UNIFIED DEVELOPMENT ORDINANCE

CHAPTER 1. PURPOSE AND APPLICABILITY

1.12. Interpretation.

A. In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

B. *Fractional requirement:* When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit and a fraction of less than one-half shall be disregarded.

CHAPTER 2. DISTRICTS AND GENERAL PROVISIONS

2.1. General intent and establishment of districts.

2.1.3. Establishment of conditional zoning districts.

A. In addition to the base districts established above, and as authorized under G.S. 160D-703 the following conditional districts are established which correspond to the above-referenced districts but which require the submission of a master plan as a prerequisite to any development.

1. Institutional Campus Conditional Zoning District (IC CD).
2. General Industrial Conditional Zoning District (GI CD).
3. Downtown Mixed-Use Conditional Zoning District (DMX CD).
4. Corridor Mixed-Use Conditional Zoning District (CMX CD).
5. Neighborhood Mixed-Use Conditional Zoning District (NMX CD).
6. Residential Mixed-Use Conditional Zoning District (RMX CD).
7. General Residential Conditional Zoning District (GR CD).

B. These districts are intended to provide an effective means for the city to manage the impacts of large-scale developments; to manage developments in sensitive contexts; to provide developers with the flexibility for creative design approaches; to allow for the establishment of specific land uses not otherwise permitted in the underlying base district; to allow for changes in the density, dimensional, and setback requirements of CHAPTER 2. The districts are subject to applicable conditions of the approving authority. If the ordinance creating a conditional zoning district fails to provide specific standards, any development in the district shall comply with the applicable standards for the corresponding base district contained in this Ordinance and the

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

C. The conditional zoning district classification allows projects of innovative design and layout that would not otherwise be permitted under this ordinance because of the strict application of zoning district or general development standards. Conditional zoning encourages innovative land planning and design concepts by:

1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards that were designed primarily for individual lots;
2. Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;
3. Allowing greater freedom in providing a mix of land uses in the same development, including a mix of housing types, housing prices, lot sizes, densities, and non-residential uses in a conditional zoning district;
4. Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses; and
5. Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities when such increases can be justified by superior design or the provision of additional amenities such as public and/or private open space.

D. In return for greater flexibility in site design requirements, conditional zoning districts are expected to deliver exceptional quality community designs that preserve critical environmental resources, provide above-average open space amenities, incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure.

E. General use and development standards for Conditional Zoning Districts.

1. Uses allowed. A development may contain only those uses specified in the ordinance creating the conditional zoning district. Such uses may include any of the uses indicated in the use matrix contained in Section 2.2.C, provided such uses are consistent with the Comprehensive Land Use Plan.
2. Mixed-uses encouraged.
    a. Mixed-use developments are strongly encouraged in conditional zoning districts, including the mixing of principal residential uses with principal non-residential uses. Mixed-use development may occur by having two or more principal uses located in the same building (e.g., retail on ground floor, office space above) or by having two or more principal uses located in different buildings sited on the same lot or parcel (e.g., freestanding child day care center located on the same parcel as an office building).
    b. Developments containing both residential and non-residential uses shall be designed, located, and oriented on the site so that non-residential uses are directly accessible to residents of the development. For the purposes of this section, "directly accessible" shall mean pedestrian and vehicular access by way of improved sidewalks or paths and streets that do not involve leaving the planned development or using a major thoroughfare. "Directly accessible" does not necessarily mean that non-residential uses need to be located in a particular location, but that the siting of such uses considers the accessibility of the residential component of the development to the non-residential use.
3. Unless the ordinance creating a conditional zoning district specifies otherwise, conditional zoning districts which contain residential uses shall incorporate the following design principles:
    a. All neighborhoods shall have identifiable centers and edges.

b. Edge lots shall be readily accessible to retail and/or recreation by non-vehicular means (a distance not greater than ¼—½ mile).

c. Uses shall be mixed and in close proximity to one another.

d. Street networks shall be interconnected and blocks small.

e. Sidewalks and other pedestrian infrastructure shall be interconnected and comprehensive.

f. The entire land area of the development shall be divided into blocks, streets, lots and open space areas.

g. Similar land categories shall generally front across streets. Dissimilar categories should abut at rear lot lines. Corner lots which front on streets of dissimilar use should be set back the same as the adjacent use with the lesser setback.

h. Open space shall be centrally located so that it is within walking distance (¼—½ mile) from all locations within the conditional zoning district. All required open space shall be in accordance with the provisions of CHAPTER 7.

i. Dimensional standards shall be established in accordance with neighborhood design but shall be generally consistent with those found in the RMX, NMX and DMX Districts.

F. The ordinance creating the conditional zoning district shall specify whether phasing is proposed as well as the process, if applicable, for the review and approval of such phases, including any future subdivision of the property. Any references to the final master plan in this section or Section 16.7.E may apply to the entire planned development or an individual phase of such development.

2.2. Use categories and tables of permitted uses.

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

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

10. *Temporary:* Uses of land which, having met certain requirements and conditions, that may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.

B. *Interpretation of use matrices.*

1. The use matrix is not intended to be a comprehensive list of all possible uses, but rather a list of more common uses likely to be proposed within the city.
2. In the event that a particular use is not listed in the use matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the administrator shall determine whether a materially similar use exists in this chapter.
    a. Should the administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing pursuant to G.S. 160D-403.
    b. Should the administrator determine that a materially similar use does not exist, this chapter may be amended to establish a specific listing for the use in question in accordance with the provisions set forth for text amendments in CHAPTER 16.
3. When determining whether a proposed use is materially similar to a listed use, the administrator may consider the following criteria:
    a. The actual or projected characteristics of the proposed use;
    b. The relative amount of site area or floor area and equipment devoted to the proposed use;
    c. Relative amounts of sales;
    d. The customer type;
    e. The relative number of employees;
    f. Hours of operation;
    g. Amount and frequency of deliveries;
    h. Building and site arrangement;
    i. Types of vehicles used and their parking demands;
    j. The number of vehicle trips generated;
    k. Signs;
    l. How the proposed use is advertised;
    m. The likely impact on surrounding properties; and
    n. Whether the activity is likely to be found independent of the other activities on the site.
4. Prohibited uses within the applicable zoning district or uses for which the administrator determines there is not a materially similar use in the matrix may be permitted through the application of a conditional zoning district in accordance with the provisions set forth in CHAPTER 16.

C. *Use matrix.* The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "P" denotes those uses that are permitted "by right."
2. "—" denotes those uses that are not permitted within the given district.

3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in CHAPTER 16. Additional standards for certain uses requiring a special use permit are set forth in CHAPTER 3 and CHAPTER 5 of this ordinance.
4. "PS" denotes those uses that are permitted with additional standards, which are set forth in CHAPTER 3.
5. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

TABLE 2.2A: LAND USE MATRIX									
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
			GR	RMX	NMX	DMX	CMX	IC	GI
Residential									
Household Living	**3.5.1**	Dwelling—Single-Family	P	P	—	—	—	P	—
		Dwelling—Duplex	P	P	P	—	—	P	—
		Dwelling—Multifamily 3—4 units/bldg.	P	P	P	P	P	P	—
		Dwelling—Multifamily more than 4 units/bldg.	—	P	P	P	P	P	—
		Dwelling—Townhome	P	P	P	P	P	P	—
		Manufactured Home	MHD	MHD	MHD	MHD	MHD	MHD	—
		Live-Work Units	PS	PS	PS	PS	—	PS	—
		Mixed-Use Residential Unit	—	—	PS	PS	PS	PS	—
Group Living	**3.5.2**	Family Care Home	P	P	P	P	P	P	—
		Housing Services for the Elderly	SUP	P	P	P	P	P	—
		Rooming or Boarding House	P	P	P	P	P	P	—
Social Services	**3.5.3**	Group Care Facility	P	P	P	P	P	P	—
		Shelter	SUP	P	P	P	P	P	—
Lodging									
Overnight Accommodations	**3.6.1**	All overnight accommodations, except as listed below	—	—	—	P	P	P	—
		Bed and Breakfast	PS	PS	PS	PS	PS	PS	—
		Short-Term Rental (STR)	—	PS	PS	PS	PS	PS	—
Camping	**3.6.2**	Campground/Recreational Vehicle Park	SUP	SUP	SUP	—	—	SUP	—
		Rental Cottage/Cabins	PS	PS	PS	—	—	—	—
		Seasonal Camp	PS	—	—	—	—	PS	—
Commercial									
Eating and Drinking Establishments	**3.7.1**	All restaurants and other eating and drinking establishments except as listed below	—	—	P	P	P	P	—
		Bar/Night Club	—	—	PS	P	P	—	—
Personal Services	**3.7.2**	All personal services, except as listed below	—	P	P	P	P	P	—
		Day Care Center	PS	PS	PS	PS	PS	PS	PS

TABLE 2.2A: LAND USE MATRIX									
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
			GR	RMX	NMX	DMX	CMX	IC	GI
Professional Services	**3.7.3**	All professional services, except as listed below	SUP	P	P	P	P	P	P
		Adult Establishment	—	—	—	—	—	—	SUP
		Banks, Credit Unions, Financial Services, and ATMs	—	—	P	P	P	P	P
		Funeral Homes and Services	—	—	P	P	P	P	—
		Human Crematories and Crematoriums	—	—	PS	PS	PS	PS	PS
		Indoor Animal Services	—	—	P	P	P	P	P
		Kennels and Outdoor Animal Services	—	—	SUP	—	PS	—	PS
		Landscaping and Contractor Services	SUP	SUP	SUP	—	—	—	P
		Vehicle Services—Major Repair/Body Work	—	—	—	—	PS	—	PS
		Vehicle Services—Minor Maintenance/Repair	—	—	SUP	SUP	PS	PS	PS
Retail	**3.7.4**	All retail and sales establishments except as listed below	—	—	P	P	P	P	—
		Alcoholic Beverage Sales Store	—	—	SUP	P	P	—	—
		Auto/Mechanical Parts Sales	—	—	—	P	P	—	P
		Gas Station	—	—	SUP	SUP	PS	—	PS
		Gunsmiths and Weapon Sales	—	—	SUP	PS	PS	—	PS
Civic/Institutional									
Educational	**3.8.1**	All educational uses except as listed below	SUP	P	P	P	P	P	—
		Colleges/Universities	—	—	SUP	P	P	P	—
		Schools—Vocational/Technical	—	SUP	P	P	P	P	P
Government	**3.8.2**	All government uses, except as listed below	—	P	P	P	P	P	P
		Correctional Facilities	—	—	SUP	SUP	P	P	P
		Public Safety Station	SUP	SUP	P	P	P	P	P
Medical	**3.8.3**	All medical offices and facilities except as listed below	—	P	P	P	P	P	—
		Hospital	—	—	—	—	P	P	—
Places of Worship	**3.8.4**	All religious institutions or places of worship	SUP	P	P	P	P	P	—
		Cemeteries	PS	PS	PS	PS	PS	PS	—
Entertainment/Recreation									
Indoor Recreation	**3.9.1**	All indoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P

TABLE 2.2A: LAND USE MATRIX									
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
			GR	RMX	NMX	DMX	CMX	IC	GI
		Cultural or Community Facility	SUP	P	P	P	P	P	—
		Indoor Amusements	—	—	SUP	P	P	SUP	P
		Indoor Firing Range	—	—	—	—	SUP	SUP	SUP
		Live Performance Theater	—	SUP	SUP	P	P	P	—
		Movie Theater	—	—	—	P	P	—	—
		Special Event Venue	SUP	SUP	PS	PS	PS	PS	—
		Studios, Galleries and Workshops - High Impact	—	—	SUP	SUP	P	P	P
		Studios, Galleries and Workshops - Low Impact	—	P	P	P	P	P	—
Outdoor Recreation	**3.9.2**	All outdoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P
		Non-Residential Swimming Pool or Pond	—	SUP	SUP	PS	PS	PS	—
		Outdoor Amusements	—	—	SUP	SUP	P	—	P
		Outdoor Firing Range	—	—	—	—	—	—	SUP
		Parks, Open Space, and Greenways	P	P	P	P	P	P	P
Agriculture									
Agriculture	**3.10.1**	All agricultural uses	PS	—	—	—	PS	PS	PS
Manufacturing/Wholesale/Storage									
Light Industrial and Manufacturing	**3.11.1**	All light industrial and manufacturing activities, except as listed below	—	—	—	—	SUP	—	P
		Brewery, Distillery, Winery, Cidery - High Impact	—	—	—	—	P	—	P
		Brewery, Distillery, Winery, Cidery - Low Impact	—	—	SUP	PS	PS	—	PS
		Laboratory	—	—	—	—	P	P	P
		Laundry, Dry Cleaning Plant	—	—	—	—	SUP	P	P
		Manufacturing Research and Development	—	—	—	—	P	P	P
		Media Production	—	—	P	P	P	P	P
Heavy Manufacturing	**3.11.2**	All heavy manufacturing activities, except as listed below	—	—	—	—	—	—	SUP
		Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	P	—	P
Storage and Disposal	**3.11.3**	All storage and disposal uses, except as listed below	—	—	—	—	SUP	—	P
		Chemical Storage Facility	—	—	—	—	—	—	P
		Solid Waste Disposal Facilities	—	—	—	—	—	—	PS

TABLE 2.2A: LAND USE MATRIX									
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
			GR	RMX	NMX	DMX	CMX	IC	GI
		Junkyard / Salvage Yard	—	—	—	—	—	—	SUP
Wholesaling and Distribution	**3.11.4**	All wholesaling and distribution activities, except as listed below	—	—	—	—	P	—	P
		Equipment Rental	—	—	—	—	P	—	P
		Indoor Vehicle/Heavy Equipment Sales	—	—	PS	PS	PS	—	PS
		Outdoor Vehicle/Heavy Equipment Sales	—	—	—	—	PS	—	PS
Extractive Industries	**3.11.5**	All extractive industries, except as listed below	—	—	—	—	—	—	P
		Extractive industries involving blasting	—	—	—	—	—	—	SUP
Infrastructure									
Utilities	**3.12.1**	Utilities—Class 1	P	P	P	P	P	P	P
		Utilities—Class 2	P	P	P	P	P	P	P
		Utilities—Class 3	—	—	—	—	—	—	P
Telecommunications	**3.12.2**	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Transportation	**3.12.3**	Parking Lot	SUP	PS	PS	PS	PS	PS	PS
		Passenger Vehicle Terminals	—	—	P	P	P	—	P
Accessory									
Residential Accessory	**3.13.1**	All residential accessory uses, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Day Care Home	PS	PS	PS	PS	PS	PS	—
		Dwelling—Accessory Unit (ADU)	PS	PS	PS	PS	PS	PS	—
		Home Occupation	PS	PS	P	P	P	P	—
		Keeping Bees	PS	PS	PS	PS	PS	PS	PS
		Keeping Domestic Fowl (Chickens)	PS	PS	PS	PS	PS	PS	PS
		Swimming Pool or Pond	PS	PS	PS	PS	PS	PS	—
Non-Residential Accessory	**3.13.2**	All non-residential accessory uses, except as listed below	—	PS	PS	PS	PS	PS	PS
		Accessory Retail	—	—	PS	PS	PS	PS	PS
		Drive-Thrus	—	—	SUP	—	PS	—	—
		Mobile Food Vendor Site	—	SUP	PS	PS	PS	PS	PS
		Recycling - Small Collection	—	—	—	—	SUP	SUP	P
		Rooftop Amenity Space	—	—	SUP	PS	PS	PS	PS
		Taproom / Tasting Room	—	—	SUP	P	P	—	P

TABLE 2.2A: LAND USE MATRIX									
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS						
			GR	RMX	NMX	DMX	CMX	IC	GI
Temporary									
Events and Structures	**3.14.1**	All temporary events and structures, except as listed below	PS	PS	PS	PS	PS	PS	PS
		Carnivals or Circus	—	—	—	—	PS	PS	PS
		Farmers Market	—	—	PS	PS	PS	PS	—
Vendors	**3.14.2**	All temporary vendors, except as listed below	—	—	PS	PS	PS	—	—
		Vending Pushcarts	—	—	—	PS	—	—	—
(a) *This column refers to the section of this ordinance that contains the use definition and additional standards.*									

2.3. Principal structures.

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

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

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

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

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

TABLE 2.3A: GROUND FLOOR AREA	
District	Maximum Ground Floor Area Each Principal Structure
GR4	10,000 sq. ft.
GR8	8,000 sq. ft.
RMX—Single-family home and duplex	8,000 sq. ft.
RMX—Multi-family and nonresidential	25,000 sq. ft.
NMX	30,000 sq. ft.
DMX	25,000 sq. ft.
CMX	75,000 sq. ft.
IC	100,000 sq. ft.
GI	100,000 sq. ft.
Note: Projects of developments that do not meet the above standards apply for conditional zoning in accordance with Section 2.1.C.	

2.4. Group development.

2.4.1. General group development requirements.

A. ***Applicability***:

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

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

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

TABLE 2.4A: GROUP DEVELOPMENT TYPOLOGY MATRIX

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

C. ***Submittal requirements:***

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

D. ***Use limitations:***

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

E. ***Connectivity and circulation***:

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

F. ***Street access***:

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

G. ***Building separation:***

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

H. ***Setbacks***:

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

I. ***Ownership:***

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

2.4.2. Cluster home development.

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

B. ***Applicability***:

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

2. Cluster home development shall comply with the group development standards established herein and the following standards.

C. ***Use Limitations***:

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

D. ***Density and buildings***:

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

E. ***Setbacks***:

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

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

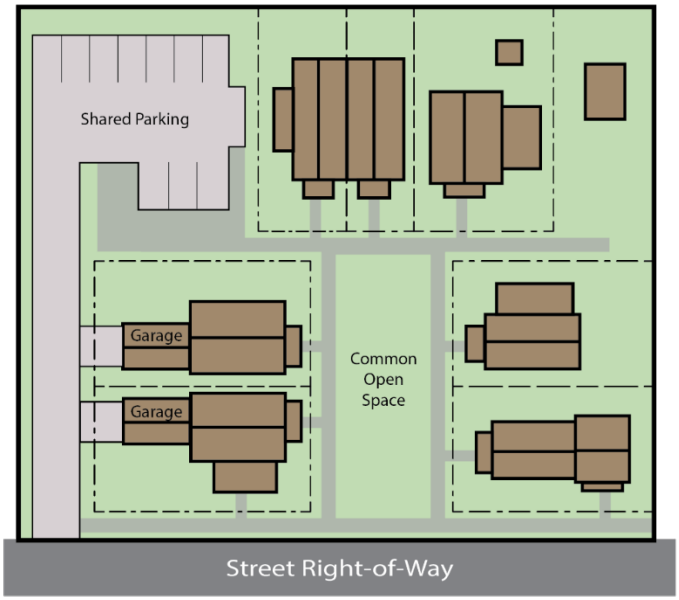
1. The common open space shall include a central green, lawn or garden areas, playground, plaza, or other greenspace / feature as a central focal point.
2. The minimum size of the common open space area is 3,000 square feet or 500 square feet per dwelling unit, whichever is greater. This requirement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

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

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

2. Parking shall not be located:
    a. between principal structures,
    b. between principal structures and the street,
    c. between principal structures and the required common area, or
    d. within any required common area.

FIGURE 2.4.2-A: CLUSTER HOME DEVELOPMENT DIAGRAM



2.4.3. Neighborhood development.

A. ***Applicability***:

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

B. ***Use limitations:***

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

C. ***Street access:***

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

D. ***Density and buildings***:

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

E. ***Setbacks***:

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

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

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

2.4.4. Manufactured home park.

A. ***Applicability***:

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

B. ***Use limitations***:

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

C. ***Density and buildings***:

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

D. ***Setbacks***:

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

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

1. Required off-street parking may be provided on individual development sites within the manufactured home park or in a shared parking area serving multiple dwellings on site.
2. Parking shall not be located:

a. between principal structures,

b. between principal structures and the street,

c. between principal structures and the required common area, or

d. within any required common area.

2.4.5. General group development requirements.

A. ***Applicability:***

1. Shopping center regulations shall apply to large-scale non-residential or mixed-use group development with at least 2 commercial, recreational and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.

2. Shopping centers may be designed as multi-tenant commercial buildings, zero-lot line development of attached structure(s); as individual parcels with shared stewardship of the common areas; or a combination thereof.

B. ***Use Limitations:***

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

C. ***Setbacks:***

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

2.5. Accessory structures.

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

1. Accessory structures utilized for agricultural purposes in association with bona-fide agricultural operations may be permitted in the absence of a principal structure.

2. Garden sheds may be permitted in the absence of a principal structure subject to the following requirements:

   a. Garden sheds shall be no larger than 120 square feet in size;

   b. Garden sheds shall be single-story;

   c. Garden shed shall not be connected to water, sewer, or electricity; and

   d. Garden sheds shall be utilized only for the storage of lawn equipment, garden utensils, and other implements necessary for the maintenance of gardens and grounds.

B. ***Dimensional requirements.***

1. Accessory structures shall meet the yard and setback requirements of Section 2.7.

2. Accessory structures shall not exceed two stories in height.

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

1. Maximum number permitted. No more than two accessory structures shall be permitted per lot. Beehives and chicken coops shall not count toward the maximum number of accessory structures on a lot.

2. Accessory structures shall be located only in the side or rear yards, except for gazebos, private garages, and carports. Such structures shall comply with the front yard setbacks for primary structures in Section 2.7.2. The administrator shall make a determination as to the side or rear yard for accessory structures proposed to be located on lots fronting more than one street.
3. Under no circumstances shall the use of a shipping container be permitted for the purpose of providing permanent storage as an accessory use.

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

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

E. ***Exempt structures.***

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

2.6. Density and dimensional requirements.

2.6.1. Density.

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

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

2.6.2. Building height.

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

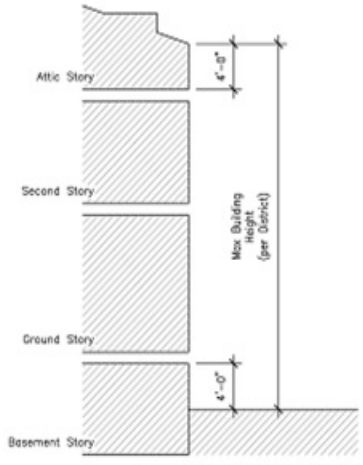
TABLE 5.18A: MAXIMUM HEIGHT BY RIGHT	
District	**Height By Right**
GR (4, 8)	35 feet
RMX	35 feet
NMX	35 feet
DMX	50 feet
CMX	50 feet
IC	50 feet
GI	50 feet
Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C.	

2. See the requirements for tall structures as set forth in Section 5.15.

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

1. "Building height" is measured as the vertical distance above a reference elevation measured to the parapet or roof line of a flat roof, the eave of a pitched roof, or the deck line of a mansard roof. The height of a terraced or stepped building is the maximum height of any segment of the building. The height limitations of this Code shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas; provided evidence from appropriate authorities is submitted to the effect that such building or structure will not interfere with any airport zones or flight patterns.
2. The reference elevation shall be selected using the greater of either of the following:
   a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten feet above the lowest grade; or,
   b. An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in subsection B.1, above is more than ten feet above the lowest grade.

FIGURE 5.18A: BUILDING HEIGHT MEASUREMENT



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

C. ***Maximum story height.***

1. A building story shall not exceed 14 feet in height from finished floor to finished floor.
2. Basements that emerge less than four feet from grade or attics not exceeding four feet at the knee-wall shall not constitute a story.

2.6.3. Project area by right.

A. ***Minimum project area.*** There is no minimum project size required, regardless of zoning district.

B. ***Maximum project area.*** The maximum project size by right varies based on the zoning district.

TABLE 2.6.3-A: MAXIMUM PROJECT AREA BY RIGHT	
District	**Maximum Project Area By Right**
GR (4, 8)	20 acres
RMX	10 acres
NMX	10 acres
DMX	10 acres
CMX	10 acres
IC	None
GI	None
Note: Projects or developments that do not the above standards may apply for conditional zoning in accordance with Section 2.1.C.	

2.7. Yards and setbacks.

2.7.1. General standards for all yards and setbacks.

A. A building, structure, lot, or sign shall not be developed, used or occupied unless it meets the minimum setback requirements set forth herein for the use or the zoning district in which it is located, except permitted encroachments in Section 5.17.

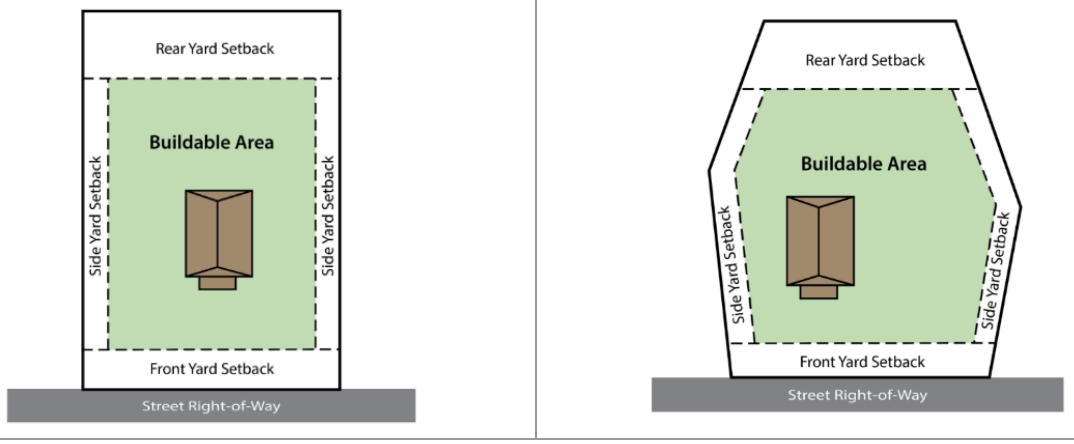
1. Landscaping requirements set forth in CHAPTER 8 of this ordinance may supersede setbacks listed herein.
2. No portion of any structure shall be placed upon any parcel boundary or within any public or private right-of-way or easement, unless otherwise provided for by this ordinance. This provision shall not prohibit zero lot line structures with common walls situated on one or more lot lines.

B. ***Types of setbacks:***

1. Front yard setbacks shall apply to the portion of the lot adjacent to the right-of-way. All lots are required to have a front yard.
2. Rear yard setbacks shall apply to the portion of the lot on the opposite side of the lot from the front yard setback. All lots are required to have a rear yard.

3. Side yard setbacks shall be the required setback from any property line other than front or rear property lines.

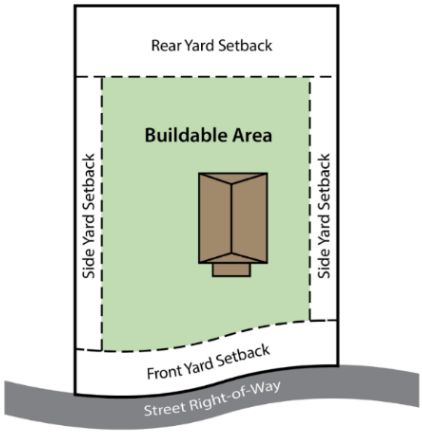
FIGURE 2.7.1-A: ILLUSTRATIVE SETBACK DIAGRAMS



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

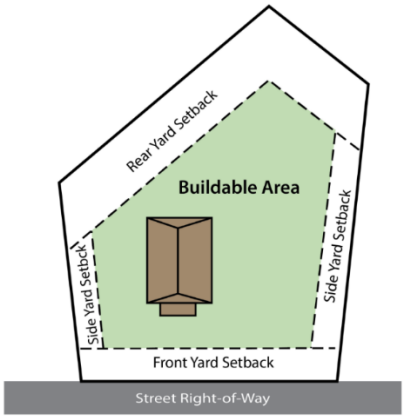
1. Required yard setbacks and building lines are measured parallel to the applicable lot line or public right-of-way line.
   a. Front yard setbacks and building lines shall be measured from the property line or the edge of the right-of-way, whichever is further from the centerline of the roadway.
 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

FIGURE 2.7.1-B: SETBACKS FROM CURVILINEAR LOT LINES



3. When there are multiple rear lot lines, the rear yard setback and building line must be measured from each of the rear lot lines.

FIGURE 2.7.1-C: SETBACKS FROM MULTIPLE REAR LOT LINES



D. ***Administrative decisions for setbacks:***

1. The administrator may impose additional setbacks based upon specific guidance from the City of Brevard Comprehensive Plan, the City of Brevard Downtown Master Plan and other district or small area/master plans, the City of Brevard Comprehensive Pedestrian Plan, the City of Brevard Street Schedule, or other plans or policies of the city.
    a. For private streets, a right-of-way in accordance with CHAPTER 13 shall be assumed by the administrator.
    b. When determining the edge of the right-of-way, the administrator shall account for existing or proposed additional automobile, bicycle, or pedestrian travel lanes, turn lanes, roundabouts, on-street parking, and other improvements that deviate from a standard street cross-section.
2. The administrator may approve deviations from required setbacks by up to 20 percent of the required area in accordance with CHAPTER 16 in order to:
    a. protect existing or proposed rights-of-way and other infrastructure improvements
    b. ensure environmental protection of sensitive and/or conservation areas, including steep slope areas
    c. account for surface water protection and/or satisfy flood damage prevention requirements
3. For non-conforming lots without street frontage, the administrator shall designate a front yard for the purposes of setback measurement.
4. The administrator may grant exceptions to the setback requirements of this ordinance for infill developments where the average setback on already-built-upon lots located wholly or in part within the same block and zoning district, and fronting on the same street as such lot, is less than the minimum required setback.
    a. In such cases, the front and side yard setbacks on such lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots.
5. The administrator may determine that in established neighborhoods the functional rear yard is not opposite the front yard based on the peculiar shape of the parcel or the development pattern. In these cases, the administrator may determine that another line shall be considered the rear lot line for setback purposes.

2.7.2. Setbacks for principal structures.

A. The minimum setback distance for principal structures varies by zoning district and shall be measured in accordance with this section.

TABLE 2.7.2-A: SETBACKS FOR PRINCIPAL STRUCTURES			
District	**Front Yard Setback**	**Rear Yard Setback**	**Side Yard Setback**
GR (4, 8)	15 feet	25 feet	6 feet
RMX	10 feet	25 feet	6 feet
NMX	Edge of right-of-way	10 feet	0 feet / 10 feet from residential district
DMX	Edge of right-of-way	0 feet	0 feet
CMX	10 feet	10 feet / 25 feet from residential district	0 feet / 10 feet from residential district
IC	40 feet	40 feet	40 feet
GI	15 feet	10 feet / 25 feet from residential district	10 feet / 25 feet from residential district
CZD	To be determined by approving authority		

2.7.3. Setbacks for accessory structures.

A. Setbacks for accessory structures vary based on the size of the structure and the zoning district.

TABLE 2.7.3-A: SETBACKS FOR ACCESSORY STRUCTURES				
District	**Side Yard Setback**		**Rear Yard Setback**	
	< 120 sq. ft.	**≥ 120 sq. ft.**	**< 120 sq. ft.**	**≥ 120 sq. ft.**
GR (4, 8)	3 feet	6 feet	3 feet	10 feet
RMX	0 feet	3 feet	0 feet	3 feet
NMX	0 feet	3 feet	0 feet	3 feet
DMX	0 feet	0 feet	0 feet	0 feet
CMX	0 feet	0 feet	0 feet	0 feet
IC	40 feet along all external boundaries			
GI	10 feet/25 feet from residential district	10 feet/25 feet from residential district	10 feet/25 feet from residential district	10 feet/25 feet from residential district
CZD	To be determined by approving authority			

B. Accessory structures to residential uses located within 6 feet of the principal structure are considered to be attached for the purpose of setbacks, and shall comply with the setback requirements of the principal structure.

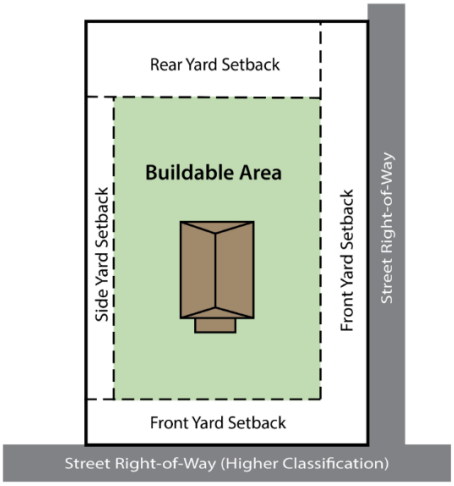
2.7.4. Setbacks for corner lots and multi-frontage lots setbacks.

A. Any structure on any lot that fronts on more than one street shall comply with the minimum front yard setback requirement for each street upon which the lot fronts.

B. Alleys, rear lanes, and commercial service lanes are not classified as streets for the purpose of determining corner or multi-frontage lot setbacks.

C. The rear yard shall be determined as the portion of the lot on the opposite side of the lot from the front yard on the street with the higher classification.

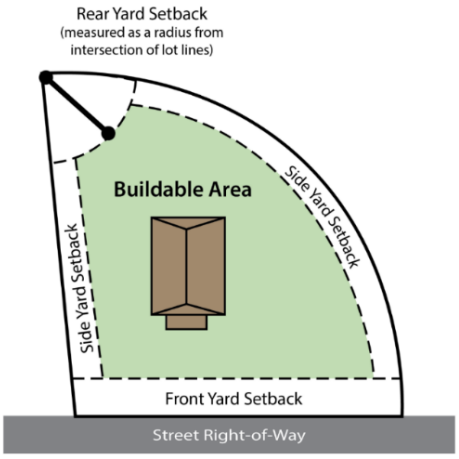
FIGURE 2.7.4-A: SETBACKS FROM MULTI-FRONTAGE LOTS



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

A. On properties where there is no rear lot line, the rear setback shall be measured as a radial distance from the intersection of side lot lines at the rear of the lot.

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



2.7.6. Setbacks for irregular lots.

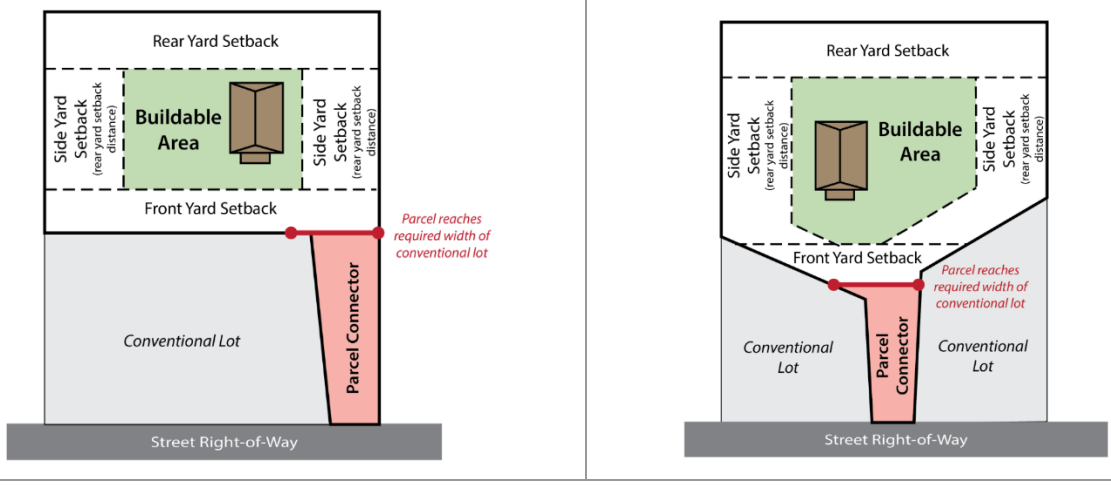
A. The location of required front, side and rear yards on irregularly shaped lots shall be determined by the administrator. This determination shall be based on the spirit and intent of this ordinance to continue the appropriate spacing and location of buildings and structures on individual lots.

B. For irregular lots, the Zoning Administrator will determine the termination of the “parcel connector” based on the definition and will measure front yard setbacks from that point.

C. All other setback distances (rear and side yards) shall be equal to the minimum rear yard setback for the district, unless:

1. A newly-created irregular lot would convert an existing conforming secondary or accessory dwelling unit to a principal single-family structure. In this case, the setbacks for the principal structure may equal that of an accessory structure of that size in the zoning district.

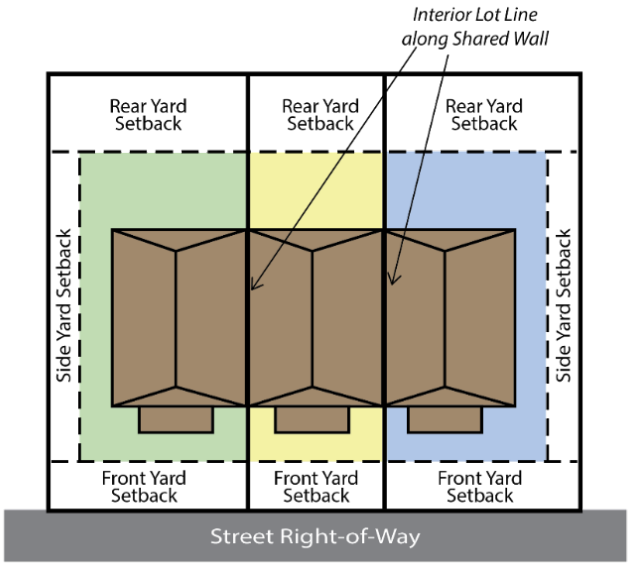
FIGURE 2.7.6-A: SETBACKS FROM IRREGULAR LOTS



2.7.7. Setbacks for zero-lot line developments.

A. Zero-lot line developments using shared firewalls or other type of separation as prescribed by NC Building Code are permitted with no setback requirements along the interior lot line, subject to other requirements as set forth in this ordinance.

FIGURE 2.7.7-A. ZERO LOT LINE DEVELOPMENT SETBACKS

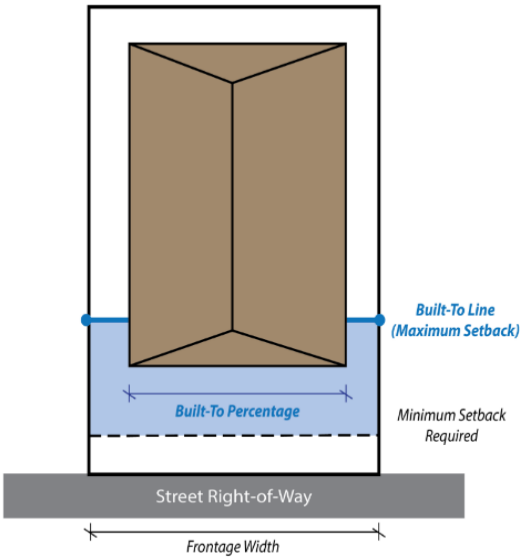


2.7.8. Lots within the Downtown Development Overlay District.

A. New buildings in the Downtown Development Overlay District shall be subject to a front build-to line, or maximum setback, of 12 feet, as measured from the edge of the right-of-way, with a build-to percentage of 80 percent.

B. The build-to percentage may be reduced to 50 percent if the new building includes a public courtyard or plaza space.

FIGURE 2.7.8-A: BUILD-TO LINE AND BUILD-TO PERCENTAGE



2.8. Fences and walls.

A. All fences and walls shall be constructed so that the best face faces outward from the parcel upon which it is constructed and towards adjacent properties. The "best face" shall generally mean the side opposite to framing members.

B. Fences and walls shall not be placed within public utility easements or public right-of-way without first securing an encroachment agreement from the City of Brevard, the North Carolina Department of Transportation, or other appropriate entity.

C. Fence or wall height shall be measured from the side of the fence or wall that is exterior to the property as the vertical distance between the lowest adjacent ground level, natural or filled, and the top of the fence material. Fence heights are restricted as follows:

1. In industrial districts, and public safety and other critical facilities. Fences or walls shall be no greater than six feet in height in the front yard(s) and no greater than eight feet in height in the side and rear yards.
2. All other districts and uses. Fences or walls shall be no greater than four feet in height in the front yard(s) and no more than eight feet in the side and year yards.
3. No closed fence or wall shall be greater than two-and-a-half feet in height when placed within the sight triangle of any intersection as specified in Section 9.5 of this ordinance. Open fences are exempt from this provision.

D. Fence and wall materials shall conform to the following requirements:

1. *Residential districts:*
    a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, except that chain link or woven wire may be used in the side and rear yards.
    b. All other wire fences, including barbed wire or concertina wire, are prohibited.
    c. Nothing in this chapter shall prevent the administrator from approving architecturally variant uses of material to allow creative fence design, such as the contemporary look of heavy-gauged welded wire panels framed in timber.
    d. The use of plastic plumbing pipe is a prohibited fence material.
2. *Commercial districts:*
    a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability.
    b. Chain link wire fences may be used as secure enclosures internal to the property or site subject to the following requirements:
        i. Chain link fences shall not be visible from a public right-of-way,
        ii. Chain link fences shall not serve as a perimeter fence or property line fence unless buffered by a type A buffer yard on all sides, and then only in the side or rear yard behind the front building line.
    c. All other wire fences, including barbed wire or concertina wire, are prohibited.
    d. All walls and fences shall be materially similar to other walls and fences in the same block or general vicinity.
3. *Industrial districts, public safety facilities, and other critical facilities:*
    a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, and shall be materially similar to other walls and fences on the same block or general vicinity.
    b. Vinyl coated, chain link fencing may be approved by the administrator as perimeter fencing with additional filtering through openings using opaque or semi opaque slats or screening or by installing a type A landscaping buffer between incompatible uses, between different zoning districts or where visible from a public street.
4. *Barbed wire:* Barbed wire may be permitted within bona-fide agricultural operations within any zoning district.

E. Retaining walls shall also conform to the following requirements:

1. Retaining walls should minimize the impacts of cut and fill on a site.
2. The height of any retaining wall should not exceed five feet unless required to be higher for engineering reasons.
    a. An increase in retaining wall height may be allowed if the proposed design minimizes the cut and fill impacts and enhances the existing landscape.
3. In areas where cuts are steeper, a stepped or terraced wall should be used. Large, unbroken retaining walls in a uniform plane should be avoided.

CHAPTER 3. USE DEFINITIONS AND STANDARDS

3.5. Residential uses.

3.5.1. Household living use category.

A. ***Household living.***

1. Definition: Residential occupancy of a dwelling unit by a household. Household living includes the following uses:
    a. Dwelling – Single-family;
    b. Dwelling – Duplex;
    c. Dwelling – Multifamily 3-4 units/building;
    d. Dwelling – Multifamily more than 4 units/building;
    e. Dwelling – Townhome;
    f. Manufactured Home (single unit);
    g. Live-Work Units; and
    h. Mixed-Use Residential Units

B. ***Dwelling—Single-family.***

a. Definition: A free-standing building designed for and/or occupied by one household. These residences may be individually owned as residences or owned by rental or management companies. Single-family dwellings are typically site-built structures that comply with the North Carolina Residential Building Code, current edition, but also include factory-built, modular home units.

C. ***Dwelling—Duplex.***

a. Definition: A building containing two residential dwelling units that is typically divided horizontally, each unit having a separate entrance from the outside or through a common vestibule.

D. ***Dwelling—Multi-family (three or four units/building).***

a. Also known as a Triplex or Quadraplex
b. Definition: A building containing three or four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. Multi-family dwellings may include triplexes or fourplexes (buildings under one ownership with three or four dwelling units in the same structure),

E. ***Dwelling—Multi-family (more than four units/building).***

a. Definition: A building containing more than four residential dwelling units. Each unit has a separate entrance from the outside or through a common vestibule. These structures may include apartments (five or more units under one ownership in a single building)

F. ***Dwelling—Townhome.***

a. Definition: A building that contains three or more separate dwellings divided vertically and connected by shared walls. Each unit has a separate entrance to a front and/or rear yard. This definition includes subdivisions where townhomes are located in zero-lot line developments where common walls are situated on one or more lot lines.

G. ***Manufactured home.***

a. Definition: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:

i. It is at least eight feet in width and 32 feet in length;

ii. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;

iii. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and

iv. It does not have any wheels or axles permanently attached to its body or frame.

b. Additional Standards:

i. This definition does not include recreational vehicles (RV), park model RVs, and other structures that are not constructed to the United States Department of Housing and Urban Development Standards or to North Carolina Building Code.

1. Recreational vehicles (RV), park model RV's, and other structures that are not constructed to the United States Department of Housing and Urban Development Standards or to North Carolina Building Code shall not be permitted, nor shall such structures become occupied within any other property within the jurisdiction of the City of Brevard, except as otherwise provided for in this ordinance.

ii. Manufactured homes are permitted with standards in the Manufactured Home Overlay District.

iii. Dwelling units built to, or utilizing any of, the following as primary construction standards are NOT considered manufactured homes suitable for use as permanent dwelling units: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5.

8. ***Live-work unit.***

a. Definition: A residential building type that consists of both a residential use and a non-residential use that is allowed in the applicable zoning district.

b. Additional Standards:

i. Typically, the enterprise or non-residential use is located on the ground floor and the residential unit is above or behind.

ii. Non-residential uses within a live-work unit must be listed within Section 2.2.C as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.

iii. In districts where residential building types are not permitted live-work units may be permitted within pre-existing non-conforming residential structures.

9. ***Mixed-use residential unit.***

a. Definition: A non-residential building type that consists of both a residential use and a non-residential use that is allowed in the applicable zoning district.

b. Additional Standards:

a. Location of residential unit:

i. In the Downtown Development Overlay District, the non-residential use shall be located on the ground floor with the residential unit or units above.

ii. In all other districts, the ground floor shall be primarily non-residential, with the residential unit or units encouraged to be above or behind the non-residential space.

b. Non-residential uses within a mixed-use residential unit must be listed within Section 2.2.C as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process.

3.13. Accessory uses.

3.13.1. Residential accessory use category.

A. ***Residential accessory use.***

1. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a residential or lodging principal use on the same lot.
2. Additional Standards:
   a. Accessory uses shall be clearly incidental to the residential or lodging principal use and shall not change the essential character of the dwelling or the neighborhood.
   b. Accessory uses shall adhere to the standards outlined in Section 2.5 and all other applicable sections.

B. ***Day care home.***

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

C. ***Dwelling— accessory unit (ADU).***

1. Definition: A dwelling unit that exists either as part of a principal dwelling or as an accessory building and is secondary and incidental to the use of the property as single-family or duplex residential.
2. Additional Standards:

a. Accessory dwelling units within residentially-zoned, single-family and duplex lots shall be encouraged and designed to meet housing needs. ADUs shall be secondary and subordinate in size to the primary living quarters.

b. ADUs may be created as an independent structure (detached), as an addition to an existing primary structure (attached), conversion of existing space, such as a basement with an exterior entrance, or as a second story within detached garages.

   i. When built as a second story of a detached garage, the ground floor area of the garage shall not be considered part of the total square footage of the ADU.

c. Structures for ADUs shall comply with the provisions of Section 2.5, except as provided below.

   i. Not more than one ADU is permitted on any lot.

   ii. An ADU shall be located in the side or rear yard unless an existing structure is being converted to an ADU.

   iii. The total area of an ADU shall not exceed 1,200 square feet or two-thirds of the primary structure, whichever is the lesser. The ground floor area of a detached garage shall not be considered as part of the total square footage of any ADU that is built as the second story of a detached garage; provided, however, such ground floor garage area shall not be subsequently converted to dwelling space.

d. ADUs shall not be considered additional dwelling units for the purpose of determining maximum density or other dimensional requirements as set forth in CHAPTER 2 of this ordinance.

e. ADUs shall be constructed according to North Carolina Building Code.

f. The administrator may impose reasonable conditions regarding the height, bulk, orientation, or location of the structure in order to protect the privacy of existing dwelling units on adjacent parcels in accordance with G.S. 160D-702(b).

D. ***Home occupation.***

1. Definition: An occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home occupations are small and quiet non-retail businesses which generally cannot be discerned from the frontage, are seldom visited by clients, require little parking, little or no signage, have only one or two employees and provide services such as professional services, music instruction, and hair styling.

2. Additional Standards:

   a. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or the neighborhood.

   b. Home occupation activities shall be confined to the interior of an approved structure. A home occupation housed within a dwelling shall occupy no more than 25 percent of the total floor area of the dwelling. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure that meets the requirements of this ordinance.

   c. The use shall employ no more than two persons who are not residents of the dwelling.

   d. There shall be no business signage or visible display of stock in trade which is sold on the premises.

   e. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.

f. The existence and operation of the home occupation shall not be visible and/or audible to neighboring residents from a street.

g. Only non-commercial vehicles are permitted in connection with the conduct of the home occupation.

h. Home occupations utilizing or proposing to utilize public water and sanitary sewer services shall be subject to all applicable water and sewer system development fees as per Brevard City Code, CHAPTER 70 Utilities.

i. Home occupations shall comply with all applicable requirements of any federal, state, or local agency with jurisdiction over the proposed use. The applicant shall provide the administrator with evidence of approval by any relevant agency.

j. Responsibilities of the administrator and applicant(s):

   i. The administrator may impose any necessary condition upon the operation of a home occupation, shall monitor home occupations and conduct site inspections to ensure compliance with this ordinance and any condition of approval, and shall revoke any permit for the operation of a home occupation and cause the use to be terminated in accordance with the procedures set forth in CHAPTER 18 of this ordinance upon a determination that such use is in violation of this ordinance or any condition of approval.

   ii. The administrator shall have broad authority to deny any application for home occupation if in the opinion of the administrator, the proposed use would not be in keeping with the spirit and intent of this section. The burden of proving that a proposed home occupation would be in keeping with the spirit and intent of, and satisfy all requirements of this section as well as any condition of the administrator, shall lie with the applicant.

   iii. In reviewing any application for home occupation and in the monitoring and enforcement of any approved permit for home occupation the administrator shall strongly consider the expectation that the residential use and character of each residentially zoned neighborhood be preserved and shall take into consideration these unique characteristics of any proposed use and its relationship to the site and surrounding properties in considering whether such use would be suitable as a home occupation.

k. Uses permitted as home occupations:

   i. Examples of uses that may be permitted as home occupations include but are not limited to professional services such as those provided by an architect, engineer or accountant; art, music, or dance instruction; hair styling; bicycle repair or vehicle cleaning; and may include other uses defined herein or listed upon the use matrix in Section 2.2 of this ordinance when such uses can be performed in a manner that is strictly in keeping with the spirit and intent of, and satisfy all requirements of, this section.

   ii. Uses involving the fabrication of products may be permitted provided, however, the home occupation shall not utilize mechanical, electrical, or other equipment, materials or processes, or create any by-product or effect, which produces noise, electrical or magnetic interference, vibration, heat, glare, odor, dust, pollution or other nuisances outside the dwelling or accessory structure housing the home occupation. Examples of such uses include but are not limited to baking, candle or soap making, fly-tying, woodworking, engraving, gunsmithing and or other similar small scale craft production or fabrication. This provision shall not be construed to authorize industrial uses within residential zoning districts.

iii. Home occupation shall not include any use that is primarily retail in nature. It is the intention of his section that goods and merchandise produced as part of any home occupation be sold off-site; any on-site retail activity must be incidental to the purpose of this home occupation.

l. Duration of permit:

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

ii. Applicants may apply for renewal of home occupation permits. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.

iii. In approving renewal applications, the administrator may modify prior conditions of approval and may impose any necessary, additional conditions. The administrator may deny a request for permit renewal and require the applicant to terminate the home occupation or relocate the home occupation to an appropriate commercial or mixed-use zoning district upon determination that the home occupation operated in violation of a requirement of this section or other applicable condition or requirement; or, that the home occupation has generated unanticipated effects that are detrimental to the residential character of the neighborhood in which the home occupation is located.

E. ***Keeping bees.***

1. Definition: The keeping of bees as an accessory use. This definition shall include any permanent or temporary structures related to beekeeping.
2. Additional Standards:
   a. Keeping bees shall be permitted following the standards set forth in the Brevard City Code, Section 14-9, Keeping bees.
   b. Movable frame hives may be permitted upon parcels of land where no principal structure is present.

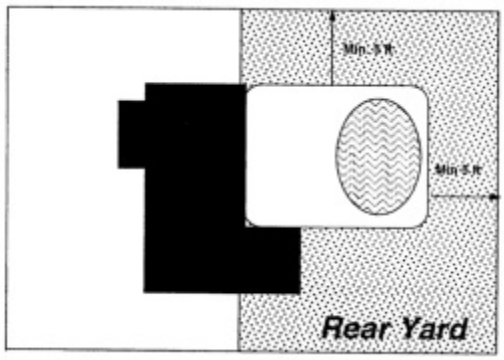
F. ***Keeping domestic fowl (chickens).***

1. Definition: The keeping of geese, ducks, chickens or other domestic fowl as an accessory use. This definition shall include any permanent or temporary structures related to domestic fowl.
2. Additional Standards:
   a. Keeping domestic fowl shall be permitted following the standards set forth in the Brevard City Code, Section 14-6, Keeping fowl.
   b. Chicken coops and chicken runs, as defined in Section 14-1 of Brevard City Code, may be permitted upon parcels of land where no principal structure is present, subject to the requirements set forth in Brevard City Code, CHAPTER 14, Animals and Fowl; Article I, Generally; Sections 14-1, Definitions, and 14-6, Keeping fowl.

G. ***Swimming Pool or Pond.***

1. Definition: A structure, in-ground or above ground, that contains water over 18 inches deep and is typically intended for swimming or recreational bathing. The definition of a pool includes all structures, walks or patio areas of cement, stone, or wood, at or above grade, built for, and used in conjunction with the pool.
2. Additional Standards:
   a. All pools permitted as residential accessory uses and structures, whether above-ground or in-ground, shall be built only in side or rear yards.

FIGURE 3.13A: SWIMMING POOL OR POND PLACEMENT



b. Pools and related structures, walks and patio areas shall be set back a minimum of five feet from all side and rear property lines. Patio areas at grade have no setback requirements from rear and side lot lines.

c. All pools shall be designed to prevent unsupervised access by children. Pools shall be enclosed within a secured structure or by an unclimbable privacy fence (with lockable self-latching gate) with a minimum height of four feet and a maximum of eight.

3.13.2. Non-residential accessory use category.

A. ***Non-residential accessory use.***

1. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a non-residential principal use on the same lot.
2. Additional Standards:
   a. Accessory uses shall adhere to the standards outlined in Section 2.5 and all other applicable sections.

B. ***Accessory retail.***

1. Definition: The on-premises, retail sale of products directly to customers, where the retail use is incidental to a primary use conducted upon the same premises. Examples include but are not limited to the following: a furniture manufacturer who operates a show floor for the display and sales of furniture produced by the manufacturer or a bicycle manufacturer who operates a floor for the display and sales of bicycles produced by the manufacturer.
2. Additional Standards:
   a. Accessory retail uses shall be directly related to and accessory to a conforming, principal use.
   b. Products offered for sale within accessory retail uses shall be products which are produced or processed by the associated principal use, or which are directly related to, and offered in support of, products which are produced or processed by the associated principal use. For example, a manufacturer of bicycles may operate an accessory retail use wherein bicycles, which were manufactured within the principal use, are offered for direct, on-premises retail sale. Bicycle accessories (such as tires, helmets), which were not produced by the manufacturer but which clearly relate to and support products which are produced or processed by the principal use, may also be offered for sale. However, products that do not clearly relate to and support products which are

produced or processed by the principal use (such as backpacking or rock-climbing gear in the case of the bicycle manufacturer) cannot be offered for retail sale.

c. Accessory retail uses shall comply with all applicable standards of federal, state or local law that would otherwise apply to retail oriented principal uses. For example, parking areas serving accessory retail uses within a General Industrial zoning district shall comply with the surfacing requirements of Section 10.6.A.

d. Accessory retail uses are limited to an area that is equivalent to 20 percent of the gross floor area of the structure(s) containing the principal use.

e. Accessory retail uses shall be indoors, and shall not include the outdoor display of products or merchandise.

C. *Drive-thru.*

1. Definition: A facility where food and other products or services may be purchased or obtained by motorists without leaving their vehicles. Examples include drive-through fast-food restaurants, coffee, photo stores, pharmacies, bank teller windows, convenience stores, and dry-cleaning pick-up stores without dry cleaning equipment. This term does not include gas stations or other vehicle services, which are separately defined.

2. Additional Standards:

a. Drive-through stacking lanes, windows, and associated equipment shall not be permitted within 50 feet of a residential district or residential use.

b. Drive-through windows and services shall be located and accessed only at the rear or side of the building and shall not be located between the principal structure and a public street. Service lanes shall not be located between the building and the street.

c. When situated at the side of the building, windows and services shall be located at least 20 feet back from the front façade of the building.

d. Vehicle storage for drive-through uses shall be located outside of, and physically separated from, the right-of-way of any street. This area shall not interfere with the efficient internal circulation of the site, adjacent property, or adjacent street right-of-way.

e. Service lanes shall be a minimum of 80 feet long for a single stacking lane or 80 feet per lane when there is more than one service lane. A service lane is measured from the curb cut to the service area or the order area if an outdoor order area precedes the service area. Service lanes do not have to be linear. Stand-alone automatic teller machines shall provide stacking distance for four vehicles outside of any right-of-way, parking area, or travel lane.

f. Drive-through service lanes shall provide a minimum of ten stacking spaces on site for restaurant and food sale uses with drive-through facilities and a minimum of six stacking spaces on site for banking, pharmacies and similar non-food-related uses with drive-through facilities. Each stacking space shall be a minimum of nine feet by 18 feet.

g. A service lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations. A service lane is required for full-service drive-through automobile cleaning establishments.

h. Service lanes shall be designed so that they do not interfere with parking, parking access and vehicle circulation. Crossings shall be situated so as to minimize conflicts between pedestrians and vehicles. Where service lanes are traversed by pedestrian crossing areas, such crossings shall be clearly

marked. Warning signage may be required at the discretion of the administrator in the interest of pedestrian safety.

i. All service lanes shall be clearly identified by means of striping, landscaping, curbing, and the like.

j. Site access and egress shall be shared by the drive-through and inside customer service functions.

k. The drive-through service lane shall first exit into other circulation lanes within the same project, and then onto a public street via the same exit curb cut as the other circulation lanes within the same project.

l. Service lanes shall be designed for a one-way traffic pattern only.

m. The drive-through shall be limited to a maximum of two service lanes and one additional lane for an automated teller machine (ATM).

n. Drive-through facilities shall be screened from off-site view from adjacent properties by a Type A buffer with a minimum width of ten feet.

o. Speaker box sounds from the drive-through lane shall not unreasonably disturb the peace and quiet of abutting residential property.

p. A traffic impact study may be required by the approving authority.

