~~construed~~made to interfere with any additional requirements that may be imposed by the county sanitarian.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-107—70-~~126~~139. Reserved.

ARTICLE V. SEWER USE ORDINANCE

70-140. General provisions.

A. *Purpose and policy.* This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Brevard, hereafter referred to as the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by G.S. 160A-312 and/or 153A-275. The city manager shall designate an administrator of the POTW and pretreatment program hereafter referred to as the ~~POTW~~ director ~~or director~~who will also serve as the Control Authority for the Sewer Use Ordinance. Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the director may be delegated by the director to other city personnel.

By discharging wastewater into the city wastewater system, industrial users located within or outside the city limits agree to comply with the terms and conditions established in this ordinance, as well as any permits, enforcement actions, or orders issued hereunder. Users subject to this ordinance are also subject to the City of Brevard Code of Ordinances, CHAPTER 70 - utilities.

1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the wastewater system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

B. *Abbreviations.*

1. The following abbreviations, when used in this ordinance, shall have the designated meanings:
   a. BOD: Biochemical oxygen demand;
   b. CFR: Code of Federal Regulations;
   c. COD: Chemical oxygen demand;

d. EPA: Environmental Protection Agency;
e. gpd: Gallons per day;
f. l: Liter;
g. mg: Milligrams;
h. mg/l: Milligrams per liter;
i. G.S.: North Carolina General Statutes;
j. NPDES: National Pollution Discharge Elimination System;
k. O&M: Operation and maintenance;
l. POTW: Publicly owned treatment works;
m. RCRA: Resource Conservation and Recovery Act;
n. SIC: Standard industrial classification;
o. SWDA: Solid Waste Disposal Act;
p. TSS: Total suspended solids;
q. TKN: Total Kjeldahl nitrogen; and
r. U.S.C.: United States Code.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the definitions from this section to City Code § 1-2.

70-~~90~~141. Permissive use of system~~; additional regulations~~.

A. Persons within or without the city are subject to regulations of the city, the county department of health, and the North Carolina Department of Environment Quality~~and Natural Resources~~, for proper handling of wastes and wastewaters accepted into the public sewers.

B. Such persons may apply to the city for discharge of sanitary and compatible wastewaters into the sewerage system, by procedures outlined in this ~~article~~chapter.

~~70-141. General sewer use requirements.~~

70-142. Prohibited discharge standards.

A. ~~***Prohibited discharge standards.***~~ ***General prohibitions.*** No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

B. ***Specific prohibitions.*** No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
2. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.

3. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
4. Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
5. Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
6. Any wastewater having a temperature greater than 139° F (59.4° C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
7. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Any trucked or hauled pollutants, except at discharge points designated by the director in accordance with subsection 70-~~141.I~~148 of this ordinance.
9. Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
10. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
11. Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
12. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations.
13. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the director.
14. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the director.
15. Any sludges, screenings or other residues from the pretreatment of industrial wastes.
16. Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.
17. Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
18. Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the director.

19. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.
20. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
21. Recognizable portions of the human or animal anatomy.
22. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
23. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the wastewater system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

C. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW. When the director determines that a user is contributing to the POTW, any of the above-enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the director shall:

1. Advise the user(s) of the potential impact of the contribution on the POTW in accordance with subsection 70-15547.B; and
2. Take appropriate actions in accordance with section 70-~~143~~ 151 for such user(s) to protect the POTW from interference or pass-through.

70-143. Restricted discharges.

A. No person shall discharge or cause to be discharged the following described prohibited substances, materials, waters or wastes if it appears likely in the opinion of the director that such wastes can harm either the sewers, wastewater treatment process or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the director will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or that causes wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
2. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.
3. Any garbage other than ground residential garbage.
4. Any acidic or alkaline wastewater having pH values outside the range of 5.0 to 10.0.
5. Heavy metals and toxic, refractory or organic chemicals in concentrations or quantities sufficient to limit treatment plant capability or efficiency, to adversely affect effluent quality by their presence or effects, or to limit the means of disposal or utilization of treatment plant sludge by their presence.

The director may issue lists of prohibited metals and toxic chemicals and guidelines and criteria for limiting their acceptance as required for operation of the treatment system.

6. Any radioactive waste or isotopes of such half-life or concentration may exceed public safety limits or cause the plant effluent or sludge to exceed any applicable state or federal regulations.

B. Any materials which exert or cause:

1. Unusual oxygen demand or chlorine demand in such amounts as to constitute a significant load or a problem with wastewater treatment plant operations.
2. Excessive discoloration of treatment plant effluent.
3. Unusual odors in the treatment plant effluent or unusual odors in the sewerage system.

70-144. Categorical pretreatment standards.

A. ~~***National categorical pretreatment standards.***~~ Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

70-145. Limits to wastewater discharge.

A. ***Local limits.*** An industrial waste survey is required prior to a user discharging wastewater (containing in excess of the following average discharge limits):

TABLE 70-14 A: LOCAL LIMITS TO WASTEWATER DISCHARGE		
BOD	220	mg/l
TSS	220	mg/l
NH_3	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Chromium	0.05	mg/l (total chromium)
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l

Nickel	0.021	mg/l
Silver	0.005	mg/l
Zinc	0.175	mg/l

B. Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for pollutants of concern. User-specific local limits for pollutants of concern shall be included in wastewater permits. The director may impose mass based limits in addition to, or in place of, concentration based limits.

C. *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.

D. *Right of revision.* The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in subsection 70-140.A of this ordinance or the general and specific prohibitions in subsection 70-1421.A of this ordinance, as is allowed by 40 CFR 403.4.

E. *Dilution.* No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.

70-146. Pretreatment of wastewater.

~~**F.** *Pretreatment of wastewater.*~~

A. ***Pretreatment facilities.*** Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under subsection 70-~~143~~151.B of this ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in subsection 70-1421.A of this ordinance within the time limitations as specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.

B. ***Additional pretreatment measures.***

1. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
2. The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
3. Additional pretreatment measure for Fats, Oil and Grease (FOG) control as detailed in section 70-149.

~~3.~~4. Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand;

except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

~~4.~~5. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

70-147. Accidental discharge / slug control plans.

~~**B.** *Accidental discharge/slug control plans.*~~

A. The director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 1-2. All SIUs must be evaluated within one year of being designated an SIU. The director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the director may develop such a plan for any user.

B. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see subsections 70-~~144~~152.E and 70-~~144~~152.F.

C. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection 70-~~144~~152.F of this ordinance; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

70-148. Hauled wastewater.

~~**D.** *Hauled wastewater.*~~

A. Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate the provisions ~~section 70-141~~ of this ~~ordinance~~ article or any other requirements established by the city. The director may require septic tank waste haulers to obtain wastewater discharge permits.

B. The director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may require generators of hauled industrial waste to obtain wastewater discharge permits. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

C. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names

and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

70-149. Fats, oils, and greases control policy.

70-149.1. Purpose and applicability.

A. ***Purpose:*** The objective of this section is to prevent the introduction and accumulation of fats, oils, and greases into the POTW which will, or tend to, cause or contribute to sanitary sewer blockages and obstructions, as well as the prevention of wastewater treatment caused by interference at the POTW treatment plant.

B. ***Applicability:*** This section applies to each user that causes or permits the contribution or discharge of wastewater into the POTW, including, but not limited to, property owners who provide common interceptors for one or more independent establishments (including tenants). Applies to, but is not limited to:

1. Any FSE, commercial establishment, or industrial establishment (including, without limitation, any establishment primarily engaged in the business of serving or preparing cooked or precooked food, cold dairy, or frozen food) that generates wastewater containing FOG, or similar products.
2. Any other commercial establishment that the director determines that a grease collection device is necessary to prevent contribution or accumulation of FOG in the POTW (collectively referenced in this section, as FOG users").
3. All Food Service Establishments shall have grease-handling facilities approved by the director. Establishments whose grease-handling facilities or methods are not adequately maintained to prevent floatable oils, fat or grease from entering the sewerage system shall be notified in writing of any noncompliance and required to provide a schedule whereby corrections will be accomplished. (For example, a collapsed or deteriorated baffle wall, leaks, *infiltration* and *inflow*, improperly located or missing tees, and any other deficiencies that will prevent the *grease interceptor or trap* from working properly.)
4. All Food Service Establishments grease-handling facilities shall be subject to review, evaluation, and inspection by City of Brevard representatives during normal working hours. Results of inspections will be made available to facility owner, leaseholder or operator City of Brevard may lend assistance and make recommendations for correction and improvement.

~~3.~~5. Food Service Establishments receiving two (2) consecutive unsatisfactory evaluations or inspections may be subject to penalties or other corrective actions as provided for in the Sewer Use Ordinance.

~~4.~~6. Food Service Establishments who continue to violate the City of Brevard Grease Trap Policy Requirements may be considered grounds for discontinuance of sewer service.

~~5.~~7. Food Service Establishments whose operations cause or allow excessive grease to discharge or accumulate in the City of Brevard collection system may be liable to City of Brevard for costs related to City of Brevard service calls for line blockages, line cleanings, and line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service-related charges may also be grounds for sewer service discontinuance.

6.8. Regular scheduled maintenance of grease-handling facilities and equipment is required to ensure adequate operation. All grease traps must be cleaned *(by a* City of Brevard *approved grease handling and hauling company)*, maintained and repaired as needed. All grease traps must be pumped out completely. Outside traps should be pumped quarterly and small under the sink grease traps should be pumped monthly or at the discretion of the director. In the maintaining of grease interceptors, the owner, lease-holder or operator shall be responsible for approved grease removal and disposal, and shall maintain on-site records of dates, and means of disposal.

9. The introduction of emulsifying agents such as chemicals, solvents or enzymes directly or indirectly into the grease interceptor, other than what is considered typical business operational practices such as dishwashing or sanitation, is strictly prohibited. By approval from the director, products which reduce Fats, Oil and Grease (FOG), such as bacteria, may be used in addition to the regular grease interceptor maintenance program, but shall not be a consideration in determining grease interceptor sizing or maintenance frequency. In any case, the discharged waste shall comply with all applicable provisions of Section 70-151 and all State and Federal Laws.

70-149.2. Control requirements.

A. FOG users shall install, operate, and maintain each grease collection device at the FOG user's expense. All grease interceptors required by this section shall be of a type, design, and capacity approved by the director. Each installed grease collection device shall be easily accessible for maintenance and repair, including cleaning.

B. All FOG users shall adopt and apply a kitchen waste control plan for the proper disposal of FOG and food solids. Each FOG user must have a delegated lidded storage container for used fryer oil storage.

C. Each FOG user shall adopt and apply kitchen best management practices, as such kitchen best management practices may be detailed through procedures set forth by the director, for handling all sources of FOG that are used or generated by the FOG user so as to reduce and prevent the discharge of FOG into the POTW.

D. Director may inspect any FOG user to ensure compliance with all requirements of this section, as set forth in section

1. All grease collection devices shall be serviced and emptied of accumulated waste content as required to maintain its design features and its ability, and the volume required, to effectively intercept and retain FOG and settled solids from FOG-laden wastewaters. Such service shall occur as need, but such service shall in no case occur less often than every 90 days (unless a modification permitted by the city manager). The owner of the property on which a common grease interceptor is located shall be primarily responsible for the maintenance, upkeep, and repair of the common grease interceptor.

2. FOG users shall maintain a written record of grease collection device maintenance and service for three years, as required by this section and section. 70-152.-M. All such records must always be available for inspection by the director.

3. For each grease interceptor, access manholes shall be required and shall be installed over each chamber and each sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The access manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

4. Upon notification from the director that a FOG user is subject to the terms of an enforcement action under this article related to the failure of a grease collection device to function properly by reducing

FOG levels within the acceptable levels required by this article, said FOG user shall not allow wastewater discharge concentration from the subject grease collection device to exceed the acceptable levels set forth in this article.

5. Non-FOG sources shall not be allowed to be connected to sewer lines intended to be attached to the grease collection device for pretreatment.

6. Users with the potential to discharge one or more of the following pollutants into the POTW, shall be required to install an oil/water separator and grit interceptor: oil, kerosene, gasoline, naphtha, wax, any light-density and volatile liquid, or any material with a higher viscosity that causes impact or flow resistance. Substances that will emulsify oil or grease shall not be used in any oil/water separator required by this section.

7. Vehicle wash facilities shall install an oil/water separator and a grit interceptor. A grit interceptor required by this section or other applicable law shall be installed in a drainage line so that wastewater flows into the grit interceptor before entering an oil/water separator installed in accordance with this section.

8. Vehicle wash facilities shall be designed, constructed, operated and maintained to prevent direct or indirect stormwater from entering the POTW.

9. In consultation with the wastewater treatment plant director the city planning department, may make determinations of grease collection device, oil/water separator and grit interceptor need, adequacy, efficiency, size, design, application, location, modification(s), and conditional usage as provided herein and by all other applicable law. These determinations will be based upon review of all relevant information regarding device performance, the facility site, and the associated building. These reviews may be conducted as part of an establishment's application for a zoning permit.

10. The city manager may establish reasonable procedures regarding FOG that address the requirements of this section and are not inconsistent herewith. Under any such procedures, a FOG user may request modification of any required grease collection device pumping frequency and/or maintenance and service procedures. Such request for a modification shall conform to the stipulations and requirements set forth in any such procedures. Any modification must be approved by the city manager in written form before implementation by the FOG user or the FOG user's FOG service provider.

70-149.3. Design standards.

A. ***Construction standards***

1. New Facilities
    1. All new Food Service Establishments shall be required to install a grease interceptor, according to the director and the City of Brevard Grease Trap Policy and guidelines. Grease interceptors shall be adequately sized, with no interceptor less than 1,000 gallons total capacity unless otherwise approved by the director. All as-built drawings must be on file at the facility or readily accessible from an alternative location for the life of the grease trap at the food service establishment.
    2. No new Food Service Establishments will be allowed to initiate operations until grease-handling facilities are installed and approved by the director.
    3. All grease interceptors, whether singular or two tanks in series, must have each chamber directly accessible from the surface to provide means for servicing and maintaining the interceptor in working and operating condition.

4. A basket, screen or other intercepting device shall prevent passage into the drainage system of solids 1/2 inch or larger in size. The basket or device shall be removable for cleaning purposes.
5. Where food waste grinders connect to grease traps, a solids interceptor shall separate the discharge before connecting to the grease trap. Solids interceptors and grease interceptors shall be sized and rated for the discharge of the food waste grinder

2. Existing Facilities
   1. All existing Food Service Establishments shall have grease-handling facilities, approved by the director. Food Service Establishments without any grease-handling facilities will be given a compliance deadline not to exceed six (6) months from date of notification to have approved and installed grease-handling equipment in compliance with this Policy.
   2. Failure to come into compliance within the specified time frame will be considered a violation of the City of Brevard Sewer Use Ordinance and may subject the facility to penalties and corrective actions or service discontinuance. Said installations shall meet the same requirements for design as for new facilities as described herein.
   3. In the event an existing Food Service Establishment's grease-handling facilities are either under-designed or substandard in accordance with this policy, the owner(s) will be notified in writing of the deficiencies and required improvements, and given a compliance deadline not to exceed six (6) months.
   4. For cases in which "outdoor" type grease interceptors are infeasible to install, existing Food Service Establishments will be required to install adequate and approved "under-the-counter" grease traps for use on individual fixtures including dishwashers, sinks, and other potentially grease-containing drains. Sizing of "under-the-counter" grease trap units will be in accordance with recommended commercial grease traps.
   5. The grease retention capacity rating in pounds shall be at least two (2) times the GPM flow rate of the type fixture which it serves. Flow control fittings must be provided to the inlet side of all "under-the-counter" units to prevent overloading of the grease trap and to allow for proper operation.
   6. The director approval of flow control devices and grease trap design must be obtained prior to installation.
   7. The location of "under-the-counter" units must be as near the source of the wastewater as physically possible.
   8. Wastewater from garbage grinders should not be discharged to grease traps/interceptors.
   9. In maintaining grease traps/interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by City of Brevard
   10. The exclusive use of enzymes, grease solvents, emulsifiers, etc. is not considered acceptable grease trap maintenance practice.

3. New Food Service Establishments in Existing Buildings
   1. Where practical, new Food Service Establishments locating in existing buildings will be required to comply with the grease trap Standards applicable to new facilities as described herein.
   2. Where physically impossible to install "outdoor" units, "under-the-counter" units may be allowed as with existing food service establishments provided prior approval of unit type, size, location, etc. is obtained from City of Brevard

B. *Sizing of Grease Interceptors and Separators.*

1. North Carlina Plumbing Code, 1003.1- 1003.3.4, mandates that interceptors and separators be installed to prevent substances like oil, grease, sand, and other harmful/hazardous materials from discharging into a buildings drainage system, public sewers, or private sewage disposal systems.
2. Sizing method based on pipe diameter size and slope.
    a. When the final configuration of fixtures in a facility is not known, or to allow for additional fixtures in the future, this method shall be used to size the interceptor for the maximum flow that the drain line from the facility can carry.

TABLE 70-149.3(A): SIZING BASED ON PIPE DIAMETER SIZE AND SLOPE			
Pipe Size (inches)	**Full Pipe Flow @ ¼ Slope**	**Interceptor Size - 1 Minute Drain**	**Interceptor Size - 2 Minute Drain**
2 inches	19.44 gpm	20 gpm	10 gpm
3 inches	58.67 gpm	75 gpm	35 gpm
4 inches	125.77 gpm	-	75 gpm

3. Sizing indoor grease interceptors.
    a. The table below provides the standard formula and steps for sizing grease interceptors to suit requirements of specific fixtures.

TABLE 70-149.3(C): PROCEDURE FOR SIZING INDOOR GREASE INTERCEPTORS		
Step	**Formula**	**Example**
1	Determine cubic content of fixture. Multiply length × width × depth.	A sink 48" long by 24" wide by 12" deep. Cubic content = 48 × 24 × 12 = 13,824 cubic inches.
2	Determine capacity in gallons. 1 gallon = 231 cubic inches.	Content in gallons: 13,824 ÷ 231 = 59.8 gallons.
3	Determine actual drainage load. The fixture is normally filled to about 75% of capacity with water. The items being washed displace about 25% of the fixture content; thus actual drainage load = 75% of fixture capacity.	Actual drainage load: 0.75 × 59.8 = 44.9 gallons.
4	In general, good practice dictates a 1-minute drainage period; however, where conditions permit, a 2-minute drainage period is acceptable. Drainage period is the actual time required to completely drain the fixture. Flow Rate = Actual Drainage Load ÷ Drainage Period	Calculate flow rate and drainage period: **1-minute period:** 44.9 ÷ 1 = 44.9 GPM **2-minute period:** 44.9 ÷ 2 = 22.5 GPM
5	From Table 6.2 select the interceptor corresponding to the calculated flow rate. Select the next larger size when the flow rate falls between two listed sizes.	**1-minute period:** 44.9 GPM requires PDI size 50. **2-minute period:** 22.5 GPM requires PDI size 25.

4. Sizing by known compartment sizing.

a. Standard PDI-certified grease interceptors applicable to various size fixtures commonly used in domestic, commercial, and institutional installations. The selections listed are based on the PDI sizing formula by GPM.

TABLE 70-149.3(C): PDI SIZE GREASE INTERCEPTOR				
Fixture Compartment Size (inches)	**Number of Compartments**	**Drainage Load (Gallons)**	**1-Minute Drainage Period**	**2-Minute Drainage Period**
18 × 12 × 8	1	4.2	7	4
16 × 14 × 8	1	5.8	7	4
20 × 18 × 8	1	9.4	10	7
18 × 18 × 8	2	15.0	15	10
20 × 18 × 8	2	18.7	20	10
30 × 20 × 8	1	15.5	20	10
24 × 20 × 12	1	18.7	20	10
22 × 20 × 12	2	23.0	25	15
22 × 20 × 12	2	34.0	35	20
24 × 24 × 12	2	44.9	50	25
22 × 20 × 12	3	51.4	70	35
(2) 22 × 20 × 12	4	68.0	75	50
(2) 24 × 24 × 12	4	89.8	100	75

5. Sizing outdoor grease interceptors.

a. Sizing shall be determined using the approved manning formula:

TABLE 70-149.3(D): OUTDOOR GREASE INCEPTOR SIZING MANNING FORMULA
Interceptor Size = [Flow Rate per sink or fixture × Sum of Fixture Ratings + Discharge Rate from Mechanical Washers] × 24-minute Retention Time Or, I = [(Fr × R) + D] × T Where: I = Interceptor size (gallons) Fr = Flow rate (GPM) R = Fixture rating D = Discharge rate from mechanical washers T = Retention time (24 minutes)

b. *Flow rates:* Flow rate, measured in gallons per minute (GPM), is determined based on the slope, pipe texture, and pipe diameter. The following rates are pre-calculated:

TABLE 70-149.3(E): OUTDOOR GREASE INCEPTOR FLOW RATES

Pipe Diameter	Flow Rate
0.5”	0.8 GPM/fixture
1.0”	5.0 GPM/fixture
1.5”	15 GPM/fixture
2.0”	33 GPM/fixture
2.5”	59 GPM/fixture
3.0”	93 GPM/fixture

c. *Fixture ratings*: Fixture ratings of grease-laden waste streams are pre-determined values for specific kitchen drainage points, such as sinks, wash basins, and floor drains. These values represent factors by which the flow rate of a drainage pipe is multiplied to estimate the potential water movement out of the fixture.

TABLE 70-149.3(F): OUTDOOR GREASE INCEPTOR FLOW RATES	
Fixture Type	**Rating**
2-, 3-, or 4-compartment sink	1.0
1- or 2-compartment meat prep sink	0.75
Pre-rinse sink	0.5
1- or 2-compartment vegetable prep sink	0.25
Can wash	0.25
Mop sink	0.25
Floor drain	0.0

d. *Mechanical washers*: The discharge rate from dishwashers, laundry machines, glass washers, etc., must be added to the Manning Formula calculation because they may introduce large quantities of water into the drain in a short period of time. The manufacturer's specifications should indicate the discharge rate in GPM.

~~a.~~e. *Retention time*: The 24-minute retention time is a pre-calculated amount of time determined to be necessary for grease to separate from water and should always be applied in the Manning Formula.

C. *~~EXCEPTIONS~~Exceptions:*

1. Under certain circumstances, the interceptor size and location may necessitate special exceptions to this policy. If an exception to this policy is requested, the User must demonstrate that the size and location will not cause the facility any problems in meeting the discharge requirements of the regulations.

70-149.4. Education and enforcement program.

A. *~~Introduction~~Purpose.*

1. The Collection System Permit (“Permit”) issued to the City of Brevard by the North Carolina Department of Environmental Quality (“NCDEQ”) requires the City of Brevard to maintain an educational and

enforcement program requiring the proper operation of all grease traps connected to the wastewater collection system. This document has been prepared to meet the requirements of the Permit and as a control mechanism for the build-up of FOG. The purpose of the Enforcement Response Plan (ERP) is to provide guidelines for anticipated situations. In general, enforcement actions will be taken in accordance with this plan, however, the actions listed herein are not exclusive, and the City of Brevard reserves the right to take other enforcement actions available to it.

A major cause of sewer blockages and Sewer System Overflows (SSO) are fats, oils, and grease (FOG) entering the system and building up in the pipes. The grease is generated by restaurants and domestic users. Domestic users include apartment complexes, housing developments (neighborhoods), and individual residents. FOG is generated from improper disposal after cooking, allowing it to enter the system and adhere to the sides of sewer pipes. The build-up of FOG continues until the pipe is completely blocked.

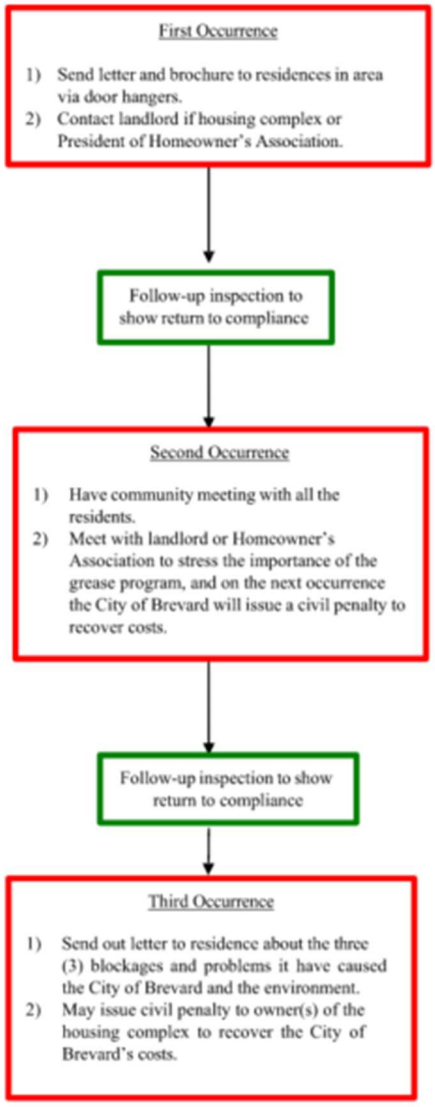
To prevent sewer blockages and SSO's, the City of Brevard has developed a Pretreatment FOG Program to provide education, regulate discharges and reduce FOG in wastewater discharged to the City Wastewater System. The City of Brevard offers educational tools for restaurant management, workers, homeowners, and the general public. The most effective method for controlling FOG is to prevent its introduction into the sewer system, and this is best accomplished through education. The City's education program consists of Power Point presentations to Civic Groups, schools, Plumbers Associations, Homeowner's Associations, brochures, and media coverage. The FOG Program also provides enforcement of the FOG regulations through inspections, review of maintenance records, consent orders, administrative orders, and civil penalties.

2. The education component ~~will~~is be focused on all customers, ~~but it is really~~ as it is the primary means of FOG control in residential settings. The education component in residential settings ~~will~~ shall include distribution of FOG information brochures twice a year and additional outreach in areas that may have a higher frequency of blockages.

~~A.~~B. ***Domestic Grease Blockage & Education.***

1. Following a domestic Grease~~r~~ blockage violation, the City will conduct targeted outreach and education prior to issuing a civil penalty:
   a. First Occurrence.
      i. Send letters and brochures to residents via door hangers.
      ii. Contact landlord if housing complex or President of Homeowner's Association.
   b. *City conducts Follow-up inspection to show return to compliance.*
   c. Second Occurrence.
      i. Have community meetings with all the residents.
      ~~i.~~ii. b. Meet the landlord or Homeowner's Association to stress the importance of the grease program and that the next occurrence the City will issue civil penalty to recover the costs.
      ~~ii.~~iii. *Follow-up inspection to show return to compliance.*
   d. Third Occurrence.
      i. Send out letter to residence about the three (3) blockages and problems it has caused the City and the environment.
      ii. May issue civil penalty to owners of the housing complex to recover the City's costs.

FIGURE 70-149.4(A): OUTLINE OF DOMESTRIC GREAR BLOCKAGE NOTIFICATION AND EDUCATION PROCEDURES



C. ***General domestic grease Eeducation ~~of the following Groups to help combat Domestic Grease~~.***

~~2.~~1. To promote general education of the FOG program and prevent domestic grease, the education program shall include the following:

a. Public service announcements published in newspaper having general circulation in the city and other forms of public notification.~~via the TTimes and City of Brevard website~~.

b. Targeted outreach to heavy residential users, professional organizations, and civic groups, including, but not limited to, the following:

i. Schools, elementary through college.

ii. Homeowners Associations.

iii. Plumber Associations.
iv. Builder Associations.
v. Transylvania County Health Department and Building Code Inspectors.

~~b.~~c. Translate grease informational materials ~~brochures~~ into ~~different~~other languages.

~~c. Educate Civic Groups and possibly enlist their help.~~

70-149.5. Enforcement actions.

A. The City is authorized by North Carolina General Statutes 143-215.6A and this ordinance, in accordance with Section 70-155.

B. ***Criminal penalties.*** ~~In addition to the actions listed above~~Furthermore, a User who violates the provisions of NCGS 143-2156.B may be referred by the City Manager to the District Attorney for possible criminal prosecution.

1. In determining the amount of a Civil Penalty, the City Manager may consider the following:
   a. The degree and extent of the harm done to the natural resources of the State, to the public health, or to public or private property as a result of the violation;
   b. The duration and gravity of the violation;
   c. The effect on ground or surface water quality, or air quality;
   d.
   e. The cost of repairing the damage to the Sewerage System, to property and to the natural resources of the State;
   f. The amount of money saved, if any, due to noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;
   g. Whether the violation was committed negligently, grossly negligent, willfully or intentionally;
   h. The prior record of the User in complying with or failing to comply with the conditions of the grease regulations, the City of Brevard's Sewer Use Ordinance, or other environmental laws of this State and EPA;
   i. The cost to the City of Brevard, including attorney fees, sampling costs, cost of additional laboratory analysis, cost of engineering and consulting fees necessary, in the opinion of the City, to determine the nature and extent of damage, prevent further damage and repair any damage.

C. ***Investigation of ~~Non compliance~~Noncompliance.***

1. The Staff of the City of Brevard will generally investigate User compliance with the grease regulations and the SUO in the following ways:
   a. On-site inspections of the User including scheduled and unscheduled visits;
   b. Review of work order database maintained by the City of Brevard Collection System ORC, which identifies grease blockages downstream of the User;
   c. Review of submitted cleaning records.

D. ***Types of Violation.***

1. Types of violations to the FOG provisions include, but are not limited to, the following: ~~The following is a list of different types of violations, by category. This list is not exclusive but serves as a general list of anticipated types of noncompliance. The City of Brevard's SUO, State and Federal laws and regulations serve as additional references for requirements.~~
   a. *Build-up of FOG in Sewer System*: Users must prevent the build-up of FOG in the sewer system. This is to be accomplished through using a FOG removal system and preventing FOG from being put into the sewer system.

b. *Failure to install a FOG Removal System*: User fails to install a FOG removal system at the request of The City of Brevard.
c. *Unauthorized Installation or modification of FOG Removal System*: Users must obtain written authorization from The City of Brevard before installing or modifying a FOG collection system.
d. *Failure to have Final Installation Inspection*: The FOG removal system is to have a final installation inspection conducted by The City of Brevard before the food establishment can open.
e. *Failure to Maintain FOG Collection System*: The FOG collection system shall be maintained in good working order and properly operated in accordance with the 25% Rule by the owner or user at his cost and expense.
f. *Failure to Maintain FOG Collection System Resulting in an Overflow Event at the FSE*: All kitchen operations shall be immediately suspended and remain discontinued until the FOG Removal System has been adequately cleaned, serviced, and/or repaired.
g. *Failure to Maintain Records*: The owner or user shall have maintenance records available for inspection and to document cleaning and repair of the FOG removal system.
h. *Incorrect Installation of FOG Removal System*: The FOG removal system is to be correctly installed with the influent waste stream going into the influent chamber, not the effluent chamber.
i. *Failure to meet Regulatory Requirements*: The failure to meet the requirements of a NOV (Notice of Violation), milestone dates of Consent Order or Administrative Order shall be considered a violation. Each day a User is not in compliance may be considered a separate violation.
j. *Falsification of Records*: Records that have been altered show cleaning or repairs to the FOG removal system that have not occurred.
k. *Inadequate Hydraulic Retention Time*: The FOG removal system has become hydraulic overloaded,
l. *Structural Failure of Trap/Interceptor*: The treatment/removal of FOG has been diminished by the failure of baffles or sanitary tees that are allowing FOG to be released to the sewer system, and the unit can no longer effectively remove FOG from the waste stream.
m. *Denied Entry*: All FSE's with a FOG Removal System shall be subject to evaluation and inspection by City Of Brevard representatives.

E. ***Enforcement procedures.*** ~~***Matrix***~~

1. FOG provisions shall utilize a tired enforcement structure, as described herein.
   a. The Enforcement Tier structure is a seven Tier system based on a rolling 12-month period.
   b. The User will step up a Tier each time the same violation occurs within a 180 day-period.
   c. In cases where there is harm or potential harm to the City of Brevard, public health or the environment or in other extraordinary cases, one or more tiers may be skipped in order to bring the User into compliance.
2. Tiered enforcement matrix:

TABLE 70-149.5(A): FOG TIERED ENFORCEMENT STRUCTURE

Type of Noncompliance	First Occurrence	Second Occurrence	Third Occurrence	Fourth Occurrence
Minor Violation: • Failure to maintain FOG Collection system • Failure to maintain records • Cleaning logs not available or accessible • Use of solvents to clean trap/interceptor	Tier 1	Tier 2	Tier 3	Tier 4

Intermediate Violation: • Incorrect installation of FOG removal system • Structural failure of trap/interceptor • Inadequate hydraulic retention time • Failure to respond to correspondence or phone messages • Failure to have final inspection • Unauthorized installation of FOG removal system • Failure to maintain FOG collection system resulting in an overflow event at the FSE • Denied entry	Tier 2	Tier 3	Tier 4	Tier 5
Major Violation: • FOG build up in sewer system • Failure to install trap/interceptor • Falsification of records • Failure to meet regulatory requirements	Tier 3	Tier 4	Tier 5	Tier 6
Sanitary Sewer Overflows: • FOG accumulation in collection system causing a sewer overflow	Tier 4	Tier 5	Tier 6	Tier 7

3. Penalties associated with enforcement:

TABLE 70-149.5(A): FOG TIERED ENFORCEMENT STRUCTURE PENALTIES	
Tier	**Administrative Penalty**
Tier 1	No civil penalty; Notice of Violation (NOV)
Tier 2	Up to $500 civil penalty; NOV
Tier 3	$750 to $1,500 civil penalty; NOV; Consent agreement
Tier 4	$1,500 to $3,000 civil penalty; NOV; consent order or administrative order
Tier 5	$3,000 to $10,000 civil penalty; NOV; administrative order; public notice
Tier 6	$10,000 to $25,000 civil penalty; NOV; show cause order; public notice, possible termination of services
Tier 7	$10,000 to $25,000 civil penalty; NOV; show cause order; public notice, termination of services
SSO	In addition to the civil penalties above, the City may recover any operational cost associated with removal and cleanup of an SSO. If any penalties or fines are assessed against the City by the State of North Carolina or EPA as a result of a SSO, the penalties or fines may be passed along to the perpetrator.
Note: These penalties are in addition to assessed reimbursement costs as specified in Section 9.2(c) of the Sewer Use Ordinance for legal fees, equipment repair or replacement, any additional monitoring	

of the City of Brevard is required to do, and any penalties assessed to the City resulting from the subject violation.

4. *Enforcement Responses.* The following provisions shall guide the City's enforcement procedures:
   a. Phone calls and Verbal warnings may to be used immediately upon the recognition of a violation to expedite the correction of the violation at the lowest level possible. These actions shall be documented in the User's file.
   b. Notices of Violation are to be used for violations, which in the discretion of the Wastewater Treatment Director impact the operation of the sewer system.
   c. Conferences are to be used where NOV's, Phone Calls or Verbal Warnings do not obtain results. They shall be held at the City of Brevard City Hall with the User, Public Works Director and/or Wastewater Treatment Directors and Pretreatment Personnel. The City Manager will be present when necessary.
   d. Consent Agreements (CA's) are to be used as a tool in responding to significant or continued noncompliance. The terms and conditions of CA's may be negotiated depending upon circumstances involved.
   e. Consent Orders are to be used as an escalated type of response to significant or continued noncompliance and/or failure to meet established milestones. Administrative Penalties, recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.
   f. Civil Penalties are to be used as a punitive deterrent for continued noncompliance and/or failure to meet established milestones. The recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.
   g. Administrative Orders (AO's) are to be used if compliance is not met through Consent Agreements or Consent Orders. The AO's will have established milestone dates and Administrative Penalties will be issued if the milestone dates are not met.
   h. Administrative Orders will be issued to initiate actions leading to formal hearings in cases of continued significant noncompliance or where the City Manager determines that emergency enforcement actions are necessary.
   i. Civil Action may be used in cases of continued significant noncompliance or where the City Manager determines that emergency actions are necessary.
   j. Service Termination will be used in recurring noncompliance or emergency cases where there is harm to the City of Brevard staff, City property, private property, public, health or the environment.
   k. Responses to violations affecting the operation of the City of Brevard, resulting in the City's NPDES Permit and/or Collection System Permit violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

F. ~~8.~~ *Termination of Services*

1. Tier 7 violations may result in termination of services. It shall be the responsibility of the City Manager to determine if this enforcement method is used; in determining whether service should be terminated, he/she may consider compliance history, interference with and impact on the Sewerage System including costs incurred by the City of Brevard. If the City Manager decides to terminate service, he/she will issue written Notice of Termination to the User.

2. Under non-emergency circumstances, no physical termination of services shall occur prior to 15 business days from the date of the Notice of Termination. During that period, the User shall be

afforded an opportunity to appeal directly or through legal counsel to present reasons why service should not be terminated. The User shall submit a request in writing to the City Manager within 15 business days of issuance of the Notice of Termination. The request shall state plainly the reasons the User feels that service should not be terminated. The service termination shall be suspended until the appeal is resolved.

1. However, the City Manager can order an immediate emergency disconnection of sewer and water services due to severe discharge violations, such as releasing unauthorized toxic substances, causing a clear and present danger to public health, the environment, or threatening severe damage to the treatment infrastructure prior to the appeal process. In this circumstance, the 15 day appeal period begins on the date of shutoff.

3. The City Manager may conduct a hearing and take testimony from the User and witnesses on his or her behalf, the City of Brevard's staff and others. The User may be represented by legal counsel ~~and may cross-examine the City's staff and witnesses testifying. The City of Brevard may be represented by legal counsel, and the City staff may cross-examine the User and others testifying on his behalf.~~ The City Manager may also choose to consider the matter using only written material submitted by the User and the City of Brevard.

4. Following the Hearing or, if there is not a hearing, following consideration of the written appeal, the City Manager shall decide as to whether or not service should be terminated. The City Manager shall have 15 business days from submission of the appeal to render a decision.

