# PART II: CODE OF ORDINANCES

## CHAPTER 1. GENERAL PROVISIONS

### 1-2. Definitions and rules of construction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Livestock**.

**A.** Domestic animals, such as cows, bulls, calves, hogs, pigs, horses, mules, ponies, goats or sheep.

**B.** Any animal raised or kept for profit, excepting:

1. Dogs and cats kept for show competition;
2. Single litters of rabbits, puppies or kittens, per household; and
3. Tropical aquarium fishes.

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

**A.** Damages, soils or defiles private or public property;

**B.** Interferes with, molests or attacks persons or other animals;

**C.** Is repeatedly at large;

**D.** Causes unsanitary and offensive conditions, including interrupting the tranquility of the community;

**E.** Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles; or

**F.** Is diseased.

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

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

**Pet** means any animal kept for pleasure rather than utility.

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

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

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

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

**A.** *Patrol dog* means a dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

**B.** *Sentry dog* means a dog that is trained or conditioned to attack or otherwise respond aggressively without command.

**C.** *Watch dog* means a dog that barks and threatens to bite any intruder and that has not been specifically trained or conditioned for that purpose.

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

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

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

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

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

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

# CHAPTER 14. ANIMALS AND FOWL

## ARTICLE I. IN GENERAL

### 14-1. Reserved.

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

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

### 14-2. City designated bird sanctuary.

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

(Code 1980, § 4-1)

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

### 14-3. Shooting, hunting or injuring birds.

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

(Code 1980, § 4-2)

### 14-4. Keeping livestock.

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

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

### 14-5. Keeping wild animals or dangerous insects.

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

(Code 1980, § 4-4)

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

## 14-6. Keeping fowl.

**A.** *Domestic fowl.* It shall be unlawful to keep geese, ducks, chickens or other domestic fowl within the city, except as provided in subsection 14-6.B and Section 14-7; provided that this section shall not prohibit the assembling of such fowl for shipment or the unloading of such fowl within the city, provided the fowl is kept penned and is not located within the city for more than 24 hours; provided further that this section shall not apply to domestic fowl kept by any merchant for the purpose of resale.

**B.** The keeping of chickens may be permitted subject to the conditions set forth in this subsection.

1. *In general.*
   a. The keeping of roosters is prohibited.
   b. In no case shall the number of chickens kept by any single household exceed 15 birds, nor shall the number of chicken coops exceed one chicken coop. It is the intention of this section that the term "household" apply to a grouping of residents within a single dwelling unit, which is located upon a parcel of land. In cases where multiple dwelling units exist upon a single parcel of land (i.e., duplex structures, apartment buildings, condominium buildings or other, similar multifamily structures), this provision shall be construed to mean the allowance of 15 birds and one chicken coop for the apartment building, condominium building or other, similar multifamily structure.
   c. It is the intent of this section that persons within the city be permitted to keep chickens for personal or domestic consumption of eggs and meat. In no case shall this section be construed to mean the authorization of bona fide agricultural operations or commercial enterprises engaged in the production of meat, eggs or live chickens for sale or distribution.
2. *Permit required; inspections required; violations.*
   a. Persons keeping chickens within the city shall first secure an annual permit from the code enforcement officer for the City of Brevard, and shall renew such permit each year thereafter, on or before the anniversary of such permit. The code enforcement officer may impose such reasonable conditions as are necessary to protect the health, safety and welfare of the public. Permits may be revoked by the code enforcement officer at any time upon violation of the terms of the permit or any provision of this section.
   b. Permit fees shall be set forth in the Schedule of Taxes and Fees for the City of Brevard.
   c. The ~~administrator~~ code enforcement officer shall have the power to conduct such investigations as the ~~administrator~~ code enforcement officer may reasonably deem necessary to carry out his or her duties as prescribed in this section and, for this purpose, to enter at reasonable times upon any property, public or private, for the purposes of inspection, determination of plan compliance, and investigating and inspecting the sites of any complaints or alleged violations of this section.
   d. The ~~administrator~~ code enforcement officer shall have the power to require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this section.
   e. No person shall obstruct, hamper or interfere with the code enforcement officer ~~administrator~~ while carrying out his or her official duties. If the owner or occupant of any property refuses to permit inspections or otherwise obstructs an investigation or other actions of the ~~administrator~~ code enforcement officer in the performance of his or her duties, the ~~administrator~~ code enforcement

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

f. Persons found to be in violation of this section shall be provided notice of such violation either by personal service or by registered mail, certified mail return receipt requested, and by posting notice conspicuously on the property; and shall comply with this section within 15 days of the date of issuance of such notice.

g. Persons found to be in violation of this section shall be subject to such remedies as are set forth in subsection 14-6(b)(3).

3. *Remedies.*

a. *Criminal penalties.* Persons found to in violation of this section may be found guilty of a class 3 misdemeanor and shall be subject to penalties and remedies as set forth in Brevard City Code, CHAPTER 1, General Provisions, Section 1-8, General penalty; other remedies.

b. *Civil penalties.* The owner or occupant of any land or building, or part thereof, who creates, or maintains any condition that is in violation of this section may be held responsible for the violation and subject to the civil penalties and remedies provided herein.

1. *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified in accordance with subsection 14-6(b)(2). If after receiving a notice of violation under [subsection] 14-6(b)(2), the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the same manner as of a notice of violation. The citation shall state the nature of the violation, shall state the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 15 days of the date of the citation.

2. *Continuing violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

4. *Enclosures.*

a. No person shall permit chickens to run at large within the city. Chickens shall be kept in an enclosure at all times and shall not be permitted to range free. Any chicken not contained in an enclosure shall be deemed to be at large and may be captured by animal control officers or officers of the City of Brevard Police Department. After having made a reasonable effort to locate the owner, animal control or police officers may humanely destroy or convey the chicken to any person.

b. All enclosures employed in the keeping and containment of chickens, whether stationary or portable, shall include chicken coops and chicken runs. Enclosures shall consist of a top and sides comprised of materials of sufficient design and durability as to prevent chickens from exiting the enclosure by horizontal or vertical movement, including but not limited to fencing, netting and solid surfaces.

c. Chicken coops shall be designed in such a manner as to be secure against inclement weather and invasion by predators.

d. Chicken coops shall have sufficient ventilation or window openings to allow the circulation of sunlight and air.

e. The floor and walls of chicken coops shall be constructed of materials conducive to regular cleaning and sanitation.

f. Chicken coops shall provide a minimum of two and one-half square feet of floor area for each chicken.

g. Chicken coops shall not exceed 120 square feet of ground floor area in size.

h. Chicken coops shall be set back a minimum of ten feet from all property boundaries and road rights-of-way.

i. Chicken runs shall provide a minimum of five square feet of ground area for each chicken.

j. Enclosures shall be situated in the side or rear yard of any property containing a principal structure as defined in UNIFIED DEVELOPMENT ORDINANCE, Section 19.3.

5. *Health, sanitation and animal welfare.*

a. Deceased chickens shall be buried on site or disposed of in a sanitary landfill, and shall not be deposited for collection by city forces, into residential or commercial solid waste receptacles.

b. Enclosures shall be kept in a clean, sanitary, healthful condition. chicken coops shall be cleaned regularly, with all droppings and organic waste material managed, removed and disposed of in an appropriate manner, and chicken runs shall be relocated or otherwise managed, so as to prevent erosion and to minimize odors, the breeding of flies, and the occurrence of infectious disease.

c. Feed stock shall be stored in a sealed container that is secure against invasion by rodents.

d. Chickens shall have continuous access to food and water.

**C.** *Wild fowl.* It shall be unlawful for any person to keep any live wild fowl within the city, except as provided in Section 14-7.

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

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

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

**A.** A special permit issued under this section may be revoked by the Chief of Police~~administrator~~ for any reason that would have justified denial of the permit. If a permit is revoked, the applicant shall be given a written explanation of the reasons for revocation. Upon the determination of a violation, the owner shall have 14 days in which to bring the property or condition into compliance with this section or to remove the animals from the premises. If the ~~administrator~~ Chief of Police denies or revokes a permit under this section, they shall notify the applicant of their right to appeal such decision to the City Manager.

**B.** For the purpose of this chapter, the term “city grazing” shall mean the practice of sustainable lot maintenance by goats or sheep inside the corporate limits of the city, on a temporary and occasional basis, not to exceed 30 cumulative days in a calendar year, where said animal(s) are not permanently kept or maintained. The animals used for this purpose shall be free of disease, properly cared for at all times as determined by the Chief of Police or designee, and contained on the premises for which the permit was granted.

**C.** The Chief of Police or designee may deny or revoke a permit for any reason including but not limited to:

1. The applicant has failed to comply with the applicable requirements of any subsection of this ordinance or condition of the permit as determined by the Chief of Police or designee.

2. The animal for which the permit is requested poses a substantial danger of harm to any person, animal or property as determined by the Chief of Police or designee.

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

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

## 14-8. Sale of baby fowl or rabbits.

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

(Code 1980, § 4-7)

## 14-9. Keeping bees.

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

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

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

**D.** The city may require the removal of a hive, or hives, if the owner no longer maintains the hive(s), or if removal is necessary to protect the health, safety, and welfare of the public, as allowed by N.C.G.S. 106-645(b)(4).

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

## 14-10. City designated squirrel sanctuary.

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

(Code 1980, § 4-9)

## 14-11—14-30. Reserved.

## ARTICLE II. DOGS AND OTHER ANIMALS

### 14-31. Animal control officers.

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

(Code 1980, § 4-21)

### 14-32. Cruelty to animals.

**A.** It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, or abandon subject to conditions detrimental to its health or general welfare any animal, or to cause or produce such action.

**B.** The words "torture" and "torment," as used in this section, shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the state wildlife resources commission, or to prohibit animal control officers or duly authorized persons or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner, or to prohibit the lawful use of animals in scientific research, or legitimate pest control activities.

**C.** It shall be unlawful for any owner or keeper to fail to provide his animal with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his animal in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care and treatment.

**D.** It shall be unlawful for any dog owner, keeper of any dog or any person to tie and/or leave unattended any dog upon a public right-of-way or city property.

**E.** It shall be unlawful to tether an animal to a stationary object for a period of time or under conditions that an officer or animal cruelty investigator deems harmful or potentially harmful to the animal. Tethering may be allowed in certain cases if there is no sign of obvious neglect and the animal is not exhibiting health or temperament problems. Examples of improper tethering include, but are not limited to the following:

a. Using a length or weight of tether that is not appropriate for the size, weight and age of the animal. An appropriate restraint must be a minimum of four times the length from the tip of the animal's nose to the tip of the animal's tail and shall be no less than 10 feet.

b. Using tether that does not have swivels on both ends. All tethers must be attached to the animal by means of a properly fitting harness or collar of not less than one inch in width made of nylon or leather.

~~D.~~ c. Allowing an animal to be tethered such that the animal is not confined to the owner's property or such that the tether can become entangled and prevent the animal from moving about freely, lying down comfortable or having access to adequate food, water and shelter.

~~E.~~**F.** Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

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

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

## 14-33. Registration of dogs required.

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

(Code 1980, § 4-23)

## 14-34. Fee for dog registration.

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

(Code 1980, § 4-24)

## 14-35. Dogs running at large.

**A.** It shall be unlawful for any dog owner or keeper of any dog to permit such dog to run at large. All dogs must be restrained by fencing, leash or other physical, electronic or mechanical restraint at all times.

**B.** It shall be unlawful for any owner or keeper of any dog to allow said dog, whether on leash or not, to be present within the following areas of the property of the City of Brevard:

1. Within 50 feet of the fence surrounding the Franklin Park Pool;
2. Within 50 feet of the improved playground area at Franklin Park; or
3. Within 50 feet of the community building known as the "Scout Hut" located at Franklin Park;

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

4. Dogs are prohibited from the Brevard Youth Sports Complex property during all sporting events, including ball practice. However, this section does not prohibit leashed dogs on the public roadways, sidewalks or the multi-use pedestrian/bikeway so long as the owner or keeper complies with the CITY CODE OF ORDINANCES, and specifically, with section 35-92(b), seeing eye dogs in service to the visually impaired or dogs in service to law enforcement personnel.

**C.** Violation punishable as an Infraction with fine up to $50.00 per G.S. 14-4(b).

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

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

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

**A.** An owner of a dangerous or potentially dangerous dog shall take precautions against attacks by such dogs resulting in serious bodily injury to a person. Determination of a dangerous or potentially dangerous dog shall be in accordance with G.S. 67-4.1. The City of Brevard Police Chief, or his designee, shall have the authority to declare a dog to be a dangerous/potentially dangerous dog. Any determination that a dog is dangerous/potentially dangerous shall be made in writing summarizing the available evidence that led to the determination and shall be delivered or mailed by registered or certified mail to the owner/keeper of the dog.

**B.** An appellate board will be designated by council to hear any appeals. The dangerous dog appellate board shall be composed of a practicing veterinarian and two public citizens as appointed by city council. The owner/keeper of a dog that has been declared dangerous/potentially dangerous may appeal the declaration in writing to the dangerous dog appellate board within three business days of the receipt of notice of the original declaration. While any appeal is pending, the owner/keeper of the dog shall comply with the dangerous/potentially dangerous dog confinement measures set forth in City Code section 14-36 and G.S. 67-4.2. If the declaration made by the police chief, or his designee, is upheld by the appellate board, the owner of the dog may appeal the decision to superior court by filing notice of appeal and a petition for review within ten days of the decision made by the appellate board. Appeals from the final decisions of the appellate board shall be heard in the superior court of the county.

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

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

## 14-37. Animals creating nuisance.

**A.** *Prohibited.* It shall be unlawful for an owner or keeper to permit an animal to create a nuisance, or to maintain a nuisance created by an animal. An agricultural operation or any of its appurtenances shall not constitute a nuisance when operated in accordance with the conditions and provisions set forth in G.S. 106-701.

**B.** *Abatement procedure.* Compliance shall be required as follows:

1. When an animal control officer, law enforcement officer or duly authorized person observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from the time of notification to abate the nuisance.
2. Upon receipt of a written, detailed and signed complaint being made to the city manager, or the local health director, where the county is contracted to provide animal control services for the city or by any person that any other person is maintaining a nuisance as defined in Section 1-2, the city manager, or local health director, shall cause the owner or keeper of the animal in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.
3. If the written findings indicate that the complaint is justified, then the city manager, the local health director or a duly authorized person shall cause the owner or keeper of the animal in question to be so notified in writing, and ordered to abate such nuisance within 48 hours by whatever means may be necessary. If the owner or keeper of the animal is unknown and cannot be ascertained, the notice and order, along with a general description of the animal, shall be posted for 48 hours at the animal shelter, city hall and county courthouse. If after 48 hours the owner or keeper of the animal remains unknown, the animal may be impounded or humanely destroyed.

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

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

## 14-38. Barking dogs.

**A.** It shall be unlawful for any person to own, keep or have within the city any dog that habitually or repeatedly barks or makes other sounds that tend to annoy or disturb one or more citizens so as to interrupt the sleep or tranquility of one or more persons in the general neighborhood on a regular basis. An animal control officer shall make this determination based on an investigation, and the complaint must be jointly signed by the complainant and the investigating officer. For convenience and efficiency in documenting the complaint, a form substantially similar to *Exhibit A may be used by the complainant, and the investigation will be deemed complete when the form is signed by the investigating officer.

**B.** Second and subsequent violations of the prohibition against barking dogs in subsection (a) above shall be deemed to occur for each separate barking event which may be complained of, occurring within 30 days of the date the initial complaint form (*Exhibit A) is signed by the investigator, or within 30 days of the last previous complaint after the signing of the initial complaint form by the investigator, whichever last occurs.

**C.** Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

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

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

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

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

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

## 14-40. Compliance with state rabies laws.

**A.** It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

**B.** It is the purpose of this article to supplement state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(Code 1980, § 4-30)

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

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

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

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

**B.** A rabies vaccination shall be deemed current for a cat or dog if two vaccinations have been given one year apart and booster doses of rabies vaccine administered every three years thereafter.

**C.** All antirabic vaccines shall be administered by a licensed veterinarian or a certified rabies vaccinator.

**D.** Violation punishable as an infraction with fine up to $25.00 per G.S. 14-4(b).

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

## 14-42. Vaccination tag and certification.

**A.** Upon complying with the provisions of Section 14-41, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with the number and the year for which issued, and a rabies vaccination certificate.

**B.** It shall be unlawful for any dog owner or keeper to fail to provide the dog with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times. All cat owners or keepers must maintain in their possession all rabies tags and vaccination certificates for official proof and documentation of rabies vaccination.

**C.** In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this article If the dog is found not to be wearing a currently valid rabies tag, or the cat owner cannot produce rabies tags and/or vaccination certificates when requested by a duly authorized official.

**D.** It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.

**E.** All dogs or cats shipped or otherwise brought into the city from a state other than North Carolina, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that the dog or cat is apparently free from rabies, and has not been exposed to rabies, and that the dog or cat has received a proper dose of rabies vaccine within the past 12 months prior to the date of the issuing the certificate.

**F.** Violation punishable as an infraction with fine up to $25.00 per G.S. 14-4(b).

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

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

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

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

**B.** Law enforcement agencies investigating animal bites shall report such bites immediately to the local health director or person duly authorized by the local health director and give the names and addresses of the person bitten and the owner of the animal.

**C.** Animals confined in accordance with Subsection A of this section shall not be released from confinement except by permission from the local health director.

**D.** Animals confined in accordance with Subsection A of this section shall be confined at the expense of the owner or keeper.

**E.** In the case of an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by this section at the animal shelter.

**F.** Badly wounded, diseased or suffering animals which are suspected of having rabies may be humanely destroyed immediately and the head forwarded for examination by the laboratory services division of the state department of environment, health and natural resources.

(Code 1980, § 4-33)

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

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

(Code 1980, § 4-34)

## 14-45. Areawide emergency rabies quarantine.

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

**B.** If there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the local health director.

(Code 1980, § 4-35)

## 14-46. Postmortem diagnosis of rabies.

**A.** If an animal dies while under observation for rabies, the head of such animal shall be submitted to the local health department for shipment to the laboratory services division of the state department of environment, health and natural resources for rabies diagnosis.

**B.** The carcass of any animal suspected of dying of rabies shall be surrendered to the local health department. The head of such animal shall be shipped to the laboratory services division of the state department of environment, health and natural resources for rabies diagnosis.

(Code 1980, § 4-36)

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

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

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

## 14-48. Impoundment authorized.

**A.** Any animal which appears to be lost, stray or unwanted, or not wearing a currently valid rabies vaccination tag as required by state law or this article, or not under restraint in violation of this article, may be seized, impounded and confined in a humane manner in an animal shelter.

**B.** Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this article.

(Code 1980, § 4-38)

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

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

**B.** Such notice shall be prominently displayed at the animal shelter, and shall include the time and place of the taking of such animal.

(Code 1980, § 4-39)

## 14-50. Redemption of impounded animal by owner.

**A.** The owner or keeper of an animal impounded under this article may redeem the animal and regain possession thereof within five calendar days after notice of impoundment is posted as required by this article, by paying any applicable fees as determined by the local board of health.

**B.** No animal owner or keeper may be permitted to adopt his own animal under the provisions of this article, but he must comply with the provisions of this article In order to reclaim an animal that has been impounded pursuant to state law or this article.

**C.** The provisions of this section shall have no application with respect to animals surrendered by the owner or keeper to the local health department for immediate adoption or destruction as provided in Section 14-54.

(Code 1980, § 4-40)

## 14-51. Adoption of impounded animals.

**A.** Any person adopting a dog or cat from the animal shelter shall be required to sign an adoption/medical contract with the animal shelter in accordance with the provisions of this article.

**B.** All animals adopted from the animal shelter shall be required to be spayed or neutered as specified in this section. All dogs or cats over six months of age shall be spayed or neutered by a licensed veterinarian within 30 days of the date of the adoption/medical contract. All puppies or kittens under six months of age shall be spayed or neutered within 30 days after the animal becomes six months of age.

**C.** The board of health shall establish uniform fees for adoption.

**D.** An adopting party shall be required to pay any boarding or redemption fee for adopting a dog, and shall not be required to pay the normal applicable rabies license fee for the first year. The rabies fee is included in the adoption fee.

**E.** All adopting parties shall be required to pay the adoption fee provided for in subsection (c) of this section prior to possession of the animal. Payment of this fee shall entitle the adopting party to visit any participating veterinarian and receive for the adopted animals the medical services listed in the adoption/medical contract.

**F.** Payment for the services by the city, or the county when animal control services are contracted, to the local veterinarian shall be processed by the animal shelter upon receipt of a completed and signed adoption/medical contract, which will be provided by the animal shelter for each animal that is adopted.

**G.** An exchange may be acceptable for any animal that requires major medical treatment or dies from natural causes within 30 days from the date of adoption under the following conditions only:

1. Any major medical treatment must be certified as being necessary by a licensed veterinarian.
2. If the adopted animal dies during the 30 days following adoption, the adopting party must present satisfactory evidence (i.e., the carcass of the animal or a veterinarian's certification) of the date of the death of the animal.

**H.** The request for an exchange must be made within 30 days from the date of the adoption contract.

**I.** The adopting party must bring the animal to a licensed veterinarian in accordance with the provisions of Subsection B of this section within ten working days of the execution of the adoption contract.

(Code 1980, § 4-41)

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

**A.** If an impounded animal is not redeemed by the owner or keeper within the period prescribed in Section 14-50, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption to a responsible adult who is willing to comply with this article and with policies promulgated by the board of health.

**B.** No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to this article, except by special authorization of the local health director.

(Code 1980, § 4-42)

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

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

**B.** The rabies vaccination notice will be completed by the veterinarian and returned to the animal shelter.

**C.** Payment for rabies vaccination as provided in this section will be the responsibility of the person redeeming or adopting the animal.

(Code 1980, § 4-43)

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

**A.** Any animal surrendered by its owner to animal control may be immediately placed for adoption or humanely destroyed when:

1. The owner directs in writing that the animal be placed for adoption or humanely destroyed;
2. The owner affirmatively represents in writing that he is in fact the legal owner of the animal;
3. The owner agrees that he will indemnify and hold animal control harmless from any loss or damage it may sustain, including attorneys' fees, by reason of the destruction or placement for adoption of the animal; and
4. The owner transfers ownership of the animal to animal control and releases animal control from any and all future claims with respect to the animal.

**B.** Upon receiving these assurances, animal control may rely on such assurances and place the animal for adoption, or destroy the animal, at its discretion. The waiting periods provided in Sections 14-49 and 14-50 shall not apply to immediate adoption or destruction as provided in this section.

(Code 1980, § 4-44)

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

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

(Code 1980, § 4-45)

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

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

(Code 1980, § 4-46)

## 14-57. Duties of person injuring animal.

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

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

## 14-58. Keeping stray animals.

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

**B.** It shall be unlawful for any person to refuse to surrender any such stray animal to the local health director or animal control upon demand. Violation punishable as an infraction with fine up to $50.00 per G.S. 14-4(b).

