



**AMENDED AGENDA**  
**BREVARD CITY COUNCIL – REGULAR MEETING**  
**Monday, September 19, 2016 – 7:00 P.M.**  
**City Council Chambers**

**A. Welcome and Call to Order**

**B. Invocation**

Pastor Ann Duncan, St. Timothy United Methodist Church

**C. Pledge of Allegiance**

**D. Certification of Quorum**

**E. Approval of Agenda**

**F. Approval of Minutes**

1. August 15, 2016 Regular Meeting .....4

**G. Certificates / Awards / Recognition**

1. Charles Merrill, Retirement from Brevard Fire Department. Presentation of Long Leaf Pine Award by April Riddle, WNC Aide to Gov. McCrory..... 25

**H. Public Hearing(s)**

1. Short Term Rental (Continued from August 15 Meeting) ..... 27
2. Proposed Code Amendment, Bee Hives ..... 40
3. Proposed Code Amendment, Invasive Plant Species .....46

**I. Public Participation**

**J. Special Presentation(s)**

1. WNC Military History Museum “Operation Armed Forces”, Mr. Emmett Casciato, Curator ..... 68

**K. Consent and Information**

1. Staff Reports:
  - a. Parks & Property Management Monthly Report ..... 70
  - b. Public Works Staff Report July ..... 75
2. Resolution – Acquisition of Property, Jordan Street ..... 101

3. Resolution–Terminate Lease on East Main as recommended by Committee.....	104
4. Ordinance – Terms of Employment for City Manager .....	107
5. Ordinance – Street Closure for Halloween Fest .....	110
6. Ordinance – Street Closure for Twilight Tour .....	112
7. Fire Department Application for FEMA AFG Grant.....	114
8. Correspondence ( <i>No Action. Offered as information only.</i> )	
a. Letter of Thanks from Sharing House .....	115
b. West Loop Project Update .....	116
c. North Carolina League of Municipalities 2016 Annual Conference .....	121

**L. Unfinished Business**

1. Ordinance - Short Term Rental .....	126
--	-----

**M. New Business**

1. Ordinance – Code Amendment on Bee Hives .....	129
2. Ordinance – Code Amendment on Invasive Plant Species .....	131
<del>3. Resolution – Pisgah Forest Small Area Plan .....</del>	<del>.....</del>

**N. Remarks / Future Agenda Considerations**

**O. Closed Session(s)**

1. Economic Development: GS § 143-318.11. (a)(3)(4) .....	
2. Property Acquisition: GS § 143-318.11. (a)(3)(5) .....	
3. Personnel and/or Employment: GS § 143-318.11. (a)(3) (5)(6)	

**P. Adjourn**

*Council’s meeting Agenda packet materials are posted upon the City’s website on the Thursday afternoon prior to Council’s Monday meeting. To view follow link: <http://www.cityofbrevard.com/364/Council-Agenda-Packets>*

# Approval of Minutes

**MINUTES  
BREVARD CITY COUNCIL  
Regular Meeting  
August 15, 2016 – 7:00 PM**

The Brevard City Council met in regular session on Monday, August 15, 2016, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jimmy Harris presiding.

**Present** - Mayor Jimmy Harris, Mayor Pro Tem Mac Morrow, Council Members Maurice Jones, Ann Hollingsworth, Gary Daniel and Charlie Landreth.

**Staff Present** – City Manager and Finance Director Jim Fatland, City Attorney Mike Pratt, City Clerk Desiree Perry, Special Project Director Josh Freeman, Accounting Clerk Tom Whitlock, Parks & Property Mgmt. Director Lynn Goldsmith, HR Director Derrick Swing, HR Specialist & Deputy Clerk Jill Murray, Fire Chief Craig Budzinski, Planner Aaron Bland, Planning Director Daniel Cobb, Deputy Chief Shawn Miller, Public Works Director David Lutz and Water Plant ORC Dennis Richardson.

**Press** – Kevin Fuller, Transylvania Times

**A. Welcome and Call to Order** – Mayor Harris called the meeting to order, welcomed those present and introduced Council members, Manager, Attorney and City Clerk.

**B. Invocation** – Pastor Mary Hinkle Shore, Lutheran Church of the Good Shepherd, offered an invocation.

**C. Pledge of Allegiance** – Mayor Harris led in the Pledge of Allegiance.

**D. Certification of Quorum** - The City Clerk certified a quorum present.

**E. Approval of Agenda** – Mr. Landreth moved, seconded by Ms. Hollingsworth, the Agenda be approved as presented. Motion carried unanimously.

**F. Approval of Minutes** – Ms. Hollingsworth moved, seconded by Mr. Morrow, the June 20, 2016, meeting minutes be approved as presented. Motion carried unanimously.

**G. Certificates, Awards and Recognition**

**G-1. Proclamation 2016-09** Constitution Week, September 17-23, 2016, was presented to DAR representatives Ms. Dianne Dickerson and Ms. Mary King Auman. They thanked the Mayor and Council for the Proclamation and presented Mayor Harris with a “Constitution Week” banner for his office.

**Proclamation No. 2016-09  
Constitution Week  
September 17 – 23, 2016**

**Whereas**, September 17, 2016 marks the two hundred and twenty-ninth anniversary of the signing of the Constitution of the United States of America by the Constitutional Convention; and

**Whereas**, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

**Whereas**, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

**Whereas**, public law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week;

**NOW, THEREFORE**, I, Mayor Jimmy Harris, and Brevard City Council of the City of Brevard, North Carolina do hereby proclaim September 17 through 23, 2016 to be

### CONSTITUTION WEEK

in the City of Brevard, and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Brevard on this 15<sup>th</sup> day of August of the year of our Lord two thousand sixteen.

**G-2. Certificate of Appreciation** - Mayor Harris explained Mr. Brian Philips served on the City's ABC Board of Directors for four years; however, he was unable to attend tonight's meeting therefore his Certificate will be mailed to him.

**G-3. Certificate of Appreciation** - Mayor Harris and Council expressed their appreciation to Carol Dillingham for her serving on the Brevard Board of Adjustment for three years and presented to her a Certificate of Appreciation.

### **H. Public Hearing(s)**

**H-1. Short Term Rentals**. (Public Hearing continued from June 20, 2016, Meeting).

Mayor Harris opened the public hearing at 7:20 P.M.

Mr. Cobb explained the draft ordinance provided to Council and placed upon the City's website for review in advance of tonight's meeting does not contain any changes but rather is a clean version of the previously discussed ordinance.

Mr. Pratt stated Short Term Rentals is a complex issue and obviously one that many have strong feelings about on both sides. Lots of work and legal issues are to be considered by Council. There is some pending legislation being considered by the State that may have an impact on this matter. Council could hear from all who are here tonight, close the hearing, and not render a decision but rather do so at Council's next regular meeting (as was Council's past practice), which would also allow opportunity for staff and legal counsel to offer additional information on the pending legislation at the next meeting; or, could continue the public hearing; or, could close the hearing and render a decision tonight.

### Public Hearing Public Participation

Mr. Pete Kuehne, 46 McLean Road, spoke in favor of allowing short term rentals (STR). He is owner of Pete Kuehne Properties and specializes in management of vacation rentals. Good management of STR is key. Management includes limits on the number of people that can stay at the STR. He has some concerns with some areas of the proposed regulations as they seem to be arbitrary and urged Council and City Attorney to look closely at the proposed ordinance. In general he is in favor regulations as a way to define what the rules are, what one has to do to be issued approval of a STR and renewal, and, so that everyone is playing by the same rules. Deny permits to the few that are causing problems.

Ms. Ame Sanders, 54 Miner Street. She read aloud her prepared statement in support of short term rentals and presented a copy for the record. (Exhibit A) She spoke in favor of the proposed ordinance and allowing short term rentals (STR); explained she and her partner, Mike Peduzzi, own a STR property on Miner Street, and that they have their property managed by a professional property management firm

and remain committed to maintaining the house inside and out to a high standard, which is necessary to be successful in the competitive Brevard market. Renters are required to sign a contract, protecting both us and our neighbors. STR revenue is funneled back into the community.

Ms. Tracie Trusler, 266 West Probart Street, spoke in favor of short term rentals (STR). She was born and raised in Brevard. She and her husband opened the Red House Inn B&B in 2007, and, in 2010 their long-term renter moved out from their rental house and so they choose to convert it to a STR and it has proved to be a good fit for elderly guests as it's all on one floor, and, is also popular for families. Guests can walk to the downtown to shop, eat, purchase goods, etc. Over 50% of their STR guests are repeat guests. Since 2010 they have added a handful of STR houses to offer as an extension of their B&B. Feel fortunate to live in Brevard and desires to continue to use their STR properties.

Mr. Daniel Trusler, 266 West Probart Street, spoke in favor of short term rentals (STR). He shared according to the County Tax Assessor's office there are 3,000 residential properties in the County; 50 are STR which equals only about 2% of the County's housing stock. Usually two or three guests (may be up to 6) on average stay per night in a STR, which equals to about 32,000 people visiting per year. STR generate revenue for the owners as well as for the community at large. Guests spend money at restaurants, shopping, etc., and, STR owners provide revenue by hiring local cleaning services, maintenance for yards, and, revenue is provided to City/County by occupancy taxes. Ordinance as written does what you want it to do - it provides control for people that may not be managing their property.

Mr. Bill Christie, 8 Pintail Court. He read aloud his prepared statement and presented a copy for the record. (Exhibit B). He requested the previously offered text specific to parking requirements, as originally recommended by the Planning Board, be reinstated. The present (revised) language in the draft ordinance is contradictory and confusing. Draft ordinance states STR are to comply with UDO Chapter 10; however, proposed amendment Section 10.5.G.4 then exempts short term rentals (STR) from the rules. Believe people who operate a STR and bring extra traffic into a neighborhood should be required to provide off-street parking for their guests in conformity with Chapter 10. Asked Council consideration to amend the proposed ordinance by amending line 86 (10.5.G.4a) to read, "...except those used for Short Term Rental and Homestay uses, and those which are subject to..." In doing so would accomplish most of what the Planning Board attempted to provide, and, will help maintain some control over the appearance of our residential neighborhoods.

Mr. Richard Fallis, 25 Pintail Court, requested the draft ordinance to be changed specific to parking. The language as proposed makes no additional parking regulations for short term rentals (STR), which on some streets that may not be a problem; however, on other streets it will be a problem. The Planning Board's recommendation was reasonable. At a minimum he hopes Council will consider Mr. Christie's recommended change. Asked Council to consider setting a density so that a neighborhood will not have 6 out of 8 houses to be a STR, and, asked Council to fund Code Enforcement. They filed a complaint with the City back in October 2015 on a STR in their neighborhood; however, to date no action has taken place.

Mr. Mike Butrum, Government Affairs Director for the Asheville Board of Realtors, spoke in favor of short term rentals (STR). Property owners have right to purchase, own and rent. Shared he's read the drafted ordinance and feels that it's a pretty common sense approach. Would not want to pit neighbor against neighbor on the issue. When Asheville addressed this issue, at first they thought there were 400 STR's in their community when in fact there were about 1,000 STR's.

President Jeremy Owen, Land of Sky Association of Realtors, spoke in favor of short term rentals (STR). Shared he understands regulations are needed, especially when there are a lot of different arguments. The reason we are dealing with this issue is because Brevard is a place that people desire to be, to live and visit. STR is not just a

local issue, communities throughout the nation are also addressing this issue. As Mr. Butrum shared, we do not want neighbors pitted against neighbors. Appreciates how this issue has been handled by City Staff who have been informative and have included interested parties into the process. He supports the drafted ordinance as it is a pretty common sense approach.

Ms. Jan Kuba, 273 West Main Street, spoke in favor of short term rentals (STR). She explained she is an owner of two STR's and that they and homestays can be a very positive addition to a neighborhood. She contracted with local contractors for repairs to the structures, yard service, tree removal, painting, etc. She, like most STR owners, have guidelines for their guests; her guests have never had more than 2 cars. The concerns of trash, debris, cars parked in the yards, etc., is a more frequent problem with long-term rentals, not short term rentals. With industries closed in our County, the economic vacuum is being filled by Brevard becoming a vacation destination.

Ms. Elda Brown, 135 Maple Street, spoke in favor of short term rentals (STR). She stated she's been attending meetings on the subject since November 2015 and is ready for this issue to be resolved. She began coming to Brevard 15 years ago and as the industries were closing, tourism was beginning to be pushed by local government, but, housing for these guests was not being addressed. The local folks addressed the needs by opening and operating STR's. There was and is a demand for them, and people stepped up and have fixed up houses to be used as STR. She and her husband own two STR's that are located closed to their home on Maple Street. Her guests view the STR as "their house" and they frequently have repeat guests. She supports the ordinance as presented and wants Council to move forward and adopt it and address any problems as they arrive.

Ms. Corey Gafnea, 361 Maple Street, spoke in favor of short term rentals (STR). She stated she is a STR owner and it has been a positive experience, it's had a positive impact upon the neighborhood, and it has provided housing for parents who come to watch children perform at Brevard Music Center, attend weddings, Brevard College move in's, and, for local families who needed housing for guests, or to stay in while repairs are being made to their home. STR's provide housing for out of town guests, revenue for property owners, and revenue for the State through occupancy taxes. Asked Council to pass the ordinance.

Mayor Harris called upon Michael and Margarite Williamson, who had signed up to speak. A citizen in the audience stated they had left the meeting. Mayor then called upon the next person who had signed up, Mr. Scott Kuba.

Mr. Scott Kuba, 273 West Main Street, spoke in favor of short term rentals (STR). He owns four properties in Brevard, two of them are STR. He, like most STR owners, know their neighbors and are a part of the neighborhood that their STR is located within. Frequently, places that have been purchased and remodeled as a STR were previously run down and dirty and not a good impact upon the neighborhood. State he is not opposed to regulations – just please don't regulate us out of business. Think of us STR owners as an economic partner.

Ms. Dee Dee Perkins, 251 Park Avenue. Former City Council Member Perkins stated she is on the Tourism Development Marketing Committee, Transylvania County Economic Alliance, and Blue Ridge Community College Board of Trustees, and is a downtown business owner – a business that is highly dependent on tourism. She has some concerns and asked that Council to please be very careful, deliberate and patient with their decision on the ordinance. Look at the future impact as the tonight's stated 2% STR's can become 20%, or 25%. If that were to happen it would speak to the fabric of our community. Balance is needed. The proposed ordinance could be in conflict with the current ordinances addressing not having a business in a residential area because of its impact upon the neighborhood. STR is a business. Also, as the City moves forward on a Form Base Code, suggested having the consultant, Mr. Demetri Baches, Metrocology, to comment on the issue. The other side of the coin is STR's have an impact on affordable housing; working folks cannot find affordable housing here in

Brevard. The Tourism Development Authority has been promoting Brevard and helping get people here, and as the City moves forward STR's should be listed and occupancy taxes paid.

Mr. Mike Carrick, 46 Lingerlong Lane, spoke in favor of short term rentals (STR). He stated he is a local broker and contractor and that the biggest thing to talk about is we have ruled ourselves to the point that folks don't want to do business with Brevard. He has been involved in the issue since its beginning. He purchased the Feaster property and turned it into a STR. Proposed ordinance requires one to go to the Board of Adjustment for SRT approval. Most folks don't know what's involved in applying through the Board of Adjustment. It takes six weeks to wait for a hearing and for the committee members review. However, if you want to operate a food truck you can get a permit from Staff. Of all the STR's in Brevard, only four have generated complaints. The drafted ordinance needs to be less subjective. Suggested City start with a simple ordinance and to let Staff perform the review and approval rather than by the Board of Adjustment.

*~~ At 8:33 PM Mayor Harris called for a ten minute break; the hearing resumed at 8:47 PM. ~~*

Ms. Lori Roberts, Chairperson of Tourism Development Authority and owner of Sunset Motel, spoke. As a hotel owner she is no opposed to short term rentals. There are not enough hotel rooms to accommodate visitors, which is not the fault of the City. A five months of the year season cannot support hotels and staff. She has worked hard to be a good neighbor and believes that is also key for a STR owner. Should one have complaint about the way guests are using a STR, they should call the police and call the STR owner.

Mr. Kevin Jones, 135 Maple Street, spoke in favor of short term rentals (STR). He is the owner of STR's and questioned why STR's are being discussed as a "business" when long-term rentals are not also considered a business. As a STR owner he pays his state and county taxes and believes most other STR owners do too. STR is not creating the tourism - what we have is a housing shortage for vacationers, and STR owners are filling the gap.

Public Participation Closed - At 8:54 PM Mayor Harris announced all who signed up to speak at this public hearing have done so.

Mr. Landreth moved, seconded by Mr. Morrow, Council continue the public hearing to their September 19<sup>th</sup> meeting in order to allow Staff and Counsel to provide more information on the matter. Motion carried unanimously.

**H-2. Proposed Asheville Highway Rezoning (Morris Road to future Davidson River Village Road) from NMX and GR to CMX.** The public hearing was properly advertised on August 1<sup>st</sup> and 8<sup>th</sup>, 2016.

Mayor Harris opened the public hearing at 8:55 P.M.

Mr. Cobb presented the staff report. Last Fall Council directed Staff to initiate rezoning along a portion of the Asheville Highway with the thought being the new road will bring opportunity for more commercial development in the area. Council had suggested CMX district; however, when considering topography, available utilities and the City's Land Use Plan, the Planning Board and Staff feel CMX is not the best district to consider, but rather the Board has forwarded a unanimous recommendation to rezone some properties to NMX, and for some to remain as they currently are zoned GR or NMX. Maps detailing the Planning Board's recommendation was included in the Agenda packet materials and was projected for viewing by those present at the meeting.

Public Hearing Public Participation

Mr. Mike Zerressen, 129 Hillside Heights, spoke in favor of the rezoning as recommended by the Planning Board. As a property owner in the subject neighborhood

he feels the Planning Board's recommended NMX is more in keeping with the neighborhood while allowing some commercial development rather than the original proposal of CMX. Opposed to rezoning to CMX.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 9:13 PM.

**H-3. Proposed Rezoning of 600 Ecusta Road (former driver training facility) from NMX to GI-CD.** The public hearing was properly advertised on August 1<sup>st</sup> and 8<sup>th</sup>, 2016.

Mayor Harris opened the public hearing at 9:13 P.M.

Mr. Cobb presented the staff report. Rezoning would designate the property General Industrial Conditional District (GI-CD). Council has been working over the last several years to identify sites for product development to encourage economic development within the City. "Product" in this case refers to land, with the appropriate zoning and utilities, to facilitate more traditional manufacture-based economic growth. A conditional zoning district is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a base district. Additional standards and regulations may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans. Planning Board and Staff recommend approval of the rezoning as described in the draft ordinance.

#### Public Hearing Public Participation

Mr. Mike Carrick asked from the audience why the City did not include the small portion of the area fronting upon Ecusta Road (Siniard property) as part of the rezoning.

Mr. Cobb explained the City does not own that property and property owners consent is required to consider conditional rezoning.

Public Hearing Closed – There being no further questions or comments, Mayor Harris closed the hearing at 9:21 P.M.

### **I. Public Participation**

Mr. Jacob Dinkins, 500 West Probart Street, complimented the City's HR Director Derrick Swing for his prompt attention to an issue at Franklin Park swimming pool, and, complimented the City Clerk Desiree Perry for her prompt attention to his request for background information on the proposed West Loop Project. He asked Council why the West Loop is being talked about now in 2016. He does not like the West Loop proposal and feels to spend that much money will not address the issues. Requested Council make known to NCDOT that the project enjoys very little public support.

Mr. Chuck Baxter, 520 Probart Street, thanked Council for their pursuing having a sidewalk constructed along Probart, and is pleased to see that the traffic cones are placed and the project has begun. An adjoining property owner has trash and debris on their property; he's contacted the City's Planning and Code Enforcement Department and anticipates their soon assistance.

Mr. Daniel Tressler, 266 West Probart Street, asked if the City has looked into his concern/request for a stop sign being placed on Oaklawn Street, and, requested City look into the old apartment building on Oaklawn that is falling apart and is an eyesore.

Mr. Ken Kolb, 238 Fox Cross Drive, spoke in opposition to the proposed West Loop. He explained several other people were present earlier in the meeting to also share their opposition to the West Loop; however, due to the late hour they needed to

leave the meeting. Letters have been written to City Director Josh Freeman, elected officials and state officials describing their concerns. Recognize it is in the preliminary process and therefore feel important to share that there is very little if any public support for the West Loop. Asked Council to consider holding a public hearing to discuss this matter this fall or early winter.

Ms. Stephanieanne Smith, Carolina Pediatric Therapy, 159-B King Street. Stated she is a speech therapist and came before Council in June and has returned tonight to again express her concerns with the lack of parking available on King Street for their business. Since coming in June the problem has grown. Asked consideration for the City to designate a few spaces on King Street in front of their business for their use as many of their clients are children with disabilities and maneuvering along the street with traffic is difficult for them. Ms. Smith presented for the record pictures and log of concerns about parking from Carolina Pediatric Therapy. (Exhibit C)

## **J. Special Presentation**

City Council accepted the Transylvania County 2015 Tax Collectors Settlement Report, dated July 7, 2016, as presented. Once again the Tax Office has done an excellent job with the Report showing a 99.92% collection rate. Mayor and Council commended the Tax Office Staff for their excellent work and service to the City and County.

**K. Consent Agenda and Information** - Consent Agenda items are considered routine and are enacted by one motion. Mayor Harris read aloud the items listed, and asked if Council desired to remove an item for discussion, or, to add an item(s) to the Consent Agenda.

Mr. Jones moved, seconded by Ms. Hollingsworth, the Consent Agenda be approved as presented. Motion carried unanimously.

### **K-1. Staff Reports:**

- a. Planning & Code Enforcement Quarterly Report (April-July 2016)
- b. Public Works Department, May 2016 Report
- c. Public Works Department, June 2016 Report
- d. Form Base Code Status Report
- e. Affordable & Workforce Housing Trust Fund Status Report
- f. Probart Street Project Status Report
- g. Recreation Master Plan Project Status Report
- h. Wastewater System Performance Annual Report, July 1, 2015-June 30, 2016

**K-2. Community Development Contracts** – Approved Community Development Contracts for Transylvania Community Arts Council (\$10,000), Transylvania Farmers Market (\$17,000) and Heart of Brevard (\$32,500). Manager is authorized to execute contracts.

**K-3. Brevard Water Plant Awarded Certificate of Excellence** – The City of Brevard received a "Certificate of Excellence in recognition of the quality of your laboratory in proficiency testing for WP-255. City of Brevard Water Plant is issued this certificate of achievement by ERA. This laboratory has been recognized as a Laboratory of Excellence for achieving 100% acceptable data in this study which included 929 participating laboratories. This achievement is a demonstration of the superior quality of the laboratory in evaluation of the standards listed below. Low-Level Total Residual and Chlorine"

**K-4. Year End Financial Report (Unaudited), June 30, 2016** – Accepted report.

**K-5. Amend City Council 2016 Meeting Schedule** – Council scheduled a meeting for Wednesday, September 21, 2016 at 8:30 AM with the Transylvania County

Board of Commissioners to tour City and County Recreational Facilities. Will meet at City Hall and then depart to view facilities.

**K-6. Ordinance No. 2016-19** FY 2015-2016 Budget Ordinance Amendment No. Five

Remainder of Ordinance to be inserted here.

**K-7. Ordinance No. 2016-20** An Ordinance Amending the FY2015-2016 Budget, Amendment No. Six

Remainder of Ordinance to be inserted here.

**K-8. Ordinance No. 2016-21** An Ordinance Amending the FY2016-2017 Budget Amendment No. One

Remainder of Ordinance to be inserted here.

**K-9. Sign Ordinance Free Speech Protections Update** – Accepted as information staff report on Supreme Court decisions impact on municipal sign regulations (Reed v Town of Gilbert).

**K-10. Bike Friendly Community Application** – Accepted as information staff report that outlined progress in the City’s application to the League of American Bicyclists Bicycle Friendly Communities rating program.

**K-11. Fire Department Oct/Nov Evening Fire Service Pilot Program** – Council approved the Fire Department to do the trial evening shift for two months.

**K-12. Resolution No. 2016-15** – A Resolution Approving Financing Terms For Extrication Equipment

Remainder of Resolution to be inserted here.

**K-13. Removal of North Broad Street Banner Site** – Council accepted the Council Public Works and Utilities Committee recommendation that the North Broad Street banner location no longer be used to display community banners as the location is both a difficult and dangerous site to hang banners.

**K-14. Water Affordability Report** – Council accepted the Council Public Works and Utilities Committee recommendation to provide the Sharing House \$5,000 to help individuals pay for City utility bills. Committee will further research the situation, evaluate annual increases and impact to external agencies, and submit further options to address this on a community level.

**K-15. Resolution No. 2016-16** A Resolution Authorizing The Submittal Of A NC Department of Environmental Quality Grant Application For An Asset Inventory And Assessment (AIA) Grant For The Water System

Remainder of Resolution to be inserted here.

