CITY CODE OF ORDINANCES

PART II: CODE OF ORDINANCES

CHAPTER 42. OFFENSES AND MISCELLANEOUS PROVISIONS

State law reference(s)—Criminal law, G.S. ch. 14.

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42-1. Advertisements.

A. *Posting generally.* It shall be unlawful for any person to post any bills, signs or advertisements on any building, fence or other property belonging to another without the consent of the owner thereof. Such consent shall be secured in writing, and such written consent shall be exhibited by the person having the consent to any police officer of the city on demand.

B. *Posting on poles.* It shall be unlawful for any person to post any bills, posters, signs or advertisements on any telegraph, telephone, electric light or other pole along any of the streets of the city; provided that this section shall not be construed to include street signs placed on the poles by the city for designating names of streets. Each sign, poster, bill or advertisement posted in violation of this subsection shall constitute a separate offense.

C. *Placing in or on motor vehicles.* It shall be unlawful for any person to distribute advertising or printed matter of any kind by placing the advertising or printed matter in or on a motor vehicle that is parked on any street or other public place.

D. *Scattering handbills.* It shall be unlawful for any person to throw or cast any handbills, posters, circulars, programs, cards, placards, pamphlets or other printed, typed, stenciled or written matter, or other advertising matter, on any street, avenue or other public place, or in any yard or stoop in the city; provided this shall not apply to magazines and newspapers that are sold and distributed by carriers.

E. *Defacing or destroying advertisements or notices.* It shall be unlawful for any person to tear, deface, mutilate, take down or destroy any advertisement, legal, public or private notice legally posted for public view within the city, except for the owner of the private property or the officials in charge of the public property upon which it may be posted. (Code 1980, §§ 10-7—10-11)

Cross reference(s)—Advertising on or in vehicles for hire restricted, § 78-1.

42-2. Unauthorized use of police or fire signals.

It shall be unlawful for any person, without special authority from the police department or fire department, to carry or use any whistle, bell, horn or siren similar in appearance or sound to the whistles, horns or sirens used by the police department or fire department. (Code 1980, § 10-12)

42-3. Consumption or possession of alcoholic beverages in public place.

A. It shall be unlawful for any person to consume, sell, serve or drink alcoholic beverages of any kind, or to publicly display alcoholic beverages if the container has been opened or the seal broken, on any property owned, leased or controlled by the city, and any public street, alley, sidewalk or parking lot within the city limits, whether the area is open to vehicular traffic or has been closed to vehicular traffic in connection with a parade or other special event, unless a valid permit is obtained, pursuant to the subsections below:

1. The city manager (or designee thereof, hereafter, "the administrator") is hereby authorized to allow the sale and consumption of alcoholic beverages during a special event that has been permitted pursuant to CHAPTER 66 of Brevard City Code, provided the permittee presents the City with the appropriate permit from the North Carolina Alcoholic Beverage Control Commission.
2. The city manager or the administrator is hereby authorized to issue a social district participation permit that would allow the sale of alcoholic beverages for consumption in a designated social district pursuant to CHAPTER 43 of the Brevard City Code.

3. The city manager or the administrator is hereby authorized to issue a sidewalk dining permit that would allow the sale and consumption of alcohol on public sidewalks pursuant to CHAPTER 46 Article II of the Brevard City Code.
4. This permit shall only be valid for a designated area.
5. The permit holder shall be solely responsible for assuring 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. Permit holders who demonstrate failure to assure compliance with such laws shall be subject to immediate permit revocation, and may be subject to such civil and criminal penalties as are set forth in Brevard City Code and the North Carolina General Statutes.
6. In the issuance of a permit, the administrator shall have the authority to impose reasonable conditions to protect the public health, safety welfare.
7. Chief of police, police department event commander on-duty, and the administrator shall have authority to immediately cause alcohol sales and consumption activities to cease and desist upon a determination that the permit holder has failed to maintain compliance with the terms and conditions of the permit or the requirements of Brevard City Code, or that continuation of alcohol sales and consumption at the event would pose an immediate threat to the public health, safety and welfare.

