



AGENDA
BREVARD CITY COUNCIL - REGULAR MEETING
Tuesday, January 16, 2024 - 5:30 PM
City Council Chambers

A. Welcome and Call to Order

B. Invocation

Rev. Bob Renjilian, Unitarian Universalists of Transylvania County

C. Pledge of Allegiance

D. Certification of Quorum

E. Approval of Agenda

F. Approval of Minutes

1. December 18, 2023 Regular Meeting

G. Public Comments

H. Certificates / Awards / Recognition

I. Special Presentation(s)

1. City of Brevard Annual Independent Audit for Year Ending June 30, 2023

J. Public Hearing(s)

1. Additional Proposed Rezoning / Expansion of Downtown Overlay District

K. Consent and Information

1. Tax Settlement Report - December, 2023
2. Finance Report as of December 31, 2023
3. City Council Housing Committee Meeting Minutes - November 14, 2023
4. City Council Public Works and Utilities Committee Meeting Minutes - December 6, 2023

L. Unfinished Business

1. Proposed Amendment to City of Brevard Code of Ordinances Chapter 14, Section 14-32 - Tethering of Animals

M. New Business

1. City of Brevard Legislative Requests
2. Grant Resolution - Norton Creek Streambank

N. Remarks / Future Agenda Considerations

O. Closed Session(s)

P. Adjourn

Agenda Posted, Website, Sunshine List (January 11, 2024)
D. Hodsdon, City Clerk

To review Agenda materials, go to the City's website www.cityofbrevard.com. Select "Your Government" tab followed by "Agenda Packets" tab. Agenda packet materials are posted on Thursday afternoon prior to Council's Monday meeting.

**MINUTES
BREVARD CITY COUNCIL
Regular Meeting
December 18, 2023 – 5:30 PM**

The Brevard City Council met in regular session on Monday, December 18, 2023, at 5:30 p.m. in the Council Chambers of City Hall with Mayor Copelof presiding.

Present – Mayor Maureen Copelof, Mayor Pro Tem Gary Daniel, and Council Members Mac Morrow, Aaron Baker, and Lauren Wise

Absent – Council Member Pamela Holder

Staff Present – City Attorney Mack McKeller, City Manager Wilson Hooper, City Clerk Denise Hodsdon, Assistant City Manager/Finance Director Dean Luebbe, Assistant to the City Manager Alex Shepherd, Senior Planner Emily Brewer, Human Resources Director Kelley Craig, Communications Coordinator Becky McCann, Police Chief Tom Jordan, Community Center Director Tyree Griffin, Acting Public Works Director Wesley Shook, Wastewater Treatment Plant ORC Emory Owen, and Water Treatment Plant ORC Dennis Richardson

Guests/Presenters – Juan Mullerat and Dylan Gehring, Plusurbia

Press – Jon Rich, Transylvania Times, and Dan DeWitt, Brevard NewsBeat

A. Welcome and Call to Order – Mayor Copelof called the meeting to order and welcomed those present.

B. Invocation – Mayor Copelof offered an invocation.

C. Pledge of Allegiance – Mayor Copelof led the pledge of allegiance.

D. Certification of Quorum – City Clerk Denise Hodsdon certified a quorum present. Mayor Copelof noted that Council Member Pamela Holder was absent and asked for a motion to excuse her. Mr. Daniel so moved, seconded by Mr. Wise. The motion carried unanimously.

E. Approval of Agenda – Mr. Hooper advised that Item M-1 Lease of Brevard Davidson River Presbyterian Church Property for LMI Housing was not yet ready for discussion and should be removed from the agenda. He also advised that an additional closed session needed to be added to discuss a property acquisition matter. Mr. Baker requested that Item K-1 Times Arcade Alley Project – Budget Amendment No. 24-02 be pulled from the Consent Agenda and added to New Business as Item M-1. Mr. Daniel moved, seconded by Mr. Baker to approve the agenda as amended. The motion carried unanimously.

F. Approval of Minutes

F.1 – December 4, 2023 Organizational Meeting – Mr. Baker moved, seconded by Mr. Morrow to approve the minutes of the December 4, 2023 Organizational Meeting as presented. The motion carried unanimously.

G. Public Comments

Joellen Risacher said I am here to draw attention to an enormous opportunity that was provided recently by our federal government. It is the Inflation Reduction Act (IRA). There are many facets and components of this enormous bill and several of them are focused on local governments to reduce pollution and take climate action and protection. It includes electrification upgrades of buildings and fleets. Imagine all city

vehicles being electric, including the big polluting trucks that we need to use right now. The results of accessing these funds could be great savings of tax dollars, not to mention no small thing, the health benefits to the community. I knew very little about this until a month or two ago I went to a meeting of an organization called the Citizens Climate Lobby (CCL). It is a non-partisan national organization whose focus is to help local governments access and apply for these types of funds. They had enormous resources and data available for your staff and for you to access. It is available to you now by going to their website and see what I mean about this. A significant portion of the IRA is focused on underserved communities and consumer education. This is really a wonderful piece of legislation and could be a tremendous benefit to our community. The City Council will likely need a proclamation or resolution as an initial step. There are plenty of examples available for all these documents and I want to note that Chapel Hill and Asheville have already realized big savings from accessing these funds and putting them into action. Please I ask you, if you can, to act as quickly as possible on this.

Clem Swift said I am here to repeat a lot of what Joellen said. My main hope is to encourage the City Council to consider passing, more specifically, a climate action plan in 2024. My understanding of the situation is that there are pretty generous funding opportunities out there, mainly through the Inflation Reduction Act, for local governments specifically to reduce their own greenhouse gas emissions and encourage and support their communities in doing so. That federal money may not last too much longer. I know there are a few deadlines that have already passed, so sooner is probably better. My understanding of what this would look like is that the City Council would start by passing a resolution to create a climate action plan. That would be the first step and then at that point would have to decide who is going to make it, which there's options; could be a staff member assigned to it, could hire a consultant to do it, or recruit a volunteer board to write the climate action plan. What that group or individual would do would be to figure out where the best opportunities are; of that federal funding what is really going to help Brevard and how best to go about that. I heard that Hendersonville and Waynesville are both in that process of creating climate action plans and I would encourage you all to consider doing the same.

Josh Fisher said I came here tonight to publicly apologize to the Chief of Police of Brevard and to the City Council for the speech I made the last time I was here. I also want to publicly apologize to the Chief for an incident that happened about 1½ to 2 years ago. About 1½ month ago he and I had a discussion where I apologized for my conduct that could be unbecoming to him. After our discussion I realized that he is actually a great person and I do think he is important to the City of Brevard and I think that it's on the right track. He and I discussed some things that I didn't know and I explained to him where I was coming from and I think we are on a great mutual understanding now. So, I just wanted to give him a public apology in front of you guys as well.

Connie Chase said I am speaking to you tonight because I also have a real concern about what's happening to our environment. 2023 is the warmest year in recorded history and in fact, caps 8 years of increasingly higher average temperatures. Climate scientists are clear about the danger of continued warming and that the cause is too much carbon dioxide in the air from the burning of fossil fuels. Individuals, cities, and the entire country need to transition away from them and I would like to see Brevard participate by devising a city-wide climate action plan as many other cities have already done. Like was mentioned, both Waynesville and Hendersonville are currently working on theirs at this time. If properly implemented it can save the city money and help in the needed universal effort to reduce carbon emissions. Also, creating and implementing an action plan will signal to many tourists and visitors that come here that we are dedicated to preserving our local environment, which attracts them in the first place. I am just one person and we are just one town, but I don't want my grandkids to suffer the effects of the climate crisis and wonder why we didn't care, and when we knew about it, why we didn't even try. I don't want them to wonder why we turned a blind eye. So please consider preparing and passing a resolution that

enables an action plan in one of the January meetings so we can begin to make progress on the change and set an example of what individual citizens can accomplish.

Desiree Waterson said I am here to urge the Brevard city to consider a climate change initiative and to apply for the energy-saving grant. I understand that the city is focusing on affordable housing, which is a project that I definitely very much believe in and support wholeheartedly. However, I do believe that avoiding making plans to address the climate crisis is detrimental to being able to support the affordable housing project. We're dealing with the effects of the climate crisis which we know we are currently in right now and that's really expensive. We have droughts and floods and storms, etc., and those are only getting worse, which means they'll only get more expensive and that will only make it harder to be able to realize the goal of affordable housing. I understand that a climate change initiative has been avoided in the past, or has been hesitant to plan for, and I know a couple of the reasons given were that Brevard city is small and that there is little time to focus on that. But, I would posit that because Brevard city is small, because there is little time, those are the exact reasons why we should in fact focus on a climate change initiative and that it is actually vital. This energy-saving grant is actually the most perfect and important opportunity for Brevard city to take advantage of because we're small and because there's little time. This opportunity won't last long. I know that there's only a couple more years before I believe two of them will run out and we won't have that opportunity anymore. So my concern is that Brevard city will come to realize that a climate change initiative is in fact very important, that we should do it, but then the opportunity for a grant will be gone and it will be too late. To be completely open and frank with you, it's starting to feel a little bit like we're in our own version of the movie "Don't Look Up". I think a grant means we'll save energy, which means saving money, which means making affordable housing all the more viable and possible. Brevard city has every benefit to gain from this energy-saving grant. I thank you for taking this matter into consideration very seriously and considering applying for the grant.

H. Certificates/Awards/Recognition

H-1. Proclamation 2023-23 Kwanzaa Week – Mayor Copelof read the proclamation aloud and presented it to Tommy Kilgore, President of the Local Chapter of NAACP.

Proclamation No. 2023-23 Kwanzaa Week Proclamation

WHEREAS, Kwanzaa is an observance week annually celebrated from December 26 to January 1 celebrating African American family, heritage, community contributions and culture throughout the world. The name 'Kwanzaa' translates to "first fruits of the harvest" in the Swahili; and

WHEREAS, Kwanzaa was created by Dr. Maulana Karenga, professor and chairman of Africana Studies at California State University. Since 1966, Kwanzaa has been celebrated for a week with the lighting of a 7 prong candle holder, called a *Kinara*. Kwanzaa is organized with proclamations by mayors and city councils, festivities and events to recognize the significance of values and core principles. The three official colors are black, red and green which are symbolic and representative of Kwanzaa. The green color represents the hope for a better future, the red represents the struggle and barriers throughout history and the single black candle which is placed in the center represents African people; and

WHEREAS, the 7 core principles include Unity, Self-determination, Collective Work and Responsibility, Cooperative Economics, Purpose, Creativity and Faith. Throughout the week there are fundamental activities of the ingathering of people, spiritual worship, commemoration of the past and commitments to positively build proactively for future generations; and

WHEREAS, the City of Brevard, North Carolina, honors cultural diversity, equity and inclusion for all to enjoy. This city upholds a tradition to enrich the community with values, proactively preserve African American historical preservation and welcome all residents to participate in recognizing Kwanzaa as an opportunity to continue to unite; and

WHEREAS, this city will continue to successfully build strong foundations, collectively embracing cultural diversity that empowers people of all faiths, ethnic backgrounds and focus on aspiring towards the future that educates and respects cultural diversity. Diversity strengthens our city socially, economically and improves the quality of life for all residents.

NOW, THEREFORE, I, Maureen Copelof, Mayor of the City of Brevard, North Carolina, do hereby proclaim December 26, 2023 to January 1, 2024, as **KWANZAA WEEK** in the City of Brevard and commend its observance to all citizens.

Signed this 18th day of December, 2023.

I. Special Presentations

I-1. Plusurbia, a Consulting Firm for New Architectural Standards – Emily Brewer explained that the Unified Development Ordinance is the City’s primary regulatory document that guides all development and land use within the city’s planning jurisdiction. While many chapters of the UDO have seen significant changes in the past several years, Chapter 5 – Building Types and Architectural Standards has remained largely untouched since it was originally adopted in 2006. Updating the city’s architectural and building design standards particularly, using a more form-based approach is mentioned numerous times in the Comprehensive Land Use Plan adopted in March of this year. Ensuring architectural standards codify the appropriate building forms and features is an expertise that is outside the skill set of the Planning Department Staff. As a result, the Planning Department issued a request for qualifications seeking proposals from qualified consultants to assist the City in updating the existing architectural standards of the UDO. Three responses were received and Staff interviewed the project team from each firm and ultimately selected Plusurbia, an urban planning and architectural design firm, for the project. Ms. Brewer added that in the FY23-24 budget, the Planning Department’s Professional Services budget included \$75,000 specifically earmarked for implementation of the Comprehensive Land Use Plan. The architectural standards update is expected to be done in two phases. The first phase would be allocated as part of this fiscal year and would cost approximately \$68,500. A second phase of the project would be initiated next fiscal year at a cost of \$56,000; the Planning Department would include this in their budget request for FY24-25. She introduced Juan Mullerat and Dylan Gehring of Plusurbia and noted that following their presentation, Staff is requesting that Council adopt a resolution authorizing the City Manager to enter into a two-phase contract with Plusurbia to draft the new architectural standards.

Juan Mullerat gave a PowerPoint presentation (copy on file in City Clerk’s office) about their firm, what they do and what the City can expect during the two phases of the project. He explained that Stage 1 will include:

- Visits to Brevard and an overview of regulations
- Analysis of everything that is existing, not just the code, but also current buildings that are character-rich
- Extensive public engagement, both in person and online, with plenty of time for stakeholders and residents to opine
- Refine and create building types based on the public engagement
- Prepare visual report

Stage 2 will include codifying the existing and proposed typologies and presentation to Planning Board and Council.

Mr. Daniel moved, seconded by Mr. Baker to proceed with the contract with Plusurbia as recommended. Following questions and comments, the motion carried unanimously.

RESOLUTION 2023-57

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE A TWO-PART CONTRACT WITH PLUSURBIA, INC., A PLANNING DESIGN CONSULTANT COMMISSIONED TO DRAFT UPDATES TO THE CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE, CHAPTER 5 – BUILDING TYPES AND ARCHITECTURAL STANDARDS.

WHEREAS, the 2030 Comprehensive Land Use Plan emphasizes new architectural standards with focus areas that aim to preserve high quality design and improve on other areas of the built environment; and

WHEREAS, architectural standards should consider form-based code for Downtown that supports a human-scaled, pedestrian-friendly environment which preserves and replicates buildings and structures demonstrating aesthetically pleasing elements or historical significance; and

WHEREAS, the architectural standards should help to establish or expand the standards in existing zoning overlay districts for the Asheville Highway Corridor and Pisgah Forest Area to establish stricter standards and improve multimodal safety and convenience when accessing places for goods, services, housing, and employment through a predictable pattern of development and architectural design; and

WHEREAS, the corridor should accommodate a variety of residential and nonresidential uses in addition to highway-oriented commercial uses which are important gateways to the City and the Pisgah National Forest, and aesthetic considerations should be included into overlay district standards and form-based elements may include building form, site access requirements, parking location or design, block structure, frontage, and public space requirements; and

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

Section 1. Plusurbia, Incorporated is a planning design firm with offices in Greenville, SC; Washington DC; Miami, FL; and San Juan, Puerto Rico, and have been selected to study the City's built environment and draft new architectural standards for the City as recommended in the 2030 Comprehensive Land Use Plan.

Section 2. The City Manager, is authorized and directed to sign a multi-phase contract with Plusurbia, Incorporated.

Section 3. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 18th day of December 2023.

J. Public Hearing(s)

J-1. Proposed Text Amendment to City of Brevard Code of Ordinances Chapter 14, Section 14-32 - Tethering of Animals – Chief Jordan explained that this was brought to the Public Safety Committee by a resident who was concerned about the tethering of dogs in her neighborhood. In reviewing the city's Code governing the treatment of animals and the city's legal enforcement authorities, Staff noted that there was no language about tethering of animals. The Public Safety Committee asked Staff to update the language of the code and at its November 27, 2023 meeting, the committee approved the proposal and forwarded it to full Council. Chief Jordan explained that when looking at animal control ordinances, especially in cruelty to animals, we have to understand that one-size doesn't fit all. Each incident that we investigate is different so there is not a tried and true formula. We need to have language that would give latitude to our Animal Services Officer to evaluate the totality of the circumstances and the conditions the animal is in; whether the animal has access to food, water, shelter and whether there is enough lead for the animal to move around and exercise. The new language adds tethering as an act that can be regulated by the city, and gives examples of proper and improper tethering. Other changes include clarifying that the Police Department's Code Enforcement Officer is the city's designated enforcement official for these provisions, and that the Chief of Police has authority to issue permits for the temporary keeping of goats and sheep.

Mayor Copelof opened the public hearing at 6:23 PM.

Public Hearing Public Participation – Connie Miels-Perry said I haven't seen the final wording but I have taken it for granted that there is going to be some kind of measure of tethering that is going to be applied to this ordinance. I am in favor of the Council approving the changes to our city ordinance regarding tethering of animals. I think it is important that the City Council pass these changes because the current city ordinance, although it reads with good intentions, does not clearly define how an animal, if necessarily tethered, can be so humanely and safely. Since the current ordinance does not provide specific guidelines for tethering, it leaves the length, type of material used, type of collar, weight of the tether, and hardware attachments up for interpretation on the part of the pet owner and it makes the animal control officer's job

that much more difficult to enforce. If an animal is on a short tether, tied to an inanimate object with an inappropriate collar that could be painful for the animal, then the animal is not able to move freely, possibly cannot reach its shelter when needed, is forced to use its place of rest as its bathroom, and is in danger of harming itself with entanglement. We would not be the first city to address tethering. I think it is important to note that many cities and counties in North Carolina have specific ordinances referencing tethering. In their ordinances there are specific lengths of the tether and the kind of material it is to be made of, the type of hardware that the tether is attached to so that it is safe for the animal, and the type of collar or harness that is acceptable. This would mean the City of Brevard would be following good practices that have already been established in our state of North Carolina. I think it is a great first step toward adopting more humane practices for animals that are restricted to outdoor living.

Public Hearing Closed – Mayor Copelof closed the hearing at 6:25 PM.

K. Consent and Information - Consent Agenda items are considered routine and are enacted by one motion. Mayor Copelof read aloud the items listed and asked for a motion to approve the consent agenda. Mr. Morrow moved, seconded by Mr. Baker to approve the consent agenda. The motion carried unanimously.

K-2. Tax Settlement Report – November, 2023

K-3. Amendment to City Attorney Employment Agreement

RESOLUTION NO. 2023-58

RESOLUTION AMENDING CITY ATTORNEY EMPLOYMENT AGREEMENT

WHEREAS, the City named Mack McKeller City Attorney in April 2021;

WHEREAS, at the time of his appointment Mr. McKeller was employed by Carr, Blackwell, and Associations P.C.;

WHEREAS, as of January 1, 2024 Mr. McKeller will be employed by McKeller Wall P.C.;

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

Mayor Maureen Copelof is authorized to execute an amendment to the City Attorney employment agreement reflecting the change described above. No other changes are necessary at this time.