D. ***Mobile food vendor site.***

1. Definition: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale consumption.

2. Additional Standards:

a. Mobile food vendors shall only vend at permanent locations permitted under this section.

b. The owner, or authorized agent thereof, of any property upon which a mobile food vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile food vendor site.

c. Mobile food vendors using the designated site shall secure all necessary permits required by the Transylvania County Health Department.

i. Mobile food vendors must follow all applicable rules and requirements of the Transylvania County Health Department and any other relevant agencies of Transylvania County or the State of North Carolina.

ii. In the issuance of permits for mobile food vendor sites and mobile food vendors, the administrator shall have broad discretion to assign such conditions as may be necessary to protect the health, safety, and welfare of the public

d. Number of mobile food vendor sites:

i. In NMX and DMX zoning districts, only 1 mobile food vendor site shall be permitted per parcel.

ii. In CMX, IC, and GI zoning districts, each parcel is permitted up to 3 mobile food vendor sites, so long as all other separation and site requirements as set forth in this section are met.

iii. Additional mobile food vendor sites may be permitted with the issuance of a special use permit in accordance with CHAPTER 16.

e. Separation requirements:

i. Mobile food vendors shall be situated at least 10 feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space.

(A) This requirement shall not apply to special events approved by the city for placement upon public streets.

ii. Mobile food vendors shall be situated at least 20 feet from one another.

iii. Mobile food vendors shall be situated at least 25 feet from any permanent structures.

(A) The administrator may, upon recommendation of the fire marshal, approve the placement of mobile food vendors within 25 feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and other pertinent information. Such reductions shall be reviewed on a case-by-case basis, at the discretion of the administrator.

(B) There shall be no reduction in separation between mobile food vendors and permanent structures within the downtown fire district.

iv. Mobile food vendors shall be situated at least 200 feet from any residential structure that is located within GR zoning district.

v. Mobile food vendors must be set back a minimum of ten feet in all directions from fire hydrants.

f. Power.

i. Outside of the Heart of Brevard district, generators may be used to power the vending unit. Within the Heart of Brevard only dedicated power supplies shall be used.

ii. For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicles needs while in operation.

g. Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m., except during an approved special event, when other operating hours may be established as part of the event.

h. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.

i. Each food truck shall supply at least one waste receptacle which must be removed at the end of each day. All waste receptacles must be emptied at the end of each day and as necessary during the day. City trash receptacles shall not be used for the food truck operator's waste.

j. Mobile food vendor signage shall be limited to the following:

i. Mobile food vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.

ii. Nothing in this Ordinance shall be construed to mean that mobile food vendor vehicles cannot be painted or decorated, or display menus affixed to the side(s) of the vendor vehicle.

E. ***Recycling—small collection.***

1. Definition: A location where the public may donate, redeem or sell recyclable materials, which occupies an area of 350 square feet or less. Such facility may include the following: a mobile unit; bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet; and kiosk-type units that may include permanent structures.

F. ***Rooftop amenity space.***

1. Definition: A covered or uncovered space on a building rooftop that is intended to be an accessory use for residents of a building or mixed-use building type or for the patrons of a commercial building.

2. Additional Standards:

a. Any structure on a rooftop amenity space shall not exceed 12 feet in height.

b. The rooftop amenity space shall not be enclosed.

c. No sign affixed to any structure in a rooftop amenity space shall be visible from the street.

G. ***Taproom or tasting room.***

1. Definition: An area that is ancillary to the production of beer or other types of alcohol at a brewery, distillery, winery, cidery, etc. where the public can purchase and/or consume the alcoholic beverage produced on site.

CHAPTER 4. LOT AND SUBDIVISION REQUIREMENTS

4.1. Authority and purpose.

A. In accordance with NCGS Section 160D-801 and 160D-804, the purpose of this Chapter is to establish procedures and standards for the subdivision of land within the planning jurisdiction of the City of Brevard, and to provide for orderly growth in a manner that facilitates the adequate provision of streets, water, sewage disposal, and other considerations essential to public health, safety, and the general welfare.

B. In accordance with NCGS Section 160D-803, plats shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

4.2. Lot requirements.

4.2.1. General provisions.

A. ***City of Brevard review***: No final plat of any subdivision (major, minor, or exempt) within the planning jurisdiction of the City of Brevard shall be filed or recorded by the Transylvania County Register of Deeds until it has been prepared, submitted to, reviewed, and approved by the appropriate authority, in accordance with this Chapter, and such approval entered in writing on the plat.

B. ***Sale of lots prohibited***: Lots shall not be offered for sale until final subdivision approval has been granted.

C. ***Conformity with ordinance required:***

1. All lots must comply with the standards of this section, except as expressly provided in this ordinance. This prohibition shall not be construed to prevent the purchase or condemnation of land for public utilities, substations, street right-of-way, pedestrian facilities, recreational facilities, stormwater management or similar public purposes.
2. New subdivisions of land shall be designed to prevent the placement of a structure on any parcel boundary or within any street right-of-way. This provision shall not prohibit zero lot line structures with common walls situated on one or more lot lines.

D. **Variances to lot and subdivision regulations**:

1. Unless explicit authority is granted herein, subdivision regulations shall not be varied by the Board of Adjustment nor shall the administrator grant any exceptions.

2. When authority is granted, variances of lot and subdivision regulations shall proceed in accordance with Section 16.8 of this ordinance and all applicable North Carolina General Statutes regarding quasi-judicial proceedings for variances.

4.2.2. Minimum lot size.

A. There is no minimum lot size for any newly established lots within the City of Brevard's jurisdiction. This provision shall not exempt lots from complying with all other applicable lot requirements (i.e., street frontage) established herein and all applicable zoning standards (i.e., setbacks).

B. However, no subdivision (exempt, minor, or major) of land shall create more lots than the underlying zoning district's residential density (e.g., a one-acre parcel with a maximum allowable density of 8 dwelling units per acre cannot be subdivided into more than 8 lots, including any residual or parent lot).

1. Additional lots may be created above this threshold, provided they are protected from any future development, such as lots reserved for the provision of open space, shared infrastructure, or conservation of environmentally sensitive areas.

4.2.3. Street frontage required.

A. All newly created parcels, lots, tracts, or other subdivisions of land, shall directly abut and have direct frontage upon a public street, except:

1. Interior lots within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites (see Section 4.2.5).
2. Air lots (see Section 4.2.6).
3. Environmental containment and conservation lots (see Section 4.2.7).

B. Street frontage for conventional lots shall meet the minimum requirements set forth below at the right-of-way line:

TABLE 4.2.2-A: STREET FRONTAGE REQUIREMENTS FOR CONVENTIONAL LOTS

District	Minimum Street Frontage
GR (4, 8)	30 feet
RMX	30 feet
NMX	20 feet
DMX	0 feet
CMX	0 feet
IC	60 feet
GI	60 feet

Note: The dimensional requirements for irregular lots, including minimum street frontage, can be found in Section 4.2.4.

C. The following shall not be considered a public street for the purposes of satisfying street frontage requirements:

1. Access, utility, service, or other easements under the ownership, control, or maintenance of the City of Brevard, the State of North Carolina, or the United States of America;

2. Public rights-of-way under the ownership and control of the City of Brevard, the State of North Carolina, or the United States of America, which are not open and operable as a travel lane for motorized vehicles

D. Private streets, in lieu of public streets, may satisfy street frontage requirements if the following provisions are met:

1. The lots are not located within the corporate limits of the City of Brevard;
2. The private street is either:
   a. 150 linear feet or less in length may satisfy frontage requirements for up to three single-family lots;
   b. Maintained in perpetuity by a property owner's association or development agreement.
3. The private street consists of a drivable surface of at least 20 feet in width and remains adequately maintained to afford a reasonable means of ingress and egress of emergency vehicles.
4. The private street is designed and built in accordance with public street standards set forth in CHAPTER 13 of this ordinance.

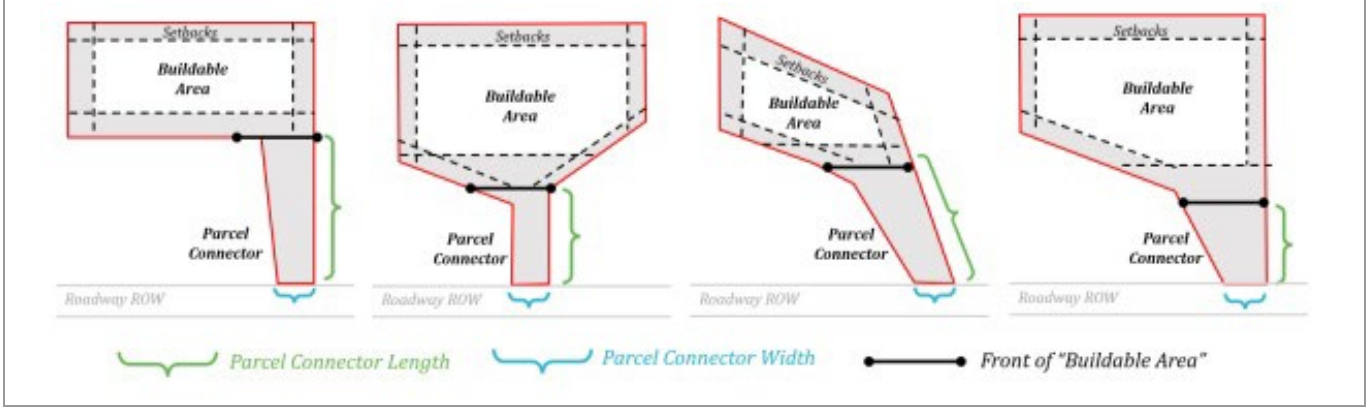
E. *Reserve strips:* There shall be no reserve strips or any other means of limiting the accessibility or parcels platted in any subdivision.

4.2.4. Irregular lots.

A. ***Applicability***:

1. Irregular lots standards apply to a lot where the functional access for ingress, egress, and utilities is provided along a long narrow strip of property ("parcel connector") and the portion of the lot where development is intended ("buildable area") is typically situated, at least in part, behind adjoining lots which front on a public street.

FIGURE 4.2.3-A: ILLUSTRATIVE DIAGRAMS OF IRREGULAR LOTS



2. An irregular lot shall only be permitted if necessary to allow a property owner reasonable use and benefit from their land or to alleviate situations which would otherwise cause a hardship as determined by the Zoning Administrator, including but not limited to the following:
   a. Where necessary to eliminate access onto arterials
   b. To reasonably utilize irregularly shaped land
   c. To reasonably utilize land with extreme topography
   d. To reasonably utilize land with limited sites suitable for septic tank nitrification fields

e. Where it is unlikely that a road created in lieu of an irregular lot would ever be extended, or otherwise needed to provide access to adjoining parcels

f. To provide for the protection of significant natural or cultural resources

3. Irregular lots shall not be permitted:

a. If the dimensional requirements or other elements of the definition are not met

b. If the irregular lot does not appear to have reasonable development potential

c. If the irregular lot is a clear circumvention of other provisions of this ordinance.

B. ***Street frontage and dimensional requirements****:*

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

a. The width of the "parcel connector," measured along the right-of-way line, shall be no less than 20 feet and shall not exceed the minimum street frontage required for conventional lots in the zoning district (see Section 4.2.3).

b. The length of the "parcel connector," measured from the right-of-way until the property width reaches the minimum lot width for conventional lots in that zoning district, and shall not exceed 300 feet.

C. ***Other types of access:***

1. The administrator may grant exceptions to the requirement that the "parcel connector" provide functional access with an exclusive access easement for ingress, egress, and utilities. This easement must be at least the width of the minimum lot width for irregular lots at the right-of-way. All other requirements for irregular lots shall be fulfilled by the exclusive access easement. This exemption may only be granted in instances where:

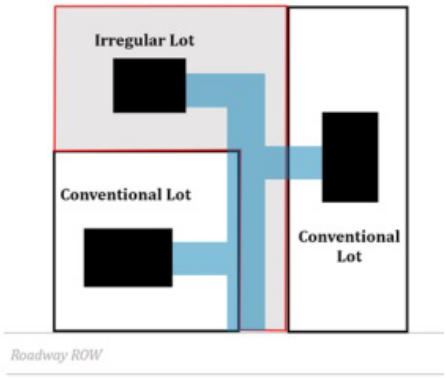
a. The property is located in zoning districts where the minimum road frontage required for conventional lots is less than the minimum road frontage required for irregular lots.

b. The administrator determines that an easement is necessary to reduce the number of driveways on a public street where the posted speed limit is 25 miles per hour or greater.

c. The administrator determines that extreme site conditions preclude the property owner from reasonably achieving functional access.

2. Use of a shared private drive to serve an irregular lot and adjoining lot(s) is permitted and encouraged. The shared private drive shall be constructed in accordance with Section 9.3.B.

FIGURE 4.3A: ILLUSTRATIVE DIAGRAM OF SHARED PRIVATE DRIVES



4.2.5. Interior lots.

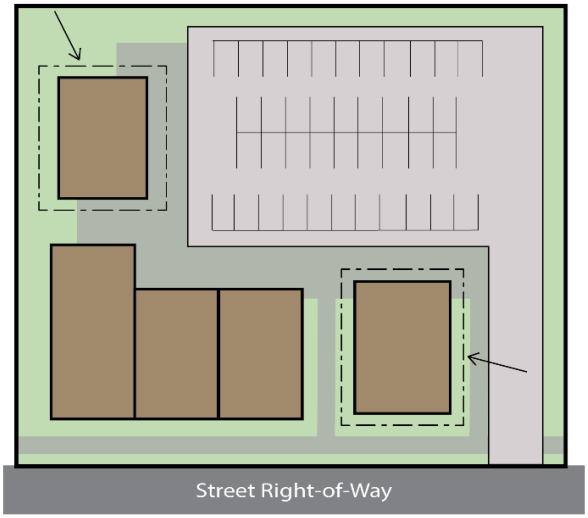
A. ***Applicability***:

1. Individual lots within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites.
2. Lots established to separate a cemetery or other similar use that requires permanent preservation from the remainer of the parcel shall also be considered interior lots.

B. ***Street frontage.***

1. Unless explicitly required in Section 2.4, lots within a group development are exempt from the street frontage requirements, provided they can be adequately served by emergency or service vehicles from a street or publicly-accessible road, as determined by the Technical Review Committee.
2. Interior lots that are separated from a public street by common space shall be serviced by a private access easement, private right-of-way, or other means of permanent access that connects to the nearest public street.

FIGURE 4.2.5-A: ILLUSTRATIVE DIAGRAM OF INTERIOR LOTS IN A GROUP DEVELOPMENT



4.2.6. Air lots.

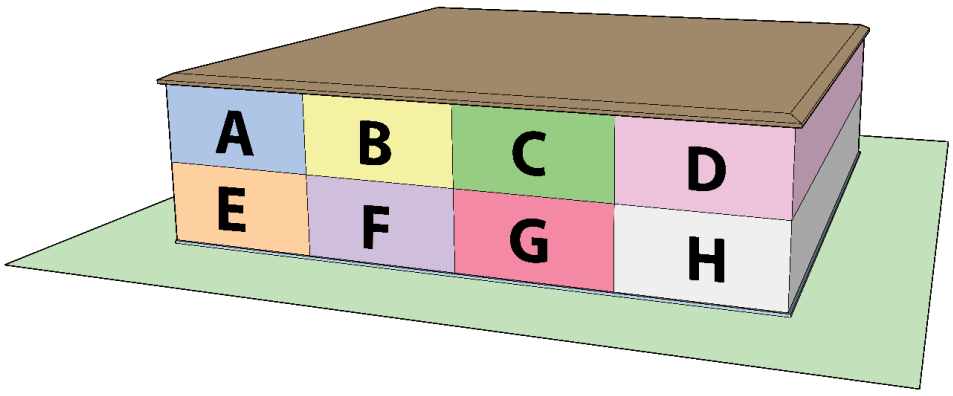
A. ***Applicability***:

1. Air lots shall be considered any condominium unit or lot containing both horizontal and vertical dimensions and established as part of a shared structure.

B. ***Street frontage.***

1. Air lots established as part of a permitted group development are exempt from the street frontage requirements, provided they can be adequately served by emergency or service vehicles from a street or publicly-accessible road, as determined by the Technical Review Committee.

FIGURE 4.2.6-A: ILLUSTRATIVE DIAGRAM OF AIR LOTS



4.2.7. Environmental containment and conservation lots.

A. ***Applicability:***

1. Environmental containment and conservation lots may be permitted as a stand-alone parcel of land under the review procedures for minor subdivisions of land, or permitted as part of a broader plan of subdivision under the procedures for minor or major subdivisions of land.
2. The applicant shall provide such evidence as may be required by the administrator to confirm the conservation purpose of the parcel. Examples of such evidence include but are not limited to conservation easement documents, deed restrictions, contracts with federal or state agencies, and similar.

B. ***Street frontage and dimensional requirements:***

1. Environmental containment and conservation lots are exempt from the road frontage requirements.

C. ***Structures.***

1. Structures shall not be permitted upon environmental containment or conservation lots.
2. This requirement shall be included as restriction upon the deed, conservation easement, contract or other document that is binding upon the property owner.
3. However, structures that are necessary to carry out the stated purpose of the environmental containment or conservation parcel may be permitted. Examples include but are not limited to agricultural structures upon working farms that are the subject of agricultural conservation easements, or recreational

structures upon properties that are subject to a conservation easement wherein recreation is a stated use and purpose of such easement. This provision shall not be construed to allow the establishment of residential, commercial or other uses upon environmental containment or conservation lots.

4.3. Exempt subdivisions.

A. ***Applicability***: In accordance with NCGS Section 160D-802, the following activities are considered exempt subdivisions. Such plat is not exempt from any zoning requirements and other applicable local, state, and federal ordinances.

1. **Combination, Recombination or Adjustment**
    a. The combination, recombination, or adjustment of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the lot standards of the local government as shown in its subdivision regulations.
2. **Divisions Greater than 10 Acres**
    a. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
3. **Public Dedication**
    a. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
    b. Dedication of public improvements shall be subject to the acceptance process in Section 4.9.
4. **Two into Three Lots**
    a. The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the lot standards of the local government as shown in its subdivision regulations.
5. **Court-Ordered Survey**
    a. The division of land into parcels in accordance with the terms of a probated will, a court-order or with intestate succession under NCGS Chapter 29.
    b. Unless the lots in the estate exclusion meet the standards of this ordinance, a development permit shall not be issued.
    c. No further subdivision of the inherited property will be allowed unless or until the owners all comply with all subdivision requirements applicable to the property but for this ordinance.
6. **Easement Establishment**
    a. Access and utility easements may be platted and recorded as exemptions from these subdivision regulations.
7. **Easement / Right-of-way Abandonment**
    a. Abandonment of access and utility easements may be platted and recorded as exemptions from these subdivision regulations.
8. **Annexation**
    a. Annexation of a previously recorded lot may be platted and recorded as exemptions from these subdivision regulations.

B. ***Submittal requirements*****:** The exempt subdivision application shall be submitted in conformance with:

1. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
2. Demonstrated compliance with the standards in NCGS Section 47-30; and
3. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.

4.4. Minor subdivisions.

A. ***Applicability***: Minor subdivision means a subdivision that:

1. Creates a maximum of 8 lots, including the residual or parent lot;
2. Does not involve the creation, expansion, or dedication of any public infrastructure;
3. Is not otherwise exempt under Section 4.3.

B. ***Review process:*** The approval process for a minor subdivision shall consist of the following steps:

1. Initial consultation and/or pre-application meeting with administrator;
2. Plat submittal;
3. Administrator review and decision;
4. Record approved plat with Transylvania County Register of Deeds.

C. ***Submittal requirements***: The minor subdivision application shall be submitted in conformance with:

1. All applicable subdivision requirements;
2. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
3. Demonstrated compliance with the standards in NCGS Section 47-30; and
4. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.

4.5. Major subdivisions.

A. ***Applicability***: Major subdivision means a subdivision that:

1. Creates more than 8 lots, including the residual or parent lot;
2. Involves the creation, expansion, or dedication of any public infrastructure; or
3. Is not otherwise exempt under Section 4.3.

B. ***Review process***: The approval process for a major subdivision shall consist of the following steps:

1. Initial consultation and/or pre-application meeting with administrator;
2. Sketch Plan review by Administrator and Technical Review Committee;
3. Preliminary plat submitted;
4. Administrator review and action;
5. Required improvements (installed or guaranteed);
6. Final plat submittal;
7. Administrator review and decision;
8. Record approved plat with Transylvania County Register of Deeds.

C. ***Sketch plan requirements:***

1. Before submitting an application for preliminary plan approval, the applicant must submit a sketch plan of the proposed subdivision. The submission shall include one digital copy and one printed copy.
2. The sketch plan of a major subdivision shall be submitted in conformance with:
    a. All applicable subdivision requirements;
    b. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2; and
    c. Compliance with the specifications in Section 17.4.
3. Following a review of the sketch plan and other materials by the planning staff and Technical Review Committee, the administrator must advise the applicant of the results of the sketch plan review.

D. ***Preliminary plat requirements:***

1. A preliminary plat application may not be submitted until after the Technical Review Committee has provided the applicant with its comments and recommendations based on the sketch plan review.
2. The developer shall initiate the preliminary plat approval process by submitting the preliminary plat and, if applicable, construction documents for the required improvements, illustrating their layouts and connections to existing systems.
3. The preliminary plat for a major subdivision shall be submitted in conformance with:
    a. Comments received by the planning staff and Technical Review Committee, if applicable;
    b. All applicable subdivision requirements;
    c. All applicable zoning requirements, including but not limited to the minimum dimensional standards and setback requirements, and other lot requirements in Section 4.2.
    d. Demonstrated compliance with the standards in NCGS Section 47-30; and
    e. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.
4. The plat shall clearly state that this is a preliminary plat and not for recording.
5. *Approval duration:* Approved preliminary plats are valid for one year from the date of approval by the City of Brevard. Upon expiration of approval prior to final plat approval and recordation, a new application for subdivision will be required in accordance with the process before development can recommence.
    a. The administrator may approve reasonable and necessary extensions if a written request by the developer is made to the administrator 45 days prior to the one-year anniversary of preliminary plat approval.
6. *Multiple phases not approved:* Approval of a preliminary plat constituting an individual phase of a multi-phase project, which has not been entirely approved, does not constitute approval by the city of any remaining phases.
    a. For approved preliminary plats consisting of multiple phases, only the phase that is to be developed immediately shall be submitted for final plat approval. This prohibition shall not apply to multiphase developments as defined in CHAPTER 19. The requirements for the establishment of vested rights for multiphase developments are outlined in Section 16.9.G of this ordinance

E. ***Improvement requirements:***

1. *Notice to proceed with construction activity:* Only after receiving preliminary plat approval for a major subdivision and other written approval and necessary permits from the appropriate regulating agencies, shall the developer begin grading, soil erosion, and infrastructure construction for the development.

2. *Infrastructure required within one year:* All required infrastructure improvements for the preliminary plat shall be in place within one year of issuance of a land development permit unless the improvement has been guaranteed in accordance with this ordinance.
    a. If circumstances beyond the control of the developer do not allow for the commencement of the required work within the one-year period or the size of the phase is such that one year is insufficient time to commence all required work, then the developer may file a written request for an extension with the administrator no later than 45 days prior to the one year anniversary of land development permit approval by the city as provided above.
    b. If infrastructure work is not commenced within one year and/or no extension request is filed with the administrator and approved, land development permit approval becomes null and void on the day of the one year anniversary and a new application will be required.

F. ***Final plat requirements:***

1. The final plat shall constitute all portions of the preliminary plat site, which the subdivider proposes to record, and develop at the time.
2. The developer shall initiate the final subdivision plat approval process by submitting the final plat and:
    a. Copies of any required surety or performance guarantees to the administrator or other departments as required, and/or
    b. As built drawings and plans of all required infrastructure, including water, sewer, and storm drainage system facilities, illustrating their layouts and connections to existing systems.
        1. Such plans shall show all easements and rights-of-way, to demonstrate that the facilities are properly placed and the locations of all fire hydrants, blow-off valves, manholes, pumps, force mains, and gate valves are indicated.
        2. This information shall not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
3. The final plat for a major subdivision shall be submitted in conformance with:
    a. The approved preliminary plat;
    b. Demonstrated compliance with the standards in NCGS Section 47-30; and
    c. All applicable plat requirements, certifications and statements in Section 4.6 and Section 4.7.
4. Upon receipt of the complete final plat review application, the administrator will have 60 calendar days to approve or deny the final plat, in accordance with this chapter.
    a. If substantial errors are found, including inconsistencies with the approved preliminary plat, the plat shall not be approved and the review period suspended until the applicant has corrected such errors. A list of the needed corrections shall be provided to the applicant. Any conditions placed by the city on the approval of the final plat shall be addressed by the developer within 45 days. Failure of the developer to meet the 45-day response period shall cause the conditional approval of the city to be null and void. Once complete, the final plat shall be approved or denied by the administrator within 30 calendar days of the date of final completed submission.
5. After recordation, the developer shall provide a digital copy (of a format to be approved by the administrator) of the registered plat to the city for distribution to the various state and local government agencies and public utilities and for file in the planning department.

4.6. Plat requirements.

A. All plats presented to the City for review before recording at the Transylvania County Register of Deeds shall be:

1. Prepared by a registered land surveyor, licensed to practice in the State of North Carolina;
2. Drawn to a scale no less than one inch = 150 feet; and
3. Meet the requirements of NCGS §47-30 and the Transylvania County Register of Deeds Office.

B. The plat shall contain the following:

1. A title block that includes the following:
    1. Property designation or name of subdivision
    2. The type of plat (minor subdivision plat, preliminary major subdivision, etc.)
    3. Name of the property owner
    4. Township, County, and State
    5. Scale denoted in words and bar graph
    6. The name and address of surveyor preparing the plat, including the firm name and license number
    7. Date the survey was prepared and any revision dates
2. An accurately positioned north arrow coordinated with any bearings shown on the plat.
3. The exact boundary of the tract of land being subdivided showing clearly the disposition of all portions of the tract.
4. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every property line, street, existing building or structure, easement, and/or other boundary lines. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second.
5. The accurate locations and descriptions of all corners, monuments, markers, and control points.
6. A vicinity map showing the location of the property with respect to adjacent streets and properties.
7. Where applicable, the location of all protected areas or required open space (surface water protection areas, floodways and non-encroachment areas, etc.), the special flood hazard area, and areas dedicated to public purpose with notes stating their purposes.
8. The parcel identification number of the lot(s) to be subdivided and of adjacent properties;
9. The zoning classification of the lot(s) to be subdivided and of adjacent properties, if applicable;
10. All applicable certifications and statements, as identified in Section 4.7.

4.7. Certifications and statements.

A. ***Certifications and statements matrix****:* The following table identifies the certifications and statements required on plats to be filed under this ordinance. The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "R" denotes that the certification or statement is required.
2. "A" denotes that the certification or statement is required if applicable.
3. "—" denotes that the certification or statement is not required.

TABLE 4.7-A: CERTIFICATIONS AND STATEMENTS MATRIX				
Certification / Statement	**Exempt Plat**	**Minor Plat**	**Major Prelim. Plat**	**Major Final Plat**
Certificate of Survey Accuracy	R	R	—	R
Certificate of Purpose of Plat	R	R	—	R
Review Officer Certification – Transylvania County	R	R	—	R
Certificate of Ownership	R	R	—	—
Certificate of Ownership and Dedication	—	—	R	R
Certificate of Exemption and Zoning Approval	R	—	—	—
Certificate of Minor Subdivision Plat Approval	—	R	—	—
Certificate of Major Subdivision Preliminary Plat Approval	—	—	R	—
Certificate of Major Subdivision Final Plat Approval	—	—	—	R
Flood Hazard Disclosure	A	A	A	A
Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements	—	—	—	R
Acceptance of Public Infrastructure	A	—	—	A
Certificate of Warranty	—	—	—	A
Certification of Approval of Water Supply and Sewage Disposal Systems	—	—	—	A
NCDOT Division of Highways District Engineer	—	—	—	A
Disclosure of Private Roads	—	—	—	A
Disclosure of Court-Ordered Subdivision	A	—	—	—

B. Certification statements:

1. **Certificate of Survey Accuracy**

   I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision(deed description recorded in Book _____, page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision or positional accuracy as calculated is _____; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, license number and seal this ____ day of _____, A.D., _____.

   Seal or Stamp of Surveyor

   _____

   Professional Land Surveyor

   _____

   License Number

2. **Certificate of Purpose of Plat**: The final plat shall contain one of the following statements, signed and sealed by the plat preparer:

   i. This survey creates a subdivision of land within the jurisdictional area of the City of Brevard, Transylvania County, North Carolina and that the City has an Ordinance that regulates parcels of land.

   ii. This survey is located in a portion of a County or Municipality that is unregulated as to an Ordinance that regulates parcels of land.

   iii. Any one of the following:

      1. This survey is of an existing parcel or parcels of land or one or more existing easements and does not create a new street or change an existing street. For the purpose of this section, an "existing parcel" or "existing easement" is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.
      2. This survey is of an existing feature, such as a building or other structure, or natural feature, such as a watercourse.
      3. This survey is a control survey. For the purposes of this section, a "control survey" is a survey that provides horizontal or vertical position data for support or control of other surveys or for mapping. A control survey, by itself, cannot be used to define or convey rights or ownership.
      4. This survey is a proposed easement for a public utility as defined in G.S. 62-3.

   iv. This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exemption or exception to the definition of subdivision.

   v. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in (i) through (iv) above.

Seal or Stamp of Surveyor

_____
Professional Land Surveyor

_____
Date

3. **Review Officer Certification – Transylvania County**

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

_____ _____
Review Officer Date

4. **Certificate of Ownership**

I hereby certify that I am the owner of the property shown and described hereon, which is located within the subdivision jurisdiction of the City of Brevard, North Carolina, and that I hereby freely adopt this plan.

_____ _____

Owner(s) Date

5. **Certificate of Ownership and Dedication**

I hereby certify that I am the owner of the property shown and described, which is located in the subdivision jurisdiction of the City of Brevard and that I hereby adopt this plan of subdivision with my free consent. Furthermore, I hereby dedicate all required improvements, streets, alleys, walks, parks, open spaces, and other sites and easements, to public or private uses as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines that are located in public utility easements or rights-of-way to the City of Brevard.

_____ _____

Owner(s) Date

6. **Certificate of Exemption and Zoning Approval**

I hereby certify that the subdivision plat shown is exempt from the subdivision provisions of the Brevard Unified Development Ordinance. The plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

_____ _____

Review Officer Date

7. **Certificate of Minor Subdivision Plat Approval**

I hereby certify that the subdivision shown on this plat does not involve the creation of new public infrastructure or any change in existing public streets or change in existing utilities, that the subdivision shown is in all respects in compliance with the subdivision provisions of the Brevard Unified Development Ordinance. The plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

_____ _____

Review Officer Date

8. **Certificate of Major Subdivision Preliminary Plat Approval**

I hereby certify that the subdivision shown is in compliance with the subdivision provisions of the Brevard Unified Development Ordinance for preliminary plats. The preliminary plat has been found to comply with the zoning regulations of the Brevard Unified Development Ordinance. Preliminary approval is valid for a period of 12 months from the below date or as established under the vested rights procedure, if applicable.

_____ _____

Review Officer Date

9. **Certificate of Major Subdivision Final Plat Approval**

I hereby certify that the subdivision shown is in compliance with the subdivision provisions and zoning regulations of the Brevard Unified Development Ordinance, and has been approved by the City of Brevard for recording in the Office of the Register of Deeds of Transylvania County, provided that this plat is recorded within thirty (30) days of the date of my signature below.

_____ _____

Review Officer Date

10. **Flood Hazard Disclosure**

Areas delineated upon this plat as a protection area or Special Flood Hazard Areas is subject to limitations upon development as set forth CHAPTER 34 of Brevard City Code, and any development, disturbance, or encroachment is prohibited except in accordance therewith.

11. **Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements**

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to City of Brevard Specifications and Standards or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the City of Brevard has been received.

_____ _____

Planning Director, City of Brevard Date

_____ _____

Public Works Director, City of Brevard Date

12. **Acceptance of Public Infrastructure**

I hereby certify that the City of Brevard, North Carolina accepts the public infrastructure dedicated on this plat, in accordance with the dedication agreement dated _____.

_____ _____

City Manager, City of Brevard Date

13. **Certificate of Warranty**

I hereby certify that I know of no defects from any cause and will fully warrant all improvements which have been installed to be free from defects in material and workmanship for a period of three years from this date. Any improvements yet to be installed I shall fully warrant in the same manner for a period of three years from the date of the release of guarantees. If defects are discovered in any such improvement during the warranty period, I shall replace and/or repair the defective improvements at my own expense.

_____ _____

Subdivider Date

14. **Certificate of Approval of Water Supply and Sewage Disposal**

I hereby certify that the water supply and sewage systems installed or proposed for installation in this subdivision meet necessary public health requirements and are hereby approved.

_____ _____

County Health Officer or Authorized Representative Date

15. **NCDOT Division of Highways District Engineer Certification**

I hereby certify that the streets as depicted hereon are consistent with the requirements of the North Carolina Department of Transportation, Division of Highways.

_____ _____

District Engineer Date

16. **Disclosure of Private Roads**

This disclosure is given in accordance with North Carolina General Statutes 136-102.6.

This statement is to advise that the roads serving this subdivision are designated as private roads, not public roads. All owners of property within the subdivision have easements with one another to travel over and across such roads. The responsibility for maintenance of such private roads falls solely upon the property owners within the subdivision. No representation is made that the private roads within this subdivision meet the minimum requirements necessary to allow such roads to be included in the state road system or that the City of Brevard or North Carolina Department of Transportation will eventually assume maintenance such roads. Moreover, if such private roads are not adequately constructed and maintained, emergency service providers and public service vehicles may be unable to provide adequate service to the residents of the subdivision.

_____ _____

Subdivider Date

17. **Disclosure of Court-Ordered Subdivision**

This division of land into parcels is executed in accordance with the terms of a court-order, probated will or with intestate succession under NCGS Chapter 20. No further subdivision of the inherited property will be allowed unless or until the owners all comply with all applicable subdivision requirements of City of Brevard Unified Development Ordinance. Additionally, no development permit may be issued if the parcels established herein do not adhere to the regulations of the City of Brevard Unified Development Ordinance.

C. Nothing in this section shall prohibit the administrator from requiring additional certifications and/or adjustments to the verbiage of the certifications provided herein, so long as the intent of the section is upheld.

4.8. Approval review procedure.

A. Planning department staff, also referred to as the administrator, and the approving authority shall have the discretion to refer any subdivision application to a body of greater authority for consideration and approval or denial consistent with this section.

B. The administrator may determine that additional review is required and request review and/or a recommendation by a board beyond the required process described herein.

C. *Designation of approving authority:*

TABLE 4.8-A: SUBDVISION REVIEW, APPROVAL, AND APPEAL AUTHORITIES			
Development Activities	**Review / Recommendation**	**Approving Authority**	**Appeal Authority**
Major Subdivisions	Technical Review Committee	Staff	Board of Adjustment
Minor Subdivisions	-	Staff	Board of Adjustment
Exempt Subdivisions	-	Staff	Board of Adjustment

D. *Quasi-judicial approval of subdivisions*: In accordance with NCGS 160D-102, if the approval of the subdivision plat is deemed quasi-judicial in nature with generally-stated standards requiring a discretionary decision, the Board of Adjustment shall serve as the approving authority.

E. *Plats to be recorded*: Approved plats must be filed by the applicant for recording with the Register of Deeds of Transylvania County within 30 days of the date of approval by the administrator; otherwise, such approval shall be null and void.

F. *Development permits required*: Plat approval does not confer any approvals for individual site plans. All development activities require a permit in accordance with CHAPTER 16 and other relevant provisions of this ordinance.

4.9. Public improvements dedication and acceptance.

A. All dedications shall be indicated on the face of the plat.

B. The approval of a plat shall not be deemed to constitute or affect an acceptance by the public for maintenance purposes of the dedication of any road, ground, or other improvements shown upon the plat.

C. The city manager, in consultation with the public works director and the planning director, shall have the authority to accept dedication of public improvements to the City of Brevard. Improvements shall only be considered on a determination that any required improvements have been properly installed and all applicable conditions met, as set out in this ordinance.

4.10. Placement of monuments.

Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying, as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors under provisions of Chapter 89 of the General Statutes of North Carolina, shall apply when conducting surveys of subdivision; in order to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

4.11. Re-subdivision.

A. No portion of land that has been the subject of subdivision activity (major or minor) shall be the subject of additional subdivision activity for a period of two years from the most recent subdivision.

B. However, additional minor subdivision activity may be considered in accordance with the review procedure for major subdivisions in the following circumstances:

1. It proposed within a phase of a previously approved major subdivision; and
2. It has been clearly reserved for future development on a properly approved and recorded major subdivision plat.

C. These provisions shall also apply to proposals for the creation of condominium lots.

D. These provisions shall not prevent the recombination of parcels recently the subject of a minor subdivision.

E. For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

F. The provisions of this section may be varied by the Board of Adjustment in accordance with quasi-judicial proceedings for variances.

CHAPTER 5. BUILDING TYPES AND ARCHITECTURAL STANDARDS

5.15. Requirements for tall structures.

The following requirements shall apply to those structures for which a special use permit is required in order to exceed the maximum "by right" height requirements as set forth in Section 2.6.2.

A. Applicants shall submit a profile of the proposed structure and a rendering of the relationship between the proposed structure and the surrounding skyline formed by existing structures within 500 feet of the proposed structure.

B. Variations in front rooflines shall be used to reduce the scale of buildings. Roof features shall be required which complement the character of adjoining and nearby structures.

C. All other applicable requirements of this ordinance shall apply.

D. The board of adjustment (or city council when considered as part of a conditional zoning district) may impose other conditions as may be necessary to protect the health, safety, and welfare of the general public and the character of the surrounding neighborhood.

CHAPTER 6. ENVIRONMENTAL PROTECTION

6.4. Steep slope area requirements.

In accordance with G.S. 160D-703(d), the provisions contained in this section shall apply to all areas within the planning jurisdiction of the City of Brevard that are classified as "moderately steep slope areas" and "steep slope areas". These provisions do not limit or negate the effect of other provisions of this ordinance which may apply to steep slope areas.

A. *Applicability:*

1. This section shall apply to any land-disturbing activity, building permit, or any other development proposal on a parcel located at or above 2,250 feet in elevation above mean sea level and with an average slope of 25% or greater.
    a. “Moderately steep slope” areas are defined as those areas with a slope of 25% to 34%.
    b. “Steep slope” areas are defined as those areas with a slope of 35% or greater.
    c. A parcel is considered at or above the elevation if any area within the parcel boundaries is at or above the stated elevation.
2. The provisions in this section are intended to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the community.

B. *Determining slope*: Slope shall be determined in accordance with the methods and procedures contained herein.

1. Prior to commencing any development or land-disturbing activity and prior to issuing any permits and/or other approvals, the calculated slope for the parcel(s) shall be approved by the Planning Department.
    a. Parcels where no portion of the lot is located at or above 2,250 feet in elevation above mean sea level are exempt from this requirement.
    b. Incidental improvements and additions to existing structures, accessory structures less than 1,000 square feet in ground floor area, and interior renovations are exempt from this requirement.
2. Calculations and supporting documentation shall be submitted to the Planning Department for review prior to or in conjunction with the applicable submittals. The administrator shall: (a) request additional information; (b) request revisions to the slope calculation submittal; or (c) issue written concurrence with the determination of slope, as submitted.
    a. Each slope calculation and supporting documentation submitted to the Planning Department for review shall include a scaled map, accurately showing the topography for the entire land tract and the parcel boundaries.
    b. In cases where the applicant or property owner does not agree with the determination made by the administrator, the alternative slope analysis shall be heard and decided on by the Board of Adjustment, following a notice of appeal filed with the City Clerk.
3. Slope shall be determined through use of one of the following methods:
    a. The approved contour interval formula:

FIGURE 6.4A: SLOPE CONTOUR INTERVAL FORMULA
Slope **(S%)** is equal to the total length **(L)** of contour lines in feet within a given parcel, multiplied by the contour interval **(I)** of said parcel, then multiplied by .0023, divided by the area **(A)** of the parcel. Or, S% = (L x I) .0023 / A
The calculation shall use the smallest contour interval for which maps are available or at a minimum of five-foot intervals. .0023 is the product of two constants, one of which converts feet into acres and one of which converts a decimal fraction into a percentage, the value of .0023 is the percentage of one square foot of one acre.

b. Analysis conducted and sealed by a professional surveyor, engineer, or landscape architect using recognized, industry-accepted methods.

i. The administrator may require slope calculations to be sealed by a professional surveyor, engineer, or landscape architect for projects with over an acre of disturbed area.

4. Slope shall be rounded to the nearest whole number and noted on all development plans required by this ordinance.

5. Areas placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities may be removed from the calculation of parcel slope.

a. The applicant shall provide the legal documentation for permanent protection and a closed perimeter line delineating the revised boundaries for calculating slope.

b. Nothing shall limit the ability of moderately steep slope areas, steep slope areas, conservation easements, or other means of permanent land protections to be included in the total parcel area for the means of calculating density.

C. *Geotechnical analysis:*

1. Development in steep slope areas shall be required to undergo geotechnical analysis by a registered professional engineer to determine the stability of the underlying geology and soils to support the proposed project. The geotechnical analysis report shall be required to be submitted prior to the issuance of a zoning permit.

2. If a geotechnical analysis has been performed for subdivision approval that includes building pad analysis of the individual lots, it is unnecessary to submit a new analysis for each lot, provided the location of structures on each lot does not change by more than 20 feet in any one direction.

D. *General standards for development projects with moderately steep slope areas and/or steep slope areas:*

1. Development plans shall be designed to minimize disturbance to the natural landform and should not destroy the visual quality and community character.

a. To the extent possible given topographic and other physical constraints, land disturbance should be confined to portions of the lot not considered to be steep slope areas.

b. Developers shall make reasonable efforts to preserve and protect existing natural features of the slope, such as trees and other plant materials, and rock outcroppings which may help to stabilize the slope.

c. Buildings, parking, and other improvements should be clustered on less steep and less sensitive areas of the site to reduce the amount of grading.

d. Projects are encouraged to demonstrate terrain-adaptive design and construction techniques.

2. Proposed land-disturbing activity shall meet all applicable local and State regulations relating to soil erosion and sedimentation control.

3. Land disturbance shall be limited to the minimum required for building foundations, driveways, stormwater management measures and immediate areas surrounding these elements as required by this ordinance.

   a. With the exception of approved stockpiling or restoration efforts, substantial earth moving beyond that required for the installation or construction of approved buildings, structures, driveways, or stormwater management measures shall not be permitted.

4. When grading is necessary, it should be blended with the natural land form as much as possible. Rigid contouring should be avoided, and contours should be rounded to appear undulating and natural.

5. The approving authority shall have the right to impose such conditions as are necessary to protect public health, safety, and welfare for projects in moderately steep slope or steep slope areas as authorized under the provisions of this section because the minimum standards set forth in this ordinance are insufficient given the exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding development.

   a. Such conditions shall be reasonable and shall be limited to the minimum additional improvements necessary to protect the public health, safety or welfare. Such conditions may, without limitation, pertain to the following:

      i. The retention and planting of vegetation;

      ii. Sedimentation and erosion controls;

      iii. Cut and fill slope design and stabilization;

      iv. The degree of land disturbance;
      The location, form and design of proposed structures and driveways so as to minimize land disturbance and ensure structural integrity; and

      v. The location, form and design of streets and utilities, so as to minimize land disturbance and ensure structural integrity.

   b. The administrator may reduce the required setbacks in accordance with Section 2.7 in order to facilitate compliance with this section.

E. *Conditional zoning districts with steep slope areas:*

1. It is strongly encouraged that any proposed development project containing extensive steep slope areas be considered in accordance with the procedures for conditional zoning districts, which process allows for creative designs that may enhance development potential while achieving the steep slope protection requirements of this section.

2. City Council may allow development on steep slope areas by means of a conditional zoning district. Council may require the clustering of structures and impose any other necessary condition upon the design of the development in order to minimize impacts and uphold the intent of this section.

F. *Grading extent:*

1. The maximum extent of grading on a property with moderately steep or steep slope areas shall be reduced to support the goals and objectives of this section. This shall be governed by the following table:

TABLE 6.4A: MAXIMUM GRADING EXTENT BY SLOPE OF PARCEL	
Average Existing Slope	**Maximum Percent of Site Graded**
25% - 29%	70%
30% - 34%	60%
35% - 39%	50%
40% - 44%	35%
45% or greater	20%

2. Additional grading may be awarded to projects on steep slope areas if any of the following conditions are met. The credits may accumulate to equal the total reduction outlined herein.

TABLE 6.4B: MAXIMUM GRADING EXTENT CREDITS	
Credit	**Conditions**
10%	Buildings and parking areas are properly screened by vegetation to minimize the visual impact from key viewing areas, which include downtown, public parkland and other public recreational areas, and major streets and highways.
10%	The steepest portions and/or most visible portions of the lot are placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities.
10%	Exterior colors for new buildings and structures, including roofs, are coordinated with the predominate colors of the surrounding landscape to minimize contrast between the structure and the natural environment.

3. Additional grading may also be permitted as part of a conditional zoning district.

G. *Density:*

1. Densities of residential development shall be reduced in steep slope areas to support the goals and objectives of this section. This shall be governed by the following table:

TABLE 6.4C: MAXIMUM RESIDENTIAL DENSITY BY SLOPE OF PARCEL	
Average Existing Slope	**Residential Density**
35% - 39%	20% reduction of underlying zoning district
40% - 44%	50% reduction of underlying zoning district
45% or greater	70% reduction of underlying zoning district

2. Additional density may be awarded to projects on steep slope areas if any of the following conditions are met. The credits may accumulate to equal the total reduction outlined herein.
   a. The maximum residential density shall not exceed the maximum residential density permitted in the underlying zoning district as outlined in Section 2.6, unless such provisions are specified in a conditional zoning district.

TABLE 6.4D: MAXIMUM RESIDENTIAL DENSITY CREDITS	
Credit	**Conditions**
10%	Grading is limited to 10% of more under the maximum allowed under this section
10%	Buildings and parking areas are properly screened by vegetation to minimize the visual impact from key viewing areas, which include downtown, public parkland and other public recreational areas, and major streets and highways.
10%	The steepest portions and/or most visible portions of the lot are placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants, or otherwise permanently protected in a natural state with prohibition on vegetation removal and land-disturbing activities.
10%	Exterior colors for new buildings and structures, including roofs, are coordinated with the predominate colors of the surrounding landscape to minimize contrast between the structure and the natural environment.

H. *Building height:*

1. The maximum height of principal structures in steep slope areas shall be limited to 35 feet measured perpendicular from the pre-development grade to the top of the built structure.

FIGURE 6.4A: ILLUSTRATION OF MAXIMUM BUILDING HEIGHT IN STEEP SLOPE AREAS



2. The property owner is encouraged to utilize step-back or terraced building approach to reduce the visual bulk of the structure.
3. Accessory structures shall not exceed 15 feet in height on any side.
4. Applicants shall provide architectural plans and building elevations to demonstrate compliance with this section.

I. *Tree and vegetation preservation:*

1. Landscaping / vegetation preservation plans, in accordance with Section 17.9, shall be required for all development projects on steep slopes to ensure compliance with this section.

2. Plant materials should be used that blend with the hillside. Landscape schemes that are rough, natural, and/or subdued in character are encouraged.
3. All trees and other specified vegetation shall be preserved except in the area approved for grading or within 20 feet of the building footprints.
    a. Non-native or invasive species may be removed.
4. In the event a property owner desires to remove trees and other protected vegetation required to be preserved in this section, they may submit an alternative landscape plan for consideration by the Brevard Planning Board.
    a. This alternative landscape plan must contain:
        i. a tree survey of the property showing which trees and other protected vegetation will be removed and which will remain;
        ii. the location of any structures, driveways, and other impervious surfaces; and
        iii. an explanation of the reason(s) for removal of required trees and other protected vegetation, including a statement of how the removal of the required trees and other protected vegetation supports the purposes of this section or how such removal can be mitigated consistent with the purposes of this section.
    b. The Planning Board may approve, approve with conditions, or deny the alternative landscape plan. If conditions are established, they shall be enforceable in accordance with the provisions of the development permit.

J. *Infrastructure:*

1. Infrastructure shall be installed in steep slope areas in accordance with the provisions of this section and any other applicable provisions in CHAPTER 13.
2. Roads and driveways created on parcels with steep slopes should follow the natural terrain, unless necessary to accomplish the purpose.
3. The approving authority shall have the authority to modify infrastructure requirements and impose such conditions as are necessary to minimize the disturbance caused by the installation of infrastructure in steep slope areas.
    a. Modifications and conditions shall be intended to minimize disturbance and increase the safety and stability of infrastructure, and shall not be granted or imposed to reduce cost to the developer.
    b. Modifications and conditions may relate but shall not be limited to pavement width, sidewalk width, curb and gutter design and width, and shoulder design. The maximum road grade requirement shall not be modified.
4. *Culs-de-sac:*
    a. The required turnaround on a dead-end street in a steep slope area shall have a roadway diameter of not less than 50 feet.
    b. If the street length does not exceed 300 feet and if construction difficulties will not permit a turnaround, the use of a "Y" or "T" or other turning space of a design such as will allow a vehicle with a wheel base of at least 20 feet to complete a turning movement with a maximum of one backing movement may be permitted.
5. *Grading*:

a. Grading shall not be required for the full right-of-way in steep slope area if the administrator determines that full grading will prevent convenient access to adjoining property or will destroy the natural beauty of the site by excessive cut and fill.

b. Shoulder fill slopes shall not be steeper than 40%.

CHAPTER 8. TREE PROTECTION AND LANDSCAPING

8.4. Buffers and screening.

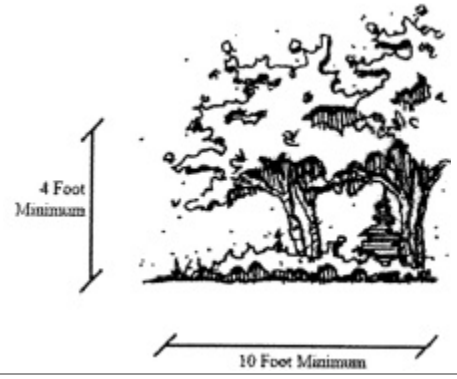
A. *Applicability:*

1. These regulations shall apply to the following:
   i. All newly developed properties
   ii. When expansions or changes in use result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25 percent, and any property containing an existing structure undergoes significant or substantial improvement as defined in CHAPTER 19 of this ordinance, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
   iii. When the zoning district classification changes for an existing use or parcel at the request of the property owner or representative thereof, then the parcel shall comply with the landscaping requirements of this section to the maximum extent practical.
2. The administrator may modify landscaping requirements up to ten percent in situations where pre-existing conditions make it impossible to comply with subsections ii and iii above.
3. Applicants are encouraged to design buffer and other landscape areas in such a way as to satisfy stormwater management requirements as set forth in CHAPTER 6 of this ordinance.

B. *Buffer yard types:*

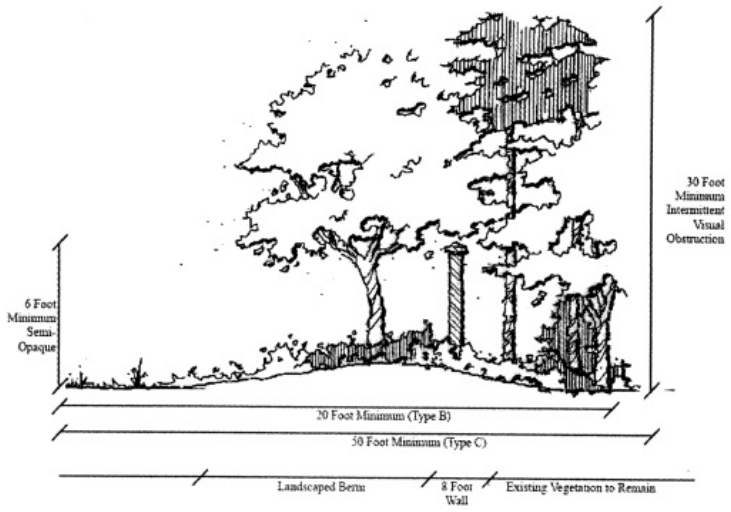
1. *Type A buffer yard:*
   a. Minimum width: 10 feet.
   b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen.
   c. Maximum horizontal openings: 20 feet.
   d. Performance standard: A buffer which is ten feet in width and contains screening materials which at maturity provide intermittent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

FIGURE 8.4A: TYPE A BUFFER YARD



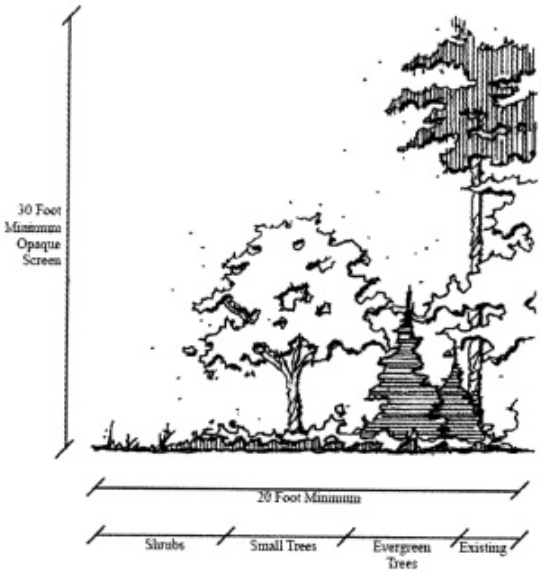
2. *Type B buffer yard:*
   a. Minimum width: 20 feet.
   b. Minimum height and opacity: Ground to 6 feet—Semi-Opaque Screen; 6—30 feet—Intermittent Visual Obstruction.
   c. Maximum horizontal openings: 15 feet—Semi-Opaque Screen Areas; 20 feet—Intermittent Visual Obstruction Areas.
   d. Performance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

FIGURE 8.4B: TYPE B AND TYPE C BUFFER YARDS



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

FIGURE 8.4C: TYPE D BUFFER YARD



5. *Type E buffer yard.*

a. Minimum width: 25 feet.

b. Minimum height and opacity: Ground to 30 feet—Opaque.

c. Maximum horizontal openings: None permitted.

d. Performance standard: A buffer which is 25 feet in width and contains screening materials which at maturity provides opacity from the ground to a height of 30 feet. Vegetative screen materials within opaque areas shall contain no horizontal openings upon the plants' maturity.

C. *Fences, walls, and berms:*

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

D. *Required buffer yards:*

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

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

TABLE 8.4A: REQUIRED BUFFER YARDS BY ZONING DISTRICT

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

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

TABLE 8.4B: REQUIRED BUFFER YARDS BY TYPE OF PROPOSED DEVELOPMENT				
		New Multifamily (more than 4 units/bldg.) and Residential Group Development (a)	Non-Residential / Mixed-Use Group Development	Special Use Permit (b)
District in Which Development is Located	GR	B	B	B
	RMX	B	B	B
	NMX	B	B	A
	DMX	B	B	A
	CMX	B	D	B
	IC	B	C	B
	GI	NA	E	B

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

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

4. The approving authority may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.
5. Buffer yards are intended to be constructed along the perimeter of the property or project; however, when there are irregular topographic conditions (such as the perimeter of the property is at a lower grade than the use being screened) the approving authority may require the relocation of the required buffer yard in order to better serve its purpose.
6. Natural vegetation, vegetation required for tree protection, riparian buffer areas, and other forms of existing vegetation may be utilized to satisfy these requirements when such natural and existing vegetation clearly satisfies the purpose of this section.
7. Off-site vegetation:
   a. Existing plant material on adjacent property may be credited toward buffer requirements, provided that such material is in a permanently protected area such as a conservation easement or similarly preserved area.
   b. Plant material, existing or proposed, on an adjacent property may be credited toward buffer requirements through use of a landscape easement.
8. Buffer requirements may be reduced or waived by the approving authority in the following circumstances:
   a. Such requirements would pose a safety hazard.
   b. The plantings or planting area would conflict with utilities, easements, or overhead power lines, or encroach upon city trees, as recommended by the city horticulturalist.

c. Special use permits based solely upon building height or building ground floor square footage size, where such requirement would serve no useful purpose.

d. When projects to which these requirements apply exhibit unifying architectural and landscape design characteristics that integrate the project into surrounding development, and when the landscape design of such a project clearly meets and exceeds the goal of these requirements such that these requirements become unnecessary.

