



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

8/27/2024

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### Subject:

Public Hearing: Amendment to Chapter 62, Article I, Section 62-2, "Rules of construction and definitions," Brevard County Code of Ordinances, to remove a definition of "Major Transit Stop," and to add a definition of "Transit Stop."

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

Board Approval of Attached Ordinance Amendment to Chapter 62, Article I, Section 62-2, "Rules of construction and definitions," Brevard County Code of Ordinances, thereby removing a definition of "Major Transit Stop," and adding a definition of "Transit Stop."

### Summary Explanation and Background:

On March 29, 2023, the Live Local Act was signed into law by Governor DeSantis. This Act is designed to facilitate and encourage the development of affordable housing. Because the Act required the County to have a definition of "major transit stop" in its Land Development Code for the purposes of considering reduced parking requirements for affordable housing developments, the Board amended Section 62-2, Brevard County Code of Ordinances, to include this definition.

During the 2024 Legislative Session, amendments were made to the Live Local Act via Chapter 2024-188, Laws of Florida. Included in these amendments is a change of the relevant provision concerning reduced parking requirements for developments located near transit stops. The changes are as follows (strikethroughs indicate deletions, underlines indicate additions):

"A county must consider reducing parking requirements for a proposed development authorized under this subsection if the development is located within one-quarter ~~one-half~~ mile of a ~~major~~ transit stop, as defined in the county's land development code, and the ~~major~~ transit stop is accessible from the development."

Accordingly, staff is requesting the Board approve a proposed amendment to Section 62-2 to remove "major transit stop" and add a definition for "transit stop." The definition was developed in conjunction with Brevard County Transit Services Department and is based on the definition of "transit stop" found in the Florida Department of Transportation's Transit Design Handbook. FDOT's definition is as follows:

"Stop, Transit- An area where passengers wait for, board, alight, and transfer between transit vehicles. In the

case of bus, it is usually indicated by distinctive signs and by curb or pavement markings and may provide service information, shelter, seating, or any combination of these.”

Staff’s proposed definition for inclusion in the Ordinance is:

*“Transit Stop.* A site designated and approved by a public transit agency (other than that used for the transportation of children to and from school) for the purpose of an area where passengers wait for, board, alight, and transfer between transit vehicles. Such sites shall include, but not be limited to, designated Space Coast Area Transit bus stops.”

The Planning and Zoning Board reviewed the proposed ordinance amendment on August 12, 2024, and recommended approval. The Building Construction Advisory Committee reviewed the proposed ordinance on August 7, 2024, and unanimously recommended approval.

### **Clerk to the Board Instructions:**

Once ordinance is filed with the State, please return two copies to Planning & Development.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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August 28, 2024

**M E M O R A N D U M**

TO: Tad Calking, Planning and Development Director

RE: Item H.4., Public Hearing Amendment to Chapter 62, Article I, Section 62-2, "Rules of Construction and Definitions," Brevard County Code of Ordinances, to Remove a Definition of "Major Transit Stop," and to Add a Definition of "Transit Stop"

The Board of County Commissioners, in regular session on August 27, 2024, adopted Ordinance No. 24-19, amending Chapter 62, Article I, Section 62-2, "Rules of Construction and Definitions," Brevard County Code of Ordinances, thereby removing a definition of "Major Transit Stop", and adding a definition of "Transit Stop". Enclosed are two the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*for Kimberly Powell*  
Kimberly Powell, Clerk to the Board

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Encls. (2)



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

August 29, 2024

Honorable Rachel M. Sadoff  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, FL 32781-0999

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2024-19, which was filed in this office on August 29, 2024.

Sincerely,

Alexandra Leijon  
Administrative Code and Register Director

AL/wlh

ORDINANCE NO. 2024- 19

AN ORDINANCE AMENDING CHAPTER 62, ARTICLE I, SECTION 62-2, "RULES OF CONSTRUCTION AND DEFINITIONS" TO REMOVE DEFINITION OF "MAJOR TRANSIT STOP" AND ADD DEFINITION OF "TRANSIT STOP"; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, Chapter 2023-17, Laws of Florida, also referred to as the "Live Local Act," provides certain opportunities for proposed affordable housing developments; and

WHEREAS, the Live Local Act, as originally enacted, provided the County the ability to reduce parking requirements for a proposed affordable housing development under Section 125.01055, Florida Statutes, if said development was located within a specified distance of a "major transit stop" and the major transit stop was accessible from the development; and

WHEREAS, in order to implement this provision, the Brevard County Board of County Commissioners added a definition of "major transit stop" into Section 62-2, "Rules of construction and definitions," through its approval of Brevard County Ordinance 2023-28; and

