UNIFIED DEVELOPMENT ORDINANCE

CHAPTER 3. USE DEFINITIONS AND STANDARDS

3.14. Temporary uses.

3.14.1. Temporary events and structures use category.

A. ***Temporary events and structures:***

1. Definition: An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event. Examples of these activities include, without limitation, the following:
    a. carnivals or circuses;
    b. contractor's office and equipment sheds
    c. farmers markets;
    d. outdoor meetings;
    e. satellite real estate sales office;
    f. seasonal structures; and
    g. special events
2. Additional Standards:
    a. In the consideration of any temporary use, structure or special event, the administrator shall have broad discretion to impose such conditions as may be necessary to protect the health, safety and welfare of the public.
    b. The use shall clearly be of a temporary nature.
    c. The use shall be limited to a period not to exceed 90 days except as otherwise provided.
    d. The use shall not obstruct any public travel way except by specific approval by the city and will cause no traffic congestion;
    e. The use shall not create a nuisance to surrounding uses.
    f. The use shall not create hazards or adverse impacts related to parking, drainage, fire protection, or other adverse impacts.
    g. The operator shall provide a plan for the management of waste generated by the use, and sanitary facilities if the administrator or health department deems it is necessary.
    h. The operator shall satisfy all other requirements of the director of public health, the building inspector or the fire marshal.
    i. The operator shall secure a business license, street closure permit, sidewalk closure permit, or parade permit if required.

j. The applicant and/or operator shall promote the temporary use or special event as tobacco and nicotine free (including, but not limited to smoking, vaping, dipping, and chewing).

k. The total area of a temporary use or special event, including tents, display areas, and other appurtenances of the use, shall not exceed 2,000 square feet. This requirement shall not apply to the following categories of temporary uses or special events:

   i. Special events, upon approval by the administrator.

   ii. Farmers markets.

   iii. Carnivals and circuses.

l. Tents and structures:

   i. Applicants shall provide flame retardancy certifications for all tents.

   ii. Temporary structures shall not exceed 120 square feet. Tents, shipping containers, satellite offices and classrooms, ~~and~~ equipment sheds, and temporary dwellings, as described herein, shall not be subject to this requirement.

   iii. Seasonal greenhouses, tents, and other temporary structures may be permitted for a period not to exceed 90 days. These structures must be removed on the expiration date of the permit.

   iv. A satellite office and equipment shed may be permitted in any district for a period covering the construction phase of a project, not to exceed one year, provided that such office be placed on the property on which the project is situated.

   i. The administrator may approve the temporary set-up and occupancy of recreational vehicles (or other temporary dwellings in consultation with the building inspector) when the principal residence of the occupant has been destroyed by wind, fire, movement of earth, or other manmade or natural disaster, ~~, and subsequent to such event having been declared a disaster by the Mayor of the City of Brevard, the County Manager of the County of Transylvania, the Governor of the State of North Carolina, or the President of the United States~~. ~~In no case shall such a vehicle or temporary dwelling be set up or occupied for a period exceeding 180 days.~~ The temporary permit shall be issued for a temporary dwelling located on the same property as the damaged structure for a period of time not exceeding 12 months while repair and reconstruction of principal residence is taking place. The permit may be renewed for an additional six-month period, provided the applicant provides documentation demonstrating: progress has been made to repair and/or reconstruct the primary structure on the lot;

      a. This provision is only applicable for events that are not declared an emergency by the Mayor of the City of Brevard, the Chair of the Transylvania County Board of Commissioners, the Governor of the State of North Carolina, or the President of the United States. If it is a declared emergency by any of the aforementioned officials, this provision is superseded by Chapter 21.

      b. The setup or occupancy of a recreational vehicle shall not be permitted within the City of Brevard for any other reason whatsoever, except as otherwise provided for in this ordinance.

      c. Shipping containers shall only be permitted to be used for temporary storage and must be in conjunction with a non-residential use.

m. Site layout:

i. Temporary uses, structures and special events shall be arranged so as to maximize public safety, to minimize conflicts among vehicles and pedestrians, to minimize conflicts with existing, permanent uses.

ii. Temporary uses, structures and special events shall be situated at least ten feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space. This requirement shall not apply to special events approved by the city for placement upon public streets.