Approved and adopted this 18th day of December, 2023.

K-4. Council Public Safety Committee Minutes – September 14, 2023

K-5. Council Finance, Human Resources, and Citizen Appointment Committee Minutes – September 24, 2023

K-6. Council Public Works and Utilities Committee Minutes – October 4, 2023

K-7. Council Public Safety Committee Minutes – October 23, 2023

K-8. Rosenwald Community Advisory Board Minutes – October 26, 2023

K-9. Council Public Works and Utilities Committee Minutes – November 21, 2023

L. Unfinished Business

L-1. Proposed Text Amendment to the City of Brevard Unified Development Ordinance Chapters 2, 3, 10 & 19 - Extraction Uses – Emily Brewer

recalled that Council held a public hearing on this proposed amendment at its November 20th meeting. She explained that in fielding inquiries during day-to-day administration of the UDO, Planning Staff realized that there is no land use in the use matrix for mines, quarries, or other similar uses. “Extractive Industries” include any businesses that excavate and remove rock, stone, ore, soil, gravel, sand, etc. from the surface or subsurface. This amendment adds extractive uses to the UDO in several places: the use matrix in Chapter 2; the use standards in Chapter 3; the parking standards in Chapter 10; and establishes the use definitions in Chapter 19. Ensuring the use matrix is robust and does not have missing land uses is a general best practice for zoning ordinances. The Building Brevard Comprehensive Land Use Plan highlights the importance of maintaining clear and understandable planning documents and making sure that they are approachable and user friendly. The Planning Board discussed this amendment at their October meeting and unanimously recommended in favor of approval. Mr. Morrow moved, seconded by Mr. Daniel to approve the amendment as presented. The motion carried unanimously.

ORDINANCE NO. 2023-60

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE:
CHAPTER 2 – DISTRICT PROVISIONS, CHAPTER 3 – USE DEFINITIONS AND
STANDARDS, CHAPTER 10 – PARKING, AND CHAPTER 19 – DEFINITIONS
TO CREATE THE EXTRACTIVE INDUSTRIES LAND USE**

WHEREAS, the City of Brevard Planning Board has recommended that the Brevard City Code, Unified Development Ordinance be amended; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is consistent with the following adopted plans and policies:

Building Brevard 2030 Comprehensive Land Use Plan

***LUH-19:** Enhance communication of land use planning efforts, policy development, approvals and processes.*

and,

WHEREAS, a public hearing was conducted on Monday, November 20, 2023, 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 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 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 this the 18th day of December 2023.

L-2. Proposed Text Amendment to City of Brevard Unified Development Ordinance, Chapters 2, 4, 5, 17 and 19 - Building Line Revisions – Emily Brewer explained that this staff-initiated text amendment continues to clarify the ordinance and the definitions that we use every day. Building lines and yards are used to measure multiple different standards in the UDO, including fence height, placement of structures, amongst many other things. This text amendment clarifies those definitions, adds illustrative diagrams that improve the usability of our document and since the public hearing on November 20th, Staff revised the illustrations based on the comments

received. Planning Board heard this matter at their October meeting and unanimously recommended in favor of adoption. Mr. Morrow moved, seconded by Mr. Baker to approve the amendment as presented. The motion carried unanimously.

ORDINANCE NO. 2023-61

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE CHAPTER 2, CHAPTER 4, CHAPTER 5, CHAPTER 17, AND CHAPTER 19

WHEREAS, the City of Brevard Planning Board has recommended that Brevard City Code, Unified Development Ordinance Chapter 2 – District Provisions, District 4 – General Lot and Structure Provisions, District 5 – Building Types and Architectural Standards, Chapter 17 – Development Plan Requirements, and Chapter 19 – Definitions to clarify the definitions and applicability of building lines and yards for zoning purposes; 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 Plans:

Building Brevard 2030

- **GOAL 2:** *Encourage a development pattern that respects Brevard’s sense of place and prioritizes livable communities.*
- **LUH-19:** *Enhance communication of land use planning efforts, policy development, approvals, and processes.*

and,

WHEREAS, a public hearing was conducted on Monday, November 20, 2023, 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 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 18th day of December 2023.

M. New Business.

M-1. (K-1). Times Arcade Alley Project - Budget Amendment No. 24-02 – Mr. Baker noted that Council only recently passed this and asked for more information on what caused the increase. Assistant City Manager/Finance Director Dean Luebke explained that the original project ordinance was passed for \$1,082,000. The City received two bids for this project with the low base bid being \$1,011,000. In November Council voted to add some alternatives to the bid in the amount of \$59,000, there are engineering costs of \$75,000, and there is a 5% contingency built into the project in the amount of \$53,000. Motion by Mr. Baker, seconded by Mr. Wise to adopt the project amendment for the Times Arcade Alley Improvement Project. The motion carried unanimously.

ORDINANCE NO. 2023-58
AN ORDINANCE AMENDING THE FY2023-2024 BUDGET.
BUDGET AMENDMENT NUMBER 24-02

SUBJECT: Budget Amendment to transfer \$53,000 from the General Fund to the Times Arcade Alley Improvement Project.

AGENDA INFORMATION

Agenda Location:	Consent
Department:	Finance
Contact:	Dean Luebbe, Assistant City Manager and Finance Director

BRIEF SUMMARY: Recent changes to the Times Arcade Alley Improvement Project have increased costs from the original budget of \$1,082,000 (approved on August 21, 2023, Project Ordinance 2023-35) to \$1,207,000). The Project Budget will be increased by \$125,000, (\$1,207,000 less \$1,082,000). \$40,000 of this amount will come from fund balance of the Downtown Masterplan Fund. \$32,000 is being reimbursed to the City from a property owner in the Times Arcade Alley, for waterproofing and other improvements related to the project. The remaining \$53,000 will be transferred from the General Fund, as the City has cost savings in the Public Works Administration department due to vacancies. It should be noted that this project has \$53,553 of contingency budgeted into the overall project cost, so that if the project stays on budget, the \$53,000 transfer could be returned to the General Fund

MOTION FOR CONSIDERATION: To approve Budget Amendment 24-02 as submitted, increasing the budget in expenditure account:

10-6600-9265 (Transfer to Times Arcade Alley Project)	\$53,000
---	----------

And decreasing the budget in the expenditure account:

10-5450-0200 (Salaries - Regular)	\$53,000
-----------------------------------	----------

ATTACHMENTS: None

MANAGER'S RECOMMENDATION: Adopt as presented

Approved and adopted this 18th day of December, 2023.

ORDINANCE NO. 2023-59
CAPITAL PROJECT ORDINANCE TO AMEND ORDINANCE
NO. 2023-35, TIMES ARCADE ALLEY IMPROVEMENT PROJECT

BE IT ORDAINED by the City Council of the City of Brevard, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1: The budgeted expenditures and revenues listed under the ordinance 2023-35 will be increased from \$1,082,000 to \$1,207,000. This increase will allow the City to complete needed stormwater repairs in the Times Arcade Alley.

Funding will come from \$40,000 of fund balance remaining in the Downtown Masterplan Fund, and \$32,000 of reimbursement from a property owner, and a \$53,000 transfer from the General Fund. The City has received two grants which total \$950,000 to fund the large majority of this project.

Section 2: The Project will construct new publicly owned stormwater infrastructure in the Times Arcade Alley to capture runoff from rooftops and street surfaces. All of the existing asphalt will be removed from the alley, two curb inlets and storm drainpipes will be added to the alley's parking area, which will flow into a new 18" storm drainpipe installed through the length of the alley. Six trench drains will also be added at intervals through the alley to capture and convey stormwater. The alley and disturbed parking areas will be resurfaced. The new infrastructure will handle the runoff from a 25-year storm (7.69"/24 hours), which will significantly mitigate flooding in the alley and on Main Street and Jordan Street that receive the alley's runoff. The project is designed and ready to be implemented

Section 3: The following amounts are appropriated for the project:

Account Number	Account Name	Budget Amount
83-4900-4550	Times Arcade Alley	\$1,082,000
83-4990-4550	Times Arcade Alley	\$72,000
83-4990-4560	Times Arcade Contingency	\$53,000
TOTAL PROJECT APPROPRIATION		\$1,207,000

Section 4: The following revenues are anticipated to be available for project expenses:

Account Number	Account Name	Budget Amount
83-3750-0230	ARPA Stormwater Grant	\$700,000
83-3750-0240	Golden Leaf Grant	\$250,000
83-3020-0150	Transfer from General Fund	\$132,000
83-3750-0250	Reimbursement	\$32,000
83-3990-0000	Fund Balance - Fund 83	\$40,000
83-3020-0200	Transfer from General Fund	\$53,000
TOTAL PROJECT REVENUE		\$1,207,000

Section 5: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 6: Funds may be advanced from the General Fund or from any Enterprise Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 7: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 8: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 9: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Brevard, North Carolina, on this 18th day of December, 2023.

N. Remarks/Future Agenda Considerations.

Mr. Wise said thanks to everyone for being here. I love to see public engagement; it’s exciting. I want to wish everyone Happy Holidays and I am very excited about moving forward in the future.

Mr. Morrow said “ditto.”

Mr. Daniel noted that we have been asked to cancel the January 2nd meeting as we don’t have any business items and there is very little likelihood of incurring any business before then. Mr. Daniel moved, seconded by Mr. Wise, to cancel the January 2nd meeting. The motion carried unanimously.

Mr. Daniel added that he found the conversation on the climate action plan interesting and he would like to hear the City Manager’s thoughts on that.

Mr. Baker echoed that and said I am interested in that as well. I know that the city has a lot going on and I was thinking through all the committees that we have right now and which one might be the appropriate one to tackle something like that. I’m not thinking of a specific committee where it would fit perfectly, so I am interested to hear what we might do to tackle that in the future. We are having a ribbon cutting for the newest section of the Estatoe Trail which is open now between Silversteen and Rosman Highway. It will be on Wednesday at 4:15 p.m. right by the Tannery Skate Park and the

Community Garden. Please come out and check it out; it's beautiful. I see people walking on it all day long and it's great to see it being used already. I have mentioned this in the past, but I have been personally interested in some of the bigger storefronts that we have in town that remain vacant and I have had some conversations with the City Attorney on options that the City might have for some of those storefronts. I am thinking specifically of the former K-Mart building and the former BI-LO building and they both happen to be owned by the same entity. I pass them often, as everyone does, and think about what a shame it is that in such a vibrant city like ours and with the city government doing so much and so much activity with building going on that those stores remain empty with giant unused parking lots. Since it's the season of giving and we're reaching the end of the year I just want to say what a gift it would be if the entity that owns those buildings would move forward on using them for something good in the future. I also wish everybody Happy Holidays and see everybody in the new year.

Attorney McKeller wished everybody a Merry Christmas and reminded Council that we need to have a closed session for a pending litigation matter and a second closed session for property acquisition.

Ms. Hodsdon wished everybody Happy Holidays.

Mr. Hooper said I also wish everyone Happy Holidays, particularly my colleagues who picked up the slack for me the last few weeks as I have been dealing with some health issues in my family. Thank you all for doing that and thank you Council for your patience with me during that time.

Mayor Copelof said I too wish everybody a joy-filled holiday season. I want to thank our City Staff for everything that they have done throughout this past year. You can see our very last Council meeting of the year, six days before Christmas, we're still working hard and we are still accomplishing so much. We are reviewing standards, we are updating our UDO, we are taking care of animals, we are looking how the architecture in this city should really go in the future so that we grow in a manner that is consistent with the vision that our community has. I am so proud of all that we have accomplished in 2023 and that is thanks to the dedication, hard work and professionalism of the people that make up the City of Brevard. It is also thanks to all of our partner organizations, because nobody accomplishes things alone. It is team work; it is collaboration; it is all of the non-profits that stand with us as we try to build a better community; it is all of our for-profit companies; it is our downtown businesses; it is all of us that are part of the Brevard family that, working together, we have moved forward so much this year. I am so excited about 2024 because I know we are going to tackle a lot of the issues in front of us and we are going to do it with that same perseverance and professionalism, and we are going to make progress in many, many of these areas. I hope everybody will take care of one another and look out for your neighbors; not everybody has family and not everybody has a life full of joy. For those of us who have been given so much, please reach out to those that might not have so much, that might be lonely or alone, because we are all neighbors and that is what makes this community so very special. May your holiday be joy-filled.

N. Closed Session

Closed Session #1 – At 6:46 p.m. Mr. Baker moved, seconded by Mr. Wise to enter into closed session to discuss a pending litigation matter City of Brevard et al. vs. HCA et al. in the Western District of North Carolina United States District Court and to clear Council Chambers. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper and City Clerk Denise Hodsdon.

Council Returned to Regular Session – at 7:09 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

Closed Session #2 – At 7:09 p.m. Mr. Baker moved, seconded by Mr. Daniel to enter into closed session to discuss a property acquisition matter. The motion carried unanimously. Authorized to remain for the closed session with Council and the Attorney were City Manager Wilson Hooper, City Clerk Denise Hodsdon, and Senior Planner Emily Brewer. DFI Representatives Sara VanLear and Sarah Odio joined via Zoom.

Council Returned to Regular Session – at 7:33 p.m. Council resumed the meeting in regular session. No official action was taken in closed session and the minutes of the closed session are authorized to be sealed.

O. Adjourn – There being no further business, at 7:33 p.m. Mr. Wise moved, seconded by Mr. Baker, to adjourn the meeting. The motion carried unanimously.

Maureen Copelof
Mayor

Denise Hodsdon, CMC
City Clerk

Minutes Approved: January 16, 2024

STAFF REPORT

City Council, Tuesday, January 16, 2024

Title: City of Brevard Annual Independent Audit for Year Ending June 30, 2023

Speaker: Dean Luebbe, Assistant City Manager/Finance Director
Travis Kever, Gould Killian CPA Group

Prepared by: Dean Luebbe, Assistant City Manager/Finance Director,
Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

NCGS 159.34 requires that each local government entity annually compile its financial statements for the prior fiscal year, and have them audited according to GAAP (Generally Accepted Accounting Principals). By requiring this review, the statute helps keep NC local governments financially healthy, and ensures transparency in public spending.

Brevard contracts with Gould Killian CPA Group out of Asheville to both compile the financial statements and audit them according to GAAP. Gould Killian submitted the audit to the state Local Government Commission (LGC) on Brevard's behalf in November. Travis Kever from Gould Killian will summarize the audit's findings.

Discussion

The state government prescribes the format of the document. The financial statements express the city's overall financial conditions. They review more than just revenue in and expenses out, they calculate the value of all the city's assets and weigh them against the value of all the city's liabilities. The audit renders an independent opinion on the accuracy and reliability of those statements, and comments on the adequacy of internal controls. The combined report also calculates the city's fund balance, which is an important bellwether used by the LGC to gauge the city's creditworthiness and financial health.

In summary, the report finds the city in healthy financial condition overall. Available fund balance sits at \$3,645,893 or 41% of the budgeted general fund expenditures. (The city's policy is to maintain at least 25%). The auditors gave Brevard an "unmodified opinion", meaning a clean report with no concerns about the accuracy of the city's numbers or its internal controls.

Two matters of note to management were revealed during the audit process:

First, like last year, the LGC identified an "Financial Performance Indicator of Concern" (FPICs). These are not penalties or indicators of wrongdoing, but notification from the LGC of minor errors or other notable financial circumstances that the LGC will monitor. The FY22/23 FPIC has to do with a budget violation, specifically a department with expenditures that exceed the legal budget ordinance. The department in question -Garage-

is in the General Fund. Overall, the General Fund was under budget. This FPIC resulted from a staff oversight, failing to transfer savings from other departments into Garage fund at the end of the year in a "clean up" budget ordinance.

Second, the auditors and the LGC discovered that Brevard failed to submit the required "Single Audit" to the federal government by the deadline. A "Single Audit" is an additional financial report required of agencies that receive above a certain amount of federal dollars. The city only exceeds the threshold periodically, so the need for a "Single Audit" is irregular. The oversight was corrected as soon as it was discovered.

Action

No action requested. For information and discussion only.

Attachment:

The FY22/23 Audit can be viewed at the following link:

<https://www.cityofbrevard.com/DocumentCenter/View/451/City-of-Brevard-Audit-Report---Year-Ending-June-30-2023>

Hard copies will be distributed to Council members next Tuesday afternoon.

Attachments:

STAFF REPORT

City Council, Tuesday, January 16, 2024

Title: Additional Proposed Rezoning / Expansion of Downtown Overlay District

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

On August 22, 2023 the Board discussed a potential rezoning that would amend the Official Zoning Map of the City of Brevard to expand the Downtown Development Overlay District (DDOD). The Board forwarded a recommendation to City Council of an expansion area even greater than Staff's initial proposal. City Council held a public hearing, advertised for the Board's enlarged expansion area, on October 16, 2023 and approved an expansion of the district at their November 6, 2023 meeting.

Prior to Council voting on the expansion at their November 6, 2023 meeting, the City Attorney cautioned Council against enacting the Planning Board's expanded area, based on Section 16.7.D.2.a of the UDO which does not grant the Board the authority to make a recommendation that enlarges the area to be rezoned. Given this advice, Council voted to approve the original expansion area proposed by Staff.

However, in their discussion, Council expressed interest in expanding the DDOD further than Staff's proposal and instructed Staff to initiate another map amendment to do just that. For this amendment, Staff is bringing the area proposed by the Board in August, as well as additional properties across South Caldwell and South Broad Streets, as instructed by Council.

The Planning Board discussed this at their December 12, 2023, meeting. After some discussion, they made the recommendation that the DDOD be further expanded into their previous areas (shown in the attached map in yellow hatching) and the portion of Council's areas (shown in red hatching) to the west of Caldwell Street. This recommendation is outlined in blue on the attached map.

To summarize, the attached map shows the new current DDOD in green hatch, the Board's original proposed additional expansion areas in yellow hatch, Council's proposed additional expansion areas in red hatch, and the Board's new recommendation outlined in blue.

Discussion

One project that is now underway that had not yet been initiated when the first DDOD expansion went before the Board is the rewrite of Chapter 5 of the UDO, which includes all the City's architectural standards. Part of the scope of the Chapter 5 rewrite will include

adding specific architectural requirements and standards to the DDOD to act as a form-based code for the downtown area. Staff believes expanding the DDOD too far beyond the downtown city center could be problematic when adding these standards and recommends careful consideration of further expansion to the DDOD until these new standards are in place.

Policy Analysis

The 2030 Building Brevard plan Land Use & Housing recommendation LUH-7 recommends enacting build-to lines in areas outside the current (former) DDOD.

In accordance with NCGS 160D-604 and 160D-605, the Planning Board forwards the attached statement of consistency and reasonableness.