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

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

**A.** *Dogs on nonresidential property.* It shall be unlawful to keep, maintain or use any dog in the city for the purpose of protecting any commercially or industrially used property, or person on such property, unless a permit for keeping, maintaining or using such dog shall have been obtained from the local health director in accordance with the provisions of this section and such permit shall remain unsuspended and unrevoked.

**B.** *Dogs on residential property.* It shall be unlawful to keep, maintain or use any patrol or sentry dog in the city for the purpose of protecting any residentially used property, or person on such property, unless a permit for keeping, maintaining or using such dog shall have been obtained from the local health director in accordance with the provisions of this section, and unless such permit shall remain unsuspended and unrevoked.

**C.** *Additional regulations.* The board of health shall promulgate regulations for the issuance of permits for security dogs and compliance with provisions of this article and applicable laws. The board of health may amend such regulations from time to time as deemed desirable for public health and welfare.

**D.** *Revocation of permit.* The local health director may revoke any permit if the person holding the permit refuses or fails to comply with this article, the regulations promulgated by the board of health, or any law governing the protection and keeping of animals.

(Code 1980, § 4-49)

## 14-60. Exception for commercial animal establishments.

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

(Code 1980, § 4-50)

## 14-61. Keeping nondomestic animals or dangerous animals.

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

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

## 14-62. Confinement of female dogs in heat.

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

(Code 1980, § 4-52)

## 14-63. Abandonment of dog or cat.

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

(Code 1980, § 4-53)

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

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

(Code 1980, § 4-54)

## 14-65. Interference with enforcement officers.

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

(Code 1980, § 4-55)

## 14-66. Penalties; additional remedies.

**A.** *Additional remedies.* In addition, enforcement of this article may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. 160A-175.

**B.** *Civil penalties.* In addition to and not in lieu of the criminal penalties and other sanctions provided in this article, a violation of this article may also subject the offender to the civil penalties set forth in this subsection.

1. Such civil penalties may be recovered by the city in a civil action in the nature of debt or may be collected in other amounts as prescribed in this section within the prescribed time following the issuance of notice for such violation.

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

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

## 14-67. Authority of police officers.

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

(Code 1980, § 4-57)

# CHAPTER 38. HEALTH AND SANITATION

## ARTICLE II. NUISANCES

### DIVISION 2. NOISE

#### 38-71. Generally.

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

(Code 1980, § 8-39)

#### 38-72. Specific prohibitions.

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

**A.** The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

**B.** The use of any gong or siren upon any vehicle, other than on police, fire or other emergency vehicles.

**C.** The playing of any radio, phonograph or other musical instrument in such a manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any persons in any dwelling, hotel or other type of residence. No speaker or amplifier of any radio, phonograph or other musical instrument on which music is played shall be located outside of any private or commercial public building or temporary structure, including tents, or inside such enclosed spaces so that the sound is directed primarily to the outside; except that this provision shall not apply to small amplifying systems located at these places used for placing orders for meals or merchandise so long as the amplifiers or speakers are not over four inches in diameter and do not use over six watts of electricity.

**D.** The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.

**E.** The use of any automobile, motorcycle, go-carts, mini bikes, dirt bikes and all terrain vehicles or other unlicensed toy or recreational vehicles or devices powered by an internal combustion engine, so loaded or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise is prohibited.

**F.** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

**G.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

**H.** The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

**I.** The erection (including excavation), demolition, alteration or repair of any building in a residential or business district, including the operation of construction equipment operated for such purposes, other than between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, except in the case of urgent necessity in the interest of public safety and then only with a permit from the City of Brevard Zoning Administrator or Code Enforcement Officer, which permit may be renewed for a period of three days or less while the emergency continues.

**J.** The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the school, institution of learning or court is in session, or within 150 feet of any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the street is a school, court or hospital street.

**K.** The creation of any excessive noise on Sundays on any street adjacent to any church, provided conspicuous signs are displayed in such streets adjacent to churches indicating that the street is a church street.

**L.** The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

**M.** The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.

**N.** The shouting and crying of peddlers, barkers, hawkers and vendors which disturb the quiet and peace of the neighborhood.

**O.** The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale of merchandise, except that this provision shall not apply to parades approved by the city council.

**P.** The use of any mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising or other purposes except where specific license is received from the police department.

**Q.** The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m.

**R.** The firing or discharging of a gun, squibs, crackers, gunpowder or other combustible substances in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the police department.

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

*Cross reference(s)—Animals and fowl, CHAPTER 14.*

### 38-72.1. Violations; exceptions.

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

**A.** *Violations.* In order to document and prove a prima facie violation of this noise ordinance:

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

a. By ten decibels, between the hours of 9:00 p.m. and 7:00 a.m.; or

b. By 20 decibels, between the hours of 7:00 a.m. and 9:00 p.m.

2. If, due to the nature of the alleged violation noise level, no determination of an ambient noise level is practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, then a violation shall have occurred if the alleged violation noise level exceeds:

a. 60 decibels between the hours of 9:00 p.m. and 7:00 a.m.; or

b. 70 decibels between the hours of 7:00 a.m. and 9:00 p.m.

3. If no decibel readings or comparison between ambient noise levels and alleged violation noise levels are practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the alleged violation is listed in section 38-72, and the violator does not voluntarily and promptly reduce the noise level when requested to do so by a law enforcement officer or code enforcement officer, so as to comply with the definitions in section 38-71, or if, having reduced the noise level to comply therewith but then within a 24-hour period again produces or allows to be produced noise at a level not in compliance with the definitions in section 38-71, the noise shall be a violation of the ordinance.

**B.** *Exceptions.* The following are excepted from this noise ordinance:

1. Any noise generated by an emergency vehicle, such as a fire truck, police car, an EMS vehicle or their sirens, or other noises generated by or at the behest of a governmental entity which is intended to immediately promote the public health, safety or welfare.