B. *Penalty.* Violation punishable as a misdemeanor or infraction with fine up to $500 per G.S. 14-4.

(Code 1980, § 10-13; Ord. No. 6-08, § 1, 4-7-08; Ord. No. 2012-04, § 1, 2-20-12; Ord. No. 2017-16, § 2, 8-22-17, Ord. No. 2021-02 , § 1(Exh. A), 1-25-21; Ord. No. 2023-36, § 1(Exh. A), 8-21-23; Ord. No. 2026-15, § 1(Exh. A), 5-426)

Cross reference(s)—Sale of intoxicating beverages by taxicab drivers, § 78-37.

State law reference(s)—Similar provisions, G.S. 18B-300(c).

Effective on: 5/4/2026

42-4. Reserved.

Editor's note(s)—Ord. No. 6-04, § 1, adopted March 15, 2004, repealed § 42-4 in its entirety. Former § 42-4 pertained to the sale of beer or wine on Sunday and derived from Code 1980, § 10-14.

42-5. Trespass on posted property; loitering generally.

A. It shall be unlawful for any person to loiter in or upon, or to drive any vehicle upon, any private property on any day between the hours of 12:00 midnight and 6:00 a.m. when signs have been posted by the owner or his employee or agent prohibiting such acts.

B. It shall be unlawful for any person to loiter in or upon, or to drive any vehicle upon, any private business property parking lot or area at any time such business is not open to the public, when signs have been posted by the owner or his employee or agent stating that such loitering or driving of vehicles is prohibited at or during certain designated times.

C. It shall be unlawful for any person to habitually loaf or loiter on the streets, or to congregate on the streets or sidewalks of the city in such a way as to obstruct or interfere with the free passage into or out of any public business or private property.

D. It shall be the duty of the police officer who observes a violation of this section first to warn the offender, and upon his failure to heed the warning to arrest him.

~~D.~~E. Violation of this section punishable as a misdemeanor or infraction with fine up to $500 per G.S. 14-4

(Code 1980, § 10-15)

42-6. Loitering for purpose of engaging in drug-related activity.

A. *Violations.* It shall be unlawful for a person to loiter, remain or wander about in a public place in a manner and under circumstances manifesting the purpose of engaging in a violation of any subdivision of the North Carolina Controlled Substances Act, G.S. 90-89 et seq. A prima facie showing of a violation of this section is made by proof that a person, while in a public place, loiters and commits any of the following acts or courses of conduct:

1. Repeatedly beckons to, stops or attempts to stop passersby, or repeatedly attempts to engage passersby in conversation;
2. Repeatedly stops or attempts to stop motor vehicles;
3. Repeatedly interferes with the free passage of motor vehicles or other persons;
4. Associates at such location with one or more persons who are known unlawful drug users, possessors and sellers;
5. Behaves in such a manner as to raise a reasonable suspicion that he is about to engage in, or is engaged in, an unlawful drug-related activity;
6. Repeatedly passes to or receives from passersby, whether on foot or in a vehicle, money or objects;
7. Takes flight upon the approach or appearance of a police officer;
8. Is at a location frequented by persons who use, possess or sell drugs; or
9. Uses or associates with the user of any vehicle which is registered to a known unlawful drug user, possessor or seller, or is known to be or have been involved in drug-related activities.

B. *Penalty.* ~~A violation of any provision of this section is a misdemeanor and shall subject the offender to punishment in accordance with Section 1-8.~~Violation punishable as a misdemeanor or infraction with fine up to $500 per G.S. 14-4

(Code 1980, § 10-15.1; 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.

Effective on: 9/5/2023

42-7. Assemblages obstructing street.

A. It shall be unlawful for persons to assemble or collect and stand so as to obstruct any sidewalk, street or other public way, except an authorized parade. All persons so collecting and standing shall disperse and move upon the demand of any police officer.

B. Penalty. Violation punishable as a misdemeanor or infraction with fine up to $500 per G.S. 14-4

(Code 1980, § 10-17)

Cross reference(s)—Streets, sidewalks and other public ways, CHAPTER 62.

42-8. Refusal to pay taxicab fare.

It shall be unlawful for any person to refuse to pay the legal fare of any taxicab after having hired the taxicab, and it shall be unlawful for any person to hire any vehicle defined in this section with the intent to defraud the person from whom it is hired of the value of such service.

(Code 1980, § 10-18)

Cross reference(s)—Taxicabs, § 78-31 et seq.

42-9. Damaging fire hydrant, traffic signal, or police or fire alarm system.

It shall be unlawful for any person willfully or negligently to damage or interfere with any fire hydrant, police or fire alarm box, traffic signal or other property used in the city's police or fire alarm systems.

(Code 1980, § 10-19)

State law reference(s)—Damaging fire alarm systems, G.S. 14-286.

42-10. Damaging bridges or culverts; obstruction of drains.

It shall be unlawful for any person to damage or displace any part of any bridge, culvert, ditch and drain or other property belonging to or used by the city, or place any obstruction in any culvert, ditch or drain so as to prevent or impede the free flow of water through the culvert, ditch or drain. (Code 1980, § 10-20)

42-11. Damaging streetlights, signs or other fixtures on streets or sidewalks.

It shall be unlawful for any person to damage, tamper with, remove or paint upon or deface any sign, sign post, streetlight, traffic signal or bulletin board or other municipal property upon the streets and sidewalks, except employees of the city in performance of their official duties. (Code 1980, § 10-21)

42-12. Interfering with students.

It shall be unlawful for any person wantonly to molest, disturb or interfere with any student of any school while such student is en route to or from any school, church or other place where such student has a right to be. (Code 1980, § 10-22)

42-13. Shooting firearms.

It shall be unlawful for any person other than duly sworn peace officers to fire or shoot any gun or pistol or other firearm within the city except in duly licensed shooting galleries; provided, this section shall not be construed to prevent the protection of one's self, family or property from harmful or hostile attack or injury. This section shall not apply to the discharge of blank ammunition for ceremonial purposes.

(Code 1980, § 10-23)

State law reference(s)—Authority to regulate, G.S. 160A-189.

42-14. Carrying concealed weapon on or near city property.

A. It shall be unlawful for any person, willfully and intentionally, to carry concealed about his person any Bowie knife, dirk, dagger, switchblade, slingshot, loaded cane, metallic knuckles, razor, stun gun, pistol, gun or other deadly weapon of any kind, when in, on or about the city-owned property listed in 42-14.D.

B. This section shall not apply to:

1. Any ordinary pocket knife carried in the closed position. As used in this section, the term "ordinary pocket knife" means a small knife, designed for carrying in a pocket or purse, which has its cutting edge and point entirely enclosed by its handle, and that may not be opened by a throwing, explosive or spring action.
2. Law enforcement officers and military personnel when acting in the line of duty, and full-time law enforcement officers when off duty, provided that they are otherwise authorized to carry such weapon.
3. 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 Statute.

C. Provided that the weapon is not a firearm, it shall be a defense to prosecution under this section that the defendant was engaged in, or on the way to or from, an activity in which he lawfully used the weapon, he possessed the weapon specifically for that lawful use, and he did not use, threaten or attempt to use the weapon for any illegal purpose. The defendant shall have the burden of proof with regard to such defense.