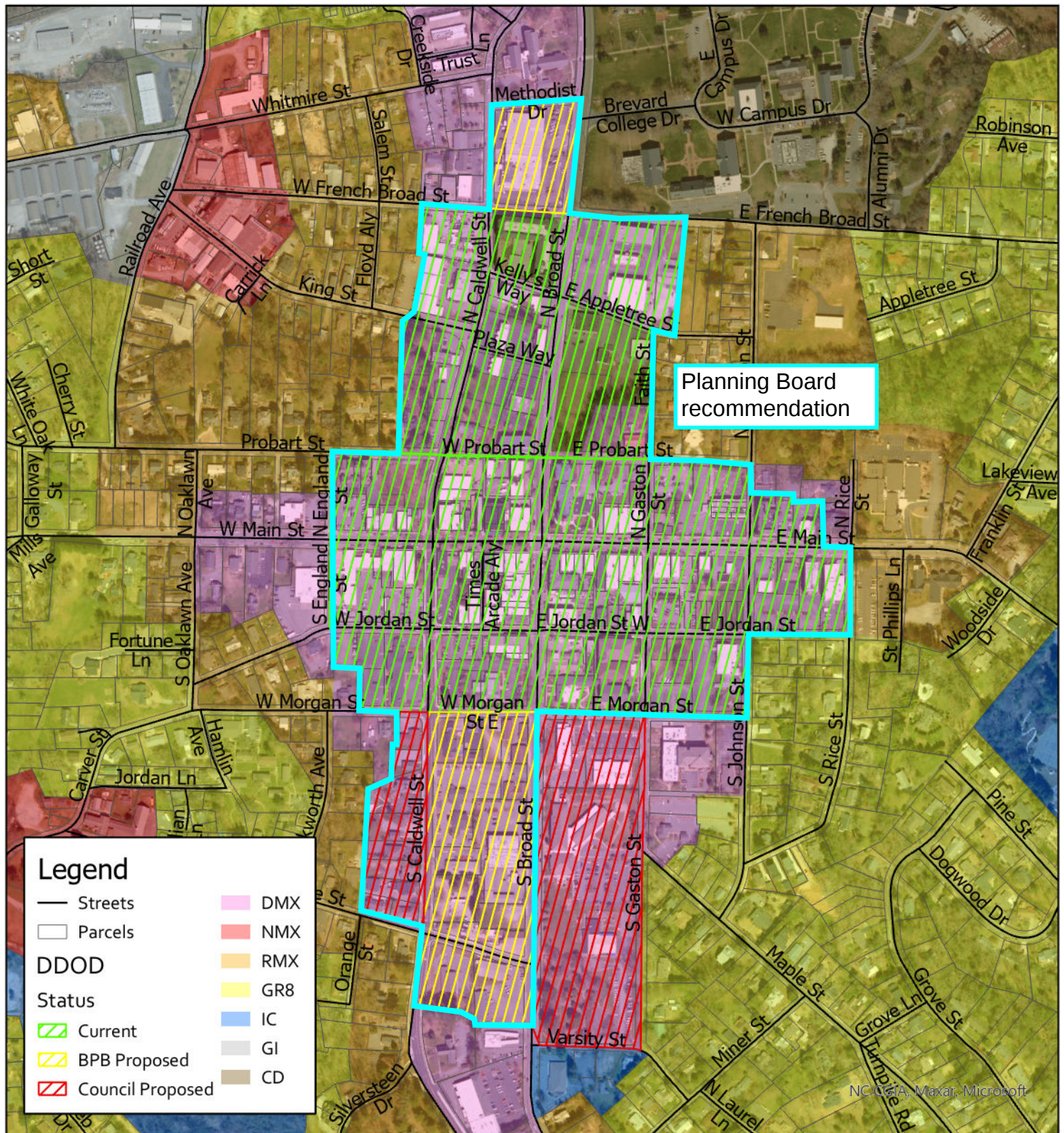
Action

This presentation is for public hearing purposes.

Attachments:

1. Map
2. Consistency Statement

REZ-23-005 - Downtown Development Overlay District Second Expansion Proposal



0 250 500 Feet
1 inch = 500 feet

This map was prepared by the City of Brevard Planning Department.

Disclaimer: The information contained on this page is NOT to be construed or used as a survey or legal description. Map information is believed to be accurate, but accuracy is not guaranteed.

**STATEMENT OF CONSISTENCY AND REASONABLENESS WITH
ADOPTED PLANS AND POLICIES OF THE CITY OF BREVARD
REZ-23-005**

NCGS 160D-604 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

Comprehensive Land Use Plan

Recommendation Land Use & Housing – 7: Consider the development of a form-based code for Downtown that supports a human-scaled, pedestrian-friendly environment.

- Areas in the greater City Center area (areas outside of the current DDOD) should also have defined maximum allowable setbacks and/or build-to lines.

NCGS 160D-605 requires the Governing Board to approve a statement analyzing the reasonableness of a proposed rezoning. The statement of reasonableness and the statement of consistency may be approved as a single statement.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is in the public interested and **reasonable** due to the following factors:

- The expansion of the Downtown Development Overlay District will help to ensure that as downtown is redeveloped and expands the design of the built environment will maintain a pedestrian-oriented character.
- The Plan is consistent with the above element of the Comprehensive Land Use Plan.



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture

TAX SETTLEMENT REPORT FOR MONTH ENDED DECEMBER 31, 2023

Tina Tanner, Tax Collector

CITY OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING DECEMBER 31, 2023

UPDATED: 01.05.2024

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
2023		\$ 3,999,226.23	\$ 423,200.72	\$ 153,930.97	\$ 103,115.62	\$ 616,739.15
2022-2011	\$ 8,264.83	\$ 22,421.57	\$ 1,772.62	\$ 2,221.69	\$ 1,183.95	\$ 312.17
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ 8,264.83	\$ 4,021,647.80	\$ 424,973.34	\$ 156,152.66	\$ 104,299.57	\$ 617,051.32

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	TOTAL
2023							\$ 5,296,212.69
2022-2011	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 36,176.83
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,332,389.52

HEART OF BREVARD TAX SETTLEMENT REPORT
MONTH ENDING, DECEMBER 31, 2023

UPDATED: 01.05.2024

YEAR	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
2023							
2022-2011							
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ -	\$ 88,894.71	\$ 4,920.46	\$ 2,808.39	\$ 2,148.37	\$ 11,868.43	\$ 110,675.88
2023							
2022-2011							
2010 - Prior	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

STAFF REPORT

City Council, Tuesday, January 16, 2024

Title: Finance Report as of December 31, 2023

Speaker: Dean Luebbe, Assistant City Manager/Finance Director

Prepared by: Dean Luebbe, Assistant City Manager/Finance Director

Approved by: Wilson Hooper, City Manager

The Finance Department presents a financial summary at 12-31-2023 for the four main operating funds, with comparisons to data at 12-31-2022. Staff is happy to answer any questions, or provide more detailed information upon request.

Attachments:

1. 12-31-2023 finance report

City of Brevard Financial Report

FY24 12-31-2023

GENERAL FUND

REVENUES	CURRENT BUDGET	ACTUAL TO DATE (\$)	ACTUAL TO DATE (%)	LAST FY ACTUAL TO DATE (\$)	YoY GROWTH (%)
AD VALOREM TAXES	\$ 6,303,900	\$ 5,472,173	86.8%	\$ 5,196,226	▲ 5%
SALES AND UTILITY TAXES	3,023,527	753,392	24.9%	758,524	▼ -1%
POWELL BILL	238,000	257,715	108.3%	237,578	▲ 8%
ABC REVENUES	240,000	60,000	25.0%	50,000	▲ 20%
UTILITY FUND REIMB	525,000	262,500	50.0%	300,000	▼ -13%
TRANSFER IN	-	-		277,300	
INTEREST REVENUE	470,000	258,911	55.1%	159,770	
MISC	500,080	232,774	46.5%	246,382	▼ -6%
FUND BALANCE APPROP	70,000	-	0.0%	-	
TOTAL	\$ 11,370,507	\$ 7,297,465	64.2%	\$ 7,225,780	▲ 1%

EXPENDITURES AND ENCUMBRANCES	CURRENT BUDGET	EXPENDITURES TO DATE (\$)	ENCUMBRANCES TO DATE (\$)	TOTAL COMMITTED (%)	LAST FY EXPENDITURES TO DATE (\$)
GOVERNING BOARD	\$ 214,100	\$ 113,124	\$ 2,097	54%	\$ 119,678
ADMINISTRATION	974,400	424,527	28,000	46%	367,443
FINANCE	878,800	423,606	100,386	60%	386,137
PLANNING	970,200	354,506	238,215	61%	378,045
BUILDING AND GROUNDS	514,500	232,415	40,925	53%	298,798
POLICE	3,659,191	1,575,391	342,984	52%	1,601,194
PW ADMINISTRATION	541,100	205,936	-	38%	222,360
PW GARAGE	438,800	181,124	11,439	44%	190,158
PW STREETS LOCAL	766,100	375,468	13,264	51%	363,042
PW STREETS POWELL BILL	235,000	20,803	-	9%	351,041
COMMUNITY CENTER	135,300	59,503	7,120	49%	44,462
RECREATION	265,500	97,778	2,549	38%	97,404
NON DEPARTMENTAL	1,777,516	1,059,489	-	60%	912,557
TOTAL	\$ 11,370,507	\$ 5,123,670	\$ 786,979	52%	\$ 5,332,319

SANITATION FUND

REVENUES	CURRENT BUDGET	ACTUAL TO DATE (\$)	ACTUAL TO DATE (%)	LAST FY ACTUAL TO DATE (\$)	YoY GROWTH (%)
CHARGES FOR SERVICES	\$ 1,175,000	\$ 574,129	48.9%	\$ 584,024	▼ -2%
TRANSFER FROM GENERAL FUND	156,600	78,300	50.0%	-	#DIV/0!
DEBT PROCEEDS	-	200,276		-	
TOTAL	\$ 1,331,600	\$ 852,705	64.0%	\$ 584,024	▲ 46%

EXPENDITURES AND ENCUMBRANCES	CURRENT BUDGET	EXPENDITURES TO DATE (\$)	ENCUMBRANCES TO DATE (\$)	TOTAL COMMITTED (%)	LAST FY EXPENDITURES TO DATE (\$)
PERSONNEL	\$ 714,900	\$ 311,933	\$ -	44%	\$ 289,657
OPERATING	398,000	172,961	120,575	74%	180,083
CAPITAL OUTLAY	-	-	-		-
TRANSFER TO GENERAL FUND	75,000	37,500	-		-
DEBT PAYMENTS	143,700	60,329	-	42%	34,957
TOTAL	\$ 1,331,600	\$ 582,723	\$ 120,575	53%	\$ 504,697

FIRE FUND

REVENUES	CURRENT BUDGET	ACTUAL TO DATE (\$)	ACTUAL TO DATE (%)	LAST FY ACTUAL TO DATE (\$)	YoY GROWTH (%)
TRANSYLVANIA COUNTY	\$ 594,585	\$ 455,046	76.5%	\$ 241,559	▲ 88%
TRANSFER FROM GENERAL FUND	726,715	363,000	50.0%	287,200	▲ 26%
DEBT PROCEEDS	1,475,000	694,588	0.0%	-	
OTHER REVENUES	-	10,533	#DIV/0!	42,387	▼ -75%
FUND BALANCE APPROP	120,000	-	0.0%	-	
TOTAL	\$ 2,916,300	\$ 1,523,167	52.2%	\$ 571,146	▲ 167%

EXPENDITURES AND ENCUMBRANCES	CURRENT BUDGET	EXPENDITURES TO DATE (\$)	ENCUMBRANCES TO DATE (\$)	TOTAL COMMITTED (%)	LAST FY EXPENDITURES TO DATE (\$)
PERSONNEL	\$ 679,200	\$ 333,341	\$ -	49%	\$ 269,909
OPERATING	331,400	175,715	40,901	65%	222,117
CAPITAL	1,595,000	-	692,600	43%	-
DEBT PAYMENTS	310,700	52,996		17%	15,426
TOTAL	\$ 2,916,300	\$ 562,052	\$ 733,501	44%	\$ 507,452

WATER FUND

REVENUES	CURRENT BUDGET	ACTUAL TO DATE (\$)	ACTUAL TO DATE (%)	LAST FY ACTUAL TO DATE (\$)	YoY GROWTH (%)
CHARGES FOR SERVICES	\$ 6,340,000	\$ 3,310,831	52.2%	\$ 3,139,968	▲ 5%
METER AND CONNECTION FEES	335,000	175,885	52.5%	149,699	▲ 17%
OTHER REVENUES	242,000	63,001	26.0%	60,351	▲ 4%
TRANSFER IN	-	-	0.0%	-	
FUND BALANCE APPROP	28,500	-		-	
TOTAL	\$ 6,945,500	\$ 3,549,717	51.1%	\$ 3,350,018	▲ 6%

EXPENDITURES AND ENCUMBRANCES	CURRENT BUDGET	EXPENDITURES TO DATE (\$)	ENCUMBRANCES TO DATE (\$)	TOTAL COMMITTED (%)	LAST FY EXPENDITURES TO DATE (\$)
PERSONNEL	\$ 1,959,800	\$ 850,886	\$ -	43%	\$ 754,786
OPERATING	2,611,900	1,014,178	645,788	64%	989,894
CAPITAL	236,000	135,591	108,666	103%	14,700
TRANSFERS OUT	450,000	225,000	-	50%	498,000
DEBT PAYMENTS	1,687,800	167,271	-	10%	177,011
TOTAL	\$ 6,945,500	\$ 2,392,926	\$ 754,454	45%	\$ 2,434,391

At 12-31-2023, expenses and revenues which flow evenly throughout the year, should approximate 50% of budgeted amounts. However, Sales and Utility tax revenues are on a three month lag.

Major operating revenues throughout the City are being received as expected. The majority of taxpayers take advantage of the 2% discount on property taxes.

Investment Returns. For the entire month of December 2021, the City received \$126.41 in investment earnings. In December of 2023, the City received \$48,290.28, which equates approximately to \$126.41 every two hours.

World markets effect recycling. In good markets, the City can receive up to 30K a year (mainly for cardboard). In down markets, the City does not record any revenue. We are currently in a down market.

Actual debt payments in the Water and Sewer appear to be very low at mid year. Large principle payments of approximately 1.4M are scheduled to be made in May of 2024.

MINUTES

CITY COUNCIL HOUSING COMMITTEE

Tuesday, November 14, 2023 – 3:30 PM

City Hall Council Chambers

Members Present: Gary Daniel, City Council Member
Maurice Jones, City Council Member
Victor Foster, Citizen Member

Staff Present: Wilson Hooper, City Manager
Alex Shepherd, Assistant to the City Manager
Emily Brewer, Planner
Becky McCann, Communications Coordinator

Guest Present: Mayor Copelof

A. Welcome and Call to Order

Gary Daniel welcomed everyone and called the meeting to order at 3:28 PM.

B. Certification of Quorum

Quorum was certified by Assistant to the City Manager Alex Shepherd.

C. Approval of Agenda

Mr. Hooper requested we add an item to the agenda regarding the Presbyterian Church. Motion by Mr. Jones, seconded by Mr. Daniel to approve the agenda as amended. The motion carried unanimously.

D. Approval of Minutes

Motion by Mr. Jones, seconded by Mr. Foster to approve the minutes of the October 10, 2023 meeting as presented. The motion carried unanimously.

E. Habitat Utility Extension

Ms. Brewer informed the committee that Habitat for Humanity has purchased a property on Woodland Terrace. They would like to build thirty-three townhomes on the property, and these homes will be for sale, not for rent. They aim to attract long-term buyers. The owners will start accruing equity after the sixth year of ownership, at which point they begin earning four percent per year of the difference between the market-appraised rate at purchase and the current market rate at selling, creating opportunities for wealth building. Habitat is interested in receiving City utilities and is willing to annex into the City limits for that purpose. However, they

propose that the City install the utility lines, and they are seeking City funding for that extension. Mr. Ray received a cost estimate from Summit Engineering to provide a ballpark figure. The estimate indicates that if City employees install the line, it would cost \$138,500, and if a contractor is hired, it would cost \$245,000. If the City were to pay for the utility line extension, it would consume a significant portion of the funds in the Housing Trust Fund. This expense would be eligible because it involves paying for an extension of public utilities to facilitate affordable housing in a predominantly low-income neighborhood. The question for the committee today is whether you want to see a full proposal for this project or discuss the next steps, taking into consideration future projects or expenses that may need funding from the Housing Trust Fund. It is likely that this project will not be completed until the next fiscal year, but it is worth considering.

Mr. Jones expressed his appreciation for evaluating the extension of utility lines. However, he is concerned about the expectation that the City would cover the expense. He suggests that if the City covers the cost initially and Habitat reimburses us over time, he would be more inclined to agree. His preference is to utilize the funds for the home repair program.

Ms. Brewer responded that they could discuss the possibility of pursuing a loan with Habitat. She also mentioned that they are still awaiting information about the Azalea Avenue sewer extension and the preservation home repair grant program.

Mr. Hooper inquired with Mr. Jones about whether his opinion on covering the cost of the utility line extension for Habitat for Humanity would change if they secure the grant for the home repair program.

Mr. Jones responded, stating that it would depend on the amount of grant money available. He emphasized the importance of being good stewards of the funds and spending them wisely.

Mr. Foster suggested that a loan might be the best option, as Habitat would eventually repay the funds once they start receiving revenue from the homes.

Mr. Daniel asked if the Habitat units are restricted to affordable housing by deed, ensuring they remain affordable.

Ms. Brewer confirmed that the deed includes restrictions on the accrual of interest and resale pricing, maintaining affordability.

Mr. Jones inquired if the contract specifies that Habitat has the first right to repurchase the home when the homeowner decides to sell.

Ms. Brewer clarified that, indeed, Habitat has the first right to purchase, but homeowners are not obligated to sell the home to Habitat.

Mr. Daniel asked if the City has the employees and capacity to install the utility lines ourselves.

Mr. Hooper responded, stating that the City has the capacity, though completing the project with City labor might not align precisely with Habitat's desired schedule, as using a contractor tends to be quicker, albeit more expensive.

Mr. Daniel said that he is curious about how much money we currently have and that he is interested in shovel-ready projects that will happen. He emphasized that we shouldn't hold out on spending money on projects that might only have the possibility of happening.

Ms. Brewer informed the committee that as of now, they have around \$300,000 in the Housing Trust Fund. If the two-cent property tax rate allocated to the Housing Trust Fund is approved for the next fiscal year, it would add around \$275,000, bringing the total to close to \$600,000.

Mr. Jones asked how to make this fund self-sustainable so that there is cash flow, and the City is not just giving money away.

Mr. Daniel responded, saying that considering the current needs, they should go above and beyond, but it doesn't have to be a permanent approach. While discussing two Habitat projects today, he noted that Habitat is not the only organization they will be talking to. Mr. Daniel expressed that he does not object to giving Habitat a loan but would suggest letting them reimburse the city at no interest.

Mr. Jones and Mr. Foster both agreed with the idea of providing a no-interest loan for the cost of extending the utility lines.

Mr. Foster added that, at the end of the day, it is about helping as many people as possible.

Ms. Brewer said, "We can definitely consult with Habitat regarding the type of loan that will work for them. The other thing that I wanted to say is that it's a different way for the City to invest in affordable housing. By taking out the idea that it's a utility extension project, it would be equivalent to Habitat saying we need a certain amount of dollars to make our development work." Additionally, Habitat expressed a desire to annex into the City limits. Ms. Brewer mentioned that they would bring this back to the committee with updates regarding loaning the funds for the extension of the utility lines for the Habitat project.

F. James St. Property Disposition

Mr. Hooper informed the committee that in previous meetings, we seemed to come to a consensus, but we were always missing a member of the committee. Now that all the committee members are here, he said that if the committee is split on the

James St. property, then staff can perform additional research and follow up with other options.

Mr. Daniel said the questions that he raised questioned the Habitat model. However, that doesn't mean that I don't favor selecting them because the property will always remain affordable. Mr. Daniel mentioned that he still does not like the fact that it requires people to leave their homes after eight years because that doesn't build communities.

Ms. Brewer asked if the committee is going to gift the property instead of selling the property to Habitat.

Mr. Hooper said the committee agreed that they wanted to gift the property from the very beginning. However, it sounds like the committee is in favor of selecting the Habitat model, but you all would like to see the homeowner stay in the home longer than eight years. Does the committee want staff to inquire with Habitat to see if they would consider more protection for the tenant, due to economic uncertainties if they need an extension.

At 4:15 pm, a motion was made by Mr. Foster, seconded by Mr. Jones, to transmit the property to Habitat for Humanity with a message to use a financing model that gives someone the opportunity to live there permanently. The motion carried unanimously.

G. Presbyterian Church

Mr. Hooper provided an update that he and Sara Vanlear from UNC DFI met with an ad hoc committee from the Presbyterian Church.

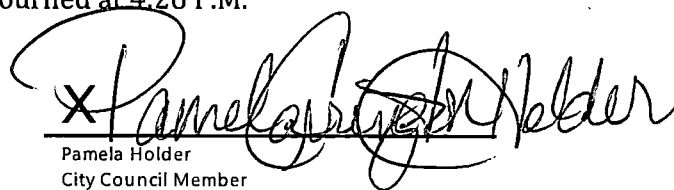
H. Set Date for Next Meeting

The next meeting was scheduled for Tuesday, December 12, 2023 at 3:30 pm.

I. Adjourn

There being no further business, the meeting adjourned at 4:26 P.M.

Minutes Approved: ~~November~~ December 12, 2023


X
Pamela Holder
City Council Member


X
Alex Shepherd
Assistant to the City Manager

MINUTES
City Council Public Works & Utilities Committee

Tuesday, December 6, 2023 – 3:30 PM
City Council Chambers

Members Present: Mac Morrow, Chair, Council Member
Lauren Wise, Vice-Chair, Council Member
Owen Carson, Citizen Member
Mayor Maureen Copelof, Ex-Officio

Staff Present: Wilson Hooper, City Manager
Wesley Shook, Acting Public Works Director
Dennis Richardson, Water Treatment Plant Supervisor
Emory Owen, Wastewater Treatment Plant Supervisor
Aaron Winans, WWTP Staff
Becky McCann, Communications Coordinator

A. Welcome and Call to Order

Committee Chair Mac Morrow called the meeting to order at 3:30 pm.

B. Certification of Quorum

Communications Coordinator Becky McCann certified that a quorum was present.

C. Approval of Agenda

Motion by Mr. Wise, seconded by Mr. Carson to approve the agenda as presented.
The motion carried unanimously.

D. Approval of Minutes

1. November 21, 2023 Meeting

Motion by Mr. Carson, seconded by Mr. Wise to approve the minutes of the November 21, 2023 meeting as presented. The motion carried unanimously.

E. Wastewater Treatment Plan RFQ Update

Mr. Hooper informed the committee that today he sent our representative at AECOM the notes of the draft RFQ that we have currently been discussing with our High Strength Waste staff committee. The representative is going to incorporate those, and we should have the RFQ ready for publication by January 1st. The RFQ will be available for a month, and we will collect solicitations around February 1st, 2024.

Then we will move into our selection process. We will engage the committee in the selection process, probably in the interview portion of the selection. Not only is this RFQ soliciting engineering services, but we are also soliciting a suite of professional services, all of which are usually performed by engineering firms. Some of the services include helping us find additional funding and projecting what our wastewater needs will be in the future. Also, we are not going to require the firms to submit five references; we thought if they submit three references, it would be adequate. We wanted to ensure the firm had the ability not just to design and recommend a new system but also to design the wastewater plant to be constructed while our existing plant was in operation due to our current site constraints. It will raise policy questions regarding how much capacity we want to build, what kind of treatment process we want, and how much we are willing to pay. It will most likely take this firm nine months to a year to create this report. One important point I mentioned earlier is that using the existing site might not be the most economical; it might be more economical to buy a new site somewhere else and relocate the plant, which will raise issues to reclassify the river, a process that will take years to accomplish. When the new draft is ready, we will circulate this to the committee before we publish it. We will advertise it on our normal website and our usual channels, but AECOM will connect us to industry-specific websites and publications as well.

Additional Comments:

Mr. Shook explained that they should be completing the Railroad Ave bridge soon, and we are about to start working on the bollards. He also informed the committee that he still has leaves to collect off the street.

Ms. Copelof asked are we going to manage to have any more streets paved this year, since the asphalt company is still working.

Mr. Shook replied that he spoke to the company to see if we could, and he said that he will try, but it depends on how long the asphalt manufacturer will keep producing. They may shut down soon, and then we'd have to wait until Spring.

Mr. Owen informed the committee that we received permission from the state to perform a 30-day pilot study of peracetic acid as the primary disinfectant. The treatment method being used could potentially save the city up to \$150,000 a year in chemical costs.

Mr. Hooper said that a change order was issued for Burrel Mountain that will cause an overage in the amount of \$250,000. Mr. Brown approached the state to request more money at the same 75%/25% split to cover the extra costs. However, the state did not grant the request and instead offered to fold the extra costs into the existing 0% interest loan rather than pay for the overage from the fund balance.

Mr. Richardson communicated to the committee that Mr. Brown turned in a list to the state outlining the work being done at the Water Treatment Plant. Currently, electrical engineering work is being conducted to replace the pumps, electrical panels, a generator that runs the plant, drying beds, and actuators in the pipe galley.

Mr. Morrow expressed the hope that Mr. Wise and Mr. Carson will be able to tour the Water Treatment Plant and Wastewater Treatment Plant.

Ms. Copelof asked about the status of the recent Wastewater spill.

Mr. Hooper explained that the pipe has been repaired, and we are continuing to take measurements periodically. There has been a steady decrease in the number of contaminants in the water, both upstream and downstream from the spill. All required reports have been completed. Regarding the replacement of the pipe, we have consulted with Mr. Fuller, who has not yet provided a solution.

Ms. McCann shared with the committee that she is working on a dedicated page on the City of Brevard website where people can learn about our Wastewater Treatment Plant to keep them informed, as well as a frequently asked questions page.

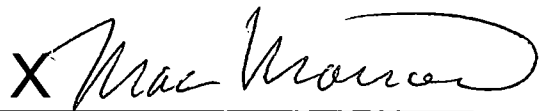
F. Set Date for Next Meeting

The next regular meeting of the Public Works & Utilities Committee was scheduled for Wednesday, January 3, 2024 at 3:30 p.m.

G. Adjourn

There being no further business, the meeting was adjourned at 4:21 p.m.

Minutes Approved: January 3, 2024

X 

Mac Morrow
Chair, Council Member

X 

Alex Shepherd
Assistant to the City Manager

STAFF REPORT

City Council, Tuesday, January 16, 2024

Title: Proposed Amendment to City of Brevard Code of Ordinances
Chapter 14, Section 14-32 - Tethering of Animals

Speaker: Tom Jordan, Police Chief

Prepared by: Tom Jordan, Police Chief

Approved by: Wilson Hooper, City Manager

Background

Codes governing the treatment of animals and outlining the city's legal enforcement authorities are codified in Chapter 14 of the Brevard Code of Ordinances.

At the October 23, 2023 Public Safety Committee meeting, the committee heard testimony from a resident about the living conditions of dogs in her neighborhood. Her claim was that the dogs were tethered in an abusive fashion in the backyard of a neighborhood house, and that the city's Animal Control Officer was not enforcing the rule. Staff provided evidence that the Animal Control Officer was aware of the situation, but hadn't issued a citation because the code did not address tethering and the other conditions did not rise to the level of abuse/neglect. The Committee asked staff to update the language of the code.

At the November 27, 2023 Public Safety Committee meeting, staff proposed new language. The committee approved the proposal and forwarded it to full Council. A public hearing on the proposed changes was held on December 18, 2023.

Discussion

A draft of the code with updated tethering language is attached. This language is similar to that of other municipalities with codes governing tethering. The new language adds tethering as an act that can be regulated by the city, and gives examples of proper and improper tethering. Other changes include clarifying that the police department's Code Enforcement Officer is the city's designated enforcement official for these provisions, and that the Chief of Police has the authority to issue permits for the temporary keeping of goats and sheep.

The attached document also presents for your information animal-related provisions in other chapters. Please note that these are for information only and no updates are being proposed to them at this time.

Action

For public hearing and information only. Council will be asked to take action at its next meeting.

Attachments:

1. Proposed updates to Chapter 14, Section 14-32 Tethering of Animals



PART II: CODE OF ORDINANCES

CHAPTER 1. GENERAL PROVISIONS

1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the council or the context clearly requires otherwise:

Animal: A living creature, domestic or nondomestic, but does not include humans.

Animal control: Any authority designated by the city manager to discharge the requirements of this chapter.

Animal shelter: Any premises designated by the health director for the purpose of impounding and caring for animals.

At large animal: An animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.

Bite: Any penetration of the skin by teeth constitutes a bite exposure.

Cat: Cats, both male and female, more than six months old.

Chicken coop: A weather and predator proof structure or container employed in the keeping of chickens.

Chicken run: An outdoor enclosure employed in the keeping of chickens.

Dog: Dogs, both male and female, more than six months old.

Dog park: The Brevard Dog Park is the designated area located within the City's Sports Complex where dog owners may allow their dog to run off-leash inside the designated fenced area.

Exposed to rabies: An animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

Grooming shop means any establishment, whether operated separately or in connection with another business enterprise, which provides hair and nail clipping, bathing and other cosmetic services for animals.

Humane Society means the Transylvania County Humane Society and its representatives.

Hunting means the lawful hunting of game animals as defined by the N.C. Wildlife Resources Commission.

Impoundment means any animal in custody of a person or animal shelter duly authorized by the local health director.

Infestation shall mean the presence, within or around a dwelling, or any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.



Code of Ordinances and UDO

Keeper means a person having custody of an animal, or who keeps or harbors an animal, or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

Kennel means any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owner's property when no more than five dogs per year are sold by such owner.

Livestock.

- A. Domestic animals, such as cows, bulls, calves, hogs, pigs, horses, mules, ponies, goats or sheep.
- B. Any animal raised or kept for profit, excepting:
 - 1. Dogs and cats kept for show competition;
 - 2. Single litters of rabbits, puppies or kittens, per household; and
 - 3. Tropical aquarium fishes.

Nuisance. An animal or group of animals shall be considered a nuisance if it:

- A. Damages, soils or defiles private or public property;
- B. Interferes with, molests or attacks persons or other animals;
- C. Is repeatedly at large;
- D. Causes unsanitary and offensive conditions, including interrupting the tranquility of the community;
- E. Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles; or
- F. Is diseased.

Owner means any person or legal entity having a possessory property right in an animal. The head of a household shall be deemed to be the owner in respect to any dogs owned, kept or harbored on the premises by any person residing in the household.

Park manager means an employee or employees of the City of Brevard, designated by the city manager, who coordinates management of the Bracken Preserve.

Pet means any animal kept for pleasure rather than utility.

Pet shop means any commercial establishment, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

Restraint. Any animal shall be considered under restraint if it is within the real property limits of its owner, or secured by a leash or lead, or confined.

Riding school or stable means any place which has available for hire, boarding and/or riding instruction any horse,

Security dog means any dog used, kept or maintained in the county for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog or watch dog.

- A. *Patrol dog* means a dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.
- B. *Sentry dog* means a dog that is trained or conditioned to attack or otherwise respond aggressively without command.
- C. *Watch dog* means a dog that barks and threatens to bite any intruder and that has not been specifically trained or conditioned for that purpose.



Code of Ordinances and UDO

D. *Stray* means any unregistered or unlicensed dog or cat deemed to be at large.

Unregistered dog or unlicensed dog means a dog which has not been listed on the owner's tax listing form for the then-current year or registered for a vaccination tag and certification, and/or a dog which does not have affixed to it a rabies vaccination tag.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

Vicious dog means any dog which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

(Code 1980, § 1-2, Ord. No. [2023-43](#), § 1(Exh. A), 9-5-23)



CHAPTER 14. ANIMALS AND FOWL

ARTICLE I. IN GENERAL

14-1. Reserved.

(Code 1980, § 4-20; Ord. No. 17-99, § 1, 6-21-99; Ord. No. 9-00, § 1, 4-17-00; Ord. No. 2012-22, § 1(Exh. A), 8-20-12; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the contents of this section to City Code § 1-2.

14-2. City designated bird sanctuary.

The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary.

(Code 1980, § 4-1)

State law reference(s)—Authority to establish, G.S. 160A-188.

14-3. Shooting, hunting or injuring birds.

It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests; provided, however, if pigeons, crows, starlings or English sparrows are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the county health officer, the ~~health officer~~ animal services officer shall meet with the representatives of the Audubon Society, Bird Club, Garden Club or Humane Society, or as many of such clubs as are found to exist in the city, after having given at least three days' actual notice of the time and place of the meeting to the representatives of such clubs. If as a result of the meeting no satisfactory alternative is found to abate such nuisance, the birds may be destroyed in such numbers and in such manner as is deemed advisable by the city council, and this shall be done under the supervision of the chief of police.

(Code 1980, § 4-2)

14-4. Keeping livestock.

It shall be unlawful to keep or maintain any cow, bull, calf, hog, pig, horse, mule, pony, goat or sheep or other livestock within the city, except as provided in Section 14-7; provided that this section shall not prohibit the assembling of livestock for shipment or from the unloading of the livestock within the city, provided the livestock is kept penned and is not located within the city for more than 24 hours; and provided further that Section 14-7 shall not apply to livestock assembled for fairs and expositions.

(Code 1980, § 4-3; Ord. No. 17-99, § 1, 6-21-99)

14-5. Keeping wild animals or dangerous insects.

It shall be unlawful for any person to keep any live reptiles, wild animals or insects likely to be dangerous or injurious to human life within the city, except as provided for in Section 14-7 and Section 14-9.

(Code 1980, § 4-4)



State law reference(s)—Possession or harboring of dangerous animals, G.S. 160A-187.

14-6. Keeping fowl.

- A. *Domestic fowl.* It shall be unlawful to keep geese, ducks, chickens or other domestic fowl within the city, except as provided in subsection 14-6.B and Section 14-7; provided that this section shall not prohibit the assembling of such fowl for shipment or the unloading of such fowl within the city, provided the fowl is kept penned and is not located within the city for more than 24 hours; provided further that this section shall not apply to domestic fowl kept by any merchant for the purpose of resale.
- B. The keeping of chickens may be permitted subject to the conditions set forth in this subsection.
1. *In general.*
 - a. The keeping of roosters is prohibited.
 - b. In no case shall the number of chickens kept by any single household exceed 15 birds, nor shall the number of chicken coops exceed one chicken coop. It is the intention of this section that the term "household" apply to a grouping of residents within a single dwelling unit, which is located upon a parcel of land. In cases where multiple dwelling units exist upon a single parcel of land (i.e., duplex structures, apartment buildings, condominium buildings or other, similar multifamily structures), this provision shall be construed to mean the allowance of 15 birds and one chicken coop for the apartment building, condominium building or other, similar multifamily structure.
 - c. It is the intent of this section that persons within the city be permitted to keep chickens for personal or domestic consumption of eggs and meat. In no case shall this section be construed to mean the authorization of bona fide agricultural operations or commercial enterprises engaged in the production of meat, eggs or live chickens for sale or distribution.
 2. *Permit required; inspections required; violations.*
 - a. Persons keeping chickens within the city shall first secure an annual permit from the code enforcement officer for the City of Brevard, and shall renew such permit each year thereafter, on or before the anniversary of such permit. The code enforcement officer may impose such reasonable conditions as are necessary to protect the health, safety and welfare of the public. Permits may be revoked by the code enforcement officer at any time upon violation of the terms of the permit or any provision of this section.
 - b. Permit fees shall be set forth in the Schedule of Taxes and Fees for the City of Brevard.
 - c. The ~~administrator-code enforcement officer~~ shall have the power to conduct such investigations as the ~~administrator-code enforcement officer~~ may reasonably deem necessary to carry out his or her duties as prescribed in this section and, for this purpose, to enter at reasonable times upon any property, public or private, for the purposes of inspection, determination of plan compliance, and investigating and inspecting the sites of any complaints or alleged violations of this section.
 - d. The ~~administrator-code enforcement officer~~ shall have the power to require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this section.
 - e. No person shall obstruct, hamper or interfere with the ~~code enforcement officer administrator~~ while carrying out his or her official duties. If the owner or occupant of any property refuses to permit inspections or otherwise obstructs an investigation or other actions of the ~~administrator-code enforcement officer~~ in the performance of his or her duties, the ~~administrator-code enforcement~~



Code of Ordinances and UDO

officer shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor.

- f. Persons found to be in violation of this section shall be provided notice of such violation either by personal service or by registered mail, certified mail return receipt requested, and by posting notice conspicuously on the property; and shall comply with this section within 15 days of the date of issuance of such notice.
- g. Persons found to be in violation of this section shall be subject to such remedies as are set forth in subsection 14-6(b)(3).

3. Remedies.

- a. *Criminal penalties.* Persons found to in violation of this section may be found guilty of a class 3 misdemeanor and shall be subject to penalties and remedies as set forth in Brevard City Code, [CHAPTER 1](#), General Provisions, Section 1-8, General penalty; other remedies.
- b. *Civil penalties.* The owner or occupant of any land or building, or part thereof, who creates, or maintains any condition that is in violation of this section may be held responsible for the violation and subject to the civil penalties and remedies provided herein.
 - 1. *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified in accordance with subsection 14-6(b)(2). If after receiving a notice of violation under [subsection] 14-6(b)(2), the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the same manner as of a notice of violation. The citation shall state the nature of the violation, shall state the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 15 days of the date of the citation.
 - 2. *Continuing violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

4. Enclosures.

- a. No person shall permit chickens to run at large within the city. Chickens shall be kept in an enclosure at all times and shall not be permitted to range free. Any chicken not contained in an enclosure shall be deemed to be at large and may be captured by animal control officers or officers of the City of Brevard Police Department. After having made a reasonable effort to locate the owner, animal control or police officers may humanely destroy or convey the chicken to any person.
- b. All enclosures employed in the keeping and containment of chickens, whether stationary or portable, shall include chicken coops and chicken runs. Enclosures shall consist of a top and sides comprised of materials of sufficient design and durability as to prevent chickens from exiting the enclosure by horizontal or vertical movement, including but not limited to fencing, netting and solid surfaces.
- c. Chicken coops shall be designed in such a manner as to be secure against inclement weather and invasion by predators.
- d. Chicken coops shall have sufficient ventilation or window openings to allow the circulation of sunlight and air.
- e. The floor and walls of chicken coops shall be constructed of materials conducive to regular cleaning and sanitation.
- f. Chicken coops shall provide a minimum of two and one-half square feet of floor area for each chicken.



Code of Ordinances and UDO

- g. Chicken coops shall not exceed 120 square feet of ground floor area in size.
 - h. Chicken coops shall be set back a minimum of ten feet from all property boundaries and road rights-of-way.
 - i. Chicken runs shall provide a minimum of five square feet of ground area for each chicken.
 - j. Enclosures shall be situated in the side or rear yard of any property containing a principal structure as defined in [UNIFIED DEVELOPMENT ORDINANCE](#), Section 19.3.
5. *Health, sanitation and animal welfare.*
- a. Deceased chickens shall be buried on site or disposed of in a sanitary landfill, and shall not be deposited for collection by city forces, into residential or commercial solid waste receptacles.
 - b. Enclosures shall be kept in a clean, sanitary, healthful condition. chicken coops shall be cleaned regularly, with all droppings and organic waste material managed, removed and disposed of in an appropriate manner, and chicken runs shall be relocated or otherwise managed, so as to prevent erosion and to minimize odors, the breeding of flies, and the occurrence of infectious disease.
 - c. Feed stock shall be stored in a sealed container that is secure against invasion by rodents.
 - d. Chickens shall have continuous access to food and water.
- C. *Wild fowl.* It shall be unlawful for any person to keep any live wild fowl within the city, except as provided in Section 14-7.

(Code 1980, § 4-5; Ord. No. 17-99, § 1, 6-21-99; Ord. No. 2012-22, § 1(Exh. A), 8-20-12)

14-7. Special permission for the temporary keeping of goats or sheep.

Special permission may be granted through a special permit issued by the Chief of Police or designee for the temporary keeping of goats or sheep, which are otherwise prohibited by this article, for the purpose of city grazing; provided that before granting such special permit the Chief of Police shall impose conditions under which the animals may be kept within the City. Such conditions shall be made a part of the special permit.

- A. A special permit issued under this section may be revoked by the ~~Chief of Police~~ ~~administrator~~ for any reason that would have justified denial of the permit. If a permit is revoked, the applicant shall be given a written explanation of the reasons for revocation. Upon the determination of a violation, the owner shall have 14 days in which to bring the property or condition into compliance with this section or to remove the animals from the premises. If the ~~administrator~~ ~~Chief of Police~~ denies or revokes a permit under this section, they shall notify the applicant of their right to appeal such decision to the City Manager.
- B. For the purpose of this chapter, the term "city grazing" shall mean the practice of sustainable lot maintenance by goats or sheep inside the corporate limits of the city, on a temporary and occasional basis, not to exceed 30 cumulative days in a calendar year, where said animal(s) are not permanently kept or maintained. The animals used for this purpose shall be free of disease, properly cared for at all times as determined by the Chief of Police or designee, and contained on the premises for which the permit was granted.
- C. The Chief of Police or designee may deny or revoke a permit for any reason including but not limited to:
 - 1. The applicant has failed to comply with the applicable requirements of any subsection of this ordinance or condition of the permit as determined by the Chief of Police or designee.
 - 2. The animal for which the permit is requested poses a substantial danger of harm to any person, animal or property as determined by the Chief of Police or designee.



Code of Ordinances and UDO

3. The animal for which the permit is requested seriously interferes with the use and enjoyment of neighboring properties because of offensive noise or odor or for other reasons as determined by the Chief of Police or designee.
4. The animal for which the permit is requested otherwise constitutes a threat to the public health or safety as determined by the Chief of Police or designee.

(Code 1980, § 4-6; Ord. No. 2022-73, § 1(Exh. A), 11-21-22)

14-8. Sale of baby fowl or rabbits.

It shall be unlawful for any person to sell, offer for sale, barter or give away baby chickens, ducklings or other fowl under three weeks of age, or rabbits under two months of age, as pets, toys, premiums or novelties, or to color, dye, stain or otherwise change the natural color of baby chickens, ducklings or other fowl, or rabbits, or to bring or transport such animals or fowl into the city; provided, however, this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl, or such rabbits, in proper facilities by breeders or stores engaged in the business of selling for the purpose of commercial breeding and raising.

(Code 1980, § 4-7)

14-9. Keeping bees.

- A. It shall be unlawful for any person to locate, construct, reconstruct, alter, maintain or use, on any lot or parcel of land within the corporate limits of the city, any hives or other enclosures for the purpose of keeping any bees or other such insects unless every part of such hive or enclosure is located at least 75 feet from a dwelling house located on the adjoining property.
- B. On lot sizes of 15,000 square feet or less, no more than five hives (colonies of bees) will be permitted. The hives shall be no closer than 15 feet from any property line, and all hives shall be placed at ground level or securely attached to an anchor or stand. On lots larger than 15,000 square feet, additional hives will be permitted on the basis of one hive for each 3,000 square feet in excess of 15,000.
- C. This section shall pertain only to honey bees maintained in movable frame hives and it does not authorize the presence of hives with nonmovable frames or feral honey bee colonies (honey bees in trees, sides of houses, etc.).
- D. The city may require the removal of a hive, or hives, if the owner no longer maintains the hive(s), or if removal is necessary to protect the health, safety, and welfare of the public, as allowed by N.C.G.S. 106-645(b)(4).

(Code 1980, § 4-8; Ord. No. 2016-27, § 01(Exh. A), 9-19-16)

14-10. City designated squirrel sanctuary.

The entire area embraced within the corporate limits of the city is hereby designated as a sanctuary for all species of squirrel (family Sciuridae), and in particular the Brevard White Squirrel. It shall be unlawful for any person to hunt, kill, trap or otherwise take any protected squirrels within the city limits except pursuant to authority and permit of the state wildlife resources commission. This section may not protect any squirrels classed as a pest by the General Statutes, except that the Brevard White Squirrel shall always be protected by this section.

(Code 1980, § 4-9)

14-11—14-30. Reserved.



ARTICLE II. DOGS AND OTHER ANIMALS

14-31. Animal control officers.

The city manager is hereby authorized, in his discretion, to appoint one or more animal control officers for purposes of establishing and maintaining an animal control program and enforcing the provisions of this article. This authority shall include the right to contract with the county for the enforcement of this article and the delegation of authority to the county, contractually, to grant authority to establish and maintain an animal control program, employ necessary personnel, enforce laws and ordinances, investigate animal abuse and bites, quarantine animals, operate an animal shelter, seize and impound animals, levy fees and fines, and do all necessary things associated with the enforcement of this article.

(Code 1980, § 4-21)

14-32. Cruelty to animals.

- A. It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, or abandon subject to conditions detrimental to its health or general welfare any animal, or to cause or produce such action.
- B. The words "torture" and "torment," as used in this section, shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the state wildlife resources commission, or to prohibit animal control officers or duly authorized persons or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner, or to prohibit the lawful use of animals in scientific research, or legitimate pest control activities.
- C. It shall be unlawful for any owner or keeper to fail to provide his animal with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his animal in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care and treatment.
- D. It shall be unlawful for any dog owner, keeper of any dog or any person to tie and/or leave unattended any dog upon a public right-of-way or city property.
- E. It shall be unlawful to tether an animal to a stationary object for a period of time or under conditions that an officer or animal cruelty investigator deems harmful or potentially harmful to the animal. Tethering may be allowed in certain cases if there is no sign of obvious neglect and the animal is not exhibiting health or temperament problems. Examples of improper tethering include, but are not limited to the following:
- a. Using a length or weight of tether that is not appropriate for the size, weight and age of the animal. An appropriate restraint must be a minimum of four times the length from the tip of the animal's nose to the tip of the animal's tail and shall be no less than 10 feet.
- b. Using tether that does not have swivels on both ends. All tethers must be attached to the animal by means of a properly fitting harness or collar of not less than one inch in width made of nylon or leather.
- c. Allowing an animal to be tethered such that the animal is not confined to the owner's property or such that the tether can become entangled and prevent the animal from moving about freely, lying down comfortable or having access to adequate food, water and shelter.
- F. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

Formatted: Font color: Black

Formatted: Indent: Left: 0.75", Tab stops: 1", Left + Not at 0.75"

Formatted: Indent: Left: 0", Hanging: 0.75", No bullets or numbering, Tab stops: 0.75", Left



Code of Ordinances and UDO

(Code 1980, § 4-22; Ord. No. 28-04, § 1, 11-15-04; Ord. No. 2021-48, § 1(Exh. A), 11-15-21)

State law reference(s)—Similar provisions, G.S. 14-360.

14-33. Registration of dogs required.

All dogs kept, harbored or maintained in the city shall be registered with the county tax assessor and the animal control officer. In addition to the name and address of the owner, such registration shall include the dog's name, breed, color, sex and rabies vaccination number. The provisions of this section shall not be intended to apply to dogs the owners of which are nonresidents temporarily within the city for not more than 30 days, or to dogs brought into the city for the purpose of participating in any dog show, or to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

(Code 1980, § 4-23)

14-34. Fee for dog registration.

There shall be no annual fee or tax for dog registration except as prescribed by the county commission in accordance with state law.

(Code 1980, § 4-24)

14-35. Dogs running at large.

- A. It shall be unlawful for any dog owner or keeper of any dog to permit such dog to run at large. All dogs must be restrained by fencing, leash or other physical, electronic or mechanical restraint at all times.
- B. It shall be unlawful for any owner or keeper of any dog to allow said dog, whether on leash or not, to be present within the following areas of the property of the City of Brevard:
 - 1. Within 50 feet of the fence surrounding the Franklin Park Pool;
 - 2. Within 50 feet of the improved playground area at Franklin Park; or
 - 3. Within 50 feet of the community building known as the "Scout Hut" located at Franklin Park;

Provided, however, that this section does not prohibit leashed dogs on the public roadways or sidewalks around the circumference of Franklin Park so long as the owner or keeper complies with the City Code of Ordinances, and specifically, with section 35-92(b), seeing eye dogs in service to the visually impaired or dogs in service to law enforcement personnel.

- 4. Dogs are prohibited from the Brevard Youth Sports Complex property during all sporting events, including ball practice. However, this section does not prohibit leashed dogs on the public roadways, sidewalks or the multi-use pedestrian/bikeway so long as the owner or keeper complies with the [CITY CODE OF ORDINANCES](#), and specifically, with section 35-92(b), seeing eye dogs in service to the visually impaired or dogs in service to law enforcement personnel.
- C. Violation punishable as an Infraction with fine up to \$50.00 per G.S. 14-4(b).

(Code 1980, § 4-25; Ord. No. 9-00, § 2, 4-17-00; Ord. No. 9-01, § 1, 8-20-01; Ord. No. 6-09, § 1, 4-6-09; Ord. No. 2021-48, § 1(Exh. A), 11-15-21)

State law reference(s)—Permitting dogs to run at large, G.S. 67-12.



14-36. Control of dangerous dogs or potentially dangerous dogs.

- A. An owner of a dangerous or potentially dangerous dog shall take precautions against attacks by such dogs resulting in serious bodily injury to a person. Determination of a dangerous or potentially dangerous dog shall be in accordance with G.S. 67-4.1. The City of Brevard Police Chief, or his designee, shall have the authority to declare a dog to be a dangerous/potentially dangerous dog. Any determination that a dog is dangerous/potentially dangerous shall be made in writing summarizing the available evidence that led to the determination and shall be delivered or mailed by registered or certified mail to the owner/keeper of the dog.
- B. An appellate board will be designated by council to hear any appeals. The dangerous dog appellate board shall be composed of a practicing veterinarian and two public citizens as appointed by city council. The owner/keeper of a dog that has been declared dangerous/potentially dangerous may appeal the declaration in writing to the dangerous dog appellate board within three business days of the receipt of notice of the original declaration. While any appeal is pending, the owner/keeper of the dog shall comply with the dangerous/potentially dangerous dog confinement measures set forth in City Code section 14-36 and G.S. 67-4.2. If the declaration made by the police chief, or his designee, is upheld by the appellate board, the owner of the dog may appeal the decision to superior court by filing notice of appeal and a petition for review within ten days of the decision made by the appellate board. Appeals from the final decisions of the appellate board shall be heard in the superior court of the county.

(Code 1980, § 4-26; Ord. No. 2017-07, § 1, 3-20-17; Ord. No. 2018-15, § 1, 6-18-18)

State law reference(s)—Authority to regulate, restrict and prohibit the possession or harboring of dangerous animals, G.S. 160A-187.

14-37. Animals creating nuisance.

- A. *Prohibited.* It shall be unlawful for an owner or keeper to permit an animal to create a nuisance, or to maintain a nuisance created by an animal. An agricultural operation or any of its appurtenances shall not constitute a nuisance when operated in accordance with the conditions and provisions set forth in G.S. 106-701.
- B. *Abatement procedure.* Compliance shall be required as follows:
 - 1. When an animal control officer, law enforcement officer or duly authorized person observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from the time of notification to abate the nuisance.
 - 2. Upon receipt of a written, detailed and signed complaint being made to the city manager, or the local health director, where the county is contracted to provide animal control services for the city or by any person that any other person is maintaining a nuisance as defined in Section 1-2, the city manager, or local health director, shall cause the owner or keeper of the animal in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.
 - 3. If the written findings indicate that the complaint is justified, then the city manager, the local health director or a duly authorized person shall cause the owner or keeper of the animal in question to be so notified in writing, and ordered to abate such nuisance within 48 hours by whatever means may be necessary. If the owner or keeper of the animal is unknown and cannot be ascertained, the notice and order, along with a general description of the animal, shall be posted for 48 hours at the animal shelter, city hall and county courthouse. If after 48 hours the owner or keeper of the animal remains unknown, the animal may be impounded or humanely destroyed.



Code of Ordinances and UDO

- C. **Violations.** It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this section. Violation is punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

(Code 1980, § 4-27; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21; Ord. No. [2023-43](#), § 1(Exh. A), 9-5-23)

14-38. Barking dogs.

- A. It shall be unlawful for any person to own, keep or have within the city any dog that habitually or repeatedly barks or makes other sounds that tend to annoy or disturb one or more citizens so as to interrupt the sleep or tranquility of one or more persons in the general neighborhood on a regular basis. An animal control officer shall make this determination based on an investigation, and the complaint must be jointly signed by the complainant and the investigating officer. For convenience and efficiency in documenting the complaint, a form substantially similar to *Exhibit A may be used by the complainant, and the investigation will be deemed complete when the form is signed by the investigating officer.
- B. Second and subsequent violations of the prohibition against barking dogs in subsection (a) above shall be deemed to occur for each separate barking event which may be complained of, occurring within 30 days of the date the initial complaint form (*Exhibit A) is signed by the investigator, or within 30 days of the last previous complaint after the signing of the initial complaint form by the investigator, whichever last occurs.
- C. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

(Code 1980, § 4-28; Ord. No. 9-00, § 3, 4-17-00; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

**Exhibit A is not included herein but is available for public inspection in city offices.*

14-39. Luring, seizing, molesting or teasing animal.

It shall be unlawful for any person to entice or lure any animal out of an enclosed area or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

(Code 1980, § 4-29; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

14-40. Compliance with state rabies laws.

- A. It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.
- B. It is the purpose of this article to supplement state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(Code 1980, § 4-30)

State law reference(s)—Rabies, G.S. 130A-184 et seq.

14-41. Vaccination of dogs and cats required; vaccination of other pets.

- A. It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four months of age or older. Should it be deemed necessary by the local health director or the local board of health that other pets be vaccinated in order to prevent a threatened epidemic or to control



Code of Ordinances and UDO

an existing epidemic, it shall be unlawful for any owner or keeper to fail to provide current vaccination against rabies for that pet.

- B. A rabies vaccination shall be deemed current for a cat or dog if two vaccinations have been given one year apart and booster doses of rabies vaccine administered every three years thereafter.
- C. All antirabic vaccines shall be administered by a licensed veterinarian or a certified rabies vaccinator.
- D. Violation punishable as an infraction with fine up to \$25.00 per G.S. 14-4(b).

(Code 1980, § 4-31; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

14-42. Vaccination tag and certification.

- A. Upon complying with the provisions of Section 14-41, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with the number and the year for which issued, and a rabies vaccination certificate.
- B. It shall be unlawful for any dog owner or keeper to fail to provide the dog with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times. All cat owners or keepers must maintain in their possession all rabies tags and vaccination certificates for official proof and documentation of rabies vaccination.
- C. In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this article If the dog is found not to be wearing a currently valid rabies tag, or the cat owner cannot produce rabies tags and/or vaccination certificates when requested by a duly authorized official.
- D. It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.
- E. All dogs or cats shipped or otherwise brought into the city from a state other than North Carolina, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that the dog or cat is apparently free from rabies, and has not been exposed to rabies, and that the dog or cat has received a proper dose of rabies vaccine within the past 12 months prior to the date of the issuing the certificate.
- F. Violation punishable as an infraction with fine up to \$25.00 per G.S. 14-4(b).

(Code 1980, § 4-32; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

14-43. Notice to local health director when person bitten by dog or cat; confinement of animal.

- A. When a person has been bitten by a dog or cat, it shall be the duty of such person, or his parent or guardian if such person is a minor, and the person owning such animal or having the animal in his possession or under his control, to notify the local health director, or person duly authorized by the local health director, immediately and give their names and addresses. The owner or person having such animal in his possession or under his control shall immediately and securely confine the animal for ten days at the expense of the owner in such place as may be designated by the local health director. It shall be the duty of every physician, after his first professional attendance upon a person bitten by an animal known to be a potential carrier of rabies, to report to the local health director the name, age and sex of the person so bitten, and the precise location of the bite wound, within 24 hours after first having knowledge that the person was bitten. Non-bite exposures, as defined by the Center for Infectious Diseases, CDC, should be reported to the local health director and post-exposure



Code of Ordinances and UDO

treatment should be consistent with the immunization practices advisory committee recommendations, as may from time to time be promulgated. If the owner of or a person who has in his possession or under his control an animal having rabies, or suspected of having rabies, refuses to confine the animal as required by this section or by G.S. 130A-198, the local health director may order seizure of the animal and its confinement for ten days in such place as the local health director designates.