5. *Judicial review.* Any person against whom a final order or decision of the City Manager may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Transylvania County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the city. At the request of the Court the City Manager shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. No. 2013-01, § 2(Exh. B), 3-18-13; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20; Ord. No. 2021-16 , § 1(Exh. A), 4-19-21)

G. ~~9.~~ *Domestic Grease Blockages.*

1. Blockages of the sewer system caused by FOG in residential areas shall be classified as domestic FOG blockages. The City of Brevard will address these blockages in the following manner:
   a. First Occurrence
      i. The City shall send a letter and FOG brochure to the residents of the surrounding area advising of the blockage and problems it caused.
      ii. Contact the local Homeowner's Association or owner(s) of the housing complex and educate them on the importance of FOG removal.
   b. Second Occurrence
      i. Have a community meeting with the residents and educate them on the importance of FOG removal.

ii. Meet with the Homeowner's Association or owner(s) of the housing complex to review the FOG removal program and advise the City of Brevard may issue civil penalties on the next occurrence.

c. Third Occurrence

i. Send out letters to the residents about the three blockages and the problems it has caused the City of Brevard -and the environment, including the cost of the clean-ups.

ii. The City may issue civil penalties to the owner(s) of the housing complex to recover operational costs.

~~10. Enforcement Response Guide~~

~~This guide further outlines types of violations, the nature of the violation, enforcement responses, and the City of Brevard personnel involved. The guide is considered a part of the City's Enforcement Response Plan. The abbreviations utilized are defined as follows:~~

~~CO Consent Order~~
~~CA Consent Agreement~~
~~CM City Manager~~
~~AO Administrative Order~~
~~NOV Notice of Violation~~
~~NOC Notice of Concern~~
~~FSE Food Services Establishment~~
~~FOG Fats, Oils & Grease~~
~~IWC Industrial Waste Coordinator~~
~~SNC Significant Non-Compliance~~

70-~~142~~150. Fees.

A. *Purpose.* It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the city for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the director and approved by city council. A copy of these charges and fees will be made available from the director.

B. *User charges.* A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

1. The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
2. Each user shall pay its proportionate cost based on volume of flow.
3. The director shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the city council for adjustments in the schedule of charges and fees as necessary.
4. Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

C. *Surcharges.* The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

1. The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
    a. Metered water consumption as shown in the records of meter readings maintained by the city; or
    b. If required or approved by the city, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the city. The metering system shall be installed and maintained at the user's expense.
    c. Where any user procures all or part of his or her water supply from sources other than the city, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the city.
2. The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the city. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
3. The determination of the character and concentration of the constituents of the wastewater discharge by the director or his duly appointed representative(s) shall be binding as a basis for charges.

D. *Pretreatment program administration charges.* The schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, may include charges and fees for:

1. Reimbursement of costs of setting up and operating the pretreatment program;
2. Monitoring, inspections and surveillance procedures;
3. Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
4. Permitting; and
5. Other fees as the city may deem necessary to carry out the requirements of the pretreatment program.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~143~~151. Wastewater discharge permit application and issuance.

A. *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

B. *Wastewater permits.* All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the director be required to obtain a wastewater discharge permit for non-significant industrial users.

1. *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the director a significant industrial user determination. If the director determines or

suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.

2. *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the city, an application in the form prescribed by the director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in subsection 70-~~143~~151.B.1 above. The application shall include at a minimum:
   a. Name of industrial user;
   b. Address of industrial user;
   c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
   d. Wastewater flow;
   e. Types and concentrations (or mass) of pollutants contained in the discharge;
   f. Major products manufactured or services supplied;
   g. Description of existing on-site pretreatment facilities and practices;
   h. Locations of discharge points;
   i. Raw materials used or stored at the site;
   j. Flow diagram or sewer map for the industrial user;
   k. Number of employees;
   l. Operation and production schedules; and
   m. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
3. *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority as defined in Section 1-2. and contain the following certification statement:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
4. *Application review and evaluation.* The director will evaluate the data furnished by the user and may require additional information.
   a. The director is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
   b. The director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
5. *Tentative determination and draft permit.*
   a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

b. If the staff's tentative determination in subsection 70-~~143~~151.B.5.a. above is to issue the permit, the following additional determinations shall be made in writing:

i. Proposed discharge limitations for those pollutants proposed to be limited;

ii. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

iii. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

c. Subsections 70-~~143~~151.B.5.a. and 70-~~143~~151.B.5.b. above and the general permit conditions of the city into a significant industrial user permit.

6. *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits.

a. An allocation table (AT) listing permit information for all significant industrial users, including, but not limited to, permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division-approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

b. The basis, or rationale, for the pretreatment limitations, including the following:

i. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

ii. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

7. *Final action on significant industrial user permit applications.*

a. The director shall take final action on all applications not later than 90 days following receipt of a complete application.

b. The director is authorized to:

i. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and G.S. 143-215.1;

ii. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

iii. Modify any permit upon not less than 60 days' notice and pursuant to subsection 70-~~143~~151.B.9;

iv. Revoke any permit pursuant to subsection 70-~~147~~155.~~A~~;

v. Suspend a permit pursuant to subsection 70-~~147~~155.~~A~~;

vi. Deny a permit application when in the opinion of the director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

8. *Permit modification.*

a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

i. Changes in the ownership of the discharge when no other change in the permit is indicated,

ii. A single modification of any compliance schedule not in excess of four months,

iii. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection 70-~~143~~151(b)(2), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

9. *Permit conditions.*

a. The director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

i. A statement of duration (in no case more than five years);

ii. A statement of non-transferability;

iii. Applicable effluent limits based on categorical standards or local limits or both;

iv. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;

v. Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 1-2;

vi. Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads, if determined by the director to be necessary for the user and,

vii. Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load. Also see subsections 70-~~144~~152.E and 70-~~144~~152.F; and

viii. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

b. In addition, permits may contain, but are not limited to, the following:

i. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

ii. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

iii. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

iv. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

v. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

vi. Requirements for installation and maintenance of inspection and sampling facilities and equipment.

vii. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

viii. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).

ix. Compliance schedules for meeting pretreatment standards and requirements.

x. Requirements for submission of periodic self-monitoring or special notification reports.

xi. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in subsection 70-~~144~~152.M and affording the director, or his representatives, access thereto.

xii. Requirements for prior notification and approval by the director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

xiii. Requirements for the prior notification and approval by the director of any change in the manufacturing and/or pretreatment process used by the permittee.

xiv. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.

xv. Other conditions as deemed appropriate by the director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

10. *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

11. *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

12. *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection 70-~~143~~151.B a minimum of 90 days prior to the expiration of the existing permit.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

70-~~144~~152. Reporting requirements.

A. *Baseline monitoring reports (BMRs).*

1. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in subsection 70-~~144~~152.A.2, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection 70-~~144~~152.A.2, below. A new source shall

report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Users described above shall submit the information set forth below:
   a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
   b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
   c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
   d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
   e. *Measurement of pollutants.*
      i. The categorical pretreatment standards applicable to each regulated process.
      ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 70-~~144~~152.J of this ordinance.
      iii. Sampling must be performed in accordance with procedures set out in subsection 70-~~144~~152.K of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
   f. *Certification.* A statement, reviewed by the user's current authorized representative of the industrial user as defined in Section 1-2 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
   g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection 70-~~144~~152.B of this ordinance.
   h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection 70-~~143~~151.B.3 of this ordinance.

B. *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection 70-~~144~~152.A.2.g. of this ordinance:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major

components, commencing and completing construction, and beginning and conducting routine operation);

2. No increment referred to above shall exceed nine months;
3. The user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
4. In no event shall more than nine months elapse between such progress reports to the director.

C. *Reports on compliance with categorical pretreatment standard, deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 70-~~144~~152.A.2.d. through 70-~~144~~152.A.2.f. of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 70-~~143~~151.B.3 of this ordinance.

D. *Periodic compliance reports.* The control authority may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

1. All significant industrial users shall, at a frequency determined by the director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in subsections 70-~~144~~152.J and 70-144.K of this ordinance. All periodic compliance reports must be signed and certified in accordance with subsection 70-~~143~~151.B.3 of this ordinance.
2. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsections 70-~~144~~152.J and 70-~~144~~152.K of this ordinance, the results of this monitoring shall be included in the report.

E. *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the director~~control authority~~. See subsection 70-~~144~~152.F.4 for other reporting requirements.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 70-~~143~~151.B of this ordinance.
2. The director may issue a wastewater discharge permit under subsection 70-~~143~~151.B of this ordinance or modify an existing wastewater discharge permit under subsection 70-~~143~~151.B of this ordinance in response to changed conditions or anticipated changed conditions.
3. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 15 percent or greater, or the discharge of any previously unreported pollutants.

F. *Reports of potential problems.*

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
2. Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection 70-~~144~~152.F.1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
4. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load.

G. *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.

H. *Notice of violation/repeat sampling and reporting.*

1. If sampling performed by a user indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. If allowed by the director, the user is not required to resample:
   a. If the director monitors at the user's facility at least once a month; or
   b. If the director samples between the user's initial sampling and when the user receives the results of this sampling.
2. If the director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:
   a. The director monitors at the user's facility at least once a month; or
   b. The director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
   c. The director requires the user to perform sampling and submit the results to the director within the 30-day deadline of the POTW becoming aware of the violation.

I. *Notification of the discharge of hazardous waste.* The city prohibits the discharge of any hazardous wastes without notification to and approval by the director.

1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261,

the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 90 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the city. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection 70-~~144~~152.E. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections 70-~~144~~152.A, subsection 70-~~144~~152.C, and subsection 70-~~144~~152.D.

2. Dischargers are exempt from the requirements of subsection 70-~~144~~152.I.1, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
3. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

J. *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and city. Analyses must be performed by a state certified lab for each parameter analyzed, if such certification exists for that parameter.

K. *Grab and composite sample collection.*

1. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be operated in accordance with best management practices, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in this manner shall not be grounds for the user to claim that sample results are unrepresentative of its discharge and may be in violation of its wastewater discharge permit.
2. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number

of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for baseline monitoring reports and 90-day compliance reports. Additionally, the director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.

3. Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

L. *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

M. *Record keeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

N. *Electronic reporting.* The director may develop procedures for receipt of electronic reports for any reporting requirements of this ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under section 70-~~147~~155.

O. *Special reporting requirements for IUs in satellite POTWs.* In the case of industrial user located in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by the section shall also be reported to the POTW treatment plant organization.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

70-~~145~~153. Compliance monitoring.

A. *Monitoring facilities.* The city requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the city and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

B. *Inspection and sampling.* The city will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the city's, approval authority's, or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

C. *Search warrants.* If the city, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the city.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~146~~154. Confidential information.

A. Information and data provided by an industrial user to the director pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the director in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

B. Information provided by an industrial user to the director that is determined to be entitled to confidential treatment shall be made available upon written request to the division of water quality or any state agency for uses related to the pretreatment program, the National Pollutant Discharge Elimination System (NPDES) permit, collection system permit, stormwater permit, and/or non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

C. Information and data received by the division or other state agency, ~~under subsection 70-146.B~~as described herein, ~~above~~ shall be subject to the processes set forth in G.S. 143-215.3C.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~147~~155. Enforcement.

A. *Administrative remedies.*

1. *Notice of violation (NOV).* Whenever the director finds that any industrial user has violated or is violating this ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation

and a plan for the satisfactory correction thereof shall be submitted to the city by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

2. *Consent orders.* The director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection 70-~~147~~155.A.4, below.

3. *Show cause hearing.* The director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

   The director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

   A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under subsection 70-147.B nor is any action or inaction taken by the POTW director under this section subject to an administrative appeal under subsection 70-~~143~~151.B.8.

4. *Administrative orders.* When the director finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:
   a. Immediately comply with all requirements;
   b. Comply in accordance with a compliance time schedule set forth in the order;
   c. Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
   d. Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

5. *Emergency suspensions.* The director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date of the above-described hearing.

6. *Termination of permit or permission to discharge.* The director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:
   a. Failure to accurately report the wastewater constituents and characteristics of his discharge;
   b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
   c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
   d. Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable state and federal regulations.

   Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under subsection 70-~~147~~155.A of this ordinance why the proposed action should not be taken.

B. *Civil penalties.*

1. Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to $25,000.00 per day per violation.
   a. Penalties between $10,000.00 and $25,000.00 per day per violation may be assessed against a violator only if:
      i. For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation, or
      ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
2. In determining the amount of the civil penalty, the director shall consider the following:
   a. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
   b. The duration and gravity of the violation;
   c. The effect on ground or surface water quantity or quality or on air quality;
   d. The cost of rectifying the damage;
   e. The amount of money saved by noncompliance;
   f. Whether the violation was committed willfully or intentionally;
   g. The prior record of the violator in complying or failing to comply with the pretreatment program;

h. The costs of enforcement to the city.

3. Appeals of civil penalties assessed in accordance with this section shall be as provided in subsection 70-~~143~~151.B.8.

C. *Other available remedies.* Remedies, in addition to those previously mentioned in this ordinance, are available to the director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

1. *Criminal violations.* The district attorney for the applicable judicial district may, at the request of the city, prosecute noncompliant users who violate the provisions of G.S. 143-215.6B.

   Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under article 21 of chapter 143 of the general statutes (G.S. 143-215.6B(i)).

2. *Injunctive relief.* Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the director, through the city attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

3. *Water supply severance.* Whenever an ~~industrial~~ user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the ~~industrial~~ user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

4. *Public nuisances.* Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the city governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

D. *Remedies nonexclusive.* The remedies provided for in this ordinance are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director may take other legal actions against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~148~~156. Annual publication of significant noncompliance.

At least annually, the director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~149~~157. Adjudicatory hearings.

A. *Adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under subsection 70-~~147~~155.B, or one issued an administrative order under subsection 70-~~147~~155.A shall have the right to an adjudicatory hearing before the ~~POTW director or other hearing officer appointed by the POTW director upon making written demand~~Public Works Director, identifying the specific issues to be contested, to the director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated.

The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing.

The ~~POTW~~ Public Works director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in subsection 70-~~147~~155.B~~, below~~. The decision is a final decision for the purposes of seeking judicial review. The terms and conditions of a permit under appeal shall be as follows:

1. *New permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
2. *Renewed permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
3. *Terminated permits.* Upon appeal, including judicial review in the general courts of justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

B. *Official record.* When a final decision is issued under subsection 70-~~147~~155.A, above, the hearing officer shall prepare an official record of the case that includes:

1. All notices, motions, and other like pleadings;
2. A copy of all documentary evidence introduced;
3. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;
4. A copy of the final decision of the hearing officer.

A. *Judicial review.* Any person against whom a final order or decision of the hearing officer is entered, pursuant to the hearing conducted under subsection 70-~~147~~155.A, above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Transylvania County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the city. Within 45 days after receipt of the copy of the written request for review by the court, the hearing officer shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~150~~158. Affirmative defenses to discharge violations.

A. *Upset.*

1. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection 70-~~150~~158.A.2, below, are met.
2. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
   a. An upset occurred and the user can identify the cause(s) of the upset;
   b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
   c. The user has submitted the following information to the director within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.
      i. A description of the indirect discharge and cause of noncompliance;
      ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
      iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
3. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
4. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
5. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. *Bypass.*

1. A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision subsections 70-~~150~~158.B.2 and 70-~~150~~158.B.3 of this section.
2. Reporting a bypass.
   a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW director, at least ten days before the date of the bypass, if possible.
   b. A user shall submit oral notice to the POTW director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
3. Bypass unavoidable.
   a. Bypass is prohibited, and the POTW director may take an enforcement action against a user for a bypass, unless:
      i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

iii. The user submitted notices as required under subsection 70-~~150~~158.B.2 of this section.

b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subsection 70-~~150~~158.B.3.a. of this section.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~151~~159. Severability.

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

70-~~152~~160. Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~153~~161. Effective date.

This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~154~~162—70-170. Reserved.

ARTICLE VI. ENFORCEMENT RESPONSE PLAN

70-171. Introduction.

The City of Brevard operates a publicly owned treatment works (POTW), the sewer system. It is the responsibility of the City of Brevard to enforce all applicable federal, state, and local pretreatment regulations. These regulations are outlined in Federal Regulation 40 CFR 403 and State Regulation 15A NCAC 2H.0900, and the city's sewer use ordinance (SUO). This enforcement response plan (ERP) has been established as an element of the city's sewer pretreatment program. The purpose of the ERP is to provide for fair and equitable treatment of all users for anticipated enforcement situations. Generally, enforcement actions will be taken in accordance with the ERP; however, additional legal actions are available (SUO subsection 70-~~147~~155.D). Therefore, a combination of enforcement actions may be taken against a user in non-compliance.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-172. Enforcement actions available to the POTW.

The POTW director is empowered through G.S. 143-215.6A and the local SUO to take enforcement actions to pursue compliant operations and use of the POTW. The following is a list of actions specified in the city's SUO with corresponding section number:

A. Notice of violation 70-~~147~~155.A.1

B. Consent orders 70-~~147~~155.A.2

C. Show cause hearing 70-~~147~~155.A.3

D. Administrative orders 70-~~147~~155.A.4

E. Emergency suspensions 70-~~147~~155.A.5

F. Termination of permit 70-~~147~~155.A.6

G. Civil penalties 70-~~147~~155.B

H. Injunctive relief 70-~~147~~155.C.2

I. Water supply severance 70-~~147~~155.C.3

In addition to the actions listed above, a user who violates the provisions of G.S. 143-215.6B may be referred by the POTW director to the ~~district~~City attorney for possible criminal prosecution.

In determining civil penalties for any violation, the director shall consider the following factors:

A. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

B. The duration and gravity of the violation;

C. The effect on ground or surface water quantity or quality or on air quality;

D. The cost of rectifying the damage;

E. The amount of money saved by non-compliance;

F. Whether the violation was committed willfully or intentionally;

G. The prior record of the violator in complying or failing to comply;

H. The costs of enforcement to the POTW.

Adjudicatory hearing procedures regarding permit decisions, civil penalties, and administrative orders are found in the SUO section 70-~~149~~157.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-173. Investigation of noncompliance.

The POTW director will investigate a user's compliance with his/her permit and the provisions of the SUO using at least these three methods:

A. On-site inspections of the user to include scheduled and unscheduled visits;

B. Scheduled and unscheduled sampling of the user's effluent;

C. Review of self-monitoring data, if required, from the user.

The compliance status of significant industrial users (SIU) will be evaluated at a minimum once every six months.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-174. Types of violation.

The following is a list of noncompliance categories anticipated by this ERP; the list is not comprehensive. The issued permit, the SUO, and state and federal regulations serve as additional references for pretreatment requirements and potential violations.

A. *Unpermitted discharges:* Users are responsible for obtaining and renewing permits, if required.

B. *Permit limits violations:* Users are responsible for maintaining compliance with all effluent limits. The POTW will evaluate the extent of limits violations. In determining the extent of violations, significant non-compliance (SNC) as defined by state and EPA regulations will be determined.

C. *Self-monitoring violations:* Users are required to adequately conduct all the monitoring required in the permit, including monitoring frequencies and sampling methods specified. This includes a user who does not resample per their permit when a limit violation occurs.

D. *Reporting violations:* Users are required to provide information, such as self-monitoring reports, listed in their permit or the SUO on the schedule stipulated. Late or incomplete reports are violations.

E. *Permit conditions violations:* Failure to apply or reapply for a permit is considered a violation. Users who violate conditions outlined in their permits or the SUO shall be considered in violation.

F. *Failure to abide by enforcement actions:* Failure to meet the requirements of an order, whether the order was entered into voluntarily or mandated by the POTW, is a violation. Missing a scheduled compliance milestone by more than 90 days is considered SNC.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-175. Responses: timeframes, responsible officials, escalated actions.

The attached chart outlines types of violations and specifies both initial and escalated actions to be taken by the POTW, timeframes, and the officials responsible for executing the actions. This chart shall be considered a part of the enforcement response plan.

Responses to violations affecting the operation of the POTW, resulting in POTW NPDES violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

A user may be sent a notice of violation (NOV) or notice of noncompliance (NNC) for each individual violation. Alternatively, violations over a period of time may be summarized. In general, NOVs in response to violations will be issued within 30 days of discovery of the violations.

Users found to be in significant non-compliance twice in one contiguous 12-month period will be issued an administrative order (AO) to return to compliance. In all cases, escalated or continuing enforcement action will be taken against users who do not return to compliance in a timely manner.

Cases of falsifying reports, tampering with monitoring or sampling equipment, or otherwise preventing the collection or reporting of representative data may be referred to the ~~district~~City attorney for possible criminal investigation.

Show cause hearings may be held at the POTW director's discretion prior to taking enforcement actions.

TABLE 70-175A: UNPERMITTED DISCHARGES					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Unpermitted Discharge	Notice of Violation (NOV)	Within 30 days of discovery of discharge	POTW Director or designee	File permit application	Suspend service until permit is issued
Unpermitted Discharge; Aware of requirement	NOV with penalty assessed	Within 30 days of discovery of discharge	POTW Director	File permit application	Suspend service until permit is issued
Unpermitted Discharge results in violation of NPDES or other state-issued permit or state general statute	Order to cease process causing violation; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Order to cease immediately; NOV within 7 days	POTW Director	File permit application; take steps to avoid violation	Suspend service until permit is issued
Unpermitted Discharge results in endangerment	Suspend service; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Suspend service immediately; NOV within 7 days	POTW Director	File permit application; take steps to avoid future endangerment	

TABLE 70-175B: PERMIT LIMITS VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Permit Limit Violation; Single event minor	Notice of Non-Compliance	Within 30 days of receiving data	POTW director or designee	Conduct additional monitoring and return to compliance	NOV with penalty
Permit Limit Violation; Technical Review Criteria (TRC)	NOV with penalty up to $25,000.00	Within 30 days of receiving data	POTW Director or designee	Conduct additional monitoring and return to compliance	Second NOV with increased penalty

TABLE 70-175B: PERMIT LIMITS VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Permit Limit Violation; Significant Non-Compliance	NOV with penalty up to $25,000.00	Within 30 days of receiving all data	POTW director or designee	Report cause of non-compliance and steps taken to prevent violation	Administrative order with enforcement schedule
Permit Limit Violation results in violation of NPDES or other state-issued permit or state general statute	Order to cease process causing violation; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Order to Cease immediately; NOV within 7 days of discovering violation	POTW Director	Report cause of non-compliance and steps taken to prevent violation	Suspend service until resolved
Permit Limit Violation results in Endangerment	NOV; Suspend service plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Suspend service immediately; NOV within 7 days	POTW director	File for reissuance of permit	

TABLE 70-175C: OTHER VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Self-Monitoring violation	NOV with penalty equal to or greater than cost of missed testing	Within 30 days of discovery	POTW director or designee	Conduct missed sampling	Second NOV with penalty of twice the initial penalty
Reporting Violation (late report)	Notice of Non-compliance	Within 30 days of the report due date	POTW director or designee	Submit report	NOV with penalty assessed; possible SNC if over 30 days
Reporting Violation (incomplete or inaccurate reports)	Notice of Non-compliance	Within 30 days of report submission	POTW director or designee	Submit revised report	NOV; assess penalty

TABLE 70-175C: OTHER VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Reporting Violation (intentional falsification)	Refer to ~~district~~City attorney	As soon as suspected	POTW director		
Violation of Permit Conditions	NOV with penalty up to $25,000.00 per day per violation	Within 30 days of discovery	POTW director or designee	Varies; comply with permit conditions	Second NOV with increased penalty
Violation of Permit Conditions results in NPDES or other state-issued permit or state general statute violations or endangerment	Suspend service; NOV with penalty up to $25,000.00 per day per violation	Suspend service immediately; NOV within 7 days of discovery	POTW director	Steps taken to avoid reoccurrence	
Violations of or Failure to Abide by Administrative or Consent Order	NOV and assess stipulated penalty or actions listed for same violation type	Within time frame listed in the order or for the same type of violation	POTW director or designee	Additional monitoring and steps taken to avoid recurrence	Same as escalated action for same type of violation possible revocation of order
Failure to meet a milestone date in Administrative or Consent Order (does not affect other dates)	NOV and assess penalty stipulated in order	Within 14 days of discovery	POTW director or designee	Submit a schedule to complete the requirement	Show cause hearing
Failure to meet a milestone date in Administrative or Consent Order (affects other dates)	Show cause hearing and assess stipulated penalties	Within 30 days of discovery	POTW director	Negotiate new order and abide by new conditions	Increased penalty or possible termination of service
Failure to meet final compliance date	NOV and assess stipulated penalties	Within 14 days of discovery	POTW director	Document compliance	Increased penalty or possible termination of service

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

STAFF REPORT
City Council, Monday, August 17, 2026

Title: Tax Settlement Report - July 2026

Speaker:
Prepared by: Tina Tanner, Tax Collector/Water/Finance
Approved by: Dean Luebbe, Assistant City Manager/Finance Director

Attachments:
1. Tax Settlement Report July 2026

CITY of BREVARD

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

TAX SETTLEMENT REPORT

FOR MONTH ENDED

JULY 31, 2026

Tina Tanner

Certified Tax Collector

Finance Department | (828) 885-5600
95 West Main Street | Brevard, North Carolina 28712 | www.cityofbrevard.com

HEART OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING JULY 31, 2026

UPDATED: 08.10.2026

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2026						
2025-2014	$ 42.13					
2013-PRIOR	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ 42.13	$ -	$ -	$ -	$ -	$ -

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2026							$ -
2025-2014							$ 42.13
2013-PRIOR	$ -	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ -	$ -	$ -	$ -	$ -	$ -	**$ 42.13**

CITY OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING JULY 31, 2026

UPDATED: 08.10.2026

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2026						
2025-2014	$ 14,221.11					
2013- PRIOR	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ 14,221.11	$ -	$ -	$ -	$ -	$ -

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2026							$ -
2025-2014							$ 14,221.11
2013-PRIOR	$ -	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL:	$ -	$ -	$ -	$ -	$ -	$ -	**$ 14,221.11**

STAFF REPORT
City Council, Monday, August 17, 2026

Title:	Ordinance Declaring Road Closure for Brevard Plein Air Festival and HalloweenFest
Speaker:	Emily Brewer, AICP, Senior Planner
Prepared by:	Emily Brewer, Senior Planner
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 local municipality must pass an ordinance for each street closure of City-sponsored events. The State will neither approve nor deny such requests for closures. They will, however, recommend alternative routes should they have a project scheduled for the same day as a special event. The attached ordinance is for the Brevard Plein Air Festival and Halloween Fest.

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 events since 2015.

Action
Council's options are to adopt or reject the street closure ordinance.

Attachments:
1. ORD_2026-XX Road Closure Ordinance - Plein Air and Halloween Fest

ORDINANCE NO. 2026-XX

AN ORDINANCE DECLARING MULTIPLE ROAD CLOSURES FOR SPECIAL EVENTS

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

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

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

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

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

Plein Air Festival
Date: Saturday, September 19, 2026
Time: 6:00 AM – 7:00 PM
Route Description: Main Street (U.S. 276) from Broad Street to Caldwell Street.

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

Halloweenfest
Date: Saturday, October 24, 2026
Time: 6:00 AM – 7:00 PM
Route Description: Main Street (U.S. 276) from Caldwell Street to Johnson Street
Broad Street (U.S. 64) from Morgan Street to Probart Street

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

Adopted and approved this the 17th day of August 2026.

_____
Maureen Copelof
Mayor

ATTEST:

_____
Denise Hodsdon, CMC
City Clerk

APPROVED AS TO FORM:

_____

Mack McKeller
City Attorney

STAFF REPORT
City Council, Monday, August 17, 2026

Title:	Reaffirming Resolution - City of Brevard Official Depositories
Speaker:	Dean Luebbe, Assistant City Manager/Finance Director
Prepared by:	Dean Luebbe, Assistant City Manager/Finance Director, Shawnee Cummings, Assistant to the City Manager
Approved by:	Wilson Hooper, City Manager

Background
City Finance staff attended training the week of August 3, 2026 in Asheville, NC. The North Carolina School of Government presenter recommended all attendees to search their records to make sure all official depositories had been approved by their Governing Board. Staff conducted a search of the minutes and was able to locate a resolution for United Community Bank, but was unable to locate anything for First Citizens Bank and the North Carolina Capital Management Trust (NCCMT). Both the First Citizens and NCCMT accounts have been active for over ten years.

The one account the City has with First Citizens carries a very small balance and has very little activity. The City has four accounts with NCCMT. Three have very little activity, but do serve unique purposes. The remaining NCCMT account is the main investment account of the City and is responsible for the majority of the interest income reported in the annual audit. The interest rate is tied very closely to the federal funds rate. Since 2021, monthly interest revenue has been as low as $60.00 and as high as $48,000.00, depending on the current federal funds rate, and the balance in the account. In July of 2026, the main NCCMT account recorded $25,654.87 in interest revenue.

This resolution serves to reaffirm that the City Council approves staff to conduct banking business with these institutions.

Action
Staff request Council approved the attached resolution as presented.

Attachments:
1. Res_2026-XX_Reaffirming Depositories

RESOLUTION NO. 2026-XX

RESOLUTION REAFFIRMING DESIGNATION OF OFFICIAL FINANCIAL DEPOSITORIES

WHEREAS, the City of Brevard has previously opened and maintained accounts, deposited funds, and conducted financial transactions with certain financial institutions; and

WHEREAS, the Brevard City Council periodically reviews its banking relationships to ensure public funds are deposited in a secure, efficient, and effective manner; and

WHEREAS, each currently utilized institution maintains a physical branch presence in North Carolina, remains qualified as an official depository, and properly secures public deposits via the dedicated method or the statewide collateral pooling method overseen by the North Carolina Department of State Treasurer; and

WHEREAS, the Brevard City Council has reviewed the list of current and prior financial institutions utilized by the City's officers and finance department.

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

Section 1. The following financial institutions are hereby designated and confirmed as official depositories of the City of Brevard:

- North Carolina Capital Management Trust (NCCMT)
- First Citizens Bank
- United Community Bank

Section 2. The Finance Officer is authorized to continue maintaining, depositing, and withdrawing the City of Brevard's funds in said official depositories and is further authorized to manage idle cash balances across these official depositories in compliance with North Carolina Local Government Commission rules.

Section 3. Each designated depository shall continue to comply with all applicable state laws and regulations regarding the safekeeping and proper collateralization of public-sector deposits.

Adopted and approved this the _____ day of _____, 2026.

_____
Maureen Copelof
Mayor

ATTEST:

_____
Denise Hodsdon, CMC
City Clerk

MINUTES
City Council Downtown Master Plan Committee

Wednesday, June 10, 2026 – 3:30pm
City Hall Council Chambers

Members Present:	Gary Daniel, Chair Council Member Lauren Wise, Vice Chair, Council Member Nicole Bentley, Heart of Brevard Executive Director Dee Dee Perkins, Heart of Brevard Representative Dakota Chapman, Citizen Member Mayor Maureen Copelof, Ex-Officio Member
Members Absent:	Parker Platt, Citizen Member
Staff Present:	Wilson Hooper, City Manager David Todd, Assistant City Manager Paul Ray, Planning Director Shawnee Cummings, Assistant to the City Manager
Guests:	Melanie Spreen (May Collaborative)
Media:	David Bradley, Transylvania Times

A. Welcome & Call to Order

Chairman Gary Daniel called the meeting to order at 3:30pm.

B. Certification of Quorum

Assistant to the City Manager Shawnee Cummings certified that a quorum was present.

C. Approval of Agenda

Ms. Perkins requested to add agenda items for a budget update for the Downtown Master Plan Committee's funds, the downtown planters, and the circulation study's consideration of one-way couplets. Mr. Wise moved, seconded by Ms. Bentley to approve the agenda as amended. The motion carried unanimously.

D. Approval of Minutes

Ms. Perkins moved, seconded by Mr. Chapman to approve the minutes of the February 11, 2026 meeting as presented. The motion carried unanimously.

E. Downtown Master Plan Implementation Plan Update

Mr. Hooper stated that Melanie Spreen is here to update the Committee on the results of her work and give a cost estimate to complete the remaining executable Downtown Master Plan projects. He said he expects the Committee to talk strategy in relation to this at a future meeting, so there will likely be no solutions coming out of today's meeting. Mr. Todd said they tried to hang a price tag on everything and used the State Construction Office's form, which incorporates cost escalation so that we can get an idea of the price of that project if we started it in a few years.

Ms. Spreen gave a presentation (Attachment A) that serves as an overview of the projects and does not delve deep into the details, and an implementation plan spreadsheet (Attachment B) that will act as a tool for the City to help implement and plan for future investment. Each project has a title, specified scope, status, priority level, project budget magnitude, project budget estimate, and notes. The categories of projects include Gateways, Bike Boulevards, Connector Streets/Alleys, Primary Streets, and Miscellaneous. Some larger projects are comprised of smaller projects that can be done individually, such as signage, lighting, or streetscaping, so that projects can get done without requiring millions of dollars. A per-block cost was also included in case the City wants to perform some projects incrementally. The spreadsheet has an extra tab with information on each project, such as design duration, construction duration, if there are dependencies, and whether collaboration with other parties is required (i.e., NCDOT, Duke Power, etc.), which will indicate whether a project can be implemented easily or will have challenges.

The numbers attributed to each project are on the high end, as they tried to account for complicating factors, such as burying utilities, so that if those factors arise, it would not kill the project. If those complications do not arise, it can be removed from the estimate. The total was around $52 million, but Ms. Spreen said that if you added up the projects once completed, it may not reach $52 million. Mr. Todd said the numbers presented are project costs, which include design and construction costs. Ms. Spreen said costs from previous projects were used as unit costs, and contingencies are built in to each line item to account for additional work that could be needed. Escalation percentages can be changed but are currently set at 8%.

Ms. Spreen said after completing the estimates and spreadsheet, she was asked to identify potential projects and how to move forward. She identified projects that could have impact, be completed incrementally, and are seemingly easy to accomplish. The first is planting street trees and adding infill landscaping. She stated that larger bulb outs and corners that don't have a big impact could be used as larger planting areas for bigger trees. She stated that there are tree wells that have been blocked over and if a streetscaping plan was created, it is an opportunity to have a big impact. There are also planters downtown that require work due to being trampled or not being maintained, so she emphasized the need for a maintenance plan. She added it would be impactful on outside blocks where trees are lacking.

Mr. Todd said there is a volunteer program to take care of some of the landscaping downtown and it has been hard to find consistency across volunteers. He added that it has been hard to refresh everything all at once when volunteers maintain their plots to different levels. He wonders if we should take another look at that program, even though it would be more work to do it in-house and would cost more. Mr. Todd suggested doing the work in-house in high visibility areas, as he gets calls about plots not being maintained and Staff are often fixing areas at the last minute.

Ms. Perkins asked how that program is managed now and asked if volunteers are self-motivated or if there is management internally by Staff. Mayor Copelof said Katherine Poe in the Planning Department runs the adopt-a-greenspace program, which is larger than downtown. Ms. Poe also does the annual recertification, reaches out to volunteers to see if they want to sign up for the next year, obtains volunteers' signatures on the agreements that outline their responsibilities, and reminds volunteers when areas are not maintained. When reminding volunteers, she asks if they still want to maintain that space or if they want to turn in their area and leave the program. Mayor Copelof added that some volunteers are motivated and take pride in the area they care for, and some volunteers have to be constantly reminded. Mr. Ray said the purpose of the program has always been to support public works because it is ultimately the City's responsibility to ensure that the work gets done and looks nice. Mayor Copelof said public works does the bigger things, like putting mulch in all the planters, and volunteers are only responsible for picking up trash, ensuring the mulch isn't getting on the sidewalk, weeding, and other light work. Mr. Daniel said before we abandon the volunteer program, maybe we need a more proactive management style instead of being reactive and waiting until it is too late.

Mr. Todd said his suggestion was not to abandon the volunteer program, but to push the volunteer plots further away from the core of downtown and to have public works handle the landscaping in the core area. Mr. Daniel said he thinks that was the original expectation. Ms. Perkins said her question is whether the City has the manpower and funding to do that work. Mr. Ray said he thinks we have to, and Mr. Todd said if the budget is approved with the 3 new Public Works positions, he thinks it will help that effort. Staff has given some downtown areas back to Public Works, such as Clemson Plaza and City Hall, as they proved to be too much work for volunteers. Mr. Todd said they applied the adopt-a-greenspace program to Franklin Park and it has gone extremely well. Mayor Copelof said the gardens at the Depot and the dog park are both under the program and have had a lot of work done.

Ms. Spreen said the next easy project involves wayfinding and signage, and in cities with tourism, there are always ways to improve consistency and connectivity for visitors. Instead of reinventing the brand, she suggested finding ways to add in consistent branding for signage to make it identifiable as you move throughout the City. Creative signage that includes distances and times may help people feel like places are not that far and are more walkable than perceived. Ms. Spreen said parks and recreation funding can include urban trails that connect to the downtown area.

Another easier project is bike boulevards and bike lanes. Ms. Spreen said a point of focus is the bike lane on Main St., as it will bring people from the trail to downtown. Part of the masterplan was to ensure connectivity across neighborhoods and that bike boulevards can bring people to town from different areas. It will also allow people to choose different forms of travel and routes that suit their comfort level.

Ms. Spreen said we are not going to solve these problems today, but she wanted to highlight grant opportunities given that many grants take a substantial amount of planning and strategizing on how to frame the application in a way that aligns with the grantor's priorities. BUILD grant awards will be announced this month, so Ms. Spreen recommended looking at the applications that received funding to better understand what successful applications look like and using those as an opportunity to strategize. There have been changes to the program and its priorities, so aligning our proposal with the program's priorities will give the City the best chance to be successful. The Notice of Funding Opportunity is issued in December and the application is due in February, requiring a quick turnaround time. Ms. Spreen added that last year, there was a focus on connecting other projects and leveraging other sources of funding to show that the applicant is not entirely dependent on the grant.

Another funding opportunity is the Safe Streets and Roads for All (SS4A) grant through NCDOT; although, Ms. Spreen said she is less familiar with this grant and is not positive that we would qualify. It focuses on safety and roadway improvements that improve the likelihood of surviving a crash. She added that the City may need to apply for a grant to conduct a study, rather than to implement a project, as the process is data driven and requires a lot of information so you can say if this project gets funded, it will result in a certain improved outcome. Applying for a planning or demonstration grant would develop the data to support an application in the future.

The Rural Downtown Economic Development Grant (RDEDG) is more reliant on State funding. There has been some discussion about applying for the grant in relation to the Co-Ed Theatre and being able to qualify for a larger amount of funding because it is tied to development and job creation. One option is to see whether streetscaping could be added in to bigger improvements at City Hall.

Mr. Ray said he has looked at the BUILD grant and the feasibility of applying. From his understanding, the City's application needs a strong transportation component. Ms. Spreen agreed and mentioned that NCDOT already has several projects planned in the next few years so it would be helpful to see if any of the improvements could build off of DOT's projects. Mr. Ray stated that the City has applied for the BUILD grant twice in past years and included many different components, but the City's application did not score very high. Mr. Daniel said that the grant's structure and priorities have changed, so that would change our strategy and possibly improve our chances of success. Mr. Todd said he thinks that if we want to go for that grant, someone needs to be looking at it now and it probably needs to be someone we hire. Mr. Ray agreed and said combining our application with the circulation study's recommendations and streetscaping would make a strong application.

Mr. Daniel asked if Mr. Ray is talking about the comprehensive traffic plan that we will talk about later and if the couplets are different. Mr. Ray said they are the same, but the couplets are just one option being considered. Mr. Daniel asked if that is the same as what will be discussed at the Council meeting on Monday. Mr. Hooper said the document on Monday concerns circulation in a broad sense and posits that something needs to be done, but the circulation study is looking at what actually needs to be done. Mr. Hooper said several options are being considered and if it is not a one-way pair, it will be significant intersection improvements. He agreed with Mr. Ray that if you take the Downtown Master Plan projects and pair it with the circulation study recommendations, it will be a strong application. Mr. Hooper said the study will probably not be ready and endorsed by the time the application for the BUILD grant is due for the coming year, but it would be ready for the year after. Mr. Daniel said he thinks that this ties in with the request for a budget update because the funding for hiring a grant writer will be coming from this Committee's budget. He does not think we have the money right now to do that, as $20,000 was used from the fund last week to pave Pisgah Health's parking lot in exchange for a strip of land that will allow the City to enlarge its parking lot and the City's contribution to the fund was greatly reduced this year.

F. Budget Update for Downtown Master Plan Committee's Funding

Mr. Hooper stated that an estimate of the available balance in the Downtown Master Plan Fund on July 1st will be somewhere between $43,000 and $53,000. The difference is because the City is negotiating with Platt on the amount that they are reimbursing the City for the work performed in Times Arcade Alley. Mr. Hooper said we are in a little dispute regarding the amount Platt actually owes the City. If Platt reimburses what they want, it will be $43,000 and if they reimburse what we want, it will be $53,000, but it will probably be somewhere in the middle.

Ms. Perkins asked with the budget being passed next week, how much money will be earmarked for Downtown Master Plan. Mr. Hooper said there will be a $47,500 contribution from the General Fund and an $11,000 contribution that the City gives to Heart of Brevard to deposit into the Downtown Master Plan Fund. The $58,000 will take the fund out of the red because with the commitments made in this fund, it is in the red. The Fund needs the $58,000 to get back in the black with a balance of about $50,000. Ms. Perkins asked if that means dollars that are already expended from the current budget. Mr. Hooper said committed, not expended. Ms. Perkins asked if that equates to half of a penny. She said in the past, a certain amount has been allocated to the Downtown Master Plan Fund and it was reduced, and it looks like it has been reduced again. Mr. Hooper said it is about a quarter of a penny. A penny on the tax rate is about $200,000 and $50,000 is about a quarter of that.

Mr. Todd said it would help him if the Committee could look at the different categories of projects on Ms. Spreen's spreadsheet and tell him what category of projects they want to focus on first. He added that it is not to pigeon hole us into one area, but he would like to know where to focus our efforts. Ms. Perkins asked for

what timeline considering we would not be applying for the BUILD grant for 2 years and we are looking at a budget of $50,000. Mr. Todd said excluding the timeline and funding, he is asking for a broader sense of what the Committee would look to first, as it may impact the types of grants that Staff are looking for. He added that we all want to complete the entire $52 million, but we have to start somewhere. Ms. Bentley said this Committee has discussed wayfinding and signage for at least the last 2 years and asked if we know when we will have the results from the parking study. Mr. Ray said by the end of the year. Mr. Daniel said he cannot answer the question, so he defers to the other members of the Committee.

Mr. Hooper said while it will not be popular, he does not think you can do much until we know the results of both the circulation study and the parking study because if either of those recommend significant changes, then it could materially affect what the projects look like and which ones they want to do to complement the changes recommended by either of the studies. He added that he knows there is an urge to keep the momentum going but we may be getting ahead of ourselves if we pick a big project to focus on without knowing what those two plans are going to recommend. Mr. Daniel said to add on to the funding conversation, we do not know what avenues those two studies may open up.

Ms. Perkins said her perspective is that for over 30 years, the Committee has been trying to work on a core Downtown Master Plan and Streetscape implementation plan, so that would be number 1 and the rest of the elements would fall in some type of priority behind it. She said it is hard to prioritize when we do not have the money.

Mayor Copelof said she thinks we could make a difference by focusing on the other alleys while we wait to apply for the BUILD grant. She added that alleys are contained projects, will not be impacted by either the circulation or parking studies, and create niches that enhance downtown. She would focus on things that will improve downtown and aren't necessarily tied to the big projects that will change everything and cause us to waste our money. Ms. Bentley said to some degree, she agrees with Mayor Copelof because those places are not going to change, are part of what makes Downtown interesting, and are good place for residents and visitors.

Mr. Chapman said it is hard to prioritize when he sees the cost, so he leans toward something that is realistic. He said signage and wayfinding because it can be easily changed and you can design it in a way that it can be repurposed even if the studies come back with changes. If the studies generate some redirection, it is not a huge impact or sunk cost. Signage also yields immediate benefit to the people visiting town. He added that in the future, if this Committee is responsible for identifying priorities, it would help to have some parameters, such as a grant amount.

G. Circulation Study's Consideration of One-Way Couplets

Mr. Ray said the Downtown Circulation Study is a $200,000 project, of which the City gave $10,000, the County gave $10,000, and the State gave $180,000. The

steering committee includes Mr. Hooper, Mr. Ray, Mr. Todd, Mr. Bland, Chief Wentzell, Ms. Bentley, Vicki Eastland of Land of Sky, Clark Lovelace of the TDA, Scott McCall of the TAC, Ashley Minery of Transylvania County, and Daniel Sellers, Steve Williams, and Troy Wilson from NCDOT. Mr. Ray said they are looking at future projections of traffic conditions and operations analysis for the next 20 years and are evaluating 8 concept plans. They are about to start the engagement and activity process to obtain feedback from focus groups. Focus groups include NCDOT, downtown merchants, and big truck groups, in addition to 2 rounds of public engagement. The timeline is tricky because they are requesting an extension to increase the amount of time for meaningful engagement, and the proposed end date would be at the end of the year. Ms. Bentley said she heard today that they are willing to be flexible and they will look to schedule the Heart of Brevard (HOB) focus group, which is not necessarily downtown merchants, in August. It is undetermined as to whether the HOB focus group should be the Board of Directors or downtown business owners. Ms. Bentley said she has pushed for 2 groups because those are different groups of people, but at a minimum, it would be the Board of Directors, major property owners, business owners, and partners who do not fit into other boxes but would still be impacted, such as Brevard College and the Music Center.

Mr. Ray said the information is very dense, so they are trying to find ways to make it digestible for the public because even the committee was struggling to understand some of the analyses. He said it took extra time to get through so that is why they extended the timeline.

Ms. Perkins asked if there were 8 possibilities and Mr. Ray confirmed. Ms. Perkins said on McAdams website, the circulation study is listed as a project and it says, "The City of Brevard and the Land of Sky RPO have hired the McAdams team to study and evaluate three alternative scenarios to improve traffic flow along US 64 / US 276 while ensuring safe, efficient access to downtown Brevard for all travel modes...One scenario under consideration is converting the current couplet into a more efficient one-way pair system to reduce delays and conflicts between freight, commuters, and nonmotorized users." She said by reading that, it feels like the one-way couplet is the lead idea and as a downtown merchant, a former member of Transylvania County's Economic Development Advisory Board, that is concerning to her. She added that this was a consideration decades ago and a dedicated group worked with DOT to transition from 2 lanes in each direction to the uneven couplet system in place now. Ms. Perkins said she does not think the reasons behind the uneven couplet has changed, which was to move traffic efficiently and safely, and to maintain the integrity of the core economic center. She added that it maintains visibility and keeps the City feeling like a small and quaint town.

Ms. Perkins stated that there is a $50 million hotel project that is planned and moving forward that will be massively impactful to economic development for downtown, the community, and the future and she believes that project will be in dire jeopardy if one-way pairs move forward. She said there has also been major investment from Pardee, who spent millions of dollars to build a facility that faces

Broad St., and if you have one-way streets, people coming into town are going to see the backside of that investment. She wanted to implore those at the table who make these decisions that this option would be detrimental to downtown. Ms. Perkins noted that Durham has had one-way streets in their downtown and just voted to change that due to safety and economic development. She said they are looking at a paper that says we see the value in eventually investing $52 million in the City, but she does not know if there will be a reason to if there will be one-way streets.

Mr. Ray said this will all be information that is included in the public engagement process, which has not even started, and right now, they are working on modeling, analysis, and scoring intersections. Mayor Copelof asked who ultimately makes the decision because they are State roads. Mr. Ray said City Council will make a recommendation and pass a resolution on what they prefer and he thinks that DOT will listen to it and is sensitive to what the City wants. He added that Ultimately, they are State roads so DOT has authority over it. Ms. Perkins said DOT is carrying the message because the hotel developers met with DOT and their takeaway was that one-ways are being considered and there may be one-way streets.

Mr. Hooper said even if there was a consensus on the changes today, it would still need to be run through DOT's STIP formula, compete with other regional transportation projects, and then if it is competitive, it would still need to wait for funding by the General Assembly, be put on the list, and have design work done. So even if there was consensus, it would be 10 years before any construction would start. Committee members said that is not reassuring to investors or downtown.

Mr. Daniel asked what role this Committee would play in the process and the reason he asks is because maybe this conversation could take place in the proper venue. He added it was very important to have this information. Mr. Hooper said if Mr. Daniel is asking if he thinks this issue should be considered by a Committee to make a recommendation to Council, then no, because there are other Committees that also have an interest in the outcome, such as the Public Safety Committee. To him, this goes in Council's decision bucket because it is an umbrella item that would go straight to Council for consideration. Mr. Daniel said DOT does not do studies just to get information, they do studies because they want to do something, so there is a real concern. Mr. Hooper said something needs to be done because the way it exists is inefficient, has long lights, and has pedestrians crossing unsafely against lights. He added that the do-nothing option has been eliminated, but there are several options being considered that do not involve reversing the unbalanced couplet. He said one of those scenarios will likely move forward, but improvements are needed and it cannot stay as is. Mr. Ray said the City is happy to participate in the steering committee and ultimately, they will package it up to give to Council for a decision.

H. Public Comment

There were no members of the public that spoke during public comment.

I. Set Date for Next Meeting – Wednesday, July 8, 2026 at 3:30pm

The next meeting was scheduled for Wednesday, July 8, 2026 at 3:30pm.

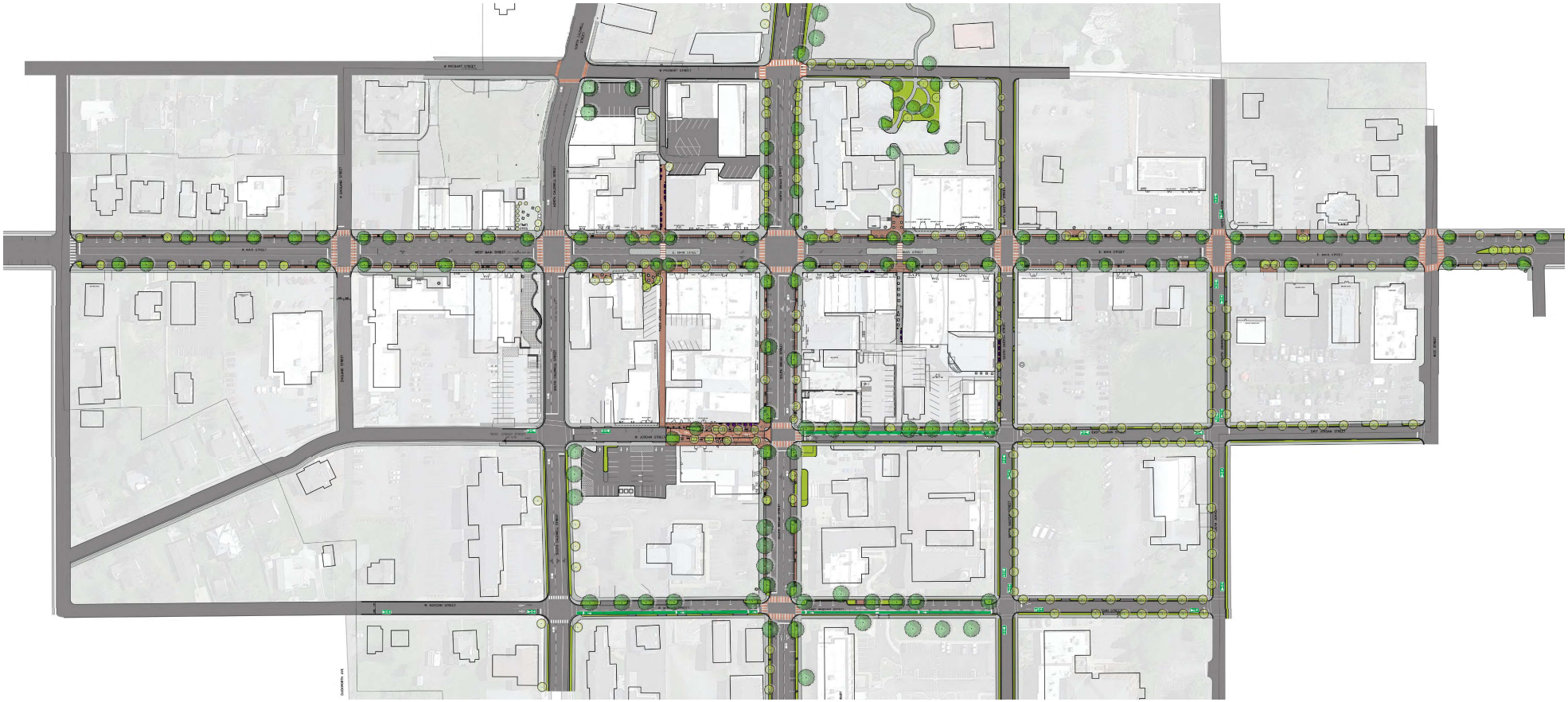
J. Adjourn

There being no further business, the meeting was adjourned at 5:05pm.

Minutes Approved: August 12, 2026

X _____
Gary Daniel, Committee Chair
Lauren Wise, Committee Vice Chair

X Shawnee A. Cummings
Shawnee Cummings
Assistant to the City Manager



Brevard Downtown Master Plan Implementation Updates

June 10, 2026

Brevard Downtown Master Plan and Streetscape Implementation Plan

ID	Project/Scope	Status	Priority	Project Budget (magnitude)	Project Budget (estimated)	Notes
	Gateways					
1	**North Broad/Caldwell Street Gateway Signage and Landscaping**		High	$$$$	$312,000	R5800 delayed to 2029; Additional time needed for coordination with NCDOT bid and construction schedule
2	**North Broad new painted crosswalks**	Partially Complete				2 crosswalks complete - Caldwell/King and Caldwell/French Broad
	North Broad new painted crosswalks		High	$$$	$74,000	5 crosswalks remaining, Requires NCDOT approval
3	**North Broad Stamped and signalized crosswalks, sidewalk extension, and landscaped medians**		Medium	$$$$$$	$7,000,000	$70,000 each stamped crosswalk if completed by NCDOT
4A	**South Broad Gateway: Signage, painted crosswalks, painted sharrows, re-striping the street**		Medium	$$$$	$200,000	
4B	**South Broad Gateway: Stamped and signalized crosswalks, sidewalk extension, landscaped median, stormwater, and bury overhead utilities**		Medium	$$$$$	$840,000	
5	**East Main Gateway: Signage and painted sharrows**		High	$$$$	$212,000	
6	**East Main Gateway: Stamped and signalized crosswalks, landscaped median, sidewalk repairs, stormwater, and bury overhead utilities**		Medium	$$$$$$	$2,200,000	

ORDER OF MAGNITUDE BUDGETS/SCHEDULE PROVIDED FOR PLANNING PURPOSES ONLY.

LEGEND	BUDGET	
Indicates partial scope of work completed	$	$25,000 or less
Indicates completed work	$$	$25,001-$50,000
Indicates project scope that may be broken out as separate projects	$$$	$50,001-$100,000
Indicates project scope to be removed	$$$$	$100,001-$500,000
Indicates individual task	$$$$$	$500,001-$1,000,000
	SSSSSS	$1,000,000+

Brevard Downtown Master Plan and Streetscape Implementation Plan

ID	Project/Scope	Status	Priority	Project Budget (magnitude)	Project Budget (estimated)	Notes
	Bike Boulevards					
7	**Morgan Street: Restriping with bike lane/sharrows and adding signage**		High	$$$$	$142,000	potential net increase in onstreet parking
8	**Morgan Street: Sidewalk extensions, greening, stormwater, and bury overhead utilities**		Medium	$$$$$$	$2,700,000	
9	**East Jordan Street: Restriping with bike lane/sharrows and adding signage**		High	$$$$	$147,000	potential net increase in onstreet parking
10	**East Jordan Street: Sidewalk extensions, greening, stormwater, and bury overhead utilities**		Low	$$$$$$	$2,885,000	
11	**West Jordan Shared Street: Restriping with 2-way traffic to parking lot and bike lane/sharrows, paint parklet, outdoor seating, planters/signage to restrict eastbound traffic**		High	$$$$$	$575,000	
12	**West Jordan Shared Street: Permanent curbless street constructed, street lighting, landscaping, stormwater, and bury overhead utilities**		Medium	$$$$$$	$2,240,000	

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	$$$$$$	$1,000,000+

Brevard Downtown Master Plan and Streetscape Implementation Plan

ID	Project/Scope	Status	Priority	Project Budget (magnitude)	Project Budget (estimated)	Notes
	Connector Streets/Alleys					
13	**Times Arcade Alley: Signage to limit thru traffic**	Complete	High		N/A	
14	**Times Arcade Alley: Change the surface of the alley (concrete); stormwater; lighting; remove 2 parking spaces to add outdoor seating and create safer pedestrian environment**	Complete	High		N/A	
	Decorative Features, Controlled entry mechanism	Is this still valid		$$$		Recommend considering this project is complete and remove scope
15	**North Alley: Change the surface of the alley with stamping, painting, or new pavers; lighting; decorations; smaller tables/mounted tables**		High	$$$$$	$545,000	includes pedestrian and vehicular area
16	**Probart Street Parking Lot: Paving, bury overhead utilities, stormwater, loading area, covered bike storage, and pathways from parking to North Alley**	Is this still valid	High	$$$$$	$950,000	Improvements on private property
17	**South Alley: Change the surface of the alley with stamping, painting, or new pavers; lighted bollards; decorations; landscape clean up; screening; bike racks/planters**		Medium	$$$$	$406,000	
18	**Gaston Street: Mural wall and signage to parking**		Medium	$$$$	$106,000	new mural near Main St created by others
19	**Gaston Street: Sidewalk extension and greening, corner bump-outs, covered bike storage area/rack; bury overhead utility lines**		Medium	$$$$$$	$5,800,000	

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Indicates partial scope of work completed	$	$25,000 or less
Indicates completed work	$$	$25,001-$50,000
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Indicates project scope to be removed	$$$$	$100,001-$500,000
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	$$$$$$	$1,000,000+

Brevard Downtown Master Plan and Streetscape Implementation Plan

ID	Project/Scope	Status	Priority	Project Budget (magnitude)	Project Budget (estimated)	Notes
	Primary Streets					
20	**West Main Street: Restriping the road with proposed bump-outs, closed curb cut, crosswalks, lane widths, and sharrows; temporary barriers and planters; and parking signage**	Partially Complete	High	$$$	$118,500	Cost for remaining scope
	Temporary barriers/planters			$$		cost included in total above
	Painted sharrows			$$		cost included in total above
	Parking signage			$		cost included in total above
21	**West Main Street: Intersection bump-outs ; sidewalk extensions; landscaping; stormwater; loading zones**	Partially Complete	High	$$$$$$	$7,700,000	Cost for remaining scope
	Intersection bumpouts (Broad St only)	Complete				
	Stamped crosswalk (England, Caldwell, Broad)	Complete				
	Street lighting			$$$$		Lease or purchase options available; cost included in total above
	Sidewalks between bumpouts			$$$$		cost included in total above
	Midblock Crossing			$$$		Approved by NCDOT pending established loading zone
	Tree replacement/enlarged wells			$$		Budget per tree well; cost included in total above
	Streetscape Complete Blocks from Oaklawn to Caldwell			$$$$$$	*$2,600,000*	average cost per block; cost included in total above
22	**East Main Street: Restriping the road with proposed bump-outs, bus stop, crosswalks, lane widths, and sharrows; temporary barriers and planters; and parking signage**	Partially Complete	High	$$$$	$118,500	Cost for remaining scope
	Temporary barriers/planters			$$		cost included in total above
	Painted sharrows			$$		cost included in total above
	Parking signage			$		cost included in total above
23	**East Main Street: Intersection bumpouts; sidewalk extensions; landscaping; stormwater; Electrical/Food truck power, mid-block crossings and loading zone**	Partially Complete		$$$$$$	$9,000,000	Cost for remaining scope
	Intersection bumpouts (Broad St only)	Complete				
	Stamped crosswalk (Broad, Gaston)	Complete				
	Intersection bumpouts additional blocks/stormwater			$$$$$$		cost included in total above
	Mid-block crossing			$$$$		Approved by NCDOT with dedicated loading zone;cost included above
	Sidewalks between bumpouts			$$$$		cost included in total above
	Tree replacement/enlarged wells			$$		cost included in total above
	Stamped crosswalk (Johnson and Rice)			$$$$	*$140,000*	$70,000 each if completed by NCDOT; cost included in total above
	Streetscape Complete Blocks from Gaston to Rice			$$$$$$	*$3,000,000*	average cost per block; cost included in total above

Brevard Downtown Master Plan and Streetscape Implementation Plan

ID	Project/Scope	Status	Priority	Project Budget (magnitude)	Project Budget (estimated)	Notes
24	**South Broad Street: Restriping the road with proposed bump-outs, loading zones, crosswalks, lane widths, and sharrows; temporary barriers and planters; and parking signage**		High	$$$$	$395,000	
25	**South Broad Street: Intersection bump-outs; sidewalk extensions; landscaping; stormwater**		High	$$$$$$	$9,700,000	rebuild, does not include gateway signage
26A	**West Main Street Bike Lane-Paint only**	NEW		$$$	$80,000	multiple options in consideration - no longer NCDOT
26B	**West Main Street Bike Lane - Repave/paint**	NEW		$$$$	$250,000	multiple options in consideration - no longer NCDOT
	Miscellaneous					
27	**Speed limit reductions**		High			potential for additional speed limit reductions
	Speed reduced by Brevard College/Plaza	Complete				with new signalized crosswalk
28	**Improve the existing pedestrian signals at intersections**		High			
29	**Smart Zones loading zone pilot program/data gathering study**		Medium			
30	**Other loading zone strategies**	In Progress	Medium			
31	**Surface parking lot agreements and coordination**	In Progress	High			HOB Pilot program in process
32	**On-going tree replacement**		High			
33	**Speed/Noise enforcement**	In Progress	High			
	Engine brake ordinance established	Complete				
	More visible Engine Brake signage to be installed	Complete				
34	**Parking enforcement**		High			

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	SSSSSS	$1,000,000+

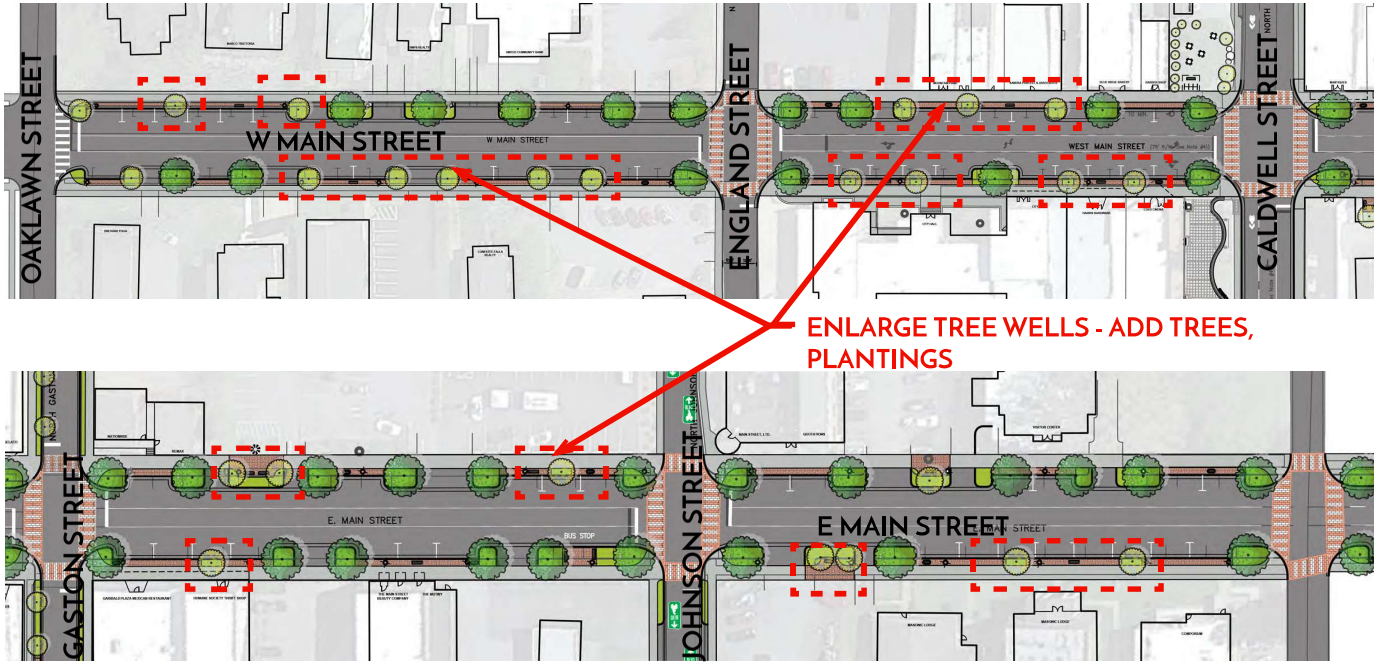
TOTAL **$52,708,000**

excludes temporary/previously "near-term" projects

Potential Projects

Street Trees / Infill Landscaping

- Enlarge selective tree wells to maximize root/planting area
- Develop plan and design for incremental implementation
- Prioritize outer blocks lacking trees
- Reallocate downtown planters for more consistency
- Maintenance plan



Potential Projects

Signage and Wayfinding

- Improved wayfinding with consistent branding
- Promote pedestrian travel, bike lanes and boulevards
- Access to vehicular parking
- Promote Connectivity to outdoor recreation, cultural centers, points of interest

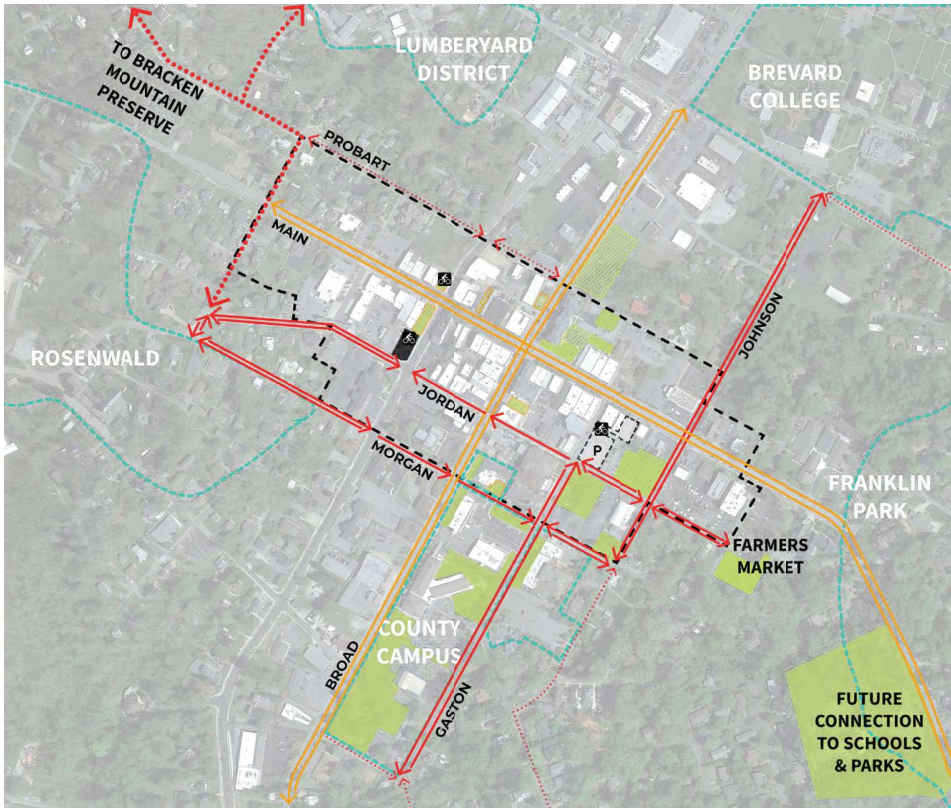
Potential to fund signage/wayfinding in combination with:

- The North Carolina Parks and Recreation Trust Fund (PARTF)
- Tourism
- Rural Downtown Economic Development Grants

Potential Projects

Bike Boulevards / Bike Lanes

- Establish dedicated bike routes with signage, pavement markings, and promotion
- Provide bike racks in key locations for long- term and short-term use
- Promote connectivity to/from downtown neighborhoods and outdoor recreation
- Main Street bike lane to England Street/Clemson Plaza
- Enhance connectivity between primary and secondary streets and off-street parking areas
- Limited to no dependencies on other agencies



Future Grant Opportunities

Better Utilizing Investments to Leverage Development (BUILD) Grant Program

- FY26 BUILD Grant awards to be announced June 2026
- Begin planning for FY27 submission
- Notice of Funding Opportunity issued in December, application due February
- Consider grant-writing assistance

FY26 Priority merit criteria include:

- Safety
- Environmental sustainability
- Quality of life
- Mobility and community connectivity
- Economic competitiveness and opportunity, including tourism
- State of good repair
- Partnership and collaboration
- Innovation

**May fund surface transportation components that support housing projects*

Future Grant Opportunities

Safe Streets and Roads for All (SS4A) - USDOT

- Supports regional and local initiatives to prevent roadway fatalities, which frequently funds complete streets, pedestrian crossings, and streetscape design
- Proposals demonstrating collaboration with first responders, fire services, law enforcement, or trauma system partners and/or ways to improve post-crash survivability are likely to be more competitive
- Emphasizes safety benefits to kids, families and the local economy
- Planning and Demonstration Grants
- Implementation Grants

Requires:

- Action Plan
- Robust stakeholder engagement
- Data-driven strategies
- Grant-writing assistance

Other Funding Opportunities

Larger projects include significant infrastructure, upgrades - how to leverage combination of various projects and funds into one project:

- Rural Downtown Economic Development Grants (RDEDG)
  - *Possible streetscape improvements integrated with future rehabilitation of City Hall (tied to job creation) - consider timing and potential for Co-ed Theater grant application*
  - *Future County Courthouse rehabilitation*

- Local Assistance for Stormwater Infrastructure Investments Program (LASII)

May 19, 2021 Scale: 1" = 50'

The City of Brevard | Downtown Master Plan & Streetscape

ARBOR ENGINEERING

DOMOKUR | ARCHITECTS

Brevard Downtown Master Plan and Streetscape Implementation Plan

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	Miscellaneous					
27	**Speed limit reductions**		High			potential for additional speed limit reductions
	Speed reduced by Brevard College/Plaza	Complete				with new signalized crosswalk
28	**Improve the existing pedestrian signals at intersections**		High			
29	**Smart Zones loading zone pilot program/data gathering study**		Medium			
30	**Other loading zone strategies**	In Progress	Medium			
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33	**Speed/Noise enforcement**	In Progress	High			
	Engine brake ordinance established	Complete				
	More visible Engine Brake signage to be installed	Complete				

Brevard Downtown Master Plan and Streetscape Implementation Plan

ID	Project/Scope	Status	Priority	Project Budget (magnitude)	Project Budget (estimated)	Notes
34	**Parking enforcement**		High			

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BUDGET	
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$$	$25,001-$50,000
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$$$$	$100,001-$500,000
$$$$$	$500,001-$1,000,000
SSSSSS	$1,000,000+

TOTAL **$52,708,000**

excludes temporary/previously "near-term" projects

MINUTES
City Council Public Works & Utilities Committee

Wednesday, July 1, 2026 – 3:30 p.m.
City Council Chambers

Members Present:	Lauren Wise, Chair, Council Member Gary Daniel, Vice Chair, Council Member Owen Carson, Citizen Member Mayor Maureen Copelof, Ex-Officio
Staff Present:	Wilson Hooper, City Manager David Todd, Assistant City Manager Wesley Shook, Public Works Director Dennis Richardson, Water Treatment Plant Supervisor Aaron Winans, Wastewater Treatment Plant Supervisor Becky McCann, Communications Coordinator Shawnee Cummings, Assistant to the City Manager
Guests:	Harvey Sankey
Media:	Jonathan Rich

A. Welcome and Call to Order

Committee Chair Lauren Wise called the meeting to order at 3:30 p.m.

B. Certification of Quorum

Assistant to the City Manager Shawnee Cummings certified that a quorum was present.

C. Approval of Agenda

Mr. Carson moved, seconded by Mr. Daniel to approve the agenda as presented. The motion carried unanimously.

D. Approval of Minutes – June 3, 2026 Meeting

Mr. Daniel moved, seconded by Mr. Carson to approve the minutes of the June 3, 2026 meeting as presented. The motion carried unanimously.

E. Project Updates – Mr. Todd presented the following updates:

1. Public Works Update

Mr. Todd compiled a list of updates on work performed by Public Works employees in the past 30 days, outside of their normal scope of work and day-to-day responsibilities.

Water

Leak Checks, Searches and/or Repairs: 10
New Lines Installed: 4
Commercial Taps: 2
Residential Taps: 1
Meter Box Replacement: 2
Meter Check or Repair: 2
Meter Replacement: 1
Hydrant Repair: 1
Chlorinating: Chlorinated 2200' of new 10", 6" and 8" water main at the roundabout (Asheville Highway and 276). After, made 10" water tap for new water line project and dechlorinated 2200' of 10", 6" and 8" water line.
Completed training on the new vacuum truck.
Streets Assist: 1
Sanitation Assist: 1
Sewer Assist: 1

Sewer

Lift Stations: Checked pump run times, inspected wet wells, pulled and cleaned out pumps, mowed and weedeated, used new vac truck to suck up all the grease built up inside wet wells.
Taps: Installed 1 new residential tap.
Locates: 350 (as of 6/26/26).
Meetings: Met several times with contractors and customers. Trained on new Vac Truck.
Line Cleaning: 5,024 feet (as of 6/26/26). Required Footage for 2026: 31,680 feet; Cleaned to Date: 38,385 feet. Exceeded requirement by 6,705 feet to date.
Video Inspections: 4,722 feet (as of 6/26/26).
Streets Assist: 6 (cardboard, recycling and brush collection, street repairs).
Water Assist: 6 (meter replacement, leak checks, replacement of service lines).

Streets & Sanitation

Concrete: Dug out, hand mixed and poured, backfilled, seeded and strawed 40' of sidewalk.
Cold Patch: 10 potholes and 1 utility cut (20' x 6') and leveled up this cut.
Grass Cutting: 9 utility strips, flail mowed 7 roads and trimmed grass and weeds at 25 stops, street and speed limit signs.
Stop Signs: Moved 2 on Probart Street at Railroad Avenue.
Painting: 4 stop bars and 1 crosswalk.
Brush Collection: Retrieved 30 small loads of brush, 5 large loads of brush and 40 bags of brush.
Trash Collection: 217.3 tons.
Recycle Collection: Residential – 31 tons; Commercial – 15.5 tons.
Cardboard Collection: 14.9 tons.
Special Waste Pick Up: 17 loads.
Banners: Put up 4 large banners and 20 small banners.
Water Assist: 2 leaks.

Garage

Completed 177 fleet maintenance work orders as of 6/24.

Building & Grounds

Mowing: Weekly, mowed 36 acres of parks and properties and bike paths.
Sports Complex: Nail, light drag and lined fields for little league (regular season and currently All-Stars).
Dog Park: Replaced yard hydrant.
Repairs: Small engines repaired and maintained.
Train Depot: Cleared several toilet clogs and sewer.
Police Department: Painted offices.
Hap Simpson Park: Painted signs.
City Hall: Completed ALL work orders (set up for meetings, etc.).
Streets Assist: Helped to hang banners on poles downtown.

2. Stormwater Master Plan

McAdams is contracted for the Citywide Stormwater Master Plan and recently completed Phase 1 of the project, which focused on Existing Conditions Analysis. This effort is supported by desktop analysis, geodatabase development and management, analysis of existing stormwater systems, preliminary CIP prioritization planning, and UDO updates.

A draft report was submitted to the City at the end of June to complete Phase 1. This included existing conditions hydraulic modeling results, CIP prioritization, the UDO updates, CCTV reports, and a GIS geodatabase compiling stormwater inventory from Land of Sky and McAdams data collection.

Below is the schedule:

1. Phase 2 completed in fiscal year 2027 (July 2026 – June 2027)
    a. Schematic Design and Identification of Funding
    b. Kickoff for Phase 2 will be in July 2026

Distribution of pipe material and diameter found in field investigations (left) and distribution of structure type and depth found in field investigations (right) are detailed in the charts below.

