

ORDINANCE NO. 2020-17

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
CHAPTERS 2, 3 AND 19**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Unified Development Ordinance, Chapters 2, 3 and 19, be amended to establish the Landscaping Services land use; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the City of Brevard Comprehensive Plan, specifically the following sections:

ELEMENT 4: LIVABLE COMMUNITIES

POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.

POLICY 4.1.G: Modify development ordinances and regulations to incorporate design standards and guidelines that respect existing community character while allowing greater residential density and intensity of nonresidential development within mixed use zoning areas.

and,

WHEREAS, a legislative public hearing was conducted on Monday, September 21, 2020, 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 Chapters 2, 3 and 19 are hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

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


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

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

Adopted and approved upon second reading this the 21st day of September, 2020.




ATTEST:


Jimmy Harris
Mayor


Jill Murray, CMC
City Clerk

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney

2.2. - Use categories and tables of permitted uses.

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 Chapters 3 and 5 of this ordinance.
4. "PS" denotes those uses that are permitted with additional standards, which are set forth in Chapter 3.
5. "GD" denotes those uses may be permitted as a Group Development in accordance with the provisions set forth in Chapter 16.
6. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

BASE DISTRICT	GR	RMX	NMX	DMX	CMX	IC	GI
Residential							
Dwelling—Single Family (Site-built) ^(a)	P	P	—	—	—	P	—
Dwelling—Duplex	P	P	P	—	—	P	—
Dwelling—Town Home or Condominium Structure	GD	P	P	P	P	P	—
Dwelling—Multifamily 3—4 units/bldg., not including Condominium Buildings or multiple structures	SUP	P	P	P	P	P	—
Dwelling—Multifamily more than 4 units/bldg.	—	P	P	P	P	P	—
Dwelling—Secondary	PS	PS	PS	PS	PS	PS	—
Family Care Home (Less than 6 residents)	P	P	P	P	P	P	—
Home Occupation	PS	PS	P	P	P	P	—
Housing Service for the Elderly	SUP	P	P	P	P	P	—
Live-Work Units	Please see Subsection ^(e) below						—
Manufactured Home (single unit) ^(b)	MHD	MHD	MHD	MHD	MHD	MHD	—
Manufactured Home Park	SUP	SUP	—	—	—	—	—
Recreational Vehicle	—	—	—	—	—	—	—
Lodging							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	—
Bed and Breakfast Inns	SUP	PS	PS	PS	PS	PS	—
Accessory Rental Cottage/ Cabins ^(c)	PS	PS	PS	—	—	—	—

Hotels/Motels/Inns	—	—	—	P	P	P	—
Rooming or Boarding House	—	—	P	P	P	P	—
Recreational Vehicle Park	—	—	—	—	—	—	—
Short-Term Rental ^(d)	P	P	P	P	—	—	—
Office/Service							
Animal Services	—	—	P	P	P	P	P
Artist Workshop	—	P	P	P	P	P	P
ATM	—	—	P	P	P	P	—
Banks, Credit Unions, Financial Services	—	—	P	P	P	P	P
Business Support Services	—	SUP	P	P	P	P	P
Adult/Child Day Care Home (Less than 6)	PS	PS	PS	PS	PS	PS	—
Adult/Child Day Care Center (6 or more)	PS	PS	PS	PS	PS	PS	PS
Community Service Organization	—	SUP	P	P	P	P	P
Drive Thru Service	—	—	SUP	SUP	P	—	—
Equipment Rental	—	—	—	—	P	—	P
Funeral Homes	—	—	PS	PS	PS	PS	—
Group Care Facility (6 or more residents)	—	P	P	P	P	P	—
Government Services	—	P	P	P	P	P	P
Kennels	—	—	SUP	—	PS	—	PS
<u>Landscaping Services</u>	<u>SUP</u>	<u>SUP</u>	<u>SUP</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>P</u>
Medical Services—Clinic, Urgent Care Center	—	SUP	SUP	P	P	P	—
Medical Services—Doctor office	—	P	P	P	P	P	—
Post Office	—	—	P	P	P	P	—
Professional Services	SUP	P	P	P	P	P	P
Personal Services	—	P	P	P	P	P	—
Studio—Art, Dance, Martial Arts, Music	—	P	P	P	P	P	—
Vehicle Services—Major Repair/Body Work	—	—	—	—	PS	—	PS