- B. Law enforcement agencies investigating animal bites shall report such bites immediately to the local health director or person duly authorized by the local health director and give the names and addresses of the person bitten and the owner of the animal.
- C. Animals confined in accordance with Subsection A of this section shall not be released from confinement except by permission from the local health director.
- D. Animals confined in accordance with Subsection A of this section shall be confined at the expense of the owner or keeper.
- E. In the case of an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by this section at the animal shelter.
- F. Badly wounded, diseased or suffering animals which are suspected of having rabies may be humanely destroyed immediately and the head forwarded for examination by the laboratory services division of the state department of environment, health and natural resources.

(Code 1980, § 4-33)

14-44. Destruction or confinement of animal bitten by known rabid animal.

Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six months at the expense of the owner or keeper. If the animal has a current rabies vaccination, it shall be revaccinated and returned to the owner or keeper.

(Code 1980, § 4-34)

14-45. Areawide emergency rabies quarantine.

- A. When reports indicate a positive diagnosis of rabies to the extent that lives of persons are endangered, the local health director may declare an area-wide quarantine for such period as the director deems necessary. Upon invoking such emergency quarantine, no dog or cat may be taken or shipped from the city without written permission of the local health director. During such quarantine, the local health director, law enforcement officers or persons duly authorized by the local health director may seize and impound any dog or cat found running at large in the county. During the quarantine period the local health director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the city.
- B. If there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the local health director.

(Code 1980, § 4-35)

14-46. Postmortem diagnosis of rabies.



Code of Ordinances and UDO

- A. If an animal dies while under observation for rabies, the head of such animal shall be submitted to the local health department for shipment to the laboratory services division of the state department of environment, health and natural resources for rabies diagnosis.
- B. The carcass of any animal suspected of dying of rabies shall be surrendered to the local health department. The head of such animal shall be shipped to the laboratory services division of the state department of environment, health and natural resources for rabies diagnosis.

(Code 1980, § 4-36)

14-47. Failure to surrender animal for confinement or destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this article, when demand is made by the local health director. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

(Code 1980, § 4-37; Ord. No. 2021-48, § 1(Exh. A), 11-15-21)

14-48. Impoundment authorized.

- A. Any animal which appears to be lost, stray or unwanted, or not wearing a currently valid rabies vaccination tag as required by state law or this article, or not under restraint in violation of this article, may be seized, impounded and confined in a humane manner in an animal shelter.
- B. Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this article.

(Code 1980, § 4-38)

14-49. Posting of notice of impoundment; notice to owner or keeper.

- A. Upon impounding an animal, notice of such impoundment shall be posted for a minimum of five calendar days, beginning with the time the animal enters the animal shelter, or until the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.
- B. Such notice shall be prominently displayed at the animal shelter, and shall include the time and place of the taking of such animal.

(Code 1980, § 4-39)

14-50. Redemption of impounded animal by owner.

- A. The owner or keeper of an animal impounded under this article may redeem the animal and regain possession thereof within five calendar days after notice of impoundment is posted as required by this article, by paying any applicable fees as determined by the local board of health.
- B. No animal owner or keeper may be permitted to adopt his own animal under the provisions of this article, but he must comply with the provisions of this article in order to reclaim an animal that has been impounded pursuant to state law or this article.
- C. The provisions of this section shall have no application with respect to animals surrendered by the owner or keeper to the local health department for immediate adoption or destruction as provided in Section 14-54.



(Code 1980, § 4-40)

14-51. Adoption of impounded animals.

- A. Any person adopting a dog or cat from the animal shelter shall be required to sign an adoption/medical contract with the animal shelter in accordance with the provisions of this article.
- B. All animals adopted from the animal shelter shall be required to be spayed or neutered as specified in this section. All dogs or cats over six months of age shall be spayed or neutered by a licensed veterinarian within 30 days of the date of the adoption/medical contract. All puppies or kittens under six months of age shall be spayed or neutered within 30 days after the animal becomes six months of age.
- C. The board of health shall establish uniform fees for adoption.
- D. An adopting party shall be required to pay any boarding or redemption fee for adopting a dog, and shall not be required to pay the normal applicable rabies license fee for the first year. The rabies fee is included in the adoption fee.
- E. All adopting parties shall be required to pay the adoption fee provided for in subsection (c) of this section prior to possession of the animal. Payment of this fee shall entitle the adopting party to visit any participating veterinarian and receive for the adopted animals the medical services listed in the adoption/medical contract.
- F. Payment for the services by the city, or the county when animal control services are contracted, to the local veterinarian shall be processed by the animal shelter upon receipt of a completed and signed adoption/medical contract, which will be provided by the animal shelter for each animal that is adopted.
- G. An exchange may be acceptable for any animal that requires major medical treatment or dies from natural causes within 30 days from the date of adoption under the following conditions only:
 - 1. Any major medical treatment must be certified as being necessary by a licensed veterinarian.
 - 2. If the adopted animal dies during the 30 days following adoption, the adopting party must present satisfactory evidence (i.e., the carcass of the animal or a veterinarian's certification) of the date of the death of the animal.
- H. The request for an exchange must be made within 30 days from the date of the adoption contract.
- I. The adopting party must bring the animal to a licensed veterinarian in accordance with the provisions of Subsection B of this section within ten working days of the execution of the adoption contract.

(Code 1980, § 4-41)

14-52. Disposition of impounded animals not redeemed by owner.

- A. If an impounded animal is not redeemed by the owner or keeper within the period prescribed in Section 14-50, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption to a responsible adult who is willing to comply with this article and with policies promulgated by the board of health.
- B. No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to this article, except by special authorization of the local health director.

(Code 1980, § 4-42)

14-53. Rabies vaccination for redeemed or adopted dogs and cats.



Code of Ordinances and UDO

- A. Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be given a rabies vaccination notice at the time of the redemption or adoption. This notice will be dated and will indicate the maximum time limit allowed to take the dog or cat to the veterinarian of such person's choice for rabies vaccination. The time limit for dogs and cats four months of age and older will be ten working days (Sundays and holidays excluded). The time limit will be according to age for puppies and kittens under four months.
- B. The rabies vaccination notice will be completed by the veterinarian and returned to the animal shelter.
- C. Payment for rabies vaccination as provided in this section will be the responsibility of the person redeeming or adopting the animal.

(Code 1980, § 4-43)

14-54. Disposition of animals surrendered to animal shelter by owner.

- A. Any animal surrendered by its owner to animal control may be immediately placed for adoption or humanely destroyed when:
 - 1. The owner directs in writing that the animal be placed for adoption or humanely destroyed;
 - 2. The owner affirmatively represents in writing that he is in fact the legal owner of the animal;
 - 3. The owner agrees that he will indemnify and hold animal control harmless from any loss or damage it may sustain, including attorneys' fees, by reason of the destruction or placement for adoption of the animal; and
 - 4. The owner transfers ownership of the animal to animal control and releases animal control from any and all future claims with respect to the animal.
- B. Upon receiving these assurances, animal control may rely on such assurances and place the animal for adoption, or destroy the animal, at its discretion. The waiting periods provided in Sections [14-49](#) and [14-50](#) shall not apply to immediate adoption or destruction as provided in this section.

(Code 1980, § 4-44)

14-55. Destruction of wounded, diseased or unweaned impounded animals.

Notwithstanding any other provision of this article, any animal seized and impounded which is badly wounded, diseased (not a rabies suspect) or unweaned and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the local health department shall attempt to notify the owner or keeper before disposing of such animal. If the owner or keeper cannot be readily reached, and the animal is suffering, the local health department may destroy the animal at its discretion in a humane manner.

(Code 1980, § 4-45)

14-56. Destruction of animals that cannot be seized by reasonable means.

Notwithstanding any other provision of this article, an animal which cannot be seized by reasonable means may be humanely destroyed as set forth in G.S. 130A-192, by order of the local health director or person duly authorized by the local health director.

(Code 1980, § 4-46)



14-57. Duties of person injuring animal.

It shall be unlawful for any person injuring an animal to fail to notify immediately the owner or keeper of the animal, or an animal control officer, a local law enforcement agency or the local Humane Society. Violation punishable as an infraction with fine up to \$50.00 per G.S. 14-4(b).

(Code 1980, § 4-47; Ord. No. 2021-48, § 1(Exh. A), 11-15-21)

14-58. Keeping stray animals.

- A. It shall be unlawful for any person in the city to knowingly and intentionally harbor, feed, keep in possession by confinement, or otherwise allow to remain on his property any animal which does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified animal control. The local health director or designee shall within seven days, but no sooner than four days, after receiving notification, unless the person requests earlier pickup, take such animal, place it in the animal shelter, and deal with it as provided by local policy. Notwithstanding the provisions of this subsection, if the local health director has a report from such animal's owner that the animal is lost, the animal may be picked up immediately by animal control. Violation punishable as an Infraction with fine up to \$50.00 per G.S. 14-4(b).
- B. It shall be unlawful for any person to refuse to surrender any such stray animal to the local health director or animal control upon demand. Violation punishable as an infraction with fine up to \$50.00 per G.S. 14-4(b).

(Code 1980, § 4-48; Ord. No. 2021-48, § 1(Exh. A), 11-15-21)

14-59. Security dogs—Generally; permit required.

- A. *Dogs on nonresidential property.* It shall be unlawful to keep, maintain or use any dog in the city for the purpose of protecting any commercially or industrially used property, or person on such property, unless a permit for keeping, maintaining or using such dog shall have been obtained from the local health director in accordance with the provisions of this section and such permit shall remain unsuspended and unrevoked.
- B. *Dogs on residential property.* It shall be unlawful to keep, maintain or use any patrol or sentry dog in the city for the purpose of protecting any residentially used property, or person on such property, unless a permit for keeping, maintaining or using such dog shall have been obtained from the local health director in accordance with the provisions of this section, and unless such permit shall remain unsuspended and unrevoked.
- C. *Additional regulations.* The board of health shall promulgate regulations for the issuance of permits for security dogs and compliance with provisions of this article and applicable laws. The board of health may amend such regulations from time to time as deemed desirable for public health and welfare.
- D. *Revocation of permit.* The local health director may revoke any permit if the person holding the permit refuses or fails to comply with this article, the regulations promulgated by the board of health, or any law governing the protection and keeping of animals.

(Code 1980, § 4-49)

14-60. Exception for commercial animal establishments.

Section 14-59 shall not apply to those specific areas of operation of a commercial animal establishment which are licensed and regulated under G.S. ch. 19A, or by an agency of the United States government.

(Code 1980, § 4-50)



14-61. Keeping nondomestic animals or dangerous animals.

No person shall possess or harbor any nondomestic animal, animals which are dangerous to persons or property, or animals which have the potential of being dangerous to persons or property, except as may be otherwise provided by this chapter. This section shall not apply to bona fide circuses, petting zoos and other traveling commercial animal exhibitions of limited duration. Violation punishable as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).

(Code 1980, § 4-51; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

14-62. Confinement of female dogs in heat.

The owner or keeper of any female dog shall, when such dog is in heat, confine such dog in a building or secure enclosure in such manner that she will not be in contact with another dog or create a nuisance by attracting other dogs; provided, however, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal being bred.

(Code 1980, § 4-52)

14-63. Abandonment of dog or cat.

It shall be unlawful for the owner of any dog or cat, or any other person, to abandon any dog or cat within the city.

(Code 1980, § 4-53)

14-64. Responsibility of owner or keeper for acts of dogs and cats.

Owners and keepers of dogs and cats are responsible for the acts of their dogs and cats. When any dog or cat commits a nuisance upon the property of another person or damages another person's property or person, the owner and/or keeper of the dog or cat is fully responsible and accountable for the action of the dog or cat.

(Code 1980, § 4-54)

14-65. Interference with enforcement officers.

It shall be unlawful for any person to interfere with, hinder or molest the employees of the health department, animal control or persons duly authorized by this article. It shall also be unlawful for any person to seek to release any animal in the custody of such persons, except as otherwise specifically provided.

(Code 1980, § 4-55)

14-66. Penalties; additional remedies.

- A. *Additional remedies.* In addition, enforcement of this article may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. 160A-175.
- B. *Civil penalties.* In addition to and not in lieu of the criminal penalties and other sanctions provided in this article, a violation of this article may also subject the offender to the civil penalties set forth in this subsection.
 - 1. Such civil penalties may be recovered by the city in a civil action in the nature of debt or may be collected in other amounts as prescribed in this section within the prescribed time following the issuance of notice for such violation.



Code of Ordinances and UDO

2. Such notice shall, among other things:
 - a. Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty plus the cost of the action to be taxed by the court.
 - b. Further state that such offender may answer the notice by mailing the notice and the stated penalty to the local health director, at the health department's mailing address, or by making payment to the local health director, health department or animal shelter at the appropriate address, and that, upon payment, such case or claim and right of action by the city will be deemed compromised and settled.
 - c. State that such penalties must be paid within 72 hours from issuance of such notice. Such notice shall further state that, if such notice of violation is not paid within the 72-hour period, court action by the filing of a civil complaint for collection of such penalty shall be taken.
3. The local health director is authorized to accept such payments in full and final settlement of the claims or rights of action which the city may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims or rights of action arising out of such contended violations.
4. The civil penalty for violation of this article is determined by the board of health and approved by the city council. The penalty shall be paid within 72 hours from and after the issuance of the notice referred to in this subsection.
5. The notice of violation referred to in this subsection may be delivered to the person violating the provisions of this article in person, or may be mailed to the person at his last known address.
6. All penalties paid to the local health director or as may be recovered in a civil action in the nature of debt as provided in this subsection for purposes of enforcement of this article shall be paid into the general fund of the city.

(Code 1980, § 4-56; Ord. No. 2021-48 , § 2(Exh. B), 11-15-21)

14-67. Authority of police officers.

In addition to the authorities granted the local health department and animal control officers by this article, officers of the city police department shall have equal authority to act under the authority of this article when, in the discretion of the city manager, law enforcement action is necessary for the protection of public safety. This shall include discretionary authority to slay any animal which is deemed a threat to public safety.

(Code 1980, § 4-57)



CHAPTER 38. HEALTH AND SANITATION

ARTICLE II. NUISANCES

DIVISION 2. NOISE

38-71. Generally.

The creation of any unreasonably loud, disturbing and unnecessary noise in the city is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(Code 1980, § 8-39)

38-72. Specific prohibitions.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of section 38-71, but such enumeration shall not be deemed to be exclusive:

- A. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- B. The use of any gong or siren upon any vehicle, other than on police, fire or other emergency vehicles.
- C. The playing of any radio, phonograph or other musical instrument in such a manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any persons in any dwelling, hotel or other type of residence. No speaker or amplifier of any radio, phonograph or other musical instrument on which music is played shall be located outside of any private or commercial public building or temporary structure, including tents, or inside such enclosed spaces so that the sound is directed primarily to the outside; except that this provision shall not apply to small amplifying systems located at these places used for placing orders for meals or merchandise so long as the amplifiers or speakers are not over four inches in diameter and do not use over six watts of electricity.
- D. The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.
- E. The use of any automobile, motorcycle, go-carts, mini bikes, dirt bikes and all terrain vehicles or other unlicensed toy or recreational vehicles or devices powered by an internal combustion engine, so loaded or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise is prohibited.
- F. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.
- G. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- H. The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.



Code of Ordinances and UDO

- I. The erection (including excavation), demolition, alteration or repair of any building in a residential or business district, including the operation of construction equipment operated for such purposes, other than between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, except in the case of urgent necessity in the interest of public safety and then only with a permit from the City of Brevard Zoning Administrator or Code Enforcement Officer, which permit may be renewed for a period of three days or less while the emergency continues.
- J. The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the school, institution of learning or court is in session, or within 150 feet of any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the street is a school, court or hospital street.
- K. The creation of any excessive noise on Sundays on any street adjacent to any church, provided conspicuous signs are displayed in such streets adjacent to churches indicating that the street is a church street.
- L. The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- M. The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.
- N. The shouting and crying of peddlers, barkers, hawkers and vendors which disturb the quiet and peace of the neighborhood.
- O. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale of merchandise, except that this provision shall not apply to parades approved by the city council.
- P. The use of any mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising or other purposes except where specific license is received from the police department.
- Q. The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m.
- R. The firing or discharging of a gun, squibs, crackers, gunpowder or other combustible substances in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the police department.

(Code 1980, § 8-40; Ord. No. 7-01, § 1, 6-18-01; Ord. No. 2012-03, § 2, 2-20-12)

Cross reference(s)—Animals and fowl, [CHAPTER 14](#).

38-72.1. Violations; exceptions.

Notwithstanding the enumeration of prohibited noises as listed in section [38-72](#), whenever it is practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the following procedure shall be used to determine whether any specific noise alleged to be a violation of this noise ordinance is, in fact, a violation, at any certain time and for any given location from which a complaint arises.

- A. *Violations.* In order to document and prove a prima facie violation of this noise ordinance:
 - 1. The ambient noise level shall be determined, if it is reasonably practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint. Then, the alleged violation noise level shall be determined at the same location, both determinations to be made by the use of the same sound level meter, and using the same procedure. A violation shall have occurred if the alleged violation noise level exceeds the ambient noise level:



Code of Ordinances and UDO

- a. By ten decibels, between the hours of 9:00 p.m. and 7:00 a.m.; or
 - b. By 20 decibels, between the hours of 7:00 a.m. and 9:00 p.m.
 2. If, due to the nature of the alleged violation noise level, no determination of an ambient noise level is practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, then a violation shall have occurred if the alleged violation noise level exceeds:
 - a. 60 decibels between the hours of 9:00 p.m. and 7:00 a.m.; or
 - b. 70 decibels between the hours of 7:00 a.m. and 9:00 p.m.
 3. If no decibel readings or comparison between ambient noise levels and alleged violation noise levels are practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the alleged violation is listed in section 38-72, and the violator does not voluntarily and promptly reduce the noise level when requested to do so by a law enforcement officer or code enforcement officer, so as to comply with the definitions in section 38-71, or if, having reduced the noise level to comply therewith but then within a 24-hour period again produces or allows to be produced noise at a level not in compliance with the definitions in section 38-71, the noise shall be a violation of the ordinance.
- B. Exceptions.** The following are excepted from this noise ordinance:
1. Any noise generated by an emergency vehicle, such as a fire truck, police car, an EMS vehicle or their sirens, or other noises generated by or at the behest of a governmental entity which is intended to immediately promote the public health, safety or welfare.
 2. Any sporting event sanctioned by a school, any other government agency, or any civic group or club provided that in the latter instance, such event is properly permitted.
 3. Noises caused by:
 - a. Lawn care equipment, agricultural equipment or construction equipment operated for intended and legitimate purposes between the hours of 7:00 a.m. and 9:00 p.m.;
 - b. Properly permitted events such as parades, fairs, circuses and other entertainment events;
 - c. Bells, chimes and similar devices which operate from a stationary location, which were in operation before the complainant's residency was established, and which operate for no longer than five minutes in any hour;
 - d. Emergency work reasonably necessary to safeguard the public safety to person or property;
 - e. Duly permitted electrical transformers and utility substations;
 - f. Traffic noises other than the unnecessary use of horns, radios or other sound amplifying or receiving equipment, intentional screeching of tires, intentional revving of motors, provided that such traffic noises emanate from a public street or right-of-way; and
 - g. Noises permitted pursuant to section 38-73.
- C. Regulations and measurement standards promulgated by the chief of police.** The chief of police may promulgate any regulations and sound level measurement standards consistent with this noise ordinance which, in his professional opinion, will aid in the enforcement hereof.
- D. Noises are public nuisances.** Nothing in this noise ordinance shall be construed in such manner as to prohibit the code enforcement officer, the city manager and/or the city council from following the procedure for abatement of a nuisance, enumerated in division 1 of this article, as an alternative or in addition to the prosecution of a violation of the noise ordinance as a misdemeanor with fine up to \$500.00 per G.S. 14-4(a).