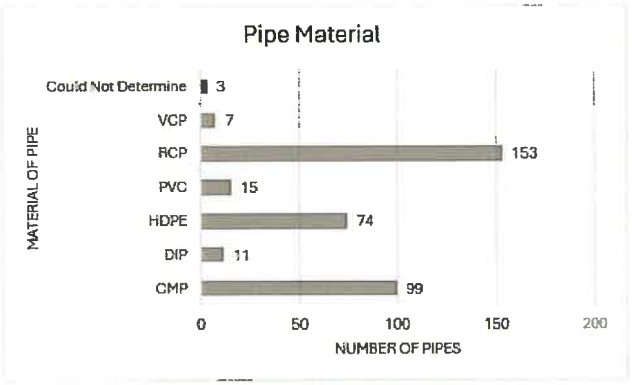


Figure 4: Distribution of pipe materials collected

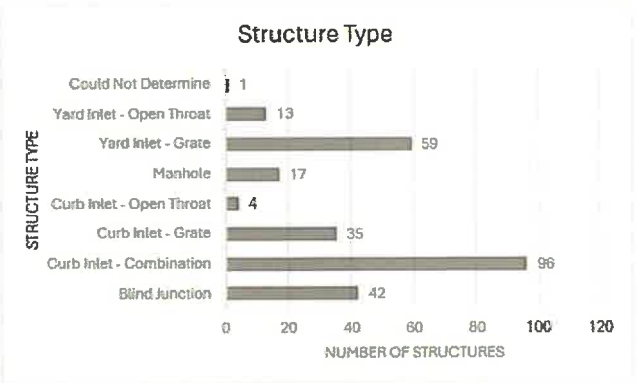


Figure 6: Distribution of structure types collected

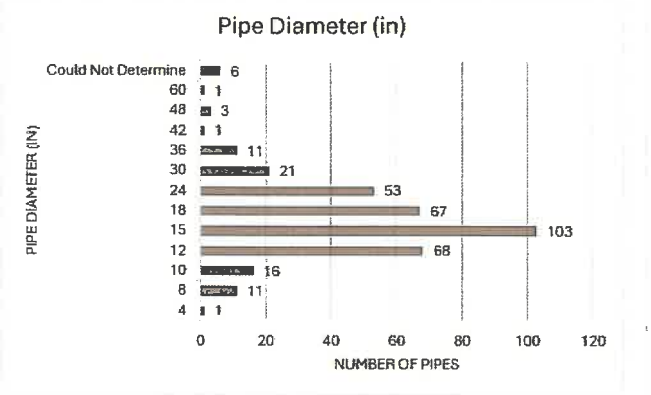


Figure 5: Distribution of pipe diameters collected

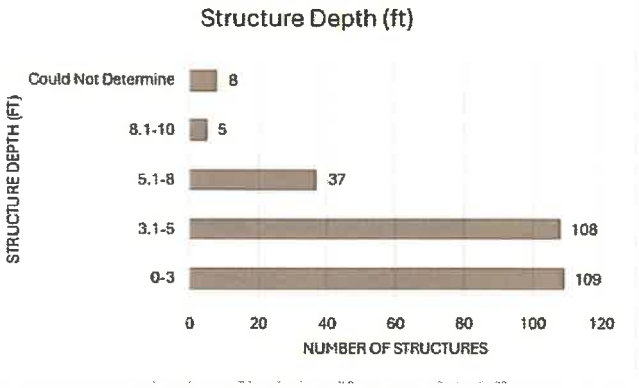


Figure 7: Distribution of structure depths collected

Overview of CIP prioritization matrix and project priority ranking were also provided.

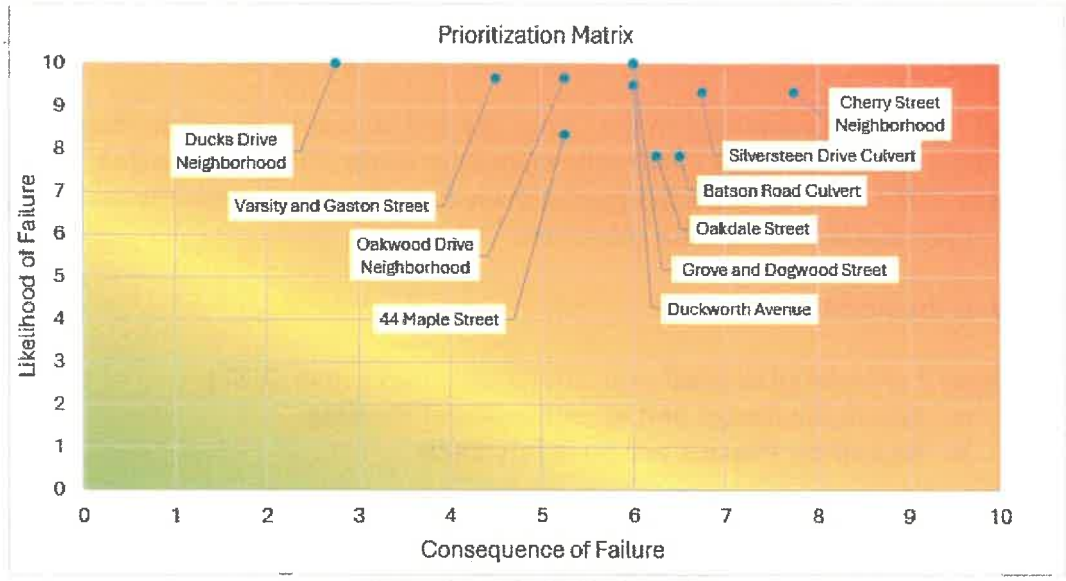


Figure 1: Prioritization Matrix – PWS Results

Table 1: Prioritization scoring overview

Hot Spot Area	Total Score	Priority Ranking
Cherry Street Neighborhood	8.7	1
Grove and Dogwood Street	8.4	2
Silversteen Drive Culvert	8.3	3
Duckworth Avenue	8.1	4
Oakwood Drive Neighborhood	7.9	5
Varsity and Gaston Street	7.6	6
Batson Road Culvert	7.3	7
Oakdale Street	7.2	8
44 Maple Street	7.1	9
Ducks Drive Neighborhood	7.1	10

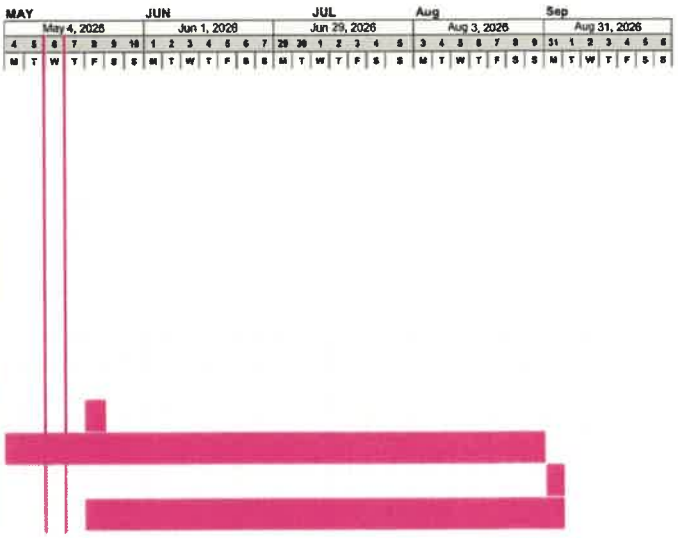
3. Hillview Street Culvert

- The Contractor provided an initial proposal for an alternative pump around scenario that has been reviewed and returned with questions for added detail. This alternative has not been approved by the engineer.
- The schedule for road closures remains as noted in email of 6/24:
  - Cashier's valley road from 6/26/2026 through 7/2/2023
  - Assuming all goes good next week, both roads will remain open the week of 7/6/2026.
  - Assume Hillview closed 7/13-20//26 through 8/7/2026. (contingent upon when our culvert hits the job).
  - Assume Cashiers Valley closed 8/10/2026 - 9/4/2026.
- The Job General Superintendent is Clayton Hensley.
- Correspondence on 6/16 indicated that materials would begin being delivered on 6/19, including traffic control signage, which will initially be bagged (i.e., covered) until it is ready to be made active.
- CADD files were shared with the Contractor on 6/16/26.
- WSP coordinated with NCDEQ regarding the alternative bypass option and confirmed that it is allowable as long as the construction does not extend beyond the approved area. This discussion preceded the current discussion regarding the alternative pump-around scenario, which has not been approved.
- Submittal #1 was approved with comments on 5/27/26.

Hillview St. Culvert

City of Brevard, NC

TASK	PROGRESS	START	END
Existing Conditions Investigation			
Preliminary Design Phase			
Total	100%	11/9/25	11/24/25
Final Design Phase			
Total	100%	11/24/25	1/12/26
Permitting Services			
Total		11/24/25	2/23/26
Issue for Bidding			
4 week bid period	100%	2/20/26	3/24/26
Construction			
Pre-con Meeting	0%	5/8/26	5/8/26
Construction	0%	5/4/26	8/17/26
Close-out	0%	8/17/26	8/31/26
Total	0%	5/8/26	8/31/26



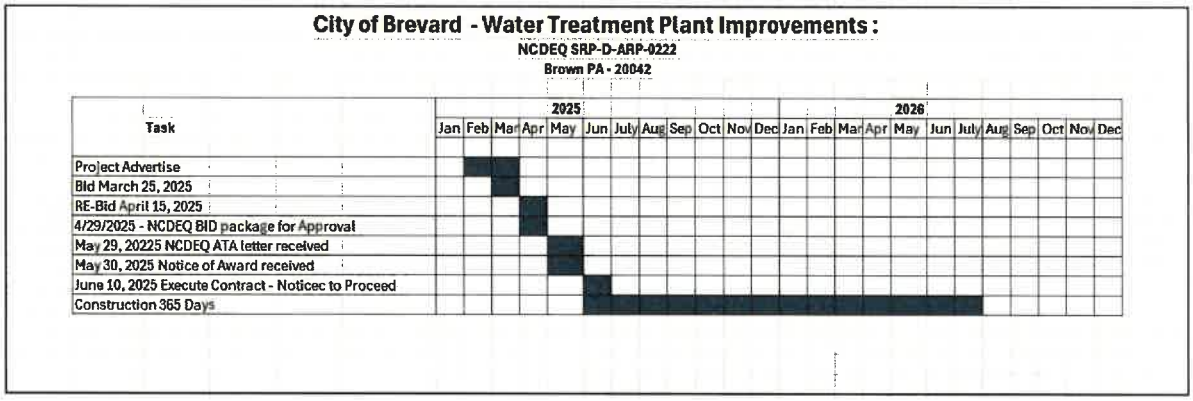
4. Water Treatment Plant Renovation

Work to date:

1. New Clearwell has been disinfected and passed its leakage test (dropped zero inches in 24 hours' time.), in use, and backfill has been started with clean stone.
2. All of the new actuators have been installed.
3. Conduit work and new control panel work continues in the Pump room. See attached.
4. The installation of the equipment in the flocculation basin is completed.

Upcoming work: Work over the next couple of months

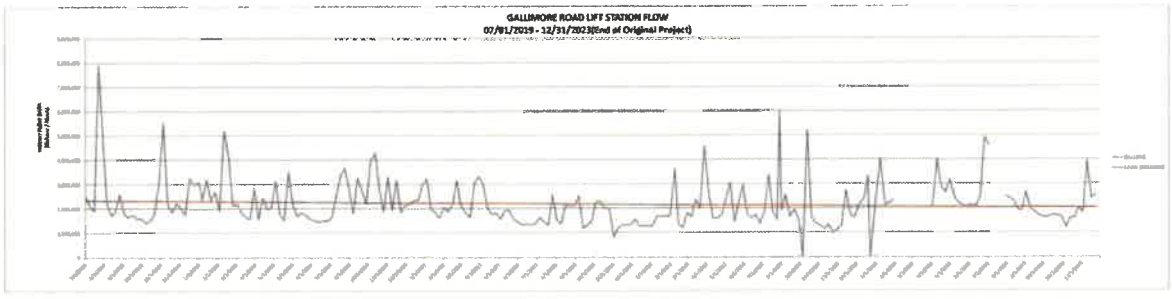
1. Delivery of new pumps in August for installation



5. Gallimore Sewer Rehab Update

Gallimore Basin Sewer Rehab Change Order #2

- The Contractor is currently negotiating with a Sub to perform point repairs along England St and install cleanouts.
- Contractor is overdue in providing an updated schedule.
- 3 sewer services along Caldwell St remain to be lined after point repairs.
- 3 services along England Street to be lined.
- 10 cleanouts to be installed.
- Contractor waiting on Sub to schedule excavation and repair of existing services and installation of cleanouts.
- Contractor appears to be attempting to forgo the repair of the services mentioned above, citing a lack of sub-contractor interest in performing the necessary point repairs. No updated schedule has been provided for this work.
- The Contractor would like to schedule a Teams meeting with the City to discuss closing the project.
- Payment Application #10 remains on hold



6. Sewer Pump Station Rehabilitation Project

Gallimore Road Site

- TP Howard has installed the pump station wet well, grinder vault, meter and valve vaults and has installed the piping between the vaults.
- Site grading has been completed up to side grade to include the removal of unsuitable soils and import of new material under guidance from BLE.
- Creek crossing with the gravity sewer and force main is nearing completion.
- Electrical work has commenced and is the current critical path to activation.
- The contractor has completed the majority of the installation of the gravity sewer and manholes between the new pump station and the existing pump station.

Wilson Road Site

- TPH has installed the new natural gas generator and completed the piping of the gas service to the generator.
- Enbridge has relocated the gas service meter and will be inspecting the service to activate the generator.
- Generator startup and training should occur in July 2026.

Fish Camp Site

- TPH has mobilized to the site and installed erosion control measures and set up the temporary bypass pumps to allow rehabilitation work to commence.
- New valve vault and piping is being installed as well as initial work to install new pumps in the wet well.

General

- Shop drawings and submittals are winding down; all major equipment has been approved.
- Both the Fish Camp and Gallimore Road easements have been finalized, and the paperwork is now complete.

Sewer Pump Station Rehab Project

Task	2025						2026												2027		
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Gallimore Pump Station (12/5/25-7/3/26)					■	■	■	■	■	■	■	■	■								
Fish Camp Pump Station (5/14/26-8/31/26)											■	■	■	■							
Wilson Pump Station (3/26 - 5/26)									■	■	■										
Punch Out & Cleanup (9/14/26-11/19/26)														■	■	■	■				
ARPA Funding Deadline (December 31, 2026)																		★			
CO#1 - Final Completion Date (2/2/27)																				★	

7. WWTP Renovation and Upgrade Project

KCI is continuing to work with their subconsultants to finalize the plans and specifications, while simultaneously wrapping up the permitting and funding approval process necessary for the bidding of the Phase 1 design over the next several weeks. The recently awarded $5M supplemental Helene Funding required preparation and submittal of an Engineering Report and Environmental Information Document (ER-EID). This ER-EID was uploaded to the State's electronic permit portal on June 24th for state review and approval. KCI is targeting mid-July to submit Construction Plans and Specs to NCDEQ for review and approval.

KCI has discussed with Brevard staff pursuing FEMA BRIC funding for Phase 2 but this funding will be limited to site and chlorine contact basin improvements. KCI will continue to work with the City staff on pursuing Phase 2 funding.

The Basin study performed by KCI has been updated to include the expected flows from the Davidson River Village and is being internally reviewed. An updated PowerPoint and figures will be provided to Brevard staff for review.

BREVARD WWTP PER/PHASE 1 & 2 UPGRADE DESIGN - ESTIMATED PROJECT SCHEDULE

KCI TECHNOLOGIES

ITEM #	DESCRIPTION	Duration	2026								2027							
			May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
	Proposed Schedule																	
1	Phase I - Headworks and Aqua Prime																	
3	90% Design	1 Mon																
4	Helene Funding Engineering Report & Approval	2 Mon																
5	Permitting	2 Mon																
6	Bidding Thru NTP	3 Mon																
7	Construction	12 Mon																
8	Phase II - Initial Upgrade																	
9	PER (Full Plant Upgrade Deliverable)	1 Mon																
11	Preliminary Design (Start Date TBD)	6 Mon																
12	Final Design	10 Mon																
13	Bidding & Construction	26 Mon																
14	Phase III - Future Upgrade (TBD)																	
1	Funding Evaluation																	

8. Tannery Smokestack

D.H. Griffin has been awarded the contract to remove both the underground vault and smokestack. The contract was revised to include saving 10 pallets of bricks for use on a future project. D.H. Griffin has ordered the needed geotextile materials and are on hold to start work pending approval of the Environmental Management Plan (EMP) by DEQ.

Our engineer has submitted both the EMP for the vault and the smokestack to DEQ and we are currently awaiting DEQ approval. Initial estimates were as long as 2 months to approve the EMPs. Staff have been working with DEQ in advance of the submittals in hopes of greasing the rails for quicker approval.

Demolition, once started, is estimated to take about a month to complete for the smokestack and a couple of weeks for the vault.

F. Fats, Oils, and Grease (FOG) Code Changes

Mr. Hooper said the FOG program is a service level change in the budget, but it did not get much attention as it was relatively inexpensive. The service level change will be in how we operate and how the rules require businesses to operate. This change to our services was mandated by the State and was something the City had to do.

Mr. Todd gave a presentation (Attachment A) on fats, oils, and grease, and the major changes to the FOG program. When FOG enters the wastewater system, it collects on the top, causes blockages to form in the system, and prevents floats from working properly. Blockages can also result in sanitary sewer overflows.

The FOG program has both a residential and a commercial component. For residents, it is critical that households do not put fats, oil, and grease down the drain. For commercial businesses, particularly food service establishments (FSE), they will need to use an interceptor or grease trap to catch grease that enters the system. Routine maintenance will involve a company that needs to clean the grease trap and dispose of the FOG somewhere other than in the City's wastewater system. Companies in Asheville and Knoxville can use the harvested FOG to make biodiesel.

Mr. Todd explained that we are updating our FOG program because our permit says we must develop and implement an enforceable program, in which the City can take action against users who have not properly installed, operated, and maintained their grease traps or interceptors, or otherwise violated the terms of the enforcement program. In April of 2025, NCDEQ also issued a compliance finding indicating that the City's FOG program is not enforceable, and that the City's Sewer Use Ordinance allows the City to take action against violators who introduce prohibited substances into the collection system. NCDEQ's finding further advised the City to establish a method for documenting and checking non-residential user compliance.

Mr. Todd said the City's UDO is silent on FOG, but the Code of Ordinances has a paragraph stating that any water or waste containing fats, wax, grease, or oil in excess of 100 mg/L is a restricted discharge. Mr. Todd also outlined other sections in the Code of Ordinances where it states that viscous substances, grease, and fatty materials are prohibited. Mr. Carson asked if customers will know how much 100 mg/L is. Mr. Todd said no, but ultimately they will be looking for compliance, which involves a functioning and maintained grease interceptor. Mr. Winans added that it also varies with the amount of wastewater discharged. Mr. Todd said that if 100 mg/L was changed to 0, it would be a prohibited discharge and that is not practical. Mr. Daniel asked if testing is performed at the plant. Mr. Winans said yes, which indicates how much FOG is in the entire system, and he also tests at lift stations.

Mr. Todd said our current FOG program consists of education and outreach, which is on the City's website. In the past, the City mailed out pamphlets containing FOG information with water bills. Per our permit, that should be done twice a year.

The Planning Board approved revised language in the UDO and it is pending City Council approval. The Chapter 17 changes are under the required construction documents, which specify that new construction needs to have a FOG control plan in accordance with Chapter 70 of the Code of Ordinances. Any discussion of FOG in the UDO references the Code of Ordinances, so that all the information is in one place and there are not pieces in both the UDO and Code of Ordinances.

Mr. Todd explained that one of the changes will be to better organize the ordinances. Under Chapter 70: Utilities of the Code of Ordinances, the order of articles is (I) General, (II) Water System, (III) Sewer System, (IV) Water Shortage Response Plan, and (V) Sewer Use Ordinance. They will be reordering the sections so that both water and both sewer sections are sequential. The rest of the changes to the Code of Ordinances are highlighted (Attachment B) and Mr. Todd will walk through them. Staff will be asking the Committee to recommend the changes to the full Council for approval. Mr. Todd also commended the work of Mr. Winans, who put in a lot of time and effort in making the changes to the ordinances.

Mr. Todd said the first change is switching the Water Shortage Response Plan from Article IV to Article III, as explained above. Next, sections 70-91 and 70-92 were changed to reference sections 70-141(A) and (B), as there are additional definitions in that section and it is simpler to have the information in one place.

Mr. Todd said section 70-105: Acceptance of wastewater from private or corporate wastewater companies, was cleaned up and references to digested sludge and FOG were included. He added that the changes have more to do with accepting septage. Mr. Winans explained that when they installed two receival stations, one for septage and one for digested sludge, the code did not define the difference between them even though our fee schedule references two different locations. The code was never updated and since it is already being revised, those changes were made.

The bulk of the changes are in section 70-141 and Mr. Todd stated that they looked at other municipalities' FOG programs and ordinances to see what was in place. While much of the content was borrowed from other cities and counties, Mr. Winans said it is all built off of federal standards and state administrative code. Mr. Todd said much of this section involves defining the pollutants and different ways of looking at what is prohibited. The first change is under section I(2), as it applies to interceptors and grease traps as pretreatment measures.

Mr. Daniel asked about the Code's references to "the director" and asked who that is. Mr. Winans said it would be the director of public works and there are other parts where it could be interchanged with City Manager. Mr. Hooper said he believes it refers to the public works director, but they will clarify.

Section L details the FOG control policy and contains new language. Mr. Todd said it covers how to prevent FOG and addresses different types of establishments, which can include schools, daycares, restaurants, or any other place that prepares food. He added that it could apply to any establishment that uses oily substances and dumps it down the drain, such as a factory that uses oil in its cooling system. Mr. Winans noted automatic carwashes, as they often have oil/water separators. Section L also addresses regular maintenance and the introduction of emulsifying agents. Mr. Todd stated that he and Mr. Winans talked to the Director of Organic Chemistry at UNC Asheville about Dawn dish soap, as it is an emulsifying agent and technically not allowed under the code. He said they do not want to discourage the use of Dawn, as it is usually a good thing, but when the code references emulsifying agents, it is talking about people who pour Dawn down the drain to unclog their pipes. Using Dawn to unclog pipes is problematic, as it temporarily breaks down FOG and allows it to move through a grease trap, but later coagulates in the City's wet wells.

Mr. Todd said section L continues to cover a lot of granular details on FOG and section M, where the UDO points to, covers FOG requirements for new construction. This section gives the City a little more control over FOG in new buildings and grease traps will be required for FSEs. It does not tell FSEs what size interceptor to use, but North Carolina Standard Plumbing Code sizing guidelines are provided.

Section N discusses education and gives introductory information on FOG. Education is the primary means of controlling FOG in a residential setting and while the City will not require residents to install grease traps in their homes, the City is interested in educating residents so they handle FOG responsibly. First, second, and third occurrence actions are listed for residential FOG non-compliance, which includes letters and community meetings. There may be blockages in certain areas if residents pour FOG down the drain because they do not understand the impacts.

Section N also discusses enforcement for businesses and lists the types of enforcement mechanisms, violations, and violation tiers based on severity and frequency. Tiers will indicate the penalty assessed, which can range from a Notice of Violation to lofty fines with repeated, severe instances of non-compliance. Mr. Todd

said in looking at repeated occurrences, they will use their judgment to determine why another occurrence happened. For example, they will need to determine if someone ignored the City's warnings, tried something and it didn't work, or they had an interceptor but did not have it cleaned frequently enough. If they did not ignore the City, it is unlikely that they will be fined for a first or second offense.

Mr. Todd explained program roll out and communication. During the budget preparation, Mr. Winans was able to repurpose an existing position to create a FOG Coordinator position. The FOG Coordinator will work with the Wastewater Collections ORC to find out where the worst blockages are happening and where to focus their efforts. They also plan to administer a customer questionnaire to assess current compliance. It will include questions about the type of business, how FOG is currently handled, if they have an interceptor, and how often it is cleaned. A questionnaire also serves as a heads up that inspections will be coming in the future.

Mr. Todd said they would like to start inspections in problem areas within the next 6 months, but the program rollout will be a soft rollout. Enforcement would not start until about a year out, so that businesses have time to clean their grease traps, obtain a grease trap, and get a Notice of Violation before they get hit with a fine. The City wants to work with customers to either provide education on FOG or direct them to resources that can assist them with compliance. Nurturing the relationship with the County Health Department and Inspections Department will also be critical, as they will be the first ones aware of what new restaurants are doing and who will need to install interceptors. Before opening, a new business will have to show they are meeting North Carolina Building Code, which will include the installation of an interceptor, but the City will want to ensure they are sizing their interceptor per the City's standards, as opposed to the bare minimum that the code requires. Mr. Todd said they want to develop a list of resources related to grease trap installation, maintenance, and repair that can also be provided by the County departments.

Mr. Carson asked if this would be a business opportunity in this area for someone to pick up the grease. Mr. Todd said it would be a good opportunity in the first few years because businesses that want to comply will be seeking that service.

Mr. Todd listed possible outcomes of the program's implementation, including a reduction in sanitary sewer overflows caused by blockages, reduction of BOD and TSS at the WWTP, reduction of odor from FOG, labor cost savings due to fewer blockages, fewer health department violations, cleaner restaurants, and costs to business owners for cleaning, maintaining, and/or installing interceptors.

Mr. Daniel asked who will impose the penalties on businesses and if it will be the FOG Coordinator. Mr. Winans said he would not expect the FOG Coordinator to assess fines and that it will be sent in a letter via Certified Mail by either the City Manager or designee. Mr. Daniel said he would like that to be clear. Mr. Hooper said when this is brought to Council, they will clarify the roles of specific Staff members.

The City's FOG Coordinator has been shadowing Henderson County's FOG Coordinator to see how they do their inspections and what they look for. Mr. Todd said Mr. Winans coordinated that and it has been good hands-on experience to see how they run their program.

Mr. Carson asked if there has been any thought as to how to defray costs for businesses, such as a grant program. Mr. Winans said he has looked, but he has not found any grant programs that provide businesses with funding to do what they should already be doing with regard to FOG. Mr. Todd said in discussing their list of resources, Mr. Hooper asked if we could find local plumbers who are familiar with interceptors and compile a list of local companies who can help.

The next steps are to obtain the Committee's recommendation to the full Council to adopt the proposed changes to the Code of Ordinances, ask the full Council to adopt the proposed changes to the UDO and Code of Ordinances, and implement the "enforceable FOG program." Mr. Todd said there may be things included in the program that we think will work but we may have to tweak certain pieces after a few months because they worked in another City but did not work here. Mr. Carson asked if DEQ allows for that type of correction process. Mr. Todd said yes.

Mr. Hooper added that as part of outreach, he would like to reach out to contractors and tradespeople to let them know the City's requirements are a little different than the State code so that when they are shopping on behalf of customers, they are buying properly sized grease traps. This will help prevent fines being issued to customers who have a grease trap that was not properly sized by a contractor.

Mr. Carson asked with regard to tiers 4-7, if there is a way to positively identify the contributor that is the cause of blockages. Mr. Winans said yes, in multiple different ways. Public works has a camera that, if they keep seeing blockages in the same area, they can work their way upstream with the camera to see where the blockages are coming from. Mr. Todd added that the FOG Coordinator will also be going into the businesses to see what they are doing and will be able to tell which customers are complying. Mr. Winans said businesses are required to have their records for 3 years, which will include every time the grease trap has been serviced.

Mr. Wise said there is a lot of information he would like to read through and he is hesitant to approve all the changes without review. Mr. Daniel said he would agree based on the questions they have had after a brief glance at the material. The Committee agreed to individually send feedback to Staff, and it will be brought for discussion at the next Committee meeting. The Committee also approved of Staff sending the draft policy to NCDEQ for review and feedback.

Committee Comments

Mr. Carson said with regard to Public Works performing 36 acres of mowing, if the City wants to reduce mowing, it could do so by planting wildflowers and reducing

the amount of grass to maintain. Mr. Todd said the majority of the mowing is related to the baseball fields and the requirement by the State to mow the old landfill. Mr. Hooper said he has a few spots in mind that he wants to ask Public Works about, as it may reduce the area by a little.

G. Public Comment

Harvey Sankey said Mr. Todd gave a great presentation and asked if the information is available on the City's website. Mr. Hooper said the City does not have a public report on FOG, but the information will be in the minutes.

Mr. Sankey asked what prompted the FOG code changes, to which Staff explained that when renewing its collections permit, NCDEQ said the City needed an enforceable FOG program, otherwise the permit renewal would be harder in the future. Mr. Sankey asked if this program should have been in place a while ago. Mr. Hooper said thankfully our system was enough to meet minimum compliance and NCDEQ did not pull our permit. They also let us know far enough in advance to allow the City to improve its program before its next permit review. Mr. Sankey asked how many non-residential businesses will need to be inspected. Mr. Winans said over 100. Mr. Sankey asked if businesses will be required to sign a document saying they understand what they have to do, to which Staff said no.

H. Set Next Meeting – August 5, 2026 at 3:30pm

The next regular meeting of the committee will be on August 5, 2026 at 3:30pm.

I. Adjourn

There being no further business, the meeting was adjourned at 4:59 p.m.

Minutes Approved: August 5, 2026

Lauren Wise, Chair, Council Member
Gary Daniel, Vice Chair, Council Member

Shawnee A. Cummings
Shawnee Cummings
Assistant to the City Manager

FOG Program Updates

Fats, Oils and Grease

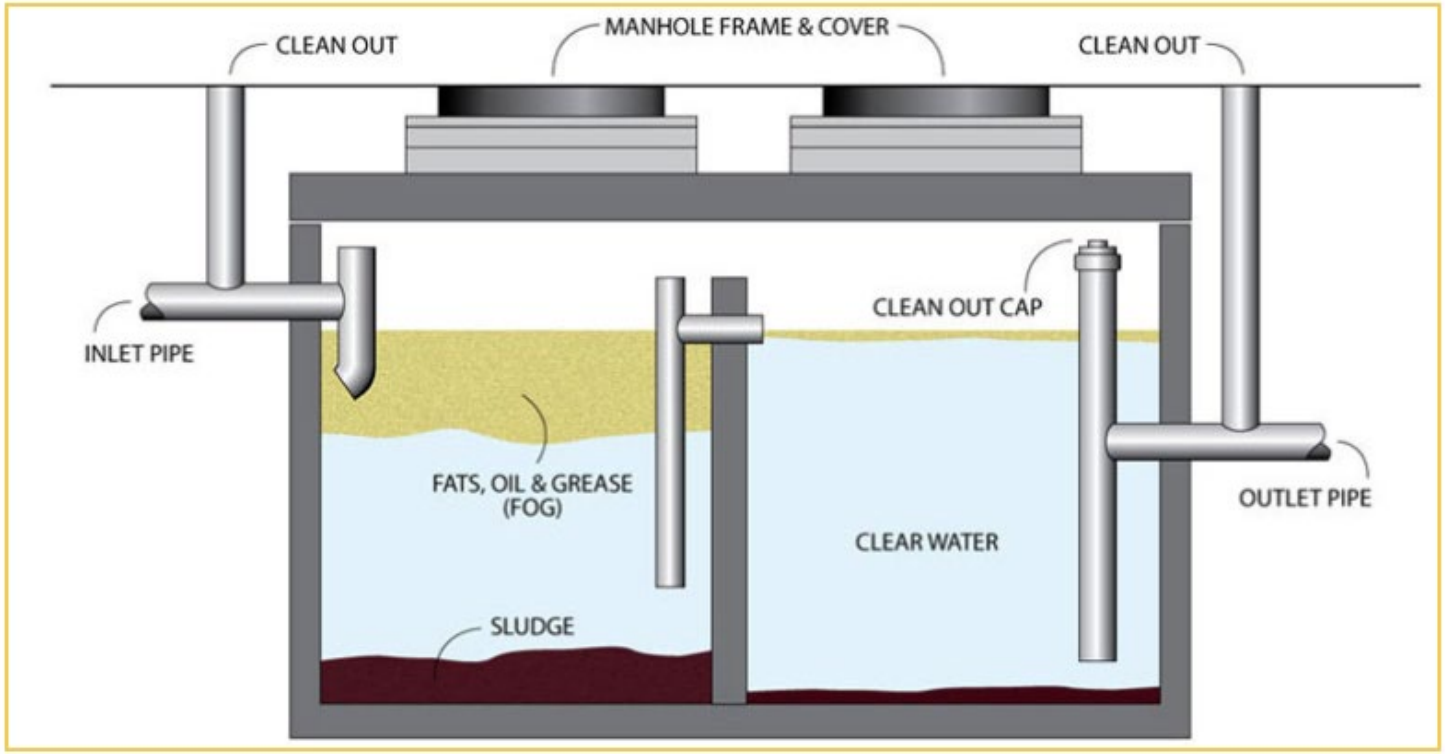
NC DEQ Mandatory Updates to Our Program

Must be an Enforceable Program

What does FOG do to our Sewer Collection System?

How do you prevent FOG?

- Don’t put fats, oils or grease down the drain!
- Install grease traps or interceptors to catch any residual, sundry or accidental spills of FOG, **commercial applications only does not apply to residential**.



Why update our FOG Program now?

Our permit says we are required to have a FOG program and DEQ had a compliance finding in April of 2025

What our Permit Says:

The Permittee shall develop and implement an educational fats, oils and grease program that shall include at least semiannual distribution of educational material targeted at both residential and non-residential users. The Permittee shall also develop and implement an enforceable fats, oils and grease program for non-residential users under which the Permittee can take enforcement against users who have not properly installed, operated and maintained grease traps or grease interceptors as directed or otherwise violated the terms of the enforcement program pertaining to fats, oils and grease. [15A NCAC 02T.0108(b)]

DEQ Compliance Finding of April 2025:

Enforceable grease control program: Per section I.4 of the permit, the permittee shall develop and implement a Fat's, Oils and Greases (FOGs) enforcement program for non-residential users. Brevard's Sewer Use Ordinance (SUO) does allow the City to take enforcement action against violators who introduce prohibited substances to the collection system per Section 70-141 A. While the permit does not explicity require routine inspection of grease traps, the City should establish a method for documenting and checking non-residential users' compliance per Section III.1 of the permit. If any of these responsibilities are delegated to another entity, this should be outlined within the City's policy and kept on file for future inspections.

What does our UDO and Code of Ordinances currently say?

Unified Development Ordinance

The current UDO is silent on FOG.

PART II: CODE OF ORDINANCES

CHAPTER 70. UTILITIES

Cross reference(s)—Buildings and building regulations, CHAPTER 18; poles, wires and conduits, § 62-91 et seq.

State law reference(s)—Municipal authority to operate public utilities, G.S. 160A-312.

ARTICLE III. SEWER SYSTEM

State law reference(s)—Wastewater systems, G.S. 130A-333 et seq.

70-92. Restricted discharges.

No person shall discharge or cause to be discharged the following described prohibited substances, materials, waters or wastes if it appears likely in the opinion of the manager that such wastes can harm either the sewers, wastewater treatment process or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the manager will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

A. Any liquid or vapor having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or that causes wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

B. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.

What does our Code of Ordinances currently say? - continued

- 70-91. Prohibited discharges.
- G. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- 70-92. Restricted discharges.
- B. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.
- 70-105. Acceptance of wastewater from private or corporate wastewater companies.
- A. *General*. Wastewater from private or corporate wastewater companies shall not be accepted for disposal into the city's system. Any discharge of such wastewater, or septage, as defined by this article, into the city's system shall constitute a violation of this article and be subject to such penalties as set forth in Brevard City Code.
- B. *Discharge at city septage pretreatment facility.* Notwithstanding the provisions of subsection (a) of this section, septage may be discharged by private or corporate wastewater companies into the city's system through the use of the city's septage pretreatment facility, constructed and operated for the purpose of receiving such wastes. Such discharges shall be governed by the provisions of this article and will only be permitted when such discharges do not jeopardize the operation of the city's system and its non-discharge permit, the city having sole authority and discretion to make such determinations.
- 4. For the purpose of this section, no septage other than wastewater derived solely from domestic or residential service, containing no grease or fatty materials collected from grease traps or holding tanks, will be permitted for discharge into the septage pretreatment facility.

What does our Code of Ordinances currently say? - continued

- 70-141. General sewer use requirements.

A. *Prohibited discharge standards.*

b. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.

c. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.

n. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the director.

G. *Pretreatment of wastewater.*

2. *Additional pretreatment measures.*

c. Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

Our Current FOG Program

- Our current FOG Program primarily consist of outreach/education.
- In the past we have mailed FOG pamphlets with Water bills, but this has not been done in the last several years. Per our permit and current compliance finding this should be done twice per year.
- Our primary outreach/education component at present is on the City's website City of Brevard Fats Oils and Grease Program

Revised UDO Language

This language has been approved by the Planning Board and is pending City Council Approval on 8/3/2026

Code of Ordinances and UDO

CHAPTER 17. DEVELOPMENT PLAN REQUIREMENTS

17.6. Construction document requirements.

The construction documents for site plans, conditional rezoning plans, special use plans, major subdivisions, vested rights, and master plans shall be submitted in accordance with the specifications of this section except where specifically noted. Construction documents shall constitute the complete submittal requirements for site plans and preliminary plats required prior to construction.

The size and number of completed application submittal copies required shall be set by the administrator. No certifications other than the certificate of survey and accuracy as in Section 17.7.J and the seal of the professional designer must be provided in connection with the submission.

Construction drawings must be drawn to the following specifications and must contain or be accompanied by the applicable information listed below. All plans shall be submitted at a scale not less than one inch = 50 feet unless otherwise authorized by the administrator. No processing or review of construction documents will proceed without all of the following information:

V. Supplemental plans as applicable:

1. Landscape plan in accordance with Section 17.9.
2. Tree preservation plan in accordance with Section 17.9.
3. Lighting plan in accordance with Section 17.10.
4. Architectural plans in accordance with Section 17.11.
5. Traffic impact analysis (if required) in accordance with Section 17.12.
6. Floodplain development information (if required) in accordance with Section 17.13.
7. Stormwater management concept plan in accordance with Section 17.13.
8. Fats, oils, and grease (FOG) control plan in accordance with CHAPTER 70 of Brevard City Code of Ordinances.

Revised Code of Ordinances Language

Requesting a recommendation from the PWUIC on 7/1/2026

- Current Code of Ordinance https://online.encodeplus.com/regs/brevard-nc/doc-viewer.aspx#secid--1

- Proposed Revised Code of Ordinance with FOG Program Updates

Newly Adopted Fee Schedule as part of the FY 26-27 Budget

Tier	Administrative Penalty
Tier 1	No Civil Penalty; Notice of Violation (NOV)
Tier 2	Up to $500 Civil Penalty; NOV
Tier 3	$750 to $1,500.00 Civil Penalty; NOV; Consent Agreement;
Tier 4	$1,500.00 to $3,000.00 Civil Penalty; NOV; Consent Order or Administrative Order
Tier 5	$3,000.00 to $10,000.00 Civil Penalty; NOV; Administrative Order; Public Notice
Tier 6	$10,000.00 to $25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Possible Termination of Services
Tier 7	$10,000.00 to $25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Termination of Services
SSO	In addition, to the civil penalties stated above the District may recover any operational cost associated with the removal and cleanup of an SSO. If any penalties or fines are assessed against the District by the State of North Carolina or EPA as a result of a SSO, the penalties or fines may be passed along to the perpetrator.

