

ORDINANCE NO. 2021-03

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
CHAPTER 4 – GENERAL LOT AND STRUCTURE PROVISIONS TO ALLOW PRIVATE
STREETS TO SATISFY ROAD FRONTAGE REQUIREMENTS IN THE GENERAL
RESIDENTIAL 4 ZONING DISTRICT**

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance, Chapter 4 – General Lot and Structure Provisions be amended; and,

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

OBJECTIVE 4.1: Increased efficiency of land uses to help stabilize and grow the City's tax base.

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.

and,

WHEREAS, a public hearing was conducted on Tuesday, January 19, 2021, by the Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that 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 4 is hereby amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

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

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

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

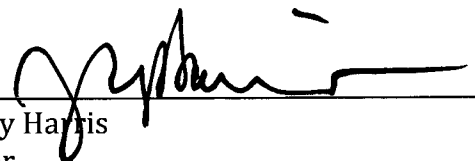
Adopted and approved upon first reading this the 25th day of January, 2021.



ATTEST:



Jill Murray, CMC
City Clerk



Jimmy Harris
Mayor

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney



4.4. - Street frontage required.

- A. A public street is any road, street, alley, or other travel lane that is under the ownership, control, and maintenance of the City of Brevard, the State of North Carolina, or the United States of America.
- B. Access, utility, service, or other easements under the ownership, control, or maintenance of City of Brevard, the State of North Carolina, or the United States of America shall not be considered public streets for the purposes of satisfying street frontage requirements.
- C. Public rights-of-way under the ownership and control of the City of Brevard, the State of North Carolina, or the United States of America, which are not open and operable as a travel lane for motorized vehicles shall not be considered public streets for the purposes of satisfying street frontage requirements, but shall be protected from encroachment in accordance with Section 4.3(C), above.
- D. All subdivisions of land (i.e., parcels, lots, tracts, or other subdivisions of land), shall directly abut and have direct frontage upon a publicly-maintained street. Street frontage shall meet the minimum requirements set forth in Chapter 2.
- E. In no case shall a new parcel, lot, tract, condominium, lot or space, or other subdivision of land be created that does not conform to the public street frontage requirements of this ordinance, except as otherwise provided herein. Private streets, rights-of-way or access easements shall not be permitted in lieu of public street frontage requirements contained herein except as allowed below
 - 1. *Residential single-family developments in General Residential – 4 (GR4) zoning districts*
 - a. Privately-maintained streets, rights-of-way, or access easements of less than 100 linear feet in length may satisfy frontage requirements for up to 3 single-family lots, provided they consist of a drivable surface of at least 16 feet in width.
 - b. Privately-maintained streets 100 linear feet or greater in length may satisfy frontage requirements for up to 8 single-family lots, provided they consist of a paved surface of at least 16 feet in width.
 - c. All such privately-maintained streets, rights-of-way, or access easements must remain adequately maintained to afford a reasonable means of ingress and egress of emergency vehicles.
- F. Exceptions to street frontage requirements: Following are standards whereby certain uses are excepted from the street frontage requirements contained herein:
 - 1. *Commercial, group developments, and developments in General Industrial zoning districts:* Subdivisions for the creation of outparcels within the foregoing developments may be allowed without frontage on a public street.
 - 2. *Residential multi-family developments:* Private streets, right-of-way, and access easements may be permitted within the foregoing developments proposing no more than four principal structures, each containing no more than four dwelling units in each structure, and for which no subdivision activity or condominium buildings or lots are proposed.
 - 3. *Condominium lots and condominium buildings:*
 - a. Condominium lots may be separated from a public street by common space, maintained by a property owner's association, that is permitted within the same phase of the same subdivision within which the condominium lot is located.
 - b. No condominium lot shall be situated more than 100 feet from a public street. This distance shall be considered a maximum distance that is in keeping with the public health and safety, which shall not be varied or extended.
 - c. Condominium lots that are separated from a public street by common space shall be serviced by a private access easement or private right-of-way that directly connects to the nearest public street. No more than four condominium lots or spaces shall be serviced by the same private access easement or right-of-way.
 - d. Private streets, right-of-way, and access easements serving condominium lots and buildings shall be no longer than 100 feet as measured from the intersection of the centerlines of the public street and the private easement or right-of-way. Parking for condominium lots not accessed by a public street shall be accessed by such private access easements or private rights-of-way.
 - e. These provisions shall only apply to subdivisions of land for the creation of condominium lots and condominium buildings, and shall not be applied to any other form of subdivision of land.
 - 4. *Pre-existing lots without adequate street frontage:*
 - a. On parcels of land that do not front upon a public street ("landlocked parcels") or that otherwise do not meet frontage requirements of this ordinance, only one "by right" use or structure, along with related accessory uses or structures, shall be. 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.

- b. 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.
 - c. The administrator may permit the establishment of a private right-of-way or access easement in order to facilitate access to pre-existing land-locked parcels. However, the provision of such private access shall not be considered satisfaction of the requirement that all lots front upon a public street.
5. *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.
 6. *Rolling services:* The point of contact for "rolling services" of the city (i.e., garbage, recycling, etc.) shall be at the public street, i.e., the intersection of the public street and private right-of-way or easement. Rolling services shall not be provided along newly created private streets, right-of-way, or access easements created after the enactment of this ordinance.
 7. *Designed and built in accordance with public street standards:* All newly created private streets, right-of-way, and access easements except those authorized under Section 4.4(F(4)), above, shall be designed and built in accordance with public street standards set forth in Chapter 13 of this ordinance.
 8. *Relation to private streets:* Buildings shall be oriented and situated in relation to private streets so that they conform to all applicable requirements for public streets, such that private streets could be accepted as public streets.
 9. *Additional requirements/conditions:* In addition to any other applicable requirements set forth in this ordinance, the approving entity may impose such conditions, including but not limited to, the provision of access easements to the City of Brevard, as are necessary to ensure the adequate provision of public services.

(Ord. No. 8-07, § 1(F, G), 5-21-07; Ord. No. 15-08, §§ 12, 13, 12-5-08)