Code of Ordinances and UDO

(Ord. No. 2012-03, § 1, 2-20-12; Ord. No. 2021-48, § 1(Exh. A), 11-15-21; Ord. No. [2023-43](#), § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the definitions previously found in this section to City Code § [1-2](#).

38-73. Permits for exceptions.

Upon application, the city manager, chief of police, zoning administrator or code enforcement officer may approve a request for an exception to the provisions of this section. Such exceptions shall be granted only to educational institutions, bona fide non-profit organizations, governmental organizations or other public/quasi public agencies serving the entire community events. Such exceptions may be limited in a manner to provide the least possible variance from the terms of the section as may be necessary to allow the proposed event to take place. The exception shall require the applicant to agree to necessary terms and conditions and, in no case, shall it extend the time limits in section 8-40(3) to beyond midnight.

(Ord. No. 4-97, § 1, 3-3-97; Ord. No. 2012-03, § 3, 2-20-12)

38-74—38-90. Reserved.



CHAPTER 62. STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

ARTICLE VI. PEDESTRIAN/BICYCLE PATHWAY

62-141. Reserved.

(Ord. No. 9-03, § 2, 6-6-03; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the contents of this section to City Code § 1-2.

62-142. Bikeways (bike routes, bike lanes and bike paths as indicated) established.

The following bicycle paths are established for the use of bicycles and pedestrians within the jurisdiction of the City of Brevard.

- A. City of Brevard Sports Complex trailhead to north side of its intersection with Allison Road.

(Ord. No. 9-03, § 3, 6-6-03)

62-143. Regulated uses.

The following provisions shall apply upon the established bikeways of the City of Brevard.

- A. Motorized vehicles are strictly prohibited on all bikeways. Emergency vehicles and those maintenance vehicles specifically authorized by the city manager are exempted.
- B. Cyclists and pedestrians using bikeways before dawn or after dusk shall be equipped with proper lights. Including a white light that is visible from 500 feet to the front, and a red or amber light that is visible from 500 feet to the rear. Pedestrians should use white lights visible 250 feet to the front, and wear light or reflective clothing.
- C. Blocking of a bikeway by any user is strictly prohibited.
- D. Possession and use of alcoholic beverages and/or drugs are strictly prohibited.
- E. Littering is strictly prohibited.
- F. Pets are permitted upon bikeways however they must be leashed at all times and the owner or responsible party must remove all animal waste.
- G. Camping and campfires are strictly prohibited.
- H. Smoking is strictly prohibited.
- I. The cutting or damaging of any tree or plant is strictly prohibited unless specifically authorized by the city manager.
- J. Horses and/or other equines are strictly prohibited on all bikeways.

(Ord. No. 9-03, § 4, 6-6-03)

62-144. Applicability of traffic regulations.



Code of Ordinances and UDO

All bicycles used and operated upon and across designated bikeways within the City of Brevard's jurisdiction shall be considered vehicles and the riders of such bicycles shall be subject to all provisions of the Brevard City Code and Ch. 20 of the North Carolina General Statutes applicable to the driver of vehicles except those which by their nature can have no application. Bicyclists using bike paths shall comply with all traffic regulations posted along the path and shall stop or otherwise yield the right-of-way before entering or crossing a public street.

(Ord. No. 9-03, § 5, 6-6-03)

62-145. Shared facilities.

While roadways are provided for the safety and convenience of motorists, sidewalks are provided for the safety and convenience of pedestrians and bikeways are provided for the safety and convenience of bicyclists, it is recognized that in many instances such facilities may be shared. On shared facilities, the following regulations shall apply:

- A. When using bike paths and bike trails, pedestrians shall walk as far to the right as practicable; shall walk no more than two abreast; and shall exercise due care. Bicyclists shall give an audible signal before passing a pedestrian on a bike path or trail.
- B. Persons riding bicycles upon a bikeway shall ride single file except when passing another bicycle.
- C. On and across bikeways upon which pedestrian traffic is also permitted bicycles shall at all times yield the right-of-way to pedestrians.

(Ord. No. 9-03, § 6, 6-6-03)

62-145—62-160. Reserved.



CHAPTER 66. TRAFFIC

ARTICLE I. IN GENERAL

66-13. Special events.

- A. *Application of regulations.* This section shall apply to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of or that substantially hinders or prevents the normal flow of vehicular or pedestrian traffic on all or a portion of any city owned property, street, or other public right-of-way. Any such activity covered by this chapter shall hereafter be referred to as a "special event".
- B. *Permit required.* No "special event" is permitted on any city owned property, street or other public right-of-way of the city unless a permit has been issued by the city manager; however, nothing in this section shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.
1. No parade of vehicles or march of pedestrians or animals or combination thereof upon the streets or sidewalks of the city shall be allowed except as approved by the city manager. All holders of permits granted and approved by the city manager pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the issuance of a special event permit.
 2. Any person denied a special event permit under this section may appeal to the city council at the next regularly scheduled meeting.
- C. *Permit application.* Applications for a "special event" permit authorized by this section that require the closure of a public street, sidewalk or other city facility shall be submitted to the city manager not less than 60 days before the parade or event is proposed to commence, excluding recognized holidays, on a form provided by the office of the city manager and shall contain the following information:
1. Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event.
 2. Name, address, and telephone number of the individual contact person in charge of the event.
 3. The proposed date and time period when the event will be conducted.
 4. The estimated number of people expected to attend the event.
 5. Sufficient proof of liability insurance in accordance with the city's standard requirements.
 6. Any other information determined by the city manager to be necessary to insure compliance with these provisions.
 7. A sketch map showing;
 - a. The area where the event is to take place.
 - b. Names of any streets to be closed or obstructed.
 - c. Location of any barriers or traffic control devices that will be erected.
 - d. Location of any concession stand, booth, or other temporary structures or facilities.
 - e. Location of any proposed fences, stands, platforms, benches or bleachers.



Code of Ordinances and UDO

8. The number and type of animals included as part of the event, if applicable. Approval of animals involved in any special event is subject to 66-13.M, and the animals' location must be specified on the sketch map.

Applications for a "special event" permit as authorized by this section not requiring the closure of a public street or sidewalk shall be submitted to the city manager not less than two working days before the parade or event is proposed to commence, excluding recognized holidays, on a form provided by the office of the city manager and shall contain the items listed above, excluding subsections (5), (7)b. through e., and (8).

Applications must be accompanied by an application fee, shall be set forth in the schedule of taxes, fees and charges of the annually adopted Budget Ordinance for the City of Brevard, before being reviewed and considered.

- D. *Permit revocation.* Upon violation of the terms of a permit issued under this section by the applicant or participants the city manager and/or the chief of police or his designee is authorized to revoke the permit and direct those participating to disperse.
- E. *Staff review.* Upon receipt of the permit application, it shall be circulated to the chief of police, fire chief, public works director, and other appropriate persons for their comment. The city manager may require a conference on the application between the applicant and one or more department heads.
- F. *Insurance requirement.* The city manager shall require as a condition precedent or subsequent to the issuance of the permit that the applicant obtain a comprehensive general liability insurance policy providing coverage that includes the entire area described in the permit for events requiring the closure of a public street, sidewalk or city facility. If such a policy is required, under the provisions of this section, the city shall be named as an additional insured on the policy. A certificate of insurance shall be provided to the city as proof of coverage. Such policy shall conform to the minimum coverage requirements as set forth by the city manager.
- G. *Fees; costs incurred by the city.* If the city is requested to provide extraordinary services or equipment or the city manager determines that extraordinary services or equipment for reasons related to protection of the public health and safety, he/she may require the applicant to pay to the city a fee sufficient to reimburse it for the costs of any extraordinary services or equipment provided to the event unless sufficient funding has been included in the city budget as adopted by city council.
- H. *Standards for issuance of permit.*
1. The city manager shall issue the permit authorizing the "special event" unless it is found that:
 - a. Insufficient funding and/or resources necessary to provide extraordinary services or equipment for the event are not available; or
 - b. The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the city; or
 - c. The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege license; or
 - d. The applicant is in violation of any city ordinance; or
 - e. The applicant fails to obtain liability coverage and show proof of said insurance as required by the city; [or]
 - f. The event will create a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property; or
 - g. The event, if held at the time or at the location or along the route proposed will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or

- ## ARTICLE 6. SPECIAL EVENTS PERMIT
- h. The applicant shall have failed to comply with any of the provisions of the special events ordinance, including but not limited to payment of any required fees and costs; or
- i. A special events permit has previously been applied for or issued for substantially the same location and time requested in the application.
2. In considering the matters listed above and the question of whether or not to issue the permit, the public safety and health shall be given paramount importance.
- I. *Conditions upon issuance of permit.* If a permit is issued the city manager may attach any reasonable conditions that serve to promote the protection of the public safety and health. Any event held pursuant to a permit issued under this section shall be conducted within the applicable terms including any attached conditions.
- J. *Right of appeal.* If the city manager denies or revokes a special event permit this action shall be final unless the applicant or permit holder files, within three working days, a written appeal with the city clerk. Such written appeal will be placed for consideration by city council at its next regularly scheduled meeting. The city council shall review the matter and its decision shall be final.
- K. *Street closing.*
1. The city manager is authorized to permit the temporary closing of a street or other public right-of-way except as otherwise provided for in subsection (I) below if the provisions of the section are adequately complied with. Any temporary closing of a street or part thereof owned and/or maintained by the State of North Carolina shall require concurrence by the N.C. Department of Transportation.
- The city manager may only permit the temporary closing of any portion of U.S. Highway 64, US Highway 64 Business, U.S. Highway 276, SR 1349 (West Main Street) for city recognized special events. An event shall be considered to be city recognized upon the adoption of a resolution by city council making such designation. In order to qualify for recognition an event must have received a commitment of funding and/or resources from the city for any necessary public safety and traffic control measures prescribed by the city manager for the special event.
2. The city clerk shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place as soon as possible once a permit is issued.
- L. *Temporary parking restrictions.* The chief of police, or his duly appointed representative, is authorized to prohibit, on a temporary basis, the parking of vehicles under the following circumstances:
1. Along permitted parade routes or on streets closed pursuant to the issuance of a special events permit for a period of two hours before any special event begins, during the entire event and up to one hour after the completion of the event.
- M. *Permit for special events involving animals.* No special event in which animals are involved shall be conducted without a special permit from the city manager. The city manager shall require a bond in the amount of \$50.00 (where five or less animals are involved) or \$100.00 (where more than five animals are involved), which will provide that the person obtaining the special permit will be responsible for cleaning the city streets or property after the parade, exhibition, demonstration or experiment. All holders of special permits granted and approved by the city manger pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the behavior of such animals or issuance of such a special permit.
- N. *Animals prohibited.* It shall be unlawful for any person to have or keep any animal at any event requiring the issuance of a special event permit except as otherwise provided within this section.



Code of Ordinances and UDO

- O. *Permit for special event involving the sale and consumption of alcoholic beverages.* No special event in which the sale and consumption of alcoholic beverages shall be conducted without a special permit from the city manager or the administrator, pursuant to [CHAPTER 42](#) Article I of the Brevard City Code.
1. Special event permit holders shall submit an operational plan demonstrating the procedures and practices that will be employed to assure such compliance with all applicable regulations as set forth in Brevard City Code and the North Carolina General Statutes. Such plan shall specifically address the prevention of the sales of alcohol to minors, and the methods that will be employed to contain the consumption of alcohol within the designated area.
 2. For special events, the sales and consumption of malt beverages and unfortified wine, but no other alcoholic beverages, shall be as authorized on the permit; provided, however, that no such sales shall be allowed earlier or later than during the city permitted timeframe of the festival.
 3. The administrator shall have the discretion to withhold approval of permits for the sales and consumption of alcohol associated with future special events, when the permit holder has failed to demonstrate compliance with all applicable laws of the City of Brevard and the State of North Carolina pertaining to the sales and consumption of alcoholic beverages in the operation of previous events.

(Ord. No. 4-03, § 1, 4-21-03; Ord. No. 24-04, § 1, 11-1-04; Ord. No. 12-2011, § 6(Exh. F), 6-20-11, eff. 7-1-11; Ord. No. 2022-74, 11-21-22; Ord. No. [2023-36](#), § 1(Exh. A), 8-21-23)

Cross reference(s)—Animals and fowl, [CHAPTER 14](#).

66-14—66-40. Reserved.



CHAPTER 77. PARKS AND RECREATION

ARTICLE I. BRACKEN PRESERVE MANAGEMENT RULES

77-6. Hunting and fishing.

- A. A person shall not hunt or fish within the Bracken Preserve, nor shall a person discharge a firearm or bow and arrow within the Bracken Preserve.
- B. A person who has a valid North Carolina Hunting License may carry a firearm or bow through the Bracken Preserve for the purpose of accessing game lands within Pisgah National Forest; provided, however, that a firearm shall be emptied of any ammunition and breached (if applicable) and bow shall have no arrows or bolts in place, with arrows or bolts in a quiver.
- C. A person who has a valid North Carolina Hunting License may transport game that has been legally harvested within Pisgah National Forest, through the Bracken Preserve. However a person shall not field dress harvested game within the Bracken Preserve, nor shall a person dispose of or discard the remains of any game within the Bracken Preserve.
- D. Any individual legally carrying a concealed handgun as identified in North Carolina General Statutes, unless prohibition is specifically identified or is allowed by North Carolina General Statutes, is allowed to carry firearms concealed in the Bracken Preserve.

(Ord. No. 2012-19, § 2(Exh. A), 7-16-12; Ord. No. 2013-18, § 2, 12-16-13)

77-7. Animals at large.

- A. No person shall have any dog, cat or other pet upon the Bracken Preserve unless the animal is on a leash and under the control of the owner or some other person.

(Ord. No. 2012-19, § 2(Exh. A), 7-16-12)

77-10. Horses.

- A. No person shall use, ride or drive a horse within the Bracken Preserve.

(Ord. No. 2012-19, § 2(Exh. A), 7-16-12)

77-25. Flowers, plants, minerals, etc.

- A. A person shall not remove, destroy, cut down, scar, mutilate, take, gather or injure any tree, flower, artifact, fern, shrub, rock or other plant or mineral, or forage or collect plants, animals, minerals or other artifacts within the Bracken Preserve. Park management activities performed in accordance with an approved forest management plan and consistent with the conservation easement are exempt from this rule.
- B. Groups organized for educational or research purposes may, after first having obtained a temporary use or special event permit, forage or collect plants, animals, minerals or other artifacts from the Bracken Preserve.

(Ord. No. 2012-19, § 2(Exh. A), 7-16-12; Ord. No. 2021-20, § 1(Exh. A), 5-17-21)

77-29. Enforcement and administration.



Code of Ordinances and UDO

- A. The city manager may appoint park managers, who may enact such administrative rules and procedures, and issue such orders as are necessary to effectuate the purpose of this article, the conservation easement, the forest management plan, and protect the general health, safety and welfare of the public.
- B. Park managers and sworn law enforcement may enforce this article.
- C. Violation of any rule in this article shall be punishable as a misdemeanor or infraction with fine up to \$500.00 per G.S. 14-4 and subject to further civil penalties as set forth in the North Carolina General Statutes.
- D. Pursuant to G.S. 160A-286, as otherwise modified by state or federal law, the City of Brevard Police Department shall be the primary law enforcement agency in command within and upon the Bracken Preserve.
- E. Except as modified by state or federal law, the City of Brevard Fire Department shall be the primary fire and rescue agency in command within and upon the Bracken Preserve.
- F. For violation of any rule in this article, the City of Brevard may withdraw the right of a person or persons to remain on or within the Bracken Preserve.

(Ord. No. 2012-19, § 2(Exh. A), 7-16-12; Ord. No. 2021-48, § 1(Exh. A), 11-15-21)

77-30—77-39. Reserved.

ARTICLE II. SKATE PARK

77-42. Duties of users.

- A. While engaged in hazardous recreational activities, irrespective of where such activities occur, a participant is responsible for doing all of the following:
 - 1. Acting within the limits of his or her ability and the purpose and design of the equipment used.
 - 2. Maintaining control of his or her person and the equipment used.
 - 3. Refraining from acting in any manner that may cause or contribute to death or injury of himself or herself or other persons.
- B. Any person using or riding a skateboard in a skate park or in any parks and recreation facility in which a skate park is located shall wear a protective helmet with the chin strap securely fastened under the chin, and protective elbow pads and knee pads.
- C. Failure to comply with the requirement of 77-42.A constitutes negligence.
- D. It shall be unlawful for the parent or guardian of any minor child to knowingly permit such minor child to use the skate park in violation of this section.
- E. No person shall have any dog, cat or other pet on or near the skate park unless the animal is on a leash and under the control of the owner or some other person.

(Ord. No. 2019-15, § 1(Exh. A), 6-17-19)

77-46. Enforcement and administration.

- A. The city manager may appoint park managers, who may enact such administrative rules and procedures, and issue such orders as are necessary to effectuate the purpose of this article and to protect the general health, safety and welfare of the public.
- B. Park managers and sworn law enforcement may enforce this article.



Code of Ordinances and UDO

- C. Violation of any rule in this article shall be punishable as a misdemeanor or infraction with fine up to \$500.00 per G.S. 14-4 and subject to further civil penalties as set forth in the North Carolina General Statutes.
- D. For violation of any rule in this article, the City of Brevard may withdraw the right of a person or persons to remain on or within the skate park.

(Ord. No. 2019-15, § 1(Exh. A), 6-17-19; Ord. No. 2021-48, § 1(Exh. A), 11-15-21)

ARTICLE IV. BREVARD DOG PARK RULES AND CONDUCT

77-51. Scope.