9. Fences, walls and berms in buffers

a. Where walls and berms are built within any required project boundary buffer, they shall meet the following requirements.

i. Walls and berms within a buffer may be used to permit a reduction in the buffer up to 25 percent of the required width.

ii. Walls and berms shall not be permitted within surface water protection areas, floodplains, and floodways.

iii. Walls and berms shall conform to other applicable requirements of this ordinance.

iv. All walls, when located within a buffer, shall be planted on the face towards the adjacent property with at least one upright shrub for every six feet of wall length.

(v) Berms shall have side slopes of not less than three feet horizontal for each one foot vertical and a minimum crown width of two feet.

vi. Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within three to five years.

vii. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall, berm, or fence structure at the time of landscape plan approval.

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

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



8.5. Street tree plantings.

A. Street trees shall be required along all public and private streets for the following categories of development:

1. All non-residential and mixed-use development.
2. All projects approved as a conditional zoning district, special use permit, planned development, or group development.
3. All major subdivisions.

B. Large canopy trees shall be installed at a minimum average distance of 40 feet on-center in a planting strip a minimum of six feet in width. Such trees shall be a minimum of 1½ inches in caliper at planting. Where overhead utilities exist prior to development, ornamental trees may be substituted.

C. Street trees shall be placed at least eight feet from light poles and ten feet from electrical transformers in order to allow these utilities to be safely serviced (ornamental trees may be placed within five feet of such devices). A minimum of 300 square feet of pervious ground area per canopy tree shall be provided unless they are planted in irrigated tree wells.

D. Street trees shall be deciduous hardwoods and shall meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen as well all applicable standards of this ordinance.

CHAPTER 9. CIRCULATION AND CONNECTIVITY

9.2. Connectivity index.

Traffic studies have shown that highly connected street networks provide much greater traffic throughput and mobility for a community, at less cost. A high degree of connectivity should occur not only at the level of arterials, but also on collector, local and other secondary roads. Such connectivity vastly improves a street network's performance. The street pattern should not force short trips of one or two miles onto arterials; it should be possible to make trips of this sort by using collector or other secondary streets. With a highly-connected street network, cross-town trips should be possible using fairly direct secondary roads.

Improving connectivity and limiting culs-de-sac result in improved mobility for both automobiles and pedestrians, decreased service delivery costs through improved routing options, and improved water pressure and maintenance from the ability to loop lines through a development rather than have to rely on less efficient dead-end pipe runs.

A connectivity index should be used to determine the adequacy of street layout design. This is calculated as the ratio of the number of street links (road sections between intersections) in the project's street layout divided by the number of street nodes (intersections and cul-de-sac heads). For comparison purposes, a perfect grid has a Connectivity Index of 2.5. The figure for a conventional cul-de-sac subdivision is often 1.0 or less.

The illustration below illustrates a connectivity index of 1.2 (links are shown as circles and nodes are shown as stars). The illustration has 11 links and 9 nodes for an index of 11/9 = 1.2.

FIGURE 9.2A: CONNECTIVITY INDEX



A. The maximum block length should be no more than 1500 feet. Shorter blocks of between 250 feet and 500 feet are strongly encouraged in order to create a better pedestrian-scaled environment.

B. Culs-de-sac should be avoided wherever possible, except where severe topography or existing built land uses make connection impossible. Where culs-de-sac are planned, they should have a turnaround at the closed end, and shall be no longer than 250 feet measured from their junction with a connected street network. No system of multiple branching culs-de-sac from a single junction with a connected street network shall be permitted. Where culs-de-sac or dead-end streets are unavoidable, site and/or subdivision plans shall incorporate provisions for future vehicular connections to adjacent, undeveloped properties, and to existing adjacent development where existing connections are poor.

C. The street layout in any subdivision shall conform to the arrangement, width and location of public streets indicated on the regulating thoroughfare plan for the area. Streets not indicated on that plan shall be designed and located to:

1. Connect to existing, proposed, and likely future streets in adjacent developments and undeveloped parcels wherever possible;
2. Relate to the topography;
3. Preserve natural features such as streams and tree growth;
4. Provide for adequate public safety and convenience.

D. Where new development is adjacent to vacant land likely to be divided in the future, all streets, bicycle paths, and access ways in the development's proposed street system shall continue through to the boundary lines of the area under the same ownership as the subdivision, as determined by the administrator, to provide for the orderly subdivision of such adjacent land or the transportation and access needs of the community. In addition, all redevelopment and street improvement projects shall take advantage of opportunities for retrofitting existing streets to provide increased vehicular and pedestrian connectivity.

E. *Cross connections*: All new development permitted as a subdivision, Special Use Permit, or Conditional Zoning District and all new non-residential development shall be designed to allow for cross-access to adjacent properties to encourage shared parking and shared access points on public or private streets. When cross-access is deemed impractical by the administrator on the basis of topography, the presence of natural features, or vehicular safety factors, this requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses. A cross access easement or right-of-way must be recorded prior to issuance of a certificate of occupancy for the development. See additional standards in Section 9.3(B), below.

F. *Pedestrian and bicycle facilities*: Where residential developments have culs-de-sac or dead-end streets, such streets shall be connected to the closest local or collector street or to culs-de-sac in adjoining subdivisions via a sidewalk or multi-use path, except where deemed impractical by the administrator.

G. *Required connectivity index*: 1.5. This is required for new neighborhoods, though variations may be granted for severe topographic conditions. In neighborhoods with a low connectivity index due to severe topographic conditions, pedestrian and/or bicycle path connections, a minimum of ten feet wide, shall be installed to supplement the street system by linking dead-end streets.

9.3. Access management.

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

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

TABLE 9.3A: DRIVEWAY SEPARATION DISTANCES		
Posted Speed Limit (mph)	**Minimum Distance Between Driveways**	**Minimum Distance Between Driveways and Intersections***
15	20 feet	40 feet
20	40 feet	80 feet
25 to 35	60 feet	120 feet
40	120 feet	240 feet
45	140 feet	280 feet
50	160 feet	320 feet
55	180 feet	360 feet
Note: Access separation between driveways shall be measured from inside edge of curb cuts. Access separation between a driveways and intersecting streets shall be measured from the nearest inside edge of the driveway curb cut to the intersecting right-of-way lines.		

B. *Shared Private Drives*: Whenever feasible in the interests of access management the administrator shall encourage the establishment of shared private drives and entrances with adjacent properties, and may require that driveways and entrances be situated along property lines. The approving authority may require the establishment of access easements along property lines to be reserved for future use by adjacent properties as part of any development.

1. *Capacity* – No more than 3 properties or 6 dwelling units shall use the same driveway. At all times, the shared private drive shall be maintained in a good, safe and usable condition, in good repair, and in compliance with all applicable state, county and local ordinances.
2. *Easement* – The minimum width of the easement for shared private drives shall be 30 feet.
3. *Minimum Design and Construction* – The minimum design and construction standards which apply to a public street (Section 13.5) shall apply to a shared private drive except that:
    a. All shared private drives are to be paved to City standards with a minimum width of 20 feet.
    b. Street names shall not be allowed for shared private drives. The properties with ingress and egress on the shared private drive are required to have an address on the abutting public street.
    c. Pedestrian and bicycle infrastructure shall not be required, but it is encouraged. This also includes multi-use paths and other similar types of infrastructure.
3. *Plats* - All shared private drives must be shown as such on all affected plats.
4. *Through Streets* - Through streets connecting 2 public streets may not be designated as a shared private drive.
5. *Connections to Public Streets* - All shared private drives connecting with public streets require approved driveway applications from the city (or NCDOT, if applicable).

C. *Additional private access, when all frontage requirements are met:* The administrator may permit the establishment of additional private rights-of-way or access easements to properties that otherwise conform to public street frontage requirements of this ordinance.

D. *Additional provisions:*

1. The administrator shall require the closure of any nonconforming driveway or curb cut as a condition of approval of any land development application.
2. Single-family, duplex, and secondary dwellings on existing lots of record and new infill development lots on roads 35 mph and under shall be exempt from the "Minimum distance between driveways" standards for the first driveway, but shall meet minimum separation requirements for additional driveways. Additionally, driveway separation distances on new dead-end streets posted 30 mph and under and with no on-street parking may also be exempted by the administrator. Further modification of these requirements shall be considered by the board of adjustment.
3. Parking lots with a one-way drive aisle that are required to have at least two driveways in accordance with Section 10.8 may be exempt from the "minimum distance between driveways" standards. The exemption may be granted by the administrator for local and private roads and by NCDOT for state roads.
4. The board of adjustment may modify these requirements only after the following are satisfactorily provided by an applicant:
    a. A transportation assessment performed by an engineer licensed in the State of North Carolina containing sufficient detail to demonstrate that the modification request does not adversely impact public safety or traffic operation; and
    b. Evidence that the modification request represents the minimum necessary to address existing site constraints or to improve site circulation stemming from urban infill and/or redevelopment.

9.4. Traffic impact studies (TIS).

The TIS is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. It is an essential part of the development review process to assist developers and government agencies in making land use decisions involving annexations, rezonings, special land uses, and other development reviews. The TIS helps identify where the development may have a significant impact on safety, traffic and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIS can be used to evaluate if the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow.

A. A TIS may be required for a rezoning, conditional zoning district, group development, special use permit, or any other proposed development with an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five day national average as defined in the ITE Trip Generation Manual.

Trip Generation: The sum of the number of inbound and outbound vehicle trips that are expected for the type and size of the proposed land use. For purposes of determining the requirement to submit a TIS, no adjustments such as modal split, pass-by trips, and internal capture rates will be allowed to the site traffic calculation.

Note: Typically the following developments meet or exceed the 2,000 vehicles per day threshold:

- *50,000 sf Retail.*
- *200 Single family homes.*
- *150,000 sf Office.*

- *250,000 sf Industrial.*
- *300 room Hotel.*

B. A traffic impact analysis report shall address the impact of projected horizon year(s) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.

C. Based on the findings of the analysis, if a proposed development does not meet the applicable service level standards, the applicant shall be required to upgrade the facilities in accordance with the adopted level of service program. Mitigation measures may involve strategies other than roadway construction or other physical improvements such as changes to traffic signal timing or phasing, and transportation management strategies.

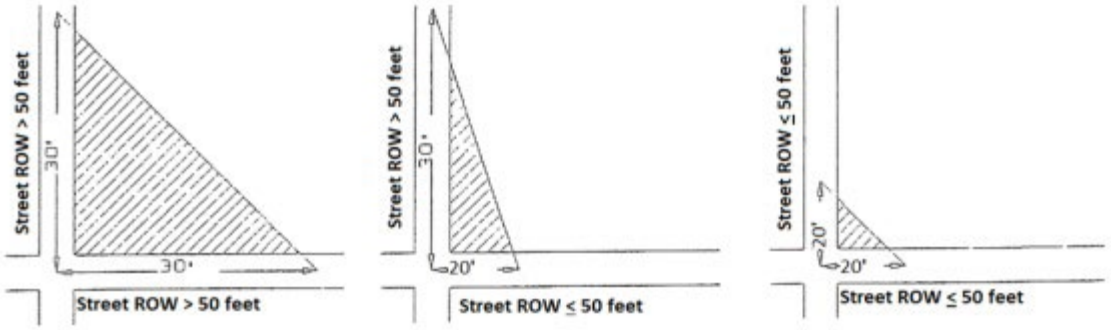
D. A TIS will vary in range and complexity depending on the type and size of the proposed development. When mutually agreed by the city the requirements as described in Section 17.12 may be modified. The need for a TIS may be waived by the administrator.

9.5. Visibility at street intersections and driveways; sight triangle.

A. On corner lots in all districts, no planting shall be placed or maintained and no closed fence, building, wall or other structure shall be constructed if such planting or structure thereby obstructs vision at any point between a height of two-and-a-half and ten feet above the upper face of the nearest curb (or street centerline if no curb exists) and within the sight triangle area bounded on two sides by the two street right-of-way lines and on the third side by a straight line connecting points on the street right-of-way lines measured as follows:

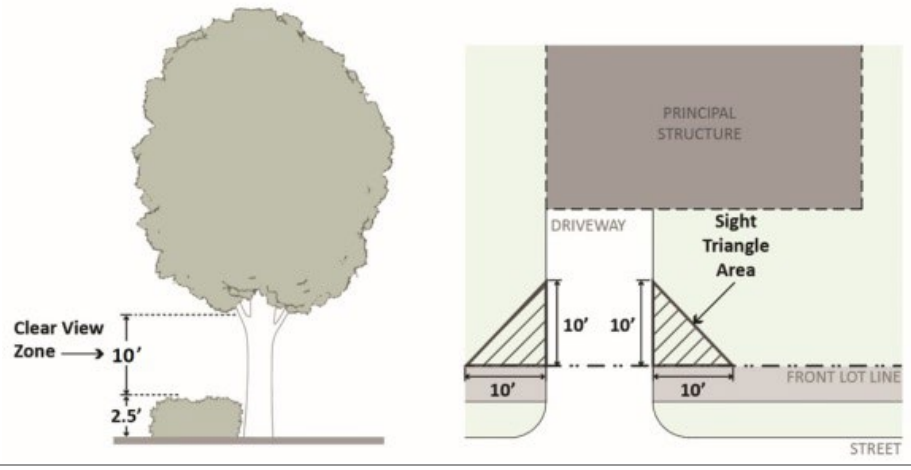
1. On streets having a right-of-way width of 50 feet or less, a point located 20 feet from the intersection of the right-of-way lines.
2. On streets having a right-of-way width of more than 50 feet, a point located 30 feet from the intersection of the right-of-way lines.

FIGURE 9.5A: SIGHT TRIANGLES AT RIGHT-OF-WAY INTERSECTIONS



B. At the intersection of any private drive, entrance or exit with a public street, no closed fence, wall, hedge, or other planting or sign forming a material impediment to visibility over a height of two-and-a-half feet shall be erected, planted, placed or maintained within the sight triangle area bounded by the street right-of-way, the edge of the private driveway, and a straight line connecting points ten feet from the intersection of the right-of-way and driveway.

FIGURE 9.5B: OTHER SITGHT TRIANGLE DIMENSIONS



C. Required sight distances for driveway connections along state-maintained roadways shall be approved by NCDOT. Where the NCDOT Driveway Manual conflicts with these standards, the stricter of the two standards shall prevail.

CHAPTER 10. PARKING STANDARDS

10.3. Off-street vehicle parking requirements.

A. *General off-street parking requirements:*

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

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

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

TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS							
Category	**Land Use**	**Tier 1**		**Tier 2**		**Tier 3**	
		Minimum	**Maximum**	**Minimum**	**Maximum**	**Minimum**	**Maximum**
Residential							
Household Living	All household living uses, except as listed below	1.5 / d.u.		1 / d.u.	2 / d.u.		2 / d.u.
	Dwelling - Single-family	2 / d.u.		1 / d.u.	2 / d.u.		2 / d.u.
	Manufactured Home	2 / d.u.		1 / d.u.	2 / d.u.		2 / d.u.
Group Living	All group living uses, except as listed below	1 / d.u. or rooming unit		1 / d.u. or rooming unit	3 / d.u. or rooming unit		3 / d.u. or rooming unit
	Rooming or Boarding House	0.5 / rooming unit		0.5 / rooming unit	1.5 / rooming unit + 1 additional space		1.5 / rooming unit + 1 additional space
Social Services	Group Care Facility	1 / d.u., rooming unit, or bed		1 / d.u., rooming unit, or bed	3 / d.u., rooming unit, or bed		3 / d.u., rooming unit, or bed
	Shelter	2 spaces		2 spaces	6 spaces		6 spaces
Lodging							
Overnight Accommo-dations	All overnight accommodations, except as listed below	1 / room or suite		0.5 / room or suite	1.5 / room or suite		1.5 / room or suite
	Short-term Rental	2 / rental unit		1 / rental unit	2 / rental unit		2 / rental unit
Camping	Campground / Recreational Vehicle Park	0.25 / campsite or RV parking site		0.2 / campsite or RV parking site	1 / campsite or RV parking site		1 / campsite or RV parking site
	Rental Cottage / Cabins	1 / room or suite		0.5 / room or suite	1.5 / room or suite		1.5 / room or suite

TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS							
Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
	Seasonal Camp	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Commercial							
Eating and Drinking Establishments	All restaurants and other eating and drinking establishments	1 / 750 SF		1 / 750 SF	1 / 200 SF		1 / 200 SF
Personal Services	All personal services	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
Professional Services	All professional services, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Funeral Homes and Services	1 / 4 seats in main assembly area + 1 / 500 SF of office space		1 / 4 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
Retail	All retail and sales establishments, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Gas Station	1 / 500 SF of retail		1 / 500 SF of retail	1 / 400 SF of retail		1 / 400 SF of retail
Civic / Institutional							
Educational	All educational uses, except as listed below	2 / classroom		2 / classroom	None		None
	Colleges / Universities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
	Schools - Vocational / Technical	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Governmental	All government uses	1 / 750 SF		1 / 1,000 SF	1 / 200 SF		1 / 200 SF
Medical	All medical offices and facilities, except as listed below	1 / 500 SF		1 / 600 SF	1 / 300 SF		1 / 300 SF
	Hospital	2.5 / patient room		2 / patient room	5 / patient room		5 / patient room

TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS							
Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Places of Worship	All religious institutions or places or worship	1 / 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
Entertainment / Recreation							
Indoor Recreation	All indoor recreation facilities, except as listed below	1 / 500 SF		1 / 750 SF	1 / 250 SF		1 / 250 SF
	Cultural or Community Facility	1 / 6 seats in main assembly area + 1 / 500 SF of office space		1 / 6 seats in main assembly area + 1 / 600 SF of office space	1 / 2 seats in main assembly area + 1 / 300 SF of office space		1 / 2 seats in main assembly area + 1 / 300 SF of office space
	Live Performance Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Movie Theater	1 / 8 seats		1 / 10 seats	1 / 2 seats		1 / 2 seats
	Special Event Venue	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Outdoor Recreation	All outdoor recreation facilities	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Agriculture							
Agriculture	All agricultural uses	1 / 500 SF of retail or administrative space		1 / 750 SF or retail or administrative space	1 / 300 SF of retail or administrative space		1 / 300 SF of retail or administrative space
Manufacturing / Wholesale / Storage							
Light Industrial and Manufacturing	All light industrial and manufacturing activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space

TABLE 10.3B: OFF-STREET MINIMUM AND MAXIMUM VEHICLE PARKING RATIOS							
Category	Land Use	Tier 1		Tier 2		Tier 3	
		Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Heavy Manufacturing	All heavy manufacturing activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space
Storage and Disposal	All storage and disposal activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space
Wholesaling and Distribution	All wholesaling and distribution activities	1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space		1 / 750 SF of office, retail or administrative space + 1 / 4,000 SF of industrial space	1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space		1 / 300 SF of office, retail or administrative space + 1 / 2,000 SF of industrial space
Extractive Industries	All extractive industries	Varies, See Section 10.3.D		Varies, See Section 10.3.D	Varies, See Section 10.3.D		Varies, See Section 10.3.D
Infrastructure							
Utilities	All utilities	N/A		N/A	N/A		N/A
Telecommuni-cations	All wireless telecommunication facilities	N/A		N/A	N/A		N/A
Transportation	All transportation uses	N/A		N/A	N/A		N/A
Note: All square footage in gross square feet. d.u. = dwelling unit.							

C. *Calculation of off-street vehicle parking spaces:*

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

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

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

1. Some uses or combination of uses (some types of group developments, mixed-use projects, etc.) have widely varying parking demand characteristics making it impossible to specify a single off-street parking standard. For these uses, the administrator shall determine the appropriate requirements with one of the following methods:
   a. Apply the off-street parking requirement specified for the listed use that is deemed most similar to the proposed use; or
   b. Establish off-street parking requirements based on a parking study prepared by a qualified professional and provided by the applicant.
      i. Such a study must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the administrator, and should include other reliable data collected from uses or combinations of uses that are the same as, or comparable with, the proposed use.
      ii. Comparability will be determined by density, scale, bulk, area, type of activity, and location.

E. *Minimum off-street vehicle parking exceptions:*

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

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

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

6. Payment in lieu of parking spaces:

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

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

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

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

7. Upgrading preexisting non-conforming parking facilities:

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

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

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

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

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

c. Loading / unloading spaces as required by this ordinance

2. The administrator may grant exceptions to the maximum off-street parking up to 25% when the following conditions are met:

a. Parking spaces constructed with porous monolithic, pavers, or other pervious paving materials.

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

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

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

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

3. Underground or above-grade parking:

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

4. Satellite parking:

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

i. Satellite parking lots shall only be permitted in zoning districts where parking lots are permitted as a by-right primary use, as established in CHAPTER 2 and CHAPTER 3.

ii. The satellite parking spaces shall be located within 1,760 feet (1/3-mile) walking distance of a public entrance to the structure or lot containing the use for which such spaces are required.

iii. A safe, direct, attractive, lighted and convenient pedestrian route shall exist or be provided between the satellite parking and the use being served.

iv. The continued availability of satellite parking spaces necessary to meet the requirements of this section shall be ensured by an appropriate condition that the continued validity of the zoning compliance or special use permit shall be dependent upon the permit holder's continued ability to provide the requisite number of parking spaces.

G. *Accessible parking*:

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

H. *Compact car parking spaces:*

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

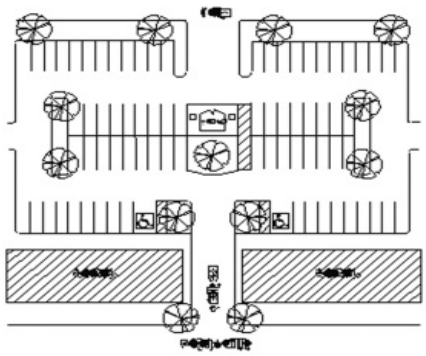
10.7. Off-street parking area design and construction standards.

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

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

1. Ensure the safety of pedestrians and motorists;
2. Allow unobstructed movement into and out of each parking space without interfering with fixed objects or vehicles;
3. Minimize delay and interference with traffic on streets and driveways;
4. Maximize sight distances from parking area exits and access driveways;
5. Facilitate safe and convenient movement of pedestrians from the parking spaces to the principal structure and/or other pedestrian facilities (e.g., sidewalks, multi-use paths, etc.).

FIGURE 10.7A: ILLUSTRATIVE PARKING ARRANGEMENT



C. *Location of off-street parking:*

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

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

1. *Hard surface required:* All off-street parking areas including drives connecting such areas with the public street rights-of-way shall be constructed of permanent non-erodible surface treatment as follows:
    a. Poured concrete or asphalt.
    b. Masonry or concrete pavers; or
    c. Porous or semi-porous monolithic or paver materials;
2. The administrator may require the use of porous paving materials in all or a portion of the parking areas. Such instances may pertain to the following, without limitation
    a. To protect the root system of an existing tree or trees from damage
    b. To reduce the amount of impervious surface for stormwater calculation purposes, or
    c. To protect environmentally sensitive areas
3. *Exceptions to hard surface requirement:* The following situations are exempted from the hard surface requirement.
    a. Parking for a single-family or duplex dwelling in GR districts;
    b. Parking for agricultural uses;
    c. A parking area used only as part of a permitted special event or temporary use permit;
    d. Outdoor recreational facilities that are open to the public;
4. *Non-paved areas:* Whenever an off-street parking area is exempt from the hard surface requirements, the administrator shall require the following:
    a. The non-paved parking areas shall be in compliance with the parking lot landscaping requirements in CHAPTER 8.

b. Landscape aisles, space markings, or other spatial separations shall be provided to ensure that the parking spaces will be readily identifiable to the users.

c. The perimeter of off-street parking areas encompassing the parking stalls and the side of any unpaved drive or aisle leading to said stalls, shall be edged with brick, pressure treated timbers, or cast in place concrete, and anchored into place. Alternate borders may be considered on a case-by-case basis.

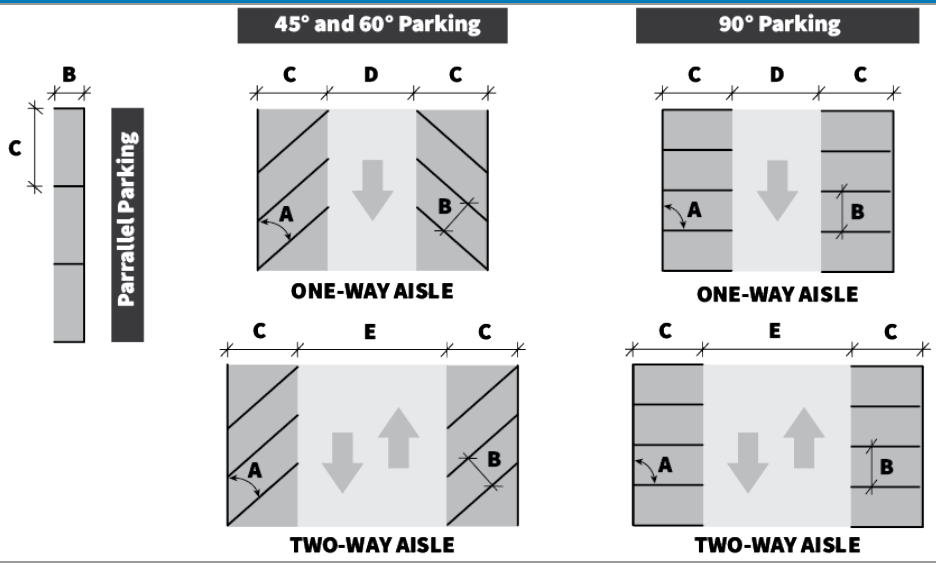
d. Landscaping or other measures shall be utilized to prevent the discharge of sediment off-site or into any body of water from an unpaved parking area.

E. *Parking dimensions:*

1. Parking areas shall meet the following minimum dimensional requirements

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

FIGURE 10.7B: PARKING STALL AND AISLE DIMENSIONS DIAGRAM



2. Other parking angles, aisle widths, and traffic flows will be considered on a case-by-case basis by the administrator and/or the Technical Review Committee.

3. All parking lots with one-way aisle are required to have the appropriate directional signage, permitted in accordance with Section 12.9, and at least two driveways, permitted in accordance with Section 9.3.
4. Nothing in this section shall be construed as an exemption from local Fire Code access requirements.
5. All parking areas with a hard surface shall delineate parking spaces with paint or other permanent materials. Pavement markings shall be white, at least 4" wide, and maintained in clearly visible condition.
6. *Tandem parking space*: Two spaces stacked (i.e., tandem) may be permitted provided all of the following criteria are met:
    i. The development is a Household Living Use and does not contain more than 4 dwelling units per building.
    ii. Both spaces are assigned to one dwelling unit.
    iii. The two vehicle parking spaces in tandem must have a combined minimum dimension of 9 feet in width by 36 feet in length.
    iv. The proposed layout is functional and will not create pedestrian or traffic hazards.
    v. The spaces comply with all other standards in this ordinance.

F. *Curbing required*:

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

G. *Barriers*:

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

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

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

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

K. *Stormwater management:*

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

L. *Connectivity:*

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

M. *Circulation drives:*

1. A circulation drive may be permitted around the front of the building but may not encroach into any required landscape area.

2. If provided, this drive shall be one-way and designed to be the minimal width required (not to exceed 12 feet in width) and shall be constructed using alternative paving treatments such as unit pavers or stamped concrete.

FIGURE 10.7C: CIRCULATION DRIVES



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

N. *Pedestrian connections:*

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

FIGURE 10.7D: PEDESTRIAN CONNECTIONS

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

CHAPTER 12. SIGNS

12.5. General standards for all signs.

A. *Maintenance of signs:*

1. Repainting. Nonconforming painted signs may be repainted so long as the new coat of paint is for maintenance purposes and the design of the sign is not altered in any fashion. If, during repairing, the design of the sign or structure is altered in any way, then the entire structure shall comply with the provisions of this ordinance.
2. Vandalism and adverse weather. Signs destroyed by vandals or adverse weather events shall be allowed to be replaced even if such signs do not conform to this ordinance provided they existed before the date of enactment of this ordinance and they are replaced in the exact same location, in the exact same manner, and with the exact same advertising copy and graphics of the same size as the previously destroyed sign. However, if a sign is allowed to deteriorate over time due to exposure to the weather elements, then it shall not be deemed as replaceable under this section.
3. Any maintenance action that alters or modifies the location, area, height, or illumination of a sign, shall require a permit and full compliance with this chapter.