Vehicle Services—Minor Maintenance/Repair (d)	—	—	SUP	SUP	PS	PS	PS
Retail/Restaurants							
Accessory Retail	—	—	—	—	—	—	PS
Alcoholic Beverage Sales Store	—	—	SUP	P	P	—	—
Auto/Mechanical Parts Sales	—	—	—	P	P	—	P
Bar/Tavern/Night Club	—	—	SUP	P	P	—	—
Drive-Thru Retail/Restaurants	—	—	SUP	SUP	PS	—	—
Gas Station	—	—	SUP	SUP	PS	—	PS
General Retail	—	—	P	P	P	P	—
Restaurant	—	—	P	P	P	P	P
Shopping Center - Neighborhood Center	—	—	GD	GD	GD	—	—
Shopping Center - Community Center	—	—	—	—	GD	—	—
Vehicle/Heavy Equipment Sales - Outdoor	—	—	—	—	PS	—	PS
Vehicle/Heavy Equipment Sales - Indoor	—	—	PS	PS	PS	—	PS
Entertainment/Recreation							
Amusements, Indoor	—	—	SUP	P	P	SUP	P
Amusements, Outdoor	—	—	SUP	SUP	P	—	P
Cultural or Community Facility	SUP	P	P	P	P	P	—
Meeting Facilities	—	SUP	P	P	P	P	—
Recreation Facilities, Indoor	SUP	SUP	SUP	P	P	P	P
Recreation Facilities, Outdoor	SUP	P	P	P	P	P	P
Theater, Movie	—	—	—	P	P	—	—
Theater, Live Performance	—	SUP	SUP	P	P	P	—
Manufacturing/Wholesale/Storage							
Inert Debris Storage or Disposal Facilities	—	—	—	—	—	—	PS
Junkyard	—	—	—	—	—	—	SUP

Laboratory—Medical, Analytical, Research and Development	—	—	—	—	SUP	SUP	P
Laundry, Dry Cleaning Plant	—	—	—	—	SUP	P	P
Manufacturing, Light	—	—	—	—	SUP	—	P
Manufacturing, Neighborhood	—	—	P	P	P	P	P
Manufacturing, Heavy	—	—	—	—	—	—	SUP
Media Production	—	—	P	P	P	P	P
Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	P	—	P
Mini-Warehouses	—	—	—	—	SUP	—	P
Recycling—Small Collection Facility	—	—	—	—	SUP	SUP	P
Research and Development	—	—	—	P	P	P	P
Storage—Outdoor Storage Yard as a Primary Use	—	—	—	—	SUP	—	P
Storage—Warehouse, Indoor Storage	—	—	—	—	SUP	—	P
Wholesaling and Distribution	—	—	—	—	P	—	P
Civic/Institutional							
Campground/Artist Colony/Summer Camp	SUP	SUP	SUP	—	—	SUP	—
Cemeteries	PS	PS	PS	PS	PS	PS	—
Colleges/Universities	—	—	SUP	P	P	P	—
Hospital	—	—	—	P	P	P	—
Jail	—	—	SUP	SUP	P	P	P
Public Safety Station	SUP	SUP	P	P	P	P	P
Religious Institutions	SUP	P	P	P	P	P	—
Schools—Elementary and Secondary	SUP	P	P	P	P	P	—
Schools—Vocational/Technical	SUP	P	P	P	P	P	P
Shelter	—	—	P	P	P	P	—
Infrastructure							
Wireless Telecommunication Facility—Stealth	P	P	P	P	P	P	P