**K-16. Resolution No. 2016-17** A Resolution Authorizing The Submittal Of A NC Department Of Environmental Quality Grant Application For An Asset Inventory And Assessment (AIA) Grant For The Sewer System

Remainder of Resolution to be inserted here.

**K-17. Correspondence** (No Action. Offered as information only.)

- a. ABC Board FY2016-17 Adopted Budget
- b. 2016 Transylvania Sheriff’s Office Citizen’s Academy
- c. COB Employee Picnic, August 24<sup>th</sup> at Brevard Music Center
- d. July 2016 Building Activity Report
- e. Family Splash Day, Letter of Appreciation to City of Brevard

- f. Plant Natives First – Bloom Sequence Charts
- g. North Carolina Justice Academy

**L. Unfinished Business - None**

**M. New Business**

**M-1. Ordinance – Short Term Rentals.**

Mr. Landreth moved, seconded by Mr. Morrow, Council table action on the Short Term Rental matter to the September 19, 2016, meeting. Motion carried unanimously.

**M-2. Ordinance No. 2016-22** An Ordinance Amending The Official Zoning Map Of The City Of Brevard To Rezone Properties Along The Asheville Highway From GR To NMX

Mr. Landreth moved, seconded by Ms. Hollingsworth, Council approve the rezoning of properties along the Asheville Highway to NMX as recommended by the Planning Board. Motion carried unanimously.

Remainder of Ordinance to be inserted here.

**M-3. Ordinance No. 2016-23** An Ordinance Amending The Official Zoning Map Of The City Of Brevard To Establish A General Industrial Conditional District RZ16-000001

Mr. Landreth moved, seconded by Mr. Daniel, Council approve rezoning the property at 600 Ecusta Drive to General Industrial Conditional District. Motion carried unanimously.

Remainder of Ordinance to be inserted here.

**M-4. Board and Committee Appointment(s)** – Mr. Morrow moved, seconded by Mr. Jones, Council move Mr. Paul Welch from alternate Board of Adjustment member to regular member with the term expiring Nov. 2016, and, to appoint Dr. Allen Delzell as a new alternate member to the Board of Adjustment with the term expiring Nov. 2018. Motion carried unanimously.

**N. Remarks by Officials / Future Agenda Considerations**

Mayor Harris thanked the citizens for coming and for their participation in tonight's meeting. Thanked Josh Freeman and Derrick Swing for their work on the Terry Scruggs Scholarship Golf Tournament that will be held this coming Saturday.

Mr. Jones reported the Human Relations Study Committee met on June 23<sup>rd</sup> and they have found there is strong community interest in having a Human Relations Council of some kind. More input and research is needed in order to determine the Committee's purpose, how it should be structured, and how to motivate before making a formal presentation to Council.

Ms. Hollingsworth explained parking spaces are not painted upon King Street and requested the Manager to check into having Staff to do so as a means to help with the parking situation.

Mr. Daniel explained he is a business owner on King Street and can attest that the parking situation is quite bad. Trucks occasionally park in the middle of the road preventing others to pass. While he's glad the businesses are doing well, he's also seeing the lack of parking has become a serious issue. Also, along the corridor when development screening is required he wants the City to be sure that the ordinance intent of trees, not saplings, are being planted. He is looking forward to when the City receives the Bike Friendly Community certification.

Mr. Morrow requested when the Council meeting Agenda packets are placed upon the City's website and the Agenda is sent out to those upon the Sunshine List that they are also provided the website link to the Council meeting agenda packet.

**O. Closed Session** – Mayor Harris asked the City Attorney if it would be appropriate for Council to hold closed sessions to discuss matters of economic development and a personnel matter. City Attorney advised pursuant to **GS § 143-318.11. (a)(3) (4) (5) (6)** it would be appropriate to convene provided separate closed sessions on the matters are held. Closed sessions will require a separate motion, second and vote to discuss the matter. Council will enter and exit regular session for each closed session.

**O-1. Closed Session #1** - At 9:55 p.m. Mr. Landreth moved, seconded by Mr. Jones, Council go into closed session to discuss an economic development matter. Motion carried unanimously. (A five minute break was taken to allow Council Chambers to be cleared.)

Council Returned to Regular Session – At 10:20 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-2. Closed Session #2** – At 10:20 p.m. Council dismissed the City Clerk to hold a closed session to discuss a personnel matter. City Attorney will provide Minutes of the closed session, and will provide to the Clerk the record of Council's return to regular session and actions taken (if any) and adjournment.

Council Returned to Regular Session – At 12:10 a.m. Council resumed the meeting in regular session. Minutes of the closed session are authorized to be sealed.

**P. Adjourn** – There being no further business, Mr. Jones moved, seconded by Ms. Hollingsworth, the meeting be adjourned. Motion carried unanimously. Meeting adjourned at 12:10 A.M.

---

Jimmy Harris  
Mayor

---

Desiree D. Perry  
City Clerk

Minutes Approved: \_\_\_\_\_

Thank you for the opportunity to address the council. My name is Ame Sanders. My partner, Mike, and I own a Short Term Rental Property on Miner St.

We love Brevard and care deeply about our beautiful small city. It is a testament to the community and the quality of our neighborhoods that I would say I know my neighbors better here than I do at my full-time residence in Greenville. We are committed to fostering that spirit.

During the off-season, we spend our weekends visiting Brevard and enjoying our home here as a personal get-away. We then share our home with Short Term Renters during the high season and holidays. This income has allowed us to be able to afford our get-away and make improvements to the house and landscape, increasing our property value and the property values of our neighbors, as well. It has also given the opportunity for our renters to enjoy Brevard, like multi-week renters who come each year for the Music Center Season and families with children who will long remember Brevard as a special vacation spot.

We have our property managed by a professional property management firm and remain committed to maintaining our house inside and out to a high standard, which is necessary to be successful in the competitive Brevard market. Our renters are required to sign a contract, protecting our neighbors and us.

We love being within walking distance of downtown, and we know that our renters do, too. You could consider each of these short term rental properties as a small, local economic engine. If we could keep track of frequent flyer type points for all that is purchased downtown attributed to our home, we might all be surprised. Even though we have only spent 12 weekends at our house this year, we have personally spent over \$2,000 on restaurants, food, and purchases –nearly all in the off-season. We have a serious weakness for The Square Root and Downtown Chocolates. We also make it a personal commitment to buy many of our Christmas gifts here, favoring our very own Opie Taylor's for the kids. Our renters shop and dine, too.

All of that is in addition to our cost of utilities, property management commissions, cleaning service, lawn maintenance, and house maintenance with local contractors. For example, this year we've already spent approximately \$11,000 with local contractors on repair and improvement projects. Since owning the home, we have spent more on the home than we have made in rental revenue. We've done this because we consider this an investment and our home, too.

As Short Term Rental owners, we would just like to say that we are in full agreement and support of the recommended ordinance, as proposed. We agree that we would all benefit from some formal recognition of this type of establishment and believe that the proposed ordinance reaches an acceptable level of compromise regarding addressing key issues and concerns, while still not being overly restrictive or complex.

We would also like to thank Daniel and the Brevard Planning team for their work on this new ordinance. They have done a thorough job of considering many different options, keeping the community informed and being accessible for questions and calls related to this important change.

We believe that the proposed ordinance will help maintain the residential feel of our neighborhoods (that we all want) while still supporting economic health, encouraging entrepreneurship, strengthening local businesses and keeping Brevard an attractive tourist destination.

Thank You.

Comments Regarding Short Term Rental Ordinance, City Council, 15 August

Ame Sanders and Mike Peduzzi

Address: 54 Miner St., Phone: 864-630-8540

My Name is Bill Christie, and I live at 8 Pintail Court.

I want to speak to the parking provisions in the proposed UDO amendments. The staff recommendation has removed the language on parking that was proposed by the Planning Board. Instead, if you will look at 3.34.B.3 on the first page of the proposed text, they have said simply, "Parking requirements shall be provided for the type of dwelling unit, per Chapter 10 of this ordinance." Well what does Chapter 10 say? Look at section 10.5.G on the third page of the proposal. This section regulates the location of off-street parking. But look at the fine print in section 10.5.G.4: **These structures are exempt from the rules:** "Single -family and duplex residential structures in GR, RMX and NMX districts, including those used for Short-Term Rental purposes." In other words, the rules require you to conform to Chapter 10, but Chapter 10 exempts you from the rules. Oh, and if you're wondering about Section 2.3(E.2), that just deals with setback requirements for construction. It has nothing to do with parking.

This kind of double talk makes no sense whatever unless it is an attempt to hide the fact that the parking rules are being written so that they are no rules at all. Want to line up cars in your front yard and make it look like a used car lot? Go right ahead. Want to spoil the appearance of your neighborhood for your own financial gain? Go right ahead. And if you think no one would take advantage of their neighbors that way, come visit me.

In the past I have spoken several times, urging you to instruct staff to restore the language recommended by the Planning Board. But there is an even easier fix that would be almost as good. **Simply amend line 86 (10.5.G.4.a) to read "except those used for Short-Term Rental and Homestay uses, and those which are subject to . . ."** That would accomplish most of what the Planning Board attempted and provide some controls to maintain neighborhood appearance. People who simply live in their homes with their families would still be exempt from those regulatory provisions. People who bring extra traffic into the neighborhoods would have to provide parking for them in conformity with Chapter 10. This amendment would also clarify an ambiguity in the proposal since the current text does not mention homestays.

So when you take up this proposal later in the meeting, I hope that some member of the Council will move to amend the proposal as I just suggested and help us maintain some control over the appearance of our residential neighborhoods.

08/15/16

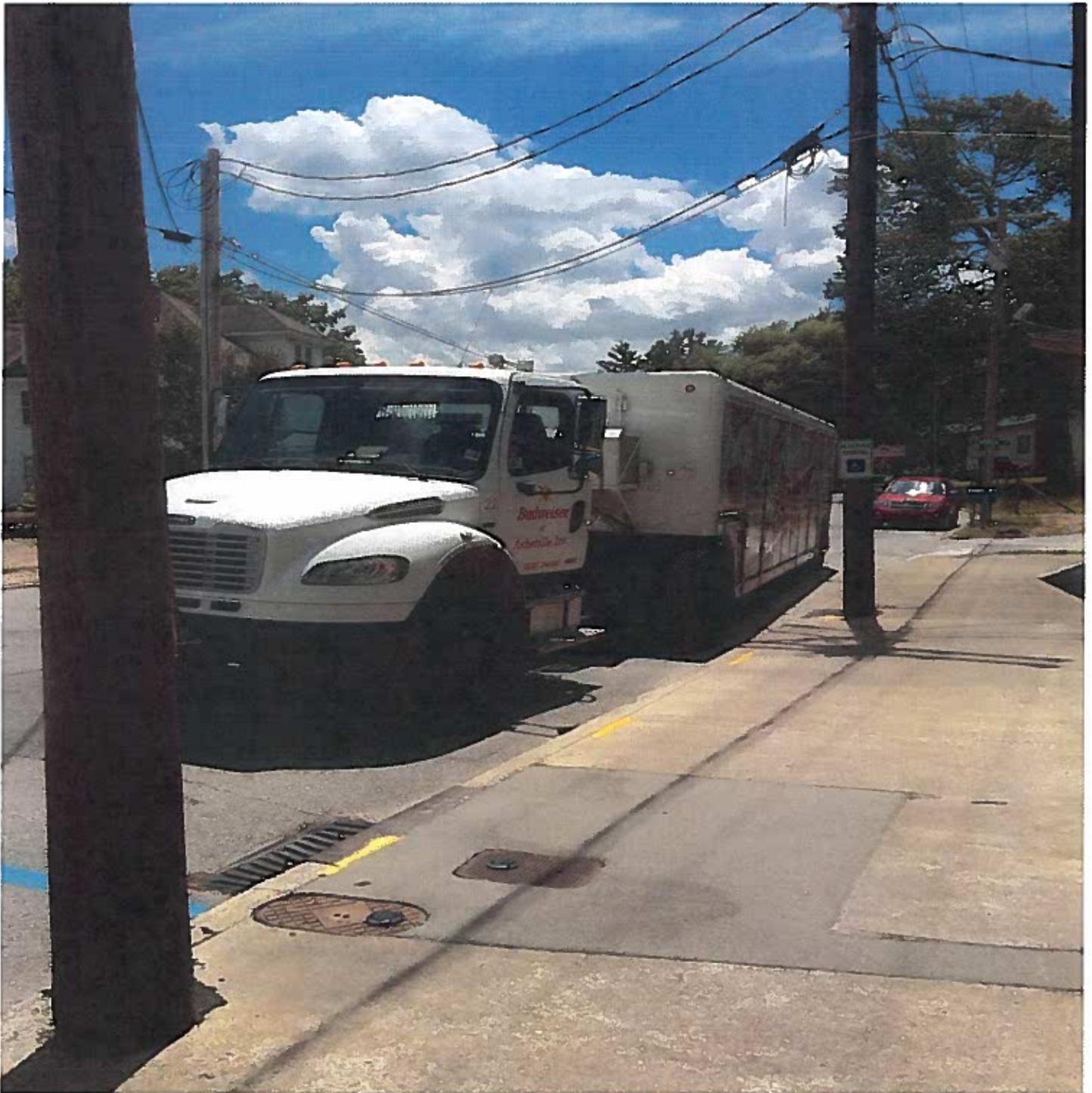
**EXHIBIT C**  
**August 15, 2016 Minutes**  
**Brevard City Council Meeting**

For consideration of the Brevard City Council:  
Pictures and log of concerns about parking from  
Carolina Pediatric Therapy.

Date	Parent Name	Concern
7/5/16	Carnie Balow	No parking anywhere. There isn't a parking space anywhere on this street. Today when there was an open spot a 18 wheeler pulled in to drop off stuff for Maggie.
7/12/16	Britnee Daves	Absolutely no parking besides handicaps!
7/13/16	Jesseca Scott	NO parking spaces which made me late for appt. there are no parking spaces. It is unsafe to have my child with special needs have to wait at the way down a crowded street w/ moving speeding cars competing for parking spaces. Not to mention the fact I am late for therapy to find parking spaces! Therapy time is critical!! Children should have
7/13/16	Sabrina Shook	no parking is available. There was a large bear truck blocking several parking spaces. the road is unsafe for children especially with special needs. It is difficult to walk long periods with children who are coming to a clinic for OT/PT they are in need of assistance with ADL so why should they have to walk long distances?
7/13/16	Elizabeth Sivore (nurse of client)	FIRST

Date	Parent Name	Concern
7-13	Jennie VanDyke	Beer truck blocking parking in front of clinic. Often no parking spaces and traffic is a concern.
7-13	Lisa Fisher	no parking spots - dangerous with dealing with special needs children.
7-13	Callee Armstrong	When dealing w/special need kids parking is scary! - No sidewalk @ end road @ patio a way to open curbsides. See: Needs - long distance to walk w/ children - of road - no spots - Special Needs Parked @ end of road - no spots - no park except at the A/c place, Had to walk in the rain with special needs child that doesn't like being wet.
7-19	Willow Clark	no parking stormy day had to park half way up the block and lots of trucks having very fast it was not safe
7-19	Mary Baughn	- while picking up child with CP & there was on 18 wheeler truck using this road - extremely dangerous with amount of the eff - on this road - very dangerous kids with gait issues. As an
7-20	Jonathan Landreth	got ER nurse - a child will be hurt - this is not addressed!

Date	Parent Name	Concern
7/21/16	Therapist Ashna Weaver	No place to park. Had to park a ways down the road.
7/24/16	Carrie Baez	No place to park. Drive up & down the rd for 30min to finally get a place to park. Sit on the ground in middle of rd to get out of cars.
7/27/16	Jennifer Mills	No place to park, shouldn't have to park on the next street for my son to have to speech
7/27/16	Leah Bush	<del>Have</del> Have to park way down the street or streets over. This is an issue during bad weather. My son is <sup>often</sup> unable to walk long distances so parking that far away to run my daughter into her appt is difficult.
8/2/16	Willow	No place to park. Finally got parking 30min later at A/c place had to carnie willow in the rain. up the road. She has issues when she gets wet.
8/5/16	Christine Schuch Therapist	Parking is extremely difficult - creates a hazard for our families & children with special needs.
8/9/16	Carrie Baez	NO Parking any where had to park Down By the laundry mat. NEVER any parking on Tuesdays
8/19/16	Jill Fintley	no parking on the street on either side, had to turn around and drive back toward Caldwell to find a space.



June, 22 2016 12:53pm

Truck is blocking parking in front of Carolina Pediatric and next building.



July, 12 2016 4:25pm

Truck is unloading into a Handicap parking spot as well as blocking additional parking and access to a side drive between buildings.



July, 15 2016 1:04pm

A typical picture of number of cars on King St. during lunch. The cars parked in front of Carolina Pediatric are not that of clients.



August, 10 2016 11:57am

Truck is blocking two parking spots. Due to heavy traffic and lack of parking street is often crowded with large trucks passing.

# Certificates / Awards / Recognition

Charles Merrill, Retirement from Brevard Fire Department  
Presentation of Long Leaf Pine Award

# Public Hearing(s)

## STAFF REPORT

City Council, September 19, 2016

**Title:** Short-Term Rentals

City Council will continue their public hearing from June 20<sup>th</sup> and August 15, 2016 to consider amendments to allow short-term rentals within the City of Brevard and its planning jurisdiction.

**Speaker:** Daniel Cobb AICP, Planning Director

**From:** Daniel Cobb, AICP, Planning Director

**Prepared by:** Daniel Cobb, AICP, Planning Director  
Aaron Bland, AICP, Planner & Assistant Zoning Administrator

**Approved by:** Jim Fatland, CPFO, City Manager

### Background

City Council has been reviewing proposed amendments to the Unified Development Ordinance to allow short-term rentals since April 2016. A public hearing was opened on June 20, 2016, this hearing was continued until August 15, 2016 for additional information. The hearing was subsequently continued in August to September 19, 2016. The City's attorney and Staff have conducted additional research pertaining to state laws and local government's authority to regulate short-term rentals since City Council's last meeting.

### Discussion

North Carolina General Statute (NCGS) 160A-424(c) (revised July 28, 2016) prohibits local governments from requiring permits for rental property. Below is an excerpt of this law:

*"In no event may a city do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission from the city to lease or rent residential real property or to register rental property with the city, except for those individual rental units that have either more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period..."*

This change appears to have significant impact on the City's options related to regulating and permitting short-term rentals. Taking this change into account Staff has revised the proposed language to reflect these changes.

To simplify the review of the changes before City Council insertions are shown in [blue](#) and deletions are shown in [red](#). These changes are based on the language in the revised statute, using the August 15, 2016 version of the proposed amendments as a starting point. The first main point for consideration is the consolidation of short-term rentals and homestays into a single category. Without the ability to regulate or permit short-term rentals it is not necessary to differentiate between the two types of uses. Due to the fact that permits cannot be required,

but standards may be applied, lines 57-89 have been stricken. The general requirements for occupancy, appearance, and parking still apply.

### **Policy Analysis**

The City's Comprehensive Plan does not specifically list lodging as a goal, objective, or policy. However, alternative forms of lodging offer more opportunity for varying demographics to find what fits them best to make Brevard a destination.

NCGS 160A-383 requires that the City's review of the proposed zoning amendment include a written statement analyzing the reasonableness and the consistency of the amendment with any adopted plans and policies of the City. This statement is included as Attachment B.

### **Staff Recommendation**

Staff recommends City Council base their decision on the information within this report and the advice of legal counsel. Staff has proposed allowing short-term rentals in all districts except general industrial (as previously presented). However, City Council may choose to prohibit all such uses, or allow them only in certain districts.

### **Fiscal Impact**

North Carolina state law allows for reasonable fees to be collected to offset the costs of administration of development ordinances. However, per the revised state statute, no fees may be collected for short-term rentals.

### **Attachments**

- A. Text Amendments – Short-Term Rentals
- B. Statement of Consistency
- C. Adopting Ordinance

# UDO Amendments for Short-Term Rentals

## 2.2. - Use categories and tables of permitted uses.

Residential: Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.

Lodging: Premises available for short-term human habitation, including daily and weekly rental.

### 2.2.C – Use Matrix

	GR	RMX	NMX	DMX	CMX	IC	GI
<b>Lodging</b>							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	–
Bed and Breakfast Inn	SUP	PS	PS	PS	PS	PS	–
Accessory Rental Cottage/Cabin	PS	PS	PS	–	–	–	–
Hotels/Motels/Inns	–	–	–	P	P	P	–
Rooming or Boarding House	–	–	P	P	P	P	–
Recreational Vehicle Park	–	–	–	–	–	–	–
<u>Short-Term Rental</u>	<u>See subsection (d)</u>						<u>–</u>
<del>Short-Term Rental (Host-Absent)</del>	<del>SUP</del>	<del>SUP</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>–</del>
<del>Homestay (Host-Present)</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>–</del>	<del>PS</del>	<del>–</del>

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

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

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

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

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

~~e)~~ f) Non-residential uses within a live-work unit must be listed within Chapter 2, Section 2.2 (C. Use Matrix) as a permissible use within the district in which the live-work unit is proposed. and such non-residential use must be approved by means of the appropriate permitting process. Non-residential enterprises and residential units within any live-work unit that is located within a General Residential District shall have a common tenant. In districts where residential building

35 types are not permitted. live-work units may be permitted within pre-existing non-conforming  
36 residential structures.

37  
38 **Chapter 3 – Additional standards**

39 3.34 – Short-Term Rentals ~~and Homestays~~

40 A. Intent

41 It is the intent of this ordinance and standards below to preserve and protect the long-  
42 established, traditional single-family neighborhoods within the City while allowing those  
43 desiring to operate short-term rentals ~~or homestays~~ to do so without detriment to those  
44 neighborhoods. Short-Term Rentals ~~and Homestays~~ are lodging uses, as they are typically  
45 rented for less than 30 days.

46 B. General requirements

- 47 1. Occupancy: Overnight occupancy shall not exceed two persons per bedroom plus two  
48 additional persons. The number of “bedrooms” used in calculating occupancy limits shall  
49 be taken from the property’s application. For example: a two bedroom rental would  
50 have an occupancy limit of 6 (2 x 2 bedrooms = 4 + 2 additional = 6 total).
- 51 2. Appearance: Dwelling units used as short-term rentals ~~or homestays~~ in GR or RMX  
52 zoning districts shall maintain their residential character and outside appearance. No  
53 signs shall be permitted. All exterior lighting shall be residential in nature and shall not  
54 be directed towards adjacent properties.
- 55 3. Parking: Parking requirements shall be provided for the type of dwelling unit, per  
56 Chapter 10 of this ordinance.

57 ~~C. Permits required~~

- 58 ~~1. The owner, or authorized agent thereof, of any property upon which a Homestay or~~  
59 ~~Short-Term Rental proposes to operate shall secure a permit from the City of Brevard~~  
60 ~~Planning & Zoning Department.~~
- 61 ~~2. The application shall designate a “Primary Contact” which is to be a local responsible~~  
62 ~~party who is available by phone 24 hours per day while the property is being rented.~~

63 ~~D. Violations: Any act constituting a violation of these standards shall subject the owner to~~  
64 ~~enforcement procedures as set forth in Chapter 18 of this ordinance.~~

65 ~~E. Duration of permit:~~

- 66 ~~1. Rentals permitted with standards (PS)~~
  - 67 ~~a. Short-Term Rental and Homestay permits are temporary, and shall not establish a~~  
68 ~~vested right to renewal. Short-Term Rental and Homestay permits shall be valid for~~  
69 ~~a period of one year from the date upon which approval is granted.~~
  - 70 ~~b. Annual renewal applications shall be filed 30 days prior to expiration of the current~~  
71 ~~permit.~~
  - 72 ~~c. Applications for renewal shall include a written report demonstrating compliance~~  
73 ~~with the previously approved permit.~~
  - 74 ~~d. The approving authority may deny a request for permit renewal and require the~~  
75 ~~applicant to terminate the Short-Term Rental or Homestay upon a determination~~  
76 ~~that the Short-Term Rental or Homestay operated in violation of a requirement of~~  
77 ~~this section or other applicable condition or requirement; or, that the Short-Term~~  
78 ~~Rental or Homestay has generated unanticipated effects that are detrimental to the~~  
79 ~~residential character of the neighborhood in which the Short-Term Rental or~~  
80 ~~Homestay is located.~~
- 81 ~~2. Rentals permitted with the issuance of a Special Use Permit (SUP)~~

- 82 a. ~~Per 16.11.D, the effect of approval of a Special Use Permit by the Board of~~  
 83 ~~Adjustment is binding on the property, and all subsequent development and use of~~  
 84 ~~the property must be in accordance with the approved plan and conditions. Special~~  
 85 ~~Use Permits do not need to be renewed annually.~~  
 86 b. ~~Per 16.11.F, the Board of Adjustment may revoke an approved Special Use Permit~~  
 87 ~~upon finding that a violation of Brevard City Code, the City of Brevard Unified~~  
 88 ~~Development Ordinance, or a specific condition or requirement of the Board of~~  
 89 ~~Adjustment has occurred.~~

- 90 ~~D.C.~~ Exemptions: The following activities shall not be considered as a Short-Term Rental ~~or~~  
 91 ~~Homestay~~ use and the requirements of this subsection shall not apply to them.  
 92 1. Incidental residential vacation rentals, defined to mean no more than two such rentals  
 93 in any calendar year where the total number of nights rented does not exceed 14.  
 94 2. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or  
 95 bed and breakfast establishment.  
 96

97 **10.3.A – Minimum parking ratios**

98 A. *Minimum parking ratios:*

Use Type	Required Parking Spaces
Residential (All types)	2 spaces
Residential Accessory Dwelling Unit	1 space
Retail Uses	1 per 500 square feet
Office Uses	1 per 500 square feet
Theaters	1 per 3 seats
Restaurants	1 per 4 seats
Manufacturing/Warehousing/Light Assembly	.25 per 1,000 square feet of non-office space
Bed and Breakfast Inns/Hotels/Motels	1 per bedroom or suite
Civic Uses (Assembly Uses Only)	1 per 4 seats (If benches or pews are used then the standard shall be measured as 1 per 6 feet)

- 99  
 100  
 101 **10.5.G – Location of off-street parking**  
 102 G. Location of off-street parking:  
 103 1. Off-street parking shall not be permitted within any public right-of-way.  
 104 2. Off-street parking shall not be permitted within any front yard setback area.  
 105 3. Except for properties located in the Corridor Mixed Use (CMX) zoning district, off-street  
 106 parking shall not be permitted between any principal structure and the street upon which such  
 107 structure fronts. Where a structure fronts upon two or more streets, parking may be permitted

108 between the principal structure and the adjacent street of lesser classification when parking  
109 cannot reasonably be placed in another location.

110 4. The following uses and parking types shall be exempt from Sections 10.5(G.2) and 10.5(G.3)  
111 above:

112 a. Single-family and duplex residential structures in GR, RMX and NMX districts,  
113 including those used for Short-Term Rental uses, except those which are subject to  
114 Chapter 2, Section 2.3(E.2).

115 b. Handicapped parking spaces as required by the North Carolina Accessibility Code or  
116 other federal, state, or local regulations.

117 c. Bicycle parking spaces required by this Ordinance.

118 d. Existing non-residential and multi-family development undergoing significant or  
119 substantial improvement or change of use as defined in Chapter 19 of this Ordinance,  
120 provided that all newly created parking spaces associated with such redevelopment  
121 shall conform with Sections 10.5(G.2) and 10.5(G.3) unless the approving authority  
122 deems that compliance would be impractical due to existing site constraints.

123

## 124 **Chapter 19 – Definitions**

125 *Bed and breakfast establishments:* Establishments primarily engaged in providing short-term lodging and  
126 the service of the breakfast meal in facilities known as bed and breakfast inns and bed and breakfast  
127 homes. These establishments provide short-term lodging in private homes or small buildings converted  
128 for this purpose. Bed and breakfast establishments are characterized by a highly personalized service  
129 and meet the following requirements:

- 130 1. They do not serve food or drink to the general public for pay;
- 131 2. They serve only the breakfast meal, and that meal is served only to overnight guests of the  
132 business;
- 133 3. They include the price of breakfast in the room rate; and
- 134 4. They serve as the permanent residence of the owner or the manager of the business.

135

136 ~~*Homestay:* A private, owner-occupied single-family residence that offers one or more guest rooms for  
137 overnight accommodations which are rented for periods of less than 30 days for compensation, so long  
138 as the lodging use is subordinate to the main residential use of the building. The key distinction of a  
139 Homestay from a Short-Term Rental is that the host is present in a Homestay.~~

140

141 *Rooming or boarding house:* Short or long-term accommodations that serve a specific group or  
142 membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar  
143 accommodations, or single room occupancy units that provide a number of related services including,  
144 but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and  
145 breakfasts, ~~homestays,~~ and short-term rentals.

146

147 *Short-Term Rental:* A private residential property that is rented for periods of less than 30 days for  
148 compensation. ~~in which the owner does not reside in the home being rented. The key distinction of a  
149 Short-Term Rental from a Homestay is that the host is absent in a Short-Term Rental.~~

**STATEMENT OF REASONABLENESS & CONSISTENCY  
WITH CITY POLICIES AND PLANS  
SHORT-TERM RENTAL ZONING ORDINANCE AMENDMENTS**

NCGS 160A-383 requires that the City's review of the proposed zoning amendment include a written statement analyzing the reasonableness and the consistency of the amendment with any adopted plans and policies of the City. City Council finds that the proposed zoning amendment is **consistent** with the City of Brevard 2015 Comprehensive Plan as demonstrated by excerpt included below:

2015 Comprehensive Plan – Element 2: Economic Health

*The objectives and policies in this element aim to further existing efforts to foster entrepreneurship, retain and attract employers, remain an attractive retirement and tourism destination, and support and strengthen existing businesses. To continue to provide the public services necessary to achieve these goals, the City's tax revenues need to keep pace with increasing costs of providing those services.*

The amendments as proposed are intended to promote the public health, safety, and general welfare of the City of Brevard. Further, these ordinances and intend to preserve and protect the long-established, traditional single-family neighborhoods within the City while allowing those desiring to operate short-term rentals to do so without detriment to those neighborhoods. Short-Term Rentals and Homestays are lodging uses, as they are typically rented for less than 30 days.

ORDINANCE NO. 2016-\_\_\_\_\_

AN ORDINANCE AMENDING THE  
UNIFIED DEVELOPMENT ORDINANCE  
TO CLARIFY SHORT-TERM RENTAL USES AS LODGING USES

WHEREAS, the purpose of zoning regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development, these regulations shall apply to all land and structures within the respective zoning district; and,

WHEREAS, the City of Brevard Planning Board unanimously recommended approval of Ordinance changes on March 15, 2016; and,

WHEREAS, the City of Brevard City Council have reviewed and modified the Planning Board's draft language; and,

WHEREAS, in accordance with North Carolina General Statute 160A-383, Brevard City Council finds the following:

1) That the zoning amendment is consistent with the following Economic Health Element of the City of Brevard 2015 Comprehensive Plan:

The objectives and policies in this element aim to further existing efforts to foster entrepreneurship, retain and attract employers, remain an attractive retirement and tourism destination, and support and strengthen existing businesses. To continue to provide the public services necessary to achieve these goals, the City's tax revenues need to keep pace with increasing costs of providing those services.

2) That the proposed rezoning fully conforms to all applicable requirements of Brevard City Code.

3) That the proposed amendments clarify the difference between a residential use and lodging use.

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

Section 1. The Unified Development Ordinance is hereby amended as described in Exhibit A.

Section 2. Ordinance shall become effective upon its adoption and approval.

Adopted and Approved this the \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Jimmy Harris, Mayor

ATTEST:

---

Desiree Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

# UDO Amendments for Short-Term Rentals

## 2.2. - Use categories and tables of permitted uses.

Residential: Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.

Lodging: Premises available for short-term human habitation, including daily and weekly rental.

### 2.2.C – Use Matrix

	GR	RMX	NMX	DMX	CMX	IC	GI
<b>Lodging</b>							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	–
Bed and Breakfast Inn	SUP	PS	PS	PS	PS	PS	–
Accessory Rental Cottage/Cabin	PS	PS	PS	–	–	–	–
Hotels/Motels/Inns	–	–	–	P	P	P	–
Rooming or Boarding House	–	–	P	P	P	P	–
Recreational Vehicle Park	–	–	–	–	–	–	–
<u>Short-Term Rental</u>	<u>See subsection (d)</u>						<u>–</u>
<del>Short-Term Rental (Host-Absent)</del>	<del>SUP</del>	<del>SUP</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>–</del>
<del>Homestay (Host-Present)</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>PS</del>	<del>–</del>	<del>PS</del>	<del>–</del>

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

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

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

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

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

~~e)f) Non-residential uses within a live-work unit must be listed within Chapter 2, Section 2.2 (C. Use Matrix) as a permissible use within the district in which the live-work unit is proposed. and such non-residential use must be approved by means of the appropriate permitting process. Non-residential enterprises and residential units within any live-work unit that is located within a General Residential District shall have a common tenant. In districts where residential building~~

35 types are not permitted. live-work units may be permitted within pre-existing non-conforming  
36 residential structures.

37  
38 **Chapter 3 – Additional standards**

39 3.34 – Short-Term Rentals ~~and Homestays~~

40 A. Intent

41 It is the intent of this ordinance and standards below to preserve and protect the long-  
42 established, traditional single-family neighborhoods within the City while allowing those  
43 desiring to operate short-term rentals ~~or homestays~~ to do so without detriment to those  
44 neighborhoods. Short-Term Rentals ~~and Homestays~~ are lodging uses, as they are typically  
45 rented for less than 30 days.

46 B. General requirements

- 47 1. Occupancy: Overnight occupancy shall not exceed two persons per bedroom plus two  
48 additional persons. The number of “bedrooms” used in calculating occupancy limits shall  
49 be taken from the property’s application. For example: a two bedroom rental would  
50 have an occupancy limit of 6 (2 x 2 bedrooms = 4 + 2 additional = 6 total).
- 51 2. Appearance: Dwelling units used as short-term rentals ~~or homestays~~ in GR or RMX  
52 zoning districts shall maintain their residential character and outside appearance. No  
53 signs shall be permitted. All exterior lighting shall be residential in nature and shall not  
54 be directed towards adjacent properties.
- 55 3. Parking: Parking requirements shall be provided for the type of dwelling unit, per  
56 Chapter 10 of this ordinance.

57 ~~C. Permits required~~

- 58 ~~1. The owner, or authorized agent thereof, of any property upon which a Homestay or~~  
59 ~~Short-Term Rental proposes to operate shall secure a permit from the City of Brevard~~  
60 ~~Planning & Zoning Department.~~
- 61 ~~2. The application shall designate a “Primary Contact” which is to be a local responsible~~  
62 ~~party who is available by phone 24 hours per day while the property is being rented.~~

63 ~~D. Violations: Any act constituting a violation of these standards shall subject the owner to~~  
64 ~~enforcement procedures as set forth in Chapter 18 of this ordinance.~~

65 ~~E. Duration of permit:~~

- 66 ~~1. Rentals permitted with standards (PS)~~
  - 67 ~~a. Short-Term Rental and Homestay permits are temporary, and shall not establish a~~  
68 ~~vested right to renewal. Short-Term Rental and Homestay permits shall be valid for~~  
69 ~~a period of one year from the date upon which approval is granted.~~
  - 70 ~~b. Annual renewal applications shall be filed 30 days prior to expiration of the current~~  
71 ~~permit.~~
  - 72 ~~c. Applications for renewal shall include a written report demonstrating compliance~~  
73 ~~with the previously approved permit.~~
  - 74 ~~d. The approving authority may deny a request for permit renewal and require the~~  
75 ~~applicant to terminate the Short-Term Rental or Homestay upon a determination~~  
76 ~~that the Short-Term Rental or Homestay operated in violation of a requirement of~~  
77 ~~this section or other applicable condition or requirement; or, that the Short-Term~~  
78 ~~Rental or Homestay has generated unanticipated effects that are detrimental to the~~  
79 ~~residential character of the neighborhood in which the Short-Term Rental or~~  
80 ~~Homestay is located.~~
- 81 ~~2. Rentals permitted with the issuance of a Special Use Permit (SUP)~~

- 82 a. ~~Per 16.11.D, the effect of approval of a Special Use Permit by the Board of~~  
 83 ~~Adjustment is binding on the property, and all subsequent development and use of~~  
 84 ~~the property must be in accordance with the approved plan and conditions. Special~~  
 85 ~~Use Permits do not need to be renewed annually.~~  
 86 b. ~~Per 16.11.F, the Board of Adjustment may revoke an approved Special Use Permit~~  
 87 ~~upon finding that a violation of Brevard City Code, the City of Brevard Unified~~  
 88 ~~Development Ordinance, or a specific condition or requirement of the Board of~~  
 89 ~~Adjustment has occurred.~~

- 90 ~~D.C.~~ Exemptions: The following activities shall not be considered as a Short-Term Rental ~~or~~  
 91 ~~Homestay~~ use and the requirements of this subsection shall not apply to them.  
 92 1. Incidental residential vacation rentals, defined to mean no more than two such rentals  
 93 in any calendar year where the total number of nights rented does not exceed 14.  
 94 2. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or  
 95 bed and breakfast establishment.  
 96

97 **10.3.A – Minimum parking ratios**

98 A. *Minimum parking ratios:*

Use Type	Required Parking Spaces
Residential (All types)	2 spaces
Residential Accessory Dwelling Unit	1 space
Retail Uses	1 per 500 square feet
Office Uses	1 per 500 square feet
Theaters	1 per 3 seats
Restaurants	1 per 4 seats
Manufacturing/Warehousing/Light Assembly	.25 per 1,000 square feet of non-office space
Bed and Breakfast Inns/Hotels/Motels	1 per bedroom or suite
Civic Uses (Assembly Uses Only)	1 per 4 seats (If benches or pews are used then the standard shall be measured as 1 per 6 feet)

- 99  
 100  
 101 **10.5.G – Location of off-street parking**  
 102 G. Location of off-street parking:  
 103 1. Off-street parking shall not be permitted within any public right-of-way.  
 104 2. Off-street parking shall not be permitted within any front yard setback area.  
 105 3. Except for properties located in the Corridor Mixed Use (CMX) zoning district, off-street  
 106 parking shall not be permitted between any principal structure and the street upon which such  
 107 structure fronts. Where a structure fronts upon two or more streets, parking may be permitted

108 between the principal structure and the adjacent street of lesser classification when parking  
109 cannot reasonably be placed in another location.

110 4. The following uses and parking types shall be exempt from Sections 10.5(G.2) and 10.5(G.3)  
111 above:

112 a. Single-family and duplex residential structures in GR, RMX and NMX districts,  
113 including those used for Short-Term Rental uses, except those which are subject to  
114 Chapter 2, Section 2.3(E.2).

115 b. Handicapped parking spaces as required by the North Carolina Accessibility Code or  
116 other federal, state, or local regulations.

117 c. Bicycle parking spaces required by this Ordinance.

118 d. Existing non-residential and multi-family development undergoing significant or  
119 substantial improvement or change of use as defined in Chapter 19 of this Ordinance,  
120 provided that all newly created parking spaces associated with such redevelopment  
121 shall conform with Sections 10.5(G.2) and 10.5(G.3) unless the approving authority  
122 deems that compliance would be impractical due to existing site constraints.

123

## 124 **Chapter 19 – Definitions**

125 *Bed and breakfast establishments:* Establishments primarily engaged in providing short-term lodging and  
126 the service of the breakfast meal in facilities known as bed and breakfast inns and bed and breakfast  
127 homes. These establishments provide short-term lodging in private homes or small buildings converted  
128 for this purpose. Bed and breakfast establishments are characterized by a highly personalized service  
129 and meet the following requirements:

- 130 1. They do not serve food or drink to the general public for pay;
- 131 2. They serve only the breakfast meal, and that meal is served only to overnight guests of the  
132 business;
- 133 3. They include the price of breakfast in the room rate; and
- 134 4. They serve as the permanent residence of the owner or the manager of the business.

135

136 ~~*Homestay:* A private, owner-occupied single-family residence that offers one or more guest rooms for  
137 overnight accommodations which are rented for periods of less than 30 days for compensation, so long  
138 as the lodging use is subordinate to the main residential use of the building. The key distinction of a  
139 Homestay from a Short-Term Rental is that the host is present in a Homestay.~~

140

141 *Rooming or boarding house:* Short or long-term accommodations that serve a specific group or  
142 membership such as a dormitory, fraternity or sorority house, youth or adult hostel, or similar  
143 accommodations, or single room occupancy units that provide a number of related services including,  
144 but not limited to housekeeping, meals, and laundry services; excludes hotels, motels, inns, bed and  
145 breakfasts, ~~homestays,~~ and short-term rentals.

146

147 *Short-Term Rental:* A private residential property that is rented for periods of less than 30 days for  
148 compensation. ~~in which the owner does not reside in the home being rented. The key distinction of a  
149 Short-Term Rental from a Homestay is that the host is absent in a Short-Term Rental.~~

## STAFF REPORT

City Council, Monday September 19, 2016

**Title:** City Code of Ordinances Amendment – City Apiary Standards  
Council will consider a text amendment to City Code, *Section 14-9 – Keeping Bees*, which will bring Brevard’s local regulations into conformance with state statutory requirements.

**Speaker:** Aaron Bland AICP, Planner & Assistant Zoning Administrator

**From:** Daniel Cobb AICP, Planning Director

**Prepared by:** Aaron Bland AICP, Planner & Assistant Zoning Administrator

**Approved by:** Jim Fatland CPFO, City Manager

### BACKGROUND

City code currently limits the number of hives on lots 15,000 square feet (0.344 acres) or less to “no more than four” (Sec. 14-9(b)). The North Carolina General Assembly modified a state law in 2015 pertaining to the keeping of bees – *Section 8 of S.L. 2015-246 creates G.S. 106-645* – which includes language regarding limitations of local government regulation of hives (see Attachment A). In an effort to keep ordinances up to date and consistent with State law Staff initiated this amendment upon discovering this discrepancy.

This law clearly states two requirements of local laws that regulate bee hives which the City’s code does not currently conform to:

“Any ordinance shall permit up to five hives on a single parcel within the land use planning jurisdiction of the city.” § 106-645(b)(1)

“Any ordinance shall require that the hive be placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand, the city may permit the anchor or stand to be permanently attached to a roof surface.” § 106-645(b)(2)

The Brevard Planning Board discussed these amendments at their August 16<sup>th</sup> meeting. After some discussion regarding the allowance of additional hives on larger lots and the restriction of hive manipulation between the hours of sunset and sunrise, the Board unanimously voted to recommend the draft language with two changes: reducing the lot square footage that allows additional hives from 5,000 to 3,000, and removing the restriction of hive manipulation between sunset and sunrise.

### DISCUSSION

The City’s current language regarding keeping bees is inconsistent with state statute. The amended language (Attachment B) meets the two requirements outlined above. Further, Staff’s draft also includes language allowed, but not required, by state law which calls for removal of

hives that go unmaintained or if removal is necessary to protect the health, safety, and welfare of the public; Staff feels that it is prudent to include this language in order to facilitate enforcement of any unsafe hives.

### **POLICY ANALYSIS**

While not directly related to any specific goals, objectives, or policies of the City's 2015 Comprehensive Plan Update, due to the vital role bees play as pollinators, providing for bee keeping in the city does relate to two goals of the Environmental Health element:

- Successfully preserve our woods and water for future generations.
- Preserve farmland.

### **STAFF RECOMMENDATION**

This amendment is necessary to bring the City's code into compliance with state statutory requirements and is supported by the Planning Board; Staff recommends approval as presented.

However, Council does have latitude to consider adopting a version that differs from the recommended language. Council may elect to alter the language that allows for additional hives on lots larger than 15,000 square feet, so long as the resulting code language does not limit hives to less than five per single parcel.

Further, Staff has included language that requires removal of hives if the owner no longer maintains the hives or if removal is necessary to protect the health, safety, and welfare of the public; this language is optional and is allowed, but not required, by NCGS 106-645(b)(4) and therefore Council could choose to omit this addition.

City Council's options are as follows:

1. Approve the ordinance as presented.
2. Approve the ordinance with modifications.
3. Deny the ordinance as presented.

### **FISCAL IMPACT**

None.

### **ATTACHMENTS**

- A. NCGS § 106-645
- B. Draft Language
- C. Ordinance

**§ 106-645. Limitations on local government regulation of hives.**

(a) Notwithstanding Article 6 of Chapter 153A of the General Statutes, no county shall adopt or continue in effect any ordinance or resolution that prohibits any person or entity from owning or possessing five or fewer hives.

(b) Notwithstanding Article 8 of Chapter 160A of the General Statutes, a city may adopt an ordinance to regulate hives in accordance with this subsection. The city shall comply with all of the following:

- (1) Any ordinance shall permit up to five hives on a single parcel within the land use planning jurisdiction of the city.
- (2) Any ordinance shall require that the hive be placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand, the city may permit the anchor or stand to be permanently attached to a roof surface.
- (3) Any ordinance may include regulation of the placement of the hive on the parcel, including setbacks from the property line and from other hives.
- (4) Any ordinance may require removal of the hive if the owner no longer maintains the hive or if removal is necessary to protect the health, safety, and welfare of the public.

(c) For purposes of this section, the term "hive" has the same definition as in G.S. 106-635(15). (2015-246, s. 8.)

1 **CODE OF ORDINANCES CITY OF BREVARD, NORTH CAROLINA**

2  
3 **Chapter 14 – Animals and Fowl**

4  
5 **Article I – In General**

6  
7 **Sec. 14-9. – Keeping bees.**

8 (a) It shall be unlawful for any person to locate, construct, reconstruct, alter, maintain or use,  
9 on any lot or parcel of land within the corporate limits of the city, any hives or other enclosures  
10 for the purpose of keeping any bees or other such insects unless every part of such hive or  
11 enclosure is located at least 75 feet from a dwelling house located on the adjoining property.

12  
13 (b) On lot sizes of 15,000 square feet or less, no more than ~~four~~five hives (colonies of bees) will  
14 be permitted. The hives shall be no closer than 15 feet from any property line, and all hives  
15 shall be placed at ground level or securely attached to an anchor or stand. On lots larger than  
16 15,000 square feet, additional hives will be permitted on the basis of one hive for each ~~5,000~~  
17 3,000 square feet in excess of 15,000.

18  
19 (c) This section shall pertain only to honey bees maintained in movable frame hives and it does  
20 not authorize the presence of hives with nonmovable frames or feral honey bee colonies  
21 (honey bees in trees, sides of houses, etc.).

22  
23 ~~(d) The hives (colonies) of bees may not be manipulated between the hours of sunset and~~  
24 ~~sunrise unless the hives are being moved to or from another location.~~

25  
26 (d) The City may require the removal of a hive, or hives, if the owner no longer maintains the  
27 hive(s), or if removal is necessary to protect the health, safety, and welfare of the public, as  
28 allowed by NCGS 106-645(b)(4).

**ORDINANCE NO. 2016-\_\_\_\_\_**

**AN ORDINANCE AMENDING BREVARD CITY CODE  
PART II – CHAPTER 14 – ANIMALS AND FOWL**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Part II, Chapter 14, Article I, Section 14-9 be amended to update and comply with requirements of North Carolina General Statutes; and,

WHEREAS, Brevard City Council finds that while these proposed amendments are consistent with the City of Brevard Land Use Plan, Comprehensive Plan, and other plans and policies of the City of Brevard; and,

WHEREAS, a public hearing was conducted on Monday, September 19, 2016, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Part II, Chapter 14 be amended as outlined in Attachment 1 which is included with this ordinance.

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

SECTION 01. Brevard City Code, Part II, Chapter 14 is hereby amended as depicted in Attachment 1.

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 effect from and after the date of its adoption.

Adopted and approved this the \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Jimmy Harris, Mayor

ATTEST:

---

Desiree Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

## STAFF REPORT

City Council, September 19, 2016

**Title:** **Invasive Plant Species Ordinance Amendment**

City Council will hold a public hearing on an amendment to Chapter 38, of the Code of Ordinances - Health and Sanitation, and Chapter 8, of the Unified Development Ordinance (UDO) - Tree Protection and Landscaping.

**Speaker:** Daniel Cobb, AICP, Planning Director

**From:** Daniel Cobb, AICP, Planning Director

**Prepared By:** Daniel Cobb, AICP, Planning Director  
Paul Ray, Senior Code Enforcement Officer

**Approved By:** Jim Fatland CPFO, City Manager

### Background

Language pertaining to invasive exotic plant species appears briefly in both the City's Code of Ordinances and the Unified Development Ordinance. Generally speaking, the Code of Ordinance contains a stronger concentration of laws pertaining to public welfare, while the Unified Development Ordinance is geared toward land use and design standards. The City's intent to control invasive exotic plant species through legislation is currently present in both, but neither is mention of invasive exotic species has been carried out to the fullest extent due to the ambiguity of the ordinance. The commonality and popularity of invasive tree and plant species, along with the cost and practicality of implementing and enforcing certain regulations, should be carefully considered during the decision making process in determining if such language should remain as a nuisance violation within the Code of Ordinance, or be placed within the Unified Development Ordinance. This move would *prohibit the introduction* of such plant species.

### Discussion

**Code of Ordinance:** The purpose and intent of Chapter 38, of the Code of Ordinances is to maintain and ensure an adequate level of Health and Sanitation, whereby the enumerated and described conditions are declared to constitute a detriment, danger and hazard to the health, safety, and general welfare of the inhabitants of the city and declared to be unlawful. Section 38-32(2) prohibits the accumulation of invasive exotic species. A violation of this section has two remedies for non-compliance. The City can cause the abatement of invasive exotic plant species, hiring a landscaping contractor to abate the invasive plants from private property and attempt to recover its costs by placing a lien against the property. Alternately, the City can swear a complaint against the property owner charging them with a misdemeanor crime.

**Unified Development Ordinance:** The purpose and intent of Chapter 8 of the Unified Development Ordinance is to aid in preserving ecological balance by contributing to the preservation of wildlife habitat, the promotion of natural diversity, air quality, groundwater recharge, energy conservation, and stormwater runoff, while reducing noise, glare, and heat.

Therefore, natural habitats and trees are protected under this chapter and certain landscaping features are required for responsible, urban development. Generally, all trees on commercial properties, or those properties being used for commercial purposes, are required to maintain their tree canopy. Removal of any such trees is subject to the permitting requirements in Chapter 8 of the UDO. Section 8.3(B)(2) acknowledges invasive tree species and exempts them from this requirement. The current list of commonly accepted invasive exotic species is as follows: Chinese Elm, Silver Maple, Lombardy Poplar, Paulonia, Mimosa and Tree of Heaven (Ailanthus). This amendment as presented will provide additional clarity in this chapter by referencing a known publication.

### **Policy Analysis**

Section 38-32(2) of the Code of Ordinance (which falls under nuisance section of City Code) states, "Accumulations of invasive exotic species shall be prohibited." This reference alone is not specific enough to enforce. The Code of Ordinance does not contain a definition or list of prohibited plants necessary for successful abatement or prosecution. The Vagueness Doctrine is a constitutional rule that rests on the due process clauses of the Fifth and Fourteenth Amendments, and it requires criminal laws to state explicitly and definitely what conduct is punishable. Without fair notice of what constitutes an invasive exotic species, the language is too vague for the average citizen to understand.

There is a risk of creating public discord, with the perception of arbitrary enforcement of law. Several non-native invasive species of plants, including privet, kudzu and bamboo, are currently growing in the City's own rights-of-way, parks and other public places and institutions. The eradication of invasive exotic plants within the City's control may be hindered by a lack of funding, training, or personnel. Similarly, a fair and active enforcement program, authorized by an amendment to the Code of Ordinance, may be hindered by a lack of staffing required for proper implementation. Lastly, proper training of staff would be necessary to gain proficiency in the identification of a variety of invasive exotic plant species.

Reference to "invasive exotic species" in the Unified Development Ordinance is an exception to the tree protection chapter, exempting species like Chinese Elm, Silver Maple, Lombardy Poplar, Paulonia, Mimosa and Tree of Heaven (Ailanthus) from normal tree protection requirements. There are currently no regulations prohibiting the introduction of invasive exotic plant species into landscaping designs, and the aforementioned list of species are limited to trees.

The North Carolina Cooperative Extension Transylvania County Center provides a list entitled, "Guide To Successful Gardening in Transylvania County." This publication is essentially divided into two categories, "Very Invasive" and "Moderately Invasive."

The common names of "very invasive plant species" are as follows:

**Trees:** Mimosa, Princesstree, Russian olive, Tree of heaven.

**Shrubs:** Autumn olive, Chinese privet, Multiflora rose, Winter honeysuckle.

Vines: Chinese wisteria, English ivy, Japanese honeysuckle, Kudzu, Oriental bittersweet.  
**Herbaceous Plants:** Garlic mustard, Japanese knotweed, Japanese Stilt Grass, Korean or Chinese lespedeza, Shrubby lespedeza.

The common names of “moderately invasive plant species” are as follows:

**Trees:** Bradford pear, Japanese privet, Norway maple, Paper mulberry, Thorney olive, White mulberry, White poplar.

**Shrubs:** Amur honeysuckle, Common privet, Glossy privet, Japanese Barberry, Japanese spiraea, Morrow’s honeysuckle, Tatarian honeysuckle, Sacred bamboo Nandina, Winged burning bush, Winter creeper.

Vines: Bigleaf periwinkle, Common periwinkle, Cypressvine Morningglory, Fiveleaf akebia, Japanese Wisteria, Porcelain berry, Sweet Autumn Virginsbower.

**Herbaceous Plants:** Bamboo, Chinese silvergrass, Crownvetch Securigera, Golden bamboo, Johnsongrass, Oregon Grape, Purple loosestrife, Queen Anne’s lace.

While there are no specific references to invasive or exotic species in any adopted plans or policies of the City of Brevard, there are Goals listed in the 2015 Comprehensive Plan related to the subject, specifically within the Environmental Health Element:

#### **Goals**

Through appropriate conservation and preservation measures that protect the health and sustainability of the environment and our abundant natural resources, Brevard will:

- Successfully preserve our woods and water for future generations.
- Promote our world-class natural resources as an asset.
- Prevent development in environmentally sensitive and critical areas.
- Preserve farmland.

Further, as a recognized Tree City USA by the Arbor Day Foundation, Brevard should take steps to maintain and protect the native plant species within the City.

North Carolina General Statute 160A-383 requires that the City's review of the proposed zoning amendment include a written statement analyzing the reasonableness and the consistency of the amendment with any adopted plans and policies of the City. This statement is included as Attachment C.

#### **Staff Recommendation**

Existing regulations on invasive exotic species are unclear and ambiguous under the Code of Ordinance, and would be costly and difficult to enforce on private property. Staff believes the City should adopt specific language in the Landscaping Chapter of the Unified Development Ordinance prohibiting the introduction of invasive exotic plant species, and encourage the use of landscaping with native plants as recommended by the NC Cooperative Extension for Transylvania County. The eradication of existing invasive species would be encouraged but not required under the penalty of law. The administrator would be responsible for maintaining a

current list of plants and trees commonly accepted to be “invasive exotic species” as determined by the Board. Site plans for development would continue to be reviewed by the Planning Department for landscaping requirements, and the use of invasive exotic tree and plant species would be strictly prohibited.

Staff recommends approval of the amendments as shown in Attachments A and B.

The Planning Board met on August 16, 2016 and after discussion recommended approval of the amendments as presented. The Planning Board included with their motion a statement of consistency as well. That statement is included as Attachment D.

City Council’s options are as follows:

1. Approve the ordinance as presented.
2. Approve the ordinance with modifications.
3. Deny the ordinance as presented.

**Fiscal Impact**

None at this time. However, should City Council wish to maintain the ordinance as it is currently written, the language should be modified to include the specific list describe above. Doing so would allow for legal and fair enforcement. If this is the case additional staff, training, and funding for abatement is necessary. An entry-level code enforcement officer salary is \$38,000.

**Attachments**

- A. Proposed Amendment – Chapter 38 Brevard City Code
- B. Proposed Amendment – Chapter 8 Unified Development Ordinance
- C. City Council Statement of Consistency
- D. Planning Board Statement of Consistency
- E. Adopting Ordinance

1 **CODE OF ORDINANCES CITY OF BREVARD, NORTH CAROLINA**

2  
3 **Chapter 38 – Health and Sanitation**

4  
5 **Article II – Nuisances**

6  
7 **Sec. 38-32 – Enumeration**

8  
9 The following enumerated and described conditions are hereby found, deemed and  
10 declared to constitute a detriment, danger and hazard to the health, safety, and general  
11 welfare of the inhabitants of the city, and the same are found, deemed and declared, to be  
12 public nuisances wherever the same may exist and are hereby declared unlawful; however,  
13 this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive.

- 14  
15 1) Any condition which constitutes a breeding ground or harbor for rats, mosquitoes,  
16 harmful insects, or other pests.  
17  
18 2) Any growth or overgrowth of grass, weeds or other vegetation that is greater than  
19 18 inches on the average, or any accumulation of dead weeds, grass, brush or  
20 undergrowth. This section shall not apply to lots that are natural area lots unless the  
21 lot is found to violate section 38-32(1) or 38-32(6). Natural area lots are lots that  
22 have never been cleared in anticipation of development, or lots that have been  
23 landscaped or replanted to appear as natural, undeveloped areas. ~~Accumulations of~~  
24 ~~invasive exotic species shall be prohibited.~~ If a natural area lot is adjacent to a  
25 property occupied by a dwelling or other structure, and that dwelling or other  
26 structure is located within 50 feet of the natural area lot, then the natural area lot  
27 shall comply with the requirements of this subsection to a depth of ten feet from  
28 said adjacent property line, however, this requirement shall not apply to property  
29 that consists of a ravine, creek bank or other severe slope where maintenance  
30 would be unsafe and the chance of erosion would increase if the vegetation were  
31 decreased.  
32  
33 3) Any concentration of combustible items including but not limited to mattresses,  
34 boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes  
35 and rags.  
36  
37 4) Any collection of garbage, food waste, animal waste, or any other rotten or  
38 putrescible matter of any kind.  
39  
40 5) Any indoor furniture, indoor appliances, or metal products of any kind or nature  
41 openly kept which are broken or inoperable or have jagged edges of metal or glass,  
42 or areas of confinement.  
43

- 44 6) Any condition which blocks, hinders, or obstructs in any way the natural flow of  
45 branches, streams, creeks, surface waters, ditches, or drains, to the extent that the  
46 premises is not free from standing water.  
47
- 48 7) Any improper or inadequate drainage on private property which causes flooding or  
49 interferes with the use of or endangers in any way the streets, sidewalks, parks or  
50 other city-owned property of any kind; provided, the notices required and powers  
51 conferred by this article by and on the code enforcement officer in abating the  
52 nuisances defined by this subsection shall be given and exercised by the director of  
53 public works.  
54
- 55 8) Any and all grass or weeds growing in any sidewalk and any hedges or plantings  
56 bordering thereon not properly trimmed.  
57
- 58 9) Any and all trees or bushes dead, diseased or not properly trimmed, or any object or  
59 growth within the sight distance, on private property adjacent to city street rights-  
60 of-way that constitute a hazard to city property or to the health or safety of  
61 motorists or pedestrians. "Sight distance" shall be defined as the area required to  
62 provide a ten-foot by 70-foot unobstructed view across property primarily located at  
63 street intersections, driveways, and along sharp horizontal curves in the roadway.  
64 No owner, lessee or occupant, or any agent, servant, representative or employee of  
65 any such owner, lessee or occupant, having control of any lot or land in the city,  
66 regardless of whether the lot is occupied or not, shall permit or maintain on such lot  
67 or land, or on or along the sidewalk, street or alley adjacent to the same between  
68 the property line and the curb or middle of the alley or for ten feet outside the  
69 property line if there is no curb, any of the conditions described in this subsection. It  
70 shall be the joint and several duty of any owner, lessee and occupant of any lot or  
71 land to cut and/or remove or cause to be cut and/or removed all causes of such  
72 conditions as often as may be necessary to comply with the provisions of this  
73 chapter.  
74
- 75 10) Any other condition specifically prohibited in this article, or any other condition  
76 specifically declared to be a nuisance or a danger to the public health, safety, morals  
77 and general welfare of inhabitants of the city and a public nuisance by the city  
78 council.

1 **UNIFIED DEVELOPMENT ORDINANCE CITY OF BREVARD, NORTH CAROLINA**

2  
3 **Chapter 8 – Tree Protection and Landscaping**

4  
5 **Sec. 8.2 – General Provisions**

- 6  
7 A. *Maintenance of existing built and vacant lots:* Every owner, occupant, agent or person in  
8 control of property shall cut down and remove from the property all weeds, grass, vines  
9 and other growth which endangers the property or any other property, or which is likely  
10 to burn. This requirement shall not require the clearance of surface water protection  
11 areas or the removal of significant or protected tree and shrub species.  
12  
13 B. *Pre-construction conference:* Prior to the commencement of any new development  
14 activities an on-site pre-construction conference shall take place with the developer and  
15 the administrator to review procedures for the protection and management of all  
16 protected landscape elements identified on the landscape protection plan.  
17  
18 C. *Existing vegetation, fences, walls, and berms:* The use of existing trees or shrubs to  
19 satisfy the landscaping requirements of this section is strongly encouraged. Existing  
20 significant vegetation within the landscaped area shall be preserved and credited  
21 toward standards for the type of perimeter landscaping required, unless otherwise  
22 approved by the City of Brevard at the time of site plan approval. Existing berms, walls,  
23 or fences within the landscaped area but not including chain link fencing, may be used  
24 to fulfill the standards for the type of perimeter landscaping required, provided that  
25 these elements are healthy and/or in a condition of good repair. Other existing site  
26 features within the required perimeter landscaped area which do not otherwise  
27 function to meet the standards for the required landscaping shall be screened from the  
28 view of other properties or removed, as determined during review and approval of the  
29 site plan.  
30  
31 D. *Installation of new vegetation and other features:* New plant material should  
32 complement existing vegetation native to the site. If existing significant vegetation and  
33 other site features do not fully meet the standards for the type of landscaping required,  
34 then additional vegetation and/or site features (including fences) shall be planted or  
35 installed within the required landscaping area. The use of indigenous, native and/or  
36 regionally grown species of trees, shrubs, vines, groundcovers and perennials is  
37 encouraged in order to make planted areas compatible with existing native habitats.  
38 [The introduction of non-native, invasive, or exotic species shall be prohibited \(See](#)  
39 [Subsection P of this section for reference\).](#)  
40  
41 E. *Grading and development in required landscape areas:* The required landscaping shall  
42 not contain any development, impervious surfaces, or site features that do not function  
43 to meet these standards or that require removal of existing significant vegetation. No  
44 grading, development, or land-disturbing activities shall occur within this area if forest

45 canopy, specimen trees, or significant vegetation exists within the buffer yard, unless  
46 approved by the administrator. If grading within a buffer yard is proposed, slopes of 3:1  
47 or less are encouraged to ensure the proper transition of grades to the adjacent  
48 property and to facilitate landscaping and maintenance.

- 49
- 50 F. *Easements and rights-of-way:* Nothing shall be planted or installed within an  
51 underground or overhead utility easement or a drainage easement without the consent  
52 of the city and the easement holder at the time of site plan approval.
- 53
- 54 G. *Protection during surveying:* No tree greater than 12 inches in diameter at breast height  
55 (DBH) located on public property or within a required tree protection area shall be  
56 removed for the purpose of surveying without an approval from the administrator.
- 57
- 58 H. *Tree trimming:* Every owner of any tree overhanging any street or right-of-way within  
59 the city shall trim the branches so that such branches shall not obstruct the light from  
60 any street lamp or obstruct the view of any street intersection and so that there shall be  
61 a clear space of eight feet above the surface of the street or sidewalk. Said owners shall  
62 remove all dead, diseased or dangerous trees, or broken or decayed limbs which  
63 constitute a menace to the safety of the public. The public works director and utilities  
64 director are authorized to remove and/or trim trees and shrubs from public properties  
65 and public rights-of-way. North Carolina Department of Transportation is authorized to  
66 remove and/or trim trees and shrubs in the public rights-of-way owned by the State of  
67 North Carolina. Approval is required to trim a tree in a tree protection area, required  
68 landscaping area, or buffer yard more than 25 percent of its overall canopy.
- 69
- 70 I. *Trimming and removal by utility companies:* Trees to be removed from the public right-  
71 of-way by electric utilities and other overhead utilities must be replaced by such entity  
72 in equal quantity and minimum caliper size with an approved species.
- 73
- 74 J. *Tree topping:* Tree topping shall be prohibited on all trees on public property,  
75 designated rights-of-way, required tree protection areas, landscaping, and buffer yards  
76 unless otherwise approved by the administrator. Trees severely damaged by storms or  
77 other causes, or certain trees under utility lines or other obstructions where other  
78 pruning practices are impractical may be exempted from this article at the  
79 determination of the administrator.
- 80
- 81 K. *Removal of dead trees on public property:* Approval by the administrator shall be issued  
82 for trees that are dead, infected by disease, or determined to be a hazard to public  
83 safety and welfare. Should any tree designated in a tree protection area, required  
84 landscaping area, or buffer yard die, the agency shall replace it within 180 days with a  
85 tree(s) [of] equal size.
- 86
- 87 L. *Tree removal on private property:* The city may require removal of any dead or diseased  
88 trees or trees harboring insects, on private property when such trees constitute a threat

89 to public property. The administrator will notify in writing the owner(s) of such trees.  
90 Removal shall be done at the owner(s) expense within 60 days after the date of service  
91 of notice. In the event of failure of the owner(s) to comply with such provisions, the city  
92 shall have the authority to remove such trees and charge the cost of removal as a lien  
93 on the owner's property taxes.

94  
95 M. *Stumps*: All stumps of trees and park trees shall be removed so that the top of the  
96 stump does not project above the surface of the ground.

97  
98 N. *Use of off-site landscape easements*: Permanent off-site landscape easements may be  
99 used to meet required buffer yards provided that the size or shape of the parcel  
100 significantly restricts the ability to reasonably use the property and meet the buffer yard  
101 requirements. These easements must be recorded prior to or in conjunction with the  
102 approval of the site or subdivision plan.

103  
104 O. *Protective measures during construction*: Protective barricades shall be placed around  
105 all protected trees designated to be saved prior to the start of development activities or  
106 grading. Barricades shall be erected five feet past the drip line for any tree to be saved  
107 or tree save areas. Protective barricades shall remain in place until development  
108 activities are completed. The area within the protective barricade shall remain free of all  
109 building materials, dirt or other construction debris, construction traffic, storage of  
110 vehicles and materials, and grading shall not take place within five feet of the drip line of  
111 the existing trees to be protected.

112  
113 P. *Non-native, invasive, or exotic plant species*: The introduction of the following shall be  
114 prohibited:

115 1. **Trees**: Mimosa, Princesstree, Russian olive, Tree of Heaven, Bradford Pear,  
116 Japanese Privet, Norway Maple, Paper Mulberry, Thorney Olive, White Mulberry,  
117 White Poplar Chinese Elm, Silver Maple, Lombardy Poplar, Paulonia.

118 2. **Shrubs**: Autumn Olive, Chinese Privet, Multiflora Rose, Winter Honeysuckle,  
119 Amur Honeysuckle, Common privet, Glossy Privet, Japanese Barberry, Japanese  
120 Spiraea, Morrow's Honeysuckle, Tatarian Honeysuckle, Sacred Bamboo Nandina,  
121 Winged burning Bush, Winter Creeper.

122 3. **Vines**: Chinese wisteria, English ivy, Japanese honeysuckle, Kudzu, Oriental  
123 bittersweet, Bigleaf periwinkle, Common periwinkle, Cypressvine Morningglory,  
124 Fiveleaf akebia, Japanese Wisteria, Porcelain berry, Sweet Autumn Virginsbower.

125 4. **Herbaceous Plants**: Garlic Mustard, Japanese Knotweed, Japanese Stilt Grass,  
126 Korean or Chinese Lespedeza, Shrubby Lespedeza, Bamboo, Chinese Silvergrass,  
127 Crownvetch Securigera, Golden Bamboo, Johnsongrass, Oregon Grape, Purple  
128 loosestrife, Queen Anne's lace.

129 P.



**STATEMENT OF REASONABLENESS &  
CONSISTENCY WITH CITY POLICIES AND PLANS:  
INVASIVE PLANT SPECIES PROHIBITION**

NCGS 160A-383 requires that the City's review of the proposed zoning amendments include a written statement analyzing the reasonableness and the consistency of the amendment with adopted plans and policies of the City. The Brevard City Council approves this amendment with a finding that the proposed zoning amendment is **consistent** with the following elements of the City's adopted plans and policies:

*2015 Comprehensive Plan – Element 3 – Environmental Health:*

**Goals**

Through appropriate conservation and preservation measures that protect the health and sustainability of the environment and our abundant natural resources, Brevard will:

- Successfully preserve our woods and water for future generations.
- Promote our world-class natural resources as an asset.
- Prevent development in environmentally sensitive and critical areas.
- Preserve farmland.

*2012 City of Brevard Vision Statement:*

Foster economic diversity while enhancing the quality of life in an *environmentally friendly* way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

**STATEMENT OF REASONABLENESS &  
CONSISTENCY WITH CITY POLICIES AND PLANS:  
INVASIVE PLANT SPECIES PROHIBITION**

NCGS 160A-383 requires that the City's review of the proposed zoning amendments include a written statement analyzing the reasonableness and the consistency of the amendment with adopted plans and policies of the City. The Planning Board forwards this recommendation with a finding that the proposed zoning amendment is *consistent* with the following elements of the City's adopted plans and policies:

*2015 Comprehensive Plan – Element 3 – Environmental Health:*

**Goals**

Through appropriate conservation and preservation measures that protect the health and sustainability of the environment and our abundant natural resources, Brevard will:

- Successfully preserve our woods and water for future generations.
- Promote our world-class natural resources as an asset.
- Prevent development in environmentally sensitive and critical areas.
- Preserve farmland.

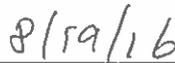
*2012 City of Brevard Vision Statement:*

Foster economic diversity while enhancing the quality of life in an *environmentally friendly* way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

This document is a true and accurate representation of the findings and recommendations of the Brevard Planning Board. This matter was discussed on August 16, 2016 and recommended for approval.



Kimsey Jackson, Chair  
Brevard Planning Board



Date

ORDINANCE NO. 2016-\_\_\_\_\_

AN ORDINANCE AMENDING THE CITY OF BREVARD CODE OF ORDINANCES  
AND UNIFIED DEVELOPMENT ORDINANCE  
TO PROHIBIT THE INTRODUCTION OF INVASIVE PLANT SPECIES

WHEREAS, the purpose of nuisance ordinances is to provide for the health, safety, and general welfare of the inhabitants of the city; and,

WHEREAS, the purpose of zoning regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development, these regulations shall apply to all land and structures within the respective zoning district; and,

WHEREAS, the City of Brevard Planning Board unanimously recommended approval on August 16, 2016; and,

WHEREAS, in accordance with North Carolina General Statute 160A-384, Brevard City Council finds the following:

1) That the proposed amendments are consistent with Element 3 – Environmental Health of the 2015 Comprehensive Plan:

**Goals**

Through appropriate conservation and preservation measures that protect the health and sustainability of the environment and our abundant natural resources, Brevard will:

- Successfully preserve our woods and water for future generations.
- Promote our world-class natural resources as an asset.
- Prevent development in environmentally sensitive and critical areas.
- Preserve farmland.

2) That the proposed amendments support the 2012 City of Brevard Vision Statement:

Foster economic diversity while enhancing the quality of life in an environmentally friendly way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural/historic assets of music, arts, and outdoor recreation.

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

Section 1. Brevard City Code, Part II, Chapter 38 is hereby amended as depicted in Exhibit A.

Section 2. Brevard Unified Development Ordinance, Chapter 8 is hereby amended as depicted in Exhibit B.

Section 3. 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 3. Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Jimmy Harris, Mayor

ATTEST:

---

Desiree Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

1 **CODE OF ORDINANCES CITY OF BREVARD, NORTH CAROLINA**

2  
3 **Chapter 38 – Health and Sanitation**

4  
5 **Article II – Nuisances**

6  
7 **Sec. 38-32 – Enumeration**

8  
9 The following enumerated and described conditions are hereby found, deemed and  
10 declared to constitute a detriment, danger and hazard to the health, safety, and general  
11 welfare of the inhabitants of the city, and the same are found, deemed and declared, to be  
12 public nuisances wherever the same may exist and are hereby declared unlawful; however,  
13 this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive.

- 14  
15 1) Any condition which constitutes a breeding ground or harbor for rats, mosquitoes,  
16 harmful insects, or other pests.  
17  
18 2) Any growth or overgrowth of grass, weeds or other vegetation that is greater than  
19 18 inches on the average, or any accumulation of dead weeds, grass, brush or  
20 undergrowth. This section shall not apply to lots that are natural area lots unless the  
21 lot is found to violate section 38-32(1) or 38-32(6). Natural area lots are lots that  
22 have never been cleared in anticipation of development, or lots that have been  
23 landscaped or replanted to appear as natural, undeveloped areas. ~~Accumulations of~~  
24 ~~invasive exotic species shall be prohibited.~~ If a natural area lot is adjacent to a  
25 property occupied by a dwelling or other structure, and that dwelling or other  
26 structure is located within 50 feet of the natural area lot, then the natural area lot  
27 shall comply with the requirements of this subsection to a depth of ten feet from  
28 said adjacent property line, however, this requirement shall not apply to property  
29 that consists of a ravine, creek bank or other severe slope where maintenance  
30 would be unsafe and the chance of erosion would increase if the vegetation were  
31 decreased.  
32  
33 3) Any concentration of combustible items including but not limited to mattresses,  
34 boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes  
35 and rags.  
36  
37 4) Any collection of garbage, food waste, animal waste, or any other rotten or  
38 putrescible matter of any kind.  
39  
40 5) Any indoor furniture, indoor appliances, or metal products of any kind or nature  
41 openly kept which are broken or inoperable or have jagged edges of metal or glass,  
42 or areas of confinement.  
43

- 44 6) Any condition which blocks, hinders, or obstructs in any way the natural flow of  
45 branches, streams, creeks, surface waters, ditches, or drains, to the extent that the  
46 premises is not free from standing water.  
47
- 48 7) Any improper or inadequate drainage on private property which causes flooding or  
49 interferes with the use of or endangers in any way the streets, sidewalks, parks or  
50 other city-owned property of any kind; provided, the notices required and powers  
51 conferred by this article by and on the code enforcement officer in abating the  
52 nuisances defined by this subsection shall be given and exercised by the director of  
53 public works.  
54
- 55 8) Any and all grass or weeds growing in any sidewalk and any hedges or plantings  
56 bordering thereon not properly trimmed.  
57
- 58 9) Any and all trees or bushes dead, diseased or not properly trimmed, or any object or  
59 growth within the sight distance, on private property adjacent to city street rights-  
60 of-way that constitute a hazard to city property or to the health or safety of  
61 motorists or pedestrians. "Sight distance" shall be defined as the area required to  
62 provide a ten-foot by 70-foot unobstructed view across property primarily located at  
63 street intersections, driveways, and along sharp horizontal curves in the roadway.  
64 No owner, lessee or occupant, or any agent, servant, representative or employee of  
65 any such owner, lessee or occupant, having control of any lot or land in the city,  
66 regardless of whether the lot is occupied or not, shall permit or maintain on such lot  
67 or land, or on or along the sidewalk, street or alley adjacent to the same between  
68 the property line and the curb or middle of the alley or for ten feet outside the  
69 property line if there is no curb, any of the conditions described in this subsection. It  
70 shall be the joint and several duty of any owner, lessee and occupant of any lot or  
71 land to cut and/or remove or cause to be cut and/or removed all causes of such  
72 conditions as often as may be necessary to comply with the provisions of this  
73 chapter.  
74
- 75 10) Any other condition specifically prohibited in this article, or any other condition  
76 specifically declared to be a nuisance or a danger to the public health, safety, morals  
77 and general welfare of inhabitants of the city and a public nuisance by the city  
78 council.

1 **UNIFIED DEVELOPMENT ORDINANCE CITY OF BREVARD, NORTH CAROLINA**

2  
3 **Chapter 8 – Tree Protection and Landscaping**

4  
5 **Sec. 8.2 – General Provisions**

- 6  
7 A. *Maintenance of existing built and vacant lots:* Every owner, occupant, agent or person in  
8 control of property shall cut down and remove from the property all weeds, grass, vines  
9 and other growth which endangers the property or any other property, or which is likely  
10 to burn. This requirement shall not require the clearance of surface water protection  
11 areas or the removal of significant or protected tree and shrub species.  
12  
13 B. *Pre-construction conference:* Prior to the commencement of any new development  
14 activities an on-site pre-construction conference shall take place with the developer and  
15 the administrator to review procedures for the protection and management of all  
16 protected landscape elements identified on the landscape protection plan.  
17  
18 C. *Existing vegetation, fences, walls, and berms:* The use of existing trees or shrubs to  
19 satisfy the landscaping requirements of this section is strongly encouraged. Existing  
20 significant vegetation within the landscaped area shall be preserved and credited  
21 toward standards for the type of perimeter landscaping required, unless otherwise  
22 approved by the City of Brevard at the time of site plan approval. Existing berms, walls,  
23 or fences within the landscaped area but not including chain link fencing, may be used  
24 to fulfill the standards for the type of perimeter landscaping required, provided that  
25 these elements are healthy and/or in a condition of good repair. Other existing site  
26 features within the required perimeter landscaped area which do not otherwise  
27 function to meet the standards for the required landscaping shall be screened from the  
28 view of other properties or removed, as determined during review and approval of the  
29 site plan.  
30  
31 D. *Installation of new vegetation and other features:* New plant material should  
32 complement existing vegetation native to the site. If existing significant vegetation and  
33 other site features do not fully meet the standards for the type of landscaping required,  
34 then additional vegetation and/or site features (including fences) shall be planted or  
35 installed within the required landscaping area. The use of indigenous, native and/or  
36 regionally grown species of trees, shrubs, vines, groundcovers and perennials is  
37 encouraged in order to make planted areas compatible with existing native habitats.  
38 [The introduction of non-native, invasive, or exotic species shall be prohibited \(See](#)  
39 [Subsection P of this section for reference\).](#)  
40  
41 E. *Grading and development in required landscape areas:* The required landscaping shall  
42 not contain any development, impervious surfaces, or site features that do not function  
43 to meet these standards or that require removal of existing significant vegetation. No  
44 grading, development, or land-disturbing activities shall occur within this area if forest

45 canopy, specimen trees, or significant vegetation exists within the buffer yard, unless  
46 approved by the administrator. If grading within a buffer yard is proposed, slopes of 3:1  
47 or less are encouraged to ensure the proper transition of grades to the adjacent  
48 property and to facilitate landscaping and maintenance.

49  
50 F. *Easements and rights-of-way*: Nothing shall be planted or installed within an  
51 underground or overhead utility easement or a drainage easement without the consent  
52 of the city and the easement holder at the time of site plan approval.

53  
54 G. *Protection during surveying*: No tree greater than 12 inches in diameter at breast height  
55 (DBH) located on public property or within a required tree protection area shall be  
56 removed for the purpose of surveying without an approval from the administrator.

57  
58 H. *Tree trimming*: Every owner of any tree overhanging any street or right-of-way within  
59 the city shall trim the branches so that such branches shall not obstruct the light from  
60 any street lamp or obstruct the view of any street intersection and so that there shall be  
61 a clear space of eight feet above the surface of the street or sidewalk. Said owners shall  
62 remove all dead, diseased or dangerous trees, or broken or decayed limbs which  
63 constitute a menace to the safety of the public. The public works director and utilities  
64 director are authorized to remove and/or trim trees and shrubs from public properties  
65 and public rights-of-way. North Carolina Department of Transportation is authorized to  
66 remove and/or trim trees and shrubs in the public rights-of-way owned by the State of  
67 North Carolina. Approval is required to trim a tree in a tree protection area, required  
68 landscaping area, or buffer yard more than 25 percent of its overall canopy.

69  
70 I. *Trimming and removal by utility companies*: Trees to be removed from the public right-  
71 of-way by electric utilities and other overhead utilities must be replaced by such entity  
72 in equal quantity and minimum caliper size with an approved species.

73  
74 J. *Tree topping*: Tree topping shall be prohibited on all trees on public property,  
75 designated rights-of-way, required tree protection areas, landscaping, and buffer yards  
76 unless otherwise approved by the administrator. Trees severely damaged by storms or  
77 other causes, or certain trees under utility lines or other obstructions where other  
78 pruning practices are impractical may be exempted from this article at the  
79 determination of the administrator.

80  
81 K. *Removal of dead trees on public property*: Approval by the administrator shall be issued  
82 for trees that are dead, infected by disease, or determined to be a hazard to public  
83 safety and welfare. Should any tree designated in a tree protection area, required  
84 landscaping area, or buffer yard die, the agency shall replace it within 180 days with a  
85 tree(s) [of] equal size.

86  
87 L. *Tree removal on private property*: The city may require removal of any dead or diseased  
88 trees or trees harboring insects, on private property when such trees constitute a threat

89 to public property. The administrator will notify in writing the owner(s) of such trees.  
90 Removal shall be done at the owner(s) expense within 60 days after the date of service  
91 of notice. In the event of failure of the owner(s) to comply with such provisions, the city  
92 shall have the authority to remove such trees and charge the cost of removal as a lien  
93 on the owner's property taxes.

94  
95 M. *Stumps*: All stumps of trees and park trees shall be removed so that the top of the  
96 stump does not project above the surface of the ground.

97  
98 N. *Use of off-site landscape easements*: Permanent off-site landscape easements may be  
99 used to meet required buffer yards provided that the size or shape of the parcel  
100 significantly restricts the ability to reasonably use the property and meet the buffer yard  
101 requirements. These easements must be recorded prior to or in conjunction with the  
102 approval of the site or subdivision plan.

103  
104 O. *Protective measures during construction*: Protective barricades shall be placed around  
105 all protected trees designated to be saved prior to the start of development activities or  
106 grading. Barricades shall be erected five feet past the drip line for any tree to be saved  
107 or tree save areas. Protective barricades shall remain in place until development  
108 activities are completed. The area within the protective barricade shall remain free of all  
109 building materials, dirt or other construction debris, construction traffic, storage of  
110 vehicles and materials, and grading shall not take place within five feet of the drip line of  
111 the existing trees to be protected.

112  
113 P. *Non-native, invasive, or exotic plant species*: The introduction of the following shall be  
114 prohibited:

115 1. **Trees**: Mimosa, Princesstree, Russian olive, Tree of Heaven, Bradford Pear,  
116 Japanese Privet, Norway Maple, Paper Mulberry, Thorney Olive, White Mulberry,  
117 White Poplar Chinese Elm, Silver Maple, Lombardy Poplar, Paulonia.

118 2. **Shrubs**: Autumn Olive, Chinese Privet, Multiflora Rose, Winter Honeysuckle,  
119 Amur Honeysuckle, Common privet, Glossy Privet, Japanese Barberry, Japanese  
120 Spiraea, Morrow's Honeysuckle, Tatarian Honeysuckle, Sacred Bamboo Nandina,  
121 Winged burning Bush, Winter Creeper.

122 3. **Vines**: Chinese wisteria, English ivy, Japanese honeysuckle, Kudzu, Oriental  
123 bittersweet, Bigleaf periwinkle, Common periwinkle, Cypressvine Morningglory,  
124 Fiveleaf akebia, Japanese Wisteria, Porcelain berry, Sweet Autumn Virginsbower.

125 4. **Herbaceous Plants**: Garlic Mustard, Japanese Knotweed, Japanese Stilt Grass,  
126 Korean or Chinese Lespedeza, Shrubby Lespedeza, Bamboo, Chinese Silvergrass,  
127 Crownvetch Securigera, Golden Bamboo, Johnsongrass, Oregon Grape, Purple  
128 loosestrife, Queen Anne's lace.

129 P.



# Public Participation

# Special Presentation(s)

# THE WNC MILITARY HISTORY MUSEUM

presents...

## "Operation Armed Forces"

AETHELWOLD HOTEL LOBBY

23 S. Broad St. Brevard, NC

October 22 - November 11, 2016

10:00 am - 5:00 pm

The exhibit will honor our military men and women who served from WWI until present. Artifacts such as original newspaper articles, personal items, weaponry, uniforms, medals, etc. will be displayed. Unique features include lectures\* by former military service members and participation by MCJROTC cadets from local high schools.

\*Obtain scheduled speaker times and MCJROTC appearances from various media outlets.

Special thanks to Mr. Mike Domokur and Aethelwold Development for donating the hotel lobby for the exhibit and the Brevard American Legion Post 88 for their support.

Please call or e-mail **Emmett Casciato**, Curator, with any questions at **828.885.7938/**  
**emmettcasciato@gmail.com**

[www.wncmilitaryhistorymuseum.com](http://www.wncmilitaryhistorymuseum.com)

# Consent and Information



The City of  
*Brevard*  
North Carolina

**To: Jim Fatland**

**From: Lynn Goldsmith, Parks and Property Management Director**

**Subject: Monthly Report**

**Date: August 31, 2016**

**Attached is the monthly report for August from the Parks and Property Management Department.**

## **Parks and Property Management Department**

### **Monthly Report**

**August 2016**

The following report is taken from the daily worksheets of the department for work performed the month of August. These worksheets are available and are kept for our records.

#### **Grounds Maintenance:**

Grounds maintenance includes mowing, weed eating, applying herbicide, insecticide and fungicide to plants and turf, mulching, watering and making repairs to grounds related property.

- **August 1-7: Mowed, weed eat and applied herbicide to: Intersection of Caldwell and Broad, Intersection of Old Highway#64 and Highway #64, Pickelsimer Park, East Main and Highway #276 Intersection Clemson Park, Franklin Park, Hap Simpson Park, City Hall (Front, Fire Dept. Police Dept.), West Main parking lot, Sports Complex (Six ball fields, Soccer field and outer areas), Hauled and spread gravel at Sports complex parking lot. Tore away rotten cross ties off of planters at Sports complex and replaced with new cross-ties. Sprayed neem oil and Daconil on plants and dead-headed plants at: Caldwell and Probart, Eagle sculpture, Elm Bend sign, Sports complex sign, Fox sculpture and Raccoon sculpture. Weeded planters at Police Dept. Fertilized Arbor Day plantings. Put up part of the new signs for the Sports Complex. Mulched at Sports Complex. Cleaned and restocked the French Broad Community Center 3 days. Cleaned and restocked City Hall and Public Restrooms daily (7 days). Cleaned PPM building. Put up new flags front and back of City Hall and Sports Complex. Fire Extinguisher inspection of PPM buildings for August. Trimmed trees at Sports Complex. Took vehicles for preventive maintenance to Public Works. Emptied recycle bins at City Hall.**
- **August 8-14: Mowed, weed eat and applied herbicide as needed at: Franklin Park, Hap Simpson, East Main, City Hall(Front, Fire Dept., Police**

Dept.), Pickelsimer Park, Elm Bend, Cow sculpture, Intersection of Caldwell and Broad, Intersection of Old Highway#64 and New Highway # 64, East Main Intersection, Intersection of Probart and Caldwell, and Clemson Park. Pressure washed the fence at Franklin Park along street, trash can bins and the pool deck near chemical building. Continued putting up new signs at Sports Complex. Hauled dirt to Sports Complex. Mowed front of Tannery site. Cleaned and restocked the French Broad Community Center 3days. Cleaned and restocked City Hall and Public Restrooms daily (7days). Cleaned Concession stand bathrooms. Moved dirt and cleaned parking area at Sports Complex. Hauled of debris and old wood from Sports Complex. Took vehicles for preventive maintenance to Public Works. Emptied recycle bins at City Hall.

- **August 15-21:** Mowed, weed eat and applied herbicide at: Sports Complex( fields and outer areas), Pickelsimer Park, Reservoir, Pump Stations, Intersection of Caldwell and Broad, Intersection of Old Highway #64 and New Highway #64, East Main intersection, French Broad Community Center, Clemson Park Hap Simpson Park, Franklin Park and Elm Bend sign. Picked up trash and sprayed weeds at Bank parking lot (leased). Started staining fence at Franklin Park along street. Watered plants at City Hall. Watered sod at Caldwell and Probart. Sprayed and drenched plants at Caldwell/Probart, Sculpture projects, Elm Bend Sign and Sports Complex Sign. Painted trim on door, and door at pool house. Sprayed herbicide around soccer field area, parking lot and trees at Sports Complex. Cleaned and restocked the French Broad Community Center 3-days. Cleaned and restocked City Hall and the Public Restrooms 7-days. Took vehicles to Public Works for preventive maintenance. Emptied recycle bins at City Hall.
- **August 22-28:** Mowed, weed eat and applied herbicide at: City Hall (Front, Fire Dept. Police Dept.), Sports Complex (fields and outer areas), Stained fence at Franklin Park along street, Edna Glaze Playground, Clemson Park, Pickelsimer Park, Hap Simpson, East Main intersection, Intersection of Old and New Highway #64, Intersection of Caldwell and Broad. Got materials to reconstruct soccer dugout benches. Sprayed herbicide at: Bank Parking lot (leased). Filled all gas cans at Public Works for mowers and power equipment. Sprayed infields with herbicide on ball fields. Cut pieces for

soccer dugout benches. Stained fence at Franklin Park along street. Sprayed neem oil and Daconil on plants at before listed projects. Got sound system for employee picnic and helped set up and break down employee picnic. Cleaned and restocked FBCC 3-days. Cleaned and restocked City Hall and Public Restrooms 7-days. Took vehicles to Public Works for preventive maintenance. Emptied recycle bins at City Hall. Attended Safety Classes. Supplied sound system for Police event.

- **August 29-31: Mowed, weed eat and spray: City Hall (Front, Police, Fire Dept.), Sports Complex (fields and outer areas), Clemson Park, Pickelsimer Park, Franklin Park, Hap Simpson Park, Intersection of Caldwell and Broad, Elm Bend, East Main, FBCC, Intersection of Caldwell and Broad, Pump Stations and Reservoir. Sprayed downtown area with herbicide. Filled water tank and hauled to water Caldwell and Probart plants. Watered the City Hall planters. Sprayed parking lot on Jordan Street. Cleaned and restocked FBCC. Worked on soccer dugout benches. Cleaned and restocked City Hall and Public Restrooms. Took vehicles to preventive maintenance at Public Works. Emptied recycles at City Hall.**

### **Facilities Maintenance:**

- **August 1-7: Checked and adjusted chemicals for swimming pool. Drained kiddie pool and refilled to adjust cyanuric acid levels. Insulated pipes in Assistant Police Chiefs office to correct condensation leak. Replaced switch on fan in pool chemical building. Painted trim at bath house. Pressure washed at pool. Worked on drain in bathroom at Police Dept.**
- **August 8-14: Checked and adjusted pool chemicals. Bought and hauled chemicals to pool. Repaired gates on trash cans at Franklin Park. Installed pictures in council room. Serviced pressure washer. Washed down front of bath house. Bought materials for repairs at Franklin Park. Worked on Ladies bathroom door hinges. Chiseled out drain in Police Dept. Cut and installed ceiling tiles in Assistant Chiefs Office. Painted picnic table at pool. Met with plumbing company on Police shower problem.**
- **August 15-21: Cleaned out office for ceiling construction. Worked on ceiling in Finance office. Installed new light fixtures in Finance office. Put things back in office after construction. Checked and adjusted water for pool. Installed drain in Police Department. Worked on chemical bottle**

labeling. Attended Safety meeting. Met with Swim Club on future pool repairs. Painted wall at concession stand. Cut off cooler in concession stand for maintenance. Gathered up stain for painting. Hearing test. Looked through pool records for Swim Club proposal. Contacted electrical contractor to service wire cuts at Straus Park for lighting repair. Contacted Phone Company to help on repairs to Straus Park lighting. Painted part of pool concession stand. Did required blood draw. Worked on electrical line break on field #3. Got more paint for concession stand from PPM storage. Repaired toilet in men's bathroom at pool.

- **August 22-28:** Checked and adjusted pool chemicals. Hauled off materials from last week's construction to dump. Caulked and cleaned trim in shower in Police Investigations office. Worked with Simplex/Grinnel of fire panel ground problem. Repaired garage door switch at pool. Replaced light bulbs in New City Hall lobby. Checked fire panel in lobby. Installed vise mount on truck. Checked on pipe install Camptown Rd. Straus Park, and met with Bill Maddux building contractor. Checked on floor problem in planning. Attended employee picnic. Worked on hitch mount for truck. Unhooked compressor in Fire Dept. Worked on Men's restroom sink faucet. Attended Safety classes.
- **August 29-31:** Checked pool chemicals and adjusted. Called for quotes on pool seasonal repair. Checked with electrical contractor on Straus Park lighting status. Rebuilt and replaced receptacle at Fire Dept. Worked on and cleaned Public Works air conditioning units. Cleaned and serviced A/C units at New City Hall. Made keys for main panel box for lockout. Worked on lining out construction at Fire Dept. starting on Friday.

## **STAFF REPORT**

City Council, Monday, September 19, 2016

### **Public Works Monthly Staff Reports**

Council will receive the attached staff report for work performed during July, 2016. This information is submitted as information only and with no action requested.

Speaker:

From: David Lutz, Public Works Director  
Prepared by: June Stewart, Administrative Support Specialist  
Approved by: Jim Fatland, City Manager

### **Background**

N/A

### **Staff Recommendation**

N/A

### **Fiscal Impact**

N/A



**TO: Mayor Harris and City Council Members**  
**FROM: Public Works Department**  
**APPROVED: Jim Fatland, City Manager**

*Projects, services provided, and community assistance included a variety of work performed by the department during the month of July; and reflects departmental implementation of the City's vision as a "safe, friendly, family oriented city with small town charm, outdoor recreation, arts, and culture that bring investment opportunities, environmental consciousness and economic diversity."*

**Strategy: Foster Economic Development**

Foster economic diversity while enhancing the quality of life in an environmentally friendly way by creating an environment that promotes and encourages businesses, and business owners, attracted to and utilizing our natural assets of woods and water and our cultural / historical assets of music, arts, and outdoor recreation.

1. We foster economic development by protecting our natural assets of woods and water that uniquely define Brevard.
  - Sewer Collections System inflow and infiltration elimination work included the following locations during July:
    - A discovered site on Railroad Avenue was repaired and included replacement of 5' of 4" service line and the elimination of a sewer cleanout.

- **Repaired a section of a creek bank near Keir Manufacturing using rip-rap stone, grass seed and straw where an additional sewer repair was made.**



**Creek bank repair near Keir Manufacturing.**



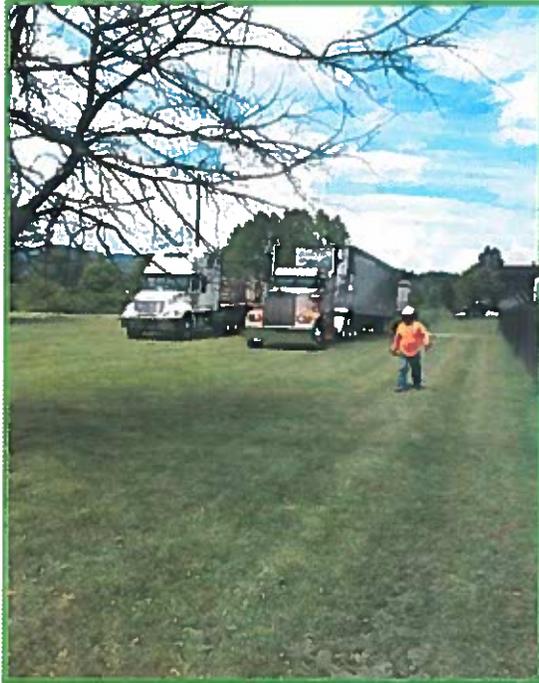
**Rip-rap stone placement along creek bank.**

- **Sealed a hole in manhole #KC-176 to eliminate an inflow site at the corner of Railroad Avenue and Burrell Avenue.**
- **A 12" sewer line inspection revealed further deterioration from previous inspections. Replacement plans were finalized in July for a 12" sewer main repair on North Broad Street. The City accepted an estimate from Dillard Excavating for the replacement of approximately 380' of 12" main line along North Broad Street at the Kings Creek Crossing. The project should be completed in August, 2016.**



**North Broad Street sewer line replacement by Dillard Excavating.**

- In preparation of the start date for the Neely Road Pump Station and Equalization Tank Project, Wharton-Smith, Inc. and Hall Contracting began mobilizing equipment and supplies during July:
  - Wharton-Smith, Inc. has set up construction trailers at the Waste Treatment Facility.
  - Hall Contracting has leased land for the storage of materials and PVC pipe was delivered for the Force Main Project.



Wharton-Smith, Inc. began mobilizing equipment for the Neely Road Project.

- Public Works personnel assisted with the following items:
  - Excavated to verify location and size of the 4" water main serving the Waste Treatment Facility.
  - Installed two (2) - 3/4" water taps for contractor construction trailers at the facility.
  - Located manhole #LO-063 and a 2" water main on Neely Road. In addition, a 12" water valve on the lift station side of the Neely Road bridge was located prior to excavation for the contractors.
  - Cleaned and video inspected 353' of 8" sewer main between manhole #LO-062 and #LO-063 to verify location and depth of pipe.

- Located twenty one (21) utility sites for detour sign installation.
- Lifted gate at the Neely Road lift station and pumped waste water for the contractor's camera crew to verify condition of the pipe.

**2. We foster economic development by ensuring our infrastructure is constantly maintained and replaced to serve existing and future business.**

- **Street infrastructure improvements during July included:**
  - Removed brush from a ditch on Hilt Street to prevent storm water blockage.
  - Cut a new ditch on Sunset Trace to improve storm water flow along the shoulder of the road.
  - Inspected storm water flow along Deerlake Road; a reported clogged ditch was found free of debris with adequate flow.
  - Removed two (2) large tree stumps and root mat from the proposed new parking lot site on Jordan Street. The holes were backfilled with ABC stone and then compacted. Four (4) loads of dirt and one (1) load of brush were removed from the site in reference to the tree removal by High Country Tree Service.



**Jordan Street parking lot tree removal by High Country Tree Service.**

- **Cut grass along the street edge in front of Gillespie-Evergreen Cemetery on Country Club Road.**
- **Cut grass along utility strips on Caldwell Street, England Street, Franklin Street, French Broad Street, Gaston Street, Johnson Street, Jordan Street, Morgan Street, Probart Street, Railroad Avenue, South Broad Street and Whitmire Street.**
- **Maintenance of pedestrian pathways included:**
  - **Performed a monthly inspection of all pathways.**
  - **Cut grass along bike pathways:**
    - **Allison Road-Lambs Creek Bridge to Asheville Highway**
    - **Asheville Highway-Allison Road to Hospital Drive**
    - **Eastatoe Trail-Ecusta Road to Davidson River**
    - **Gallimore Road-Country Club Road to Greenville Highway**
    - **McLean Road-McLean Road to Fisher Road**
    - **Poplar Street-Fisher Road to Asheville Highway**
    - **Sports Complex-Sports Complex parking lot to Lambs Creek Bridge**
  - **Two (2) new park benches were ordered and received for placement on pathway.**
- **Replaced a 43' section of sidewalk on Maple Street. Sidewalk forms were removed from the installation site. The area behind the sidewalk installation was backfilled with dirt, grass seed and straw.**
- **Removed a section of sidewalk for replacement on Cambridge Drive.**
- **Brick pavers removed during recent construction were replaced on West Main Street near the intersection of North Caldwell Street.**
- **Inspected and repaired a sink hole on Probart Street with 75 lbs. of cold patch mix.**
- **Pavement was striped on Laurel Lane in order to identify the edge of the road.**



**Maple Street sidewalk replacement.**

- Inspected a sink hole on the edge of the Asheville Highway. The hole was located beside a storm drain and was determined to be maintained by the NC D.O.T.
- Cleaned off catch basins and drains along North Broad Street, North Lane, Oakdale Street, Oaklawn Avenue, Probart Street, Rosenwald Lane and South Broad Street.
- Filled shoulder of road on Chestnut Street and patched a section of the street edge that washed away during a recent water leak repair.
- Repaired section of road shoulder on Stone Creek Trail due to damage from heavy rains. The area was filled with stone and compacted to secure.
- Removed gravel from the intersection of Country Club Road and Ashworth Avenue where a driveway had washed out during a heavy rain event.
- Six (6) tons of sand were delivered in response to a paint spill in front of Sherwin Williams Paint Store on West Main Street. A street sweeper and street flusher were used to remove paint from the street.



West Main Street paint spill clean up.

- Replaced a 20' section of concrete curb and gutter on Osborne Road in reference to a previous water tap installation.

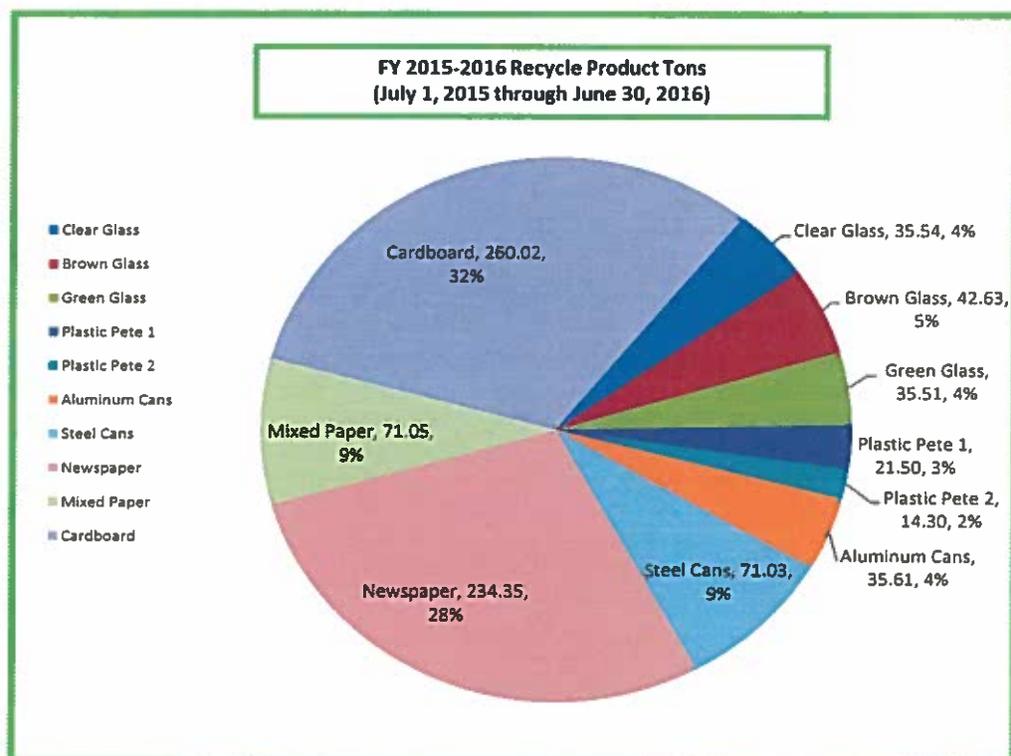
- Replaced a 48' section of curb at the intersection of Oakdale Street and South Caldwell Street following the completion of a storm drain installation in June.
- Inspected a storm drain pipe for a possible blockage on East Main Street. Pipes were dyed on North Rice Street and East Main Street to verify adequate storm water flow.
- Opened a clogged storm drain pipe on Laurel Lane and shot the grade of the ditch to verify an adequate storm water flow.
- Replaced a storm drain lid on Cambridge Drive.
- Replaced a concrete storm drain spillway on Oak Park Drive; backfilled the area with dirt, grass seed and straw. Afterward, the grass was watered and the street was cleaned.
- Utility cuts and potholes were patched or leveled on Bush Drive, Country Club Road, Gaston Street, Old Highway 64 (2), Oakdale Street (2), Probart Street and Wren Lane.



Asphalt patching on Bush Drive.

- Inspected hedges along the sidewalk edge on Franklin Street; sidewalk access was adequate at the time of inspection.
- A hole was filled in a utility strip around a recently installed utility pole on Jordan Street.
- Cut and removed a fallen tree from a sidewalk on Maple Street.

- **New sign installations included:**
  - **East Probart Street at North Broad Street / street name signs**
  - **Oakdale Street at South Caldwell Street / street name signs**
- **The Sanitation Division collected garbage, commercial recycling, brush and bagged yard waste during July.**
  - **Four (4) commercial businesses requested a container and began participating in the recycle program. Carts or bins were provided for:**
    - **Calvary Baptist Church**
    - **DD Bullwinkles (2)**
    - **Fisher Realty**
    - **Subway**
- **The mulch storage pile was gauged for monthly temperature reading.**
- **With the close of FY 2015-2016 compiled data regarding the recycle program revealed an increase in participation with a total of 821.55 tons recycled by both residential and commercial customers. The following products were collected from our customers:**



### July Sanitation Activities

- **9 Special trash pickups**
- **3 Small electronic items collected**
- **1 Large television collected**
- **14 Residential recycle carts delivered**
- **1 Residential recycle bin delivered**
- **5 Commercial recycle carts delivered**

- **Collections System infrastructure maintenance consisted of the following noted items during July:**
  - **Video inspections of sewer mains and service lines were performed on a total of 3,211' to determine condition, verify location or depth, or in search of suspected inflow and infiltration sites.**
    - **1507' of sewer lines were inspected for Dillard Excavating for recent new line installations to verify condition of pipe and fittings on New Hendersonville Highway, Wilson Drive and Placid Drive.**
  - **Inspected a reported sewer pump line and replaced a cleanout cap damaged by a mower at Sycamore Flats for the U.S. Forest Service.**



**Sycamore Flats cleanout cap replacement.**

- System personnel responded to three (3) reported sewer line blockages during the month; two (2) of which were actual blockages and were cleared on Hillview Street and Pine Street.
- Hydro-excavated a 4" sewer service line for a customer on Cambridge Drive to assist their plumber with locating a blockage.
- Poured a 1' x 2' concrete patch where a sewer cleanout was installed behind Brevard Police Department.
- Inspected a reported sewer leak on Turnpike Road; however no sewer lines were located in the reported area.
- Inspected a reported sewer leak at Bedford Place; an air condition drain line was found to be leaking at a residence in the subdivision. The customer was advised of the findings.
- Replaced a 3' section of 4" sewer service line and installed a check valve on Cambridge Drive.
- Cleaned manhole #BC-066 in reference to a water leak repair on Placid Drive.
- Inspected a sink hole near a sewer main behind the Boy Scout Hut off of East Main Street behind the Davidson River Presbyterian Church for Chris Newman Plumbing. It was verified that the hole was over the church service line near a manhole. The plumber plans to repair the line in reference to an open inflow site.



**Sink hole inspection off of East Main Street.**

- **Marked an area for a locate request on Neely Road at Chestnut Street for a proposed excavation and leak search.**
- **Assisted a contractor with removal of a mandrel from a sewer pipe at the Pilot Cove Campground on US Highway 276 North.**
- **Restored a utility repair site on Duckworth Avenue; two (2) cubic yards of clean stone were placed to restore the customer's driveway.**
- **Inspected a sinking area at a customer's driveway entrance for a potential sewer line issue on Lakeview Avenue; no utility line problems were found. It was determined that the customer's driveway culvert was in need of replacement.**
- **A total of 4,827' of sewer mains were cleaned.**
- **Located thirteen (13) sewer service taps on Placid Drive for Dillard Excavating in reference to a sewer main upgrade project.**
- **Sewer lift station maintenance included:**
  - **Monthly inspection of facility buildings and safety equipment.**
  - **Cut grass and sprayed weed killer at each lift station facility.**
  - **Assisted the U.S. Forest Service with a lift station maintenance issue at Sycamore Flats. Pumped and hauled 2 loads / 5,000 gallons of sewer from the station to the Waste Treatment Facility for disposal.**
  - **Cleaned bar screens to drop the level of flow at the Neely Road lift station.**
- **Replaced a 2' section of 14" ductile iron force main pipe at the intersection of Old Highway 64 and Dodson Flats. The rupture occurred on July 25, 2016 and did not result in a discharge event.**



**Old Highway 64 force main rupture.**



**Excavation to repair force main.**

- A force main pipe rupture near 411 Old Highway 64 attributed to a sewer discharge event at the Neely Road Lift Station.
  - Personnel monitored pumps prior to the discharge event during the force main repair.
  - Lift Station pumps were turned off and city pump and haul personnel hauled 6 loads or 15,000 gallons from manhole #LO-001 to the WWTP for disposal.
  - Mike's Septic Service hauled 5 loads / 12,500 gallons for a combined total of 27,500 gallons.
  - The total of the spill was 39,900 gallons with 12,400 gallons reaching surface waters.
  - Required reports, press release and media notifications were issued.
  - Repaired force main by replacing a 9' section of 14" ductile iron pipe.
  - Utility cut on Old Highway 64 was restored with stone and cold patch mix.
  - Removed debris and spread lime on ground around the sewer discharge manhole area at the Neely Road Lift Station.



***Left Top / Excavation to pipe rupture.***



***Left Bottom / 14" Hymax coupling tightened on section of pipe replaced.***



**9' section of 14" ductile iron pipe replacement.**



**Compacting stone in utility cut to restore excavation site.**

- **Performed a monthly inventory of Collection System parts.**
- **The Water Distribution maintenance and repair of the water system infrastructure included the following items in July:**
  - **There were thirteen (13) inspections for reported water leaks during July; ten (10) of which were actual water leaks and were repaired on Bracken Lane, Bush Drive (2), East Main Street Extension, Hendersonville Highway, Placid Drive (4) and Wren Lane.**



**Excavation to East Main Street Extension to verify leak location.**



**East Main Extension post leak repair site restoration.**

- **Excavated to repair 3/4" water leak on East Main Street Extension; cut and removed service connection from main line as tap was no longer used. The site was restored using grass seed and straw.**

- **Water leak repair on Bush Drive included 20' of 3/4" water service line replaced.**



**Tap replacement on Bush Drive during water leak repair.**

- **Water leak repairs on Placid Drive, due to damage by Dillard Excavating, included 20' of 3/4" service line pipe replacement.**
- **Installed 8' of 3/4" water service line after replacing a meter setting and a meter box on First Street.**
- **Escorted a technician with Pye Barker Fire & Safety to each water pump station facility for annual fire extinguisher inspections.**
- **Searched for valves on a 10" water main reference proposed excavation for a water leak repair on Chestnut Street.**
- **Water was turned off at a meter on Neely Road in reference to a customer leak found beneath the home by PSNC Gas Company.**
- **Inspected area for a proposed 2" water tap at the corner of North Laurel Lane and Aspen Place; utility locates were requested from the 811 service.**
- **Cut asphalt in preparation of a tap removal on Country Club Road in front of Moore Funeral Home; excavated to a 6" water main and removed a 3/4" water tap and a 1" service line no longer used. Assisted the Streets Division with patching of the utility cut.**

- There were five (5) inspections for reported low water pressure during July; one (1) of which revealed a water leak on a service line between the main line and meter on Cunningham Street; city will schedule this leak repair.
- Removed an abandoned 1" water line from service on Neely Road which was discovered by staff at Comporium who were working in that area.
- Water tank and pump station facility maintenance included:
  - Signs with both emergency contact and federal offense information were installed at the Water Pump Stations and Tank Sites.



*Emergency contact information signs installed at the Straus Park Water Tank Facility and Water Pump Station.*

- Grass was cut and the weeds were trimmed at the Deerlake Water Tank facility, the Elk Mountain Water Tank facility and the Water Reservoir.
- Trimmed weeds at the Wal-Mart Water Tank Facility and along the road leading into the facility.

- Located and operated water main valves for the Deerlake Pump Station in order for maintenance personnel to inspect a check valve on a pump.
- Meter and meter box maintenance included:
  - Meter boxes were repaired, raised, lowered or replaced on Eagle Point Drive, Ecusta Road, First Street, Osborne Road, Park Avenue, South Gaston Street, Tree Haven Drive, West Main Street and Wilson Road.
  - Meter box lids were replaced on Country Club Road, Ecusta Road, Gallimore Road, South Broad Street, South Gaston Street and Tree Haven Drive.
  - Verified meter box replacement at Carolina Avenue, Deerlake Road, Dogwood Hill Drive, Palmer Street, Stone Drive and West Main Street.
  - Meters, meter boxes and lids were inspected to ensure new Sensus meters could be installed by technicians on McMinn Avenue, Old Hendersonville Highway and Whitmire Street.
  - Inspected and leveled sixty (60) water meter boxes at Mountain Glen Apartments on Gallimore Road. The area around each cluster of meter boxes was backfilled with dirt and restored with grass seed and straw.
  - Meter valves were inspected at Commerce Street and Osborne Road.



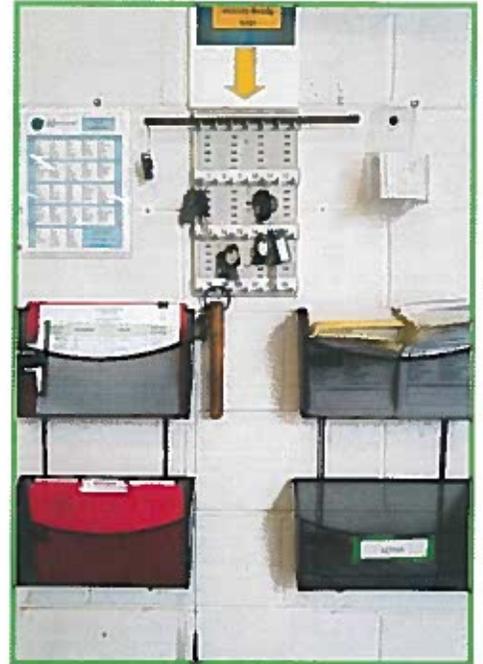
**Leveled water meter boxes at Mountain Glen Apartments.**

- A backflow preventer was inspected and found to be working properly on Delphia Drive.

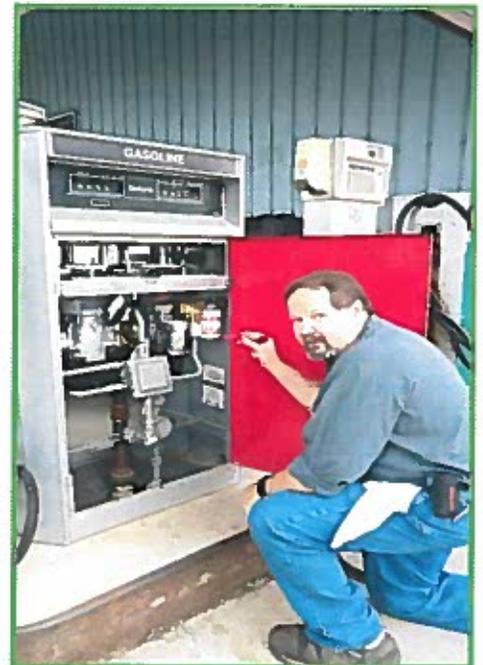
- A recently installed fire hydrant at Brevard College was turned to face the street.
- Prepared an inventory list of distribution supplies and materials.

**3. We encourage investment when we appear well-run and well planned.**

- The street sweeper was used along the curb and gutters on Main Street, North Broad Street, South Broad Street, Stone Drive, Straus Park and various other downtown city streets.
- The street flusher truck was used to clean the sidewalks on North Broad Street and South Broad Street.
- Sidewalk trash receptacles were cleaned along several downtown streets.
- Residential recycle reminders were issued with July collection dates for customers.
- Public Works Facility and Operations Center maintenance included the following items during July:
  - Performed monthly fuel station inspection at the Public Works Facility.
  - Cleaned out the wash pit in the vehicle maintenance garage.
  - Prepared fire extinguishers for an annual inspection.
  - Cut grass at the Public Works facility.
  - Erected a wall display for the Preventive Maintenance Schedules.
  - Sorted and emailed jobsite photos to the office for future reference.
  - Performed an inventory on new manhole rings and lids for Dillard Excavating.
  - Cleaned the floors and restrooms as well as removing the trash from the Operations Center building.



**Convenient wall display provides vehicle maintenance information.**



**Monthly fuel station inspection by Garage personnel.**

- MSDS books were updated with recent product safety data sheets.

**Strategy: Enhance Quality of Life**

Encourage and enhance our family friendly and small town charm by bringing people of all ages together through physical connections within our community and to our natural assets of woods and water and personal connections to each other and to our cultural / historic assets of music, arts, and outdoor recreation.

**1. We encourage and enhance our family friendly and small town charm by bringing people together through physical connections within our community.**

- Provided water for landscaping items on North Caldwell Street at Brevard Music Center's Beethoven Park.
- Vegetation was cleared to an old water valve vault at the Transylvania Regional Hospital.
- Assistance was provided to Cantrell Construction working at Brookside Subdivision on Neely Road:
  - Pumped out a new manhole in preparation of a video inspection.
  - Personnel video inspected 500' of 8" sewer main between new un-numbered manholes to verify properly installed sewer infrastructure.
- Water Distribution personnel provided the following items:
  - Pressure tested and chlorinated a new fire line installation along with removing chlorine taps on the fire line and new 6" water line for Brevard College.
  - Excavated a 2" valve in S. Gaston Street in order to cut off the water line serving the Transylvania County Child Development Center. Work included installation of a new 2" ball valve cutoff on the service / customer side of the meter and backfill of area with dirt, grass seed and straw reference a previous water repair.
  - Excavated and located a 3/4" water tap made for a lot on First Street where a contractor previously installed a new water main at the time of annexation.
  - Cut and capped a chlorination tap on a new water line for Cantrell Construction reference paving on Country Club Road near Moore Funeral Home.
  - Assistance was provided to Whitmire Grading working at the Transylvania Regional Hospital campus:
    - Excavated a broken 8" pipe on two (2) valves located in the field prior to the bridge off of Hospital Drive.

- In order to determine line destination, 4" and 6" lines were hydro-excavated from the front of the meter vault located at the emergency room.
- The director attended meetings regarding various Public Works issues, a few of which included:
  - 6" Sewer Upgrade Project Monthly Meeting.
  - Brown Consultants reference City Wide 6" Sewer Line Upgrade project.
  - Brown Consultants reference the North Broad Street Sewer Line Replacement.
  - Brown Consultants reference Water & Sewer System Capacity.
  - CDM Smith reference E-Room and Construction Project.
  - Neely Road Project Monthly Construction Progress Meeting #1.
  - JLS Paving reference proposed street patching & resurfacing.
  - Jim Fatland reference Straus Park street conditions.
  - Kings Creek Phase III Pre-Construction Meeting.
  - Waymon Morris reference property sewer issues on Jordan Street.
  - Heart of Brevard Meeting reference downtown sidewalk trash collection concerns.
  - Tom Whitlock reference budget expenditure reconciliation.
  - NC Rural Water Works Association reference an assets management program.
  - Performance Review for Department Employees.
  - Human Resource Meeting reference a personnel issue.
  - Weekly Staff Meetings.
- Fifty-two (52) utility locates for water and sewer lines in proposed excavation sites or other requirements were marked with flags or marking paint for other utility companies, building contractors or citizens.

**Utility Locates**

- Brevard College (1)
- CDM Smith (21)
- Comporium (8)
- Dillard Excavating (15)
- Foremost Pipeline (2)
- Hall Contracting (1)
- Steve Sotkin (1)
- Wharton-Smith (1)
- Whitmire Grading (2)

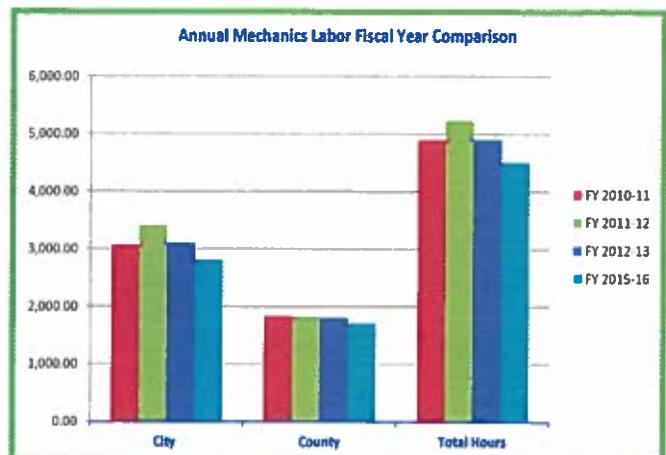
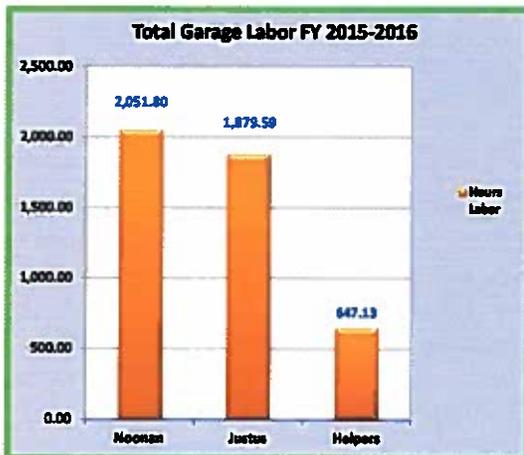
**2. We encourage and embrace our family friendly and small town charm by bringing people together through personal connection with each other.**

- **Streets and Sanitation personnel provided assistance for the July 4th Festival.**
  - **Traffic cones were placed in parking spaces for dumpster delivery by Republic Services for festival.**
  - **Provided twelve (12) large recycle carts. Carts were emptied during the festival and removed at festival's end.**
  - **Four (4) additional carts were delivered to the Porter Center's Amphitheatre and removed after the festival ended.**
  - **Ran street sweeper, removed brush and debris, cleaned sidewalks, curb and gutters prior to the event; streets and sidewalks were also cleaned when festival ended.**
  - **Special trash collection service was provided to DD Bullwinkles by request.**
- **Delivered one (1) garbage dumpster to the Brevard High School Stadium on Country Club Road to accommodate a *Relay For Life* event; the dumpster was removed following the competition.**
- **Assisted a Transylvania County Garden Club member with removal of bows from the Blue Star Memorial Highway marker at the intersection of North Broad and North Caldwell Streets.**

- Streets were cleaned on Main Street prior to the National Night Out event.
- Streets and Sanitation personnel removed trash and weeds along the street between Broad Street and South Gaston Street prior to the Transylvania Heritage Museum Old Time Street Dance; the affected streets were cleaned every Monday prior to each of the four (4) July events.
- Street banners were erected or removed as schedule for the following community events:
  - All Seasons Craft Group— Craft Show and Sale
  - Brevard Music Center - Brevard Music Festival
  - Heart of Brevard—July 4th Festival
  - Transylvania Economic Alliance—Business Expansion Competition
  - St. Phillips Episcopal Church - Art of The Mountains Craft Show and Sale

3. A safe community is one where residents know the city provides reliable and consistent service.

- Employee activities and opportunities during July included:
  - Four (4) employees attended an annual AWWA Operators Certification School.
  - Post-Accident Review & Safety Committee Meeting.
  - Utility School Application Meeting.
  - Wellness Information Meeting with LeAnn McCraw
- The vehicle maintenance garage year end data revealed the following statistics for FY 2015-2016:



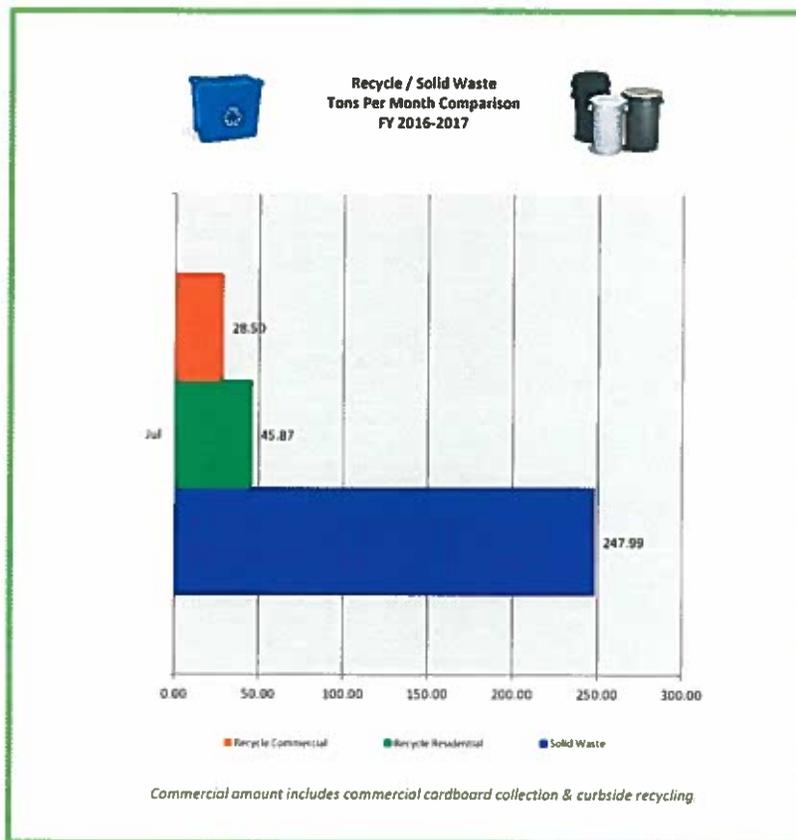
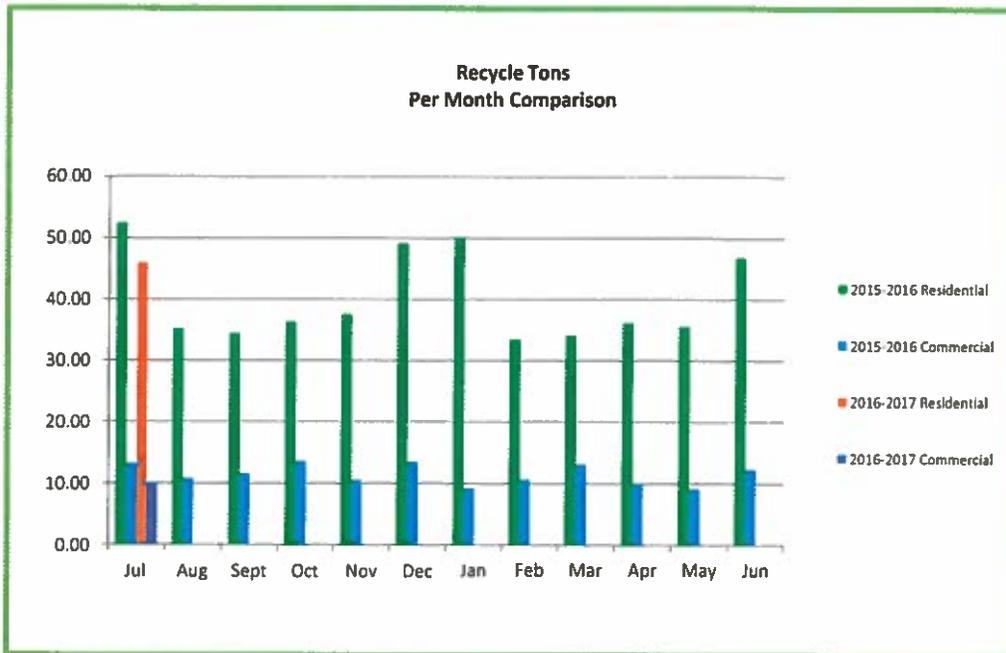
## APPENDIX I: July Departmental Statistics

Service statistics are provided as indicators for Public Works performance and budgetary trends.

Item	Previous Month (June)	Current Month (July)	Year To Date (July - )	Previous FY Year Total 2015-2016
Commercial Cardboard	17.23	18.58	18.58	206.25
Electronics	3	3	3	36
Recycle Bin Delivery Residential	3	1	1	32
Recycle Bin Delivery Commercial	0	0	0	10
Recycle Cart Delivery Residential	24	14	14	174
Recycle Cart Delivery Commercial	3	5	5	46
Commercial Recycling	12.29	9.92	9.92	135.28
Residential Recycling	46.74	45.87	45.87	470.56
Solid Waste Collection	277.08	247.99	247.99	2,871.99
Special Collections	27	9	9	156
Special Collection - Single Item	1	0	0	24
Television - Large (\$10)	9	1	1	46
Television - Small (\$5)	2	0	0	14
Barricade / Event Item Delivery	4	7	7	26
Street Banners	11	8	8	80
Potholes	10	2	2	104
Sidewalk Footage (Length)	35.00	43.00	43.00	341.00
Utility Cuts	18	10	10	84
Fleet Service - City	108	128	128	1,528
Fleet Service - County	49	68	68	810
I&I Video Inspection (Length)	283	3,211	3,211	24,329
Sewer Blockages	4	2	2	55
Sewer Tap New Commercial	0	0	0	6
Sewer Tap New Residential	0	0	0	10
Sewer Taps Repaired	0	0	0	31
Utility Locates	19	52	52	278
Water Leaks	21	13	13	156
Water Meter Boxes	13	82	82	82
Water Meters New	0	0	0	15
Water Meters Other	10	10	10	138
Water Tap New Commercial	1	0	0	14
Water Tap New Residential	2	1	1	11
Water Taps Repaired	0	0	0	28

**APPENDIX II: July Sanitation Statistics**

Sanitation statistics are provided as indicators for solid waste and recycling performance.



**APPENDIX III: July Sanitation Statistics**

Sanitation statistics are provided as indicators for city commercial cardboard collection performance.

- Revenue includes customer fees collected plus sale of cardboard to American Recycling of Candler, NC.
- Expense includes collection of commercial cardboard labor, fuel and vehicle maintenance during the month.

Revenue	\$7,378.59
Expense	\$4,578.99
Net Profit or Loss	\$2,799.61

**APPENDIX IV: July Fuel Use Statistics**

Fuel Use Statistics are provided as indicators for vehicle and equipment fleet fuel use by the city and county vehicle fleet.

- July fuel use decreased by 14.7% from the previous month of June in gallons; and decreased by 5.3%.
- Current Unleaded Fuel Price: \$1.341 / last purchase on July 26, 2016
- Current Diesel Fuel Price: \$1.456 / last purchase on July 26, 2016

Entity Comparison	Current Month Gallons	Previous Month Gallons	Monthly Gallons Difference	Current Month Expense	Previous Month Expense	Monthly Expense Difference	% of Gallons Difference	% of \$ Difference
City Vehicles	5,737.60	5,828.70	-91.10	\$8,507.25	\$9,517.51	-\$1,010.26	-1.6	-10.6
County Vehicles	8,799.20	9,491.80	-692.60	\$12,912.28	\$15,546.61	-\$2,634.33	-7.3	-16.9
Narcotics Task Force	0.00	29.40	-29.40	\$0.00	\$48.49	-\$48.49	-100.0	-100.0
<b>Totals</b>	<b>14,536.80</b>	<b>15,349.90</b>	<b>-813.10</b>	<b>\$21,419.53</b>	<b>\$25,112.61</b>	<b>-\$3,693.08</b>	<b>-5.3</b>	<b>-14.7</b>



September 6, 2016

**Technical Memorandum**

To: Jim Fatland, CPFO  
City manager

From: Harlow L. Brown, PE  
Chief Engineer

Cc: David Lutz  
Public Works Director

Re: Purchase a twelve (12) foot strip of land from First Citizens Bank

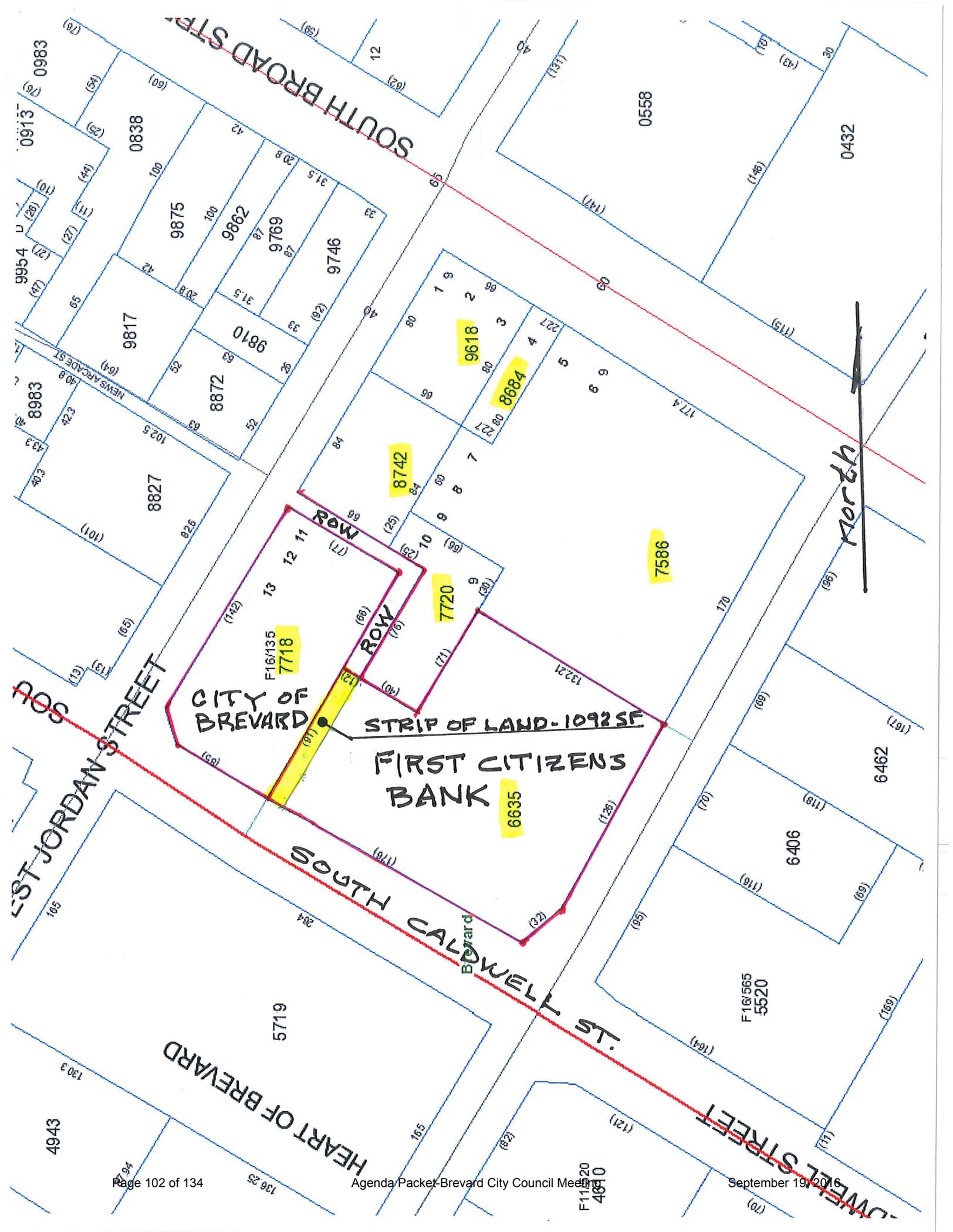
At your direction I have met with and negotiated with First Citizens Bank, Jennea Lalich, Property Administration Manager, for the City to purchase a 12 x 91-foot strip of land, (1092 sq ft), adjacent to the City's property at the corner of West Jordan and South Caldwell Streets. The strip of land is needed to eliminate the current jog in the City's southeast property line so the new public parking lot can be developed to its full potential. See attached tax map illustrating this strip of land.

The purchase price is identical to the property the NCDOT recently purchased from the Bank for the South Caldwell Street widening project. That is; \$7.50 per square foot plus \$5,000.00 legal fee for processing the instruments needed for the land acquisition. This yields an estimated total purchase price of:

1092 SF @ \$7.50 =	\$8,190.00
<u>Legal Fee</u>	<u>\$5,000.00</u>
Total	\$13,190.00

The actual purchase price is dependent upon a survey to verify the property line location and square footage.

Should you have any questions, please advise.



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE PURCHASE OF A SMALL STRIP OF LAND FROM  
FIRST CITIZENS BANK FOR THE WEST JORDAN STREET PUBLIC PARKING LOT  
IMPROVEMENT**

WHEREAS, The City of Brevard owns a parcel of land located at the corner of West Jordan Street, and South Caldwell Street, identified as Transylvania County Parcel Pin 8586-40-7718-000, hereinafter called the parcel; and,

WHEREAS, The City of Brevard has previously approved the construction of a public parking lot off West Jordan Street on the parcel; and,

WHEREAS, The parcel abuts an existing twelve (12) foot public Right of Way on the northeast and a portion on the southeast side as illustrated on the attached Transylvania County Tax Map; and,

WHEREAS, The twelve (12) foot public Right of Way on southeast side does not connect to South Caldwell Street, creating a twelve (12) foot by ninety-one (91) foot strip of land totaling approximately 1,092 square feet, that hinders the full development of the parcel for the public parking lot, hereinafter called the strip of land; and,

WHEREAS, The strip of land is owned by First Citizens Bank and is part of their land identified as Transylvania County Parcel Pin 8586-40-6635-000; and,

Whereas, The City desires to develop the public parking lot to its full potential by purchasing the strip of land from First Citizens Bank; and,

WHEREAS, First Citizens Bank has agreed to sell the City the strip of land for \$7.50 per square foot plus a \$5,000.00 legal fee, for an estimated total amount of \$13,190.00, subject to a survey to determine the exact square footage;

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

1. The strip of land be purchased from First Citizens Bank with the final purchase price subject to a survey with certified square footage.
2. The City Manager, upon receipt of the completed survey, is authorized to use funds from the parking lot project to purchase the strip of land.
3. The City Manager is authorized to sign appropriate legal instruments for the conveyance of the strip of land from First Citizens Bank to the City of Brevard.
4. The City Manager shall advise the Board periodically on the status of completion of the strip of land.
5. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this 19th day of September 2016.

---

Jimmy Harris  
Mayor

ATTEST:

---

Desiree D. Perry, CMC, NCCMC  
City Clerk



The City of  
*Brevard*  
North Carolina

**AGENDA ITEM**

**DATE:** September 19, 2016

**TO:** Mayor and City Council Members

**SUBJECT:** Termination of Parking Lot Lease on East Main Street

**PREPARED BY:** Jim Fatland, CPFO, City Manager

**BACKGROUND:** The Brevard City Council approved a lease agreement with Rachel H. Freeman on September 6, 1988 for property located on East Main. The lease is for public parking on the side of the Humane Society Thrift Shop. According to the lease agreement, the City remits to the property owner the city share of property taxes for the building and land. The total number of parking spaces that are leased total nine, however, two spaces have been restricted to apartment dwellers only.

The lease amount for the ensuing fiscal year totals \$2,525.28 for the seven spaces.

The Downtown Masterplan Committee met on August 24, 2016 and discussed the limited parking spaces provided under the lease and unanimously approved recommendation to terminate the lease.

**DTMP COMMITTEE RECOMMENDATION:** Terminate parking lot lease with Rachel H. Freeman

**FISCAL IMPACT:** Annual lease payment has been a budgeted expenditure in the General Fund.

# HUMANE SOCIETY THRIFT SHOP

141 E Main Street  
Apartment  
PARKING ONLY

141 E Main Street  
Apartment  
PARKING ONLY



**ORDINANCE NO. 2016 - \_\_\_\_\_**

**AN ORDINANCE FIXING  
COMPENSATION AND  
THE OTHER TERMS OF EMPLOYMENT  
FOR CITY MANAGER JIM FATLAND**

WHEREAS, in accord with Chapter 2, Article III of the Brevard City Code, the compensation of the City Manager and other terms of his employment are to be fixed by ordinance; and

WHEREAS, Council now desires to set forth the terms of such employment in this Ordinance;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA:

Section 1. RATIFICATION OF APPOINTMENT. Mr. Jim Fatland (herein after referred to as the "City Manager") was duly appointed to the Office and position of City Manager of the City of Brevard, effective as interim City Manager on April 1, 2015, and has served since that date, becoming permanent City Manager effective August 17, 2015.

Section 2. SALARY AND BONUS. The City Manager's base annual salary is hereby set at \$121,000.00, which includes a raise in the amount of \$5,000.000, retroactive to July 1, 2016. In addition, the Manager shall receive a one-time bonus in the amount of \$5,000.00, upon enactment of this Ordinance. This Ordinance will be effective until July 1, 2017, unless earlier terminated by Council.

Section 3. EQUIPMENT USE AND ALLOWANCES.

(a) MOTOR VEHICLE MAINTENANCE AND GAS ALLOWANCE. In addition to the City Manager's salary, the City of Brevard has been paying and shall continue to pay to him monthly the sum of \$200.00 as compensation for providing a vehicle for his use in connection with the conduct of his office. This payment shall be designated as a motor vehicle maintenance and gas allowance, and shall be paid in lieu of any reimbursement for actual mileage traveled in the course of the conduct of his office, except as mileage for attending those Professional Growth and Development meetings contemplated in Section 8, and other meetings or events job-related, outside of Transylvania County, which shall be subject to mileage reimbursement at the then-current rate paid by the City.

(b) STANDARD OFFICE EQUIPMENT. The City of Brevard has been providing and shall continue to provide, for the use of the City Manager, all standard and reasonably necessary office equipment, including but not limited to a cell phone and a laptop computer, which shall be provided for business use at no cost to the City Manager.

Section 4. NO RESIDENCE REQUIREMENT. The City Manager shall not be required to reside within the city limits of the City of Brevard or within the Extra-Territorial Jurisdiction of the City, provided that the City Council retains the right to change this requirement upon due notice to the City Manager.

Section 5. ANNUAL EVALUATION. The City Manager's ongoing job performance will be reviewed in 2017 prior to the establishing of the next fiscal year's budget. The evaluation shall include a written report and presentation by City Council to the City Manager.

Section 6. FUTURE INCREASES. The City Manager shall not qualify for or participate in any longevity pay raise or Cost of Living Adjustment (COLA) pay raise

plan. Any salary raises will be individually considered by City Council and shall be based on performance, as well as other factors which are deemed relevant by City Council.

Section 7. PERSONNEL POLICY AND BENEFITS.

(a) 401K PLAN CONTRIBUTION. The City of Brevard shall contribute an amount equal to three percent (3%) of the City Manager's salary to his 401K plan, annually.

(b) VACATION. The City Manager shall accrue vacation as per the provisions of Section 7 of the Personnel Policy, but Section 8 thereof shall not apply to him, and he shall be entitled to accumulate 320 vacation hours, instead of the limits imposed on employees pursuant to Section 8 of the Personnel Policy.

(c) OTHER BENEFITS. The City of Brevard Personnel Policy shall not apply to the City Manager. However, the Personnel Policy shall be followed for certain benefits to which he shall be entitled, to wit:

- Health Insurance/Health Savings Account for the City Manager and his family;
- Sick leave and payment therefor;
- Paid holiday schedule;
- Group life insurance, short term disability insurance and dependant life insurance.

Section 8. PROFESSIONAL GROWTH AND DEVELOPMENT. The City Manager shall be permitted, and is encouraged to attend appropriate professional and municipal functions, meetings, conferences, etc., as a legitimate travel expense in accordance with the travel policies of the City. These may include the North Carolina League of Municipalities, the International City Management Association, the North Carolina City and County Management Association, and other professional organizations.

Section 9. COMMUNITY INVOLVEMENT. The City Manager is encouraged to be active and involved in all positive and appropriate facets of the community, including in his discretion, participation in civic organizations, charitable events, speaking engagements and the like. Upon the request of the City Manager, City Council will consider an allowance for participation in civic organizations.

Section 10. STANDARDS FOR BEHAVIOR AND CONDUCT. The City Manager shall at all times, and in all locations, present himself in public and in the presence of others, in such manner as is appropriate to the person who is the primary spokesperson and manager for the City of Brevard. In this regard, his conduct shall at all times be that of a competent, truthful, ethical and moral individual, and shall be beyond reproach. Any conduct in violation of this provision, including but not limited to a criminal misdemeanor or felony conviction of any kind, shall be grounds for immediate dismissal.

Section 11. TERMINATION OF EMPLOYMENT.

(a) VOLUNTARY SEPARATION. In the event that the City Manager voluntarily terminates his employment, no severance of any kind shall be paid by the City of Brevard.

(b) INVOLUNTARY SEPARATION. City Council retains the absolute right to terminate the City Manager's employment at will. In the event that the City Manager's employment is terminated by act of City Council:

(1) He shall receive six (6) months' salary as severance pay in lieu of any other remaining salary. Severance pay shall be terminated immediately upon his acceptance of any other employment. Severance pay may be paid in lump sum or over the regularly scheduled pay days, in the discretion of City Council; and

(2) He shall receive an amount of money designed to allow him to keep his health insurance policy in effect during the six (6) month severance period, or until he becomes insured by another employer, whichever occurs first. This provision could be fulfilled by continuing him on the current policy, if feasible; or by paying for another policy with similar benefits; or by paying him the funds Council determines to be appropriate to comply with this provision, whichever Council determines to be most appropriate at the time. This provision will be null and void if he is eligible for Medicare upon termination, and shall be voidable as of the date he becomes eligible for Medicare if within the six (6) months severance period.

(3) No other benefits shall be paid or continued in effect following termination except as may be required by law.

Section 12. RATIFICATION AND EFFECTIVE DATE. This Ordinance shall be retroactively effective as of July 1, 2016.

Adopted and approved this the \_\_\_\_\_ day of September, 2016.

---

Jimmy Harris  
Mayor

ATTEST:

---

Desiree D. Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

## **STAFF REPORT**

City Council, September 19, 2016

**Title:**            **Special Event Road Closure – 34<sup>th</sup> Halloweenfest**

City Council will consider an ordinance declaring a road closure for this year's Halloweenfest.

**Speaker:**       Daniel Cobb AICP, Planning Director

**From:**           Daniel Cobb AICP, Planning Director

**Prepared by:** Aaron Bland AICP, Planner & Asst. Zoning Administrator

**Approved by:** Jim Fatland CPFO, City Manager

### **Background**

The North Carolina Department of Transportation (NCDOT) requires local approval for special events that involve the closing or repurposing of state-owned highways and roads.

### **Discussion**

The NCDOT guidelines state the local municipality must pass an ordinance for each street closure of City-sponsored events. The State will neither approve nor deny such requests for closures, they will however, recommend alternative routes should they have a project scheduled for the same day as a special event. The attached ordinance is for this year's annual Halloweenfest. Council has passed ordinances for City-sponsored festivals since mid-2015.

### **Policy Analysis**

The City has been sponsoring and permitting special events for several years. The passing of an ordinance only applies to City-sponsored special events on state roads. Permits sponsored by individuals or non-profits are permitted differently and do not require an ordinance.

### **Staff Recommendation**

Staff recommends approval of the ordinance as presented.

City Council's options are as follows:

1. Approve the ordinance as presented.
2. Approve the ordinance with modifications.
3. Deny the ordinance as presented.

### **Fiscal Impact**

None.

### **Attachments**

- A. Ordinance

**ORDINANCE NO. 2016-\_\_**

**AN ORDINANCE DECLARING A ROAD  
CLOSURE FOR 34<sup>th</sup> HALLOWEENFEST**

WHEREAS, Brevard City Council acknowledges a tradition of providing an annual Halloweenfest festival for the pleasure and enjoyment of its citizens and visitors; and,

WHEREAS, Brevard City Council acknowledges this festival provides an opportunity for day-long, family-oriented activities; and,

WHEREAS, Brevard City Council acknowledges this festival requires a portion of Main Street (US Highway 276) and Broad Street (US Highway 64) to be closed for setup, activities, and cleanup; and,

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

SECTION 01. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and time set forth below on the following described portion of a State Highway System route:

**34<sup>th</sup> Halloweenfest**

**Date:** Saturday, October 29, 2016

**Time:** 7:00AM – 6:00PM

**Route Description:** Main Street (US 276) from Caldwell Street to Gaston Street, and Broad Street (US 64) from French Broad Street to Morgan Street.

SECTION 02. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 19<sup>th</sup> day of September, 2016.

---

Jimmy Harris  
Mayor

ATTEST:

---

Desiree D. Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

## **STAFF REPORT**

City Council, September 19, 2016

**Title:**            **Special Event Road Closure – Twilight Tour**

City Council will consider an ordinance declaring a road closure for this year's Twilight Tour festival.

**Speaker:**       Daniel Cobb AICP, Planning Director

**From:**           Daniel Cobb AICP, Planning Director

**Prepared by:** Aaron Bland AICP, Planner & Asst. Zoning Administrator

**Approved by:** Jim Fatland CPFO, City Manager

### **Background**

The North Carolina Department of Transportation (NCDOT) requires local approval for special events that involve the closing or repurposing of state-owned highways and roads.

### **Discussion**

The NCDOT guidelines state the local municipality must pass an ordinance for each street closure of City-sponsored events. The State will neither approve nor deny such requests for closures, they will however, recommend alternative routes should they have a project scheduled for the same day as a special event. The attached ordinance is for this year's annual Twilight Tour. Council has passed ordinances for City-sponsored festivals since mid-2015.

### **Policy Analysis**

The City has been sponsoring and permitting special events for several years. The passing of an ordinance only applies to City-sponsored special events on state roads. Permits sponsored by individuals or non-profits are permitted differently and do not require an ordinance.

### **Staff Recommendation**

Staff recommends approval of the ordinance as presented.

City Council's options are as follows:

1. Approve the ordinance as presented.
2. Approve the ordinance with modifications.
3. Deny the ordinance as presented.

### **Fiscal Impact**

None.

### **Attachments**

- A. Ordinance

**ORDINANCE NO. 2016-\_\_**

**AN ORDINANCE DECLARING A ROAD  
CLOSURE FOR TWILIGHT TOUR FESTIVAL**

WHEREAS, Brevard City Council acknowledges a tradition of providing an annual Twilight Tour Festival for the pleasure and enjoyment of its citizens and visitors; and,

WHEREAS, Brevard City Council acknowledges this festival provides an opportunity for family-oriented activities; and,

WHEREAS, Brevard City Council acknowledges this festival requires a portion of Main Street (US Highway 276) and Broad Street (US Highway 64) to be closed for setup, activities, and cleanup; and,

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

SECTION 01. Pursuant to authority granted by G.S. 20-169, the City of Brevard hereby declares the following temporary road closure during the day and times set forth below on the following described portion of a State Highway System route:

**Twilight Tour Festival**

**Date:** Saturday, December 3, 2016

**Time:** 12:30PM – 9:00PM

**Route Description:** Main Street (US 276) from Caldwell Street to Johnson Street, and Broad Street (US 64) from Probart Street to Morgan Street.

SECTION 02. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted and approved this the 19<sup>TH</sup> day of September, 2016.

---

Jimmy Harris  
Mayor

ATTEST:

---

Desiree D. Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

## **STAFF REPORT: New Business**

Date: September 19, 2016

### **Title: Application to FEMA's Assistance to Firefighters Grant**

Speaker: Craig Budzinski, Fire Chief

From: Craig F. Budzinski, Fire Chief

Prepared by: Craig F. Budzinski

Approved by: Jim Fatland, City Manager

### **Executive Summary:**

Council will consider applying for a 2016 FEMA Assistance to Firefighters Grant Program grant.

### **Background:**

The City of Brevard Fire Department requests authorization to apply for the 2016 FEMA Assistance to Firefighters Grant Program to replace firefighter self-contained breathing apparatus (SCBA). The SCBA's are approximately 13 years old and out of compliance with the 2013 National Fire Protection Association standards. The SCBA's are used daily on any incident that may have the potential to produce an atmosphere dangerous to life or health. The SCBA's give us the ability to effectively protect the safety of our firefighters on the fireground and perform the necessary actions to protect life and property.

The City received this competitive grant in 2012 to upgrade radios in the Fire Department and in 2015 to upgrade our breathing air compressor.

### **Fiscal Impact:**

The grant application is for \$350,000. If awarded, the City match of \$17,500 will come from the Fire Department Special Revenue Fund Balance.

### **Policy Impact:**

The SCBA's are an operational requirement to fulfill the creation and purpose of the City of Brevard's Fire Department as codified in the Sec.50-31 of the Brevard Code of Ordinances.

### **Staff Recommendation:**

Allow the City of Brevard Fire Department to request grant funding in the amount of \$350,000. If the grant is awarded, City Staff will prepare a budget amendment.



# Sharing House

TRANSYLVANIA CHRISTIAN MINISTRY, INC.

received  
08-29-2016

August 24, 2016

Mayor Jimmy Harris and City Council Members  
c/o City of Brevard  
95 West Main Street  
Brevard, NC 28712

Dear Mayor Harris and City Council Members

Thank you for your compassionate gift to those in need. We thank you for listening to the crisis that many of our low-resourced neighbors were facing when the changes to the water services had been made. It is heartening to know that our city council members not only listen to their constituents, but also act to improve the quality of life.

We consider every gift a sign of commitment to be the love this world needs, meeting people where they are in their struggles to provide the basic necessities of life.

We are so fortunate to have a community with people like you who care deeply for the well-being of all. It is hard living in Transylvania County with low-wage and seasonal jobs and less than reliable transportation. People do the best they can, barely getting by in life. It only takes a crisis to throw someone into great need, such as a bad transmission on a car, or an unexpected health issue.

We simply could not sustain this ministry without caring people like you! Thank you so much for your support, for your tireless work, and for your heart!

In gratitude,

Rev. Shelly F. Webb  
Executive Director of Sharing House

Date: 8/17/16      Check # 253286      Amount: \$5,000.00

*Transylvania Christian Ministry, Inc. is a tax-exempt organization under Section 501c (3) of the Internal Revenue code, and your gift may be deductible for Federal income tax purposes under the extent of the law, Section 170 (b) (1) (A) (vi) of the code. IRS regulations require us to advise you that "no goods or services are offered in exchange for or recognition of your gift." In addition, the IRS now requires that you keep a copy of this acknowledgement to substantiate your gift.*

**CORRESPONDENCE AGENDA ITEM**

**DATE:** September 19, 2016  
**TO:** Mayor and City Council Members  
**BY:** Joshua S. Freeman, Community Development / Special Projects Director  
**APPROVED BY:** Jim Fatland, CPFO, City Manager  
**SUBJECT:** West Loop Project Status Report

**BACKGROUND:** Brevard City Council directed staff to a feasibility study to identify alignment options for the West Loop road project.

The City contracted with CDM Smith to prepare such study. The project team conducted a public workshop on June 07, 2016, and collected public feedback through July 15, 2016. Since that time, the project team has been working to prepare modified alternatives based upon public input, environmental and other considerations.

The project team will conduct a second public workshop on September 28, 2016. Attached is a press release, as well as copies of invitation letters that were mailed during the week of September 05, 2016. Invitations to this workshop were posted in the Transylvania Times, various Facebook pages, and directly mailed to over 1,300 businesses, property owners and residents.

The purpose of the September 28, 2016 workshop is to present revised alternatives, answer questions and take feedback. Council members are encouraged to attend. Staff will send Council a web link to review the alternatives in advance of the upcoming workshop.

**RECOMMENDATION:** NA

**FISCAL IMPACT:** NA

**PRESS RELEASE**

**RELEASE DATE: 09/07/2016**  
**SUBJECT: WEST LOOP FEASIBILITY STUDY**

**WEST LOOP PUBLIC WORKSHOP**

The City of Brevard is conducting a study to evaluate potential alignments for the “West Loop.” The West loop, if constructed, is a road that would be comprised of a combination of existing roads, such as Railroad Avenue and Cashiers Valley Road, and new road segments in new locations. The West Loop is a local road with bike lanes and sidewalks that would connect Asheville Highway to Rosman Highway on the western side of the city and serve as an alternate route for local drivers circulating within the city, thereby relieving congestion on US Highway 64 & 276.

The City of Brevard hosted a public workshop on June 7<sup>th</sup>, 2016 to receive feedback on preliminary alternative alignments of the West Loop, and continued to receive citizen feedback through July 15<sup>th</sup>, 2016. Since then, the project team has been working to develop revised alignment options for the West Loop corridor based upon public feedback and other factors.

The public is invited to attend one of three workshops to review revised alignment options.

Date: Wednesday, September 28th, 2016  
Time: 10 AM, 2 PM or 6 PM (Please arrive promptly)  
Location: The Rogow Room, Transylvania County Library, 212 South Gaston Street,  
Brevard, North Carolina

For more information visit the project website at <http://www.cityofbrevard.com/399/West-Loop-Road-Project>. *Please Note: Revised plans and feedback sheets will be posted after the September 28<sup>th</sup> meeting.*

Project Contact: Josh Freeman  
Community Development Director  
City of Brevard  
Telephone: (828) 885-5622 or (828) 885-5601  
Email: [jfreeman@cityofbrevard.com](mailto:jfreeman@cityofbrevard.com)

GENERIC LETTER SENT TO ALL ADDRESSES  
WITHIN THE STUDY AREA

September 7<sup>th</sup>, 2016

Subject: West Loop Corridor Study Public Workshop (NCDOT STIP R-5743)

Dear Property Owner &/or Resident,

The City of Brevard is conducting a study to evaluate potential alignments for the “West Loop.” The West loop, if constructed, is a road that would be comprised of a combination of existing roads, such as Railroad Avenue, and new road segments on new locations. The West Loop is a local road with bike lanes and sidewalks that would connect Asheville Highway to Rosman Highway on the western side of the city and serve as an alternate route for local drivers circulating within the city, thereby relieving congestion on US Highway 64 & 276.

The City of Brevard hosted a public workshop on June 7<sup>th</sup>, 2016 to receive feedback on preliminary alternative alignments of the West Loop, and continued to receive citizen feedback through July 15<sup>th</sup>, 2016. Since then, the project team has been working to develop revised alignment options for the West Loop corridor based upon public feedback and other factors.

You have received this letter because you live and / or own property within the project study area. You are respectfully invited to join us at one of three workshops, where we will present revised alignment options, take questions, and receive additional citizen feedback. These workshops will be held on **Wednesday, September 28th, 2016** in the Rogow Room at the Transylvania County Library, 212 South Gaston Street, Brevard, North Carolina. The workshops will begin promptly at **10 AM, 2 PM & 6 PM**, starting with a PowerPoint presentation of the study followed by question and answer session. Stations will be setup where Citizens are encouraged to interact with the project team and each session will last approximately two hours. We ask that workshop participants arrive promptly so that we can make the most of this opportunity for dialogue.

A project “frequently asked questions” sheet is attached hereto.

Citizen involvement is the most important element of any public project, so I hope to see you at one of the aforementioned workshops. Respectfully,

Josh Freeman  
Community Development Director  
City of Brevard

September 7<sup>th</sup>, 2016

Reverend Shawn O'Neal  
Sacred Heart Catholic Church  
150 Brian Berg Lane  
Brevard, NC 28712

EXAMPLE OF A LETTER OR EMAIL  
SENT TO CITIZENS WHO PROVIDED  
COMMENTS AT OR AFTER THE JUNE  
06, 2016 WORK S HOP

Subject: West Loop Corridor Study Public Workshop (NCDOT STIP R-5743)

Dear Reverend O'Neal,

I hope that this letter finds you in good spirit and health.

The West Loop Feasibility Study project team has been working to develop revised alignment options for the West Loop corridor based upon public feedback that we have received since the June 07, 2016 public workshop, as well as other factors. You are respectfully invited to join us at one of three workshops, where we will present revised alignment options, take questions, and receive additional feedback.

These workshops will be held on **Wednesday, September 28th, 2016** in the Rogow Room at the Transylvania County Library, 212 South Gaston Street, Brevard, North Carolina. The workshops will begin promptly at **10 AM, 2 PM & 6 PM**, starting with a PowerPoint presentation of the study followed by question and answer session. Stations will be setup where Citizens are encouraged to interact with the project team and each session will last approximately two hours. We ask that workshop participants arrive promptly so that we can make the most of this opportunity for dialogue.

A project "frequently asked questions" sheet is attached hereto.

I look forward to seeing you there! Respectfully,

Josh Freeman, AICP, CFM  
Community Development Director  
City of Brevard

September 7<sup>th</sup>, 2016

Jane Lester  
26 Chipmunk Ct  
Brevard, NC 28712

E AMPLIFIED LETTER SENT TO  
THOSE WHO PROVIDED COMMENTS  
AFTER THE JUNE 07 2016 WORKSHOP

Subject: West Loop Corridor Study Public Workshop (NCDOT STIP R-5743)

Dear Jane Lester,

You have received this letter because you recently submitted a letter or email offering comments regarding the West Loop Corridor study. I really appreciate your having taken the time to provide feedback; citizen involvement is the most important element of any public project, so thank you for being engaged.

The project team has been working to develop revised alignment options for the West Loop corridor based upon public feedback and other factors. You are respectfully invited to join us at one of three workshops, where we will present revised alignment options, take questions, and receive additional feedback.

These workshops will be held on **Wednesday, September 28th, 2016** in the Rogow Room at the Transylvania County Library, 212 South Gaston Street, Brevard, North Carolina. The workshops will begin promptly at **10 AM, 2 PM & 6 PM**, starting with a PowerPoint presentation of the study followed by question and answer session. Stations will be setup where Citizens are encouraged to interact with the project team and each session will last approximately two hours. We ask that workshop participants arrive promptly so that we can make the most of this opportunity for dialogue.

A project "frequently asked questions" sheet is attached hereto.

I look forward to seeing you there! Respectfully,

Josh Freeman, AICP, CFM  
Community Development Director  
City of Brevard

# NC LEAGUE OF MUNICIPALITIES

Register today at [www.ncml.org/annualconference](http://www.ncml.org/annualconference)



## North Carolina League of Municipalities **CityVision 2016 Annual Conference** October 23-25, 2016 | Raleigh Convention Center



**accelerate!**  
OCT 23-25  
RALEIGH **CityVision 2016**

# PROGRAM HIGHLIGHTS

## CONNECT. ADAPT. GROW.

Vision 2030 identified six key areas, defined as operating principles, where North Carolina's cities and towns would like to be better positioned by the year 2030. CityVision 2016: Accelerate! features nationally renowned speakers who will provide big-picture insights into the operating principles to help guide municipal leaders. Town Talks breakout sessions will follow, combining high-level planning with detailed implementation strategies to use in your hometown. Attendees will leave equipped to address the changing communications landscape, build and maintain strong economic foundation, and adapt to cultural and demographic shifts.

Connect – Learn how to demonstrate the value that your hometown provides to its residents through citizen engagement, measuring that value, and promoting success stories. Adapt – See how demographic and cultural changes affect your municipalities and how you can respond and build upon these changes. Grow – Discover meaningful ways to bring new business and economic development opportunities to your municipality.

## ADVOCACY GOALS CONFERENCE 2017-2018 – NEW IN 2016!

This year's NCLM Annual Conference will build on Town Hall Day's energy and the work done during the 2016 legislative session by kicking off with the Advocacy Goals Conference, where members vote to determine the legislative and regulatory priorities for 2017. Make your voice heard so that we are even better positioned to represent cities and towns in 2017 and beyond. Save time and money with the first-ever combined Advocacy Goals Conference and CityVision 2016 Annual Meeting!

## PROFESSIONAL DEVELOPMENT SESSIONS

Elected officials in attendance will be able to satisfy the ethics education required by state law, as well as fine tune their skills and know-how related to strategic planning and economic development through the Tuesday morning Professional Development series:

- Ethics Training For Local Elected Officials
- Getting Future Ready: Strategic Planning for Municipal Governments
- Economic Development for Elected Officials (LELA)

## 16th Annual NCLM Golf Tournament

Join us for the Annual Golf Tournament on Saturday, October 22, at Eagle Ridge Golf Club (565 Competition Road, Raleigh, NC 27603). New in 2016 – golfers will compete in a 2-person Captain's Choice format. This will allow for some fun competition amongst the pairings. Groups will be flighted based on handicaps.



Check-in, putting practice and range balls begins at 11:00 am, with a shotgun start at 1:00 pm. Lunch will be provided beginning at Noon. Dinner and Awards will be held from 6:00 – 7:00 pm. Door prizes and individual contests for longest drives, closest to the pin and longest putt will also be held.

## Host City Event – Reception and Broadway Musical, “Pump Boys and Dinettes”

Join the City of Raleigh at the Duke Energy Performing Arts Center for music, food and fun! The Pump Boys sell high octane on Highway 57 in Grand Ole Opry country and the “Dinettes” Prudie and Rheatta Cupp run the Double Cupp Diner next door. Together they fashion an evening of country western sounds that receive unanimous raves on and off-Broadway. With heartbreak and hilarity, they perform on guitars, piano, bass and, yes, kitchen utensils.



## NCLM President's Reception & Gala

Join us for great food, awards and celebrating our great cities and towns! The evening will be high-energy with local band Night Shift, a 6-piece band of professional musicians who have made music together for over 10 years. Get ready to celebrate as Night Shift keeps the energy and music flowing through the evening.

## “League-opoly” Exhibit Hall – Get Your Game On!

Travel the new exhibit hall layout and enjoy networking opportunities available as you navigate the life-size “League-opoly” game board. Beginning Sunday, October 23 at 1:00 pm, network, collect money, visit vendors, and learn about new products and services. Then collect even more money! The more money you collect, the more purchases you can make at the Door Prize Center.



**CANCELLATION POLICY** Advance registration is open through Friday, September 23, 2016. Full refunds of paid registration, less a \$150 processing fee, will be issued to registrants who cancel in writing by September 23, 2016. All cancellations or modifications must be made in writing to [events@nclm.org](mailto:events@nclm.org).

# PRELIMINARY SCHEDULE

## Saturday, October 22

11:00 am – 7:00 pm 16th Annual NCLM Golf Tournament | Eagle Ridge Golf Club | Registration required

## Sunday, October 23

8:00 am – 6:30 pm Conference Registration Open | League LINC Center and Voting Desk Open

10:00 am – Noon NCLM Board of Directors Meeting

10:00 am – Noon NC Resort Town & Convention Cities Annual Business Meeting

11:00 am – 4:00 pm Advocacy Goals Conference 2017-18 Biennium | Lunch provided | Registration required

1:00 – 6:00 pm Exhibit Hall Open | NCLM Networking Center

4:00 – 5:00 pm NCLM Nominating Committee Public Hearing

5:00 – 6:00 pm Exhibit Hall Reception

6:00 – 8:45 pm Host City Event | Registration required | Reception and Broadway Musical "Pump Boys and Dinettes"  
Dessert Social

## Monday, October 24

7:15 am – 6:30 pm Conference Registration Open | League LINC Center and Voting Desk Open

7:15 am – 2:00 pm Exhibit Hall Open | NCLM Networking Center Open

7:15 am – 8:45 am NC Military Host Cities Coalition Meeting

7:15 am – 8:45 am NC Black Elected Municipal Officials Business Meeting | Breakfast included | Registration required

7:15 am – 8:45 am Mayors' Networking Meeting | Breakfast included | Registration required

7:15 – 8:45 am NCLM Exhibit Hall Breakfast | Registration required

8:45 – 9:45 am Opening Ceremonies and General Session

10:00 – 11:00 am Town Talks: Economic Development

11:00 – 11:15 am Exhibit Hall Networking Break

11:15 – 11:45 am General Session

12:00 – 1:00 pm Town Talks: Communication

1:00 – 2:00 pm NCLM Exhibit Hall Networking Luncheon | Registration required

2:15 – 2:45 pm General Session

2:45 – 3:00 pm Afternoon Networking Break

3:00 – 4:00 pm Town Talks: Culture and Demographics

4:15 – 5:15 pm NCLM Annual Business Meeting

5:15 – 6:30 pm NCLM President's Reception

6:30 – 10:00 pm NCLM President's Dinner & Gala | Registration required

## Tuesday, October 25

7:30 – 11:00 am Conference Registration Open | League LINC Center Open

7:30 – 8:45 am NCLM Membership Floating Hot Buffet Breakfast

7:30 – 8:45 am Municipal Managers Business Meeting | Breakfast included | Registration required

7:30 – 8:45 am NC Women in Municipal Government Meeting | Breakfast included | Registration required

7:30 – 8:45 am NC Association of Municipal Clerks Meeting | Breakfast included | Registration Required

9:00 – 11:00 am Ethics Training for Local Elected Officials | Registration required

9:00 am – 12:00 pm Public-Private Partnerships for Revitalization in North Carolina Communities (LELA) | Registration required

9:00 am – 12:00 pm Getting Future Ready: Strategic Planning for Municipal Governments | Registration required

# MARK YOUR CALENDARS...

## 2016-17 BOARD OF DIRECTORS PUBLIC HEARING

Sunday, October 23, 4:00-5:00 pm

Interested in serving on the 2016-2017 NCLM Board of Directors? To register interest and receive a Board Candidate Interest Packet, visit [www.nclm.org](http://www.nclm.org) or contact Jennifer Webb, [jwebb@nclm.org](mailto:jwebb@nclm.org) or (919) 715-1726. The packet includes instructions on the nominating process, candidate information form, rules and procedures, and Nominating Committee contact information. Deadline to submit forms is 5:00 pm Monday, October 3, 2016.

## NCLM ANNUAL BUSINESS MEETING

Monday, October 24, 4:15-5:15 pm



**accelerate!**  
OCT 23-25  
RALEIGH CityVision 2016

[www.nclm.org/annualconference](http://www.nclm.org/annualconference)



Register today at [nclm.org/annualconference](http://nclm.org/annualconference)



15/1 4/194  
Desiree D Peny  
Clerk  
Brevard  
95 W Main St  
Brevard, NC 28712-3648



RETURN SERVICE REQUESTED

215 N. Dawson St.  
Raleigh, NC 27603

**NCLM LEAGUE OF MUNICIPALITIES**  
September 19, 2016

PRESORTED  
FIRST CLASS MAIL  
US POSTAGE  
PAID  
RALEIGH, NC  
PERMIT#1910

# Unfinished Business

ORDINANCE NO. 2016-\_\_\_\_\_

AN ORDINANCE AMENDING THE  
UNIFIED DEVELOPMENT ORDINANCE  
TO CLARIFY SHORT-TERM RENTAL USES AS LODGING USES

WHEREAS, the purpose of zoning regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development, these regulations shall apply to all land and structures within the respective zoning district; and,

WHEREAS, the City of Brevard Planning Board unanimously recommended approval of Ordinance changes on March 15, 2016; and,

WHEREAS, the City of Brevard City Council have reviewed and modified the Planning Board's draft language; and,

WHEREAS, in accordance with North Carolina General Statute 160A-383, Brevard City Council finds the following:

1) That the zoning amendment is consistent with the following Economic Health Element of the City of Brevard 2015 Comprehensive Plan:

The objectives and policies in this element aim to further existing efforts to foster entrepreneurship, retain and attract employers, remain an attractive retirement and tourism destination, and support and strengthen existing businesses. To continue to provide the public services necessary to achieve these goals, the City's tax revenues need to keep pace with increasing costs of providing those services.

2) That the proposed rezoning fully conforms to all applicable requirements of Brevard City Code.

3) That the proposed amendments clarify the difference between a residential use and lodging use.

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

Section 1. The Unified Development Ordinance is hereby amended as described in Exhibit A.

Section 2. Ordinance shall become effective upon its adoption and approval.

Adopted and Approved this the \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Jimmy Harris, Mayor

ATTEST:

---

Desiree Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

# New Business

**ORDINANCE NO. 2016-\_\_\_\_\_**

**AN ORDINANCE AMENDING BREVARD CITY CODE  
PART II – CHAPTER 14 – ANIMALS AND FOWL**

WHEREAS, the City of Brevard Planning Board and Planning Department Staff have recommended that Brevard City Code, Part II, Chapter 14, Article I, Section 14-9 be amended to update and comply with requirements of North Carolina General Statutes; and,

WHEREAS, Brevard City Council finds that while these proposed amendments are consistent with the City of Brevard Land Use Plan, Comprehensive Plan, and other plans and policies of the City of Brevard; and,

WHEREAS, a public hearing was conducted on Monday, September 19, 2016, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code, Part II, Chapter 14 be amended as outlined in Attachment 1 which is included with this ordinance.

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

SECTION 01. Brevard City Code, Part II, Chapter 14 is hereby amended as depicted in Attachment 1.

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 effect from and after the date of its adoption.

Adopted and approved this the \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Jimmy Harris, Mayor

ATTEST:

---

Desiree Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

ORDINANCE NO. 2016-\_\_\_\_\_

AN ORDINANCE AMENDING THE CITY OF BREVARD CODE OF ORDINANCES  
AND UNIFIED DEVELOPMENT ORDINANCE  
TO PROHIBIT THE INTRODUCTION OF INVASIVE PLANT SPECIES

WHEREAS, the purpose of nuisance ordinances is to provide for the health, safety, and general welfare of the inhabitants of the city, and prohibit the ; and,

WHEREAS, the purpose of zoning regulations is to provide a comprehensive plan for the use of land and buildings in conditions of good health and safety and in conditions of orderly community development, these regulations shall apply to all land and structures within the respective zoning district; and,

WHEREAS, the City of Brevard Planning Board unanimously recommended approval on June 21, 2016; and,

WHEREAS, in accordance with North Carolina General Statute 160A-384, Brevard City Council finds the following:

- 1) That the rezoning is consistent with the following polices of the City of Brevard 2015 Comprehensive Plan:
- 2) That the proposed rezoning fully conforms to all applicable requirements of Brevard City Code.

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

Section 1. The Official Zoning Map of the City of Brevard is hereby amended to rezone the properties described above and specifically listed below from GR to NMX:

Section 2. Future development upon the subject properties shall be subject to current development standards.

Section 3. Ordinance shall become effective upon its adoption and approval.

Adopted and Approved this the \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Jimmy Harris, Mayor

ATTEST:

---

Desiree Perry, CMC, NCCMC  
City Clerk

APPROVED AS TO FORM:

---

Michael K. Pratt  
City Attorney

# Remarks / Future Agenda Considerations

# Closed Session(s)

North Carolina General Statute 143-318.11 Closed Sessions.

(a) Permitted Purposes. – It is the Policy of the State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required.