B. *Permitting:*

1. *Permits required.* A permit, issued by the administrator, shall be required for all signs unless otherwise exempted herein. No permit shall be issued until the administrator inspects plans for such signs and determines that they are in accordance with the requirements contained in this chapter. The fee schedule for sign permits shall be determined by city council. When a permit is required, a permit shall be issued prior to the installation or placement of such sign.
2. *Inspections.* Preliminary and final site inspections may be required by the Administrator as necessary.
3. Only those signs which meet all of the requirements established by this chapter for the particular type of sign may be permitted.

4. Failure to obtain a permit for any sign that is required to be permitted prior to displaying it is a violation of this ordinance.

C. *Removal of obsolete signs:*

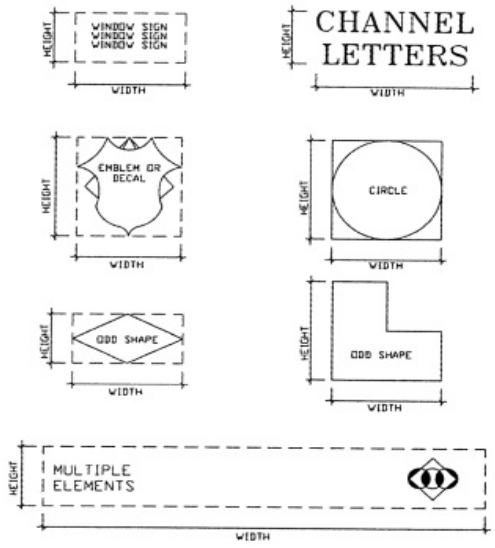
1. Signs identifying establishments no longer in existence, products no longer being sold, and services no longer being rendered shall be removed from the premises within 30 days from the date of termination of such activities, except that ground sign supports, braces, and guys which are not easily dismantled and are to be sold as a portion of the business assets or property may remain.
2. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the administrator may order their removal, subject to the terms of this article and CHAPTER 18 of this ordinance, and any expense of removal shall be billed to the owner or lessee of said sign(s).

D. *Signs on public property forfeited:* Any sign installed or placed on public property or within a public right-of-way, except in conformance with the requirements of this section, shall be forfeited and is subject to confiscation. In addition to other remedies in CHAPTER 18, the administrator shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

E. *Sign area computations:* The following principles shall control the computation of sign area and sign height:

1. *Area.*
   a. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed but not including any supporting framework, base, bracing, or decorative fence or wall when such fence or wall otherwise meets the regulations of this chapter and is clearly incidental to the display itself.
   b. For a single wall on a single-occupant building, all pieces of information or other graphic representations on that wall shall be measured as though part of one sign, encompassed within one rectangle, which may not exceed the permitted total wall area to which the sign is affixed. For a single wall on a multi-occupant building, the area of signs shall be computed using these principles and each individual sign shall not exceed the permitted total wall area for the facade area of the space occupied by the tenant requesting the sign.
   c. Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face. In all other cases, the areas of all faces of a multi-faced sign shall be added together to compute the area of the sign. Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point should be considered in measuring that side of the sign.
   d. Spherical, cylindrical, or other three-dimensional signs not having conventional sign faces shall be computed from the smallest three-dimensional geometrical shape or shapes which will best approximate the actual surface area of such faces.

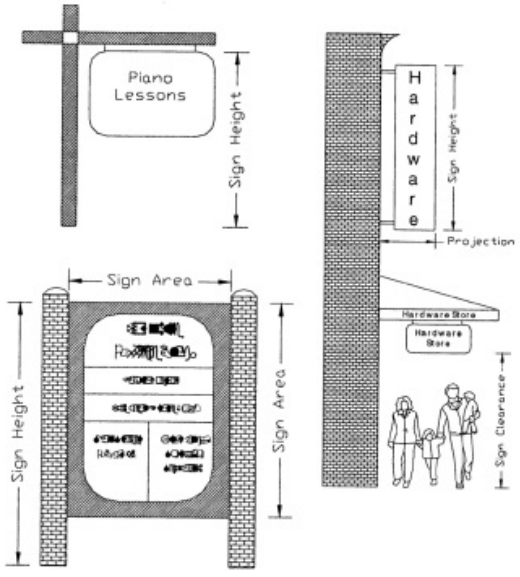
FIGURE 12.5A: COMPUTATION OF SIGN AREA



2. *Height.*

   a. Sign height shall be measured from the street grade of the closest point in the street the sign is located along or the grade at the base of the sign, whichever is higher, to the highest point of the sign structure.

FIGURE 12.5B: COMPUTATION OF SIGN HEIGHT AND AREA



F. *Clear sight distance at street intersections required:* Signs shall be located outside of the required sight triangle as detailed in Section9.5.

G. *Building code compliance:* All signs and support structures shall comply with all applicable State of North Carolina Building Code requirements.

H. *Enforcement*: Violations of this ordinance shall be subject to the enforcement provisions of CHAPTER 18.

CHAPTER 13. INFRASTRUCTURE IMPROVEMENT REQUIREMENTS

13.1. Purpose and intent.

It is hereby declared to be the policy of the City of Brevard that the development of land shall be guided and regulated in such a manner as to meet the following requirements for orderly and harmonious growth:

A. Land to be developed shall be of such character that it can be used safely without danger to health, or peril from fire, flood, erosion, excessive noise, air and/or water pollution, or other menace. Proper provisions shall be made for drainage, water supply, sewerage, and other appropriate utility services.

B. The proposed streets shall provide a safe, convenient and functional system for vehicular circulation and shall be properly related to the land use plan of the area. Streets shall be of such width, grade, and location as to accommodate prospective traffic, as determined by existing and probable future land uses. Streets shall be detailed to compliment neighborhoods and commercial centers and shall be pedestrian in scale.

C. Developments shall be so arranged as to afford adequate light, view, and air, and to facilitate fire protection.

D. Land shall be developed with due regard to topography so that the natural beauty of the land and vegetation shall be protected and enhanced.

13.3. General provisions.

A. *Approving authority:* The administrator shall be the approving authority for all public infrastructure proposed within any new or existing development. The city manager shall have the authority to accept or reject all dedications of public infrastructure consistent with city standards and approved development plans. The administrator shall have the authority to impose such conditions and make such allowances as are necessary in order ensure the adequate provision of public services and to ensure the sound installation and maintenance of public infrastructure.

B. *Conformity to existing maps or plans:* The master plan and development plan for any other development shall conform to any applicable adopted plans of the City of Brevard, including but not limited to the *Comprehensive Transportation Plan*, the *Comprehensive Pedestrian Plan*, the adopted Comprehensive Land Use Plan, the *Downtown Master Plan,* any adopted recreation plan, corridor plan, master plan or small area plan, and any adopted transportation plans or policies of Transylvania County that are not in conflict with adopted plans or policies of the city.

C. *Continuation of adjoining street system:* The proposed street layout shall be coordinated with the existing street system of the surrounding area and shall conform to the requirements of CHAPTER 9 of this ordinance. Where possible, proposed streets shall be the extension of existing streets.

Whenever connections to existing or proposed streets on adjoining property are required, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the existing or proposed street is expected.

In addition, the administrator may require temporary turnarounds to be constructed at the end of such streets pending their extension. The administrator may require extension or connection where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons.

13.4. General infrastructure design requirements.

A. *Connection to city sewer system required.*

1. All developed property within the city limits and located within 300 feet of a city sewer line shall be connected therewith, and the property owner shall be charged the prescribed tap fee and system development fee for all such connections. Such connection shall be made in accordance with the provisions of this article within 90 days after the date of official notice to connect.
2. Improved property served by wells and annexed by the city shall be connected to the city sewer systems within five years of the effective date of annexation; provided, however, that no connection to the sewer system shall be permitted without also connecting to the city's water system.
3. New development within the city limits shall, in all cases, connect to a city sewer line. Sewer line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City sewer is not required but may be permitted for new development within the city's extraterritorial jurisdiction. The owner of any property within the city's extraterritorial jurisdiction who requests connection to the city sewer system shall request voluntary annexation into the City of Brevard. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the county health officer.
5. Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

B. *Connection to city water system required.*

1. All developed property within the city limits shall be connected therewith and the property owner shall be charged the prescribed tap fee and system development fee for all such connections.
2. Improved property served by wells and annexed by the city shall be connected to the city water system, if within 300 feet, within five years of the effective date of annexation.
3. New development within the city limits shall, in all cases, connect to a city water line. Water line improvements required for new development are the sole responsibility of the developer. The installation of improvements beyond the development boundary which are required for service to the development will be provided by the developer.
4. City water is not required but may be permitted for new development within the city's extraterritorial jurisdiction. Proposed development that will not connect to the city sewer system must contain adequate area for the installation of approved wells and must be approved in writing by the county health officer.

5. Any development served by the city water system shall install fire hydrants in accordance with city standards. Fire hydrant spacing and placement shall be determined by the public works director in consultation with the fire marshall. For any development within the city's ETJ without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system, the type and the location of which is to be determined by the fire marshal. A road and easement to the water source providing permanent all-weather access to the water source that is adequate for fire-fighting equipment shall be constructed and dedicated to the city, if applicable.

C. *Sewer and water connections and infrastructure.*

1. Sewer and water connections and infrastructure shall occur in accordance with CHAPTER 70 of Brevard City Code and the City of Brevard *Standard Design and Specifications Manual for Public Improvements*, and any necessary conditions of the public works director.

D. *Utility easements.*

1. Sewer, water, storm water, and other utility easements shall be required within all new development (including developments within the ETJ for which no public sewer or water is proposed), and may be required within existing developments undergoing improvements at the discretion of the administrator.
2. The precise location and width of easements shall be determined by the administrator. However, unless otherwise specified, underground utilities should be located in alleys and lanes. If no alley or lane is provided, then a five-foot (minimum) utility easement shall be provided behind the sidewalk located within either the right-of-way or a public utility easement. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the approving authority and shall be at least 30 feet in width.
3. Where a development is traversed by a water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as may be adequate for the purpose of drainage.
4. Lakes, ponds, creeks, and similar areas within a development will not be accepted for maintenance by the city except as provided for in CHAPTER 6.
5. Easements shall be accurately depicted upon all plats and plans, and dedicated to the city by means of a plat of dedication in accordance with procedures established by Section 4.9.
6. No structure shall be placed upon any easement. Fences and other impermanent obstructions may be permitted by the administrator in consultation with the public works director.

E. *Sewer and water.* Sewer and water shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat or development plan unless a performance guarantee is provided to the administrator in accordance with city Code, this ordinance, and procedures established by the administrator. Sewer and water infrastructure shall be installed by the developer and dedicated to the city prior to the issuance of any Certificates of Occupancy for any building within that phase or along that line, as applicable to the particular development.

13.5. Street design.

A. *Streets required:*

1. New development and substantial improvements to existing development with frontages on existing public streets shall be required to upgrade all their frontages to meet the standards of this chapter.
2. New development without frontages upon a public street shall, in all cases, extend and connect to a public street. Public street extensions and improvements required for new development, including those beyond the development boundary, are the sole responsibility of the developer. Such improvements must be provided in accordance with the requirements of the CHAPTER 62 of Brevard City Code and this ordinance. This section shall apply to all subdivisions, the development of which is subject to the control of the city, both inside and outside the city limits.
3. Streets shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat or development plan unless a performance guarantee is provided to the administrator in accordance with City Code, this ordinance, and procedures established by the administrator. Streets shall be installed by the developer and dedicated to the city prior to the issuance of any certificates of occupancy for any building within that phase or on that street, as applicable to the particular development.
4. City streets shall be built to the minimum specifications of this chapter and CHAPTER 62 of Brevard City Code, and shall comply with all standards and specifications of the public works director. New streets in the ETJ shall meet all standards and requirements of the North Carolina Department of Transportation.

B. *Streets to connect:* Streets shall interconnect within a development and with adjoining development in accordance with CHAPTER 9 and CHAPTER 10 of this ordinance. Culs-de-sac are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs shall be provided with development adjacent to open land to provide for future connections at the discretion of the administrator. Streets shall be planned with due regard to the designated corridors shown on adopted plans and policies of the city or Transylvania County.

C. *Pedestrian and bicycle infrastructure:* Pedestrian and bicycle infrastructure shall be required as set forth within this chapter and conformance with adopted plans and policies of the city or Transylvania County.

D. *Topographic considerations:* Wherever possible, street locations should account for difficult topographical conditions, paralleling excessive contours to avoid excessive cuts and fills and the destruction of significant trees and vegetation outside of street-rights-of way on adjacent lands.

E. *Infrastructure in steep slope areas*: Infrastructure shall be installed in steep slope areas in accordance with the provisions of this chapter and any other applicable provisions in CHAPTER 6.

F. *On-street parking:*

1. On-street parking may be required by the administrator.
2. When required, all on-street parking provided shall be parallel. Curb or angle parking is permitted upon approval of the administrator when the fronting buildings are more than 22 feet in height to provide spatial definition and when the posted speed limit is less than 25 mph.
3. When required, minimum right-of-way widths shall be modified to account for on street parking.

G. *Traffic calming devices:* The use of approved traffic calming measures is encouraged as alternatives to conventional traffic control measures on Neighborhood Streets and within circulation areas of commercial and mixed-use developments.

H. *Flood elevations:* No street in an area subject to flooding shall be approved if it is more than one foot below the elevation of the 100-year flood. The administrator may require, where necessary, profiles and elevations of streets for areas subject to flooding. Fill may be used for streets in accordance with CHAPTER 34 of Brevard

City Code. Drainage openings shall be so designed as to not restrict the flow of water and unduly increase flood heights.

I. *Storm drainage:* Stormwater shall not be discharged into any stream and shall be retained and treated accordance with CHAPTER 6 of this ordinance, except that streets and related retention/treatment infrastructure shall be designed to accommodate a 25-year, 24-hour storm drainage standard.

J. *Street names:* Streets shall be named and property addressing assigned in accordance with Brevard City Code, Chapter 62, Streets, Sidewalks and Other Public Ways, Article VII, Property Addressing and Road Naming. The administrator shall require evidence that road names and property addresses have been approved and assigned by the Transylvania County Property Addressing Coordinator prior to approving any development.

K. *Blocks:*

1. The lengths, widths, and shapes of blocks shall be determined with due regard to:
    a. The provision of adequate building sites suitable to the special needs of the type of use contemplated, and adequate public open spaces accessible and visible to residents.
    b. District requirements and design criteria.
    c. Needs of non-vehicular and vehicular traffic circulation and traffic control and safety.
    d. Opportunities and constraints of topography, with convenient access to important physical and topographical features such as lakes and rivers, significant areas of trees and other natural features, and areas of high ground offering scenic views.
2. Blocks shall not be less than 200 feet nor more than 660 feet (⅛-mile), as measured from edge of right-of-way, unless site and topography or other special circumstances are present as determined by the administrator. Where deemed necessary by the administrator, a pedestrian crosswalk of at least ten feet in width may be required.
3. Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from another type of use, or when abutting a perennial stream or lake.

L. *Landscaping:*

1. Streets shall be landscaped with street trees. Commercial streets shall have trees which compliment the face of the buildings and which shade the sidewalk. Residential streets shall provide for an appropriate canopy, which shades both the street and sidewalk, and serves as a visual buffer between the street and the home.
2. All street trees shall be installed in accordance with CHAPTER 8 of this ordinance. Large canopy trees shall be planted in a planting strip at a minimum average distance of 40 feet on-center.
3. The minimum width of all planting strips shall be six feet. For large canopy trees such as Willow Oaks and Red Maples, a minimum of eight foot planting strip is suggested. Refer to CHAPTER 8 of this ordinance for additional information on landscaping.

M. *Street markers and traffic control signs:* Street markers and traffic control signs shall be required and posted in accordance with city standards and the Manual of Uniform Traffic Control Devices. Such infrastructure shall be installed by the developer prior to the issuance of any Certificates of Occupancy for any building on that street.

N. *Pedestrian and bicycle infrastructure:* Sidewalks, multi-use paths, or other pedestrian/bicycle infrastructure shall be constructed in accordance with the following requirements:

1. In determining the type of pedestrian/bicycle infrastructure that shall be required the Administrator shall refer to any adopted plan or policy of the city for guidance. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan, City of Brevard Comprehensive Pedestrian Plan, City of Brevard Street Schedule, City of Brevard Comprehensive Land Use Plan, City of Brevard Recreation Plan,* other master plans and small area plans, and other plans and policies.
2. Sidewalks, multi-use paths, and other pedestrian and bicycle improvements shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat, or issuance of final zoning approval or certificate of occupancy for any development plan. Pedestrian and/or bicycle infrastructure shall be constructed within the street right-of-way. The approving authority shall require the dedication of additional street right-of-way or a pedestrian easement when sufficient right-of-way does not exist to comply with this requirement. The approving authority may accept the dedication of additional right-of-way or a pedestrian easement in order to accommodate alternative routes and designs that do not follow streets.
3. Streets shall be bordered by pedestrian/bicycle infrastructure on both sides. Exceptions to this requirement and modifications to the design of pedestrian/bicycle infrastructure may be granted by the TRC for developments in steep slope areas and where warranted by environmental or topographic conditions, or where this requirement would serve no useful purpose.
4. Without exception, pedestrian/bicycle infrastructure shall be required along all new public and private streets within new subdivisions or developments, and within new phases of existing subdivisions and any other form of development.
5. Without exception, pedestrian/bicycle infrastructure shall be required along existing streets within or abutting new subdivisions and any other form of development (except subdivisions in GR districts establishing less than eight dwelling units); or along existing streets within or abutting any form of existing development undergoing substantial improvement (except single-family and duplex residential structures in GR districts).
6. Pedestrian/bicycle infrastructure shall be required along the same side of the street upon which the development fronts, except that when a development project is located on both sides of the same street the approving authority may require that infrastructure be installed on both sides of the street.
7. When site characteristics and/or traffic patterns are such that the construction of pedestrian/bicycle infrastructure in accordance with this section would be a hardship and would not result in useful pedestrian walkways, the administrator, upon recommendation from the TRC may allow the applicant to pay the designated cost of constructing such infrastructure into the city sidewalk fund in lieu of requiring construction of the infrastructure. In determining whether to accept a fee in lieu of construction of infrastructure, the administrator shall refer to any adopted plan or policy of the City for guidance. Such plans or policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan, City of Brevard Comprehensive Pedestrian Plan, City of Brevard Street Schedule, City of Brevard Comprehensive Land Use Plan, City of Brevard Recreation Plan,* other master plans and small area plans, and other plans and policies.
8. The administrator may accept a performance guarantee for the construction of sidewalks on behalf of the city in situations where no other public infrastructure is proposed in accordance with CHAPTER 16 of this ordinance.
9. Multi-use paths and other infrastructure:
    a. Multi-use paths, and other pedestrian and bicycle infrastructure shall be provided instead of or in addition to sidewalks wherever called for on an adopted plan or policy of the city. Such plans or

policies include but are not limited to: *City of Brevard Comprehensive Transportation Plan, City of Brevard Comprehensive Pedestrian Plan, City of Brevard Street Schedule, City of Brevard Comprehensive Land Use Plan, City of Brevard Recreation Plan,* other master plans and small area plans, and other plans and policies.

b. When a multi-use path is required in an area not adjacent to a public or private street, then such facility shall be credited towards the satisfaction of the open space requirements as set forth in CHAPTER 7 of this ordinance.

c. All required multi-use paths shall be dedicated to the City of Brevard by means of right-of-way or pedestrian easement.

d. On-street bicycle lanes shall be required when called for upon an adopted plan or policy of the city.

10. Pedestrian and bicycle improvements shall be as follows:

TABLE 13.5A: PEDESTRIAN AND BICYCLE IMPROVEMENT WIDTHS

Zoning District	Facility Width	
	City Streets	NCDOT Streets*
GR	5 feet	5 feet
RMX, NMX, CMX, DMX, GI, IC	5 feet	8 feet
Public Streets	City Streets Required; Dedication to City Required	NCDOT Streets Required
Street Rights-of-Way	Required; Dedication to City Required	Required; Dedication to NCDOT Required
Multi-Use Path (where required)	10 feet	10 feet
On-Street Bike Lane (where required)	5 feet	5 feet

*Sidewalks are not required along alleys and commercial service streets except when required as a condition of a Conditional Zoning District, Group Development, or special use permit.

11. All pedestrian/bicycle infrastructure shall comply with the minimum requirements for handicapped accessibility in compliance with the North Carolina Accessibility Code or other federal, state, or local regulations. During the construction of pedestrian/bicycle infrastructure, whether new or replacement, handicapped ramps shall be placed in the sidewalk where it intersects with streets and other pedestrian and vehicular travel ways.

12. All sidewalks shall be made of 4,000 PSI concrete with a minimum depth of four inches, except that street and driveway crossings shall be a minimum of six inches in depth. Bike lanes and multi-use paths shall be made of asphalt, designed according to the North Carolina Bicycle Planning and Design Guidelines published by the NCDOT and shall include all appropriate signage and pavement markings. Alternative materials and designs may be approved by the TRC in consultation with the public works director.

O. *Culs-de-sac and closes.* Where practical, a close (see graphic, below) shall be used in place of a cul-de-sac. Culs-de-sac and closes shall be designed to facilitate the turning radius of emergency vehicles.

FIGURE 13.5A: ILLISTRATION OF CLOSE

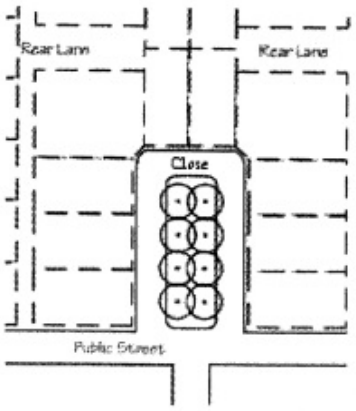
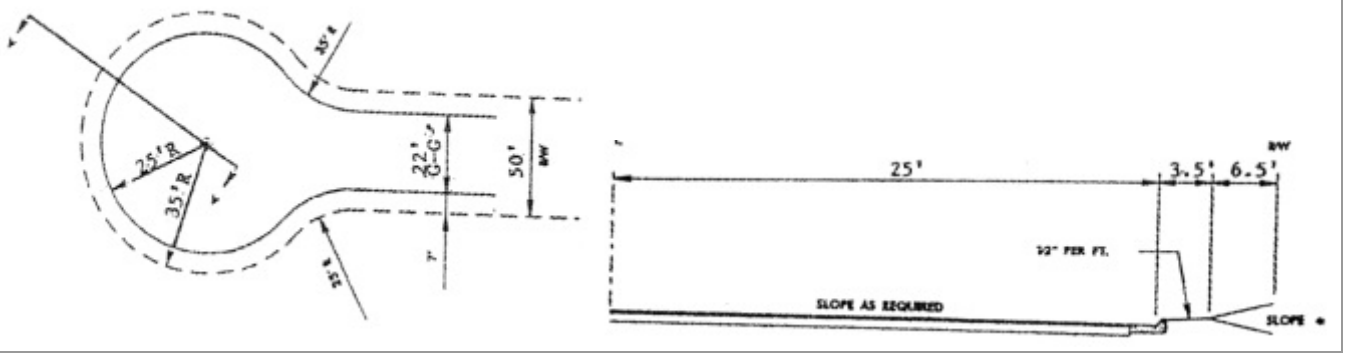


FIGURE 13.5B: ILLISTRATION OF CUL-DE-SAC WITH CURB AND GUTTER SECTION



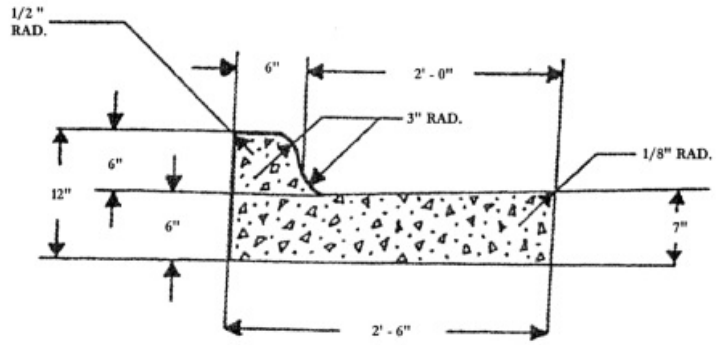
P. *Intersections:*

1. All streets shall intersect at right angles as nearly as possible and no street shall intersect at less than 60 degrees.
2. Where practical, intersections should be aligned to create four-way intersections.
3. Off-set intersections for local streets and neighborhood collectors should be at least 125 feet apart measured from centerline to centerline. A larger spacing in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards may be required for all other streets.
4. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection of less than 90 degrees, a greater radius may be required.
5. Proper sight lines shall be maintained at all intersections of streets to permit adequate sight distance. Where the posted speed limit is less than 20 mph, the intersection sight distance may be reduced to 105 feet.
6. Bulb-outs are discouraged on narrow streets (less than 30 feet face-of-curb to face-of-curb) but encouraged on wider streets.
7. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. Where a street intersects a state highway, the design standards of the state department of transportation shall apply.

Q. *Curb radii:* Curb radii shall be designed to reduce pedestrian crossing times along all streets requiring sidewalks. In general, curb radii should not exceed 20 feet except along NCDOT-maintained roads.

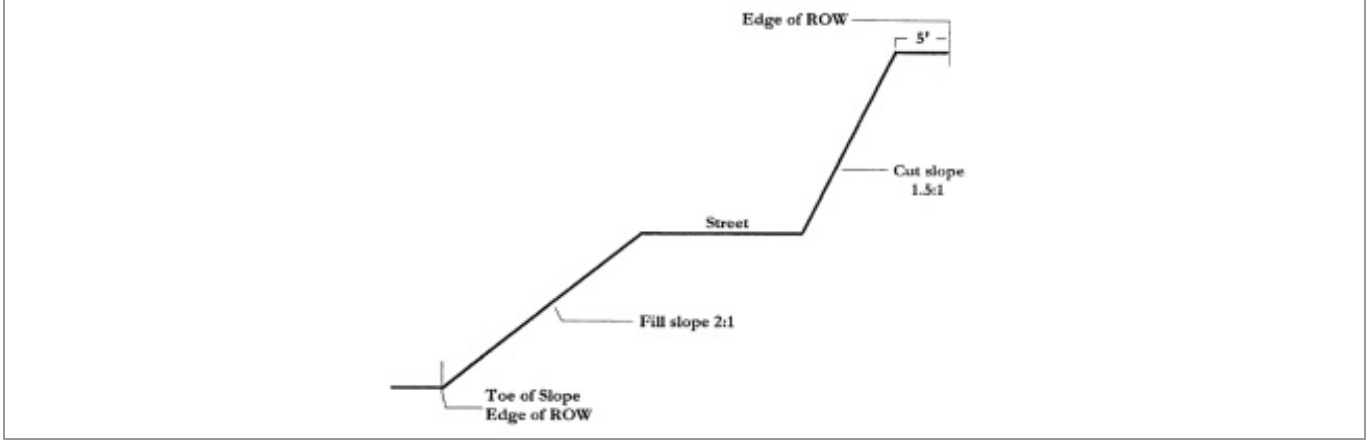
R. *Curbs and drainage for city streets:* The following requirements shall apply to streets within the city. Streets within the ETJ shall meet all applicable requirements of the North Carolina Department of Transportation.

FIGURE 13.5C: STANDARD VERTICAL FACE CURB AND GUTTER



1. Curb and gutter shall be required on all new residential and commercial streets constructed within the city.
2. Standard vertical face curb and gutter within the city shall be two-foot, six-inch concrete with a height of six inches (see graphic, above). All curbing shall be properly backfilled.
3. Exceptions to this requirement may be made by the administrator subject to circumstances in the area under study. Such circumstances shall relate to the topography of the area, future maintainability of the streets, or other factors deemed relevant by the administrator.
4. Vertical face curbing is required along all streets with on-street parking and around all required landscaping areas and parking lots.
5. All drainage gates must be safe for bicyclists. Bicycle-safe drainage grates are types E, F, and G as approved by the NCDOT.
6. City street culvert dimensions shall be subject to the requirements of the public works director.
7. The right-of-way shall extend from a point five feet outward from the top of the bank of any cut slope to the toe of any fill slope. Maximum slope of any cut slope shall be at a ratio of no greater than 1.5 feet of horizontal run to one foot of vertical rise (1.5:1 slope), and the maximum slope of any fill slope shall be at a ratio of no greater than two feet of horizontal run to one foot of vertical rise (2:1 slope).

FIGURE 13.5D: RIGHT-OF-WAY MAXIMUM SLOPE CROSS SECTION



S. *Centerline radius:* A 90-foot minimum centerline radius shall be used for local streets, parkside drives, and minor streets between reverse curves though they may be reduced to 45 feet for design speeds less than 20 mph. All other streets shall be in accordance with AASHTO standards.

T. *Street lights:* Street lights shall be installed by the developer on all streets in accordance with CHAPTER 12 of this ordinance.

U. *Posted speed limits:* All streets shall be posted in accordance with the Manual of Uniform Traffic Control Devices and the City of Brevard Traffic Schedule.