Future Roll Out and Communication Plan

- New FOG Coordinator position was created and filled in April of 2026. This position was created by taking and existing position and redefining the job duties.
- In the process of purchasing needed tools and test equipment as well as repurposing a vehicle dedicated to the FOG Coordinator.
- Work with Wastewater Collection System ORC to identify low hanging fruit by concentrating on specific basins of concern first.
- Developed a “customer” questionnaire to help us understand current level of FOG compliance with individual businesses and prioritize these concerns. The questionnaire will serve as a heads up that inspections are coming.

What does the updated FOG Program implementation and enforcement look like in action??

Update UDO

Update Code of Ordinances

Updated Fee Schedule, already in place

More robust communication plan consisting of mailing FOG brochures twice a year

Distribution of FOG Questionnaires to current “customers”

Based on priority finding develop and inspection schedule and begin inspections within 6 months but postponing full utilization of the Fee Schedule for 1 year.

Work with ”customers” to reduce or eliminate their FOG contribution to the collection system by ensuring systems are both installed and maintained.

Nurture relationship with Transylvania County Department of Health as they are responsible for restaurant inspections and may find issues we can help address.

Develop a list resources related to grease trap installation, maintenance and repair and coordinate distribution with the County Building Inspection and Health Department

Possible Outcomes

- Reduction of Sanitary Sewer Overflows (SSOs aka DEQ Findings) due to blockage, backups and overflows of the wastewater collection system.
- Reduction of BOD and TSS at the WWTP
- Reduction of odor from reduction of FOG which produces hydrogen sulfide aka….smells bad…
- Labor cost savings to the City due to fewer blockages in the collection system and problems at the lift stations
- Fewer Health Department inspection violations….possibly resulting in cleaner restaurants
- Possible costs to business owners for revitalizing, cleaning, maintaining or installing FOG collection systems

Next Steps

- PWUI Committee recommendation to City Council to adopt the proposed Code of Ordinance Changes
- City Council to adopt UDO and Code of Ordinance revisions
- Begin implementation of the new “Enforceable FOG Program”

CHAPTER 70. UTILITIES

Cross reference(s)—Buildings and building regulations, CHAPTER 18; poles, wires and conduits, § 62-91 et seq.

State law reference(s)—Municipal authority to operate public utilities, G.S. 160A-312.

ARTICLE I. IN GENERAL

70-1. Management and control of water and sewer systems.

A. *Generally.* The management and control of the water and sewer systems is vested in the city manager, to be governed by the provisions of this chapter and of CHAPTER 2, Article V, Division 3, and the policies established from time to time by the city council.

B. *Distribution and collection systems.* The city manager shall appoint a superintendent who shall have operational control of the water and sewer distribution and collection systems under the general supervision of the city manager.

C. *Treatment plants and pumping facilities.* The city manager shall appoint superintendents who shall have operational control of the water and wastewater treatment plants and pumping facilities under the general supervision of the city manager.

D. *Financial operation.* The finance director of the city is authorized, under the supervision of the city manager, to administer the financial operation of the water and sewer systems. Any person aggrieved by a decision of the finance director shall have the right of appeal to the city manager, who shall have authority to make a final decision on any appeal.

(Code 1980, § 17-1)

70-2. Pertinent provisions of Code to be part of terms of service.

All pertinent provisions of this chapter and of CHAPTER 2, Article V are hereby made a part of the terms and conditions whereby the city shall provide water, sewer and/or garbage and refuse collection service to any consumer, or whereby the city shall make any water or sewer connection or perform work of any kind in connection with the providing of such services.

(Code 1980, § 17-3)

70-3—70-30. Reserved.

ARTICLE II. WATER SYSTEM

70-31. Created.

The city, by virtue of the authority granted by its Charter and by the General Statutes of the state, is authorized and empowered to acquire, provide, construct, establish, maintain and operate a water system for the city and to extend those systems beyond the corporate limits. In accordance with such authority, there is hereby created a water supply and distribution system for the city.

(Code 1980, § 17-21)

70-32. Connection to city system required.

A. All developed property within the city limits and located within 300 feet of a city water line shall be connected therewith and the property owner shall be charged the prescribed tap fee for all such connections. Request for relief from this requirement for the construction of one single-family home may be made in writing to the city manager. Such relief shall be granted only in situations of demonstrated hardship by the property owner.

B. 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.

(Code 1980, § 17-22; Ord. No. 2018-27, § 1(Att. A), 9-17-18)

70-33. Application for connection.

Any person desiring connection to be made with the city water system shall make application in writing to the finance director, stating the name of the owner of the lot, the location of the lot, the number of the building if there is a number, the number and kind of connections desired and the character of the surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee. Approval of an application for connection shall be issued in the form of a service permit.

(Code 1980, § 17-23)

70-34. Installation of connections; connections to substandard property.

A. All connections to water lines and the installation of lateral connections to the edge of the public right-of-way in which the main line is located shall be performed only by city personnel or, if specifically approved by the city manager, by a licensed contractor under the supervision of the superintendent of the water and sewer department.

B. Water connections will not be made to any existing vacant substandard property or any substandard property becoming vacant until such time as the property has been inspected and brought into compliance with the city codes and a certificate of occupancy issued.

(Code 1980, § 17-24)

70-35. Connection charges.

A. Applicable water tap, meter setting, and capacity system development fees, which are set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, shall be paid in advance of the tapping of any water main. The specific policies and procedures for the assessment and collection of such fees shall be established by the city manager.

B. All residents of areas statutorily annexed to the city shall qualify for waiver of the foregoing standard water tapping fees and charges provided such residents make proper application and complete connections within 12 calendar months of the date water utilities are available for tapping. The public services director shall

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provide written certification to city council of the date such utility lines become available for connection, thereby, fixing the date from which residents are allowed to connect without payment of connection charges. All residents who do not connect within the 12-month waiver period must pay all fees and charges as prescribed herein.

C. Water capacity system development fees are to be deposited in the city's capital reserve fund to recover costs associated with water system capacity development.

D. For purpose of assessing water capacity system development fees, the assumed usage for a residential unit shall be 375 gallons per day. The term "residential unit" shall be deemed to be an individual single family living unit whether such unit shall be a freestanding house, an apartment, a condominium or any other residential structure.

E. Non-residential users will be assessed water capacity system development fees based on the number of 375 GPD units of water consumed and will pay the full cost for any fraction of a residential equivalent. Water capacity system development fees may be assessed utilizing the best available information, including but not limited to historical use data for similar uses, and an engineer's signed and sealed estimate of projected water use. In the absence of such information, the administrator shall base sewer capacity impact such fees upon North Carolina Administrative Code 15A NCAC 02T.0114 Wastewater Design Flow Rates.

(Code 1980, § 17-25; Ord. No. 6-97, § 2, 3-3-97; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11; Ord. No. 2013-08, § 01(Exh. A), 8-19-13; Ord. No. 2014-02, § 01, 2-17-14; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20)

70-36. System extensions.

Extensions of the water system shall be in accordance with CHAPTER 2, Article V, Division 3. Connections shall be in accordance with CHAPTER 2, Article V, Division 3, or as elsewhere set forth in this article.

(Code 1980, § 17-26)

70-37. Meters.

A. *Required.* A water meter shall be installed at every point of delivery of water from the city water system, the meter to be of such size and type as will most nearly meet the requirements of the service in which it is to be installed. Individually metered service connections shall be required for each individual living unit, whether in a single- or multiple-unit building or mobile home park, and for each commercial or business unit, whether situated in a single- or multiple-unit building.

B. *Master meters.* However, when a multiunit building or development cannot reasonably accommodate individually metered service connections, master metered service connections may be permitted if the applicant for service can show evidence from the state utilities commission that the proposed multiunit building or development is exempt from state building code requirements prohibiting master meters for utilities. Where master metered service connections are permitted, the applicant for service shall be responsible for all costs associated with master metered connections as determined by the city manager or his designee, all meters shall become the property of the city, all consumption of water and treatment of wastewater shall be paid for by the applicant in accordance with this article, and all utility lines beyond the master meters shall be considered service lines not owned or maintained by the city except that city requirements for fire protection shall be enforced.

(Code 1980, § 17-27)

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70-38. Deposit required; amount.

A. *Deposit required.* Upon receipt of the required application for connection, the applicant shall be required to pay a utility deposit or satisfactorily establish credit with the city before utility service will be approved. Customer utility deposits shall be required as set forth in this section.

B. *Schedule.* Utility deposit fees shall be set forth in the Schedule of Taxes, Fees and Charges.

C. *Residential deposits.*

1. The city may waive the payment of a cash deposit in lieu of and based upon an applicant establishing credit with the city in such cases whereby:
    a. The applicant owns the premises to be served or other real estate within the city utilizing city utilities, unless the applicant is an unsatisfactory credit risk;
    b. The applicant demonstrates that he is a satisfactory credit risk by appropriate means which may be quickly and inexpensively confirmed by the city;
    c. The applicant has been a customer of the city for a similar type of service within a period of 24 consecutive billings preceding the date of application and during the last 12 consecutive billings for that prior service has not had service discontinued for nonpayment of bill or had more than two occasions in which a bill was not paid when it became due; provided the average periodic bill for such previous service was equal to at least 50 percent of that estimated for the new service; and provided further that the credit of the applicant is unimpaired; or
    d. The applicant furnishes a satisfactory guarantor agency acceptable to the city council to secure payment of bills for the service requested in an amount as prescribed in the city's utility deposit rate fees. If an applicant elects to offer a guarantor agency in lieu of paying a deposit, the city will require a written commitment from the guarantor agency in an amount as mentioned in this subsection. If an applicant becomes delinquent in his utility payments and he is utilizing a guarantor agency, payment will be required of the guarantor agency within 15 days from notice to the guarantor agency that the customer has been delinquent.
2. The establishment of credit under the provisions of this section shall not relieve the applicant for service or customer from compliance with the reasonable regulations of the city, including but not limited to the prompt payment of bills and the rules for discontinuance of service for the nonpayment of bills due for service furnished. Other applicants for new residential utility service shall be required to make a deposit guaranteeing payment of charges for utility service as provided in this section.
3. The city shall require a deposit from a customer who was not required to make a deposit when he applied for the obtained new residential utility service if during any consecutive 12 billings for that prior service the customer:
    a. Had service discontinued for nonpayment of bill;
    b. Had more than two occasions in which a bill was not paid when it became due; or
    c. Had one of his checks given in payment of a bill dishonored.

    The city may require any customer who has had a check dishonored in payment of a bill to pay all utility bills in cash only.

D. *Business, commercial and industrial deposits.* Applicants for new business, commercial or industrial utility service shall be required to make a deposit guaranteeing payment of charges for utility service or for reestablishment of service. In accordance with subsection (b) of this section, the city shall have the right to

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require such customers to adjust such deposits after the expiration of any four consecutive billing periods to reflect actual rather than estimated usage.

E. *Exemptions.* Colleges, public schools, hospitals and public agencies customers shall be exempt from furnishing deposits.

(Code 1980, § 17-28; Ord. No. 32-97, § 1, 8-18-97; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-39. Refund of deposits.

A. Existing residential customers may apply for and receive refunds of their deposit, or have their deposits credited to their accounts, if such customer during the last 12 consecutive billing periods for prior service has not:

1. Had service discontinued for nonpayment of bill;
2. Had more than two occasions in which a bill was not paid when it came due; or
3. Had one of his checks given in payment of a bill dishonored.

The deposits of existing residential customers who are not entitled to a refund of their deposit under this section shall continue to be held by the city until such customer qualifies for refund or until service is discontinued or terminated.

B. The city shall have the right to refund the deposits of residential customers who qualify for refunds but who do not apply for such refunds or to credit their accounts with the amount of the deposit. The deposits of existing business, commercial or industrial customers shall not be subject to refund and shall continue to be held by the city until service is discontinued or terminated.

(Code 1980, § 17-29)

70-40. Disposition of deposits.

Utility deposits shall be placed and kept in a separate account by the finance director and deposited in a separate bank account, and the deposit so made by each person shall be returned to the user whenever the use of city water shall be discontinued; provided, however, that the deposit so made shall be as security to the city for any unpaid water service charges, and, upon discontinuing the use of water or the water being cut off for failure to pay water rent as prescribed in this article, the finance director shall be authorized to pay over to the collector of water rents from the sum so deposited an amount equal to the charges due the city for water. When service is terminated and the account satisfactorily closed, the deposit shall be returned to the person in whose name the account is recorded. The city shall not pay interest on funds held as deposits.

(Code 1980, § 17-30)

70-41. Consumption basis of charges.

All charges for water delivered to any consumer from the city water system shall be based upon the number of gallons per month delivered to the consumer at the point of connection to the city distribution system.

(Code 1980, § 17-31)

70-42. Service charge schedule; billing.

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A. The schedule of water and sewer rates, including service outside the corporate limits, shall be set forth in the schedule of taxes, fees and charges. The specific policies and procedures for the collection of water and sewer rates shall be established by the city manager.

B. Meters shall be read in accordance with the schedule of taxes, fees and charges. Bills shall be submitted monthly and shall be payable by the tenth of the month in which the bill is due.

(Code 1980, § 17-32; Ord. No. 40-96, § 1, 11-18-96; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-43. Basis of charges for multiple dwelling units on single connection.

Where more than one family dwelling unit is provided with service through a single service connection, the charges for service shall be the greater of:

A. The number of family dwelling units served times the minimum charge as shown in the current water rate; or

B. The actual charge determined for the quantity of metered water consumed.

(Code 1980, § 17-33)

70-44. Basis of charges for newly constructed condominiums.

For newly constructed condominiums, the total metered consumption serviced by one meter shall be divided by the number of units in the complex and each unit shall be figured separately at the regular metered rate with one total billing being mailed to the person in charge.

(Code 1980, § 17-34)

70-45. Responsibility for payment of charges for premises with multiple water connections.

A. Where there is not provided a separate service connection for each building situated on any given lot or parcel of land, the owner of such lot or parcel of land shall be responsible for the payment of charges for water supplied to all such buildings on the lot or parcel.

B. Where separate service connections are not provided to every occupancy unit or tenant with a multi-tenant building, the owner of the building shall be responsible for the payment of all charges for water service to the building.

(Code 1980, § 17-35)

70-46. Delinquent accounts; disconnection of service.

A. *Generally.* Water customers shall not be contacted personally in an effort to collect overdue bills; rather, on the 21st day of the month, if payment has not been received, the late payment fee approved by the city council and maintained in the office of the city clerk shall be added to the bill; on the 28th day of the month, if payment has not been received, the water shall be subject to being cut off. Water cut off under this section shall not be restored until all overdue bills are paid. Fees to disconnect or restore service shall be set forth in the schedule of taxes, fees and charges.

B. *Dispute of amount of bill.* Any customer disputing the correctness of his utility bill shall have a right to a hearing before the finance director, who shall have authority to delay cutoff and make a determination in any dispute. The customer shall be responsible for all water which passes from the city's water meter to the customer's

service line, whether used or wasted. The finance director shall have the authority to adjust a customer's bill when a bona fide leak has occurred and the customer has corrected the malfunction. Before an adjustment is made, the finance director must receive written documentation acceptable to the city of the repair or correction of the malfunction, i.e., a copy of the repair bill for the subject repairs. Any adjustments shall apply to no more than the latest two-month period and be based upon an average bill determined by the finance director from the customer's previous 12-month consumption rate.

C. *Hardships.* The finance director is authorized to extend the time allowed for payment of a delinquent account to avoid cutoff for a period not to exceed 30 days in those instances where a bona fide hardship case exists. A bona fide hardship case shall be deemed to exist if an account holder obtains written confirmation of such hardship, addressed to the city finance director, from an established and recognized social welfare agency such as the county department of social services, church outreach programs, or local charity organizations.

D. *Disconnection fee; forgiveness of charges.*

1. When water service is disconnected due to nonpayment of charges, a cut-off fee shall be charged, which fee shall be set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The cut-off fee shall be charged and collected once the city has dispatched its service person for the purpose of disconnection of utility service, whether or not the service person is intercepted by the customer and whether or not the actual disconnection is performed. A separate returned check fee will further be made for any check received in payment of a utility bill which is dishonored by the bank upon which the check is drawn, which fee shall be set forth in the schedule of taxes, fees and charges.
2. When, upon the request of the customer, water service is discontinued and the customer account is temporarily closed, a cut-on fee shall be charged as approved by city council and maintained on file in the office of the city clerk, for the restoration of service, except that this fee shall not be charged when the temporary interruption of service is needed for repair of the water system on the customer side of the meter. Such fee shall be set forth in the schedule of taxes, fees and charges.
3. The city manager or finance director is hereby authorized to forgive charges for water, sewer or garbage that are less than $100.00.

(Code 1980, § 17-36; Ord. No. 22-96, § 1, 6-3-96; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-47. Turning on water without authority.

It shall be unlawful for any person to turn on the water to any premises when the premises has been cut off by the city for nonpayment of water charges, or for any other reason. All vacant buildings shall be presumed to have the water turned off by the authorities of the city for the purpose of this section, and any person using water in a newly occupied building without authority from the city shall be presumed to have turned the water on without authority from the city.

(Code 1980, § 17-37)

70-48. Unauthorized use of water.

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Should any person use water from the city water system from other than a city-approved point of service, a bill will be made against the person or premises for the estimated water used, or the quantity shown to have been used by the meter, and the water turned off and not turned on until the bill is paid, together with applicable cut-off and cut-on fees as set forth in the schedule of taxes, fees and charges. This will apply to any property owner allowing water to be illegally used on his or her premises.

(Code 1980, § 17-38; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-49. Right of city to shut off water in mains.

The city reserves the right at any time to shut off water in the mains in case of accident, or for the purpose of making connections, alterations or repairs. The city will not be liable for any damage that may result to consumers for shutting off water service for any cause whatsoever, even in a case where no notice is given, and no reduction from water bills will be made therefor.

(Code 1980, § 17-39)

70-50. Trespassing on, injuring or polluting watershed or reservoir premises.

It shall be unlawful for any person to go upon the watershed or reservoir premises of the city without permission of the city council, to deposit any excreta or carcass of any dead animal or allow any animal to stray thereon, to set fire to any part thereof, to set fire to any adjoining territory so that such fire may spread and burn over such areas without giving prior notice thereof to the city manager, to damage or remove any post or fence around such areas, to throw any substance whatsoever in the reservoirs or the streams which feed the reservoirs, to go over or along the water line between the intake and the reservoirs without written permission of the city manager, or to interfere with or pollute or attempt to pollute any part of the watershed or water at any point or upon the watershed, the intake, the line between the intake and the reservoirs or the reservoirs. Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

(Code 1980, § 17-40; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

70-51. Damaging or tampering with facilities; obstructed meters.

It shall be unlawful for any person to damage, injure, destroy or tamper with any of the pipes, mains, valves, gates, hydrants, boxes, meters or other fixtures or appurtenances belonging to or connected to the city water system. Meters and meter boxes shall not be covered with dirt, trash or parked vehicles, or be obscured in any other way. Whenever it is necessary that city personnel must search for and uncover a meter box and meter in order to read the meter, a meter location charge as set forth in the schedule of taxes, fees and charges shall be automatically added to the monthly bill. Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

(Code 1980, § 17-41; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

70-52. Wells.

A. *Permit required.* Whenever a property owner desires to install a well within the city for any purpose whatsoever, a permit shall first be obtained from the Transylvania County Department of Environmental Health and the City of Brevard. The city permit fee shall be set forth in the schedule of taxes, fees and charges.

B. *Interconnections with city system.* It shall be unlawful to permit any connection whatsoever, including valved connections, between the well water system and the city water system. The public services director and the

code enforcement officer shall have the right and authority to conduct periodic inspection of any well that is situated within 300 feet of any city water line to identify interconnections. Where an interconnection condition is found, water service will be terminated immediately and not restored until such time that the public services director is satisfied that the interconnection has been permanently eliminated.

C. *Compliance with section 70-32 required.* Properties served by wells shall maintain compliance with Section 70-32 of this chapter. Wells within the corporate limits of the City of Brevard, which are situated within 300 feet of any city water line, shall not be utilized for human consumption, which includes drinking, bathing, cooking, dishwashing and maintaining oral hygiene, or other similar uses.

(Code 1980, § 17-42; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-53. Cross connection control policy.

In compliance with the federal Safe Drinking Water Act of 1974, as amended, all cross connections and interconnections of the city water system shall be governed by applicable provisions of this article and the city's cross connection control policy. The city's cross connection control policy, as may be amended from time to time by the city council, is adopted by reference as though fully set forth within this article. This policy shall regulate all such connections and provide for backflow prevention into the system for purposes of protecting the public health of all citizens and utility customers of the city.

(Code 1980, § 17-43)

70-54—70-80. Reserved.

ARTICLE III. WATER SHORTAGE RESPONSE PLAN

70-127. Declaration.

Whenever the water supply of the City of Brevard's public water system is low or declining due to conditions which may adversely affect the continued availability of water for human consumption, sanitation, health and fire protection, it will become necessary to declare a water shortage and implement conservation requirements under the standards set forth below. The procedures herein are written to reduce potable water demand whenever drinking water supplies are in danger of being inadequate to meet customer needs.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-128. Authorization.

The City of Brevard City Manager is authorized to enact water shortage response provisions whenever the trigger conditions outlined in Section 70-132 are met. In his or her absence the ORC (operator in responsible charge) of the water treatment plant will assume this role.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-129. Notification.

The following notification methods will be used to inform water system customers and employees of a water shortage declaration: employee e-mail announcements and notification from supervisors when reporting for work, notices posted at city hall, notices on water bills, notice posted on city website, notice published in the Transylvania Times, public service announcements on local radio WSQL and via Comporium CATV.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-130. Classification of water uses.

A. *Class I: Essential uses of potable water.*

1. *Domestic:* Water to sustain human and domestic pet life, maintain hygiene and sanitation standards.
2. *Patient care:* Patient care and rehabilitation, including swimming pools used for patient care and rehabilitation as prescribed by medical personnel.
3. *Public safety:* Firefighting and approved flushing of hydrants and sewer mains to ensure public health and safety.

B. *Class II: Socially or economically essential uses of potable water.*

1. *Domestic:* Minimal use for kitchen, bathroom and laundry; minimal watering of vegetable gardens needed to sustain them between the hours of one hour before sunset and one hour after sunrise.
2. *Patient care:* Patient care and rehabilitation, including swimming pools used for patient care and rehabilitation as prescribed by medical personnel.
3. *Public use:* Filling and operation of public swimming pools.
4. *Commercial:* Commercial vehicle washers, laundromats, restaurants, hotels/motels, minimal water usage by commercial nurseries required to sustain stock, minimum amounts required to sustain essential cooling operations.
5. *Agricultural:* Minimal amounts required to sustain crops, livestock and associated activities.
6. *Industrial:* Minimal use necessary to operate production facilities and sustain jobs, minimal amounts required to sustain essential cooling operations.
7. *Institutional:* Efficient use of water by schools, churches, and government facilities.

C. *Class III: Non-essential uses of potable water.*

1. *All:* Ornamental uses (fountains, reflecting pools, artificial waterfalls, etc.) residential and commercial lawn irrigation, non-commercial washing of motor vehicles, wash down of impervious surfaces, filling and operation of recreational swimming pools.
2. *Public use:* Gardens, lawns, parks, city/county playing fields and recreation areas.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-131. Levels of response.

Three levels of response are included in this plan. These levels are: stage 1 water shortage advisory, voluntary restrictions/reductions. Stage 2 water shortage alert, mandatory restrictions/reductions. Stage 3 water shortage emergency, escalated mandatory restrictions/reductions and water rationing. A detailed description of each response level and corresponding water reduction measures are as follows.

A. *Stage 1 water shortage advisory:*

1. Water supply conditions indicate a potential for a shortage. Voluntary restrictions. Water users are encouraged to voluntarily reduce their water use and improve water use efficiency; however, there are no penalties for noncompliance. All water users are requested to adhere to class I and class II uses of potable water.
2. All water users who use in excess of 2,000 gallons during the billing period will be asked to reduce their normal water use by ten percent. Customer education programs (i.e., articles in local publications, city's website, city newsletter, public service announcements on local radio and cable system will encourage water conservation.

B. *Stage 2 water shortage alert:*

1. Water supply conditions are significantly lower than normal and conditions are expected to persist. Mandatory restrictions. Water users must abide by required water use restrictions and reductions. Penalties apply for noncompliance. All customers are required to reduce their water use by an additional ten percent in comparison to their previous month's water bill. Only water usage as described in class I and class II uses is allowed.
2. Additionally, in stage 2 a water use surcharge of one and one-half times the normal water rate applies to any user (who exceeds 2,000 gallons usage for the billing period) who did not achieve the required ten percent reduction in usage.

C. *Stage 3 water shortage emergency:*

1. Water supply conditions are substantially diminished and pose an imminent threat to human health. Water users must continue actions from all previous stages and further reduce water use by ten percent compared to their previous month's bill. All non-essential uses of drinking water are prohibited. All customers must only use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use.
2. Water rationing, if deemed necessary by the city manager, will be to provide drinking water to protect public health. All customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use and pickup locations for distributing potable water will be announced by the city.
3. Additionally, in stage 3 a water use surcharge of two times the normal water rate applies to any user (who exceeds 2,000 gallons usage for the billing period) who did not achieve the required additional ten percent reduction.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-132. "Triggers" and responses.

The following "triggers" for the city are listed below in relationship to the city's "run of the river" water supply system.

A. *Triggers.* If the city's water source, Cathey's Creek, experiences stream flow reductions as described below, then specific responses will take effect.

1. *Stage 1.* If the flow of water entering the raw water intake becomes inadequate for normal pump operation greater than 1,700 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain normal operation of its water system as determined by the city's

manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage advisory.

2. *Stage 2.* If the flow of raw water entering the raw water intake becomes inadequate for normal pump operation greater than 1,500 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain normal operation of its water system as determined by the city's manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage alert.

3. *Stage 3.* If the flow of raw water entering the raw water intake becomes inadequate for normal pump operation greater than 1,300 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain adequate operation of its water system as determined by the city's manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage emergency.

B. *Responses.*

1. In stage 1, water shortage advisory, all water users will be asked to reduce their normal water use by ten percent. Conservation and efficiency measures will be encouraged by outreach programs such as articles in the Transylvania Times, PSAs on local radio and cable TV and the city's website. Irrigating landscapes should be at the minimum required and should only be done between the hours of one hour before sunset and one hour after sunrise. Identify and repair all water leaks. Consider installing water-saving devices on showers. Avoid watering or washing impervious surfaces such as driveways and sidewalks. Minimize vehicle washing.

2. In stage 2, water shortage emergency, all water users are expected to reduce their water use by an additional ten percent in comparison to their previous month's water bill if that bill shows usage of more than 2,000 gallons. In addition to continuing the steps which were encouraged during the water shortage advisory, the following restrictions apply: Irrigation activities must be done at the minimum required to sustain plant life and must be done only between the hours of one hour before sunset and one hour after sunrise. Washing of vehicles is prohibited except at commercial car washes. Watering or washing impervious surfaces such as driveways and sidewalks is prohibited. All use of city fire hydrants will be limited to that required for public health and safety and done only by personnel authorized by the city manager or his representative. All customers are only permitted to use water at the minimum required for public health protection as outlined in class I and class II water uses. Additionally, in stage 2, a water use surcharge of one and one-half times the normal water rate will apply for all users who use more than 2,000 gallons during the billing period.

3. In stage 3, water shortage emergency, all water users must continue actions from all previous stages and further reduce water by ten percent compared to their previous month's water bill if that bill shows usage of more than 2,000 gallons. All non-essential uses of drinking water as outlined in class III are prohibited. Water rationing, if deemed necessary by the city manager, will be to provide drinking water to protect public health. All customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use. Additionally, in stage 3, a water use surcharge of two times the normal water rate will apply for all users who use more than 2,000 gallons during the billing period. "Essential uses of potable water" is defined as: water to sustain human and domestic pet life, maintain hygiene and sanitation standards; patient care and rehabilitation as prescribed

by medical personnel; firefighting and approved flushing of hydrants and sewer mains to ensure public health and safety and comply with monitoring requirements.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-133. Public comment.

Water users will have the opportunity to comment on the provisions of the water shortage response plan. Notices disclosing the locations where the draft plan may be viewed by the public will be published in the Transylvania Times and on the City of Brevard website (www.cityofbrevard.com). A public hearing will be scheduled with notice given as to the time and place of the hearing. All subsequent revisions to the plan will be published at least 30 days prior to an adoption vote by the City of Brevard Council.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-134. Variance protocols.

Applications for water use variance requests are available at Brevard City Hall. All applications must be submitted to the Brevard City Manager or his or her designee. A decision to approve or deny individual variance requests will be determined within two weeks of submittal after careful consideration of the following criteria: impact on water demand, expected duration of the shortage, alternative source options and social and economic importance.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-135. Effectiveness.

The effectiveness of the City of Brevard Water Shortage Response Plan will be determined by comparing the stated water conservation goals with observed water use reduction data. Other factors include, but are not limited to, the frequency of plan activation, desired reductions attained and evaluation of demand reductions compared to the previous year's seasonal data.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-136. Revision.

The water response plan will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand, following implementation of restrictions, and at a minimum of every five years, as required by G.S. 143-355(1). Further, a water response planning work group designated by the city manager, will review procedures following any change in restriction status. The city manager is responsible for initiating all subsequent revisions.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-137. Enforcement and penalties.

The provisions of the water shortage response plan will be enforced by the City of Brevard Police Department. Violators may be reported to the city by calling the police department at 883-2212. Citations are assessed according to the following schedule depending on the number of prior violations and the current level of water shortage:

A. *Stage 1:* None.

B. *Stage 2:*

1. *First:* Notice of violation (NOV).
2. *Second:* Disconnection of water service (24-hour shut-off period).
3. *Third:* Up to $250.00 fine and disconnection of water service (48-hour shut-off period).
4. Drought surcharge rates apply.

C. *Stage 3:*

1. *First:* Disconnection of water service (24-hour shut-off period).
2. *Second:* Up to $500.00 fine and disconnection of water service (48-hour shut-off period).
3. *Third:* Up to $500.00 fine and disconnection of water service (72-hour shut-off period).
4. Drought surcharge rates apply.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-138, 70-139. Reserved.

ARTICLE IV. SEWER SYSTEM

State law reference(s)—Wastewater systems, G.S. 130A-333 et seq.

70-81. Created.

The city, by virtue and authority granted by its Charter and by the general statutes of the state, is authorized and empowered to acquire, provide, construct, establish, maintain and operate sewer systems for the city and to extend those systems beyond the corporate limits. In accordance with such authority, there is hereby created a sewage collection and disposal system for the city.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-82. Purpose and scope of article.

A. This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city, and enables the county to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403). This article shall supersede all prior ordinances, but only to the extent that such prior ordinances are inconsistent herewith. To the extent this article conflicts with other ordinances related to the sewer use provisions herein, this article shall supersede such ordinances.

B. The objectives of this article and its elements are as follows:

(1) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;

(3) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;

(4) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

(6) To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

(c) This article provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(d) This article shall apply to all users of the municipal wastewater system. Except as otherwise provided herein, the city manager shall administer, implement, and enforce the provisions of this article. Any powers granted to or imposed upon the city manager may be delegated by the city manager to other city personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the county limits agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder.

(e) No statement contained in this section shall be construed as prohibiting any special agreement or arrangement between the city and other persons whereby an industrial waste of unusual strength or character may be admitted into the system.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14

70-83. Reserved.

(Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the contents of this section to City Code § 1-2.

70-84. Connection to city system required.

A. 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 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. Request for relief from this requirement for the construction of one single-family home may be made in writing to the city manager. Such relief shall be granted only in situations of demonstrated hardship by the property owner.

B. Improved property served by wells and annexed by the city shall be connected to the city sewer systems, if within 300 feet, 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.

C. 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 wastewater.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14; Ord. No. 2018-27, § 1(Att. B), 9-17-18)

70-85. Application for connection.

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Any person desiring connection to be made with the city sewer system shall make application in writing to the finance director, stating the name of the owner of the lot, the location of the lot, the number of the building if there is a number, the number and kind of connections desired and the character of the surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee. Approval of an application for connection shall be issued in the form of a service permit.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-86. Installation of connections; connections to substandard property.

A. *Connections to be made by city personnel or authorized contractor.* All connections to sewer main lines and the installation of lateral connections to the edge of the public right-of-way in which the main line is located shall be performed only by city personnel, or, if specifically approved by the city manager, by a licensed contractor under the supervision of the city manager's designee.

B. *Connections to substandard property.* Sewer connections will not be made to any existing vacant substandard property or any substandard property becoming vacant until such time as the property has been inspected and brought into compliance with the city codes and a certificate of occupancy issued.

C. *Unauthorized tampering.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance.

D. *Payment of costs of connection.* All costs and expenses incident to the installation and connection of a sewer service line shall be borne by the owner.

E. *Separate service line required for each building; exception.* Unless otherwise authorized by appropriate authority, a separate and independent sewer service line shall be provided for every building; except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the sewer service line from the front building may be extended to the rear building and the whole considered as one sewer service line.

F. *Use of old service lines.* Old sewer service lines may be used in connection with new buildings only when they are found upon examination and test by the city to meet all requirements of this article.

G. *Specifications for connections.* The size, slope, alignment and materials of construction of a sewer service line, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city and the state.

H. *Elevation of service line.* Whenever possible, the sewer service line shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the sewer service line.

I. *Connection to downspouts and sources of runoff.* No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a sewer service line or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

J. *Conformance with rules and regulations.* The connection of the sewer service line into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. All such connections shall be made watertight. Any deviation from the prescribed procedures and materials must be approved by the city manager or the city manager's designee.

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K. *Inspection and supervision of connection.* The applicant for a sewer connection shall notify the building inspector when the sewer service line is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city manager or the city manager's designee.

L. *Excavations.* All excavations for sewer service line installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-87. System extensions.

Extensions of the sewer system shall be in accordance with Chapter 2, Article V, DIVISION 3. Extension connections shall be in accordance with Chapter 2, Article V, DIVISION 3, or as elsewhere set forth in this article.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-88, 70-89. Reserved.

70-90. Permissive use of system; additional regulations.

A. Persons within or without the city are subject to regulations of the city, the county department of health, and the North Carolina Department of Environment and Natural Resources, for proper handling of wastes and wastewaters accepted into the public sewers.

B. Such persons may apply to the city for discharge of sanitary and compatible wastewaters into the sewerage system, by procedures outlined in this article.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-91. Prohibited discharges.

Reference 70-141, A *for details on Prohibited Discharges.*

70-92. Restricted discharges.

Reference 70-141, B *for details on Restricted Discharges*

70-93. Limitations on compatible wastes.

A. No person may discharge large quantities of compatible wastewater to public sewers which, by reason of volume, flow rate, concentration or total load of compatible constituents, are in excess of the capacity of a part of the sewer system or are inconsistent with the most beneficial use of the system in the opinion of the manager. In consideration of these factors, the manager will limit the following:

1. Volume and flow rate from any individual source to the capacity of sewers, pump stations and force mains and the treatment system, less the capacity committed to serve the general public and other users and the reserve capacity to serve anticipated needs of the general public until the time of a planned expansion of the facilities.

2. Loads of compatible pollutants, such as BOD, suspended solids, nitrogen and phosphorus, from any individual source, to the capacity of the treatment facilities, less the capacity committed to serve the general public and other users and the reserve capacity to serve the anticipated needs of the general public until the time of a planned expansion of the treatment facilities.
3. The manager may require flow equalization or pretreatment for load reduction as a condition of service or he may decline to receive high loads or highly concentrated wastewaters into the system if in his opinion this would not be the most beneficial use of the system, by reason of the cost of services, technical considerations relating to operation and maintenance of the system or conflicting alternatives for the provision of services.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-94. Compliance with federal and state standards; dilution of discharge.

A. *Applicability of federal pretreatment standards.* Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article.

B. *Applicability of state requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

C. *Dilution of discharge.* No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or the state.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-95. Accidental discharges.

A. *Facilities and procedures.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or users' own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the city before construction of the facility. No user shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of accidental discharge, it is the responsibility of the user to immediately telephone and notify the wastewater treatment plant of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

B. *Written notice to manager.* Within five days following an accidental discharge, the user shall submit to the manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the system, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

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C. *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent places advising employees whom to call in the event of an accidental or dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-96. User charges.

A. *General.* Sewer user charges are based upon the proposition that costs of service be distributed equitably among users of the services. This principle is embodied in the Federal Clean Water Act and underlies agreements between the city and the United States Environmental Protection Agency in funding the construction of facilities. According to these agreements, there will be two rates for payment for services by users, as follows:

1. Basic users rate.
2. High strength waste surcharges.

B. *Basic users rate.*

1. *Water and sewer users.* Persons discharging only normal sanitary wastewaters who are water customers of the city shall be charged such rates as the city council shall determine through water meter records. Such rates shall be stated in terms of cents per 1,000 gallons of wastewater and shall include any charge which the city may make to cover the costs, etc. Such rates shall be set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of water and sewer charges shall be established by the city manager.
2. *Sewer (no water meter).* Persons discharging only normal sanitary wastewater who are not water customers of the city will likewise be charged with an estimated volume of sewage at the domestic rates stated in terms of cents per 1,000 gallons of wastewater. If there is no meter or method of determining the amount of water consumed by such person, it shall be presumed that there will be a minimum of 60 gallons of wastewater per person residing in the household, per day, discharged into the system. The schedule of rates for basic users that are sewer users (no water meter) shall be the same as those rates set forth in subsection 70-96.B.1.
3. *Adjustments.* The volume of sewage will be estimated to be the same as the volume of water used for basic users if metered, or the assumed amount if unmetered unless it can be demonstrated that the two volumes are substantially different in a greater proportion than is normal. Metered water volume intake will be the usual value used for billing sewer use charges, where applicable. The finance director is authorized to make an adjustment in estimated flow when it can be demonstrated a substantial difference exists as described in this section.

C. *High strength waste surcharge.*

1. Persons discharging high strength wastes will be charged for loads of BOD and suspended solids in the wastewater in concentrations in excess of those normal for domestic sewage and allowed for the basic users rate. For purposes of establishing the lower limits of the user charge surcharges, normal domestic wastewater shall be characterized according to the following concentrations for domestic waste parameters:
   a. BOD_5: 220 mg/l.
   b. Suspended solids: 220 mg/l.

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2. Surcharge rates will be stated in terms of cents per pound for each parameter. Quantities of surcharge able materials will be determined by flow measurements (or estimates), sampling, analyses and calculations. Sampling and analyses will be done by the city using 24-hour composite samples, taken during a representative operating period of the user. Average results of sample analyses will be used for calculating surcharges for each parameter over the billing period.
3. Administration for the high strength waste monitoring program and billings to such accounts will be made by the city and will include statements of base rate billings, surcharge billings and the basis of billings.
4. A schedule of surcharge rates to be charged for the collection and treatment of high strength wastewater shall be set forth in the schedule of taxes, fees and charges. Rate schedules will be revised from time to time to reflect the changing number of users and the varied operation costs.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-97. Sewer connection charges.

A. Applicable sewer tap and capacity system development fees, which are set forth in the schedule of taxes, fees and charges, shall be paid in advance of the establishment of any sewer connection, including, but not limited to, the extension of pipe, the tapping of a sewer main, or the establishment of a new use on an existing connection. The specific policies and procedures for the assessment and collection of sewer tap and capacity system development fees shall be established by the city manager.

B. All sewer tap fees shall be computed at the sum total of the cost of labor, materials and equipment necessary for completion of the work plus 35 percent of the direct labor charge.

C. No water from the city's water system shall be supplied to any person who has caused a sewer tap to be made until the tap fee has been received by the finance director.

D. All residents of areas statutorily annexed to the city shall qualify for waiver of the standard sewer tapping fees and charges provided such residents make proper application and complete connections within 12 calendar months of the date sewer utilities are available for tapping. The public services director shall provide written certification to city council of the date such utility lines become available for connection, thereby, fixing the date from which residents are allowed to connect without payment of connection charges. All residents who do not connect within the 12-month waiver period must pay all tapping fees and charges as prescribed herein.

E. Sewer capacity system development fees are to be deposited in the city's capital reserve fund for improvements at the sewer plant.

F. For purpose of assessing residential sewer capacity system development fees, the assumed usage for a residential unit shall be 240 gallons per day. The term "residential unit" shall be deemed to be an individual single-family living unit whether such unit shall be a freestanding house, an apartment, a condominium or any other residential structure.

G. Non-residential users will be assessed sewer capacity system development fees based on the number of 240 GPD units of water consumed and will pay the full cost for any fraction of a residential equivalent. Sewer capacity system development fees may be assessed utilizing the best available information, including, but not limited to, historical use data for similar uses, and an engineer's signed and sealed estimate of projected water use. In the absence of such information, the administrator shall base sewer capacity impact such fees upon North Carolina Administrative Code 15A NCAC 02T.0114 Wastewater Design Flow Rates.

(Ord. No. 2013-08, § 02(Exh. B), 8-19-13; Ord. No. 2014-02, § 02, 2-17-14; Ord. No. 2014-11, § 01(Exh. A), 5-19-14; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20)

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70-98. Responsibility for payment of charges for premises with multiple sewer connections.

A. Where there is not provided a separate service connection for each building situated on any given lot or parcel of land, the owner of such lot or parcel of land shall be responsible for the payment of charges for sewer to all such buildings on the lot or parcel.

B. Where separate service connections are not provided to every occupancy unit or tenant within a multitenant building, the owner of the building shall be responsible for the payment of all charges for sewer service to the building.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-99. Deposits.

Customer utility deposits shall not be required for sewer service apart from deposits required for the city's water system. The customer deposits set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, and the related regulations set forth in CHAPTER 70, Article II shall serve in all respects to satisfy deposit requirements for sewer service, including deposits, credit, exemptions, refunds, disposition and cutoff of service for delinquency.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-100. Consumption basis of charges.

All charges for wastewater collected from any consumer and discharged to the city sewer system shall be based upon the number of gallons per month delivered by the consumer at the point of connection to the city system. The number of gallons collected shall be determined by the readings of the customer's water meter as required by CHAPTER 70, ARTICLE II of this chapter.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-101. Basis of charges for multiple dwelling units on single connection.

Where more than one family dwelling unit is provided with service through a single service connection, the charges for service shall be the greater of:

A. The number of family dwelling units served times the minimum charge as shown in the current sewer rate; or

B. The actual charge determined for the quantity of metered water discharged.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-102. Basis of charges for newly constructed condominiums.

For newly constructed condominiums, the total metered consumption serviced by one meter shall be divided by the number of units in the complex and each unit shall be figured separately at the regular metered rate, with one total billing being mailed to the person in charge.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

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70-103. Administrative procedures; enforcement; penalties; damaging or tampering with facilities.

A. *Duties and authority of inspectors.*

1. The city manager, his designee, the code enforcement officer and other duly authorized employees properly identified by credentials of appointment and identification shall act as inspectors. Inspection shall also be allowed by appropriate state and federal agencies. It shall be the duty of the inspector to make inspections, observations, measurements, sampling and testing in accordance with the provisions of this article. Such inspector shall have no authority to inquire into any industrial process or to require or request the disclosure of any trade secrets beyond that point having a direct bearing on the kind or source of discharge to the sewers or waterways or other facilities of the city.
2. Such inspectors shall have the right to enter upon real property over and through which the city has acquired an easement for the installation and maintenance of the sewer lines and facilities, and, in addition, they shall have, along with proper municipal inspectors, the right to go upon the property of individuals or industrial users of the system as provided in the service agreement mentioned in this article, for the purpose of determining compliance with the provisions of this article. All non-municipal sewer users shall execute, as a requirement for service, an agreement allowing sewer inspectors to enter upon the premises for the purpose of inspecting individual sewer collector lines, during reasonable times, so as to verify compliance with the terms and conditions of such service.
3. While performing the necessary work on private properties referred to in this section, any inspector shall observe all safety rules applicable to the premises established by any commercial or industrial user.

B. *Damaging or tampering with facilities.* It shall be unlawful and a violation of this article for any person to damage, destroy or tamper with any gauges, meters, lines, manholes and their covers, equipment, pumps, electrical connections, lift stations, or any appurtenances to the sewer lines of the city, and, in addition to the civil responsibility for any damage caused or occasioned by such person, such offender shall be liable for imposition of the penalties as provided in this section. It shall likewise be a violation of this section for any person to aid, assist, abet or permit a minor child to violate the provisions of this article, and such person shall be liable as a principal and subject to the identical penalties as to which any violator of this article would be liable.

C. *Penalties.* If any person shall violate the provisions of this chapter the city manager, his designee or the code enforcement officer shall give notice to the owner or to any person in possession of the subject property in writing and served by personal delivery or the most expeditious means possible, directing that all unlawful conditions existing thereupon be abated within ten days from the date of such notice; provided, that if, in the opinion of the city manager, his designee, or the code enforcement officer the unlawful condition is such that it is of imminent danger or peril to public, the public services department may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property.

The penalty for the violation of any provisions of this article shall be as prescribed by Section 1-8. In addition to the criminal penalty set forth in Section 1-8, there shall also be levied a civil penalty in the amount of $200.00 per separate offense plus any amount city council shall find appropriate in case of damage to the system or the environment for the purpose of repairs or cleanup.

D. *Additional rules and regulations.* In order to carry out the terms of this article, the city may promulgate such rules and regulations as deemed necessary, and the manager of the city is likewise vested, subject to ratification of the city council, with authority to act on behalf of the city in providing for the safety, maintenance, good order and proper function of the facilities of the city.

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E. *Application for connection; service permit.*

1. Application for connection to the city sewer system shall be made on the city's form, together with supporting reports and data sufficient to ensure compliance with relevant terms of this article. The minimum requirement shall be that all information requested on the application be supplied, and all irrelevant information blanks be marked as "not applicable." The manager may request any additional information he deems necessary, within the scope and intent of this article. Persons requiring guidance in making application may consult the manager. The approval of a sewer connection application shall constitute the issuance of a service permit.
2. An approvable service permit or information necessary to support an approvable application must be submitted to the manager before approval will be issued to any person proposing to discharge industrial wastewaters to public sewers.
3. Service permits shall specify quantities and characteristics of industrial wastewaters which may be sewered and shall be limiting where so specified. Service permits may specify special conditions and agreements between the user and the city. Service permits shall serve as a contract between the user and the city. If deviation from terms of a service permit is anticipated or experienced by the user or the city, each party shall immediately notify the other, in writing, specifying the nature and extent of the change in sufficient detail that a new or modified service permit may be issued, or the service permit cancelled, whichever may be appropriate.
4. Permits for any users, other than normal sanitary wastewater, shall be issued for a specified time period not to exceed five years. The user shall apply for permit reissuance a minimum of 180 days prior to expiration.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-104. Users obtaining water from well.

A. Whenever a property owner desires to install a well within the city for any purpose whatsoever, a permit shall first be obtained therefor as prescribed in article II of this chapter.

B. When any water obtained from a well is to be disposed of into the city sanitary sewer system, a suitable water meter shall be installed by city personnel at the well head and the owner of the well shall be charged the regular sewer charge based on the full amount of the water so metered. The prescribed water tap fee shall be charged for any such meter installation.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-105. Acceptance of wastewater from private or corporate wastewater companies.

A. *General.* Wastewater from private or corporate wastewater companies shall not be accepted for disposal into the city's system. Any discharge of such wastewater, septage, or digested domestic sludge as defined by this article, into the city's system shall constitute a violation of this article and be subject to such penalties as set forth in Brevard City Code.

B. *Discharge at city septage pretreatment facility.* Notwithstanding the provisions of subsection (a) of this section, septage may be discharged by private or corporate wastewater companies into the city's system through the use of the city's septage and digested sludge pretreatment facilities, constructed and operated for the purpose of receiving such wastes. Such discharges shall be governed by the provisions of this article and will only be permitted when such discharges do not jeopardize the operation of the city's system and its non-discharge permit, the city having sole authority and discretion to make such determinations.

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1. All parties desiring use of the city's pretreatment facility shall be approved in accordance with procedures set forth by the director of the wastewater treatment plant. The director of the wastewater treatment plant shall have full authority and discretion in reviewing, approving or disapproving all requests for use of the septage and digested sludge pretreatment facilities based upon his professional judgment of the chemical content and constituent composition of the proposed discharge.
2. Fees for the discharge of septage and digested sludge at the city's septage and digested sludge pretreatment facilities shall be set forth within the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of such fees shall be established by the city manager or designee thereof.
3. All parties desiring use of the city's pretreatment facilities shall indemnify and hold harmless the city for the user's discharges into the city's system. The user may also be required to indemnify the county, since the facility will be operated under an agreement between the city and county.
4. For the purpose of this section, no septage or digested sludge other than wastewater derived solely from domestic or residential service, containing no grease or fatty materials collected from grease traps or holding tanks, will be permitted for discharge into the septage pretreatment facility.
5. Discharges at the septage and digested sludge pretreatment facilities shall be made only under the supervision of wastewater treatment plant personnel, with all such discharges are to logged and recorded for volume and ordination location of discharges via electronic pin code access monitored by plant personnel. Plant personnel may, at their discretion, take samples of the wastewater being discharged for laboratory testing to determine and confirm chemical and constituent content of the waste being discharged. Any discharges found to be in noncompliance with the provisions of this article shall be cause for termination of authorization to discharge and further penalties as prescribed by this article.
6. While it is the intent of this section to provide for the use of the city's septage and digested sludge pretreatment facilities for the disposal of wastewaters purely from domestic sources, principally septic tanks, and package plant it is recognized that special circumstances may exist whereby wastewaters originating from commercial sources should be eligible for disposal at the pretreatment facility. Therefore and notwithstanding the applicable provisions of subsection (b)(4) of this section, the director of the wastewater treatment plant and the city manager are authorized upon a case-by-case basis to permit the disposal of wastewaters from commercial sources; provided such wastewaters conform to all other requirements of this chapter and the disposal of the wastewater may adequately be treated by the wastewater treatment plant without negative impact upon the city's non-discharge permit for the plant. Otherwise, the disposal of wastewaters at the septage pretreatment facility shall at all times conform to the rules, regulations and restrictions applied by this section and this chapter.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-106. Private sewage disposal systems.

A. *General.* Where a public sanitary sewer is not available, the sewer service line shall be connected to a private sewage disposal system complying with the provisions of this section.

B. *Permit.* Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the county health sanitarian. The application for such permit shall be made on a form furnished by the county, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the sanitarian.

C. *Inspection.* A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the sanitarian. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the sanitarian when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the sanitarian.

D. *Specifications.* The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department of natural resources and community development, division of environmental management. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer, open drain, ditch, stream or well penetrating water-bearing formations.

E. *Connection to public sewer.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 70-84, a direct connection shall be made to the public sewer in compliance with this article at the first malfunction of the private system; and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

F. *Operation and maintenance.* The owner shall always operate and maintain the private sewage disposal facilities in a sanitary manner, at no expense to the city.

G. *Additional requirements.* No statement contained in this section shall be made to interfere with any additional requirements that may be imposed by the county sanitarian.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-107—70-126. Reserved.

ARTICLE V. SEWER USE ORDINANCE

70-140. General provisions.

A. *Purpose and policy.* This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Brevard, hereafter referred to as the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by G.S. 160A-312 and/or 153A-275. The city shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW director or director. Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the director may be delegated by the director to other city personnel.

By discharging wastewater into the city wastewater system, industrial users located within or outside the city limits agree to comply with the terms and conditions established in this ordinance, as well as any permits, enforcement actions, or orders issued hereunder. Users subject to this ordinance are also subject to the City of Brevard Code of Ordinances, CHAPTER 70 - utilities.

1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the wastewater system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

B. *Abbreviations.*

1. The following abbreviations, when used in this ordinance, shall have the designated meanings:
   a. BOD: Biochemical oxygen demand;
   b. CFR: Code of Federal Regulations;
   c. COD: Chemical oxygen demand;
   d. EPA: Environmental Protection Agency;
   e. gpd: Gallons per day;
   f. l: Liter;
   g. mg: Milligrams;
   h. mg/l: Milligrams per liter;
   i. G.S.: North Carolina General Statutes;
   j. NPDES: National Pollution Discharge Elimination System;
   k. O&M: Operation and maintenance;
   l. POTW: Publicly owned treatment works;
   m. RCRA: Resource Conservation and Recovery Act;
   n. SIC: Standard industrial classification;
   o. SWDA: Solid Waste Disposal Act;
   p. TSS: Total suspended solids;
   q. TKN: Total Kjeldahl nitrogen; and
   r. U.S.C.: United States Code.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

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Editor's Note—Ordinance 2023-43 transferred the definitions from this section to City Code § 1-2.

70-141. General sewer use requirements.

A. *Prohibited discharge standards.*

1. *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.
2. *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
   a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
   b. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.
   c. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
   d. Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
   e. Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
   f. Any wastewater having a temperature greater than 139° F (59.4° C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
   g. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
   h. Any trucked or hauled pollutants, except at discharge points designated by the director in accordance with subsection 70-141.I of this ordinance.
   i. Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
   j. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
   k. Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or

secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

l. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations.

m. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the director.

n. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the director.

o. Any sludges, screenings or other residues from the pretreatment of industrial wastes.

p. Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.

q. Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

r. Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the director.

s. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.

t. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

u. Recognizable portions of the human or animal anatomy.

v. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

w. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the wastewater system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

3. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

When the director determines that a user is contributing to the POTW, any of the above-enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the director shall:

a. Advise the user(s) of the potential impact of the contribution on the POTW in accordance with subsection 70-147.B; and

b. Take appropriate actions in accordance with section 70-143 for such user(s) to protect the POTW from interference or pass-through.

B. *Restricted discharges.*

1. No person shall discharge or cause to be discharged the following described prohibited substances, materials, waters or wastes if it appears likely in the opinion of the manager that such wastes can harm either the sewers, wastewater treatment process or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the manager will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or that causes wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

b. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.

c. Any garbage other than ground residential garbage.

d. Any acidic or alkaline wastewater having pH values outside the range of 5.0 to 10.0.

e. Heavy metals and toxic, refractory or organic chemicals in concentrations or quantities sufficient to limit treatment plant capability or efficiency, to adversely affect effluent quality by their presence or effects, or to limit the means of disposal or utilization of treatment plant sludge by their presence. The manager may issue lists of prohibited metals and toxic chemicals and guidelines and criteria for limiting their acceptance as required for operation of the treatment system.

f. Any radioactive waste or isotopes of such half-life or concentration may exceed public safety limits or cause the plant effluent or sludge to exceed any applicable state or federal regulations.

2. Any materials which exert or cause:

a. Unusual oxygen demand or chlorine demand in such amounts as to constitute a significant load or a problem with wastewater treatment plant operations.

b. Excessive discoloration of treatment plant effluent.

c. Unusual odors in the treatment plant effluent or unusual odors in the sewerage system.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

C. *National categorical pretreatment standards.* Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

D. *Local limits.* An industrial waste survey is required prior to a user discharging wastewater (containing in excess of the following average discharge limits):

TABLE 70-141A: LOCAL LIMITS TO WASTEWATER DISCHARGE		
BOD	220	mg/l
TSS	220	mg/l
NH_3	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Chromium	0.05	mg/l (total chromium)
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l
Nickel	0.021	mg/l
Silver	0.005	mg/l
Zinc	0.175	mg/l

E. Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for pollutants of concern. User-specific local limits for pollutants of concern shall be included in wastewater permits. The director may impose mass based limits in addition to, or in place of, concentration based limits.

F. *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.

G. *Right of revision.* The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in subsection 70-140.A of this ordinance or the general and specific prohibitions in subsection 70-141.A of this ordinance, as is allowed by 40 CFR 403.4.

H. *Dilution.* No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.

I. *Pretreatment of wastewater.*

1. *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under subsection 70-143.B of this ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in subsection 70-141.A of this ordinance within the time limitations as specified by EPA, the state, or the

director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.

2. *Additional pretreatment measures.*

   a. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

   b. The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

   c. Additional pretreatment measure for Fats, Oil and Grease (FOG) control as detailed in section 70-141 L

   d. Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

   e. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

J. *Accidental discharge/slug control plans.*

1. The director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 1-2. All SIUs must be evaluated within one year of being designated an SIU. The director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the director may develop such a plan for any user.

2. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see subsections 70-144.E and 70-144.F.

3. An accidental discharge/slug control plan shall address, at a minimum, the following:

   a. Description of discharge practices, including non-routine batch discharges;

   b. Description of stored chemicals;

   c. Procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection 70-144.F of this ordinance; and

   d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer

of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

K. *Hauled wastewater.*

1. Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate section 70-141 of this ordinance or any other requirements established by the city. The director may require septic tank waste haulers to obtain wastewater discharge permits.
2. The director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may require generators of hauled industrial waste to obtain wastewater discharge permits. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
3. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

L. *Fats, oils, and greases control policy***.**

1. The objective of this section is to prevent the introduction and accumulation of fats, oils, and greases into the POTW which will, or tend to, cause or contribute to sanitary sewer blockages and obstructions, as well as the prevention of wastewater treatment caused by interference at the POTW treatment plant.
2. This section applies to each user that causes or permits the contribution or discharge of wastewater into the POTW, including, but not limited to, property owners who provide common interceptors for one or more independent establishments (including tenants). Specifically, this section applies to:
   a. Any FSE, commercial establishment, or industrial establishment (including, without limitation, any establishment primarily engaged in the business of serving or preparing cooked or precooked food, cold dairy, or frozen food) that generates wastewater containing FOG, or similar products.
   b. Upon notification from the control authority, any other commercial establishment that city manager determines that a grease collection device is necessary to prevent contribution or accumulation of FOG in the POTW (collectively referenced in this section, as FOG users").
   c. All Food Service Establishments shall have grease-handling facilities approved by the Control Authority. Establishments whose grease-handling facilities or methods are not adequately maintained to prevent floatable oils, fat or grease from entering the sewerage system shall be notified in writing of any noncompliance and required to provide a schedule whereby corrections will be accomplished. (For example, a collapsed or deteriorated baffle wall, leaks, *infiltration* and *inflow*, improperly located or missing tees, and any other deficiencies that will prevent the *grease interceptor or trap* from working properly.)

d. All Food Service Establishments grease-handling facilities shall be subject to review, evaluation, and inspection by City of Brevard representatives during normal working hours. Results of inspections will be made available to facility owner, leaseholder or operator City of Brevard may lend assistance and make recommendations for correction and improvement.

e. Food Service Establishments receiving two (2) consecutive unsatisfactory evaluations or inspections may be subject to penalties or other corrective actions as provided for in the Sewer Use Ordinance.

f. Food Service Establishments who continue to violate the City of Brevard Grease Trap Policy Requirements may be considered grounds for discontinuance of sewer service.

g. Food Service Establishments whose operations cause or allow excessive grease to discharge or accumulate in the City of Brevard collection system may be liable to City of Brevard for costs related to City of Brevard service calls for line blockages, line cleanings, and line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service-related charges may also be grounds for sewer service discontinuance

h. Regular scheduled maintenance of grease-handling facilities and equipment is required to ensure adequate operation. All grease traps must be cleaned *(by a* City of Brevard *approved grease handling and hauling company)*, maintained and repaired as needed. All grease traps must be pumped out completely. Outside traps should be pumped quarterly and small under the sink grease traps should be pumped monthly or at the discretion of the Control Authority. In the maintaining of grease interceptors, the owner, lease-holder or operator shall be responsible for approved grease removal and disposal, and shall maintain on-site records of dates, and means of disposal.

i. The introduction of emulsifying agents such as chemicals, solvents or enzymes directly or indirectly into the grease interceptor, other than what is considered typical business operational practices such as dishwashing or sanitation, is strictly prohibited. By approval from the Control Authority, products which reduce Fats, Oil and Grease (FOG), such as bacteria, may be used in addition to the regular grease interceptor maintenance program, but shall not be a consideration in determining grease interceptor sizing or maintenance frequency. In any case, the discharged waste shall comply with all applicable provisions of City of Brevard Sewer Use Ordinance Chapter 70 -141.B Restricted Discharges and all State and Federal Laws.

3. FOG users shall install, operate, and maintain each grease collection device at the FOG user's expense. All grease interceptors required by this section shall be of a type, design, and capacity approved by the city manager. Each installed grease collection device shall be easily accessible for maintenance and repair, including cleaning.

4. All FOG users shall adopt and apply a kitchen waste control plan for the proper disposal of FOG and food solids. Each FOG user must have a delegated lidded storage container for used fryer oil storage.

5. Each FOG user shall adopt and apply kitchen best management practices, as such kitchen best management practices may be detailed through procedures set forth by the city manager, for handling all sources of FOG that are used or generated by the FOG user so as to reduce and prevent the discharge of FOG into the POTW.

6. Control authority may inspect any FOG user to ensure compliance with all requirements of this section, as set forth in section 70-141, L.

7. All grease collection devices shall be serviced and emptied of accumulated waste content as required to maintain its design features and its ability, and the volume required, to effectively intercept and retain FOG and settled solids from FOG-laden wastewaters. Such service shall occur as need, but such service shall in no case occur less often than every 90 days (unless a modification permitted by the city manager). The owner of the property on which a common grease interceptor is located shall be primarily responsible for the maintenance, upkeep, and repair of the common grease interceptor.

8. FOG users shall maintain a written record of grease collection device maintenance and service for three years, as required by this section and section. **70-144 M.** All such records must always be available for inspection by the control authority.

9. For each grease interceptor, access manholes shall be required and shall be installed over each chamber and each sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The access manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

10. Upon notification from the control authority that a FOG user is subject to the terms of an enforcement action under this article related to the failure of a grease collection device to function properly by reducing FOG levels within the acceptable levels required by this article, said FOG user shall not allow wastewater discharge concentration from the subject grease collection device to exceed the acceptable levels set forth in this article.

11. Non-FOG sources shall not be allowed to be connected to sewer lines intended to be attached to the grease collection device for pretreatment.

12. Users with the potential to discharge one or more of the following pollutants into the POTW, shall be required to install an oil/water separator and grit interceptor: oil, kerosene, gasoline, naphtha, wax, any light-density and volatile liquid, or any material with a higher viscosity that causes impact or flow resistance. Substances that will emulsify oil or grease shall not be used in any oil/water separator required by this section.

13. Vehicle wash facilities shall install an oil/water separator and a grit interceptor. A grit interceptor required by this section or other applicable law shall be installed in a drainage line so that wastewater flows into the grit interceptor before entering an oil/water separator installed in accordance with this section.

14. Vehicle wash facilities shall be designed, constructed, operated and maintained to prevent direct or indirect stormwater from entering the POTW.

15. The city manager, and the city planning department, building code enforcement division (if such division has jurisdiction) may make determinations of grease collection device, oil/water separator and grit interceptor need, adequacy, efficiency, size, design, application, location, modification(s), and conditional usage as provided herein and by all other applicable law. These determinations will be based upon review of all relevant information regarding device performance, the facility site, and the associated building. These reviews may be conducted as part of an establishment's application for a building permit.

16. The city manager may establish reasonable procedures regarding FOG that address the requirements of this section and are not inconsistent herewith. Under any such procedures, a FOG user may request

modification of any required grease collection device pumping frequency and/or maintenance and service procedures. Such request for a modification shall conform to the stipulations and requirements set forth in any such procedures. Any modification must be approved by the city manager in written form before implementation by the FOG user or the FOG user's FOG service provider.

M. *DESIGN STANDARDS*

1. Construction standards

a. New Facilities

1. All new Food Service Establishments shall be required to install a grease interceptor, according to the Control Authority and the City of Brevard Grease Trap Policy and guidelines. Grease interceptors shall be adequately sized, with no interceptor less than 1,000 gallons total capacity unless otherwise approved by the Control Authority. All as-built drawings must be on file at the facility or readily accessible from an alternative location for the life of the grease trap at the food service establishment.

2. No new Food Service Establishments will be allowed to initiate operations until grease-handling facilities are installed and approved by the Control Authority.

3. All grease interceptors, whether singular or two tanks in series, must have each chamber directly accessible from the surface to provide means for servicing and maintaining the interceptor in working and operating condition.

3.A basket, screen or other intercepting device shall prevent passage into the drainage system of solids 1/2 inch or larger in size. The basket or device shall be removable for cleaning purposes.

5. Where food waste grinders connect to grease traps, a solids interceptor shall separate the discharge before connecting to the grease trap. Solids interceptors and grease interceptors shall be sized and rated for the discharge of the food waste grinder

b. Existing Facilities

1.All existing Food Service Establishments shall have grease-handling facilities, approved by the Control Authority. Food Service Establishments without any grease-handling facilities will be given a compliance deadline not to exceed six (6) months from date of notification to have approved and installed grease-handling equipment in compliance with this Policy.

2. Failure to come into compliance within the specified time frame will be considered a violation of the City of Brevard Sewer Use Ordinance and may subject the facility to penalties and corrective actions or service discontinuance. Said installations shall meet the same requirements for design as for new facilities. (See A. above).

3. In the event an existing Food Service Establishment's grease-handling facilities are either under-designed or substandard in accordance with this policy, the owner(s) will be notified in writing of the deficiencies and required improvements, and given a compliance deadline not to exceed six (6) months.

4. For cases in which “outdoor” type grease interceptors are infeasible to install, existing Food Service Establishments will be required to install adequate and approved “under-the-counter” grease traps for use on individual fixtures including dishwashers, sinks, and other potentially grease-containing drains. Sizing of “under-the-counter” grease trap units will be in accordance with recommended commercial grease traps**.**

5. The grease retention capacity rating in pounds shall be at least two (2) times the GPM flow rate of the type fixture which it serves. Flow control fittings must be provided to the inlet side of all “under-the-counter” units to prevent overloading of the grease trap and to allow for proper operation.

6. The Control Authority approval of flow control devices and grease trap design must be obtained prior to installation.

7. The location of “under-the-counter” units must be as near the source of the wastewater as physically possible.

8. Wastewater from garbage grinders should not be discharged to grease traps/interceptors.

9. In maintaining grease traps/interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by City of Brevard (See section V. F.)

10. The exclusive use of enzymes, grease solvents, emulsifiers, etc. is not considered acceptable grease trap maintenance practice.

c. New Food Service Establishments in Existing Buildings

1. Where practical, new Food Service Establishments locating in existing buildings will be required to comply with the grease trap Standards applicable to new facilities. (See A. above New Facilities).

2. Where physically impossible to install “outdoor” units, “under-the-counter” units may be allowed as with existing food service establishments provided prior approval of unit type, size, location, etc. is obtained from City of Brevard

3. Sizing of Grease Interceptors and Separators.

a. North Carlina Plumbing Code, 1003.1- 1003.3.4, mandates that interceptors and separators be installed to prevent substances like oil, grease, sand, and other harmful/hazardous materials from discharging into a buildings drainage system, public sewers, or private sewage disposal systems.

CODE:

1003.1 Where Required.
Interceptors and separators shall be provided to prevent the discharge of oil, grease, sand and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes.

1003.2 Approval. The size, type and location of each interceptor and of each separator shall be designed and installed in accordance with the manufacturer's instructions, the requirements of the local utility department or health department and the requirements of this section based on the anticipated conditions of use. Wastes that do not require treatment or separation shall not be discharged into any interceptor or separator.

1003.3 Grease interceptors. Grease interceptors shall comply with the requirements of Sections

1003.3.1 through 1003.3.5 or with the requirements of the local utility department or health department.

1003.3.1 Grease interceptors or automatic grease removal devices required. A grease interceptor or automatic grease removal device shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias, or clubs. Fixtures and equipment shall include pot sinks, pre-rinse sinks; soup kettles or similar devices; work stations; floor sinks or sinks into which kettles are drained; automatic hood wash units and dishwashers without pre-rinse sinks. Grease interceptors and automatic grease removal de-vices shall receive waste only from fixtures and equipment that allow fats, oils or grease to be discharged.

1003.3.2 Food waste grinders. Where food waste grinders connect to grease interceptors, a solids interceptor shall separate the discharge before connecting to the grease interceptor. Solids interceptors and grease interceptors shall be sized and rated for the discharge of the food waste grinder. Emulsifiers, chemicals, enzymes and bacteria shall not discharge into the food waste grinder.

1003.3.3 Grease interceptors and automatic grease removal devices not required. A grease interceptor or an automatic grease removal device shall not be required for individual dwelling units or any private living quarters.

1003.3.4 Grease interceptors and automatic grease removal devices. Grease interceptors and automatic grease removal devices shall be sized with PDI G101, ASME A112.14 Appendix A, or ASME A112.14.4. Grease interceptors and automatic grease removal devices shall be designed and tested in accordance with PDI G101, ASME A112.14.3 or ASME A112.14.4. Grease interceptors and automatic grease removal devices shall be installed by the manufacturer's installation instructions.

1003.3.4 Exception: Interceptors that have a volume of not less than 500 gallons and are located outdoors shall not be required to meet the requirements of this section.

INTERPRETATIONS/CLARIFICATIONS:

Restaurants, hotel kitchens, bars, factory cafeterias, clubs, churches, and other structures that may produce grease laden discharges shall have a grease interceptor sized per table 1003.3.4.1 of the 2012 NC Plumbing Code and conforming to PDI G101, ASME A112.14.3 or ASME A112.14.4 and shall be installed per the manufacturer's instructions.

1003.3.4 Exception: Grease interceptors installed outside the building with a capacity equal to or greater than 500 gallons storage capacity are no longer covered by the 2012 North Carolina

Plumbing Code. Designers may consult with the local utility or health department to see if any requirements exist for the larger capacity interceptors. The plumbing inspector will only be required to check the material and drain piping for the larger capacity interceptors. Interceptors less than 500 gallons located outside the building or any size grease interceptor located inside the building shall be clearly marked with the manufacturer's name and the standard with which they comply.

Manufactured concrete grease interceptors less than 500 gallons located outside the building only shall be approved by the Code Official (Plan Examiner or Inspector) under the following conditions: The interceptors shall come complete and require no internal field fabrications or modifications by the plumber. Concrete interceptors shall be clearly marked with the manufacturers name and the standard to which they comply.

Drains with grease producing discharges shall discharge through the interceptor. Food waste disposers shall first discharge through a solids interceptor per section 1003.3.2. Clear/gray water wastes (i.e., ice maker drips, food prep sinks or hand wash sinks) are exempt from discharging through a grease interceptor. An engineer (registered in the State of North Carolina) is responsible for proper sizing of the grease interceptors.

Shell Requirements: Designers who install grease interceptors during the shell phase of construction shall provide grease interceptors per the design of a Mechanical Engineer (registered in the state of North Carolina) for the maxi-mum grease capacity of all food establishments in the shell tenant spaces.

Notes:

1. Tenant spaces **shall not share** a grease interceptor (except Mall Food Courts).

2. Interceptors remotely located (more than 10' outside the tenant space), shall require the designer to provide (on the drawings) methodology to handle grease build-up in excessively long grease lines (3% slope is the design standard for drains to keep solids suspended in long runs to the grease interceptor).

3. Grease Interceptors installed in traffic areas shall be rated traffic proof per the manufacturer ONLY!

4. Grease interceptors connected to septic systems shall meet the most stringent requirements of the North Carolina Plumbing Code and the Transylvania County Public Health Department and City of Brevard Wastewater and Septic tank rules and regulations.

PDI Sizing Procedure

1. Sizing Method Based on Pipe Diameter Size and Slope

When the final configuration of fixtures in a facility is not known or to allow for additional fixtures in the future, this method shall be used or to size the interceptor for the maximum flow that the drain line from the facility can carry.

Pipe Size (inches)	Full Pipe Flow @ ¼ slope	Interceptor size 1 minute drain	Interceptor size 2 minute drain
2"	19.44 gpm	20 gpm	10 gpm
3"	58.67 gpm.	75 gpm	35 gpm
4"	125.77 gpm	-	75 gpm

2. Procedure for Sizing Indoor Grease Interceptors

The Table below is provided to show the standard formula in steps for sizing grease interceptors to suit requirements of specific fixtures. An example of this sizing formula application is included to illustrate the steps.

Steps	Formula	Example
1	Determine cubic content of fixture. Multiply length x width x depth.	A sink 48" long by 24" wide by 12" deep. **Cubic content** 48 x 24 x 12 = 13,824 cubic inches.
2	Determine capacity in gallons. 1 gal. = 231 cubic inches.	**Content in gallons.** 13.824 = 59.8 gallons 231
3	Determine actual drainage load. The fixture is normally filled to about 75% of capacity with water. The items been washed displace about 25% of the fixture content, thus actual drainage load = 75% of fixture capacity.	**Actual drainage load** .75 X 59.8 = 44.9 gallons.
4	In general, good practice dictates a 1 minute drainage period: however, where conditions permit, a 2 minute drainage period is acceptable. Drainage period is the actual time required to completely drain the fixture. Flow rate = Actual Drainage Load Drainage Period	**Calculate flow rate and drainage period** 1-minute period 44.9 = 44.9 GPM Flow Rate 1 2-minute period 44.9 = 22.5 GPM Flow Rate 2
5	From Table 8.2 select Interceptor which corresponds to the flow rate calculated. Note: Select next larger size when flow rate falls between two sizes listed.	**Select Interceptor.** For 1-minute period - 44.9 GPM requires PDI size 50. For 2-minute period - 22.5 GPM requires PDI size 25.

3. Sizing by known compartment sizing

Standard PDI Certified grease interceptors applicable to various size fixtures commonly used in domestic, commercial and institutional installations. The selections listed are based on the PDI sizing formula by GPM.

			Recommended PDI Size Grease Interceptor	
Fixture Compartment Size (inches)	Number of Compartments	Drainage Load (Gallons)	1-minute Drainage period	2-minute Drainage period
18 x 12 x 8	1	4.2	7	4
16 x 14 x 8	1	5.8	7	4
20 x 18 x 8	1	9.4	10	7
18 x 18 x 8	2	15.0	15	10
20 x 18 x 8	2	18.7	20	10
30 x 20 x 8	1	15.5	20	10
24 x 20 x 12	1	18.7	20	10
22 x 20 x 1	2	23.0	25	15
22 x 20 x 12	2	34.0	35	20
24 x 24 x 12	2	44.9	50	25
22 x 20 x 12	3	51.4	70	35
(2) 22 x 20 x 12	4	68.0	75	50
(2) 24 x 24 x 12	4	89.8	100	75

OUTDOOR GREASE INTERCEPTOR SIZING

The Manning Formula:
Interceptor Size (in gallons) = Flow rate (GPM)/sink or fixture x sum of fixture Ratings + the Discharge rate from any mechanical washers (i.e. dishwashers, glass washers, laundry machines, etc.) x a 24 minute retention Time.

The summarized version being: I = [(Fr) x (R)) + (D)] x (T)

Flow rate, measured in gallons per minute (GPM), is determined based on the slope, pipe texture, and pipe diameter. The following rates are pre-calculated. Apply them to your calculation, as demonstrated in the examples below.

0.5" pipe = 0.8 GPM/fixture
1.0 "= 5.0 GPM/fixture
1.5 "= 15 GPM/fixture
2.0" = 33 GPM/fixture
2.5" = 59 GPM/fixture
3.0" = 93 GPM/fixture

Fixture ratings of grease-laden waste streams are pre-determined values for specific kitchen drainage points, such as sinks, wash basins, and floor drains. Essentially, these values represent factors by which you can multiply the flow rate of a drainage pipe to get the potential rate of water movement out of the fixture. Apply them to your calculation, as demonstrated in the examples below.

2, 3, or 4 compartment sink = 1.0
1 or 2 compartment meat prep sink = 0.75
Pre-rinse sink = 0.5
1 or 2 compartment vegetable prep sink = 0.25
Can wash = 0.25
Mop sink = 0.25

Floor drain = 0.00

The discharge rate from dishwashers, laundry machines, glass washers, etc. must be added to your Manning Formula calculation because of their potential for introducing large quantities of water down the drain in a short amount of time. The user's manual for these appliances should indicate the manufacturer's discharge rate in GPMs, or you can call the manufacturer directly. Apply them to your calculation, as demonstrated in the examples below.
The 24 minute retention time is a pre-calculated amount of time that engineers have determined to be necessary for grease to separate from water. And, as always, apply it to your calculation, as demonstrated in the examples below.

