

ORDINANCE NO. 2021-30

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
SECTIONS 3.30, 4.5, AND 19.3**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Unified Development Ordinance, Sections 3.30, 4.5, and 19.3, be amended to clarify measuring fence height and adding diagrams showing sight triangles; 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

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

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.

POLICY 4.1.I: Evaluate the City of Brevard's current design review process to streamline procedures; clarify roles, responsibilities, and authorities of the various review boards; and improve the overall quality of new development.

and,

WHEREAS, a legislative public hearing was conducted on Monday, June 21, 2021, 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:

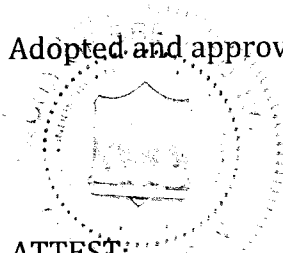
SECTION 01. Brevard City Code, Unified Development Ordinance Sections 3.30, 4.5, and 19.3 hereby be amended as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

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

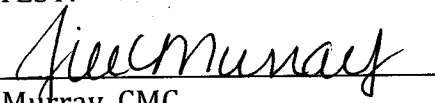
SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions 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 this the 21st day of June, 2021.



ATTEST:

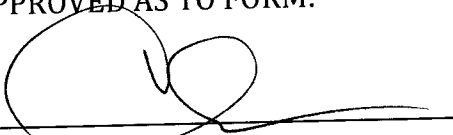


Jill Murray, CMC
City Clerk



Mac Morrow
Mayor Pro Tem

APPROVED AS TO FORM:



Mack McKeller
City Attorney

3.30. - Fences and walls (all districts) permitted with standards.

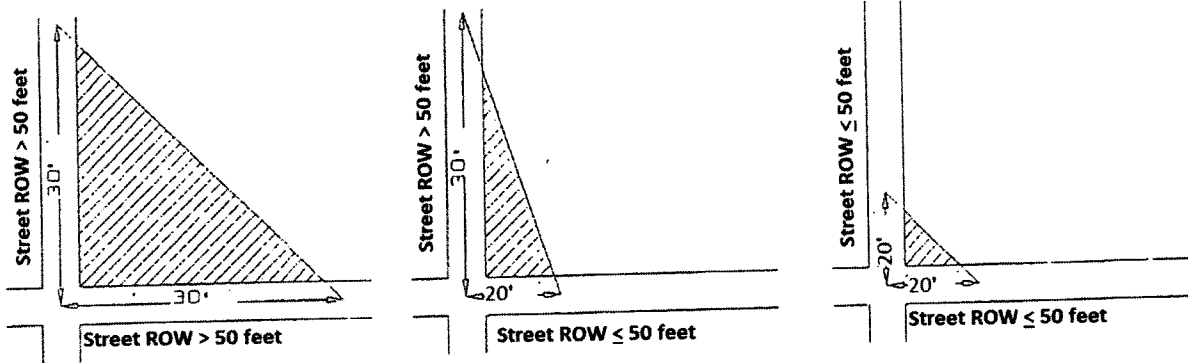
- A. All fences shall be constructed so that the best face faces outward from the parcel upon which it is constructed and towards adjacent properties. The "best face" shall generally mean the side opposite to framing members.
- B. Fences and walls shall not be placed within public utility easements or 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 height shall be measured from the side of the fence 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 shall be no greater than six feet in height before the front building line and no greater than eight feet in height in the side or rear yard.
 2. All other districts and uses. Fences or walls shall be no greater than eight feet in height behind the front building line or four feet in height before the front building line.
 3. No closed fence shall be greater than two-and-a-half feet in height when placed within the sight triangle of any intersection as specified in Section 4.5 of this ordinance. Open fences are exempt from this provision.
- D. Fence 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 yard behind the front building line.
 - (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:
 - (1) Chain link fences shall not be visible from a public right-of-way,
 - (2) 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) *Materials:*
 - (1) 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.
 - (2) 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.

(Ord. No. 2020-22, § 1(Exh. A), 10-19-20; Ord. No. 2021-30, § 1(Exh. A), 6-21-21)

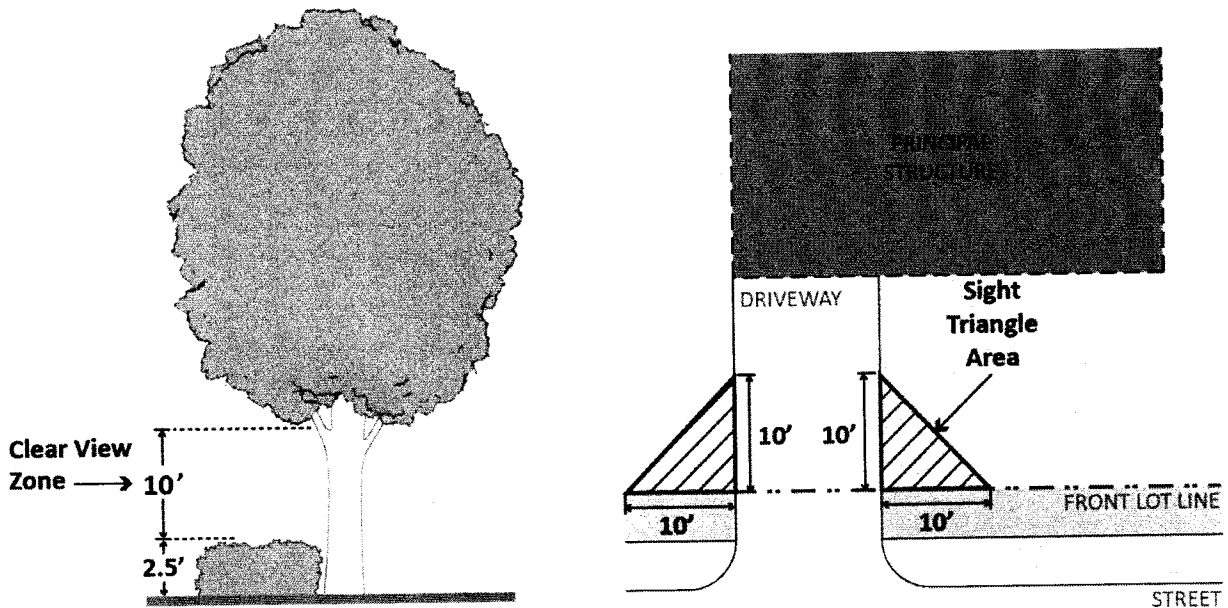
4.5. - Visibility at street intersections and driveways; sight triangle.

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.



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.



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.

(Ord. No. 2021-30, § 1(Exh. A), 6-21-21)

19.3. - Definitions.

Fence: An enclosure or barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials intended to be used as a boundary, means of protection, privacy screening, area of confinement, or retaining wall.

Fence, closed: A fence in which the openings through which clear vision is possible from one side to the other on a horizontal plane comprise 30 percent or less of the total side area of the fence.

Fence, open: A fence in which the openings through which clear vision is possible from one side to the other on a horizontal plane comprise 70 percent or more of the total side area of the fence.

Sight triangle: The area that establishes a clear line of sight for a waiting vehicle to see oncoming traffic and make turning movements into or out of a street or driveway connection safely or for traffic to see entering or waiting vehicles.

(Ord. No. 2021-30, § 1(Exh. A), 6-21-21)