2. Any sporting event sanctioned by a school, any other government agency, or any civic group or club provided that in the latter instance, such event is properly permitted.

3. Noises caused by:

a. Lawn care equipment, agricultural equipment or construction equipment operated for intended and legitimate purposes between the hours of 7:00 a.m. and 9:00 p.m.;

b. Properly permitted events such as parades, fairs, circuses and other entertainment events;

c. Bells, chimes and similar devices which operate from a stationary location, which were in operation before the complainant's residency was established, and which operate for no longer than five minutes in any hour;

d. Emergency work reasonably necessary to safeguard the public safety to person or property;

e. Duly permitted electrical transformers and utility substations;

f. Traffic noises other than the unnecessary use of horns, radios or other sound amplifying or receiving equipment, intentional screeching of tires, intentional revving of motors, provided that such traffic noises emanate from a public street or right-of-way; and

g. Noises permitted pursuant to section 38-73.

**C.** *Regulations and measurement standards promulgated by the chief of police.* The chief of police may promulgate any regulations and sound level measurement standards consistent with this noise ordinance which, in his professional opinion, will aid in the enforcement hereof.

**D.** *Noises are public nuisances.* Nothing in this noise ordinance shall be construed in such manner as to prohibit the code enforcement officer, the city manager and/or the city council from following the procedure for abatement of a nuisance, enumerated in division 1 of this article, as an alternative or in addition to the prosecution of a violation of the noise ordinance as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

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

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

### 38-73. Permits for exceptions.

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

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

### 38-74—38-90. Reserved.

# CHAPTER 62. STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

## ARTICLE VI. PEDESTRIAN/BICYCLE PATHWAY

### 62-141. Reserved.

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

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

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

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

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

(Ord. No. 9-03, § 3, 6-6-03)

### 62-143. Regulated uses.

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

**A.** Motorized vehicles are strictly prohibited on all bikeways. Emergency vehicles and those maintenance vehicles specifically authorized by the city manager are exempted.

**B.** Cyclists and pedestrians using bikeways before dawn or after dusk shall be equipped with proper lights. Including a white light that is visible from 500 feet to the front, and a red or amber light that is visible from 500 feet to the rear. Pedestrians should use white lights visible 250 feet to the front, and wear light or reflective clothing.

**C.** Blocking of a bikeway by any user is strictly prohibited.

**D.** Possession and use of alcoholic beverages and/or drugs are strictly prohibited.

**E.** Littering is strictly prohibited.

**F.** Pets are permitted upon bikeways however they must be leashed at all times and the owner or responsible party must remove all animal waste.

**G.** Camping and campfires are strictly prohibited.

**H.** Smoking is strictly prohibited.

**I.** The cutting or damaging of any tree or plant is strictly prohibited unless specifically authorized by the city manager.

**J.** Horses and/or other equines are strictly prohibited on all bikeways.

(Ord. No. 9-03, § 4, 6-6-03)

### 62-144. Applicability of traffic regulations.

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

(Ord. No. 9-03, § 5, 6-6-03)

## 62-145. Shared facilities.

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

**A.** When using bike paths and bike trails, pedestrians shall walk as far to the right as practicable; shall walk no more than two abreast; and shall exercise due care. Bicyclists shall give an audible signal before passing a pedestrian on a bike path or trail.

**B.** Persons riding bicycles upon a bikeway shall ride single file except when passing another bicycle.

**C.** On and across bikeways upon which pedestrian traffic is also permitted bicycles shall at all times yield the right-of-way to pedestrians.

(Ord. No. 9-03, § 6, 6-6-03)

## 62-145—62-160. Reserved.

# CHAPTER 66. TRAFFIC

## ARTICLE I. IN GENERAL

### 66-13. Special events.

**A.** *Application of regulations.* This section shall apply to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of or that substantially hinders or prevents the normal flow of vehicular or pedestrian traffic on all or a portion of any city owned property, street, or other public right-of-way. Any such activity covered by this chapter shall hereafter be referred to as a "special event".

**B.** *Permit required.* No "special event" is permitted on any city owned property, street or other public right-of-way of the city unless a permit has been issued by the city manager; however, nothing in this section shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.

1. No parade of vehicles or march of pedestrians or animals or combination thereof upon the streets or sidewalks of the city shall be allowed except as approved by the city manager. All holders of permits granted and approved by the city manager pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the issuance of a special event permit.
2. Any person denied a special event permit under this section may appeal to the city council at the next regularly scheduled meeting.

**C.** *Permit application*. Applications for a "special event" permit authorized by this section that require the closure of a public street, sidewalk or other city facility shall be submitted to the city manager not less than 60 days before the parade or event is proposed to commence, excluding recognized holidays, on a form provided by the office of the city manager and shall contain the following information:

1. Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event.
2. Name, address, and telephone number of the individual contact person in charge of the event.
3. The proposed date and time period when the event will be conducted.
4. The estimated number of people expected to attend the event.
5. Sufficient proof of liability insurance in accordance with the city's standard requirements.
6. Any other information determined by the city manager to be necessary to insure compliance with these provisions.
7. A sketch map showing;
    a. The area where the event is to take place.
    b. Names of any streets to be closed or obstructed.
    c. Location of any barriers or traffic control devices that will be erected.
    d. Location of any concession stand, booth, or other temporary structures or facilities.
    e. Location of any proposed fences, stands, platforms, benches or bleachers.

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

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

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

**D.** *Permit revocation.* Upon violation of the terms of a permit issued under this section by the applicant or participants the city manager and/or the chief of police or his designee is authorized to revoke the permit and direct those participating to disperse.

**E.** *Staff review.* Upon receipt of the permit application, it shall be circulated to the chief of police, fire chief, public works director, and other appropriate persons for their comment. The city manager may require a conference on the application between the applicant and one or more department heads.