Example 1: A restaurant has the following fixtures in its kitchen (all fixtures have a 1.5 inch diameter pipe):

(1) 3-compartment pot sink
1 pre-rinse sink
(1) 2-compartment vegetable prep sink
1 dishwasher that discharges 10 GPM

Based on the Manning Formula:
I = [(Fr) x (R) + (D)] x (T)
= 15 GPM x [1 + 0.5 + 0.25] + 10 GPM] x 24 minutes
= [(15 GPM x 1.75) + 10 GPM] x 24 minutes
= 26.25 GPM + 10 GPM x 24 minutes
=870 gallons
Rounded up to the next size interceptor means a 1,000 gallon interceptor is required!

Example 2: A restaurant has the following fixtures in its kitchen:

At a 0.5 inch diameter pipe, a pre-rinse sink
At a 1.5 inch diameter pipe:
1 3-compartment pot sinks
1 pre-rinse sink
1 meat prep sink
1 vegetable prep sink
At a 3.0 inch diameter pipe, 1 can wash

Using the Manning Formula, we get:

For the pre-rinse sink, we take 0.8 GPM x 0.5 = **0.4 GPM**

For the 1.5 inch pipe diameter fixtures: 15 GPM x [1+ 0.5 + 0.75 + 0.25] = **37.5GPM**

For the can wash: 93 GPM x 0.25 = **23.25 GPM**

Add **0.4 GPM** + **37.5 GPM** + **23.25 GPM** = 61.15 GPM x 24 minutes = **1,468 gallons**

Rounded up to the next size means a *1,500 gallon Grease Interceptor is required*!

4. EXCEPTIONS

Under certain circumstances, the interceptor size and location may necessitate special exceptions to this policy. If an exception to this policy is requested, the User must demonstrate that the size and location will not cause the facility any problems in meeting the discharge requirements of the Control Authority.
The intent of this policy is to ensure compliance with the City's Wastewater Discharge Restrictions, Article III, which is required by the United States Environmental Protection Agency. This policy is in no way intended to discourage development, but rather to protect the facilities and the City's infrastructure as it relates to the sanitary sewer system.

N. *Education and Enforcement Program for Fats, Oils, and Grease*

1. Introduction

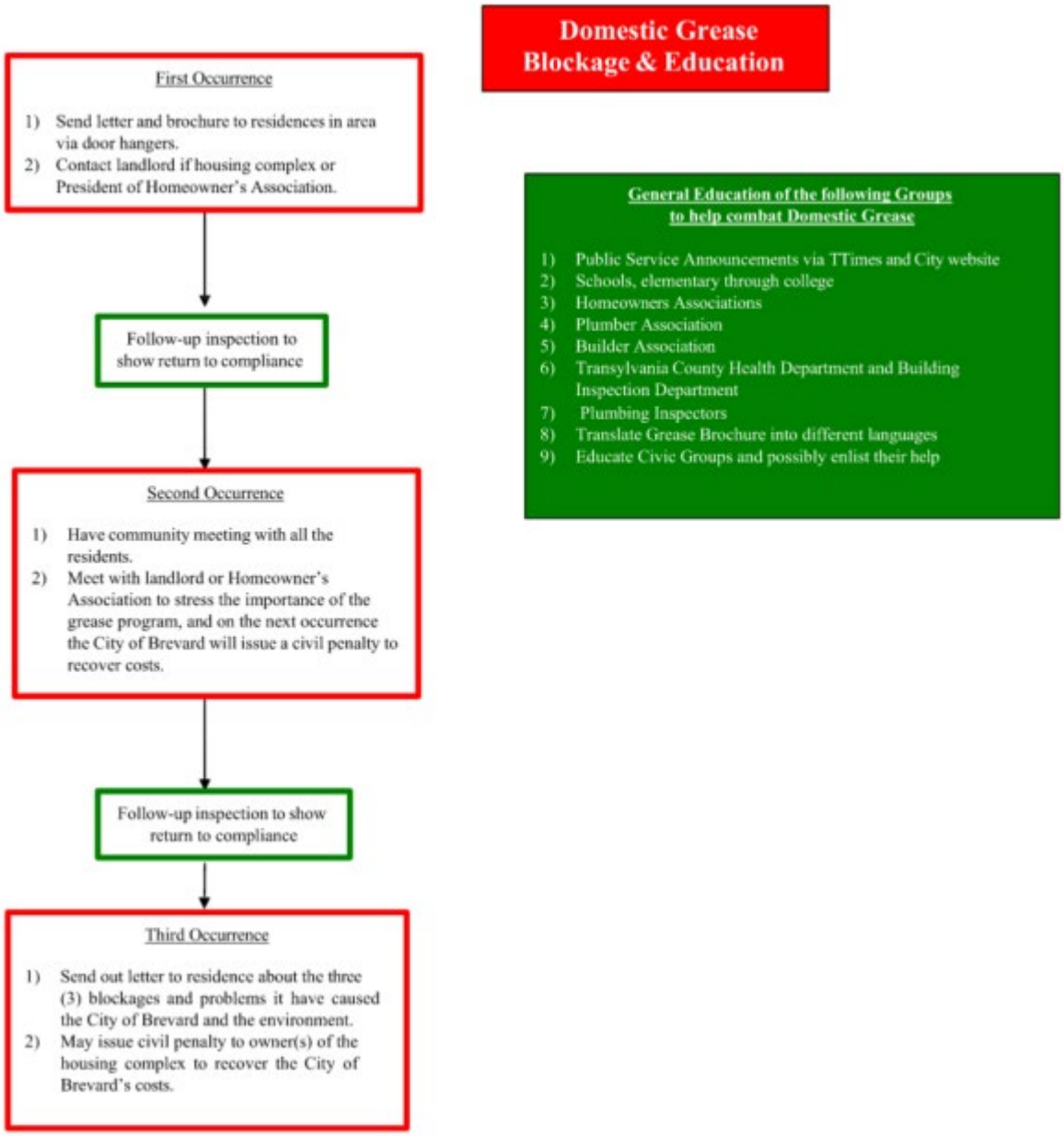
The Collection System Permit ("Permit") issued to the City of Brevard by the North Carolina Department of Environmental Quality ("NCDEQ") requires the City of Brevard to maintain an educational and enforcement program requiring the proper operation of all grease traps connected to the wastewater collection system. This document has been prepared to meet the requirements of the Permit and as a control mechanism for the build-up of FOG. The purpose of the Enforcement Response Plan (ERP) is to provide guidelines for anticipated situations. In general, enforcement actions will be taken in accordance with this plan, however, the actions listed herein are not exclusive, and the City of Brevard reserves the right to take other enforcement actions available to it.

A major cause of sewer blockages and Sewer System Overflows (SSO) are fats, oils, and grease (FOG) entering the system and building up in the pipes. The grease is generated by restaurants and domestic users. Domestic users include apartment complexes, housing developments (neighborhoods), and individual residents. FOG is generated from improper disposal after cooking, allowing it to enter the system and adhere to the sides of sewer pipes. The build-up of FOG continues until the pipe is completely blocked.

To prevent sewer blockages and SSO's, the City of Brevard has developed a Pretreatment FOG Program to provide education, regulate discharges and reduce FOG in wastewater discharged to the City Wastewater System. The City of Brevard offers educational tools for restaurant management, workers, homeowners, and the general public. The most effective method for controlling FOG is to prevent its introduction into the sewer system, and this is best accomplished through education. The City's education program consists of Power Point presentations to Civic Groups, schools, Plumbers Associations, Homeowner's Associations, brochures, and media coverage. The FOG Program also provides enforcement of the FOG regulations through inspections, review of maintenance records, consent orders, administrative orders, and civil penalties.

2. Education Component

The education component will be focused on all customers, but it is really the primary means of FOG control in residential settings. The education component in residential settings will include distribution of FOG information brochures twice a year and additional outreach in areas that may have a higher frequency of blockages.



3. Enforcement Actions Available to the City of Brevard

The City of Brevard is authorized by North Carolina General Statutes 143-215.6A and the Sewer Use Ordinance (SUO) to take a variety of enforcement actions. The following is a list of those actions.

Action	SUO Section	N.C. General Statutes
Notice of Violation	70.147.A.1	
Consent Orders	70.147.A.2	
Administrative Orders	70.147.A.4	
Emergency Suspensions	70.147.A.5	
Civil Penalties	70.147.B	143-215.6A
Show Cause Hearing	70.147.A.3	
Injunctive Relief	70.147.C.2	162A-81

In addition to the actions listed above, a User who violates the provisions of NCGS 143-2156.B may be referred by the City Manager to the City Attorney for possible criminal prosecution.

In determining the amount of a Civil Penalty, the General Manager may consider the following

a. The degree and extent of the harm done to the natural resources of the State, to the public health, or to public or private property as a result of the violation;

b. The duration and gravity of the violation;

c. The effect on ground or surface water quality, or air quality;

d. The cost of repairing the damage to the Sewerage System, to property and to the natural resources of the State;

e. The amount of money saved, if any, due to noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;

f. Whether the violation was committed negligently, grossly negligent, willfully or intentionally;

g. The prior record of the User in complying with or failing to comply with the conditions of the grease regulations, the City of Brevard's Sewer Use Ordinance, or other environmental laws of this State and EPA;

h. The cost to the City of Brevard, including attorney fees, sampling costs, cost of additional laboratory analysis, cost of engineering and consulting fees necessary, in the opinion of the City, to determine the nature and extent of damage, prevent further damage and repair any damage.

4. Investigation of Non compliance.

The Staff of the City of Brevard will generally investigate User compliance with the grease regulations and the SUO in the following ways:

a. On-site inspections of the User including scheduled and unscheduled visits;

b. Review of work order database maintained by the City of Brevard Collection System ORC, which identifies grease blockages downstream of the User;

c. Review of submitted cleaning records.

5. Types of Violation.

The following is a list of different types of violations, by category. This list is not exclusive but serves as a general list of anticipated types of noncompliance. The City of Brevard's SUO, State and Federal laws and regulations serve as additional references for requirements.

a. Build-up of FOG in Sewer System: Users must prevent the build-up of FOG in the sewer system. This is to be accomplished through using a FOG removal system and preventing FOG from being put into the sewer system.

b. Failure to install a FOG Removal System: User fails to install a FOG removal system at the request of The City of Brevard.

c. Unauthorized Installation or modification of FOG Removal System: Users must obtain written authorization from The City of Brevard before installing or modifying a FOG collection system.

d. Failure to have Final Installation Inspection: The FOG removal system is to have a final installation inspection conducted by The City of Brevard before the food establishment can open.

e. Failure to Maintain FOG Collection System: The FOG collection system shall be maintained in good working order and properly operated in accordance with the 25% Rule by the owner or user at his cost and expense.

f. Failure to Maintain FOG Collection System Resulting in an Overflow Event at the FSE: All kitchen operations shall be immediately suspended and remain discontinued until the FOG Removal System has been adequately cleaned, serviced, and/or repaired.

g. Failure to Maintain Records: The owner or user shall have maintenance records available for inspection and to document cleaning and repair of the FOG removal system.

h. Incorrect Installation of FOG Removal System: The FOG removal system is to be correctly installed with the influent waste stream going into the influent chamber, not the effluent chamber.

i. Failure to meet Regulatory Requirements: The failure to meet the requirements of a NOV (Notice of Violation), milestone dates of Consent Order or Administrative Order shall be considered a violation. Each day a User is not in compliance may be considered a separate violation.

j. Falsification of Records: Records that have been altered show cleaning or repairs to the FOG removal system that have not occurred.

k. Inadequate Hydraulic Retention Time: The FOG removal system has become hydraulic overloaded,

l. Structural Failure of Trap/Interceptor: The treatment/removal of FOG has been diminished by the failure of baffles or sanitary tees that are allowing FOG to be released to the sewer system, and the unit can no longer effectively remove FOG from the waste stream.

m. Denied Entry: All FSE's with a FOG Removal System shall be subject to evaluation and inspection by City Of Brevard representatives.

6. Enforcement Matrix

Type of Non-Compliance	First Occurrence	Second Occurrence	Third Occurrence	Fourth Occurrence
Minor Violation: • Failure to maintain FOG collection system • Failure to maintain records • Cleaning logs not available or accessible • Use of solvents to clean trap/interceptor	Tier 1	Tier 2	Tier 3	Tier 4
Intermediate Violation: • Incorrect installation of FOG removal system • Structural failure of trap/interceptor • Inadequate hydraulic retention time • Failure to respond to correspondence or phone messages • Failure to have final inspection • Unauthorized installation of FOG removal system • Failure to maintain FOG collection system resulting in an overflow event at the FSE • Denied Entry	Tier 2	Tier 3	Tier 4	Tier 5
Major Violation: • FOG build up in sewer system • Failure to install trap/interceptor • Falsification of records • Failure to meet regulatory requirements	Tier 3	Tier 4	Tier 5	Tier 6
Sanitary Sewer Overflows: • FOG Accumulation in collection system causing a sewer overflow	Tier 4	Tier 5	Tier 6	Tier 7

7. Enforcement Tier Levels.

The Enforcement Tier structure is a seven Tier system and will be based on a rolling 12-month period. The User will step up a Tier each time the same violation occurs within a 180 day-period. In cases where there is harm or potential harm to the City of Brevard, public health or the environment or in other extraordinary cases, one or more tiers may be skipped in order to bring the User into compliance.

Tier	Administrative Penalty
Tier 1	No Civil Penalty; Notice of Violation (NOV)
Tier 2	Up to $500 Civil Penalty; NOV
Tier 3	$750 to $1,500.00 Civil Penalty; NOV; Consent Agreement;
Tier 4	$1,500.00 to $3,000.00 Civil Penalty; NOV; Consent Order or Administrative Order
Tier 5	$3,000.00 to $10,000.00 Civil Penalty; NOV; Administrative Order; Public Notice
Tier 6	$10,000.00 to $25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Possible Termination of Services
Tier 7	$10,000.00 to $25,000.00 Civil Penalty; NOV; Show Cause Order; Public Notice; Termination of Services
SSO	In addition, to the civil penalties stated above the District may recover any operational cost associated with the removal and cleanup of an SSO. If any penalties or fines are assessed against the District by the State of North Carolina or EPA as a result of a SSO, the penalties or fines may be passed along to the perpetrator.

These penalties are in addition to assessed reimbursement costs as specified in Section 9.2(c) of the Sewer Use Ordinance for legal fees, equipment repair or replacement, any additional monitoring of the City of Brevard is required to do, and any penalties assessed to the City resulting from the subject violation.

7. Termination of Services

a. In determining whether service should be terminated, the City Manager may consider compliance history, interference with and impact on the Sewerage System including costs incurred by the City of Brevard. If the City Manager decides to terminate service, he will issue written notice of the proposed termination to the User. The notice shall be sent by regular mail and certified mail, return receipt requested.

b. Prior to termination of service, the User shall be afforded an opportunity to appear in person or through Counsel to present reasons why service should not be terminated. The User shall present his case to the City Board or to a Committee appointed by the Board. Should the User desire an opportunity to present his case to the City Board or a Committee appointed by the Board, he shall submit a request in writing to the City Manager within fifteen days of receipt of the Notice of Termination. The request shall state plainly the reasons the User feels that service should not be terminated.

c. The City Board or a Committee appointed by the Board Chairman may conduct a hearing and take testimony from the user and witnesses on his or her behalf, the City of Brevard's staff and others. The User may be represented by counsel and may cross-examine the City's staff and witnesses testifying. The City of Brevard may be represented by counsel and the City staff may cross-examine the User and others testifying on his behalf. The Committee may choose to consider the matter on written material submitted by the User and the City of Brevard. The City of Brevard Board or a Committee appointed by the Board Chairman shall have sixty days from their appointment to render a decision.

d. Following the Hearing, or following consideration of the written record, if there is no hearing, the Board or Committee shall decide as to whether or not service should be terminated and make a recommendation to the full Board.

e. Service may be suspended during the pending of any decision under this section.

8. Domestic Grease Blockages.

Blockages of the sewer system caused by FOG in residential areas shall be classified as domestic FOG blockages. The City of Brevard will address these blockages in the following manner:

First Occurrence

f. The City shall send a letter and FOG brochure to the residents of the surrounding area advising of the blockage and problems it caused.

g. Contact the local Homeowner's Association or owner(s) of the housing complex and educate them on the importance of FOG removal.

Second Occurrence

a. Have a community meeting with the residents and educate them on the importance of FOG removal.

b. Meet with the Homeowner's Association or owner(s) of the housing complex to review the FOG removal program and advise the City of Brevard may issue civil penalties on the next occurrence.

Third Occurrence

1. Send out letters to the residents about the three blockages and the problems it has caused the City of Brevard and the environment, including the cost of the clean-ups.

2. The City may issue civil penalties to the owner(s) of the housing complex to recover operational costs.

9.Enforcement Response Guide

This guide further outlines types of violations, the nature of the violation, enforcement responses, and the City of Brevard personnel involved. The guide is considered a part of the City's Enforcement Response Plan. The abbreviations utilized are defined as follows:

CO	Consent Order
CA	Consent Agreement
AO	Administrative Order
NOV	Notice of Violation
NOC	Notice of Concern
FSE	Food Services Establishment
FOG	Fats, Oils & Grease
GM	General Manager of the City of Brevard
IWC	Industrial Waste Coordinator
SNC	Significant Non-Compliance
IWS	Industrial Waste Section

Responses to violations affecting the operation of the City of Brevard, resulting in the City's NPDES Permit and/or Collection System Permit violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

10. Enforcement Responses

1. Phone calls and Verbal warnings may to be used immediately upon the recognition of a violation to expedite the correction of the violation at the lowest level possible. These actions shall be documented in the User's file.

2. Notices of Violation are to be used for violations, which in the discretion of the City Manager and IWS, impact the operation of the sewer system.

3. Conferences are to be used where NOV's, Phone Calls or Verbal Warnings do not obtain results. They shall be held at the City of Brevard City Hall with the User, Public Works Director, Operations and Pretreatment Personnel. The City Manager will be present when necessary.

4. Consent Agreements (CA's) are to be used as a tool in responding to significant or continued noncompliance. The terms and conditions of CA's may be negotiated depending upon circumstances involved.

5. Consent Orders are to be used as an escalated type of response to significant or continued noncompliance and/or failure to meet established milestones. Administrative Penalties, recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.

6. Civil Penalties are to be used as a punitive deterrent to be continued noncompliance and/or failure to meet established milestones. The recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.

7. Administrative Orders (AO's) are to be used if compliance is not met through Consent Agreements or Consent Orders. The AO's will have established milestone dates and Administrative Penalties will be issued if the milestone dates are not met.

8. Administrative Orders will be issued to initiate actions leading to formal hearings in cases of continued significant noncompliance or where the City Manager determines that emergency enforcement actions are necessary.

9. Civil Action may be used in cases of continued significant noncompliance or where the City Manager determines that emergency actions are necessary.

10. Service Termination will be used in recurring Noncompliance or emergency cases where there is harm to the City of Brevard staff, City property, private property, public, health or the environment.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

70-142. Fees.

A. *Purpose.* It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the city for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the director and approved by city council. A copy of these charges and fees will be made available from the director.

B. *User charges.* A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

1. The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
2. Each user shall pay its proportionate cost based on volume of flow.
3. The director shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the city council for adjustments in the schedule of charges and fees as necessary.
4. Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

C. *Surcharges.* The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

1. The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
   a. Metered water consumption as shown in the records of meter readings maintained by the city; or
   b. If required or approved by the city, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the city. The metering system shall be installed and maintained at the user's expense.
   c. Where any user procures all or part of his or her water supply from sources other than the city, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the city.

2. The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the city. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
3. The determination of the character and concentration of the constituents of the wastewater discharge by the director or his duly appointed representative(s) shall be binding as a basis for charges.

D. *Pretreatment program administration charges.* The schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, may include charges and fees for:

1. Reimbursement of costs of setting up and operating the pretreatment program;
2. Monitoring, inspections and surveillance procedures;
3. Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
4. Permitting; and
5. Other fees as the city may deem necessary to carry out the requirements of the pretreatment program.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-143. Wastewater discharge permit application and issuance.

A. *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

B. *Wastewater permits.* All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the director be required to obtain a wastewater discharge permit for non-significant industrial users.

1. *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the director a significant industrial user determination. If the director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.
2. *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the city, an application in the form prescribed by the director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in subsection 70-143.B.1 above. The application shall include at a minimum:
    a. Name of industrial user;
    b. Address of industrial user;
    c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
    d. Wastewater flow;

e. Types and concentrations (or mass) of pollutants contained in the discharge;
f. Major products manufactured or services supplied;
g. Description of existing on-site pretreatment facilities and practices;
h. Locations of discharge points;
i. Raw materials used or stored at the site;
j. Flow diagram or sewer map for the industrial user;
k. Number of employees;
l. Operation and production schedules; and
m. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).

3. *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority as defined in Section 1-2. and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4. *Application review and evaluation.* The director will evaluate the data furnished by the user and may require additional information.
   a. The director is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
   b. The director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
5. *Tentative determination and draft permit.*
   a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
   b. If the staff's tentative determination in subsection 70-143.B.5.a. above is to issue the permit, the following additional determinations shall be made in writing:
      i. Proposed discharge limitations for those pollutants proposed to be limited;
      ii. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
      iii. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
   c. Subsections 70-143.B.5.a. and 70-143.B.5.b. above and the general permit conditions of the city into a significant industrial user permit.
6. *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits.

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a. An allocation table (AT) listing permit information for all significant industrial users, including, but not limited to, permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division-approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

b. The basis, or rationale, for the pretreatment limitations, including the following:

i. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

ii. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

7. *Final action on significant industrial user permit applications.*

a. The director shall take final action on all applications not later than 90 days following receipt of a complete application.

b. The director is authorized to:

i. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and G.S. 143-215.1;

ii. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

iii. Modify any permit upon not less than 60 days' notice and pursuant to subsection 70-143.B.9;

iv. Revoke any permit pursuant to subsection 70-147.A;

v. Suspend a permit pursuant to subsection 70-147.A;

vi. Deny a permit application when in the opinion of the director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

8. *Permit modification.*

a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

i. Changes in the ownership of the discharge when no other change in the permit is indicated,

ii. A single modification of any compliance schedule not in excess of four months,

iii. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection 70-143(b)(2), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

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9. *Permit conditions.*
    a. The director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
        i. A statement of duration (in no case more than five years);
        ii. A statement of non-transferability;
        iii. Applicable effluent limits based on categorical standards or local limits or both;
        iv. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
        v. Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 1-2;
        vi. Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads, if determined by the director to be necessary for the user and,
        vii. Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load. Also see subsections 70-144.E and 70-144.F; and
        viii. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
    b. In addition, permits may contain, but are not limited to, the following:
        i. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
        ii. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
        iii. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
        iv. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
        v. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
        vi. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
        vii. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
        viii. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).
        ix. Compliance schedules for meeting pretreatment standards and requirements.
        x. Requirements for submission of periodic self-monitoring or special notification reports.

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xi. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in subsection 70-144.M and affording the director, or his representatives, access thereto.

xii. Requirements for prior notification and approval by the director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

xiii. Requirements for the prior notification and approval by the director of any change in the manufacturing and/or pretreatment process used by the permittee.

xiv. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.

xv. Other conditions as deemed appropriate by the director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

10. *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

11. *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

12. *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection 70-143.B a minimum of 90 days prior to the expiration of the existing permit.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

70-144. Reporting requirements.

A. *Baseline monitoring reports (BMRs).*

1. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in subsection 70-144.A.2, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection 70-144.A.2, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Users described above shall submit the information set forth below:

   a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.

   b. *Environmental permits.* A list of any environmental control permits held by or for the facility.

   c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

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d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

e. *Measurement of pollutants.*

i. The categorical pretreatment standards applicable to each regulated process.

ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 70-144.J of this ordinance.

iii. Sampling must be performed in accordance with procedures set out in subsection 70-144.K of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

f. *Certification.* A statement, reviewed by the user's current authorized representative of the industrial user as defined in Section 1-2 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection 70-144.B of this ordinance.

h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.

B. *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection 70-144.A.2.g. of this ordinance:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
2. No increment referred to above shall exceed nine months;
3. The user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
4. In no event shall more than nine months elapse between such progress reports to the director.

C. *Reports on compliance with categorical pretreatment standard, deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such

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pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 70-144.A.2.d. through 70-144.A.2.f. of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.

D. *Periodic compliance reports.* The control authority may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

1. All significant industrial users shall, at a frequency determined by the director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in subsections 70-144.J and 70-144.K of this ordinance. All periodic compliance reports must be signed and certified in accordance with subsection 70-143.B.3 of this ordinance.
2. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsections 70-144.J and 70-144.K of this ordinance, the results of this monitoring shall be included in the report.

E. *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the control authority. See subsection 70-144.F.4 for other reporting requirements.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 70-143.B of this ordinance.
2. The director may issue a wastewater discharge permit under subsection 70-143.B of this ordinance or modify an existing wastewater discharge permit under subsection 70-143.B of this ordinance in response to changed conditions or anticipated changed conditions.
3. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 15 percent or greater, or the discharge of any previously unreported pollutants.

F. *Reports of potential problems.*

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
2. Within five days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

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3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection 70-144.F.1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
4. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load.

G. *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.

H. *Notice of violation/repeat sampling and reporting.*

1. If sampling performed by a user indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. If allowed by the director, the user is not required to resample:
   a. If the director monitors at the user's facility at least once a month; or
   b. If the director samples between the user's initial sampling and when the user receives the results of this sampling.
2. If the director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:
   a. The director monitors at the user's facility at least once a month; or
   b. The director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
   c. The director requires the user to perform sampling and submit the results to the director within the 30-day deadline of the POTW becoming aware of the violation.

I. *Notification of the discharge of hazardous waste.* The city prohibits the discharge of any hazardous wastes without notification to and approval by the director.

1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 90 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the city. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection 70-144.E. The notification requirement in this section does not apply to pollutants already reported by users

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subject to categorical pretreatment standards under the self-monitoring requirements of subsections 70-144.A, subsection 70-144.C, and subsection 70-144.D.

2. Dischargers are exempt from the requirements of subsection 70-144.I.1, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
3. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

J. *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and city. Analyses must be performed by a state certified lab for each parameter analyzed, if such certification exists for that parameter.

K. *Grab and composite sample collection.*

1. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be operated in accordance with best management practices, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in this manner shall not be grounds for the user to claim that sample results are unrepresentative of its discharge and may be in violation of its wastewater discharge permit.
2. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for baseline monitoring reports and 90-day compliance reports. Additionally, the director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.
3. Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

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L. *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

M. *Record keeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

N. *Electronic reporting.* The director may develop procedures for receipt of electronic reports for any reporting requirements of this ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under section 70-147.

O. *Special reporting requirements for IUs in satellite POTWs.* In the case of industrial user located in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by the section shall also be reported to the POTW treatment plant organization.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

70-145. Compliance monitoring.

A. *Monitoring facilities.* The city requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the city and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

B. *Inspection and sampling.* The city will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes

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of performing their specific responsibilities. Denial of the city's, approval authority's, or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

C. *Search warrants.* If the city, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the city.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-146. Confidential information.

A. Information and data provided by an industrial user to the director pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the director in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

B. Information provided by an industrial user to the director that is determined to be entitled to confidential treatment shall be made available upon written request to the division of water quality or any state agency for uses related to the pretreatment program, the National Pollutant Discharge Elimination System (NPDES) permit, collection system permit, stormwater permit, and/or non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

C. Information and data received by the division or other state agency under subsection 70-146.B, above shall be subject to the processes set forth in G.S. 143-215.3C.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-147. Enforcement.

A. *Administrative remedies.*

1. *Notice of violation (NOV).* Whenever the director finds that any industrial user has violated or is violating this ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the city by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.
2. *Consent orders.* The director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection 70-147.A.4, below.
3. *Show cause hearing.* The director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge

permit to show cause why a proposed enforcement action should not be taken. In the event the director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

The director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under subsection 70-147.B nor is any action or inaction taken by the POTW director under this section subject to an administrative appeal under subsection 70-143.B.8.

4. *Administrative orders.* When the director finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:
   a. Immediately comply with all requirements;
   b. Comply in accordance with a compliance time schedule set forth in the order;
   c. Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
   d. Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.
5. *Emergency suspensions.* The director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

   Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date of the above-described hearing.
6. *Termination of permit or permission to discharge.* The director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:
   a. Failure to accurately report the wastewater constituents and characteristics of his discharge;
   b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
   c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
   d. Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable state and federal regulations.

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Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under subsection 70-147.A of this ordinance why the proposed action should not be taken.

B. *Civil penalties.*

1. Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to $25,000.00 per day per violation.
    a. Penalties between $10,000.00 and $25,000.00 per day per violation may be assessed against a violator only if:
        i. For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation, or
        ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
2. In determining the amount of the civil penalty, the director shall consider the following:
    a. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
    b. The duration and gravity of the violation;
    c. The effect on ground or surface water quantity or quality or on air quality;
    d. The cost of rectifying the damage;
    e. The amount of money saved by noncompliance;
    f. Whether the violation was committed willfully or intentionally;
    g. The prior record of the violator in complying or failing to comply with the pretreatment program;
    h. The costs of enforcement to the city.
3. Appeals of civil penalties assessed in accordance with this section shall be as provided in subsection 70-143.B.8.

C. *Other available remedies.* Remedies, in addition to those previously mentioned in this ordinance, are available to the director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

1. *Criminal violations.* The City of Brevard attorney for the applicable judicial City of Brevard may, at the request of the city, prosecute noncompliant users who violate the provisions of G.S. 143-215.6B.

    Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under article 21 of chapter 143 of the general statutes (G.S. 143-215.6B(i)).

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2. *Injunctive relief.* Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the director, through the city attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.
3. *Water supply severance.* Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
4. *Public nuisances.* Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the city governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

D. *Remedies nonexclusive.* The remedies provided for in this ordinance are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director may take other legal actions against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-148. Annual publication of significant noncompliance.

At least annually, the director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-149. Adjudicatory hearings.

A. *Adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under subsection 70-147.B, or one issued an administrative order under subsection 70-147.A shall have the right to an adjudicatory hearing before the POTW director or other hearing officer appointed by the POTW director upon making written demand, identifying the specific issues to be contested, to the director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated.

The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing.

The POTW director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in subsection 70-147.B, below. The decision is a final decision for the purposes of seeking judicial review. The terms and conditions of a permit under appeal shall be as follows:

1. *New permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the

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permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

2. *Renewed permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
3. *Terminated permits.* Upon appeal, including judicial review in the general courts of justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

B. *Official record.* When a final decision is issued under subsection 70-147.A, above, the hearing officer shall prepare an official record of the case that includes:

1. All notices, motions, and other like pleadings;
2. A copy of all documentary evidence introduced;
3. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;
4. A copy of the final decision of the hearing officer.

A. *Judicial review.* Any person against whom a final order or decision of the hearing officer is entered, pursuant to the hearing conducted under subsection 70-147.A, above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Transylvania County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the city. Within 45 days after receipt of the copy of the written request for review by the court, the hearing officer shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-150. Affirmative defenses to discharge violations.

A. *Upset.*

1. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection 70-150.A.2, below, are met.
2. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
   a. An upset occurred and the user can identify the cause(s) of the upset;
   b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
   c. The user has submitted the following information to the director within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.
      i. A description of the indirect discharge and cause of noncompliance;
      ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
      iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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3. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
4. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
5. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. *Bypass.*

1. A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision subsections 70-150.B.2 and 70-150.B.3 of this section.
2. Reporting a bypass.
   a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW director, at least ten days before the date of the bypass, if possible.
   b. A user shall submit oral notice to the POTW director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
3. Bypass unavoidable.
   a. Bypass is prohibited, and the POTW director may take an enforcement action against a user for a bypass, unless:
      i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
      iii. The user submitted notices as required under subsection 70-150.B.2 of this section.
   b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subsection 70-150.B.3.a. of this section.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-151. Severability.

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

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70-152. Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-153. Effective date.

This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-154—70-170. Reserved.

ARTICLE VI. ENFORCEMENT RESPONSE PLAN

70-171. Introduction.

The City of Brevard operates a publicly owned treatment works (POTW), the sewer system. It is the responsibility of the City of Brevard to enforce all applicable federal, state, and local pretreatment regulations. These regulations are outlined in Federal Regulation 40 CFR 403 and State Regulation 15A NCAC 2H.0900, and the city's sewer use ordinance (SUO). This enforcement response plan (ERP) has been established as an element of the city's sewer pretreatment program. The purpose of the ERP is to provide for fair and equitable treatment of all users for anticipated enforcement situations. Generally, enforcement actions will be taken in accordance with the ERP; however, additional legal actions are available (SUO subsection 70-147.D). Therefore, a combination of enforcement actions may be taken against a user in non-compliance.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-172. Enforcement actions available to the POTW.

The POTW director is empowered through G.S. 143-215.6A and the local SUO to take enforcement actions to pursue compliant operations and use of the POTW. The following is a list of actions specified in the city's SUO with corresponding section number:

A. Notice of violation 70-147.A.1
B. Consent orders 70-147.A.2
C. Show cause hearing 70-147.A.3
D. Administrative orders 70-147.A.4
E. Emergency suspensions 70-147.A.5
F. Termination of permit 70-147.A.6
G. Civil penalties 70-147.B
H. Injunctive relief 70-147.C.2
I. Water supply severance 70-147.C.3

In addition to the actions listed above, a user who violates the provisions of G.S. 143-215.6B may be referred by the POTW director to the City of Brevard attorney for possible criminal prosecution.

In determining civil penalties for any violation, the director shall consider the following factors:

A. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

B. The duration and gravity of the violation;

C. The effect on ground or surface water quantity or quality or on air quality;

D. The cost of rectifying the damage;

E. The amount of money saved by non-compliance;

F. Whether the violation was committed willfully or intentionally;

G. The prior record of the violator in complying or failing to comply;

H. The costs of enforcement to the POTW.

Adjudicatory hearing procedures regarding permit decisions, civil penalties, and administrative orders are found in the SUO section 70-149.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-173. Investigation of noncompliance.

The POTW director will investigate a user's compliance with his/her permit and the provisions of the SUO using at least these three methods:

A. On-site inspections of the user to include scheduled and unscheduled visits;

B. Scheduled and unscheduled sampling of the user's effluent;

C. Review of self-monitoring data, if required, from the user.

The compliance status of significant industrial users (SIU) will be evaluated at a minimum once every six months.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-174. Types of violation.

The following is a list of noncompliance categories anticipated by this ERP; the list is not comprehensive. The issued permit, the SUO, and state and federal regulations serve as additional references for pretreatment requirements and potential violations.

A. *Unpermitted discharges:* Users are responsible for obtaining and renewing permits, if required.

B. *Permit limits violations:* Users are responsible for maintaining compliance with all effluent limits. The POTW will evaluate the extent of limits violations. In determining the extent of violations, significant non-compliance (SNC) as defined by state and EPA regulations will be determined.

C. *Self-monitoring violations:* Users are required to adequately conduct all the monitoring required in the permit, including monitoring frequencies and sampling methods specified. This includes a user who does not resample per their permit when a limit violation occurs.

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D. *Reporting violations:* Users are required to provide information, such as self-monitoring reports, listed in their permit or the SUO on the schedule stipulated. Late or incomplete reports are violations.

E. *Permit conditions violations:* Failure to apply or reapply for a permit is considered a violation. Users who violate conditions outlined in their permits or the SUO shall be considered in violation.

F. *Failure to abide by enforcement actions:* Failure to meet the requirements of an order, whether the order was entered into voluntarily or mandated by the POTW, is a violation. Missing a scheduled compliance milestone by more than 90 days is considered SNC.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-175. Responses: timeframes, responsible officials, escalated actions.

The attached chart outlines types of violations and specifies both initial and escalated actions to be taken by the POTW, timeframes, and the officials responsible for executing the actions. This chart shall be considered a part of the enforcement response plan.

Responses to violations affecting the operation of the POTW, resulting in POTW NPDES violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

A user may be sent a notice of violation (NOV) or notice of noncompliance (NNC) for each individual violation. Alternatively, violations over a period of time may be summarized. In general, NOVs in response to violations will be issued within 30 days of discovery of the violations.

Users found to be in significant non-compliance twice in one contiguous 12-month period will be issued an administrative order (AO) to return to compliance. In all cases, escalated or continuing enforcement action will be taken against users who do not return to compliance in a timely manner.

Cases of falsifying reports, tampering with monitoring or sampling equipment, or otherwise preventing the collection or reporting of representative data may be referred to the City of Brevard attorney for possible criminal investigation.

Show cause hearings may be held at the POTW director's discretion prior to taking enforcement actions.

TABLE 70-175A: UNPERMITTED DISCHARGES

Type of Violation	POTW Action	Timeframe	Responsible Official	Expected Action from User	Escalated Action if Needed
Unpermitted Discharge	Notice of Violation (NOV)	Within 30 days of discovery of discharge	POTW Director or designee	File permit application	Suspend service until permit is issued
Unpermitted Discharge; Aware of requirement	NOV with penalty assessed	Within 30 days of discovery of discharge	POTW Director	File permit application	Suspend service until permit is issued

TABLE 70-175A: UNPERMITTED DISCHARGES					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Unpermitted Discharge results in violation of NPDES or other state-issued permit or state general statute	Order to cease process causing violation; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Order to cease immediately; NOV within 7 days	POTW Director	File permit application; take steps to avoid violation	Suspend service until permit is issued
Unpermitted Discharge results in endangerment	Suspend service; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Suspend service immediately; NOV within 7 days	POTW Director	File permit application; take steps to avoid future endangerment	

TABLE 70-175B: PERMIT LIMITS VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Permit Limit Violation; Single event minor	Notice of Non-Compliance	Within 30 days of receiving data	POTW director or designee	Conduct additional monitoring and return to compliance	NOV with penalty
Permit Limit Violation; Technical Review Criteria (TRC)	NOV with penalty up to $25,000.00	Within 30 days of receiving data	POTW Director or designee	Conduct additional monitoring and return to compliance	Second NOV with increased penalty
Permit Limit Violation; Significant Non-Compliance	NOV with penalty up to $25,000.00	Within 30 days of receiving all data	POTW director or designee	Report cause of non-compliance and steps taken to prevent violation	Administrative order with enforcement schedule

TABLE 70-175B: PERMIT LIMITS VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Permit Limit Violation results in violation of NPDES or other state-issued permit or state general statute	Order to cease process causing violation; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Order to Cease immediately; NOV within 7 days of discovering violation	POTW Director	Report cause of non-compliance and steps taken to prevent violation	Suspend service until resolved
Permit Limit Violation results in Endangerment	NOV; Suspend service plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Suspend service immediately; NOV within 7 days	POTW director	File for reissuance of permit	

TABLE 70-175C: OTHER VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Self-Monitoring violation	NOV with penalty equal to or greater than cost of missed testing	Within 30 days of discovery	POTW director or designee	Conduct missed sampling	Second NOV with penalty of twice the initial penalty
Reporting Violation (late report)	Notice of Non-compliance	Within 30 days of the report due date	POTW director or designee	Submit report	NOV with penalty assessed; possible SNC if over 30 days
Reporting Violation (incomplete or inaccurate reports)	Notice of Non-compliance	Within 30 days of report submission	POTW director or designee	Submit revised report	NOV; assess penalty
Reporting Violation (intentional falsification)	Refer to City of Brevard attorney	As soon as suspected	POTW director		

TABLE 70-175C: OTHER VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Violation of Permit Conditions	NOV with penalty up to $25,000.00 per day per violation	Within 30 days of discovery	POTW director or designee	Varies; comply with permit conditions	Second NOV with increased penalty
Violation of Permit Conditions results in NPDES or other state-issued permit or state general statute violations or endangerment	Suspend service; NOV with penalty up to $25,000.00 per day per violation	Suspend service immediately; NOV within 7 days of discovery	POTW director	Steps taken to avoid reoccurrence	
Violations of or Failure to Abide by Administrative or Consent Order	NOV and assess stipulated penalty or actions listed for same violation type	Within time frame listed in the order or for the same type of violation	POTW director or designee	Additional monitoring and steps taken to avoid recurrence	Same as escalated action for same type of violation possible revocation of order
Failure to meet a milestone date in Administrative or Consent Order (does not affect other dates)	NOV and assess penalty stipulated in order	Within 14 days of discovery	POTW director or designee	Submit a schedule to complete the requirement	Show cause hearing
Failure to meet a milestone date in Administrative or Consent Order (affects other dates)	Show cause hearing and assess stipulated penalties	Within 30 days of discovery	POTW director	Negotiate new order and abide by new conditions	Increased penalty or possible termination of service
Failure to meet final compliance date	NOV and assess stipulated penalties	Within 14 days of discovery	POTW director	Document compliance	Increased penalty or possible termination of service

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

MINUTES
City Council Housing Committee

Tuesday, July 14, 2026 – 3:45 PM
City Hall Council Chambers

Members Present:	Pamela Holder, Chair, City Council Member Aaron Baker, Vice Chair, City Council Member Mayor Maureen Copelof, Ex-Officio
Members Absent:	Victor Foster, Citizen Member
Staff Present:	Wilson Hooper, City Manager Paul Ray, Planning Director Emily Brewer, Senior Planner Shawnee Cummings, Assistant to the City Manager
Guests:	Harvey Sankey, Monica Driscoll

A. Welcome and Call to Order

Committee Chair Pamela Holder welcomed everyone and called the meeting to order at 3:45pm.

B. Certification of Quorum

Assistant to the City Manager Shawnee Cummings certified that a quorum was present.

C. Approval of Agenda

Mr. Baker moved, seconded by Ms. Holder to approve the agenda. The motion carried unanimously.

D. Approval of Minutes – June 9, 2026 Minutes

Mr. Foster moved, seconded by Mr. Baker to approve the minutes of the June 9, 2026 meeting as presented. The motion carried unanimously.

E. Application for Pro-Housing Grant with Housing Assistance Corporation (HAC)

The City applied for Pro-Housing in 2023 and 2024 for the Azaela property but did not get either one. Ms. Brewer said she did not want to let another round of Pro-Housing go by without applying. For this round's application, Transylvania County is a priority geography, worth 20 points, and is a rural community, worth 4 points.

Ms. Brewer stated that this round of Pro-Housing is different than previous rounds, as it has very clear preferences toward certain types of projects. Previous rounds were open-ended and largely planning grants, funding things like hiring a consultant to review your ordinance. This round is more of a project grant but does give priority and bonus points to reward communities that have taken steps to remove barriers to housing, which the City has done. Pro-Housing expressed preference for projects with for sale units over projects with rental units, construction of new units over preservation of existing units, and mixed income over strictly low-income.

Ms. Brewer said Staff approached Housing Assistance Corporation (HAC) to work with them on their Cashiers Valley Road property that was given by the City as part of the development agreement. She added that Pro-Housing funding is really only available to local governments, so it is a completely new funding source for HAC and the City is not competing with any other projects in Transylvania County. She believes it is a strong project, as it is in a historic community and there is a wealth-building component.

The project is approximately $10 million, which is the cap, and the project was expanded so that HAC could build 10 single-family homes and 16 townhomes. The original scope included 15-20 units, and it has expanded to 26. Within the project, $500,000 was allocated to home preservation repairs for low-income homeowners in the Rosenwald community and $500,000 will be able to repair approximately 6-8 homes. They asked for the maximum award because the grant will offset a lot of the costs and allow the new homes to be sold at a very low rate.

For leverage, HAC received a grant for predevelopment from the Toxaway Foundation, the City's land contribution and sewer connection on Cashiers Valley Road, the County's contribution of extending the sewer into that neighborhood, and Staff time. Ms. Brewer said she does not think we will get the maximum amount of points for leverage, as it requires 150% of whatever your ask is, but we will get some.

In assessing scoring, 50 of the 100 points is just related to how the City has addressed barriers to housing in the last 3 years and the City has done a lot. Ms. Brewer said she included restrictions on short-term rentals, the allowance of cluster homes, group developments, recent changes to allow subdivision off of a private road in the ETJ, and changes to the parking standards. They are also calculating the number of units that have been made available or are in review as a result of those changes. Additional points are awarded if the City has done any of the actions listed in the Executive Order for Removing Barriers to Housing, of which the City has done 4.

Mr. Hooper asked if this will replace HAC's current plan rather than add on to it, to which Ms. Brewer confirmed. She added that HAC is also pursuing CDBGDR funds, but the proposal is likely to be less competitive due to the funds being available for any multi-family project in the Helene-impacted areas and it would require them to pivot to only townhomes to meet the multi-family component. Mr. Hooper asked if they are trying to make this project work whether they get the Pro-Housing grant or not. Ms. Brewer said yes, and that Pro-Housing would solve the funding problems, but if not

awarded, HAC is trying to piece together different funding sources to make the project work. Mr. Hooper asked if HAC would still be able to use their USDA loan if they receive federal funding or would it be double dipping with federal dollars. Ms. Brewer said if awarded Pro-Housing, it would be the golden ticket for this project, but if not, HAC is looking at a combination of the USDA loan, which funds single family units, and CDBGDR funding, which funds multi-family units. Mayor Copelof asked if they will be able to build faster with Pro-Housing funding, as they were only planning on building a couple units a year. Ms. Brewer said yes, and awards are expected in November.

Mr. Baker asked if the County's funding was only for engineering. Ms. Brewer said the County's Dogwood funding is for both engineering and utility construction of the sewer.

Ms. Holder asked when the application is due. Ms. Brewer said the application is due August 3rd and the City will have its public hearing on July 20th, which is not required but is what the City has historically done for this funding source.

Mr. Baker said that the Committee talked about property tax reimbursement as a possible program, however Ms. Brewer said it would not qualify as an eligible expense for this funding.

Ms. Holder asked how the individuals who get assistance are selected. Ms. Brewer said it will be handled by HAC, as the City is really just a pass-through and administrative support, while HAC is the selected development and implementation partner. Mayor Copelof said HAC has started accepting applications for people that want to participate and Ms. Brewer said for new construction, HAC currently has 69 applications on the waitlist in Transylvania County. Ms. Holder asked if HAC has any other new construction projects in the County. Ms. Brewer said she did not believe so, but that is part of why they pivoted to include townhomes, as it allowed them to increase density at this site. Ms. Holder asked if the number of applicants is included as part of the application. Ms. Brewer said yes, there is a whole section on market analysis.

Mr. Baker asked how the preference for mixed income factors into the project. Ms. Brewer said she needs to verify the information with the City attorney, but as a City, our authority is to work on low- to moderate-income (LMI) projects and under State law, the City can only contribute to projects with more than 25% and less than 100% LMI units. Additionally, the City can only financially support those LMI units, however, this project concerns federal money and not the City's money. On the other hand, CDBGDR funding can only apply to 50% or greater LMI. She added that she talked with HAC about having some of the units serve 100% to offset so that some homes can serve 30%. If the City attorney says that the money being federal is not the correct interpretation, then it will be all 80% or less LMI. Mr. Hooper said there has to be a way because housing authorities across the State are getting into mixed income projects. Ms. Brewer said that is the caveat, that the City can support mixed income projects if they are 25% LMI units, but the City's money can only serve that 25%. Mr. Ray asked if we are unable to check the mixed income box due to whatever legal reasons, how many points would we lose. Ms. Brewer said it is not worth any points, but it is a preference.

F. Public Comment

Monica Driscoll said she read about the funding for sewer extension in the Azaela Ave. neighborhood and asked if that affected the project. Mayor Copelof said it does, and that it was the money the City was supposed to get from the County. She added that the City has been working with Representative Ferguson, who has assured us that even though that $10 million was reallocated in the State budget, she will find the $3.5 million to give to the City. Representative Ferguson said she will do the same for the project in Rosman, which was about $5 million, and for the County's pump station at the high school. Mayor Copelof said even though it was a disaster to lose the money, Representative Ferguson has said that they will get the money. Mr. Hooper said even if they did not get the money back, it would not have necessarily killed the City's multi-family project because money to extend the sewer to those units was incorporated in the City's LIHTC application. However, there would have been fewer units because the money allocated to building more units would have been used to extend sewer. Mr. Baker said it also would not have helped the homeowners in that neighborhood with failing septic systems. Mr. Hooper said there would have been a remnant of a project left without the $3.5 million, but now we can do the whole thing if we are awarded LIHTC and receive the money with Representative Ferguson's help.

Harvey Sankey asked if the Pro-Housing project will affect the Housing Trust Fund balance. Ms. Brewer said it will not, as Pro-Housing is a separate funding source.

G. Next Meeting Date

The next meeting was scheduled for Tuesday, August 11, 2026 at 3:45pm.

H. Adjourn

There being no further business, the meeting adjourned at 4:19 pm.

Minutes Approved: July 14, 2026

Pamela Holder, Chair, Council Member
Aaron Baker, Vice Chair, Council Member

Shawnee Cummings
Assistant to the City Manager

STAFF REPORT
City Council, Monday, August 17, 2026

Title:	Consider Updates to Brevard-Davidson River Presbyterian Church Lease Amendment for LMI Housing
Speaker:	Emily Brewer, Senior Planner
Prepared by:	Emily Brewer, Senior Planner, Paul Ray, Planning Director, Wilson Hooper, City Manager
Approved by:	Wilson Hooper, City Manager

Background
In 2024, the City of Brevard and Brevard Davidson River Presbyterian Church (BDRPC) entered into a lease agreement to begin studying potentially developing 4.5 acres of church-owned property into low-to-moderate income (LMI) housing. If the City could negotiate a development agreement with a development partner in three years, the church would sell the property for $1 to the City or its designee. However, later that year, geotechnical analysis revealed soil conditions on the site that were thought to make the project infeasible. The City turned its time and resources to other more viable sites, but the agreement was never officially ended. Instead, the two parties agreed to keep it open in case an opportunity emerged, but fully acknowledged that it was likely to lapse in 2027.

Earlier this year, the City was contacted by a developer from Greenway Residential Development LLC. Alongside their partner firm Dominion Commercial, Greenway believe they can develop LMI housing on the site economically, even with the questionable soil. Alongside an appointed subcommittee of the church's governing body (e.g. the Session), City staff met with the Greenway/Dominion development team earlier this summer, and they shared that they were confident they could develop the property. Even though Staff and the Session subcommittee are not yet convinced of the feasibility of Greenway's plans, the Session subcommittee was intrigued enough by the possibility that they ask the City to consider extending the lease so that this--or other--possiblities could be explored.

The Housing Committee considered this possibility at its August 11, 2026 meeting and recommended moving forward.

Discussion
The proposed changes are as follows:

1. Amend dates. As written the agreement requires the City to have entered into a Development Agreement with a qualified development partner by June 13, 2027. Staff are requesting authorization to agree to an extension of three years, changing the expiration date to June 30, 2030.
2. Authorize the use of a non-competitive selection process to select the qualified development partner. Though the contract contains a provision that allows the City to use a non-competitive process, staff seek Council approval since this was not the

original expectation. Under any method of development partner selection, DFI would ensure that suitor's proposals are subject to the same level of scrutiny as they would have been in a competitive process.

Fiscal Impact
Depending on which path forward the City/Church partnership chooses--whether it's a negotiation with Greenway or something different--the City may ask that DFI evaluate the potential partner's proposal with what they call a "third party review". This service is outside DFI's existing scope of work, and is estimated to be between $10k-$15k. If this review is necessary, the City Manager will return with a budget amendment from his recommended funding source at a future meeting.

Action
Council is asked to take one of the following actions:

1. Authorize the City Manager to sign and execute a lease extension as discussed.
2. Table the topic for further discussion.
3. Reject the proposal and authorize the City Manager to dissolve the City/BDRPC agreement per its terms.

Attachments:
1. Brevard-Davidson River Presbyterian Church Ground Lease-6-13-2024

GROUND LEASE

THIS GROUND LEASE ("Lease"), dated June 13, 2024 (the "Effective Date"), is between BREVARD-DAVIDSON RIVER PRESBYTERIAN CHURCH, having an address of 249 East Main Street, Brevard, NC 28712 ("Landlord") and CITY OF BREVARD, having an address of 95 W Main Street, Brevard, NC 28712 ("Tenant").

1. **PREMISES:** Landlord, for and in consideration of the covenants contained in this Lease and made on the part of Tenant, demises and leases unto Tenant, and Tenant leases from Landlord, the parcel of land shown as the cross-hatched area on Exhibit A attached hereto and incorporated herein by reference (the "Premises"), which Premises consist of a portion of 8586-60-5685-000 & that lot known as PIN 8586-70-1817-000.

2. **LEASE TERM:** Tenant shall have and hold the Premises for a term commencing on the Effective Date and ending June 13, 2027.

3. **RENT AND TAXES:**

A. **Rent:** Tenant's liability for rent shall commence on the Effective Date (the "Rent Commencement Date"). Tenant, in consideration of the covenants made by Landlord, promises to pay rent to Landlord at the address provided in the Notice section of this Lease (or such other address as Landlord may designate in writing from time to time) One Dollar Per Year.

B. **Taxes:** Except as provided below, Tenant shall pay promptly and before they become delinquent all general real estate taxes imposed at any time during the term or any extension of this Lease, on the Premises. If the tax bill does not separate out the Premises from the remainder of Landlord's tax parcel of which the Premises is a part, , then Landlord shall pay the bill and Tenant shall reimburse Landlord for any taxes attributable to the Premises prorated based on acreage of the land and the portion of the tax bill relating to the land.

4. **TENANT'S COVENANTS:** Tenant covenants and agrees, during the Term:

A. No Construction: Tenant shall not build or improve the Premises in any way without Landlord's consent, except for feasibility studies as allowed by the Permitted Use defined below.

B. Liens and Encumbrances: Not to cause the estate of Landlord in the Premises to become subject to any lien, charge or encumbrance whatsoever, and to indemnify and keep indemnified Landlord against all such liens, charges and encumbrances.

C. Insurance and Indemnity: Tenant shall maintain and keep in force Comprehensive General Liability insurance, on an occurrence basis, insuring against claims for personal injury, death or property damage occurring in, on or about the Premises with a combined single limit of $5,000,000.00 for Bodily Injury, Death and Property Damage Liability, and Tenant's indemnification obligations under this Lease, and shall name Landlord as an additional insured on said policy. Tenant shall deliver to Landlord, upon request, a certificate of insurance and of any renewals from time to time during the term of this Lease.

Tenant further agrees to indemnify, defend and save Landlord harmless from any liability, loss, cost, expense or claim of any nature resulting from this lease, and any damage to person or property arising out of Tenant's use of the Premises, including for losses, costs, expenses, damages, liabilities or attorney's fees that arise as result thereof up to a cap of $5,000,000.00.

D. Repairs: To keep the Premises in a safe and good condition and repair, subject to ordinary wear and tear and to Landlord's obligations under this Lease, if any.

E. Compliance with Law: To comply with all governmental laws, rules and regulations applicable to the use, development or operation of the Premises for the Permitted Use.

F. Permitted Use. To only use the Premises for the purpose of conducting feasibility studies to pursue a possible Affordable Rental Housing development project, as defined below, ("Permitted Use") and for no other purpose without the express prior written consent of Landlord; provided, however, that Tenant shall not conduct any invasive testing of any nature without the prior express written approval of Landlord as to each specific invasive test intended to be conducted by Tenant. Affordable Rental Housing is defined as housing wherein the use thereof is restricted solely to rental housing for households which have a maximum income less than 80% of the Area Median Income for Transylvania County, North Carolina as defined by the United States Department of Housing and Urban Development (hereinafter "HUD"). Landlord makes no representation or warranty regarding the suitability of the Premises for or the legality (under zoning or other applicable ordinances) of the Permitted Use for the Premises. Tenant shall not cause or permit any waste to occur in the Premises. Tenant shall keep the Premises, and every part thereof, in a clean and wholesome condition, free from any objectionable noises, loud music, objectionable odors or nuisances. Tenant shall conduct all such on-site inspections, examinations, testing, timber cruises and surveying of the Property in a good and workmanlike manner, at Tenant's expense, shall repair any damage to the Premises caused by Tenant's on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Landlord's use and enjoyment of its adjacent property. In that respect, Tenant shall not undertake on-site inspections during the hours that Landlord is open to the public for worship, including but not limited to Sundays from 8am to 1pm. Tenant shall not disclose any information regarding the Premises unless required by law, and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Tenant shall obtain their agreement to maintain such confidentiality. Tenant assumes all responsibility for the acts of itself and its agents or representatives in exercising its rights under this Section and agrees to indemnify and hold Landlord harmless from any damages resulting therefrom. This indemnification obligation of Tenant shall survive the expiration of this Lease or its earlier termination.

G. Environmental Matters.

(A) Tenant shall not bring any Hazardous Materials onto the Premises.

(B) Tenant hereby indemnifies and holds harmless Landlord, its successors and assigns from and against any and all losses, liabilities, damages, injuries, penalties, fines, costs, expenses and claims of any and every kind whatsoever (including attorney's fees and costs) paid, incurred or suffered by, or asserted against Landlord as a result of any claim, demand or judicial or administrative action by any person or entity (including governmental or private entities) for, with respect to, or as a direct or indirect result of, the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Premises or the Property of any Hazardous Materials caused by Tenant or Tenant's employees, agents, invitees or contractors up to a cap of $5,000,000.00. This indemnity shall also apply to any release of Hazardous Materials caused by a fire or other casualty to the Premises if such Hazardous Materials were stored on the Premises or the Property by Tenant, its agents, employees, invitees or successors in interest.

(C) For purposes of this Lease, "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (i) is defined as a hazardous substance, hazardous material or waste, or toxic substance pursuant to any Hazardous Materials Requirements, (ii) is regulated, controlled or governed by any Hazardous Materials Requirements, (iii) is petroleum or a petroleum product, or (iv) is asbestos, formaldehyde, a radioactive material, drug, bacteria, virus, or other injurious or potentially injurious material (by itself or in combination with other materials).

(D) The warranties and indemnities contained in this Section shall survive the termination of this Lease.

5. **ASSIGNMENT AND SUBLETTING:** Tenant may not, without the consent of Landlord, sublease the Premises or assign this Lease or its rights under this Lease. In any such event, Tenant shall remain liable for the payment of all rent required to be paid under this Lease and for the performance of all terms, covenants, and conditions undertaken by Tenant.

6. **EXTERIOR SIGNS:** Tenant shall place no signs upon the Premises, except with the express written consent of the Landlord in Landlord's sole discretion. Any consent given by Landlord shall expressly not be a representation of or warranty of any legal entitlement to signage at the Premises or on the Property. Any and all signs placed on the Premises or the Property by Tenant shall be maintained in compliance with governmental rules and regulations governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

7. **HOLDING OVER:** If Tenant remains in possession of the Premises after expiration of the term hereof, Tenant shall be a tenant at sufferance and there shall be no renewal of this Lease by operation of law.

8. **NOTICES:** All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease. Notices to Landlord shall be delivered or sent to the address shown at the beginning of this Lease. All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

9. **EVENTS OF DEFAULT:** The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay when due the rental as provided for herein; (b) Tenant abandons or vacates the Premises; (c) Tenant fails to comply with or abide by and perform any non-monetary obligation imposed upon Tenant under this Lease within thirty (30) days after written notice of such breach; (d) Tenant is adjudicated bankrupt; (e) A permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after written notice from Landlord to Tenant to obtain such removal; (f) Tenant, either voluntarily or involuntarily, takes advantage of any debt or relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred and such proceeding is not dismissed within sixty (60) days of the filing thereof; (g) Tenant makes an assignment for benefit of creditors; or (h) Tenant's effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

10. **REMEDIES UPON DEFAULT:** Upon the occurrence of Event of Default, Landlord may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law: (a) Landlord may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) Landlord may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated); or (c) Landlord, as Tenant's agent, without terminating this Lease, may enter upon and rent the Premises, in whole or in part, at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Landlord deems proper, with Tenant being liable to Landlord for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Landlord on reletting, provided however, that Landlord shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default and expressly shall have no duty to mitigate Tenant's damages. No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof.

11. **CONDEMNATION:** If the whole or any part of the Premises is taken or condemned by any competent authority for any public use or purpose during the Term, this Lease shall terminate, Tenant shall promptly remove its property from the Premises, and all condemnation awards shall belong to the Landlord, with Tenant having no claim thereto in any manner that would reduce Landlord's award.

12. **OPTION TO PURCHASE :** If and only if the following conditions are met prior to the expiration of the Lease Term, Tenant may have the option to purchase the Premises for $1.00 prior to expiration of the Lease Term by providing notice and evidence that the conditions have been met to the reasonable satisfaction of Landlord:

i) Tenant is satisfied with its feasibility studies and has found a development partner reasonably acceptable to Landlord that will develop the Premises only for Affordable Rental Housing units for single family residential use. If Tenant has found no such development partner reasonably acceptable to the Landlord, then Tenant shall not have a right to purchase the Premises, and this Lease shall expire at the expiration date.

ii) The developer partner will be deemed to be reasonably acceptable to Landlord if either of the following are met:

a) The development partner is an entity with demonstrated previous experience developing Affordable Rental Housing, identified in the City of Brevard's competitive solicitation process, and will develop the property in compliance with the Permitted Use described below , and/or

b) The development partner has entered into a Development Agreement with the City of Brevard to develop Affordable Rental Housing in compliance with the Permitted Use described below.

iii) The Landlord will convey the Premises by Special Warranty Deed with the following restriction and the Tenant shall sign the deed in acceptance of the following restriction and obligations:

"The Property herein conveyed shall only be used for the development and after initial development, continuous use of multi-family apartments for at least 24 units, in which 100% of the units available for rent are for single family residential use Affordable Rental Housing, as defined below ("Permitted Use") and for no other purpose without the express prior written consent of Brevard-Davidson River Presbyterian Church, or its successors in interest ("Church"). For the avoidance of doubt, the above restriction is not intended to prohibit a multi-family apartment complex so long as the individual units are for single family residential use. Affordable Rental Housing is defined as housing wherein the use thereof is restricted solely to rental housing for households which have a maximum income less than 80% of the Area Median Income for Transylvania County, North Carolina as defined by the United States Department of Housing and Urban Development (hereinafter "HUD"). It is the intention of Church and Grantee that the foregoing restriction shall constitute a covenant running with the land enforceable by Church and benefitting Church's remaining adjacent property against Grantee or any successor owner of the Property herein conveyed. Church at any time in the future may unilaterally record an extension of this restriction in the public record or other such notification under the North Carolina Real Estate Marketable Title Act.

Further, it is the intention of the Church and Grantee that if no Affordable Rental Housing apartment complex for single family residential units of at least 24 units is completed and operating on the Property consistent with the use restriction in the paragraph above within five (5) years of ***[INSERT DATE DEED FROM CHURCH IS RECORDED]***, then Church shall give the owner of the Property conveyed herein notice and opportunity to cure the failure within twelve (12) months. If the failure has not been cured within said time period, then the Property and all improvements shall, at Church's election, revert to Church. The owner of the Property herein conveyed shall execute, deliver, and record any confirmatory instrument upon Church's request conveying title to the Property back to Church. In the event Grantee fails to execute or deliver such a confirmatory deed so requested by Church, then Grantee does hereby appoint Church as its true and lawful attorney in fact, with full power of substitution, to execute, delivery and record such a confirmatory deed.

Further, Church shall be entitled to pursue any remedy at law or in equity, available to it by North Carolina law, for any violation of the restrictive covenant described above, and/or the failure of the Property to be completed and operating as an Affordable Rental Housing apartment complex for single family residential use of at least 24 units within the time period specified above. The Grantee waives any immunity defenses that may be applicable under North Carolina law and otherwise waives any defenses challenging the validity of the above covenant or land use restriction. To the extent allowed by law, the Grantee shall not exercise any condemnation authority to remove the above covenant or land use restriction. The Grantee shall reimburse the Church for any reasonable attorney's fees that Church may incur as result of the Grantee's violation of this Agreement,

including fees that may be allowed under G.S. 6-21.7. The above covenants and terms are being agreed to and relied upon by the Church in return for the lower than market value sales or acquisition price.

Grantee, and its successors and assigns, covenant and agree to repeat the three paragraphs above and this paragraph in any subsequent deeds of conveyance, it being the intent that these restrictions and covenants run with the land."

iv) Tenant shall have prepared and had approved a subdivision plat survey acceptable to Landlord of the Premises in order to transfer the Premises by deed.

v) Access and utilities to the Property shall NOT be over Grantor's remaining Property.

vi) This option may not be assigned without the consent of the Landlord.

13. **MISCELLANEOUS PROVISIONS:**

A. Invalidity: If any term or provision of this Lease or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances other than those as to which it is held invalid or unenforceable, shall not be affected.

B. Successors, etc.: The terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties, their heirs, personal representatives, successors or assigns, and shall run with the land; and where more than one party shall be lessors under this Lease, the word "Landlord" whenever used in this Lease shall be deemed to include all lessors jointly and severally.

C. Writing: No waivers, alterations or modifications of this Lease or any agreements in connection with this Lease shall be valid unless in writing duly executed by both Landlord and Tenant.

D. Construction: The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such paragraphs of this Lease or in any way affect this Lease. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates. The use of singular shall be deemed to include the plural and, conversely, the plural shall be deemed to include the singular.

E. Whole Agreement: All negotiations, considerations, representations and understandings between the parties are incorporated in this document and may be modified or altered only by agreement in writing between the parties, and no act or omission of any employee or agent of the parties or any broker, if any, shall alter, change or modify any of the provisions of this Lease.

F. No Waiver: No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof. All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

G. Time: Time is of the essence in this Lease.

LANDLORD AND TENANT, by their execution below, indicate their consent to the terms of this lease.

LANDLORD:

BREVARD-DAVIDSON RIVER PRESBYTERIAN CHURCH

By: Frank Porter

Print Name: FRANK PORTER

Print Title: PRESIDENT

TENANT:

CITY OF BREVARD

By: Maureen Copelof

Print Name: Maureen Copelof

Print Title: Mayor

Exhibit A: Approximate Lease Premises

STAFF REPORT
City Council, Monday, August 17, 2026

Title:	Proposed Remote Participation Policy for Appointed Boards and Committees
Speaker:	Denise Hodsdon, City Clerk
Prepared by:	Denise Hodsdon, City Clerk
Approved by:	Wilson Hooper, City Manager

Background
Since the COVID state of emergency expired in August 2022, there has been question about whether remote participation in meetings is allowed under state law. As for governing boards, there are specific statutes that govern their quorum and voting requirements, but state law neither clearly authorizes nor clearly prohibits adopting local rules of procedure that define and authorize remote meetings outside a declared state of emergency. However, the UNC School of Government has advised that appointed boards and committees likely have significantly more freedom to conduct remote meetings, provided that there are no specific statutes regarding physical presence for voting or quorum.

Given that the City's numerous appointed boards and committees meet regularly on a monthly basis, members sometimes have scheduling conflicts that prevent them from attending meetings in person, and at times meetings have to be cancelled due to lack of a quorum. There have been requests from members to participate remotely but without a policy allowing such participation, the question is whether members participating remotely count toward quorum and whether they may vote.

The School of Government recommends that local governments adopt specific rules authorizing remote participation for appointed boards and committees, and that special consideration should be given to the use of remote participation in boards that function as quasi-judicial decision-makers. The suggested possible approaches to remote meetings are as follows:

1. In person only – prohibit any remote participation outside a state of emergency.

2. In person quorum and in-person voting required – allow for remote attendance but only physically present members count toward quorum and can vote.

3. In-person quorum required with restricted remote voting – require in-person quorum to conduct business, but allow remote participants to count toward quorum as well. Permit remote participation in discussion, deliberation, motions, seconds, and votes. However, remote votes only count if they are not outcome determinative.

4. Allow remote quorum, participation, and voting – allows for remote participant to count toward quorum, to participate in discussion, and to vote. Would not require an in-person quorum.

Discussion

At its June 4, 2026 meeting the Finance, Human Resources, and Citizen Appointment Committee considered whether to allow remote participation, and if so, which approach to adopt. There was consensus to allow remote participation for appointed boards and committees, but not for City Council. For the Planning Board and the Board of Adjustment, the Committee recommended Approach #3, and recommended Approach #4 for all other boards and committees. Using this feedback, staff drafted a policy which was reviewed by the Committee at its July 27th meeting. The Committee approved the policy with some additions and referred it to Council with a recommendation to approve.

The draft Policy for Remote Participation in Official Meetings of Appointed Boards and Committees is attached for Council's consideration. The proposed policy strongly encourages in-person attendance but authorizes certain circumstances under which remote participation would be allowed. Members participating remotely would be required to give 24-hour advance notice to the committee chair and secretary.

For the Planning Board and Board of Adjustment, the vote of a member participating remotely shall not be effective as a deciding vote. Remote participation shall not include voting on quasi-judicial applications, nor shall quasi-judicial hearings be held without a quorum of members present in person, except during a declared state of emergency.

The policy requires a roll call vote when any member(s) participates remotely, and addresses how the chair may handle remote participation when contact with the remote participant is lost due to technical difficulties. It also limits the number of times a member may participate remotely in regularly scheduled meetings in a rolling 12-month period. It does not limit the number of members who may participate remotely in a given meeting, provided that either the chair or vice-chair is physically present.

Action

Staff requests that Council consider the Committee's recommendation to approve and adopt the attached Policy for Remote Participation in Official Meetings of Appointed Boards and Committees.

Attachments:

1. Draft Remote Participation Policy
2. Resolution Adopting Remote Participation Policy

CITY OF BREVARD
POLICY FOR REMOTE PARTICIPATION IN OFFICIAL MEETINGS OF APPOINTED BOARDS AND COMMITTEES

The purpose of this policy (the "Policy") is to establish procedures for appointed members of boards and committees who are unable to physically attend a board or committee meeting to participate remotely. To promote full participation of advisory board and committee members while ensuring access and transparency for the public as required by the Open Meetings Law, G.S. 143-318.9 *et seq*., the Brevard City Council authorizes remote participation in advisory board and committee meetings subject to existing board or committee policies, state law, and the following procedures and requirements:

A. This policy only applies to appointed boards and committees and does not apply to City Council.

B. For purposes of this policy, "Remote Meeting" is defined as an official meeting, or any part thereof, in which one or more members of the appointed board or committee participate by simultaneous communication via conference telephone, conference video, or other electronic means. Remote participation does not include email, web chat, or text messaging technologies.

C. A member participating remotely shall be counted toward a quorum and may fully participate in all discussions and votes on business of the body, provided that simultaneous communication is maintained for that member.

D. For members of the Brevard Planning Board and the Board of Adjustment, the vote of a member participating remotely shall not be effective as a deciding vote on any matter. Remote participation shall not include voting on quasi-judicial applications, nor shall quasi-judicial hearings be held without a quorum of members present in person, except during a declared national, state, or local emergency covering the city and pursuant to the provisions of NCGS 166A-19.24.

E. Physical attendance by members is strongly encouraged. As such, remote participation may be used in limited circumstances only. Authorized Circumstances for Remote Participation include:

    1. Personal illness or disability that does not impact the member's ability to participate remotely;
    2. Family or other personal emergency;
    3. Employment obligations;
    4. Military service obligations;
    5. Vacation;

6. Personal, employment, or City-related out-of-town travel of such distance as to make physical attendance impractical;
7. Other emergencies that justify remote participation, such as a declaration of a national, state, or local emergency covering the city.

F. A member wishing to participate remotely in a meeting must notify the board or committee chair and the board or committee secretary of the need to participate remotely at least 24 hours in advance of the meeting, unless advance notice is impracticable.

G. At the start of the board or committee meeting, and prior to participating in any discussion, the chair shall announce that a member is participating remotely. The member shall identify themselves and state the reason they are participating remotely.

H. A member participating remotely must be fully heard and, if possible, seen by other members of the board or committee and any other individual in attendance at the meeting. A member participating remotely must also be able to hear all other members. Every effort should be made for the member to participate remotely from a location free from outside distractions.

I. A member participating remotely shall notify the chair if leaving the meeting before it is adjourned or rejoining the meeting after a period of absence.

J. If due to technical difficulties, contact with the remotely participating member is lost entirely or if contact becomes unclear, the chair may end remote participation for that member for the balance of the meeting. If remote participation is established but is then interrupted or ends, the remotely participating member will be considered as excused from the meeting. If the remote participant is required for a quorum, then the quorum is lost at that point. The meeting may continue but as a listening session only.

K. If any member is participating remotely, all votes taken shall be by roll call.

L. The minutes of the meeting will reflect that the meeting was conducted by use of simultaneous electronic communication, which members were in attendance by simultaneous communication, and when such member(s) joined or left the meeting. Any interruption to or discontinuation of a member's participation will also be noted in the minutes.

M. At such time as the necessary equipment is installed to provide for live streaming of board and committee meetings, all notices of those meetings shall include the means whereby the public can access the meeting.

N. No member may participate remotely in more than 25% of the regularly scheduled meetings of the board or committee in a rolling 12-month period for any reason other than a declared national, state, or local emergency covering the city. This policy does not limit the number of board or committee members who may participate remotely in a given meeting, provided that either the chair or vice-chair is physically present.

RESOLUTION NO. 2026-XX

A RESOLUTION ADOPTING A POLICY FOR REMOTE PARTICIPATION IN OFFICIAL MEETINGS OF APPOINTED BOARDS AND COMMITTEES

WHEREAS, in order to promote full participation of advisory board and committee members while ensuring access and transparency for the public as required by the North Carolina Open Meetings Law, the Brevard City Council wishes to establish a policy authorizing remote participation for appointed boards and committees outside of a declared state of emergency; and

WHEREAS, Staff has drafted a Policy for Remote Participation in Official Meetings of Appointed Boards and Committees establishing rules and procedures for remote participation; and

WHEREAS, the City Council Finance, Human Resources and Citizen Appointment Committee has reviewed the draft Policy for Remote Participation in Official Meetings of Appointed Boards and Committees and recommends approval.

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

Section 1. The attached City of Brevard Policy for Remote Participation in Official Meetings of Appointed Boards and Committees is hereby adopted.

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

Adopted and approved this the 17th day of August 2026.

_____
Maureen Copelof
Mayor

ATTEST:

_____
Denise Hodsdon, CMC, NCCMC
City Clerk

STAFF REPORT
City Council, Monday, August 17, 2026

Title:	Renaming of the "Downtown Master Plan Committee" to the "Downtown Master Plan Implementation and Downtown Advisory Committee"
Speaker:	Council Member Gary Daniel
Prepared by:	Shawnee Cummings, Assistant to the City Manager
Approved by:	Wilson Hooper, City Manager

Background
The Downtown Master Plan Committee (the "Committee") was created by City Council in April 2015 to operate as a policy review and discussion arm of City Council, allowing it to explore policy implications and policy development while serving in an advisory capacity. Since its inception, the Committee has continuously overseen the development of the Downtown Master Plan and its prior iterations, and also advises on matters concerning Downtown Brevard.

Discussion
The Committee met on August 12, 2026 and discussed that the Committee's focus, now that the Downtown Master Plan is finalized, should be on action and implementation of the plan. Additionally, the Committee agreed that the Downtown Master Plan is not their only focus, and they often advise on matters that affect downtown but are not in direct relation to the Master Plan. Therefore, the Committee agreed that changing the name of the Committee would help direct their efforts toward implementation and better reflect the range of issues that the Committee advises on.

Recommendation
The Downtown Master Plan Committee unanimously recommended that the name of the "Downtown Master Plan Committee" be changed to the "Downtown Master Plan Implementation and Downtown Advisory Committee."

Action
A draft resolution renaming the Downtown Master Plan Committee as the Downtown Master Plan Implementation and Downtown Advisory Committee is attached for Council's consideration.

Attachments:
1. Resolution Renaming DTMPC

RESOLUTION NO. 2026-XX

RESOLUTION RENAMING THE DOWNTOWN MASTER PLAN COMMITTEE AS THE DOWNTOWN MASTER PLAN IMPLEMENTATION AND DOWNTOWN ADVISORY COMMITTEE

WHEREAS, in April 2015 the Brevard City Council created the Downtown Master Plan Committee to operate as a policy review and discussion arm of the Council, allowing it to explore policy implications and policy development while serving in an advisory capacity; and

WHEREAS, the Committee has continuously overseen the development of the Downtown Master Plan and its prior iterations, and also advises on matters concerning Downtown Brevard; and

WHEREAS, the Committee met on August 12, 2026 and discussed that the Committee's focus, now that the Downtown Master Plan is finalized, should be on action and implementation of the plan; and

WHEREAS, the Committee agreed that the Downtown Master Plan is not their only focus, and they advise on matters that affect downtown but are not in direct relation to the Master Plan; and

WHEREAS, the Committee agreed that changing the name of the Committee would help direct their efforts toward implementation and better reflect the range of issues that the Committee advises on.

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

Section 1. The Brevard City Council hereby changes the name of the "Downtown Master Plan Committee" to the "Downtown Master Plan Implementation and Downtown Advisory Committee" effective immediately.

Adopted and approved this the _____ day of _____, 2026.

_____
Maureen Copelof
Mayor

ATTEST:

_____
Denise Hodsdon, CMC
City Clerk