WHEREAS, the legislature amended Sec. 125.01055, Fla. Stat., during the 2024 Legislative Session through passage of Chapter 2024-188, Laws of Florida, in part to strike the word "major,"; and

WHEREAS, therefore, Fla. Stat. 125.01055 now effectively requires all counties to have a definition of "transit stop," and Brevard County seeks to fully comply and implement all such requirements in order to promote affordable housing.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strike-through indicates deletions.~~

**SECTION 1.** Chapter 62 Article I, Section 62-2, "Rules of construction and definitions," Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

In the construction of this chapter, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the board of county commissioners. The rules of constructions and definitions set out in this section shall not be applied to any section of this chapter which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Officially filed with the Secretary of State on August 29, 2024.

*Generally.* All general provisions, terms, phrases and expressions contained in this chapter shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out. Terms used in this chapter, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for such terms. In the interpretation and application of any provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this chapter imposes greater restrictions upon the subject matter than the general provision imposed by this chapter, the provision imposing the greater restriction or regulation shall be deemed to be controlling. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, chart, summary table or illustrative table, the text shall control.

*Clerk of the board of county commissioners.* "Clerk of the board of county commissioners" means the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.

State law reference(s)—Clerk of circuit court to be clerk to board of county commissioners, F.S. § 125.17.

*Clerk of the circuit court and county clerk.* "Clerk of the circuit court" and "county clerk" mean the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.

*Code.* "Code" means the Code of Ordinances of Brevard County, Florida, as designated in section 1-1.

*Computation of time.* The time within which an act is to be done shall be computed as provided in the Florida Rules of Civil Procedure (RCP).

*Conjunctions.* Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:

- (1) *And* indicates that all the connected items, conditions, provisions or events shall apply.
- (2) *Or* indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
- (3) *Either ... or* indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

*County.* "County" means Brevard County, Florida.

*Delegation of authority.* Whenever a provision appears requiring the head of a department or some other county officer or county employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

*F.A.C.* "F.A.C." means the Florida Administrative Code, as amended.

*F.S.* "F.S." means the latest edition of Florida Statutes, as amended.

*Gender.* Words importing the masculine gender shall include the feminine and neuter.

*Includes and including.* "Include" and "including" shall not be construed to limit a term to the specified examples, but are intended to extend the meaning of the term to all instances or circumstances of a like kind or character.

*Joint authority.* All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

*Keeper and proprietor.* "Keeper" and "proprietor" mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

~~*Major Transit Stop.* A "major transit stop" means all bus stops operated by Brevard County Transit Services, and any other transit stop or station located at the meeting point of two or more transit routes or lines, or of different modes of transportation.~~

*May.* "May" is to be construed as being permissive.

*Month.* "Month" means a calendar month.

*Nontechnical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person or thing. The use of the plural number shall be deemed to include any single person or thing.

*Oath.* "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Officer and official.* Whenever reference is made to any officer or official, the reference will be taken to be to such officer or official of Brevard County, Florida.

*Ordinance.* "Ordinance" means any ordinance of Brevard County and all amendments thereto.

*Owner.* "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

*Person.* "Person" shall extend and be applied to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.

*Property.* "Property" includes real and personal property.

*Shall.* "Shall" is to be construed as being mandatory.

*Sidewalk.* "Sidewalk" means any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

*State.* "State" means the State of Florida.

*Street.* "Street" means any street, avenue, boulevard, road, alley, viaduct or other public highway in the county.

*Tenant and occupant.* "Tenant" and "occupant," as applied to a building or land, include any person holding a written or oral lease of or occupying the whole or part of such building or land, either alone or with others.

*Transit Stop.* A site designated and approved by a public transit agency (other than that used for the transportation of children to and from school) for the purpose of an area where passengers wait for, board, alight, and transfer between transit vehicles. Such sites shall include, but not be limited to, designated Space Coast Area Transit bus stops.

*Week.* "Week" means seven days.

*Written and in writing.* "Written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

*Year.* "Year" means a calendar year, unless a fiscal year is indicated.

**SECTION 2.** Conflicting Provisions. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

**SECTION 3.** Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**SECTION 4.** Area Encompassed. This Ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

**SECTION 5.** Effective Date. A certified copy of this Ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing as required by law.



**SECTION 6.** Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED, AND ADOPTED, in regular session, this 27th Day of August, 2024.

Attest:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Rachel M. Sadoff, Clerk of Court

( S E A L )



Jason Steele, Chair  
(as approved by the Board on August 27, 2024)