**F.** *Insurance requirement.* The city manager shall require as a condition precedent or subsequent to the issuance of the permit that the applicant obtain a comprehensive general liability insurance policy providing coverage that includes the entire area described in the permit for events requiring the closure of a public street, sidewalk or city facility. If such a policy is required, under the provisions of this section, the city shall be named as an additional insured on the policy. A certificate of insurance shall be provided to the city as proof of coverage. Such policy shall conform to the minimum coverage requirements as set forth by the city manager.

**G.** *Fees; costs incurred by the city.* If the city is requested to provide extraordinary services or equipment or the city manager determines that extraordinary services or equipment for reasons related to protection of the public health and safety, he/she may require the applicant to pay to the city a fee sufficient to reimburse it for the costs of any extraordinary services or equipment provided to the event unless sufficient funding has been included in the city budget as adopted by city council.

**H.** *Standards for issuance of permit.*

1. The city manager shall issue the permit authorizing the "special event" unless it is found that:
   a. Insufficient funding and/or resources necessary to provide extraordinary services or equipment for the event are not available; or
   b. The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the city; or
   c. The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege license; or
   d. The applicant is in violation of any city ordinance; or
   e. The applicant fails to obtain liability coverage and show proof of said insurance as required by the city; [or]
   f. The event will create a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property; or
   g. The event, if held at the time or at the location or along the route proposed will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or

h. The applicant has failed to comply with any of the provisions of the special events ordinance, including but not limited to payment of any required fees and costs; or

i. A special events permit has previously been applied for or issued for substantially the same location and time requested in the application.

2. In considering the matters listed above and the question of whether or not to issue the permit, the public safety and health shall be given paramount importance.

**I.** *Conditions upon issuance of permit.* If a permit is issued the city manager may attach any reasonable conditions that serve to promote the protection of the public safety and health. Any event held pursuant to a permit issued under this section shall be conducted within the applicable terms including any attached conditions.

**J.** *Right of appeal.* If the city manager denies or revokes a special event permit this action shall be final unless the applicant or permit holder files, within three working days, a written appeal with the city clerk. Such written appeal will be placed for consideration by city council at its next regularly scheduled meeting. The city council shall review the matter and its decision shall be final.

**K.** *Street closing.*

1. The city manager is authorized to permit the temporary closing of a street or other public right-of-way except as otherwise provided for in subsection (l) below if the provisions of the section are adequately complied with. Any temporary closing of a street or part thereof owned and/or maintained by the State of North Carolina shall require concurrence by the N.C. Department of Transportation.

   The city manager may only permit the temporary closing of any portion of U.S. Highway 64, US Highway 64 Business, U.S. Highway 276, SR 1349 (West Main Street) for city recognized special events. An event shall be considered to be city recognized upon the adoption of a resolution by city council making such designation. In order to qualify for recognition an event must have received a commitment of funding and/or resources from the city for any necessary public safety and traffic control measures prescribed by the city manager for the special event.

2. The city clerk shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place as soon as possible once a permit is issued.

**L.** *Temporary parking restrictions.* The chief of police, or his duly appointed representative, is authorized to prohibit, on a temporary basis, the parking of vehicles under the following circumstances:

1. Along permitted parade routes or on streets closed pursuant to the issuance of a special events permit for a period of two hours before any special event begins, during the entire event and up to one hour after the completion of the event.

**M.** *Permit for special events involving animals.* No special event in which animals are involved shall be conducted without a special permit from the city manager. The city manager shall require a bond in the amount of $50.00 (where five or less animals are involved) or $100.00 (where more than five animals are involved), which will provide that the person obtaining the special permit will be responsible for cleaning the city streets or property after the parade, exhibition, demonstration or experiment. All holders of special permits granted and approved by the city manger pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the behavior of such animals or issuance of such a special permit.

**N.** *Animals prohibited.* It shall be unlawful for any person to have or keep any animal at any event requiring the issuance of a special event permit except as otherwise provided within this section.

**O.** *Permit for special event involving the sale and consumption of alcoholic beverages.* No special event in which the sale and consumption of alcoholic beverages shall be conducted without a special permit from the city manager or the administrator, pursuant to CHAPTER 42 Article I of the Brevard City Code.

1. Special event permit holders shall submit an operational plan demonstrating the procedures and practices that will be employed to assure such compliance with all applicable regulations as set forth in Brevard City Code and the North Carolina General Statutes. Such plan shall specifically address the prevention of the sales of alcohol to minors, and the methods that will be employed to contain the consumption of alcohol within the designated area.
2. For special events, the sales and consumption of malt beverages and unfortified wine, but no other alcoholic beverages, shall be as authorized on the permit; provided, however, that no such sales shall be allowed earlier or later than during the city permitted timeframe of the festival.
3. The administrator shall have the discretion to withhold approval of permits for the sales and consumption of alcohol associated with future special events, when the permit holder has failed to demonstrate compliance with all applicable laws of the City of Brevard and the State of North Carolina pertaining to the sales and consumption of alcoholic beverages in the operation of previous events.

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

*Cross reference(s)—Animals and fowl, CHAPTER 14.*

## 66-14—66-40. Reserved.

# CHAPTER 77. PARKS AND RECREATION

## ARTICLE I. BRACKEN PRESERVE MANAGEMENT RULES

### 77-6. Hunting and fishing.

**A.** A person shall not hunt or fish within the Bracken Preserve, nor shall a person discharge a firearm or bow and arrow within the Bracken Preserve.

**B.** A person who has a valid North Carolina Hunting License may carry a firearm or bow through the Bracken Preserve for the purpose of accessing game lands within Pisgah National Forest; provided, however, that a firearm shall be emptied of any ammunition and breached (if applicable) and bow shall have no arrows or bolts in place, with arrows or bolts in a quiver.

**C.** A person who has a valid North Carolina Hunting License may transport game that has been legally harvested within Pisgah National Forest, through the Bracken Preserve. However a person shall not field dress harvested game within the Bracken Preserve, nor shall a person dispose of or discard the remains of any game within the Bracken Preserve.