- A. This article regulates the use of the City of Brevard Dog Park, within the Brevard Sports Complex, which is hereby established as a City of Brevard public park. This article hereby establishes the rules of conduct and is in keeping with the city's efforts to ensure safe and responsible use of recreational parks and public amenities.
- B. Any person who participates in dog park use and activities does so at their own risk and assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself or other persons or property that result from these activities.
- C. Sworn law enforcement officers shall enforce the safety regulations in this article as a part of their day-to-day duties. Nothing in the provision of this article shall prevent a sworn law enforcement officer from exercising judgment and issuing warnings to offenders as deemed appropriate.

(Ord. No. 2021-14, § 1(Exh. A), 4-19-21)

77-52. Reserved.

(Ord. No. 2021-14, § 1(Exh. A), 4-19-21; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the contents of this section to City Code § 1-2.

77-53. Regulations: Negligence.

For violations of the following regulations or any other type of activity deemed "negligence" as defined in this article, the violator shall be required to pay a civil penalty of \$100.00 and may be permanently banned from using the City of Brevard's Dog Park or overarching park facilities.

- A. The City of Brevard Dog Park is open from dawn to dusk as published in the most recent sunrise/sunset table of the North Carolina Wildlife Resources Commission. No person, except City of Brevard employees and authorized persons, shall be allowed within the park facility between closing and opening hours.
- B. No animals other than dogs shall be brought into the fenced area of the dog park.
- C. All dogs shall be leashed until safely inside the dog park fenced area and returned to a leash prior to exiting.
- D. Dog owners or keepers shall remain in the fenced area while their dogs are using the dog park. Owners or keepers shall be in view of their dogs and have voice control over them at all times.
- E. Aggressive dogs and female dogs in heat are prohibited for entering the dog park. Owners or keepers shall leash and remove dogs at the first sign of aggressive behavior.
- F. Owners or keepers shall dispose of waste properly in the designated on-site containers.
- G. Bite-sized training treats are allowed, but food in bowls, long-lasting chews and toys other than balls and frisbees are prohibited.



Code of Ordinances and UDO

- H. Smoking, and eating are prohibited.
- I. The maximum limit shall be two dogs per person, per visit.
- J. Puppies less than four months old are prohibited.
- K. Owners or keepers shall be liable for any injury or damage caused by their dog.
- L. All dog bites shall be reported to the Brevard Police Department and dog owners or keepers shall be required to assist investigations of incidents of aggression or biting by providing appropriate identification and information to the police and to all dog owners who are involved.
- M. Children accompanying dog owners or keepers inside shall be strictly supervised and at least 12 years old. Spectators should remain outside the fenced area.
- N. Sick dogs are prohibited from entering the City of Brevard Dog Park.
- O. Dogs shall be vaccinated for rabies and DHLPP and shall display current identification and rabies tag on the dog's collar at all times.

(Ord. No. 2021-14 , § 1(Exh. A), 4-19-21)

77-54. Regulations: Grossly reckless.

For violations of an ordinance in this article deemed "grossly reckless" as defined in this article, the violation shall be punishable as a misdemeanor or infraction with fine up to \$500.00 per G.S. 14-4 and subject to further civil penalties as set forth in the North Carolina General Statutes.

(Ord. No. 2021-14 , § 1(Exh. A), 4-19-21; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

STAFF REPORT

City Council, Tuesday, January 16, 2024

Title: City of Brevard Legislative Requests

Speaker: Wilson Hooper, City Manager
Mack McKellar, City Attorney

Prepared by: Wilson Hooper, City Manager

Approved by: Wilson Hooper, City Manager

Background

The North Carolina General Assembly's (NCGA) "short session" begins in May. The short session is typically used to make tweaks to the biennial budget passed in the previous year's "long session" and consider policy proposals introduced during that session. Brevard's House representative, Rep. Mike Clampitt, has asked the city to submit its legislative request to him by January 31, 2024.

Brevard submitted a list of legislative requests around the same time in 2023. The Council also endorsed the North Carolina League of Municipalities' legislative goals. The city also submitted letters opposing specific pieces of legislation in April and June 2023.

Discussion

Attached to this report is staff's proposed list of legislative requests. The document is divided into financial requests and policy requests.

The earmark list requests financial support for notable city projects. Additional financial support for the WWTP project tops the list.

The policy list re-requests two significant updates that were in last year's request: permit public support of "workforce housing" and permit tourism revenue to be used to support housing creation. The remainder of the policy list represents staff's best guess as to impactful legislative issues that may be considered this session.

Action

Council is asked to discuss which requests it would like to include in the "City of Brevard's 2024 Legislative Request" document, and pass a resolution memorializing its request.

Attachments:

1. 2023 Legislative Requests Letters
2. Draft 2024 Legislative Requests
3. 2024 Legislative Request Resolution



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

January 6, 2023

Representative Mike Clampitt
PO Box 386
Bryson City, NC 28713

Dear Rep. Clampitt

It was an honor to attend your swearing-in on January 1, and it was so nice having you in Brevard for the French Legion De L'Honneur ceremony last month. I look forward to hosting you again in the future!

The City of Brevard appreciates the generosity that you and your colleagues in the General Assembly showed towards municipalities in the last session. Per your advice, the City of Brevard has compiled our list of legislative requests for this year's session. This letter summarizes our requests, which were approved by City Council at its January 3, 2023 meeting. We'll be happy to provide additional explanation if you need it.

We have three earmark requests, and three policy requests.

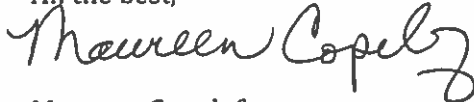
EARMARK REQUESTS		
Project	Amount	Description
Davidson River Pedestrian Bridge (TIP EB-5858)	\$300,000	Support the completion of TIP EB-5858 with supplementary funds to help Brevard meet its local match requirement.
Azalea/Rhododendron Neighborhood Sewer Extension (CS-370476-10, North Brevard Sewer)	\$3,000,000	Convert a low interest state Clean Water State Revolving Fund loan [CS-370476-10] to 100% grant or legislative earmark to fund the extension of municipal sewer to an unincorporated "donut hole" neighborhood with failing septic systems.
Brevard Wastewater Treatment Plant Replacement	\$65,000,000	Brevard's economic competitiveness is limited by its aging WWTP which uses an old-fashioned treatment process that struggles to meet state standards and cannot accommodate heavy commercial or industrial waste. The plant's physical capacity is also diminishing, and limiting Brevard's capacity for growth.

POLICY REQUESTS	
Permit public support of workforce housing	Support legislation that amends NCGS 160D-1316 to permit municipalities to financially support workforce housing serving beneficiaries having incomes up to 120% of AMI.
Defend local zoning authority	Oppose legislation that limits local authority over planning and zoning. Statewide development standards can't accommodate specific

	local circumstances. Brevard is voluntarily reviewing its ordinances to make sure none unduly inhibit the creation of housing.
Make 'housing' an eligible expense in existing programs	Support legislation that permits resources currently dedicated to tourism, economic development, or other limited uses to be used for affordable/workforce housing.

Brevard thanks you for your leadership in Raleigh, and for the opportunity to share our requests with you. Please feel free to call me or our City Manager, Wilson Hooper, at any time.

All the best,



Maureen Copelof
Mayor

Cc: Brevard City Council
Wilson Hooper, City Manager
Denise Hodson, City Clerk
Transylvania County Board of Commissioners
Jaime Laughter, County Manager



CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

January 6, 2023

Senator Kevin Corbin
300 N. Salisbury St., Rm. 623
Raleigh, NC 27603

Dear Sen Corbin,

It was so nice meeting you in Brevard last November. I look forward to hosting you again in the future!

The City of Brevard appreciates the generosity that you and your colleagues in the General Assembly showed towards municipalities in the last session. Per the advice of your House counterpart Rep. Mike Clappitt, the City of Brevard has compiled our list of legislative requests for this year's session. This letter summarizes our requests, which were approved by City Council at its January 3, 2023 meeting. We'll be happy to provide additional explanation if you need it.

We have three earmark requests, and three policy requests.

EARMARK REQUESTS		
Project	Amount	Description
Davidson River Pedestrian Bridge (TIP EB-5858)	\$300,000	Support the completion of TIP EB-5858 with supplementary funds to help Brevard meet its local match requirement.
Azalea/Rhododendron Neighborhood Sewer Extension (CS-370476-10, North Brevard Sewer)	\$3,000,000	Convert a low interest state Clean Water State Revolving Fund loan [CS-370476-10] to 100% grant or legislative earmark to fund the extension of municipal sewer to an unincorporated "donut hole" neighborhood with failing septic systems.
Brevard Wastewater Treatment Plant Replacement	\$65,000,000	Brevard's economic competitiveness is limited by its aging WWTP which uses an old-fashioned treatment process that struggles to meet state standards and cannot accommodate heavy commercial or industrial waste. The plant's physical capacity is also diminishing, and limiting Brevard's capacity for growth.

POLICY REQUESTS	
Permit public support of workforce housing	Support legislation that amends NCGS 160D-1316 to permit municipalities to financially support workforce housing serving beneficiaries having incomes up to 120% of AMI.
Defend local zoning authority	Oppose legislation that limits local authority over planning and zoning. Statewide development standards can't accommodate specific

	local circumstances. Brevard is voluntarily reviewing its ordinances to make sure none unduly inhibit the creation of housing.
Make 'housing' an eligible expense in existing programs	Support legislation that permits resources currently dedicated to tourism, economic development, or other limited uses to be used for affordable/workforce housing.

Brevard thanks you for your leadership in Raleigh, and for the opportunity to share our requests with you. Please feel free to call me or our City Manager, Wilson Hooper, at any time.

All the best,


Maureen Copelof
Mayor

Cc: Brevard City Council
Wilson Hooper, City Manager
Denise Hodson, City Clerk
Transylvania County Board of Commissioners
Jaime Laughter, County Manager

City of Brevard 2024 Legislative Requests

Earmark Requests		
Project	Amount	Description
Brevard Wastewater Treatment Plan Replacement	\$52,000,000	Brevard appreciates the \$13M we received in last year's budget. Thought it was earmarked for general "water and wastewater infrastructure projects" we intend to use it for our WWTP, specifically for preliminary expenses like needs analysis, study of alternatives, preliminary engineering and, eventually, design. We request additional consideration in future budgets for actual construction costs.
Stormwater Master Plan: Jumping Branch Watershed Improvements	\$18,000,000	Brevard conducted a stormwater masterplan study in 2007 and in the intervening years has constructed some of its proposed improvements. However, the plan's most significant project has been out of reach. The proposed six-phase improvements for Brevard's Jumping Creek Watershed total \$9.2M in 2007 dollars. The project will improve stormwater conveyance and minimize nuisance flooding in downtown Brevard and near Transylvania County's library, daycare center, and park on Broad Street.
Brevard Recreation Complex Restrooms and Paving	\$400,000	The last three years have seen a number of improvements to the Brevard Recreation Complex. Home to the Transylvania Little League and Transylvania Youth Soccer Association, this facility serves families from throughout the region. In 2023 a generous private donation funded the construction of a competition-grade lighted turf soccer field, making the facility eligible to host region-wide tournaments. The park's existing restroom facilities are on the opposite end of the property across a gravel parking lot, thus making access challenging for those with mobility limitations. The City of Brevard requests funds to construct new restroom facilities on the soccer side of the property and pave the gravel parking lot, thus improving the accessibility of the entire facility.
Inflow and Infiltration Improvements in upper Brushy Creek Watershed	\$2,000,000	Infiltration of rainwater into Brevard's sanitary sewer system taxes the capacity of our WWTP. City crews have been making slow but steady progress using city fund, but a direct allocation would accelerate repairs and protect the new WWTP into the future.
Brevard Fire Depart Engine Replacement	\$1,000,000	Brevard Fire Dept. has two sister Engines that were purchased in 2005 that are next on the department's Apparatus Replacement Schedule.

		Most manufactures are currently quoting a 3 year build time, and current pricing for a custom Engine is just under \$1M. The City of Brevard requests assistance in the purchase of this equipment to order before prices increase further.
City of Brevard Facility Study	\$100,000	The City of Brevard municipal building is aging, and its square footage inadequate for efficient operations. The city is exploring relocating Brevard Police Department from city hall to leased space. We request state assistance to study our overall facility needs.

Policy Requests	
Permit public support of workforce housing	Support legislation that updates all relevant statutes and codes so as to permit public entities to financially support workforce housing serving beneficiaries having incomes up to 120% of AMI
Amend SL 2005-88 “An Act to Allow Transylvania County to Increase the Occupancy Tax Rate in That County”	Support an update to the TC Tourism Development Authority enabling legislation that specifically recognizes “support for low-to-moderate income and workforce housing” as an eligible tourism-related expenditure. The lack of housing units accessible to service-industry workers is inhibiting the growth of the tourism sector in Transylvania County. This change would permit tourism revenue to be used to help underwrite the creation of housing units for households with incomes up to 120% of AMI
Defend local zoning authority	Oppose legislation that limits local authority over planning and zoning. Statewide development standards can’t accommodate specific local circumstances. Brevard is voluntarily reviewing its ordinances to make sure none unduly inhibit the creation of housing, and in 2023 Brevard lifted a long-established ban on certain types of development.
Oppose SB675	Brevard’s irregular corporate boundaries mean that built-up areas exist in unincorporated areas immediately adjacent to incorporated ones. Extraterritorial jurisdiction gives us the ability to ensure that incompatible land uses aren’t placed next to each other, and that property values, health, and safety are protected.
Oppose HB589/SB534 (Corbin introduced)	These bills, intended to protect law enforcement officers from retaliation from whistleblowers, have the unintended potential of protecting officers involved in actual wrongdoing from firing by invoking whistleblower protections. NCLM has also opposed this bill.
Oppose SB515	Brevard appreciates the amendments that have been made to this proposal during its deliberations, particularly the clause applying it only to new connections made after its enactment. However, we remain opposed to the bill because of the effect it may have on our Utility’s finances, and because of the complications of having multiple classes of customers.

RESOLUTION NO. 2024-XX

**A RESOLUTION IDENTIFYING THE CITY OF BREVARD’S REQUESTS FOR
THE 2024 SESSION OF THE NORTH CAROLINA GENERAL ASSEMBLY**

WHEREAS, the biennial “short session” of the North Carolina General Assembly is scheduled to convene in spring 2024; and

WHEREAS, in North Carolina, the General Assembly endows municipalities with their powers; and

WHEREAS, in North Carolina, the General Assembly may grant state funding to municipalities to fund projects of local concern; and

WHEREAS, for those reasons and others it is in municipalities best interest to maintain positive working relationships with their legislators and make clear their needs; and

WHEREAS, on January 16, 2024 the Brevard City Council discussed in open session a list of legislative requests that they feel will enable them to better serve the people of Brevard and Transylvania County

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

The “City of Brevard’s 2024 Legislative Request” document, incorporated by reference, is hereby respectfully submitted to the North Carolina General Assembly for their consideration; and

The City Manager is instructed to submit, in a form acceptable to its recipients, its contents to Rep. Mike Clappitt (NC-119), Sen. Kevin Corbin (NC-50), and other appropriate parties.

Approved and adopted this ____ day of _____, 2024.

Maureen Copelof
Mayor

ATTEST:

Denise Hodsdon
City Clerk

STAFF REPORT

City Council, Tuesday, January 16, 2024

Title: Grant Resolution - Norton Creek Streambank

Speaker: Alvin Fuller, Summit Engineering

Prepared by: Dean Luebbe, Assistant City Manager/Finance Director

Approved by: Wilson Hooper, City Manager

Background

Last fall the city completed the Norton Creek Streambank restoration at Silversteen Park. The restoration was called for in the 2007 Stormwater Masterplan. The cost was approximately \$500k, with \$95,000 from NCDEQ and the remainder from various city sources. The project footprint fell entirely within city-owned property; it stopped at the property line.

Discussion

As summarized in the City Manager memo of January 5, 2024, additional streambank restoration work is needed on Norton Creek near Silversteen Park, at a total estimated cost of \$144,000. The city has applied for a \$72,000 grant from the state's Department of Water Resources to fund the work.

The work involves stabilizing creek banks, reshaping the creek, stabilizing the creek bed, replacing a stormwater culvert on Hillview Street, and a stormwater pipe that crosses private property. Upon completion, permanent easements will be recorded by the City. If this portion is not completed, the recently completed streambank restoration adjacent to the basketball court would be negatively effected. If the City is approved for the grant funding, a project amendment will be presented with the City portion of the project being transferred from fund balance of the General Fund.

Fiscal Impact

The state grant covers 50% of the project. As mentioned above, the City Manager recommends pulling the city's contribution from the GF Fund Balance, leaving that fund with a balance of approximately \$1.28M above the city's policy-defined minimum. If the city is not awarded the grant, staff will return to Council with an amended funding recommendation for the project.

Action

The grant requires Council approval to submit. Staff asks Council to record their approval by passing the attached resolution.

Attachments:

1. Norton Creek Upper Reach-Resolution

Resolution – Water Resources Development Grant

WHEREAS, the City of Brevard desires to sponsor the Brevard Streambank Restoration. The purpose of this project is to restore and protect approximately 70 linear feet of Norton Creek located in the City of Brevard, adjacent to the Silversteen Playground/Park. This area of Norton Creek is severely eroded due to channel incision and, with subsequent flow events, is unable to reach the floodplain, which has only increased the instability of the reach. The project will stabilize eroding banks, regrade steep banks to give the stream more access to floodplain areas, add structures to stabilize the stream bed, and add more bends and curves to the pattern to slow erosive flows. To protect the newly completed streambank restoration, the project will include the installation of riparian buffers along the newly regraded streambanks and will include the planting of native vegetation. The benefits of this project include sediment reduction, riparian buffer restoration, and streambank restoration.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1) The Council/Board requests the State of North Carolina to provide financial assistance to the City of Brevard for Brevard Streambank Restoration in the amount of \$ 72,000 or 50 percent of nonfederal project costs, whichever is the lesser amount;
- 2) The Council/Board assumes full obligation for payment of the balance of project costs;
- 3) The Council/Board will obtain all necessary State and Federal permits;
- 4) The Council/Board will comply with all applicable laws governing the award of contracts and local government expenditure of public funds.
- 5) The Council/Board will supervise the construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Council/Board will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) The Council/Board will ensure that the project is open for use by the public on an equal basis with no restrictions;
- 8) The Council/Board will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Council/Board accepts responsibility for the operation and maintenance of the completed project.

Adopted by the City of Brevard this 16th day of

January 2024.

Clerk to the Council/Board (Print Name)

Mayor/Chairperson of Council/Board (Print Name)

Clerk to the Council/Board (Signature)

Mayor/Chairperson of Council/Board (Signature)