Wireless Telecommunication Facility—Tower	—	—	—	—	SUP	—	PS
Utilities—Class 1 and 2	P	P	P	P	P	P	P
Utilities—Class 3	—	—	—	—	—	—	P
Miscellaneous Uses							
Adult Establishment	—	—	—	—	—	—	SUP
Outdoor Firing Range	—	—	—	—	—	—	SUP
Indoor Firing Range	—	—	—	SUP	SUP	SUP	SUP
Agriculture	P	—	—	—	P	P	P
Parking	PS	P	P	P	P	P	P
Swimming Pool—Residential Accessory Use	PS	PS	PS	PS	PS	PS	—
Swimming Pool—Primary Use	—	SUP	SUP	PS	PS	PS	—
Fences	PS	PS	PS	PS	PS	PS	PS
Human Crematories	—	—	PS	PS	PS	P	P
Temporary Uses and Structures							
Carnivals or Circus	—	—	—	—	PS	PS	PS
Farmers Market	—	—	PS	PS	PS	PS	—
Religious Meeting	PS	PS	PS	PS	PS	PS	PS
Contractor's Office and Equipment Shed	PS	PS	PS	PS	PS	PS	PS
Seasonal Structures	PS	PS	PS	PS	PS	PS	PS
Satellite Real Estate Sales Office	PS	PS	PS	PS	PS	PS	PS
Special Event	PS	PS	PS	PS	PS	PS	PS
Temporary Vendors	—	—	PS	PS	PS	—	—
Vending Pushcarts	—	—	—	PS	—	—	—
Mobile Food Vendors	—	—	PS	PS	PS	PS	PS

(a) Within NMX, DMX, and CMX districts, single family structures are permitted only as town homes or multi-family structures; on the second or higher floor of any structure where the ground floor is used for non-residential purposes; or as part of a group development, or conditional district, in which event they shall not be subject to the foregoing limitation.

(b) Manufactured homes are permitted with standards in the Manufactured Home Overlay District.

(c) Accessory rental cottage/cabins are permitted with standards in association with approved bed and breakfasts.

(d) Short-term rentals are allowable uses subject to the standards in Chapter 3.34. No permits required, per NCGS 160A-424(c).

(e) Vehicle services are permitted within institutional campuses only for the purposes of maintaining vehicles associated with the operation of the campus and for instructional classes. For example, a college may operate a maintenance shop for the campus fleet, as well as, for instructional classes. Other vehicle service operations shall not be permitted within institutional campuses.

(f) Non-residential uses within a live-work unit must be listed within Chapter 2, Section 2.2 (C. Use Matrix) 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. Non-residential enterprises and residential units within any live-work unit that is located within a General Residential District shall have a common tenant. In districts where residential building types are not permitted live-work units may be permitted within pre-existing non-conforming residential structures.

CHAPTER 3. - ADDITIONAL USE STANDARDS

3.35. – Landscaping services (GR, RMX, NMX) special use permit; (GI) permitted.

A. It is the intent of this ordinance and standards below to permit the location of certain landscaping services in residential and mixed-use zones, provided that such location does not compromise the character of the neighborhood.

B. General requirements.

1. Equipment storage shall be permitted to include man-operated or mechanical equipment or other machinery that is in operable condition. The storage of inoperable vehicles is prohibited for this use.
2. All outdoor storage shall be located in the side and/or rear yard only.
3. Equipment storage and facilities shall be screened from off-site view from adjacent properties by a Type E buffer yard.
4. Storage of odorous materials including but not limited to manure, compost, and fertilizers shall be located at least 150 feet from property lines adjacent to GR and RMX parcels. The administrator may reduce the required setback of openly stored odorous material when measures have been taken to mitigate the effect on neighboring property as determined by the administrator.
5. Site grading shall be completed to ensure that surface run-off is directed away from any, and all material storage areas.
6. Excessive noise, dust, odor, vibration or light shall not be generated to disturb the surrounding neighborhood.
7. The hours of operation for material pick-ups, delivery, and outdoor processing operations shall be limited to 7:00 A.M. to 6:00 P.M.
8. In GR districts, parcels shall be at least 2 acres in size.
9. When a special use permit is required, the Board of Adjustment may impose additional conditions that are needed to protect public health, safety and welfare or to address unique characteristics of a particular site.

19.3. - Definitions.

[The following words, terms and phrases, when used in this UDO, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Landscaping service: An operation where equipment and materials are kept, and which provides yard and garden landscaping and maintenance service, and which may include an office or other buildings and structures to store inventory, equipment, and vehicles, but shall not include a dump heap or landfill.