V. *Street grades:* The maximum permissible street grade shall be 18 percent.

W. *Design standards:* Design standards not specifically addressed in this ordinance must comply with the minimum design and construction criteria of the N.C. Department of Transportation.

X. *Minimum right-of-way:* The administrator shall determine right-of-way widths based upon the characteristics of the proposed development. However, unless otherwise specified, the minimum right-of-way for all new streets within the city shall be 50 feet, and shall satisfy minimum requirements of the North Carolina Department of Transportation in the ETJ.

13.7. Containment areas for trash and recyclables.

All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. Sub-grade dumpsters shall be exempt from the provisions of this section. All containment areas shall meet the following standards:

A. All containment areas shall be enclosed to contain windblown litter.

B. Enclosures shall be at least as high as the highest point of the compactor or dumpster.

C. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall, or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.

D. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support, allows for positive drainage, and conforms to the Transylvania County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access.

E. Enclosures shall contain gates to allow for access and security.

F. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.

G. Enclosures shall be landscaped in accordance with CHAPTER 8 of this ordinance.

CHAPTER 14. NONCONFORMITIES

14.6. Nonconforming lots.

A. Except as provided herein, a nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the district in which it is located, provided that the use meets all applicable yard and setback requirements for the district in which the lot is located.

1. In such cases the administrator shall require evidence of the presence of a deeded right-of-way or other access easement prior to the issuance of any permit.

B. A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot owned by the same entity on or after the effective date of these regulations in order to create a single lot. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.

C. A nonconforming lot may be developed if, at the effective date of this ordinance, the lot is located in:

1. A subdivision in which the lot is located has received preliminary plat approval; or
2. A subdivision in which the lot is located has received final plat approval.

D. The administrator may permit the establishment of a private right-of-way or access easement in order to facilitate access to pre-existing land-locked parcels. However, the provision of such private access shall not be considered satisfactory of the street frontage requirement unless it fully complies with the requirements of Section 4.2.3.

E. No subdivision activity shall be permitted on parcels of land that do not meet the street frontage requirements of this ordinance. This requirement shall apply regardless of the size of the landlocked or otherwise non-compliant parcel.

14.9. Nonconforming street improvements.

A. A lot (excluding those containing one pre-existing single-family structure), group development, or planned development shall fully comply with all street improvement requirements of CHAPTER 13 along the fronting streets including, but not limited to, turning and traffic storage lanes, sidewalks, multi-use paths, bike lanes, and curb and gutter, if any of the following activities occurs within the same lot or project:

1. An expansion of the heated square footage of an existing primary structure.
2. The construction of a new primary structure.
3. Significant or substantial damage or improvement to a principal structure.
4. A change to a more intensive use of an existing structure.
5. The establishment of additional primary uses.

6. Approval of any application for the establishment of a special use, conditional zoning district, or group development.
7. Expansions to the parking area or loading areas which increase the total area more than 40 percent shall be required to comply with all applicable parking and loading area landscaping and screening.

CHAPTER 16. ADMINISTRATION

16.6. Development approval review procedure in general.

A. Planning department staff, also referred to as the administrator, and the approving authority shall have the discretion to refer any land development permit application to a body of greater authority for consideration and approval or denial consistent with this section.

B. The administrator shall provide advisory review and comment to all boards and city council regarding the application's compliance to this section. The administrator may determine that additional review is required and request review and/or a recommendation by a board beyond the required process described herein.

C. *Designation of approving authority:*

TABLE 16.6A: DEVELOPMENT REVIEW, APPROVAL, AND APPEAL AUTHORITIES

Category	Development Activities	Review / Recommendation	Approving Authority	Appeal Authority
Annexation & Dedication	Annexations	Planning Board	City Council	Superior Court
	Dedication / Acceptance of Infrastructure	Technical Review Committee	Staff	Board of Adjustment
	Street / Right-of-Way/Easement Abandonment	Technical Review Committee	City Council	Superior Court
Land Use & Development	All Land Use and Development Activity for which No Higher Review is Required	-	Staff	Board of Adjustment
	Group Developments	Technical Review Committee	Staff	Board of Adjustment
	Temporary Uses	-	Staff	Board of Adjustment
	Special Use Permits	-	Board of Adjustment	Superior Court
	Development Agreements	-	City Council	Superior Court
	Vested Rights Determination	-	City Council	Superior Court
Regulations	Adoption, Amendment, or Repeal of Development Regulations	Planning Board	City Council	Superior Court
	Official Zoning Determinations and Other Interpretations of this Ordinance	-	Staff	Board of Adjustment
Zoning	Rezonings / Zoning Map Amendments	Planning Board	City Council	Superior Court

TABLE 16.6A: DEVELOPMENT REVIEW, APPROVAL, AND APPEAL AUTHORITIES				
Category	**Development Activities**	**Review / Recommendation**	**Approving Authority**	**Appeal Authority**
	Conditional Zoning Districts	Technical Review Committee and Planning Board	City Council	Superior Court
	Final Master Plan Approval for Conditional Zoning Districts	-	Planning Board	Superior Court
	Variances	-	Board of Adjustment	Superior Court
Modifications	Minor Modifications	-	Staff	Board of Adjustment
	All Other Modifications	Original Approval Process		

D. In addition to any findings that may be otherwise required by this chapter, the approving authority shall only approve a land development application upon determination that the application meets the following requirements:

1. All applicable requirements of this ordinance and Brevard City Code are satisfied.
2. All other applicable federal, state, and local requirements and plans are satisfied.
3. All applicable policies and plans of the City of Brevard are satisfied.
4. All required system development fees, performance guarantees, or other dedications have been or will be secured.
5. Approval of the application will not otherwise endanger the health, safety, or welfare of the public.
6. The applicant agrees to adhere to all reasonable conditions and requirements imposed in accordance with this chapter.

E. The approving authority shall consider impacts upon traffic conditions, public safety, public infrastructure and services, and other relevant factors, including any proposed project's likely effect on the public health or safety in determining whether to approve or reject any land development application, and may impose such reasonable conditions as are allowed under G.S. 160D noting the applicable approval process. Findings as to such factors made by any reviewing entity shall not bind the city officer, committee, board, or council acting as the approving authority, which shall consider such factors de novo.

F. If the administrator or approving authority requires the application to be reviewed by the technical review committee (TRC) in accordance with Section 15.1, its members shall provide written comments to the planning director within 15 days of having received notification from the planning director of a land development application requiring their review, unless otherwise stated in this Chapter.

G. A permit or development approval shall be in writing, and may be issued in print or electronic form pursuant to G.S. 160D-403. Any permit or approval issued exclusively in electronic form shall be protected from further editing once issued. The permit or approval may contain a provision that the development shall comply with all applicable state and local laws. If an application is denied, the reasons for denial shall be stated in writing.

H. Typical procedures following issuance of land development permit:

1. Upon issuance of a land development permit, the applicant may proceed to the Transylvania County Health Department and/or Transylvania County Building Permitting and Enforcement for any necessary permits.
2. Upon creation of structural footers or the pouring of the first-floor slab of any building or structure, the applicant shall contact the administrator for a preliminary setback inspection. The administrator shall inspect for compliance with applicable dimensional requirements and shall issue preliminary setback approval or require modifications, as applicable.
3. Upon competition of all land development activity and the installation of all approved improvements the applicant shall contact the administrator to arrange for a final inspection. As authorized by G.S. 160D-403(e) and -1113, the administrator shall inspect for compliance with all applicable requirements of this ordinance and Brevard City Code. The administrator shall deny final inspection approval if full compliance with this ordinance and Brevard City Code, approved development plans, and all other requirements, is not observed. The administrator may issue conditional approval. Conditional approval shall be extended for a defined period of time and all conditions shall be clearly set forth in writing. The administrator may require the submission of final "as built" construction documents as a condition of final written approval.
4. Upon issuance of final approval by the administrator, the applicant shall contact the Transylvania County Building Inspection Department to request issuance of a certificate of occupancy in accordance with G.S. 160D-403(g).
5. The administrator shall, from time to time, inspect the building, structure, use, or other approved activity for continued compliance with this ordinance, Brevard City Code, the approved land development plan, and any other applicable requirement, and shall take such action as is necessary to ensure continued compliance, including any remedy as set forth in CHAPTER 18 of this ordinance.

I. Final zoning approval and certificate of occupancy:

1. No structure shall be used or occupied until final zoning approval has been issued by the City of Brevard and a certificate of occupancy has been issued by the Transylvania County Building Inspection Department pursuant to G.S. 160D-403(g). Such approval shall be issued with the presumption that the structure or portion of a structure is in compliance with Brevard City Code, all applicable provisions of this ordinance, any specific conditions and requirements of the city, and the information stated on the development permit.
2. A record of all final zoning approvals shall be kept on file in the office of the administrator, and a record of all certificates of occupancy shall be kept on file in the office of the Transylvania County Building Inspection Department. Copies shall be furnished, on request, to all interested parties.
3. If final zoning approval or a certificate of occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant.
4. Where certain infrastructure elements have not been installed (i.e. landscaping due to time of year), a temporary final zoning approval may be issued by the administrator, and a final certificate of occupancy may be issued by Transylvania County with permission from the administrator.

J. Right of appeal:

1. If a request for a development permit is denied or if a ruling of the administrator is questioned, any aggrieved party may appeal such ruling to the board of adjustment (hereafter, "BOA") in accordance with this chapter and G.S. 160D-405.
2. Appeals of a ruling of the BPB, the BOA, or city council shall be heard by the Superior Court of Transylvania County. In accordance with G.S. 160D-1402, the aggrieved party may request a stay of execution or

enforcement of the decision of the quasi-judicial board pending superior court review. If in the absence of a stay, an applicant proceeds with development, the person does so at his or her own risk.

16.7. Legislative decisions.

A. The purpose of this section is to establish uniform procedures for legislative decisions. In accordance with G.S. 160D-102(1), a legislative decision is the adoption, amendment, or repeal of a development regulation. It also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Section 16.11.

B. Outline of review procedures for legislative decisions.

FIGURE 16.7A: REVIEW PROCEDURES FOR LEGISLATIVE DECISIONS



C. General procedures for amending development regulations. Before adopting amending, or repealing any ordinance or development regulation, the city council shall hold a legislative hearing pursuant to the procedures outlined below, in G.S. 160D Article 6, and in Sections 16.7.D, 16.7.E, and 16.7.F when applicable.

1. *Application required.* An adoption, amendment, or repeal of a development regulation may be initiated by the city council, the BPB, the planning department, the city manager, or any private citizen filing an application with the administrator.
    a. Applicants shall submit a description or narrative stating why the proposed amendment or conditional zoning district is requested.
    b. In accordance with G.S. 160D-601, no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the city. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
        i. By decreasing the development density of the land to be less dense than was allowed under its previous usage.

ii. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

c. Amendments to zoning ordinances shall not be initiated, applicable or enforceable without consent of the owner with regard to buildings and uses for which either:

i. Building permits have been issued pursuant to G.S. 160D-403 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired unrevoked pursuant to G.S. 160D-403, or

ii. A vested right has been established and remains valid and unexpired pursuant to Section 16.10.

2. *Administrative review procedure:*

a. The applicant shall submit the completed application, pursuant to Section 16.5, at least 60 calendar days prior to the meeting of the BPB at which the petition is to be heard. For urgent matters, the administrator may request the BPB to review the application at an earlier meeting if processing time permits.

b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.

c. The administrator shall forward the petition to the BPB for review and recommendation to the city council.

3. *Brevard Planning Board review and comment:* The BPB shall review and make recommendations to city council on any development regulations assigned to city council in Section 16.6.B, pursuant to G.S. 160D-604.

a. All proposed amendments to the development regulations or zoning map shall be submitted to the BPB for review and comment. If no written report is received from the BPB within 30 days of referral of the amendment to that board, the city council may act on the amendment without the BPB report. The city council is not bound by the recommendations, if any, of the BPB.

b. When conducting a review of proposed zoning text or map amendments, the BPB shall consider the Comprehensive Land Use Plan and other adopted plans and policies when making a recommendation and shall submit a consistency statement with their findings whether the application complies with the applicable plans.

c. All recommendations shall be by majority vote.

d. The BPB shall make one of the following recommendations with regard to a petition to amend the text of a development regulation:

i. Adoption of the amendment as written;

ii. Adoption of the amendment as revised by the BPB; or

iii. Rejection of the amendment.

4. *Notification requirements:* A notice of the legislative hearing shall be published in a newspaper having general circulation in the city once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing.

5. *Citizen comments:*

a. Development regulations may from time to time be amended, supplemented, changed, modified, or repealed. Citizens shall be provided an opportunity to comment, in writing, upon such proposed amendment, modification, or repeal. No comment on or protest against any change in or

amendments to a development regulation shall be valid or effective for the purposes of G.S. 160D-603 unless it be in the form of a written statement bearing the signatures of property owners. The statement shall be submitted to the city clerk at least one week prior to the date established for the legislative hearing on the proposed change or amendment. The city clerk shall deliver such written statement to city council.

b. The city council may by ordinance require that all citizen comments be on a form prescribed and furnished by the city, and such form may prescribe any reasonable information deemed necessary to permit the city to determine sufficiency and accuracy of the commentors.

c. A person who has signed a written statement may withdraw his or her name from the protest at any time prior to the vote on the proposed development regulation amendment.

6. *Legislative hearing:* Once the BPB has made a recommendation on an application for a text amendment or rezoning, the city council shall hold a legislative public hearing on the application. Due to the legislative nature of those applications for which council is the approving authority, council may choose to table, approve, approve with conditions, or deny such applications at its discretion. However, council shall approve, approve with conditions, or deny any land development application for which it is the approving authority by means of referral in accordance with Section 16.6.A within 90 days of having first considered such application. Legislative decisions for development regulations may be finally adopted, by affirmative simple majority vote, on the date on which the regulation is introduced. For purposes of this section, an application shall be deemed to have been introduced on the date the subject matter is first voted on by council.

   a. The city council shall consider the Comprehensive Land Use Plan and other adopted plans and policies when making a decision and must adopt a consistency statement indicating whether the application complies with the approved plans in accordance with G.S. 160D-605(a).

   b. A decision concerning a petition to amend the text of this ordinance shall be as follows:

      i. Adoption of the amendment as written;

      ii. Adoption of the amendment as revised by the BPB or by city council;

      iii. Rejection of the amendment;

      iv. Send the application back to the BPB for further study and consideration; or

      v. Call for additional public hearings on petitions brought before them.

   c. In the instance of a failure to vote by a member who is physically present in the council chamber, or who has withdrawn due to a conflict-of-interest without being excused by a majority vote of the remaining members present, the failure to vote shall not be included as an affirmative or negative vote.

7. *Rehearing:*

   a. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the city council decision.

   b. Specific information to enable the city council to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically.

   c. A rehearing shall be denied by the city council, if in its judgment a prima facie case for such change has not been alleged.

d. A legislative hearing shall not be required to be held by the city council to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four voting members. In the event that the city council finds that a rehearing is warranted, it shall then proceed as in the original hearing except that the application fee shall be waived.

e. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

f. Every decision of the city council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision of the board is filed in the office of the city clerk, or after a written copy is delivered to an aggrieved party who has filed a written request for such copy with the administrator at the time of the hearing of the case by the city council, whichever is later.

8. *Application withdrawal:*

a. The petitioner may withdraw his or her application before submission of the public notice to the newspaper announcing the legislative hearing.

b. After submission of such notice, an application may be withdrawn at the discretion of city council at the legislative hearing.

c. No more than one withdrawal may occur on the same parcel or portion of land within a one-year period

d. No application shall be filed on the same parcel or portion of land within a one-year period after the date of the second withdrawal.

D. Procedures for zoning map amendments. Applications for zoning map amendments shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.C except at provided below:

1. *Notification requirements:* Hearings on proposed zoning map amendments require additional public notices in accordance with G.S. 160D-602. Additional notification of the public hearing shall be as follows:

a. A notice of a proposed change to the official map shall be sent by first-class mail by the administrator to the affected property and to all abutting property owners. For the purpose of this section, properties are "abutting" even if separated from the subject property by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the hearing.

b. The first-class mail notice required under subsection (a) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice procedures provided that the advertisement shall not be less than one-half newspaper page in size. The local government will publish the notice of a hearing in a newspaper having general circulation in the city once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the days prior to the date established for the hearing. The notice shall only be effective for the property owners who reside in the area of general circulation of the newspaper which published the notice. Property owners who reside outside of the city's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The

person or persons mailing the notices shall certify to the city council that fact, and the certificates shall be deemed conclusive in the absence of fraud.

c. One or more prominent signs with the notice of the hearing shall be posted on the subject property or properties beginning not less than ten days nor more than 25 days prior to the date established for the hearing. Such notice shall state a phone number to contact during business hours for information. The sign shall remain until after the city council has rendered its final decision.

d. When a zoning map amendment is proposed and if substantial impact on the neighborhood can be anticipated, the administrator shall have the right to require a neighborhood compatibility meeting in order to gather neighborhood feedback, and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents. A substantial impact on the neighborhood includes but is not limited to applications for zoning map amendments affecting multiple parcels with separate owners and for conditional zoning districts that request modifications to the density, dimensional and setback requirements enumerated in CHAPTER 2.

2. *Brevard Planning Board review and comment:*

a. In place of the recommendations outlined in Section 16.7.C, the BPB shall make one of the following recommendations with regard to a petition for a zoning map amendment:

i. Grant the zoning map amendment as requested;

ii. Grant the zoning map amendment with a reduction of the area requested;

iii. Grant the zoning map amendment to a more restrictive general zoning district or districts; or

iv. Deny the application.

b. The BPB shall submit a statement analyzing the reasonableness of any proposal for a zoning map amendment. The statement of reasonableness may consider, among other factors:

i. The size, physical conditions, and other attributes of any area proposed to be rezoned;

ii. The benefits and detriments to the landowners, the neighbors, and the surrounding community;

iii. The relationship between the current actual and permissible development and the development permissible under the proposed amendment;

iv. Why the action taken is in the public interest; and

v. Any changed conditions warranting the amendment.

3. *Legislative hearing:*

a. In addition to the general procedures outlined in Section 16.7.C.7, when adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning must be approved by the city council in accordance with G.S. 160D-605. The statement of reasonableness and the plan consistency statement may be approved as a single statement.

b. In place of the decisions outlined in Section 16.7.C.7(b), a decision concerning a petition for a zoning map amendment shall be as follows:

i. Grant the zoning map amendment as requested;

ii. Grant the zoning map amendment with a reduction in the area requested;

iii. Grant the zoning map amendment to a more restrictive general zoning district;

iv. Grant the zoning map amendment with a combination of (i) and (ii) above;

v. Deny the application;

vi. Send the application back to the BPB for further study and consideration; or

vii. Call for additional legislative hearings on petitions brought before them.

c. In accordance with G.S. 160D-605, if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and shall be required. A plan amendment and a zoning amendment may be considered concurrently, and does not require a separate application fee for a plan amendment.

E. Procedures for conditional zoning districts. Applications for conditional zoning shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.D for zoning map amendments, except as provided below:

1. *Application required:*

a. A conditional zoning district application shall be considered only upon request of the owner of the affected property or a duly authorized representative of the property owner. When applying for conditional zoning, the owner shall specify the nature of the proposed development and shall propose conditions to ensure compatibility with the surrounding uses and consistency with adopted plans.

b. The applicant shall submit a final master plan or a preliminary master plan, pursuant to Section 17.5. If the applicant submits a final master plan as part of the initial application, subsection 5 below shall not be applicable.

c. The applicant shall submit a recent survey of the parcel(s) completed within three years of the application submittal.

d. The administrator may request an environmental survey.

e. The administrator may require any other documentation, such as building elevations, deemed necessary by the administrator in order to provide a complete and accurate description of the proposed development.

2. *Administrative review procedure:* The administrator may require that the application be circulated to any relevant city, county, and state agencies, committees and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.

3. *Brevard Planning Board review and comment:*

a. The BPB shall make one of the following recommendations with regard to a petition for a conditional zoning district:

i. Grant the creation of the district as request;

ii. Grant the creation of the district with a reduction of the area requested;

iii. Include recommended conditions for the district;

iv. Continued BPB consideration of the application in order to receive further information; or

v. Deny the application.

4. *Legislative hearing:*

a. During the adoption of a conditional zoning district, specific conditions may be proposed by the applicant, city council, BPB, technical review committee, or administrator, but only those conditions

mutually approved in writing by city council and the applicant shall be incorporated into the zoning regulations and permit requirements. Conditions and site specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use of the site to city ordinances, the adopted Comprehensive Land Use Plan or other plans, or the impacts reasonably expected to be generated by the development or use of the site.

b. The conditions agreed upon pursuant to the conditional zoning approval may include but are not limited to:
    i. Allocating and/or limiting the land uses which are permitted on the property;
    ii. Specifying locations on the property of the proposed structure(s);
    iii. The number of dwelling units and density;
    iv. The location and extent of supporting facilities such as parking lots, driveways, and access streets;
    v. The location and extent of buffer areas and other special purpose areas;
    vi. The timing of development;
    vii. The height of structures;
    viii. The location and extent of rights-of-way and other areas to be dedicated for public purposes; and
    ix. Other such matters as may be identified as appropriate for the proposed development.

c. City council may approve the preliminary master plan provided that the enacting ordinance sets forth specific requirements to be satisfied by a master plan and subsequent site plans, construction documents, and subdivision plats.

d. A decision concerning a petition for a conditional zoning district shall be as follows:
    i. Grant the creation of the district as requested with agreed upon conditions;
    ii. Grant the creation of the district with a reduction in the area requested with agreed upon conditions;
    iii. Deny the application;
    iv. Send the application back to the BPB for further study and consideration; or
    v. Call for additional legislative hearings on petitions brought before them.

e. Upon adoption of an enacting ordinance establishing a conditional zoning district, the official zoning map of the City of Brevard shall be amended to add the district.

5. *Procedures following preliminary master plan approval.* Unless a final master plan was approved at the time of creation of a conditional zoning district, then within one year of the enactment of the ordinance creating the district, or such other period, not to exceed five years, specified in said ordinance, the applicant shall submit a final master plan for development, or any phase thereof, meeting the requirements of Section 17.5. The provisions contained herein relating to submittal of final master plans may be modified by means of a development agreement between the developer and the City of Brevard, pursuant to Section 16.11.

    a. Upon receipt of a final master plan, the planning director shall review it for completeness and for compliance with the conditions and standards imposed in the enacting ordinance if the planning director determined that the plan is complete and does not constitute a major modification of the enacting ordinance pursuant to Section 16.9, including all conditions attached thereto and the

approved preliminary master plan, he or she shall forward it to the BPB for its consideration. City council may require, as a condition at the time of creation of the conditional zoning district, that council be the approving authority for final master plan approval.

b. If the approving authority determined that the final master plan complies with the enacting ordinance, including all conditions attached thereto, and with the approved preliminary master plan and with all applicable regulations, it shall grant final master plan approval for the development or a phase thereof, as applicable.

6. *Modifications.* Modifications to approved conditional zoning districts, including the enacting ordinance, an approved preliminary master plan, or the final master plan shall be in accordance with Section 16.9.

7. *Issuance of permits:*

a. Demolition permits may be issued based upon an approved preliminary master plan. However, no permit shall be issued for the construction, remodel, or rehabilitation of any structure within the area of a conditional zoning district, nor shall any structure be approved within the area of a conditional zoning district, until a master plan has been approved by the approving authority and, subsequently, site plans, construction documents, and/or subdivision plats, as applicable, have been approved by the administrator. No subdivision of land within a conditional zoning district shall be permitted prior to final master plan approval unless the ordinance creating the district provides otherwise.

b. Following approval of the final master plan of any conditional zoning district, the applicant shall submit to the administrator applications for subdivision and/or development approvals within one year of the date of final master plan approval. The administrator shall follow the applicable procedures in this chapter for subdivision and development approvals, and shall verify that all applicable requirements of the ordinance and conditions of city council are satisfied prior to granting approval. The administrator shall require any additional construction documents needed for permitting and evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDEQ permits, Army Corps of Engineers permits, etc.).

8. If for any reason any provision of an enacting ordinance of a conditional zoning district is found to be illegal or invalid, or if the applicant should fail to provide written consent to any condition, the entire ordinance enacting the applicant' s individual conditional zoning district shall be null and void. If the applicant shall fail to adhere to any condition set forth in the enacting ordinance for a conditional zoning district, the administrator may employ the remedies set forth in CHAPTER 18 or may initiate appropriate action to rezone the affected property to another zoning classification. The applicant' s failure to adhere to one or more conditions shall constitute a rational basis for rezoning of the land contained within a conditional zoning district.

9. If no action has been taken to begin development of the property in accordance with a conditional zoning ordinance within 24 months of its approval by city council or such other period, not to exceed five years, specified in the conditional zoning ordinance, the administrator may initiate appropriate action to rezone the affected property to any other classification. Such failure to begin development shall constitute a rational basis for rezoning the land contained within a conditional zoning district.

10. If the use or uses commenced pursuant to an enacting ordinance of a conditional zoning district section are abandoned or discontinued for a period of 180 days, the administrator may initiate appropriate action to rezone the affected property to any other classification. Such abandonment or discontinuance shall constitute a rational basis for rezoning of the land contained within a conditional zoning district.

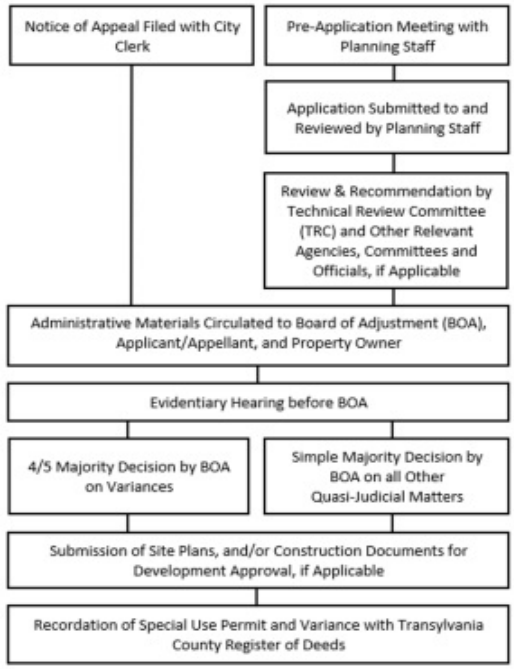
F. Procedures for extension of the Extraterritorial Jurisdiction (ETJ). Applications for extending the ETJ shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.C except as provided below:

1. Notification requirements: A notice of a proposed extension of the ETJ shall be sent by first-class mail by the administrator to the last address listed for the affected property owners. The notice shall be mailed at least 30 days prior to the date of the hearing by following the procedures and containing information in accordance with G.S. 160D-202(d). In the instance of a single hearing for both a zoning map amendment and an ETJ extension, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice.
2. Legislative hearing: In accordance with G.S. 160D-202(a), if a zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction, a single hearing on the zoning map amendment and the boundary amendment may be held.
3. The city shall take any other measures consistent with G.S. 160D-204 in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

16.8. Quasi-judicial decisions.

A. *Outline of review procedures for quasi-judicial decisions.*

FIGURE 16.8A: REVIEW PROCEDURES FOR QUASI-JUDICIAL DECISIONS



B. *General procedures.* In accordance with G.S. 160D-102, a quasi-judicial decision is a process that involves the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of

administrative decisions that are final and binding. Pursuant to G.S. 160D-406, the board shall follow quasi-judicial procedures for all quasi-judicial decisions.

1. *Procedure for filing appeals and applications.* Notices of appeal shall be filed with the city clerk. Applications for variances, special use permits, and architectural special use permits shall be filed with the administrator in accordance with Section 16.5. Certificates of appropriateness are outlined in CHAPTER 20 of this Ordinance.
2. *Notice of evidentiary hearing.* Notice of evidentiary hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal or application is the subject of the hearing; to the owner of the property that is the subject of hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by these regulations. In the absence of evidence to the contrary, the city may rely on the Transylvania County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
3. *Administrative materials.* The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
4. *Hearings.* The board shall conduct an evidentiary hearing on the appeal or application. It shall determine contested facts and make its decision within 45 days of the conclusion of hearing. The board's decision shall be based upon competent, material, and substantial evidence in the record of the hearing.
    a. The applicant, the city, and any person who would have standing to appeal the decision under G.S. 160D-1402 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value, traffic impacts, or other matters about which only expert testimony would generally be admissible under the rules of evidence.
    b. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal, the inclusion or exclusion of administrative material, or the standing of a party, may be made to the board. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.
    c. Witnesses shall testify under oath. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

d. The official who made the decision, or the person currently occupying that position if the decision-maker is no longer employed by the city, shall be present at the hearing as a witness. The appellant shall not be limited at the evidentiary hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the BOA shall continue the hearing.

e. When hearing an appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160D-1402(j).

f. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of members shall be required to decide any other quasi-judicial matter or to determine an appeal in the nature of certiorari. For the purposes of this paragraph, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under Section 15.5 shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

g. The decision shall be reduced to writing and reflect the board's findings of contested facts, if any, the facts' application to applicable standards, and conclusions of law. The written decision shall be approved by the board and signed by the chair or other duly authorized member of the board. The decision of the board shall be effective upon filing such decision with the clerk to the board. The clerk shall see that the decision is delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, any entity granted party status at the hearing, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective and shall certify that proper notice has been made.

