

ORDINANCE NO. 2017-08

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

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

WHEREAS, the City of Brevard Planning Board unanimously recommended approval of Ordinance changes on March 15, 2016 and again on October 18, 2016; and,

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

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

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

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

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

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

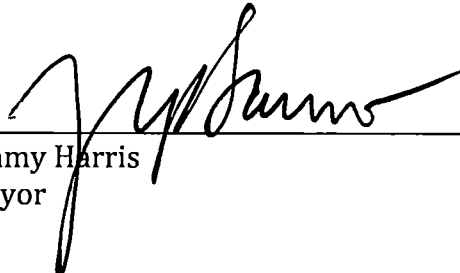
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

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

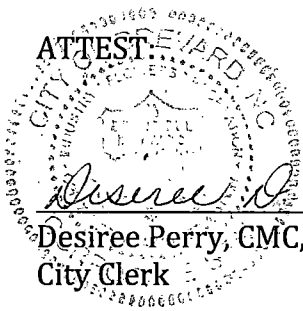
Section 2. Short-term rental establishments are allowed in the General Residential (GR) District, as well as, in the Residential Mixed Use (RMX) District, Neighborhood Mixed Use (NMX) District and Downtown Mixed Use (DMX) District.

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

Adopted and approved this the 20th day of March, 2017.



Jimmy Harris
Mayor



Desiree Perry

Desiree Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:

Michael K. Pratt

Michael K. Pratt
City Attorney

**Ordinance No. 2017-08
 EXHIBIT A**

UDO Amendments for Short-Term Rentals

2.2. - Use categories and tables of permitted uses.

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

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

2.2.C - Use Matrix

	GR	RMX	NMX	DMX	CMX	IC	GI
Lodging							
Bed and Breakfast Home	PS	PS	PS	PS	PS	PS	-
Bed and Breakfast Inn	SUP	PS	PS	PS	PS	PS	-
Accessory Rental Cottage/Cabin	PS	PS	PS	-	-	-	-
Hotels/Motels/Inns	-	-	-	P	P	P	-
Rooming or Boarding House	-	-	P	P	P	P	-
Recreational Vehicle Park	-	-	-	-	-	-	-
Short-Term Rental ^d	P	P	P	P	-	-	-

- a) Within NMX, DMX, and CMX districts, single family structures are permitted only as town homes or multi-family structures; on the second or higher floor of any structure where the ground floor is used for non-residential purposes; or as part of a group development, or conditional district, in which event they shall not be subject to the foregoing limitation.
- b) Manufactured homes are permitted with standards in the Manufactured Home Overlay District.
- c) Accessory rental cottages/cabins are permitted with standards in association with approved bed and breakfasts.
- d) Short-term rentals are allowable uses subject to the standards in Chapter 3.34. No permits required, per NCGS 160A-424(c).
- e) Vehicle services are permitted within institutional campuses only for the purposes of maintaining vehicles associated with the operation of the campus and for instructional classes. For example, a college may operate a maintenance shop for the campus fleet, as well as, for instructional classes. Other vehicle service operations shall not be permitted within institutional campuses.
- f) Non-residential uses within a live-work unit must be listed within Chapter 2, Section 2.2 (C. Use Matrix) as a permissible use within the district in which the live-work unit is proposed and such non-residential use must be approved by means of the appropriate permitting process. Non-residential enterprises and residential units within any live-work unit that is located within a General Residential District shall have a common tenant. In districts where residential building types are not permitted live-work units may be permitted within pre-existing non-conforming residential structures.

Chapter 3 - Additional standards

3.34 - Short-Term Rentals

A. Intent

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

B. General requirements

- 1. Occupancy: Overnight occupancy shall not exceed two persons per bedroom plus two additional persons. The number of "bedrooms" used in calculating occupancy limits shall be taken from the property tax records. For example: a two bedroom

- rental would have an occupancy limit of 6 (2 x 2 bedrooms = 4 + 2 additional = 6 total).
2. Appearance: Dwelling units used as short-term rentals in GR zoning districts shall maintain their residential character and outside appearance. No signs shall be permitted. All exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
 3. Parking: Parking requirements shall be provided for the type of dwelling unit, per Chapter 10 of this ordinance.
- C. Exemptions: The following activities shall not be considered as a Short-Term Rental use and the requirements of this subsection shall not apply to them.
1. Incidental residential vacation rentals, defined to mean no more than two such rentals in any calendar year where the total number of nights rented does not exceed 14.
 2. Rentals of property in any permitted hotel, motel, inn, rooming or boarding house, or bed and breakfast establishment.

10.3.A - Minimum parking ratios

A. Minimum parking ratios:

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

10.5.G - Location of off-street parking

G. Location of off-street parking:

1. Off-street parking shall not be permitted within any public right-of-way.
2. Off-street parking shall not be permitted within any front yard setback area.
3. Except for properties located in the Corridor Mixed Use (CMX) zoning district, off-street parking shall not be permitted between any principal structure and the street upon which such structure fronts. Where a structure fronts upon two or more streets, parking may be permitted between the principal structure and the adjacent street of lesser classification when parking cannot reasonably be placed in another location.
4. The following uses and parking types shall be exempt from Sections 10.5(G.2) and 10.5(G.3) above:
 - a. Single-family and duplex residential structures in GR, RMX and NMX districts, including those used for Short-Term Rental uses, except those which are subject to Chapter 2, Section 2.3(E.2).
 - b. Handicapped parking spaces as required by the North Carolina Accessibility Code or other federal, state, or local regulations.
 - c. Bicycle parking spaces required by this Ordinance.
 - d. Existing non-residential and multi-family development undergoing significant or substantial improvement or change of use as defined in Chapter 19 of this Ordinance, provided that all newly created parking spaces associated with such redevelopment shall conform with Sections 10.5(G.2) and 10.5(G.3) unless the approving authority deems that compliance would be impractical due to existing site constraints.

Chapter 19 – Definitions

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

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

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

Short-Term Rental: A private residential property that is rented, either in whole, or part, for periods of less than 30 days for compensation.

**Ordinance No. 2017-08
Exhibit A - Continued**

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

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

2015 Comprehensive Plan – Element 2: Economic Health

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

2015 Comprehensive Plan – Element 4: Livable Communities – Objective 4.1

Increased efficiency of land uses to help stabilize and grow the City's tax base.

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