

ORDINANCE NO. 2015-23

**AN ORDINANCE AMENDING THE CITY OF BREVARD
UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 2 DISTRICT PROVISIONS AND
CHAPTER 5 BUILDING TYPES AND ARCHITECTURAL STANDARDS**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Unified Development Ordinance, Chapters 2 and 5, be amended to permit additional encroachments into a setback area; and,

WHEREAS, Brevard City Council finds that these proposed amendments are neither consistent nor inconsistent with the City of Brevard Land Use Plan and other plans and policies of the City of Brevard; and,

WHEREAS, a public hearing was conducted on Monday, September 21, 2015, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Unified Development Ordinance be amended as outlined below.

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

SECTION 01. Brevard City Code, Unified Development Ordinance, Chapter 2, Section 2.3.E is hereby amended to include the following language:

Note: Existing #5 to be renumbered to #9.

5. Roof overhangs and gutters may encroach into front, rear, or side yard setbacks by up to two feet (2').
6. Uncovered porches, stoops, and stairs, intended primarily for means of ingress and egress, nominally in line with the first floor above grade or any floor below that, may encroach into front, or rear yard setbacks up to one-third (1/3) of the required setback dimension up to a height of four feet (4') above the elevation of the floor being served. The area of each porch not including landings between runs of stairs, shall be no greater than fifty square feet (50sf).
7. Covered or uncovered balconies and bay windows may encroach into front or rear setbacks up to three feet (3') into the required setback dimension. Balconies or bay windows may not exceed ten feet (10') in width. Cumulative total of balconies and bay windows projecting into the setback shall not exceed thirty three percent (33%) of the total width of each elevation.
8. Chimneys may encroach into front, rear, or side setbacks by up to two feet (2'). Width of the chimney encroachment shall not exceed that necessary for the fireplace, flue, and the typical building walls enclosing the fireplace or flue.
9. No structure or land use shall encroach upon any public or private easement or public or private right-of-way or easement unless otherwise provided for by this Ordinance.

SECTION 02. Brevard City Code, Unified Development Ordinance, Chapter 5, Section 5.17 is hereby amended to include the following language:

- C. Roof overhangs & gutters:
1. Roof overhangs and gutters may encroach into front, rear, or side yard setbacks by up to two feet (2').
- D. Uncovered porches, stoops, and stairs:
1. Uncovered porches, stoops, and stairs, intended primarily for means of ingress and egress, nominally in line with the first floor above grade or any floor below that, may encroach into front, or rear yard setbacks up to one-third (1/3) of the required setback dimension up to a height of four feet (4') above the elevation of the floor being served. The area of each porch not including landings between runs of stairs, shall be no greater than fifty square feet (50sf).
- E. Balconies and bay windows:
1. Covered or uncovered balconies and bay windows may encroach into front or rear setbacks up to three feet (3') into the required setback dimension. Balconies or bay windows may not exceed ten feet (10') in width. Cumulative total of balconies and bay windows projecting into the setback shall not exceed thirty three percent (33%) of the total width of each elevation.
- F. Chimneys:
1. Chimneys may encroach into front, rear, or side setbacks by up to two feet (2'). Width of the chimney encroachment shall not exceed that necessary for the fireplace, flue, and the typical building walls enclosing the fireplace or flue.
- G. No such eve, bay window, balcony, stairs, stoop, porch, chimney shall encroach into a public or private right-of-way or easement, regulatory floodplain, or surface water protection area.

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

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

SECTION 05. The enactment of this Ordinance shall in no way affect the running of any Amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.

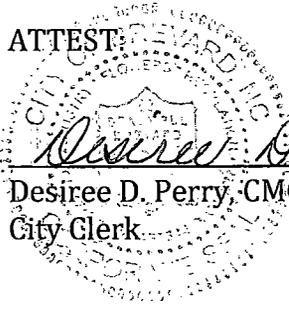
SECTION 06. This Ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 21st day of September, 2015.



Jimmy Harris
Mayor

ATTEST:


Desiree D. Perry

Desiree D. Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney