CITY OF NEW BERN BOARD OF ALDERMEN MEETING JULY 28, 2020 – 6:00 P.M. CITY HALL COURTROOM 300 POLLOCK STREET

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Aster. Pledge of Allegiance.
- 2. Roll Call.

Consent Agenda

- 3. Consider Adopting a Resolution to Call for a Public Hearing on an Amendment to Appendix A of the Land Use Ordinance for Short-Term Rentals.
- 4. Approve Minutes.

- 5. Conduct a Public Hearing and Consider Adopting an Ordinance to Annex Tax Parcel ID 8-029-13001 in West New Bern.
- 6. Presentation of Radio System Upgrade.
- 7. Consider Adopting a Resolution Approving the Sale of 1705 Wilmington Street.
- 8. Consider Adopting a Resolution to Extend Downtown Dining Street Closures through October 10, 2020.
- 9. Consider Adopting a Resolution to Approve a Lease with Promise Place for 408 Hancock Street.
- 10. Consider Adopting an Amendment to Section 6.14 "Dangerous or Potentially Dangerous Dog" of Chapter 6 of the Code of Ordinances.
- 11. Consider Adopting an Amendment to Article III of Chapter 26 of the Code of Ordinances Relative to Noise.
- 12. Appointment(s).
- 13. Attorney's Report.
- 14. City Manager's Report.
- 15. New Business.
- 16. Closed Session.
- 17. Adjourn.

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

Memo to: Mayor and Board of Aldermen

From: Foster Hughes, Acting City Manager

Date: July 23, 2020

Re: June 28, 2020 Agenda Explanations

 Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Aster. Pledge of Allegiance.

Roll Call.

Consent Agenda

 Consider Adopting a Resolution to Call for a Public Hearing on an Amendment to Appendix A of the Land Use Ordinance Amendment for Short-Term Rentals.

In the fall of 2019, the Planning and Zoning Board ("P&Z") established a subcommittee to review short-term rentals. The subcommittee consisted of P&Z members, citizens, and members of the Governing Board. The committee conducted biweekly meetings to discuss and develop recommendations, which were unanimously approved by P&Z at their July 7, 2020 meeting. It is requested a public hearing be scheduled for August 11, 2020 to consider an amendment to the Land Use ordinance to incorporate the recommended changes. A memo from Jeff Ruggieri, Director of Development Services, is attached.

4. Approve Minutes.

Draft minutes from the July 14, 2020 meeting are provided for review and approval.

Conduct a Public Hearing and Consider Adopting an Ordinance to Annex Tax Parcel ID 8-029-13001 in West New Bern.

(Ward 5) Clifford Parson, on behalf of Weyerhaeuser NR Company, requested Tax Parcel 8-209-13001 be annexed into the City. The parcel is an approximate 11.02-acre tract of land located in West New Bern (formerly Craven 30). A public hearing was called for this date and properly noticed. A memo from Mr. Ruggieri is attached.

6. Presentation of Radio System Upgrade.

In 2011, the City purchased a radio system that has been used citywide since that time. With the system being 8 years old, it is in need of a major upgrade. Each year that the upgrade is delayed, there is risk of significant or catastrophic failure to the system. Support for the radio consoles ceased in November 2019. The cost to upgrade the consoles is \$227,377.15, and the cost for upgrading the radios to the current platform is \$1,276,518.02. There is an additional cost of \$64,104.44 to purchase a minimum of 25 portable radios. The total cost of the project would be split between several departments. A memo from Chief Toussaint Summers is attached.

Consider Adopting a Resolution Approving the Sale of 1705 Wilmington Street.

(Ward 5) After receiving an offer of \$3,580 from Ashley Boyd for the purchase of 1705 Wilmington Street, the offer was advertised, but no additional bids received. The tax value of the small, vacant 0.09-acre lot is \$7,160, and the offer represents 50% of the value. The property was acquired by the City in October of 2008. The bidder is aware of the current zoning and states she has spoken extensively with Development Services about the potential uses and restrictions associated with the property. She has indicated a desire to potentially place a tiny house on the property. A memo from Brenda Blanco, City Clerk, is attached along with the tax card and pictures of the property.

Consider Adopting a Resolution to Extend Downtown Dining Street Closures through October 10, 2020.

(Ward 1) On May 12, 2020, the Board adopted a resolution permitting closures of one side of the 200-300 blocks of Middle Street, the 300 block of Pollock Street, and the 200 block of Craven Street from 5 p.m. until 11 p.m. for the purpose of accommodating street cafes on specified dates between May 22, 2020 and August 1, 2020. Lynne Harakal, Executive Director of Swiss Bear, has requested that the street closures be extended through October 10, 2020. The proposed resolution allows for continued weekend closures from August 7th through October 10th. A memo from Foster Hughes, Director of Parks and Recreation, is attached.

Consider Adopting a Resolution to Approve a Lease with Promise Place for 408 Hancock Street.

(Ward 1) As discussed at the July 14, 2020 meeting, Promise Place contacted the City regarding its need to store shipments of items that will be donated to citizens. A lease just shy of 12 months is proposed for the City-owned property located at 408 Hancock Street at a rate of \$1.00 for the term of the lease. A memo from Matt Montanye, Director of Public Works, is attached.

Consider Adopting an Amendment to Section 6.14 "Dangerous or Potentially Dangerous Dog" of Chapter 6 of the Code of Ordinances.

The current ordinance pertaining to dangerous dogs provides that a veterinarian licensed to practice in the State of North Carolina and having a clinic in Craven County shall determine a dog's status as dangerous or potentially dangerous. A separate group of persons would be appointed to an appellate board to hear any appeals of that determination. It is proposed that the ordinance be revised to allow the Chief of Police or his designee to make the determination. The appellate board would continue to exist and consist of three members who are either a veterinarian licensed in the State of North Carolina, a professional dog obedience trainer with 5 years' of service, or a registered veterinary technician. A memo from Chief Summers is attached.

Consider Adopting an Amendment to Article III of Chapter 26 of the Code of Ordinances Relative to Noise.

The existing noise ordinance has been updated and modernized to include the use of sound meters for amplified sound and music. These changes will be applicable citywide. Scott Davis, City Attorney, will answer any questions about the changes.

- 12. Appointment(s).
- Attorney's Report.
- City Manager's Report.
- New Business.
- Closed Session.
- 17. Adjourn.

AGENDA ITEM COVER SHEET



Agenda Item Title:

Consider Adopting a Resolution to Call for a Public Hearing on an Amendment to Appendix A, of the Land Use Ordinance for Short-Term Rentals.

Date of Meeting: 7/28/2	020	Ward # if applicable: N/A			
Department: Developmen	nt Services	Person Submitting Item: Jeff Ruggieri, Director of Development Services Date of Public Hearing: 8/11/2020			
Call for Public Hearing	g: ⊠Yes□No				
Explanation of Item:	Consider Adop	ting a Resolution to Call for a Public Hearing on			
	an Amendment Short-Term Rei	to Appendix A, of the Land Use Ordinance for ntals.			
Actions Needed by Board:	Adopt a Resolution				
Backup Attached:	Memo, Resolu	tion, Proposed Draft Ordinance with Revisions			
Is item time sensitive?					
Will there be advocates	opponents at t	he meeting? Yes No			
Cost of Agenda Item:					
If this requires an expension and certified by the Fin		een budgeted and are funds available ☐Yes ☐ No			

Additional Notes:



New Bern, NC 28563 (252)639-7587

MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director of Development Services

DATE: July 16, 2020

SUBJECT: Consider Adopting a Resolution to Call for a Public Hearing on an

Amendment to Appendix A of the Land Use Ordinance Amendment for

Short-Term Rentals.

Background

At their October 22nd, 2019 meeting the Board of Aldermen established the Short-Term Rental Committee. The committee was charged with the development of an ordinance regulating Short-Term Rentals. The committee conducted bi-monthly meetings between December 5th, 2019 and March 12th, 2020 to create the attached ordinance amendments. The Planning and Zoning Board met on July 7, 2020 to hear the amendments and voted unanimously to approve.

Members of the STR Committee: Anne Schout (Chair), Raymond Layton, Don Black. Sonny Aluzzo, Sabrina Bengel, Johnnie R. Kinsey, Jeffrey Odham, Nancy Stallings, Lori Ann Prill and Nancy Hollows

To regulate the Short-Term Rentals the Committee proposes the following:

Definitions:

Bed and Breakfast (tourist) home: A commercial use (i) that takes place within a singlefamily detached dwelling, (ii) that consists of a single dwelling unit together with the rental of not more than eight (8) guest rooms, on a daily or weekly basis, (iii) where the bed and breakfast operation is conducted by persons who reside on the property."

<u>Designated Responsible Party:</u> The owner or any person eighteen (18) years of age or older designated by the owner, tasked with responding to requests for complaints, and other problems relating to or emanating from a short-term rental. An owner may retain a private property management company to serve as the designated responsible party.

<u>Short-term rental:</u> The rental of a dwelling unit occupied by a designated responsible party for fewer than thirty (30) days by a person who has a permanent residence to which he/she intends to return. See Section 15-163. Particular Uses.

<u>Short-term rental, partial house:</u> A dwelling unit occupied by a designated responsible party that consists of the rental of not more than two guest rooms for fewer than thirty (30) days.

<u>Short-term rental</u>, <u>whole house</u>: The rental of an entire dwelling unit to a group operating as a single housekeeping unit for residential purposes for fewer than thirty (30) days.

Change to Section 15-146. "Table of permissible uses." of Article X. "Permissible Uses" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern:

Use 1.310 "Short-term rental, partial house"

Use 1.320 "Short-term rental, whole house,"

Use 1.520 is amended to read Bed and Breakfast (tourist) home.

Recommendation

Consider Adopting a Resolution to Call for a Public Hearing on August 11, 2020 for an Amendment to Appendix A of the Land Use Ordinance Amendment for Short-Term Rentals

Please contact Jeff Ruggieri at 639-7587 should you have any questions or need additional information.

RESOLUTION

WHEREAS, the Board of Aldermen of the City of New Bern desires to conduct a public hearing to receive public comments on amending Appendix A of the City of New Bern Land Use Ordinance for short-term rentals; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That a public hearing will be conducted by the Board of Aldermen of the City of New Bern on August 11, 2020, in the City Hall Courtroom at 6:00 p.m., or as soon thereafter as the matter may be reached, on amending Appendix A, of the City of New Bern Land Use Ordinance for short-term rentals. All interested parties will be given an opportunity to be heard:

ADOPTED THIS 28th DAY OF JULY 2020.

	DANA E. OUTLAW, MAYOR
BRENDA E. BLANCO, CITY CLERK	_

STRIKE-THROUGH VERSION

AN ORDINANCE TO AMEND APPENDIX A "LAND USE" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Planning and Zoning Board of the City of New Bern recommends that certain amendments be made to Appendix A "Land Use" of the Code of Ordinances of the City of New Bern; and

WHEREAS, the City's development services staff further recommends approval of said proposed amendments; and

WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect said revisions to Appendix A "Land Use" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

- <u>SECTION 1</u>. That Article II "Definitions" of Appendix A "Land Use" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by deleting subsection (7) in its entirety and inserting in its stead the following:
- "(7) Bed and Breakfast (tourist) home: A commercial use (i) that takes place within a single-family detached dwelling, (ii) that consists of a single dwelling unit together with the rental of not more than eight (8) guest rooms, on a daily or weekly basis, (iii) where the bed and breakfast operation is conducted by persons who reside on the property."
- <u>SECTION 2</u>. That Article II "Definitions" of Appendix A "Land Use" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by adding subsections 28.5, 98.1, 98.2, and 98.3 as follows:
- "(28.5) Designated Responsible Party: The owner or any person eighteen (18) years of age or older designated by the owner, tasked with responding to requests for complaints, and other problems relating to or emanating from a short-term rental. There shall only be one designated responsible party for each short-term rental. (Moved to Registration Section). An owner may retain a private property management company to serve as the designated responsible party.
- (98.1) Short-term rental: The rental of a dwelling unit occupied by a designated responsible party for fewer than thirty (30) days by a person who has a permanent residence to which he/she intends to return. See Section 15-163. Particular Uses.
- (98.2) Short-term rental, partial house: A dwelling unit occupied by a designated responsible party that consists of the rental of not more than two guest rooms for fewer than thirty

- (30) days. The property owner shall register each establishment annually with the city of New Bern. (Moved to Other Requirements Section).
- (98.3) Short-term rental, whole house: The rental of an entire dwelling unit to a group operating as a single housekeeping unit for residential purposes for fewer than thirty (30) days."
- SECTION 3. That Section 15-146. "Table of permissible uses." of Article X. "Permissible Uses" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern be and the same is hereby by adding Use 1.310 "Short-term rental, partial house" and Use 1.320 "Short-term rental, whole house," and amending Use 1.520 as follows:

"Section 15-146. Table of permissible uses.

Uses	Description	A- 5	A- 5F	R- 20	R- 15	R- 10S	R- 10	R- 10A	R- 8	R- 8S	R- 6	R- 6S	C- 5	C- 5A		C-2	C-3	C-4	I- 1	I- 2	C- 6
[1.000]	Residential																				
1.310	Short-term rental, partial house	Z	Z	Z	Z	Z	Z	Z	Z	Z	<u>z</u>	Z	Z	Z	<u>z</u>	Z	Z	Z	<u>s</u>	<u>s</u>	Z
1.320	Short-term rental, whole house	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	<u>z</u>	Z	<u>z</u>	Z	Z	<u>s</u>	<u>s</u>	Z
1.520	Bed and breakfast (tourist) home and other temporary residences renting rooms for relatively short periods of time						<u>\$</u> *		<u>S*</u>		<u>S*</u>		Z	Z	<u>SZ</u>	<u>SZ</u>	Z	<u>\$Z</u>			Z

SECTION 4. That Section 15-163. "Particular uses." of Article XI. "Supplementary Use Regulations" of Appendix A "Land Use" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by adding subsection (h) "Short-term rentals" as follows:

"(h) Short-term rentals. Short-term rental uses shall be permitted in all zoning districts in the City of New Bern under the following restrictions:

(1) Short-term rentals are permitted in the I1 and I2 zoning districts with a valid SUP granting residential uses upon the issuance of a special use permit allowing a residential use.

(2) Registration.

- a. All short-term rentals shall be registered with the City of New Bern on an annual basis. All registration permits will expire on July 1 of each year.
- b. A registration number shall be assigned to each registered shortterm rental, which shall be clearly noted along with any advertisement for such rental.
- c. Active registrations shall not expire provided that existing permit holders renew registration between June 1 and June 30 of each year to maintain their permitted short-term rental. Existing permit holders who fail to renew registrations during the thirty (30) day registration period will lose all rights to operate a short-term rental upon expiration and will be required to re-register on a first come first serve basis.
- d. <u>Registration does not vest the premises or property owner with any rights.</u> Registration terminates upon the transfer of the property.
- e. Only one (1) registration may be issued per property, either partial-house, whole-house, or bed and breakfast home, at any given time.
- f. A short-term rental permit shall be revoked upon the <u>issuance of a</u> second final notice of violation of the city code and/or criminal convictions related to the parcel by an owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling three hundred sixty-five-day period. For any registration that is terminated due to zoning city code violations and/or criminal convictions as provided herein, the property <u>owner in question will shall</u> be ineligible for registration for a period of three (3) years from the date of the second verified <u>city code</u> violation <u>and/or criminal conviction</u>. The decision of the zoning administrator may be appealed to the board of adjustment pursuant to <u>under city code</u> section 15-91 of the Land Use Ordinance.

$(\underline{3}4)$ Off-street parking shall be determined as follows:

- a. Partial House: two spaces for the owner(s) plus one off-street space per room rented.; rental spaces shall not be stacked Parking spaces shall not be stacked or otherwise located such that any vehicle is denied immediate street access by another. The parking standards under section 15-349 Satellite Parking shall be permitted. Satellite parking as authorized by code section 15-349 shall be permitted provided that the lease, license or easement is made available during the entire term of the registration period.
- b. Whole House: three spaces. <u>Parking spaces may be stacked.</u> The parking standards under section 15-349 Satellite Parking shall be permitted. <u>Satellite parking as</u>

authorized by city code section 15-349 shall be permitted provided that the lease, license or easement is made available during the entire term of the registration period.

(45) Separation requirements

- a. Partial House: No separation requirements.
- b. Whole House: Each whole-house rental shall meet the minimum separation distance of two hundred fifty (250) feet from any other whole-house rental or any properly permitted bed and breakfast (tourist) home as measured from parcel line to parcel line.

(5 6) Other requirements

- a. Each short-term rental shall have one (1) designated responsible party.
- b. The use provisions of this section are not subject to variance by the board of adjustment.
- c. Any property owner registering a whole-house rental shall not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.
 - d. The definition of "family" shall not apply to short-term rentals.
- e. Any short-term rental existing as of the effective date of this ordinance that cannot satisfy the registration requirements established herein shall be considered an existing non-conforming situation subject to the provisions of Article VIII. All such non-conforming short-term rentals shall be subject to the registration provisions containing in this section, but shall not be denied registration as a result of an existing non-conforming situation.
- SECTION 5. That Sub-Section 15-342(g). "Table of parking requirements." of Article XVIII. "Parking" of Appendix A "Land Use" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by adding sub Uses 1.310 and 1.320, and amending Use 1.520 as follows:

"(g) Table of parking requirements

Use	Parking Requirement
1.100	2 spaces plus one per room rented (See Section 15-150 - Accessory uses).
1.200	2 spaces for each dwelling unit, except that one-bedroom units require only one space.
1.300	1 space for each one-bedroom unit, 2 spaces for each two-bedroom unit, 2½ spaces for each unit with three or more bedrooms, plus 1 additional space for every 4 units in the development. Multifamily units developed or sponsored by a public or nonprofit agency for limited-income families or the elderly require only 1 space per unit.

Use	Parking Requirement
1.310	2 spaces for the Owner(s) plus 1 space per room rented.
1.320	3 spaces.
1.400	3 spaces for every 5 beds except for uses exclusively serving children under 16, in which case 1 space for every 3 beds shall be required.
1.510	1 space for each room to be rented, plus additional space for restaurant or other facilities.
1.520	2 spaces for the owner(s) plus 1 space for each bedroom rented.

SECTION 6. Short-term rentals shall be registered within ninety (90) days of the effective date of this ordinance.

DAY OF	, 2020.	
DAN	A F OUTLAW MAYOR	
		DAY OF, 2020. DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET



Agenda Item Title:Conduct a Public Hearing and Consider Adopting an Ordinance to annex property identified as Tax Parcel ID 8-209-13001 owned by Weyerhaeuser NR Company.

Date of Meeting: 07/28/2	2020	Ward # if applicable: Ward 5		
Department: Developme	nt Services	Person Submitting Item: Jeff Ruggieri, Director of Development Services		
Call for Public Hearing	g: ⊠Yes□No	Date of Public Hearing: 7/28/2020		
Explanation of Item:	to consider ann 13001 owned b	Iderman is requested to conduct a Public Hearing exation to the City of New Bern Parcel ID 8-209-y Weyerhaeuser NR Company, consisting of		
Actions Needed by Board:	11.02 +/- acres, located in West New Bern. Conduct a Public Hearing and Adopt Ordinance.			
Backup Attached:	Memo, Ordinance, Annexation map			
Is item time sensitive?	□Yes ⊠No			
Will there be advocates	opponents at t	the meeting? Yes No		
Cost of Agenda Item:				
If this requires an expe		been budgeted and are funds available		

Additional Notes:



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252)639-7581

MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director Development Services

DATE: July 16, 2020

SUBJECT: Conduct a Public Hearing and Consider Adopting an Ordinance to annex

property identified as Tax Parcel ID 8-209-13001 owned by Weyerhaeuser

NR Company.

Background

The Board of Alderman is requested to conduct a public hearing on July 28, 2020 at 6:00 p.m., or as soon thereafter as possible, to consider a request by property owner; Weyerhaeuser NR Company, seeking annexation to the City of New Bern Tax Parcel ID 8-209-13001 consisting of 11.02 +/- acres, which said parcel is located in West New Bern.

Recommendation

Conduct a Public Hearing and Consider Adopting an Ordinance for the annexation request by property owner; Weyerhaeuser NR Company, for Craven County Tax Parcel ID 8-209-13001.

Please contact Jeff Ruggieri at 639-7587 should you have any questions or need additional information.

Prepared by:

Michael Scott Davis DAVIS HARTMAN WRIGHT PLLC 209 Pollock Street New Bern, NC 28560

AN ORDINANCE ANNEXING TO THE CITY OF NEW BERN PROPERTY OF WEYERHAEUSER NR COMPANY CONSISTING OF 11.02 ACRES, MORE OR LESS, LOCATED SOUTH OF NC HIGHWAY 43 AND ATLANTIC AND EAST CAROLINA RAILROAD IN NUMBER EIGHT (8) TOWNSHIP

THAT WHEREAS, Weyerhaeuser NR Company filed a petition requesting the annexation to the City of New Bern of property it owns, which is more particularly described on Exhibit A attached hereto and incorporated herein by reference, consisting of 11.02 acres, more or less, which said parcel is a portion of Craven County parcel identification number 8-209-13001 lying south of NC Highway 43 and Atlantic and East Carolina Railroad in Number Eight (8) Township, Craven County, North Carolina, the boundaries of which are illustrated on the annexation map prepared by City of New Bern Development Services staff attached hereto as Exhibit B, and incorporated herein by reference; and

WHEREAS, said petition was referred to the City Clerk for an investigation as to the sufficiency thereof; and

WHEREAS, the City Clerk certified the sufficiency of the petition in writing to the Board of Aldermen; and

WHEREAS, the Board of Aldermen called for a public hearing on the question of annexation of said territory; and

WHEREAS, pursuant thereto, notice of a public hearing to be held at 6:00 p.m. on July 28, 2020, in the City Hall Courtroom was duly caused to be published as required by law in the Sun Journal, a newspaper having general circulation in the City; and

WHEREAS, on July 28, 2020, at 6:00 p.m., a public hearing on the question of annexation of the subject area was held by the Board of Aldermen of the City of New Bern, at

which time all interested parties were given an opportunity to be heard; and

WHEREAS, it was then determined by the Board of Aldermen that the petition filed met the requirements of the General Statutes of North Carolina, and that the area described in the petition should be annexed.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the subject petition meets the requirements of §160A-31 of the General Statutes of North Carolina.

Section 2. That the property owned by Weyerhaeuser NR Company, the boundaries of which are more particularly described on Exhibit A attached hereto and incorporated herein by reference, consisting of 11.02 acres, more or less, which said parcel is a portion of Craven County parcel identification number 8-209-13001 lying south of NC Highway 43 and Atlantic and East Carolina Railroad in Number Eight (8) Township, Craven County, North Carolina, be and the same is hereby annexed to the City of New Bern. A survey of the property being annexed appears of record in Plat Cabinet at Slide of the Craven County Registry.

Section 3. That the effective date of annexation shall be midnight on July 28, 2020.

Section 4. That the area to be annexed be and the same is hereby made a part of Ward 4 of the City of New Bern.

Section 5. That this ordinance, together with a plat reflecting the area being annexed, shall be recorded forthwith in the Office of the Register of Deeds of Craven County.

ADOPTED THIS 28th DAY OF JULY, 2020.

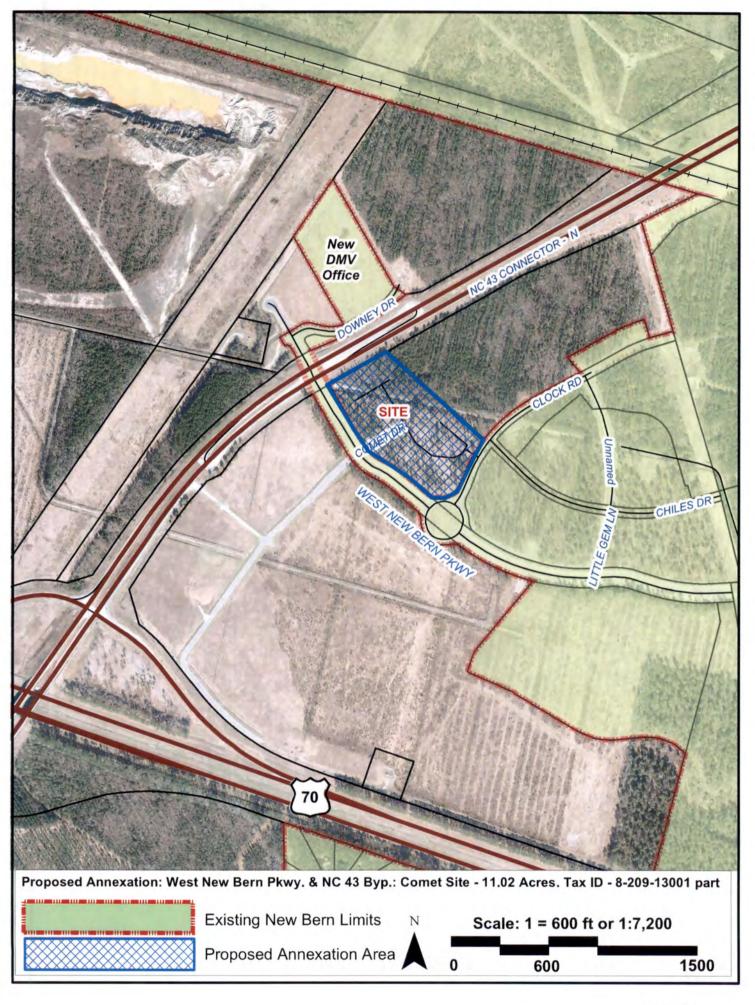
BRENDA E. BLANCO, CITY CLERK

DANA E, OUTLAW, MAYOR

EXHIBIT A

Being a portion of that certain tract of land being in Township 8, Craven County, City of New Bern, North Carolina, said tract being the a portion of the property described in Deed Book 2687 Pages 346 & 339 and Map Book H Page 113 G&H of the Craven County Register of Deeds and being more fully described as follows:

Commencing at an iron rod found, said rod labeled POB and being on the intersection of the northeastern right of way of West Newbern Parkway (120' R/W Public) and the southern right of way of NC Hwy 43 (R/W Varies) said rod also being North 17°05'41" West a distance of 242.49 feet (ground distance) from a rebar with a brass disc labeled WNB-2 having NC Grid NAD 83(2011) coordinates of North 508053.53 feet and East 2559980.41 feet, said disc also being South 32°25'29" East a distance of 922.62 feet (ground distance) from a rebar with a brass disc labeled WNB-1 with NC Grid NAD 83(2011) coordinates of North 508832.21 feet and East 2559485.77 feet (for a grid tie to NCGS Voltage see the aforementioned map); said iron rod being the Point of Beginning. Thence from the Point of Beginning; and along the aforementioned right of way of NC Hwy 43 North 60°45'02" East a distance 52.75 feet to a right of way disk; thence continuing with said right of way North 60°37'18" East a distance of 431,49 feet to an iron rod set (5/8" rebar); thence leaving said right of way South 43°22'16" East a distance of 791.76 feet to an iron rod found (5/8" rebar) on the northern right of way of Clock Road (61' Public R/W) Mb I Page 146G on a curve to the left; thence along the arc of said curve IRF to IRF a distance of 159.97 feet said curve having a radius of 954.50 feet, a central angle of 09°36'09" and a chord bearing and distance of South 32°54'44" West 159.78 feet to said IRF; thence continuing with said right of way along the arc of a curve to the left a distance of 71.76 feet, said curve having a radius of 417.50 feet, a central angle of 09°50'51" and a chord bearing and distance of South 23°11'14" West a distance of 71.67 feet to an IRF at the beginning of a curve to the left; thence continuing with said Clock Road along the arc of said curve a distance of 105.02 feet, said curve having a radius of 884.50 feet, a central angle of 06°48'10" and a chord bearing and distance of South 21°39'53" West a distance of 104.95 feet to an IRF at the beginning of a curve to the right; thence along the arc of said curve to the right IRF to IRF a distance of 113.80 feet, said curve having a radius of 98.50 feet, a central angle of 66°11'40", and a chord bearing and distance of South 58°09'48" West a distance of 107.57 feet to said IRF at the beginning of a curve to the left; thence along the arc of said curve a distance of 34.36 feet. said curve having a radius of 150.00 feet, a central angle of 13°07'29" and a chord bearing and distance of South 84°41'53" West 34.29 feet to an IRF at the beginning of a curve to the right on the northern right of way of West New Bern Parkway; thence along the arc of said curve a distance of 80.61 feet, said curve having a radius of 90.00 feet, a central angle of 51°19'04" and a chord bearing and distance of North 76°12'19" West 77.94 feet to an IRF; thence continuing along said right of way North 50°32'47"West a distance of 206.28 feet to an IRF at the beginning of a curve to the left; thence along the arc of said curve a distance of 142.16 feet, said curve having a radius of 545.00 feet, a central angle of 14°56'44", and a chord bearing and distance of North 58°01'09" West a distance of 141.76 feet to an IRF at the beginning of a curve to the right; thence along the arc of said curve a distance of 162.46 feet, said curve having a radius of 264.57 feet, a central angle of 35°10'59" and a chord bearing and distance of North 47°54'01" West 159.92 feet to an IRF; thence North 30°18'32" West a distance of 421.18 feet to the Point of Beginning. Containing 480,053 Sq. Ft. or 11.02 acres, all as shown on a map titled "Boundary Survey Comet Apartment Site" dated July 01, 2020.



AGENDA ITEM COVER SHEET



Agenda Item Title:

Presentation on Citywide Radio Upgrade Project

Date of Meeting: July 2	8, 2020	Ward # if applicable: N/A				
Department: POLICE		Person Submitting Item: Captain Morrison-Brown / Chief Summers				
Call for Public Hearing	g: □Yes⊠No	Date of Public Hearing:				
Explanation of Item:	2011. Current r	ern purchased current City-Wide radio system in adio consoles are no longer supported as of 0. Proposal to upgrade entire radio system to P25 ds.				
Actions Needed by Board:	Board approval is requested.					
Backup Attached:	Memorandum	with Presentation				
Is item time sensitive?	⊠Yes □No					
		he meeting? □Yes ⊠ No				
Cost of Agenda Item: \$	1,276,518.02					
If this requires an expe and certified by the Fir		een budgeted and are funds available □Yes ⊠ No				

Additional Notes: Captain Morrison-Brown will present City-Wide Radio Upgrade project. Director Mary Hogan will present financing options on the City-Wide Radio Upgrade project.



Toussaint E. Summers, Jr.

P.O. Box 1129, New Bern, NC 28563-1129 (252) 672-4100

Police and Community come together here.

TO:

Mayor and Board of Alderman

FROM:

Toussaint E. Suriners, Jr., Chief of Police

SUBJECT:

City-Wide Radio System Upgrade FY20-21

DATE:

July 10, 2020

Background

The City's radio system is over eight (8) years old and therefore due for a major upgrade of technology. Each year that we do not upgrade, the City increases the risk of a significant or catastrophic failure to the system. The upgrade would include two-parts: 1) Symphony Workstations and 2) Replacing Current System to Phase 2 System with Redundant Virtualized Control Points.

Phase 1 – Upgrading existing consoles to 5-Symphony Premier Workstations

- Console network equipment and installation services with training
- The cost of the upgrade is \$227.377.15.

Phase 2 - Upgrade Master V Simulcast System to Phase 2

- Upgrade existing VIDA Core to Latest SR10A.XX Platform, Upgrade Master V Site 1 & 2 to Simulate Cast, FCC Licensing feeds, Replace Microwave System, etc.
- Estimated cost of the upgrade is \$1,276,518.02

Suggest total price of project to be split between several departments within the City. There is an additional cost of \$64,104.44 to purchase a minimum of 25 portable radios with the new system.

Recommendation

It is recommended that the Board of Alderman approve the City-Wide Radio Upgrade project.

City of New Bern Radio System Upgrade

NEW BERN

1

Overview

- Purchased 2011
- Installed in 2012
- · 2 Site P25 Phase 1 Simulcast System
- Portable Outdoor Coverage Greater 98% Within the City of New Bern
- Multiple Microsoft Windows Products Are No Longer Supported
- Current Maestro Consoles No Longer Supported (Nov. 2019)
- Not Compatible with The Most Up to Date P25 Technology and Features

NEW BERN

Proposal

- · Upgrade to Symphony Consoles
- Upgrade Existing VIDA Core to SR10A.XX VM Server (latest version available).
- Upgrade Existing Master V Simulcast System to Master V Ethernet Based Simulcast.
- Current coax lines, antennas and combiners will be reused

NEW BERN

3

Benefits

- Linear Modulation Reduces Simulcast Overlap Noise (Garbled Audio)
- Doubles System Call Handling Capabilities
- Supports GPS Location Services**
- · Lower on-going maintenance cost
- VPN Remote Access Improves Maintenance Response Time
- All Microsoft Software products will be at the latest revision

NEW BERN

Budgetary Pricing - Upgrade

- Total: \$1,276,518.02
- Upgrade Existing VIDA CORE to Latest SR10A.XX Platform.
- Site 1 & 2: 8 Channel 800 MHz MastR V Simulcast Site 1&2 Upgrade.
- · FCC Licensing Fees for 800 MHz

NEW BERN

5

Budgetary Pricing - Upgrade

- · Replace Microwave System
- Installation, Project Management,
 Engineering, Permits, Acceptance Testing &
 Documentation Services
- L3Harris System Spares
- Old System Removal

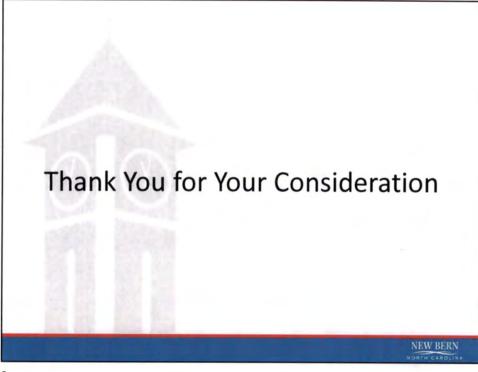
NEW BERN



7

Budgetary Pricing - Consoles

- Total: \$227,377.15 (funded by 911)
- Five Symphony Premier Bundle Dispatch Workstations
- Console Network Equipment
- · Console Installation Services
- Dispatcher Symphony Console Training



AGENDA ITEM COVER SHEET



Agenda Item Title:Consider Adopting a Resolution to Sale 1705 Wilmington Street

Date of Meeting: 7/28/20	020	Ward # if applicable: 5			
Department: City Clerk		Person Submitting Item: Brenda Blanco Date of Public Hearing: N/A			
Call for Public Hearing	g: □Yes⊠No				
Explanation of Item:	upset bid proces	adopted a resolution on 6/23/20 to initiate the ss, the bid of \$3,580 was advertised. No were received. The Board is asked to consider property.			
Actions Needed by Board:	Consider adopting resolution approving the sale				
Backup Attached:	I I I I I I I I I I I I I I I I I I I	on, quit-claim deed, offer to purchase, map, property, and tax property card			
Is item time sensitive?	□Yes ⊠No				
Will there be advocates	s/opponents at t	he meeting? □Yes ☒ No			
Cost of Agenda Item:					
If this requires an expe and certified by the Fin		een budgeted and are funds available ☐Yes ☐ No			

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMO TO: Mayor and Board of Aldermen

FROM: Brenda Blanco, City Clerk

DATE: July 15, 2020

SUBJECT: Sale of 1705 Wilmington Street

On June 23, 2020, the Board adopted a resolution initiating the upset bid process for 1705 Wilmington Street after receiving a bid of \$3,580. The offer was advertised, but no additional bids were received.

The tax value of the vacant 0.09-acre lot is \$7,160, and the offer represents 50% of the value. The property was acquired by the City in October of 2008. The bidder is aware of the current zoning and states she has spoken extensively with Development Services about the potential uses and restrictions (housing size, etc.) associated with the property.

/beb

RESOLUTION

THAT WHEREAS, the City of New Bern has received an offer to purchase a parcel of property owned by the City identified as 1705 Wilmington Street, and being more particularly described herein; and

WHEREAS, the Board of Aldermen is authorized to sell the property pursuant to North Carolina General Statute §160A-269; and

WHEREAS, the offer to purchase was advertised as required by said statute; and

WHEREAS, the offer to purchase was in the sum of \$3,580,00 by Ashley Boyd; that no increased bids were received; and

WHEREAS, the Board of Aldermen deems it advisable and in the best interest of the City to sell the subject property to the successful bidder and to convey the said property by quitclaim deed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the last and highest bid of Ashley Boyd in the sum of \$3,580,00 for said parcel identified as 1705 Wilmington Street, and being more particularly described herein, be and the same is hereby accepted, and the Mayor and the City Clerk be and they are hereby authorized and directed to execute a quitclaim deed to the purchaser for the said property.

Section 2. That a copy of said quitclaim deed is attached hereto and incorporated herein by reference, and the original deed shall be delivered to said purchaser once the same has been executed on behalf of the City, upon payment of the purchase price.

Section 3. That the subject property is more particularly described as follows:

All that certain lot or parcel of land lying and being situate in Number Eight (8)

Township, Craven County, North Carolina, and being more particularly described as follows:

Lot Number Ninety-Two (92) in Sunny Side, according to a plot of Sunny Side recorded in Map Book 1 at Page 13 in the Office of the Register of Deeds of Craven County, NC, and known as Revision of Sunny-Side.

ADOPTED THIS 28th DAY OF JULY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Prepared by and return to:

Michael Scott Davis DAVIS HARTMAN WRIGHT PLLC 209 Pollock Street New Bern, NC 28560

Tax Parcel No. 8-015-212 Revenue Stamps: \$0.00

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

QUITCLAIM DEED

THIS QUITCLAIM DEED, made this 28th day of July, 2020, by and between the CITY OF NEW BERN, a municipal corporation of the State of North Carolina ("Grantor"); to ASHLEY BOYD, whose mailing address is 410 Nordhoff Street, New Bern, North Carolina 28560, ("Grantee");

WITNESSETH:

That said Grantor for and in consideration of the sum of TEN DOLLARS (\$10,00) and other good and valuable consideration to Grantor paid by the Grantee, the receipt of which is hereby acknowledged, has remised and released, and by these presents does remise, release and forever quitclaim unto the Grantee, Grantee's heirs and assigns, the following described property, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

The property herein conveyed does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the above described lot or parcel of land and all privileges and appurtenances thereunto belonging to the Grantee, Grantee's heirs and assigns, free and discharged

from all right, title, claim or interest of the said Grantor or anyone claiming by, through or under the Grantor.

IN TESTIMONY WHEREOF, the **CITY OF NEW BERN** has caused this instrument to be executed as its act and deed by its Mayor, attested by its City Clerk, and its seal to be hereunto affixed, all by the authority of its Board of Aldermen, as of the day and year first above written.

CITY OF NEW BERN

(SEAL)	
By	DANA E. OUTLAW, MAYOR
ATTEST:	
BRENDA E. BLANCO, CITY CLERK	

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

Ι,	, Notary Public in and for said County and State, do day of July, 2020, before me personally appeared DANA E
	im personally acquainted, who, being by me duly sworn, says that he is
municipal corporation desc common seal of said munic common seal; that the name	NDA E. BLANCO is the City Clerk for the City of New Bern, the ribed in and which executed the foregoing instrument; that he knows the cipal corporation; that the seal affixed to the foregoing instrument is said e of the municipal corporation was subscribed thereto by the said Mayor was affixed, all by order of the Board of Aldermen of said municipal
corporation; and that the sai	id instrument is the act and deed of said municipal corporation.
WITNESS my hand	d and official seal this the day of July, 2020.
	Notary Public
My Commission Expires:	

EXHIBIT A

All that certain lot or parcel of land lying and being situate in Number Eight (8) Township, Craven County, North Carolina, and being more particularly described as follows:

Lot Number Ninety-Two (92) in Sunny Side, according to a plot of Sunny Side recorded in Map Book 1 at Page 13 in the Office of the Register of Deeds of Craven County, NC, and known as Revision of Sunny-Side.

Being also that same property conveyed to the City of New Bern by deeds recorded November 3, 2008 appearing of record in Book 2769 at Page 495 and Book 2769 at Page 499 of the Craven County Registry.

Subject to restrictive covenants and easements of record.

CITY	4 9 20 1 16 1	MANY	CARRIED PARTY P
	A WIND	1. (1)	INTY

upon acceptance of said offer, agrees to sell as the "Property"), upon the following terms	, as Buyer, hereby offers to purchase and CITY OF NEW BERN, as Seller, and convey, all of that plot, piece or parcel of land described below (hereafter referred to and conditions:
1. REAL PROPERTY: Located in or reparticularly described as: Street Address: 1705 WI Min 970Y Subdivision Name:	near the City of New Bern, Craven County, North Carolina, being known as and more
Tax Parcel ID No.: 8-015-212	3580.00
Plat Reference:	
Being all of that property more particularly	described in Deed Book 2769. Page 0499 in the Craven County Registry.
2. PURCHASE PRICE: The purchase pr	rice is \$ 7 18 0 and shall be paid as follows:
(a) \$ 350.00 80.00, EARNES held by Seller until the sale is closed.	T MONEY DEPOSIT with this offer by \(\subseteq \cappa \) cash \(\subseteq \) bank check \(\subseteq \) certified check to be at which time it will be credited to Buyer, or until this contract is otherwise properly accepted, then all earnest monies shall be refunded to Buyer. In the event of breach of

(a) This contract is not subject to Buyer obtaining financing.

remedies available to Seller for such breach.

(b) The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.

this contract by Seller, all earnest monies shall be refunded to Buyer upon Buyer's request In the event of breach of this contract by Buyer, then all earnest monies shall be forfeited to Seller upon Seller's request, but such forfeiture shall not affect any other

- (c) The Property is being sold subject to all liens and encumbrances of record, if any.
- (d) Other than as provided herein, the Property is being conveyed "as is".
- (e) This contract is subject to the provisions of G.S. §160A-269. Buyer acknowledges that this contract is subject to certain notice provisions and the rights in others to submit upset bids in accordance therewith.
- (f) Title shall be delivered at Closing by QUITCLAIM DEED
- 4. SPECIAL ASSESSMENTS: Seller makes no warranty or representation as to any pending or confirmed governmental special assessments for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, or pending or confirmed owners' association special assessments. Buyer shall take title subject to all pending assessments, if any.
- 5. PAYMENT OF TAXES: Any ad valorem taxes to which the Property is subject shall be paid in their entirety by Buyer.
- 6. EXPENSES: Buyer shall be responsible for all costs with respect to any title search, title insurance, recording of the deed and its legal fees. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for any excise tax (revenue stamps) required by law.
- EVIDENCE OF TITLE: Not Applicable.
- 8. CLOSING: Closing shall be defined as the date and time of recording of the deed. All parties agree to execute any and all documents and papers necessary in connection with Closing and transfer of title within thirty (30) days of the granting of final approval of the sale by the City of New Bern's Board of Aldermen pursuant to G.S. §160A-269. The deed is to be made to
- POSSESSION: Unless otherwise provided herein, possession shall be delivered at Closing.
- 10. PROPERTY INSPECTION, APPRAISAL, INVESTIGATION:
- (a) This contract is not subject to inspection, appraisal or investigation, as the Property is being bought "as is." Seller makes no representation as to water, sewer, conditions, title, access, or fitness for any intended use.
- (b) CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION.
- 11. RIGHT OF ENTRY, RESTORATION AND INDEMNITY: Buyer and Buyer's agents and contractors shall not have the right to enter upon the Property for any purpose without advance written permission of the Seller. If such permission is given, Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property. This indemnity shall survive this contract and any termination hereof.
- 12. OTHER PROVISIONS AND CONDITIONS: (ITEMIZE ALL ADDENDA TO THIS CONTRACT AND ATTACH HERETO.): None.

Buyer Initials Seller Initials

- 13. RISK OF LOSS: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller.
- 14. ASSIGNMENTS: This contract may not be assigned without the written consent of all parties, but if assigned by agreement, then this contract shall be binding on the assignee and the assignee's heirs, successors or assigns (as the case may be).
- 15. PARTIES: This contract shall be binding upon and shall inure to the benefit of the parties, i.e., Buyer and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.
- 16. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.
- 17. ENTIRE AGREEMENT: This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.
- 18. NOTICE AND EXECUTION: Any notice or communication to be given to a party herein may be given to the party or to such party's agent. This offer shall become a binding contract (the "Effective Date") when signed by both Buyer and Seller and such signing is communicated to the offering party. This contract is executed under seal in signed multiple originals, all of which together constitute one and the same instrument, with a signed original being retained by each party, and the parties adopt the word "SEAL" beside their signatures below.

BUYER:	SELLER	
(If an individual)	CITY OF NEW BERN	
Name: AShIty BOYO Date: JUNE 8, 2020 (06/08/2020) Address: 410 Noy ahoff Street NEW Bern NC 128560 Phone: 252-571-9245	By: Its: Date:	(SEAL)
By: (SEAL) Its: Address: Phone:		

Buyer Initials Seller Initials

Craven County Geographic Information System

Craven County does NOT warrant the information shown on this page and should be used ONLY for tax assessment purposes.

This report was created by Craven County GIS reporting services on 6/8/2020 1:24:55 PM

Parcel ID: 8-015 -212

Owner: NEW BERN-CITY OF

Mailing Address: PO BOX 1129 NEW BERN NC 28563

Property Address: 1705 WILMINGTON ST

Description: 92 REVISION OF SUNNY-SIDE

Lot Description: Subdivision:

Assessed Acreage: 0.094 Calculated Acreage: 0.090

Deed Reference: 2769-0499 Recorded Date: 11 3 2008

Recorded Survey :

Estate Number:

Land Value: \$6,000 Tax Exempt: Yes

Improvement Value: \$1,160 # of Improvements:

Total Value : \$7,160

City Name : NEW BERN Fire tax District :

Drainage District : Special District :

Land use: VACANT-RESIDENTIAL TRACT

Recent Sales Information

SALE DATE Sellers Name Buyers Name Sale Type Sale Price

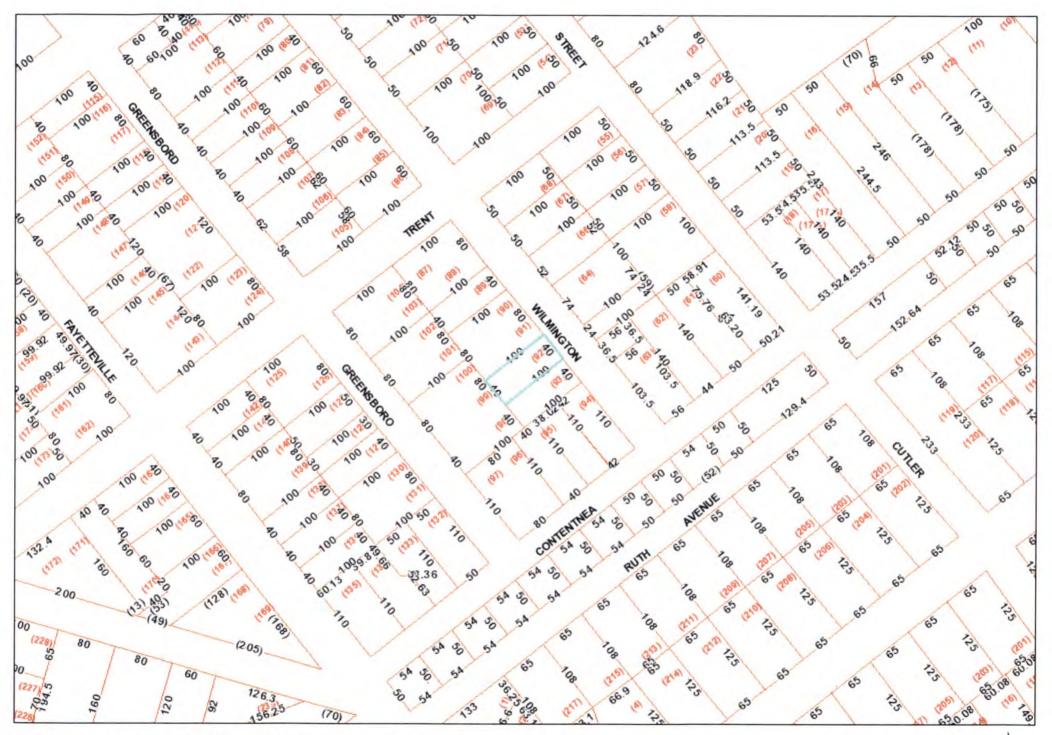
11/3/2008 SMITH, GEORGE HENRY NEW BERN-CITY OF STRAIGHT \$0

& VERION TRANSFER

List of Improvements to Site

Type of Structure Year Built Base Area 1st Floor Value

STORAGE BUILDING-DETACHED-RES 1984 216 \$1,160



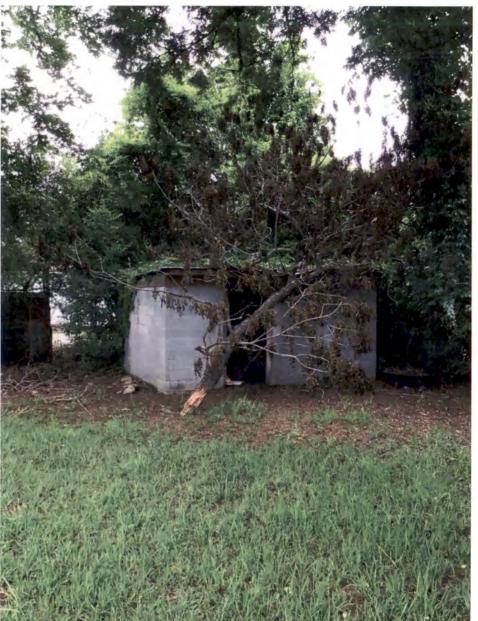














Ownership: City of New Bern
Size: 0.09 Acres each
Zoning: R-6 Residential
Land Use: Vacant Residential Lots
Flood Hazard: Shaded X (500 yr)

Tax Values

Land: \$6,000 each

Buildings: \$0

Total: \$6,000 each
Tax ID: 8-015 -107 & 212

1 inch = 50 feet 0 20 40 80 Feet



AGENDA ITEM COVER SHEET

Agenda Item Title:Consider adopting a Resolution to temporarily close portions of Middle Street, Pollock Street, and Craven Street to vehicular traffic.

Date of Meeting: 7/28/2020 Department: Parks & Recreation Call for Public Hearing: □Yes⊠No		Ward # if applicable: Ward 1	
		Person Submitting Item: Foster Hughes, CPRE	
		Date of Public Hearing:	
Explanation of Item:		ith Swiss Bear Downtown Development Corporation made	
	a request to close the 200-300 blocks of Middle Street, 300 block of Polloc Street, and the 200 block of Craven Street from Morgan's Tavern & Grill t Pollock Street from 5:00 p.m. until 11:00 p.m. for a street café on the followin dates: Friday, August 7 through Saturday, August 8;Friday, August 14 throug Saturday, August 15; Friday, August 21 through Saturday, August 22; Friday August 28 through Saturday, August 29; Friday, September 4 through Monday September 7; Friday, September11 through Saturday, September 12; Friday September 18 through Saturday, September 19; Friday, September 25 through Saturday, September 26; Friday, October 2 through Saturday, October 3; an Friday, October 9 through Saturday, October 10, 2020.		
Actions Needed by Board:	Adopt the Resolution		
Backup Attached:	Resolution - Memo - Application -		
Is item time sensitive?	⊠Ves □No		
	2515 425 4 2515	he meeting? □Yes ☒ No	
Cost of Agenda Item:			
[[[[[[] [[] [[] [[] [[] [] [] [] [] [] [been budgeted and are funds Director? □Yes □ No	

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Bobby Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



Family, fitness and fun some unether here.

Foster Hughes, CPRE Director of Parks & Recreation Dana E. Outlaw Mayor

Mark A. Stephens City Manager



Memo To: Mayor and Board of Aldermen

From: Foster Hughes, CPRE

Director of Parks & Recreation

Re: Adopt the Resolution to temporarily close portions of Middle Street, Pollock

Street, and Craven Street to vehicular traffic

Background Information:

Lynne Harakal, with Swiss Bear Downtown Development Corporation, has made a request to close the 200-300 blocks of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from Morgan's Tavern & Grill to Pollock Street from 5:00 p.m. until 11:00 p.m. for restaurants to set up a street cafe on the following dates:

Friday, August 7 through Saturday, August 8, 2020,

Friday, August 14 through Saturday, August 15, 2020,

Friday, August 21 through Saturday, August 22, 2020,

Friday, August 28 through Saturday, August 29, 2020,

Friday, September 4 through Monday, September 7, 2020,

Friday, September 11 through Saturday, September 12, 2020,

Friday, September 18 through Saturday, September 19, 2020,

Friday, September 25 through Saturday, September 26, 2020,

Friday, October 2 through Saturday, October 3, 2020, and

Friday, October 9 through Saturday, October 10, 2020.

Recommendation:

The Parks and Recreation Department recommends approval and requests the Board adopt a Resolution approving the request.

1307 Country Club Rd New Bern, NC 28562 Office 252 639-2901 Fax 252 636-4138

RESOLUTION TO TEMPORARILY CLOSE PORTIONS OF MIDDLE STREET, POLLOCK STREET, AND CRAVEN STREET TO VEHICULAR TRAFFIC

THAT WHEREAS, the Board of Aldermen of the City of New Bern desires to temporarily close certain portions of Middle Street, Pollock Street, and Craven Street to vehicular traffic, all as illustrated on the map attached hereto and incorporated herein as Exhibit A (such closed portions of streets being referred to as "Closed Streets"), to allow for the operation of street cafes pursuant to city code Section 66-71; and

WHEREAS, the Board desires to temporarily close such Closed Streets to vehicular traffic between the hours of 5:00 p.m. and 11:00 p.m. on the following dates:

- Friday, August 7 through Saturday, August 8, 2020,
- Friday, August 14 through Saturday, August 15, 2020.
- Friday, August 21 through Saturday, August 22, 2020,
- Friday, August 28 through Saturday, August 29, 2020,
- Friday, September 4 through Monday, September 7, 2020,
- Friday, September 11 through Saturday, September 12, 2020,
- Friday, September 18 through Saturday, September 19, 2020,
- Friday, September 25 through Saturday, September 26, 2020,
- Friday, October 2 through Saturday, October 3, 2020, and
- Friday, October 9 through Saturday, October 10, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Closed Streets shall be temporarily closed to vehicular traffic between the hours of 5:00 p.m. and 11:00 p.m. on the following dates:

- Friday, August 7 through Saturday, August 8, 2020,
- Friday, August 14 through Saturday, August 15, 2020.
- Friday, August 21 through Saturday, August 22, 2020,
- Friday, August 28 through Saturday, August 29, 2020,
- Friday, September 4 through Monday, September 7, 2020,
- Friday, September 11 through Saturday, September 12, 2020,
- Friday, September 18 through Saturday, September 19, 2020,
- Friday, September 25 through Saturday, September 26, 2020,
- Friday, October 2 through Saturday, October 3, 2020, and
- Friday, October 9 through Saturday, October 10, 2020.

ADOPTED THIS 28TH DAY OF JULY, 2020.

DANIA D OLIMI ATTI AT
DANA E. OUTLAW, Mayor

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting resolution approving lease agreement with Promise Place for property located at 408 Hancock Street and owned by the City of New Bern.

Date of Meeting: 7/28/2020 Department: Public Works Call for Public Hearing: □Yes⊠No		Ward # if applicable: 1	
		Person Submitting Item: Matt Montanye, Director of Public Works	
		Date of Public Hearing: N/A	
Explanation of Item: Consider adopting resolution approving lease agree Promise Place for property located at 408 Hancock owned by the City of New Bern.		for property located at 408 Hancock Street and	
Actions Needed by Board:	Approve resolution.		
Backup Attached:	Memo		
•			
Is item time sensitive?		the meeting? □Yes ☒ No	
will there be advocates	s/opponents at t	the meeting. 11 cs 22 100	
Cost of Agenda Item:	71.00		
If this requires an expe		been budgeted and are funds available	

Additional Notes: N/A



Public Works Department P.O. Box 1129, 1004 S. Glenburnie Road New Bern, N.C. 28563-1129 Phone: (252) 639-7501 Fax: (252) 636-1848

July 20, 2020

Memo to:

From:

Re:

Matt Montanye, Director of Public Works Matthew 1/90/20

Consider adopting resolution and the property land Consider adopting resolution approving lease agreement with Promise Place for

the property located at 408 Hancock Street and owned by the City of New Bern.

Background Information:

Promise Place, a North Carolina nonprofit corporation which has their principal office and place of business in the City of New Bern, Craven County, has requested a lease agreement between the City of New Bern and Promise Place for the property located at 408 Hancock Street. The proposed lease agreement would be effective July 15, 2020, and shall exist and continue until midnight on June 30, 2021, at a rate of \$1.00 per annum during the term of the lease.

Recommendation:

It is recommended that the Board of Aldermen consider approving the attached lease agreement. If you have any questions concerning this matter, please feel free to contact me directly.

Enclosures

Cc: Scott Davis, City Attorney

NORTH CAROLINA

CRAVEN COUNTY

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this 28th day of July, 2020, effective as of the 15th day of July, 2020, by and between the CITY OF NEW BERN ("Lessor"), a North Carolina municipal corporation, and PROMISE PLACE ("Lessee"), a North Carolina nonprofit corporation which has its principal office and place of business in the City of New Bern, Craven County, North Carolina.

WITNESSETH:

THAT WHEREAS, the Lessor owns the former New Bern Firemen's Museum located at 408 Hancock Street ("Building"), and surrounding real property more particularly described in Exhibit A attached hereto and incorporated herein by reference (collectively, the "Property"); and

WHEREAS, the Lessor has agreed that the Lessee might use the Property for the purposes stated herein; and

WHEREAS, the Lessor's Board of Aldermen has determined that the Premises will not be needed by the Lessor for the term of the Lease; and

WHEREAS, the parties have agreed upon the terms of the Lease and wish to reduce their agreement to writing.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, said Lessor does hereby let and lease unto said Lessee, and said Lessee does hereby accept as tenant of said Lessor, the Property.

TO HAVE AND TO HOLD said Property, together with all privileges and appurtenances thereunto belonging to it, the said Lessee, its successors and assigns, for the term and upon the conditions hereinafter set forth:

1. <u>Description of Property</u>. The term "Property" as used herein shall mean the former New Bern Firemen's Museum located at 408 Hancock Street ("Buildings"), and surrounding real property more particularly described in Exhibit A attached hereto and incorporated herein by reference. Additionally, the Lessor reserves the right to place utility facilities, traffic facilities, railroad facilities, and any other similar equipment upon the Property during the term of this Lease. Should the Lessor need to place, or caused to be placed, such facilities upon the Property, the Lessor shall notify Lessee of the Lessor's intent to do so.

- Term. This Lease shall begin as of the 15th day of July, 2020, and shall exist and continue until midnight on the 30th day of June, 2021.
- Use of Property. The Lessee agrees to utilize the Property for the storage of items to be distributed to the public.
- 4. Rent. As rental for the said Property, the Lessee agrees to maintain the Buildings and Property, as set forth herein, and to pay the sum of ONE DOLLAR (\$1.00) per annum during the term of this Lease, the first such payment to be made contemporaneously with the execution of this instrument, and each subsequent annual payment to be made on or before the anniversary date of this instrument.
- 5. <u>Utilities</u>. All applications and connections for utility services required by Lessee in conjunction with Lessee's use and occupancy of the Premises shall be made in the name of Lessee only, and Lessee shall be solely responsible for obtaining such services and for the payment of all charges for such services as they become due. Such utility services include, but are not limited to, sewer, water, gas, electricity, trash removal and telephone services ("Utility Services").
- 6. Repair and Maintenance. During the term of this Lease, the Lessee shall be responsible for maintaining and repairing both the interior and exterior of the Premises so that the Lessor will have no obligation whatsoever with respect to the maintenance or repair of the leased Premises during the term of this Lease.
- 7. Alterations and Improvements. Lessee may only make changes, alterations or improvements to the Buildings and Property with the prior written consent of Lessor. If approved by Lessor, such work shall be done in accordance with the requirements of local ordinances and public authorities having jurisdiction thereof. Lessee shall make no such change, alteration or improvement which substantially affects the structural integrity of the Buildings or substantially decreases the value of the Buildings. It is expressly agreed that all alterations and additions that are made by Lessee to the Buildings and Property during the term of this Lease shall be and become a permanent part of the real estate and, as such, the property of the Lessor. It is agreed, however, that all personal property placed in and about the Property by the Lessee shall be and remain the property of the Lessee and may be removed by it upon the termination of this Lease. All other improvements shall be considered a part of the real estate.

- 8. <u>Insurance</u>. The Lessor shall maintain hazard insurance on the improvements located on the Premises, including contents owned by Lessor, in such amount as Lessor may determine in its sole discretion. Lessor shall carry its own liability insurance in an amount no less than THREE MILLION DOLLARS (\$3,000,000.00), which shall include the CITY OF NEW BERN as a named insured, and Lessee shall provide Lessor with a Certificate of Insurance.
- 9. <u>Damage or Destruction of Buildings</u>. Should the Buildings be damaged or destroyed by fire, the Lessor shall be under no obligation to repair or replace the improvements located on said Property, and, should it elect not to repair or replace, this Lease shall thereupon terminate, unless the Lessee shall advise the Lessor, in writing, within thirty (30) days of the date of damage or destruction, that it proposes, at its own expense, to repair or replace the improvements located on said Property and proceeds to do so within twelve (12) months of the loss.
- 10. <u>Assignment or Subletting</u>. Lessee may assign this Lease or sublet a portion of the Premises only with the prior written consent of Lessor. Any assignment or subletting approved by Lessor shall not operate to release or discharge Lessee from any of the duties or obligations hereunder, except to the extent such duties and obligations are actually performed, unless Lessor agrees otherwise in writing.
- 11. Quiet Possession. Landlord agrees that Tenant shall, upon paying the rent and performing the covenants of this Lease, quietly have, hold and enjoy the Premises during the term of this Lease.
- 12. Events of Default and Remedies. It is expressly agreed that, if the Lessee shall neglect to make any payment of rent when due or neglect to do and perform any matter or thing herein agreed to be done and performed by it and shall remain in default thereof for a period of ninety (90) days after written notice from the Lessor calling attention to such default, the Lessor may declare this Lease terminated and cancelled and take possession of said Property without prejudice to any other legal remedy it may have on account of such default
- 13. Notices. All notices required to be given with respect to any matter pertaining to this Lease shall be sent by certified mail, return receipt requested, and shall be deemed delivered or served when deposited in the United States mail, postage prepaid, addressed to Lessee at the address of the Property and to Lessor at the following address:

Landlord
City of New Bern
Attn: Director of Public Works

P.O. Box 1129

New Bern, NC 28563

Tenant

Promise Place Attn: President 1401 Park Avenue

New Bern, NC 28560

Either Lessee or Lessor may change the address to which notices are to be sent to them by giving written notice of such change of address to the other party as herein provided.

- 14. <u>Indemnification</u>. Lessee shall indemnify Lessor against any liability or expense incurred by Lessor which arises from the use and occupancy of the Buildings and Property by Lessee; provided, however, no such indemnification shall be required with respect to liabilities or expenses incurred by Lessor which arises by reason of the affirmative negligence of Lessor.
- 15. Memorandum of Lease. This Lease shall not be recorded, but Lessee and Lessor, at either's request, shall execute a memorandum of lease for recording purposes which shall contain only the information required by Section 47-118 of the North Carolina General Statutes.
- 16. Entire Agreement. This Lease contains the entire agreement between Lessor and Lessee and cannot be changed or terminated except by written instrument subsequently executed by the parties hereto.
- 17. <u>Binding Effect</u>. All the terms and conditions of this Lease shall be binding upon and shall apply and inure to the benefit of the parties hereto, and their heirs, successors, legal representatives and assigns.
- Governing Law. This Lease shall be construed and interpreted in accordance with the laws of the State of North Carolina.

IN TESTIMONY WHEREOF, the CITY OF NEW BERN has caused this instrument to be executed in its corporate name by its Mayor and its corporate seal to be affixed and attested by its City Clerk, all by authority duly given of its Board of Aldermen; and PROMISE PLACE has caused this document to be executed by its President and attested by its Secretary, all by authority duly given by its Board of Directors, all as of the day and year first above written; this Agreement being executed in duplicate originals, one of which is retained by each of the parties.

CITY OF NEW BERN

[SEAL]	By:
	DANA E. OUTLAW, MAYOR
ATTEST:	
BRENDA E. BLANCO	, CITY CLERK
	PROMISE PLACE
[SEAL]	By:
ATTEST:	
SECRETARY	

NORTH CAROLINA CRAVEN COUNTY

I,	, a not	ary public in and for said county and state, do
OUTLAW, with whom I am pers the Mayor and that BRENDA I municipal corporation described in common seal of said municipal co common seal; that the name of the that the said common seal was at	onally acquainted, E. BLANCO is the and which execute orporation; that the se municipal corporate ffixed, all by order	ary public in and for said county and state, do o, before me personally appeared DANA E. who, being by me duly sworn, says that he is early Clerk of the City of New Bern, the ed the foregoing instrument; that he knows the seal affixed to the foregoing instrument is said tion was subscribed thereto by the said Mayor; of the Board of Aldermen of said municipal deed of said municipal corporation.
WITNESS my hand and no	otarial seal, this	day of July, 2020.
	Notary	Public
My commission expires:		
NORTH CAROLINA CRAVEN COUNTY		
This is to certify that on appeared	the day of with	whom I am personally acquainted, who, President and is
the Secretary of PROMISE PL foregoing instrument; that he/sh affixed to the foregoing instrume subscribed thereto by the said Pr	ACE, the corpora te knows the common ent is said common resident, attested by	tion described in and which executed the mon seal of said corporation; that the seal in seal, and the name of the corporation was y said Secretary, and said common seal was said instrument is the act and deed of said
WITNESS my hand and no	otarial seal, this	day of July, 2020.
My commission expires:	Notary	Public
wy commission expires.		

Exhibit A

That certain property located at 408 Hancock Street in the City of New Bern, bearing Craven County parcel number 8-002-D-084, and more particularly described as follows:

Situated in the City of New Bern, Craven County, North Carolina, and on the east side of Hancock Street, adjoining the property formerly belonging to James A. Bryan and others, and being the northern end of Lot Number Two Hundred Fifty-Five (255) in the plan of the City of New Bern, BEGINNING at the line of Hancock Street at the corner of Lots Numbers Two Hundred Fifty-Five (255) and Two Hundred Eighty-Three (283), and running thence South 12° 29' West 48 feet 5 inches parallel with Hancock Street to an iron corner; thence South 77° 33' East 107 feet 6 inches parallel with Broad Street to the line of Lot Number Two Hundred Fifty-Four (254); thence North 12° 29' East 48 feet 5 inches to the line of Lot Number Two Hundred Eighty-Three (283), it being the line of the former James A. Bryan property; thence North 77° 33' West 107 feet 6 inches between Lots Numbers Two Hundred Eighty-Three (283) and Two Hundred Fifty-Five (255) to the point of beginning.

AGENDA ITEM COVER SHEET



Agenda Item Title:

Consider Adopting an Amendment to the Ordinance for Dangerous Dogs

Date of Meeting: July 28, 2020 Department: POLICE Call for Public Hearing: □Yes⊠No		Ward # if applicable: N/A	
		Person Submitting Item: Chief Toussaint E. Summers, Jr.	
		Date of Public Hearing: N/A	
Explanation of Item:	Amendment to Dangerous Dog Ordinance which will grant the Chief of Police or his designee, the authority to declare a dog vicious, dangerous, or potentially dangerous.		
Actions Needed by Board:	Board approval is requested.		
Backup Attached:	Memo and Ordinance		
Is item time sensitive?	MVos □No		
		the meeting? Yes No	
,, , ,	FF		
Cost of Agenda Item: 1	ı/a		
If this requires an expe and certified by the Fir		been budgeted and are funds available □Yes ⊠ No	

Additional Notes: None



Toussaint E. Summers, Jr.

Chief of Police

P.O. Box 1129, New Bern, NC 28563-1129 (252) 672-4100

Police and Community come together here.

TO: Mayor and Board of Alderman

FROM: Toussaint E. Summers, Jr., Chief of Police

SUBJECT: Dangerous Dog (Sec 6-14) Amendment Request

DATE: July 20, 2020

Background

The current ordinance reads in part, "Sec 6-14(k)(1) Procedure for declaration. (1) The board of aldermen will designate a veterinarian licensed to practice in the state who maintains a veterinary clinic within Craven County to determine a dog's status. It also will designate a separate group of persons as provided in subsection (k)(4) herein to hear any appeal".

Staff is requesting the ordinance remove the following: "(1) The board of aldermen will designate a veterinarian licensed to practice in the state who maintains a veterinary clinic within Craven County to determine a dog's status'.

Staff is requesting the wording to be replaced with "The board of alderman will grant the Chief of Police or his designee, the authority to declare a dog vicious, dangerous, or potentially dangerous".

Recommendation

It is recommended that the Board of Alderman approve the amendment to the Dangerous Dog ordinance.

AN ORDINANCE TO AMEND SECTION 6-14. "DANGEROUS OR POTENTIALLY DANGEROUS DOG" OF CHAPTER 6 "ANIMALS" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to amend Section 6-14. "Dangerous or potentially dangerous dog" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 6-14. "Dangerous or potentially dangerous dog" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting subsection (k)(1) in its entirety and inserting in its stead the following:

"(k) Procedure for declaration.

(1) The chief of police, or his or her designee shall determine a dog's status. The board of aldermen shall appoint an appellate board as provided in subsection (4) to hear any appeal."

SECTION 2. That this ordinance shall be effective from and after the date of its adoption.
ADOPTED THIS 28th DAY OF JULY, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

RED-LINED VERSION

AN ORDINANCE TO AMEND SECTION 6-14. "DANGEROUS OR POTENTIALLY DANGEROUS DOG" OF CHAPTER 6 "ANIMALS" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to amend Section 6-14. "Dangerous or potentially dangerous dog" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 6-14. "Dangerous or potentially dangerous dog" of Chapter 6 "Animals" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting subsection (k)(1) in its entirety and inserting in its stead the following:

"(k) Procedure for declaration.

(1) The board of aldermen will designate a veterinarian licensed to practice in the state who maintains a veterinary clinic within Craven County to determine a dog's status. It also will designate a separate group of persons as provided in subsection (4) herein to hear any appeal. The chief of police, or his or her designee shall determine a dog's status. The board of aldermen shall appoint an appellate board as provided in subsection (4) to hear any appeal."

SECTION 2. That this ordinance shall be effective from and after the date of its adoption.
ADOPTED THIS 28th DAY OF JULY, 2020.

	DANA E. OUTLAW, MAYOR	
BRENDA E. BLANCO, CITY CLERK		

AGENDA ITEM COVER SHEET



Agenda Item Title: Consider Adopt an Ordinance to Amend Article III of Chapter 26 of the Code of Ordinances Relative to Noise

le of Ordinances to update and r nance to include the use of sour	c Hearing: e III of Chapter 26 of the	
anges have been made to Article le of Ordinances to update and mance to include the use of sour	e III of Chapter 26 of the	
le of Ordinances to update and r nance to include the use of sour		
le of Ordinances to update and r nance to include the use of sour		
music.	Changes have been made to Article III of Chapter 26 of the Code of Ordinances to update and modernize the entire noise ordinance to include the use of sound meters for amplified soun and music.	
Consider adopting the amended ordinance		
Ordinance		
s 🖾 No		
	Ves 🗆 No	
B () 하는 기업이 그리고 보는 보는 기업 () 하는 사람이 해야 되었다. 모든	nd are funds available	
e		

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMO TO:

Mayor and Board of Aldermen

FROM:

Mark Stephens, City Manager

DATE:

July 15, 2020

SUBJECT:

Noise Ordinance

The entire noise ordinance has been updated and modernized to include the use of sound meters for amplified sound and music. These changes will be applicable citywide.

/beb

AN ORDINANCE TO AMEND ARTICLE III. NOISE OF CHAPTER 26 "ENVIRONMENT" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Article III. Noise of Chapter 26 "Environment" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

<u>SECTION 1</u>. That Article III. Noise of Chapter 26 "Environment" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Article III. Noise of Chapter 26 in its entirety and inserting in its stead the following:

"ARTICLE III. NOISE

Sec. 26-66. Statement of purpose and intent.1

- (a) It is recognized that above certain levels or durations and during specific times of day, unreasonably loud and disturbing noise is detrimental to health, safety and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. It is further recognized that a substantial body of science and technology exists by which unreasonably loud and disturbing noise may be measured and substantially abated.
- (b) The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances or unreasonably loud noise and are enacted pursuant to the authority granted in G.S. § 160A-184. It is the policy of the city to prohibit noise disturbances or unreasonably loud noise from all sources, subject to its police power, in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of the City of New Bern.
- (c) Nothing in this Article is intended to deter individuals from lawfully exercising the individual right of freedom of speech and commerce, or any other freedom guaranteed under the Constitutions of the United States of America or of the State of North Carolina.

Sec. 26-67. Definitions.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this chapter shall have the meaning indicated below:

State Law reference – Authority to adopt ordinances and regulations to promote and protect the health, welfare and safety of its citizens, G.S. 160A-174; Authority to regulate, restrict or prohibit the production or emission of noises or amplified speech, G.S. 160A-184.

Amplified sound: Any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.

A-weighted sound level: The sound pressure level in decibels as measured on a sound level meter using the A-weighted network; sound levels are represented herein by the designation, "dB(A)."

Commercial zone: Any area within the city that is zoned C-1, C-2, C-3, C-3H, C-4, C-5, C-5A and C-6.

Construction: Erection, repair, assembly, alteration, landscaping, or demolition of any building or building site.

Daytime hours: 7:00 a.m to 10:00 p.m., local time.

Decibel (also dB): Unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure (20 micronewtons per square meter).

Industrial zone: Any area within the city that is zoned I-1 and I-2.

Motorized vehicles: Generally—Any vehicle as defined in G.S. 20-4.01(49) including but not limited to:

- a. Excursion passenger vehicles as defined in G.S. 20-4.01(27)a.
- b. Common carriers of passengers as defined in G.S. 20-4.01(27)c.
- c. Motorcycles and mopeds as defined in G.S. 20-4.01(27)d. and d.1.
- d. Truck tractors as defined in G.S. 20-4.01(48).
- e. Farm tractors as defined G.S. 20-4.01(11).

Music: The science or art of ordering tones or sounds in succession, in combination, and in temporal relationships to produce a composition having unity and continuity. For purposes of this definition, the term includes music produced by any means whether recorded or live, or amplified or not.

Nighttime hours: 10:00 p.m. to 7:00 a.m., local time.

Noise: Any sound or combination of sounds which, because of its volume or quality, tends to disturb reasonable persons of normal sensitivity or to interfere with normal human activity.

Person: Any individual, association, firm, partnership or corporation.

Person responsible: An owner, occupant, employee, agent, or any other person who is or who appears to be responsible for a premises, dwelling, or business, or a noise-producing machine or device.

Residential zone: Any area within the city that is zoned A-5, A-5F, R-20, R-15, R-10, R-10Z, R-8 and R-6.

Sound: Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.

Sound level: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, as specified by the American National Standards Institute (ANSI) standards for sound level meters. If the frequency weighting employed is not specified, the A-weighting shall apply.

Sound level meter: An instrument for measuring the intensity of noise, music, and other sounds, Such instrument shall be certified to meet or exceed the current standards of the American National Standards Institute.

Sec. 26-68. Sound level allowances.

(a) Except as set forth in this article, it shall be unlawful during the hours identified for any person to cause or allow the emission of amplified sound or music from any source or sources which, when measured pursuant to the procedure outlined by this section, to exceed the maximum decibel limits as follows:

Zone	Time (Weekdays*)	dB(A) Limit	Time (Weekends**)	dB(A) Limit
Residential	7:00 a.m. to 10:00 p.m.	60	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	55	10:00 p.m. to 7:00 a.m.	55
Commercial	7:00 a.m. to 10:00 p.m.	70	7:00 a.m. to 11:00 p.m.	70
	10:00 p.m. to 7:00 a.m.	55	11:00 p.m. to 7:00 a.m.	55
Industrial	7:00 a.m. to 10:00 p.m.	70	7:00 a.m. to 10:00 p.m.	70
	10:00 p.m. to 7:00 a.m.	65	10:00 p.m. to 7:00 a.m.	65

^{*} Weekdays (Sunday through Thursday)

- (b) Notwithstanding the location of multi-family structures, such structures shall have dB(A) limits between units that are 10 dB(A) lower than those located in residential zones.
- (c) Amplified sound and music that does not exceed the allowable sound levels set forth in section 26-68 shall not constitute loud and disturbing noises in violation of section 26-70.

Sec. 26-69. Sound measurement standards and procedures.

(a) In determining sound levels pursuant to this article, the standards, instrumentation, personnel, measurement procedures, and reporting procedures shall be as specified herein. All terminology not specifically defined in this article shall be in conformance with the American National Standards Institute (ANSI).

^{**} Weekends (Friday and Saturday)

- (1) Sound level meter. Sound level measurement shall be made with at least a Type II sound level meter meeting ANSI standards using the A-weighted scale, set on "slow" response.
- (2) Calibration. All sound level measuring devices must be calibrated consistent with the standards set by the manufacturer. The sound level meter shall be calibrated before obtaining a sound measurement, and after obtaining the two (2) sound readings required in subsection (7).
- (3) Persons using sound level meters. Persons using sound level meters shall be trained in sound level measurement and the operation of the specific sound level measurement equipment being utilized.
- (4) Measurement location. Measurement of sounds shall be made at or beyond the property line of the property from which the sound originates. For purposes of outdoor sound measurement, the back of the curb, the outside edges of driveways, fences, hedges or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. Sound measurements shall be made at a height of at least four (4) feet above the ground and at approximately ten (10) feet away from any walls, barriers, and obstructions such as trees and shrubs. For noises generated within multi-family or multi-tenanted structures, sound level measurements shall be measured from inside the complainant's unit. The sound level measurement shall be taken at the location closest to the center of the room where the noise is heard, and shall be made at least four (4) feet from the floor. In all cases, the sound level meter shall be held at arm's length straight in front of the operator's body with the microphone pointed to measure the sound from the source as recommended by the manufacturer.
- (5) Background noise. Traffic sound, sound from other sources, and sustained background sound shall be taken into consideration when taking a sound measurement. Should background noise interfere with a sound reading during the measurement period established in subsection 7, the operator shall note the background noise interference in the data documentation and commence a new sound measurement. This process may be repeated until the operator is satisfied that background noise is not interfering with the sound measurement from the sound source.
- (6) Separation from other individuals. No individuals other than the operator shall be within ten (10) feet of the sound level meter during the measurement period.
- (7) Measurement period. The operator shall capture a minimum of three (3) sound readings for a duration of fifteen (15) seconds per reading within a three-minute period. The highest sound level captured during any fifteen (15) second sound reading within a three-minute period shall be considered the sound level for purposes of determining compliance with this article.
- (b) The chief of police shall have the authority to issue additional measurement procedures necessary to carry out the sound measurement procedures consistent with this article.
- (c) Data documentation. A record of all sound level measurements shall be completed by the person making the measurements regardless of whether a civil penalty is imposed. The record shall include:

- (i) Date
- (ii) Time of measurement
- (iii) Location (Street address if possible of noise source and point of measurement)
- (iv) Noise source
- (v) Name, model and serial number of sound level meter, and date of calibration
- (vi) Field results
- (vii) Name of complainant (if available)
- (viii)Background noise interference that causes a repeated sound reading
- (d) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.

Sec. 26-70. Loud, disturbing noises prohibited.

- (a) It shall be unlawful for any person to create or assist in creating any unreasonably loud, disturbing noise in the city which does frighten, annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of citizens within the city, causes damage to property or business within the city, or disturbs a reasonable person of normal sensitivity. Such sounds do not include the ordinary and usual sounds, noises, commotion or vibration incidental to residential living or operation of business or commercial establishments when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business. To determine whether a noise or sound constitutes a violation of this subsection, the following factors incident to such noise are to be considered:
 - (1) The volume and intensity of the noise;
 - (2) Whether the nature of the noise is usual or unusual;
 - (3) Whether the origin of the noise is natural or man-made;
 - (4) The volume and intensity of the background noise, if any;
 - (5) Whether the noise occurs during daytime or nighttime hours;
 - (6) Proximity to residential areas:
 - (7) Whether the noise is recurrent, intermittent or constant;
- (8) Whether the noise has been enhanced in volume or range by any type of mechanical means; and
 - (9) The nature and zoning of the area.
- (b) The following acts are specifically declared to be unreasonably loud, annoying, frightening, loud and disturbing noises, the emission of which shall be unlawful. The following enumeration shall not be deemed to be exclusive:
- (1) 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, 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.

- (2) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.
- (3) The use of any automobile, motorcycle or other motorized vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.
 - (4) The blowing of any steam whistle attached to any stationary boiler.
- (5) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle, except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom.
- (6) The creation of any excessive noise on any street adjacent to any school, church, institution of learning or court, while the same are in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the work of such institution or which disturbs or unduly annoys patients in the hospital.
- (7) The creation of loud and excessive noise in connection with loading or unloading any vehicles or the opening and destruction of bales, boxes, crates and containers.
- (8) The shouting and crying of peddlers, barkers, hawkers or vendors, which disturbs the quiet and peace of the neighborhood.
- (9) 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 or display of merchandise.
- (10) The repair, rebuilding or testing of any motor vehicle in any residential district, so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.
- (11) The keeping or maintaining or permitting the keeping of, on any premise, owned, leased, occupied or controlled by such person, any animal or fowl otherwise permitted to be kept which, by habitual or frequent sound, cry, howling, barking, squawking, meowing or other noise, that disturbs the quiet, comfort or repose of any person.
- (12) Yelling, shouting, hooting, whistling, or singing on the public streets, or congregating or participating in any party or gathering of people particularly during nighttime hours or at any time or place where such noise is of such volume, level, and duration as to interfere with the quiet enjoyment of reasonable persons of ordinary sensibilities or annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities.
- (c) Steady-state sounds that do not exceed the allowable sound levels set forth in section 26-68 shall not constitute loud and disturbing noises in violation of this section.

Sec. 26-71. Exceptions.

The following acts or activities are exempt from the provisions of his article:

- (1) The use of a permanently installed loudspeaker or public address system at railroad and bus stations to announce the arrival and departure of trains and buses.
- (2) The use of a permanently installed loudspeaker or public address system at athletic stadiums to announce athletic events.
- (3) Musical chimes or the sounding of bells emanating from public or religious institutions or facilities.
- (4) Sounds emanating from any authorized emergency vehicle responding to an emergency or acting at the time of an emergency.
- (5) Noise sources associated with or created by construction, repair, remodeling, demolition, grading, or maintenance of any real property, provided such activities do not take place between the hours of 9:00 p.m. and 7:00 a.m. on weekdays or weekends. Such activities associated with a municipal construction project may take place between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturday, or at any time on Sunday, if such work is required to protect the public's health and safety, or if the board of aldermen determines that performing such activities during the restricted hours is in the public interest.
- (6) Noise emanating from any burglar alarm or security device on any building, dwelling or vehicle, provided such noise terminates within 30 minutes of being activated.
- (7) Parades and public assemblies permitted pursuant to section 66-86, properly permitted or sanctioned public entertainment or sporting events, sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above.
- (8) All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
- (9) All noises coming from normal operation of motorized vehicles properly equipped with the manufacturer's standard mufflers and noise-reducing equipment.
 - (10) Warning devices required by OSHA or any local, county, state or federal safety regulations.
 - (11) Noise from properly permitted fireworks.
 - (12) Noise resulting from the provision of street cleaning, sanitation and recycling services.
 - (13) Musical accompaniment or firearm discharge related to military ceremonies.
- (14) Emergency work necessary to maintain public safety, or to restore property to a safe condition following an accident or natural disaster, or to restore public utilities and infrastructure following an accident or natural disaster, or to protect persons or property from an imminent danger.

- (15) Noise resulting from the provision of government services necessary to operate and maintain the public infrastructure.
- (16) Noise resulting from local government generators provided such generators are properly equipped with the manufacturer's standard mufflers and noise-reducing equipment.
- (17) Noise resulting from generators operating during periods of electric power outages provided such generators are properly equipped with the manufacturer's standard mufflers and noise-reducing equipment.
- (18) Free live performances by musicians on public property, with or without amplified sound, within the C-1 and C-2 zoning districts between noon and 9:00 p.m. provided that the sound measurement taken at least twenty-five (25) feet from the source of the noise does not exceed 70 dB(A), and between of 9:00 p.m. and noon provided that the sound measurement taken at least twenty-five (25) feet from the source of the noise does not exceed 55 dB(A).
 - (19) Any activity to the extent regulation thereof has been preempted by state or federal law.

Sec. 26-72. Responsible Party.

- (a) No property owner shall allow a noise-related nuisance or health or safety hazard to be created or maintained by or on account of tenants of the property owner. For purposes of this section, a noise-related nuisance or health or safety hazard shall be deemed to exist when a tenant or group of tenants at a specific location receives a third citation for a noise ordinance violation pursuant to this chapter. A property owner may be held liable for the costs of abating the nuisance or remedying the health or safety hazard only if the property owner has been notified in writing of the first two (2) ordinance violations. A property owner shall be liable for the costs of abating the nuisance or remedying the health or safety hazard upon the third and any subsequent action by the same tenant at a specific location, provided the third violation occurs at least fifteen (15) days from the date of actual receipt of notice of the second violation. It shall be a complete defense to a citation under this subsection if the owner of the real property involved can prove that the property owner is actively pursuing an eviction process according to law, and that the eviction process was begun prior to the date of the third or any subsequent violation by the same tenant at a specific location.
- (b) Owners, property managers, agents, management companies, and employees of the owner, property manager, agent or management companies shall be responsible and liable for any violations of this article by tenants, guests, or licensees on the premises if the owners, property managers, agents, management companies, or employees of the owner, property manager, agent or management companies are present at the time of the violation.
- (c) When the noise which violates this article is emanating from a motorized vehicle, the violator is the operator of the motorized vehicle, and/or the employer of the operator if the motorized vehicle is being used for commercial purposes, and/or the person which possesses or controls the motorized vehicle used by the operator if the motorized vehicle is being used for commercial purposes.

(d) When the noise which violates this article is emanating from construction activities, the violator is the individual doing the activity and/or their employer, the general contractor for the site, or the owner of the property.

Sec. 26-75. Enforcement and penalties.

- (a) When it is reasonable and practical to do so, a person believed to be violating any portion of this article may be given an oral order to cease or abate the noise immediately, or as soon as is reasonable or practical, prior to being issued a citation.
- (b) Violation of this article shall subject the offender(s) to a civil penalty in the amount of \$250.00. In the event there is more than one violation within any one-year period, then the civil penalty shall be increased for each additional violation over one during such period, as follows.

Second offense within one year: \$500.00

Third offense within one year: \$750.00

Fourth offense within one year: \$1,000.00

Fifth and any subsequent offense within one year: \$1,250.00

- (c) Once the one-year period has run from the "first violation," the next violation shall be considered to be a first violation for the purposes of establishing a new one-year period.
- (d) Violators shall pay any issued penalty within ten (10) days of the issue date as directed on the written citation. The city attorney, or designee, is authorized to file suit on behalf of the city to collect any unpaid citations, and the police chief, or designee, is authorized to verify and sign complaints on behalf of the city in such suits. A police officer, or other employee duly authorized to enforce the noise control ordinances may issue a citation for violations of this article.
- (e) Any person issued a civil penalty under the provisions of this section may appeal by filing an appeal in writing with the police department within ten (10) calendar days after the civil penalty citation is issued. The written appeal shall state all reasons that the civil penalty was wrongly applied and shall include all supporting documentation that the appellant contends supports the appeal. If a person files a written appeal within the time provided in this section, the penalty being appealed shall be stayed pending the decision of the chief or arbitrator. Unless the chief of police decides to allow the requested relief based on the appeal request, the chief of police shall send each appeal request to arbitration. The chief of police shall select an arbitrator other than an employee of the city. The arbitration shall be conducted, to the extent practicable, in accordance with the Supreme Court Rules for Court-Ordered Arbitration in North Carolina. The arbitrator shall be paid a fee equal to the maximum fee specified in such rules with such fee paid equally by the parties as provided therein. The arbitrator shall issue a written determination, within a reasonable time, stating whether the disputed civil penalty will be approved without change or modified or reversed. All decisions of the chief of police and arbitrator shall be served on the petitioner.

(f) This chapter may also be enformulisance abatement procedures as issued by	ced through equitable remedies including but not limited to a court of competent jurisdiction.
This ordinance shall be effective from	m and after the date of its adoption.
ADOPTED this 28th day of July, 202	0.
	DANA E. OUTLAW, MAYOR
BRENDA E. BLANCO, CITY CLERK	