**D.** Any individual legally carrying a concealed handgun as identified in North Carolina General Statutes, unless prohibition is specifically identified or is allowed by North Carolina General Statutes, is allowed to carry firearms concealed in the Bracken Preserve.

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

### 77-7. Animals at large.

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

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

### 77-10. Horses.

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

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

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

**A.** A person shall not remove, destroy, cut down, scar, mutilate, take, gather or injure any tree, flower, artifact, fern, shrub, rock or other plant or mineral, or forage or collect plants, animals, minerals or other artifacts within the Bracken Preserve. Park management activities performed in accordance with an approved forest management plan and consistent with the conservation easement are exempt from this rule.

**B.** Groups organized for educational or research purposes may, after first having obtained a temporary use or special event permit, forage or collect plants, animals, minerals or other artifacts from the Bracken Preserve.

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

### 77-29. Enforcement and administration.

**A.** The city manager may appoint park managers, who may enact such administrative rules and procedures, and issue such orders as are necessary to effectuate the purpose of this article, the conservation easement, the forest management plan, and protect the general health, safety and welfare of the public.

**B.** Park managers and sworn law enforcement may enforce this article.

**C.** Violation of any rule in this article shall be punishable as a misdemeanor or infraction with fine up to $500.00 per G.S. 14-4 and subject to further civil penalties as set forth in the North Carolina General Statutes.

**D.** Pursuant to G.S. 160A-286, as otherwise modified by state or federal law, the City of Brevard Police Department shall be the primary law enforcement agency in command within and upon the Bracken Preserve.

**E.** Except as modified by state or federal law, the City of Brevard Fire Department shall be the primary fire and rescue agency in command within and upon the Bracken Preserve.

**F.** For violation of any rule in this article, the City of Brevard may withdraw the right of a person or persons to remain on or within the Bracken Preserve.

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

### 77-30—77-39. Reserved.

## ARTICLE II. SKATE PARK

### 77-42. Duties of users.

**A.** While engaged in hazardous recreational activities, irrespective of where such activities occur, a participant is responsible for doing all of the following:

1. Acting within the limits of his or her ability and the purpose and design of the equipment used.
2. Maintaining control of his or her person and the equipment used.
3. Refraining from acting in any manner that may cause or contribute to death or injury of himself or herself or other persons.

**B.** Any person using or riding a skateboard in a skate park or in any parks and recreation facility in which a skate park is located shall wear a protective helmet with the chin strap securely fastened under the chin, and protective elbow pads and knee pads.

**C.** Failure to comply with the requirement of 77-42.A constitutes negligence.

**D.** It shall be unlawful for the parent or guardian of any minor child to knowingly permit such minor child to use the skate park in violation of this section.

**E.** No person shall have any dog, cat or other pet on or near the skate park unless the animal is on a leash and under the control of the owner or some other person.

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

### 77-46. Enforcement and administration.

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

**B.** Park managers and sworn law enforcement may enforce this article.

**C.** Violation of any rule in this article shall be punishable as a misdemeanor or infraction with fine up to $500.00 per G.S. 14-4 and subject to further civil penalties as set forth in the North Carolina General Statutes.

**D.** For violation of any rule in this article, the City of Brevard may withdraw the right of a person or persons to remain on or within the skate park.

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

## ARTICLE IV. BREVARD DOG PARK RULES AND CONDUCT

### 77-51. Scope.

**A.** This article regulates the use of the City of Brevard Dog Park, within the Brevard Sports Complex, which is hereby established as a City of Brevard public park. This article hereby establishes the rules of conduct and is in keeping with the city's efforts to ensure safe and responsible use of recreational parks and public amenities.

**B.** Any person who participates in dog park use and activities does so at their own risk and assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself or other persons or property that result from these activities.

**C.** Sworn law enforcement officers shall enforce the safety regulations in this article as a part of their day-to-day duties. Nothing in the provision of this article shall prevent a sworn law enforcement officer from exercising judgment and issuing warnings to offenders as deemed appropriate.

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

### 77-52. Reserved.

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

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

### 77-53. Regulations: Negligence.

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

**A.** The City of Brevard Dog Park is open from dawn to dusk as published in the most recent sunrise/sunset table of the North Carolina Wildlife Resources Commission. No person, except City of Brevard employees and authorized persons, shall be allowed within the park facility between closing and opening hours.

**B.** No animals other than dogs shall be brought into the fenced area of the dog park.

**C.** All dogs shall be leashed until safely inside the dog park fenced area and returned to a leash prior to exiting.

**D.** Dog owners or keepers shall remain in the fenced area while their dogs are using the dog park. Owners or keepers shall be in view of their dogs and have voice control over them at all times.

**E.** Aggressive dogs and female dogs in heat are prohibited for entering the dog park. Owners or keepers shall leash and remove dogs at the first sign of aggressive behavior.

**F.** Owners or keepers shall dispose of waste properly in the designated on-site containers.

**G.** Bite-sized training treats are allowed, but food in bowls, long-lasting chews and toys other than balls and frisbees are prohibited.

**H.** Smoking, and eating are prohibited.

**I.** The maximum limit shall be two dogs per person, per visit.

**J.** Puppies less than four months old are prohibited.

**K.** Owners or keepers shall be liable for any injury or damage caused by their dog.

**L.** All dog bites shall be reported to the Brevard Police Department and dog owners or keepers shall be required to assist investigations of incidents of aggression or biting by providing appropriate identification and information to the police and to all dog owners who are involved.

**M.** Children accompanying dog owners or keepers inside shall be strictly supervised and at least 12 years old. Spectators should remain outside the fenced area.

**N.** Sick dogs are prohibited from entering the City of Brevard Dog Park.

**O.** Dogs shall be vaccinated for rabies and DHLPP and shall display current identification and rabies tag on the dog's collar at all times.

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

## 77-54. Regulations: Grossly reckless.

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

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