5. *Burden of persuasion.* In all quasi-judicial hearings, the applicant or appellant, as the case may be, shall have the burden of persuasion.

6. *Rehearings.*

a. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the board's decision. In addition, specific information to enable the board to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the board, if, in its judgment, a prima facie case for such change has not been alleged. A quasi-judicial hearing shall not be required to be held by the board to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four-fifths of the board for a variance and a simple majority for all other matters. In the event that the board finds that a rehearing is warranted, it shall proceed as in the original hearing except that the application fee shall be waived.

b. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

7. *Appeals of the BOA's decisions.* Every quasi-judicial decision of the BOA under this section shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. A petition for review shall be filed with the clerk of superior court within the times specified in G.S. 160D-1405(d).

C. *Procedures for special use permits.* Special uses are generally compatible with the land uses permitted by right in a zoning district but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of

the use at a particular location within a given zoning district. Only those uses enumerated as special uses in a zoning district shall be authorized by the BOA. Applications for special use permits shall be processed, considered, and decided upon using the same procedures and subject to the same requirements as those established in Section 16.8.A, except as provided below.

1. *Application required.*
    a. The applicant shall submit a sketch plan, in accordance with Section 17.4.
    b. The applicant shall submit a description or narrative stating why the special use is requested.
    c. The administrator may request an environmental survey.
    d. The administrator may require any other documentation, such as construction documents and building elevations, deemed necessary by the administrator in order to provide a complete and accurate description of the proposed use.
2. *Administrative review procedure.*
    a. The applicant shall submit the completed application, pursuant to Section 16.5 at least 45 days prior to the BOA meeting at which it will first be reviewed. For urgent matters, the administrator may request the BOA to review the application at an earlier meeting if processing time permits.
    b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.
    c. The administrator may require that the application and supporting materials be reviewed by the technical review committee (TRC) in accordance with Section 15.1.
    d. The administrator may require that the application be circulated to other relevant city, county, and state agencies and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.
    e. The administrator may require a neighborhood compatibility meeting in order to gather neighborhood feedback, and may require the person proposing the special use permit to report on any communication with neighboring property owners and residents.
    f. Once the administrator has reviewed the application and circulated it to other relevant agencies, committees, and officials, the administrator shall transmit the application to the BOA for action.
3. *Hearings.*
    a. The evaluation and approval of the special use permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following findings of fact:
        i. The use meets all requirements and specifications of the ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
        ii. The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and
        iii. The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.
    b. The BOA may require a traffic impact study, an environmental survey or impact statement, and any other additional information or evidence as necessary to properly consider the application.
4. *Permit approval.*
    a. In approving an application for a special use permit, the BOA may attach reasonable and appropriate conditions on the location, nature, and extent of the proposed use, which support the required

findings of fact. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. These conditions shall not include requirements for which the city does not have the statutory authority to impose or for which the courts have held to be unenforceable if imposed directly the city. Only those conditions mutually approved in writing by the BOA and the applicant shall be incorporated into the permit requirements.

b. The BOA may not require the landowner to waive a vested right as a condition of the special use permit approval. The burden of proof of producing evidence to support these findings and to overcome any challenges that approval of the plan would be contrary to one or more of these findings shall rest entirely with the applicant or landowner.

c. Following the approval of the special use permit by the BOA, the applicant shall submit to the administrator all construction documents and any other documents specified by CHAPTER 17 for project development approval and administration. The administrator shall require evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDENR permits, Army Corps of Engineers permits, etc.).

5. *Effect of approval.* If an application is approved, the special use permit that is established and all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. The approved special use permit shall be recorded with the Transylvania County Register of Deeds and a copy of the recordation be submitted to the city, pursuant to G.S. 160D-705(c).

6. *Modifications.* Modifications to an approved special use permit shall be in accordance with Section 16.9.

7. *Revocation of special use permits.*

a. Revocation of special use permits shall be conducted pursuant to Section 16.13.

b. In addition to the reasons for revocation outlined in Section 16.13, the applicant must secure a valid building permit within a 12-month period from date of approval of the special use permit unless otherwise specified.

D. *Procedures for administrative appeals.* Appeals of administrative decisions and development approvals shall follow the same procedures and be subject to the same requirements as those established in Section 16.8.A except as provided below:

1. *Applicability.* In accordance with G.S. 160D-405, the BOA shall hear and decide appeals of final and binding decisions made by administrative officials charged with enforcement of any development regulations, including administrative modifications and denials of development permits. Any person who has standing under G.S. 160D-405 or the city may appeal a decision to the BOA. The owner of the property or any other party with standing shall have 30 days from receipt of notice, pursuant to Section 16.4, within which to file a notice of appeal stating the grounds for appeal.

2. *Stays.*

a. An appeal of a notice of violation or other enforcement order stays enforcement of the decision appealed from and accrual of any fines assessed unless the official who made the decision certifies to the BOA after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulations. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a

request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.

b. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulations shall not stay further review of an application for development approvals to use such property; in these situations the appellant or city may request, and the BOA may grant, a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

3. *Hearings.* The board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all powers of the official who made the decision.

4. *Alternative dispute resolution.* The parties to an appeal may agree to mediation or other forms of alternative dispute resolution.

E. *Procedures for variances.* Except as limited herein, the board of adjustment shall have the authority to vary provisions of the UDO in accordance with this section. Applications for variances shall follow the same procedures and be subject to the same requirements as those established in Section 16.8.A except as provided below.

1. Administrative review procedure:

a. The applicant shall submit the completed application, pursuant to Section 16.5 at least 45 days prior to the BOA meeting at which it will first be reviewed. For urgent matters, the administrator may request the BOA to review the application at an earlier meeting if processing time permits.

b. The administrator shall review and comment on the application and supporting materials in accordance with Section 16.6.

c. The administrator may require that the application and supporting materials be reviewed by the technical review committee (TRC) in accordance with Section 15.1.

d. The administrator may require that the application be circulated to other relevant city, county, and state agencies and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.

e. Once the administrator has reviewed the application and circulated it to other relevant agencies, committees, and officials, the administrator shall transmit the application to the BOA for action.

2. *Standards for granting variances*. Except as limited by subsection 16.8.D.4, below, when unnecessary hardships would result from carrying out the strict letter of the UDO, the BOA shall vary such regulations upon a showing of all of the following:

a. Unnecessary hardship would result from the strict application of the regulations. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

d. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

3. *Guiding principles*. In judging a request for a variance, the BOA shall be guided by the following principles:
   a. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
   b. The hardship relates to the applicant's land, rather than personal circumstances;
   c. The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
   d. The hardship is not the result of the applicant's own actions; and
   e. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not constitute an unnecessary hardship.
   f. Hardships for the following regulations are shared across many properties, are broadly required for public safety and general welfare, and are unlikely to create a situation warranting a variance.
      i. To provide relief from the requirements of Section 9.5 for visibility at street intersections and driveways. In order to ensure that the requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured and substantial justice is achieved, the following additional requirements shall apply:
         (A) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, ordinances.
         (B) The variance shall only be issued upon the inclusion of the following determinations:
            (1) The variance will not pose a danger to the public safety based on competent evidence. As used in this subsection, competent evidence shall not be deemed to include the opinion testimony of lay witnesses as to vehicular safety resulting from the reduction of visibility of the sight triangle.
            (2) The variance is the minimum necessary to afford relief.
      ii. To provide relief from the surface water protection requirements of Section 6.7 pertaining to encroachments into surface water protection areas other than that portion lying in the regulatory floodway may be considered. In order to ensure that the requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured and substantial justice is achieved, the following additional requirements shall apply:
         (A) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, ordinances.
         (B) Variances shall only be issued upon the following determinations:
            (1) The granting of the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws ordinances.
            (2) The variance is the minimum necessary to afford relief.
         (C) Variances shall only be issued prior to floodplain development approval.

4. *Conditions*. The BOA, in granting a variance, may prescribe appropriate conditions and safeguards on any variance, provided that the conditions are reasonably related to the variance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this ordinance and shall be punishable as prescribed in CHAPTER 18.

5. *Limitations on board's authority*. The BOA shall not have authority to grant variances in the following situations:
    a. To change the permitted uses for any property.
    b. To provide relief from the environmental protection requirements in CHAPTER 6 including, but not limited to, steep slope, sedimentation and erosion prevention, stormwater runoff, surface water protection, and flood damage prevention, except those surface water protection areas of Section 6.7 outlined in subsection 3 above.
    c. To provide relief from the water, sewer, and utility requirements of Section 13.4.
6. *Conformance with City Code*. Structures and uses permitted by means of a variance from a provision of this ordinance shall otherwise conform to all other applicable provisions of this ordinance and the Brevard CITY CODE OF ORDINANCES.
7. The approved variance shall be recorded with the Transylvania County Register of Deeds and a copy of the recordation be submitted to the city, pursuant to G.S. 160D-705(c).

16.10. Vested rights—Site-specific vesting plans.

A. *General procedures:*

1. Pursuant to G.S. 160D-108 and notwithstanding any other provision or amendment, a landowner may apply for approval of a site-specific vesting plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.
2. All requests for vested rights shall be accompanied by a copy of the approved development plan in accordance with the provisions of this chapter. A request to extend vested rights to a previously approved development plan shall be reviewed and approved by the city council after notice and public hearing pursuant to Section 16.7.D.

B. *Administrative review procedure:*

1. The applicant shall request a meeting with the administrator and submit an application and a master plan as defined in CHAPTER 17. Upon determination of completeness of the application, the administrator shall authorize the applicant to submit the master plan for formal review.
2. The administrator shall review and make comment on the master plan. If the master plan is denied, the reasons for denial shall be stated in writing and the applicant may resubmit the development for further review.
3. The administrator shall require evidence of approval of any other permit required by any other federal, state, or local agency (i.e., NCDOT permits, NCDENR permits, Army Corps of Engineers permits, etc.).
4. The administrator may require that the application be circulated to other relevant city, county, and state agencies, committees, and officials for comment(s) as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended. The applicable agencies, committees, and officials shall transmit any recommendations to the technical review committee (TRC).
5. When the administrator determines that the application is complete and complies with this ordinance, the administrator shall transmit submitted application materials along with any recommendations to the TRC.
6. The TRC shall review and make comment on the application. The TRC may require a Traffic Impact Study, and Environmental Impact Statement, and any other additional information as necessary to properly consider the application.

7. The TRC shall, within 30 days of receipt of all necessary application materials and additional information, take action to recommend approval, approval with conditions, or deny the application.

C. *Legislative procedure:* If a site-specific vesting plan is based on an underlying legislative or quasi-judicial approval, such as a special use permit or a conditional zoning district, the administrator shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with BPB recommendation and notice pursuant to Section 16.7.D shall be held.

D. *City council action:*

1. The city council shall determine whether or not to grant or establish a vested right after the review and consideration of the application by TRC and the BPB in accordance with the aforementioned procedures.
2. The city council may not require the landowner to waive his or her vested right as a condition of development approval.
3. The city council may approve the vested rights for a period greater than two years where it is found that due to:
    a. The sizing and phasing of the development; or,
    b. The level of investment; or,
    c. The need for the development; or,
    d. Economic cycles; or,
    e. Market conditions.
4. Building permits for all phases of the development cannot be secured within two years, provided the total period does not exceed five years from the date of plan approval of the site.

E. *Effect of approval of vesting:*

1. The effect of the city council approving a vested plan shall be to vest such site plan for a period of two years to five years as approved by the city council from the date of approval.
2. A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved site-specific vesting plan as provided for in this section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the previously granted or established vested right.
3. A vested right, once established shall preclude any zoning action by the city which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property in accordance with the approved site-specific development plan except under the following conditions where such rights are terminated and revoked:
    a. The affected landowner provides written consent to the city of his or her desire to terminate the vested right; or,
    b. The city determines after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the plan; or,
    c. Compensation is made by the city to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,

d. The city determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the city council of the plan; or,

e. Upon the enactment of a state or federal law or regulations which precludes development as shown in plan. In such case the city may, after having advertised and conducted a public hearing, modify the affected provisions upon a finding that this change in state or federal law has a fundamental effect on the plan.

4. Once a vested right is granted to a particular plan, nothing in this section shall preclude the city from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are consistent with the original approval.

5. The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the city from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this ordinance.

6. Upon issuance of a development permit, the granted statutory vesting is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to Section 16.13.

F. *Establishment of common law vesting plans:*

1. Previously approved site-specific vesting plans shall be reviewed for compliance and consistency and subsequently approved by the administrator or designee in accordance with the provisions of this chapter, providing the proposed preliminary plat for the major subdivision does not deviate from, and is subdivided in accordance with the previously approved site-specific plan.

2. Preliminary plats for major subdivisions with previously vested site-specific plans shall be reviewed for compliance and consistency and approved by the administrator or designee, providing the proposed preliminary plat for major subdivision does not deviate from, and is subdivided in accordance with the previously approved site-specific plan. Substantial financial investment must be determined and a good faith effort made to develop proportionate to the approved statutory vested plan.

G. *Revocation or expiration of a vested right:*

1. The vested right, resulting from the approval of a site-specific vesting plan, may be revoked by the city council if the city council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this ordinance. As prescribed under the provisions of G.S. 160D-308, the vested right shall otherwise expire at the end of the approval period established by the city council. A building permit issued by the Transylvania County Building Inspector pursuant to G.S. 160D-403 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.

H. *Establishment of multiphase development vesting plan:*

1. A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and UNIFIED DEVELOPMENT ORDINANCEs in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development.

CHAPTER 17. DEVELOPMENT PLAN REQUIREMENTS

17.4. Sketch plan requirements.

Sketch plans shall be required as part of the major subdivision review process and may be required by the administrator for other land development activities. A sketch plan shall show in simple sketch form the proposed layout of streets, lots, buildings, public open spaces and other features in relation to existing conditions based upon the size of the tract proposed for development or subdivision. All plans shall be submitted at a scale not less than one inch = 150 feet unless otherwise authorized by the administrator. It shall also include the following information:

A. A sketch vicinity map, including north arrow, showing the location of any proposed building(s) or subdivision in relation to neighboring tracts, subdivisions, roads, and waterways.

B. The name, address, and telephone number of the property owner.

C. The name of the proposed development project.

D. The boundary lines of the property.

E. The total acreage.

F. The existing and proposed land uses and the existing land uses of adjacent properties.

G. The existing topographic conditions of the property, which may include contours not exceeding five foot intervals. City of Brevard, Transylvania County, or State of North Carolina topographic information may be used to fulfill this requirement.

H. The location, names, and private and recorded right-of-way widths of any existing streets on or within 300 feet of the land to be subdivided.

I. Lots of adjacent developed or platted properties.

J. Zoning classification of the land and adjacent properties.

K. Illustrative building elevations denoting general design elements and materials.

L. Watershed classification, if any.

M. Floodway, non-encroachment, and surface water protection area delineation.

N. Floodplain delineation.

17.5. Master plan requirements.

When required, the master plan shall be drawn to the following specifications and must contain or be accompanied by the information listed below. This section defines both preliminary and final master plans. A preliminary master plan may only be submitted as part of an application for a conditional zoning district. All plans shall be submitted at a scale not less than one inch = 150 feet unless otherwise authorized by the administrator.

A. Processing or review of a preliminary or final master plan may not proceed without all of the following information:

1. The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, perennial streams, wetlands, easements or other significant features of the tract.
2. Scale denoted both graphically and numerically with north arrow.

3. A vicinity map at a scale no smaller than one inch equals 1,200 feet showing the location of the development with respect to adjacent streets and properties.
4. The proposed name of the development, street names, the owner's name and address, the names of adjoining property owners, the name of the city, county, and state in which the development is located, the date of plan preparation, and the zoning classification of the tract to be developed, and of adjoining properties.
5. Corporate limits and extraterritorial jurisdiction boundaries (where applicable).
6. A timetable for estimated project completion for each phase proposed.
7. Original contours at intervals of not greater than five feet for the entire area to be subdivided or developed and extending into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property and 50 feet at all other points of common project boundaries. Transylvania County or City of Brevard digital topography may be used to satisfy this requirement but should be field-verified to ensure accuracy. This requirement may be waived for developments smaller than one acre or where insufficient topographic changes warrant such information.
8. The location of any building restriction areas (i.e. flood hazard areas, buffer locations, watershed protection districts, and/or jurisdictional wetlands), where applicable.
9. Site calculations shall include total acreage of tract, acreage in parks and other non-residential uses, total number and acreage of parcels, and the total number of housing units.
10. The following statement shall be placed upon all master plan documents, as applicable:

    "Areas delineated upon this plan as a protection area or Special Flood Hazard Areas is subject to limitations upon development as set forth CHAPTER 34 of Brevard City Code, and any development, disturbance, or encroachment is prohibited except in accordance therewith."

B. Requirements for preliminary master plans. A preliminary master plan may only be submitted as part of an application for a conditional zoning district. A preliminary master plan may be more conceptual in nature than a final master plan, and shall be sufficient to demonstrate deviations from the base zoning district and the scope of the project.

1. At a minimum, a preliminary master plan shall show the conditions both requested and offered that deviate from the base zoning district.
2. A preliminary master plan may divide the district into land use areas and specify proposed uses and other development standards which shall apply to such land use area. The preliminary master plan may also depict transition zones between any such land use areas which shall permit deferring the determination of the precise boundaries between land use areas until final master plan review.
3. Additional submittal requirements for the preliminary master plan shall be determined by the administrator in the pre-application meeting or during review. The approving authority may require additional submittals as deemed necessary due to the particulars of the project. A preliminary master plan may include the following information, as applicable:
    a. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, site reservations (i.e. school sites), property lines and building setback lines with street dimensions, and tentative lot dimensions.
    b. The traffic and circulation system demonstrating a safe and adequate on-site transportation system that addresses vehicular, bicycle, transit and pedestrian circulation. The on-site transportation system shall be integrated with the off-site transportation circulation system of the city.

c. The proposed limits of construction for all proposed development activity, including all required protected areas and open space.

d. Landscaping plan and/or vegetation preservation plan in accordance with Section 17.9.

e. Lighting plan in accordance with Section 17.10.

f. Architectural plans in accordance with Section 17.11.

g. Traffic impact analysis (if required) in accordance with Section 17.12.

h. Stormwater management concept plan in accordance with Section 17.13.

i. Conceptual utilities plan. Conceptual plans for utilities to serve the development, including sanitary sewers, storm sewers and water lines.

j. Environmental impact statement, pursuant to Article 113A of the North Carolina General Statutes, if: the development exceeds two acres in area, and; if the BPB deems it necessary due to the nature of the land or peculiarities in the proposed design.

k. Development permit and certification application with supporting documentation as required by the flood hazard prevention requirements of CHAPTER 6 of this ordinance.

C. Requirements for final master plans.

1. A final master plan shall include all of the following information, as applicable:

   a. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, site reservations (i.e. school sites), property lines and building setback lines with street dimensions, and tentative lot dimensions.

   b. The transportation and circulation system showing typical cross-sections of proposed streets. Where a proposed street is an extension of an existing street, the profile of the street shall include 300 feet of the existing roadway, with a cross section of the existing street. Where a proposed street within the development abuts a tract of land that adjoins the development and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.

   c. The proposed limits of construction for all proposed development activity, including all required protected areas and open space.

2. Additional submittal requirements for the final master plan shall be determined by the administrator in the pre-application meeting or during review. The approving authority may require additional submittals as deemed necessary due to the particulars of the project. A final master plan may include the following information and supplemental plans, as applicable.

   a. Landscaping plan and/or vegetation preservation plan in accordance with Section 17.9.

   b. Lighting plan in accordance with Section 17.10.

   c. Architectural plans in accordance with Section 17.11.

   d. Traffic impact analysis (if required) in accordance with Section 17.12.

   e. Stormwater management concept plan in accordance with Section 17.13.

   f. Conceptual utilities plan. Conceptual plans for utilities to serve the development, including sanitary sewers, storm sewers and water lines.

   g. Environmental impact statement, pursuant to Article 113A of the North Carolina General Statutes, if: the development exceeds two acres in area, and; if the BPB deems it necessary due to the nature of the land or peculiarities in the proposed design.

h. Development permit and certification application with supporting documentation as required by the flood hazard prevention requirements of CHAPTER 6 of this ordinance.

CHAPTER 19. DEFINITIONS

19.3. Definitions.

Cluster home development: A small lot residential group development that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained by a single entity or in shared stewardship by residents.

Condominium*:* The form of ownership of real property, and any interests therein in which individual owners own or lease separate units but together, or through an owners' association, own the common areas appurtenant to the units.

Lot, conservation*:* a parcel of land containing remnant vegetation to be protected through a conservation covenant.

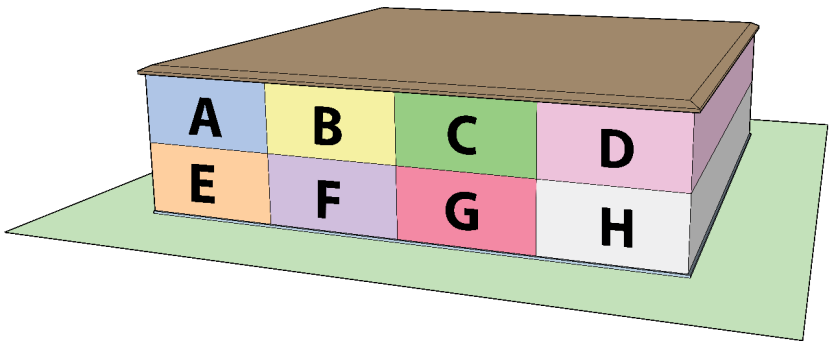
Development regulation*:* A UNIFIED DEVELOPMENT ORDINANCE, zoning regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to G.S. 160D, or a local act or charter that regulates land use or development.

Group development*:* Any land development subject to a site plan that includes two or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future).

Other individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

Lot, air*:* A condominium unit or lot containing both horizontal and vertical dimensions and established as part of a shared structure. The air lot generally extends to the inner faces of the walls, floors and ceiling of the condominium unit.

FIGURE 19.3-X: ILLUSTRATIVE DIAGRAM OF AIR LOTS



Lot, conventional: Conventional Lot shall refer to any lot where the minimum lot width for conventional lots is met at the right-of-way line (see Section 4.2.3).

Lot, environmental containment and conservation*:* A parcel land that is shown on a recordable subdivision plat that is not intended for a building as a result of environmental constraints, and which is subject to limitations upon development by deed, contract or other binding agreement with the United States of America or any agency or subdivision thereof, or the State of North Carolina or any agency or subdivision thereof.

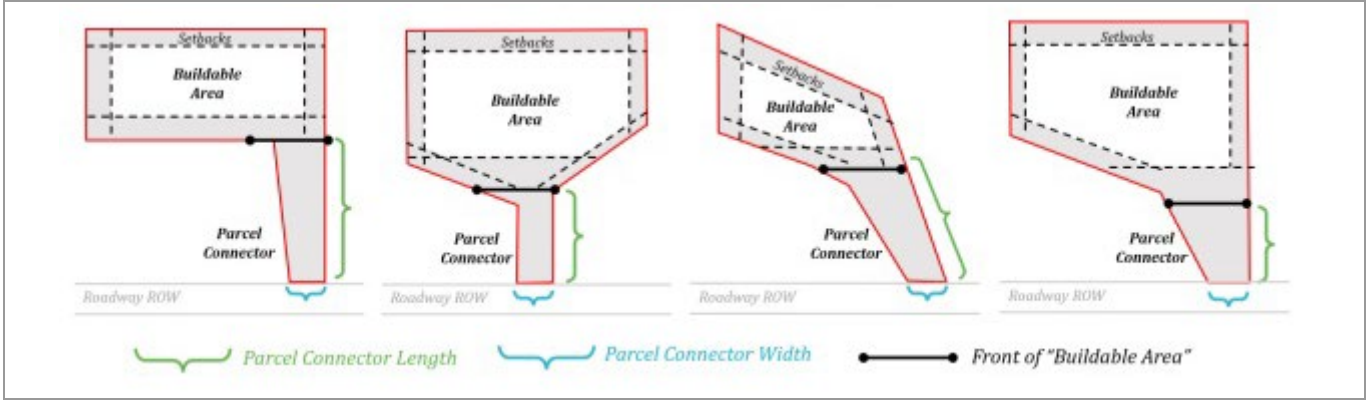
Lot, interior*:* An individual lot within a group development where the overall site abuts a public street and is designed in such a manner that access is furnished to all interior lots or building sites. Also referred to as an "out-parcel."

Lot, irregular: A lot where the functional access to a road is provided along a long narrow "parcel connector" and the "buildable area" is typically situated, at least in part, behind adjoining lots which front on a public street.

A. "*Buildable Area*": The largest portion of an irregular lot where development is intended.

B. "*Parcel Connector*": The long narrow strip of property that provides functional access for ingress, egress, and utilities.

FIGURE 19.3C: ILLUSTRATIVE DIAGRAMS OF IRREGULAR LOTS



Lot, pre-existing*:* Any parcel of land, the boundaries of which were on record within the Transylvania County Register of Deeds prior to the date of the enactment of this ordinance.

Manufactured home*:* A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:

A. It is at least eight feet in width and 32 feet in length;

B. It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance;

C. It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and

D. It does not have any wheels or axles permanently attached to its body or frame.

Manufactured home park*:* A residential group development with three or more manufactured homes or manufactured home spaces designed as a cohesive whole and maintained either by a single entity or in shared stewardship by residents.

Multiphase development*:* A development that is constructed in increments. Each increment would be capable of existing independent of the others, but the completed project would be a comprehensive design.

Neighborhood development: A residential group development designed as individual lots with shared stewardship of common areas and infrastructure. This definition shall apply to any predominately residential project with 8 or more lots and/or shared infrastructure.

Nonconformities*:* A lot, structure, use of land, or condition, which existed lawfully and was created in good faith prior to the adoption, revision, or amendment to this ordinance, and which conformed to applicable regulations in effect prior to the adoption, revision, or amendment to this ordinance in terms of size, area, dimension, location, intensity of use, or other condition, but which now fails to conform to the requirements of this ordinance by reason of such adoption, revision, or amendment. Nonconformities include, but are not limited to, the following:

A. Non-conforming lots: lots of improper shape or lots with insufficient frontage street, in accordance with CHAPTER 4.

B. Non-conforming structures: structures located within a right-of-way, or that exceed height or setback limitations, or that are located within setback areas, floodways, or streamside protection areas.

C. Non-conforming uses of land: industrial activity within residentially zoned areas, hazardous chemical storage in flood-prone areas, open storage in a improperly zoned area.

D. Non-conforming conditions: insufficient parking, landscaping, or buffering for an otherwise conforming use or structure; cleared vegetation in a streamside protection area; inadequate stormwater control measures.

Parcel*:* An area designated as a separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed as filed in the official records of Transylvania County, as maintained in the Transylvania County courthouse. The terms "lot," "lot record," "lot of record," "plot," "parcel," "property," or "tract," whenever used in this ordinance, are interchangeable.

Principal structure*:* A building in which is conducted the principal use of the parcel on which it is situated. Also referred to as “principal building.”

Quasi-judicial decision*:* A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Reserve strip*:* A narrow strip of land along a property line, typically at the edge of a subdivision, reserved to control access to abutting properties or public rights-of-way.

Shopping center*:* A form of non-residential or mixed-use development with at least two commercial, recreational, and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.

Story*:* The habitable level of a building, extending from finished floor to finished floor or ceiling.

Street*:* Any alley, avenue, circle, highway, lane, road, street, or other way, whether public or private.

Street, public*:* Any street situated within a dedicated public right-of-way and which has been accepted by the appropriate governmental agency for continuing maintenance and upkeep. **Subdivision***:* All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but this definition shall not include exempt subdivisions under Section 4.3 or N.C.G.S 160D-802.**Subdivision, major***:* The division of an established parcel of land that:

1. Creates more than 8 lots, including the residual or parent lot;
2. Involves the creation, expansion, or dedication of any public street or right-of-way; or
3. Is not otherwise exempt under Section 4.3 or deemed a minor subdivision.

Subdivision, minor*:* The division of an established parcel of land that:

1. Creates a maximum of 8 lots, including the residual or parent lot;
2. Does not involve the creation, expansion, or dedication of any public street or right-of-way;
3. Is not otherwise exempt under Section 4.3.

Zero lot line development: A development approach in which a building with attached units is located on separate lots where the common walls are along the interior lot lines.

FIGURE 19.3-X. ZERO LOT LINE DEVELOPMENT