D. This section will apply to and with respect to the following properties only:

1. The interior of all city-owned buildings, namely, city hall, the city ~~volunteer~~ fire department building, police department headquarters, ~~the~~ public works buildings, the wastewater treatment buildings, the water treatment buildings, ~~and~~ the French Broad community center, Jimmy Harris Railroad Depot Park, and the Mary C Jenkins Community Center when properly posted with signs prohibiting concealed weapons. In this event, those with the legal right to carry concealed weapons may lock their firearms in their vehicles on city-owned parking lots.
2. The confines of the following city-owned public recreation facilities, including, but not limited to, buildings located thereon: Hap Simpson Park, Franklin Park, Silversteen Park, the Brevard Dog Park, Jimmy Harris Railroad Depot Park, the City Sports Complex, Silversteen Skate Park, Tannery property trails, Brevard Community Garden and "Clemson" Park located at the corner of Main and Caldwell Streets.
3. City and county athletic fields when city or county scheduled events are taking place.

E. This section will not apply to: City owned greenways, bike/hike paths, Bracken Preserve and Estatoe Trail, and athletic fields when no scheduled event is taking place.

F. This section will not apply to the section of the bike/hike path that runs through city and county athletic fields, even when scheduled events are taking place.

G. Any person violating the provisions of this section shall be guilty of a misdemeanor with a fine up to $500 per G.S. 14-4~~.~~

(Code 1980, § 10-23.1; Ord. No. 2013-18, § 1, 12-16-13)

42-15. Firing projectiles or arrows.

It shall be unlawful for any person to shoot or project any stone, rock, shot or other hard substance by mean of a slingshot, bean shooter, air rifle, pop gun, bow or other similar contrivance; provided that archery shooting may be engaged in on such grounds as may be set aside and approved therefor by the city council.

(Code 1980, § 10-24)

State law reference(s)—Authority to regulate pellet guns, G.S. 160A-190.

42-16. Public art.

A. It shall be unlawful for any person to install art in publicly-visible spaces without receiving city council approval. City council shall issue a resolution stating its approval or denial of the installation request based on adopted policies.

B. Public art includes but is not limited to murals, sculptures, memorials, and community art designed and/or built by an artist. Public art may be attached to a building or be a free-standing installation.

C. For the purposes of this section, a publicly-visible space is defined as publicly- or privately-owned, nonresidential property that is visible from public streets and pedestrian walkways.

~~C.~~**D.** Installed artwork may be subject to abatement pursuant to Section 38-35.

(Ord. No. 2021-06 , § 1(Exh. A), 2-22-21; Ord. No. 2021-48 , § 2(Exh. B), 11-15-21)

42-17. Hours of Operation

A. ~~A.~~All city-owned property shall be open only from 6 AM to 10 PM unless otherwise posted.

B. The city manager may appoint agents 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.

C. Designated agents and sworn law enforcement may enforce this article.

D. An administrative encampment policy which aims to connect residents of encampments who may be experiencing homelessness with housing and other resources shall govern City interaction with such campers. At the expiration of the notification period as defined in the encampment policy, campers shall be subject to the remaining provisions of this ordinance.

E. Failure to vacate city-owned property ~~at the expiration of the notice period defined in 42-18.C~~ *when properly notified by an appointed agent* may be enforced as a misdemeanor *or infraction with fine up to $500* per G.S. 14-4.

(Ord. No. 2023-16, § 1, 5-1-23)

Effective on: 5/1/2023

~~42-18. Enforcement and Administration~~

~~**A.** The city manager may appoint agents 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.** Designated agents and sworn law enforcement may enforce this article.~~

~~**C.** An administrative encampment policy which aims to connect residents of encampments who may be experiencing homelessness with housing and other resources shall govern City interaction with such campers. At the expiration of the notification period as defined in the encampment policy, campers shall be subject to the remaining provisions of this ordinance.~~

~~**D.** Failure to vacate city-owned property at the expiration of the notice period defined in 42-18.C may be enforced as a misdemeanor per G.S. 14-4.~~

~~(Ord. No. 2023-16, § 1, 5-1-23)~~

~~Effective on: 5/1/2023~~

42-~~19~~18—42-40. Reserved.