iii. Temporary uses, structures and events may obstruct travel ways within parking areas only upon determination by the administrator that such obstruction will not impede commerce, hinder the flow of traffic or endanger the safety of motorists or pedestrians. Uses, structures or events shall be clearly delineated and separated from areas of active vehicle operation by means of traffic safety cones, signage, flagging, or other approved means.

iv. Temporary uses, structures and special events shall be situated at least ten feet from points of ingress and egress, and shall not obstruct the sight triangle at any intersection. Ingresses and egresses to the temporary uses, structures and special events shall be designated.

n. The administrator shall require an operations and site plan for each temporary use, structure, or special event, and shall require written permission for the operation of the temporary use, structure or special event by the owner(s) of the subject property.

o. The administrator may require that the operator provide a performance bond in the amount of 125 percent of the cost of removal of the use and restoration of the site, as authorized by G.S. 160D-702.

p. The temporary use, structure or special event shall comply with all other applicable provisions of City Code.

B. ***Carnival or circus.***

1. Definition: A business providing temporary outdoor commercial entertainment, which may consist of sideshows, concessions, rides, games of chance, and other amusements.
2. Additional Standards:
   a. Carnivals and circuses may be permitted for a period not to exceed 21 days.
   b. Carnivals and circuses shall only be permitted within undeveloped, vacant lots, or within developed parking lots that serve a principal structure, which structure is unoccupied for the duration of the carnival or circus.
   c. Carnivals and circuses shall not employ registered sex offenders.

C. ***Farmers markets:***

1. Definition: Venues wherein multiple vendors sell or offer for sale, seasonal products directly to consumers on a non-wholesale basis. Farmers markets shall be accessible to the general public and managed by public or non-profit entities. Farmers markets are a form of temporary use.
2. Additional Standards:
   a. Vendors may offer seasonal horticultural, agricultural, aquacultural or forest products, including but not limited to raw fruits, vegetables, perennials, annuals bulbs, dried flowers, Christmas trees, and similar products.
   b. Vendors may offer value-added horticultural, agricultural, aquacultural or forest products which were produced by the vendor, including but not limited to baked goods, meat, dairy, honey, cider, preserves, relishes, jams, jellies and similar products.

c. Vendors may offer hand-made crafts and works of art which were produced by the vendor; provided, however, that such products shall not exceed 25 percent of all products sold within the venue on any given day of operation.

d. Vendors may offer food items prepared by the vendor; provided, however, that such products shall not exceed 25 percent of all products sold within the venue on any given day of operation, and provided that the vendor shall comply with all applicable requirements of the director of public health and the North Carolina Department of Agriculture.

e. The sale of live animals is prohibited.

f. All vendors, including vendors utilizing vending push carts, shall situate products for sale, as well as associated vehicles, push carts, tents, tables or other materials within a designated vending space as delineated upon a site plan provided to the administrator.

g. The operator shall provide the administrator an operations plan, operating rules, and a list of the names of the vendors (persons, firms or corporations) who shall provide merchandise for sale as part of the market. The list shall generally describe the type of item to be sold by each said vendor.

CHAPTER 21. EMERGENCY RESPONSE AND RECOVERY

21.1. Purpose and intent.

The purpose of these emergency response and recovery regulations is to establish a comprehensive framework that enhances community resilience in the face of disasters and emergencies. The regulations aim to ensure that development activities following a declared emergency:

A. Support swift response and recovery efforts post-disaster,

B. Improve the response capabilities of this ordinance,

C. Ensure displaced residents have safe and adequate temporary housing options,

D. Allow for efficient restoration of essential services and infrastructure, and

E. Promote the timely rebuilding of affected areas.

21.2. Applicability.

A. This chapter shall apply following an event having been declared a disaster and subject to a "State of Emergency" by:

1. City Manager and/or Mayor of the City of Brevard;
2. County Manager and/or Chair of the Board of Commissioners of Transylvania County;
3. Governor of the State of North Carolina; and/or
4. President of the United States of America.

B. The applicability of this chapter shall terminate one year from the emergency declaration date. If deemed appropriate given ongoing response and recovery efforts, the City Manager or a majority vote of City Council may extend or shorten the applicability of this chapter for a specified period of time.

21.3. Temporary uses associated with emergency response and recovery.

A. The administrator may approve the establishment of temporary uses associated with emergency response and recovery efforts for a specified duration. These uses include, but are not limited to, temporary housing, shelters, personal services (laundry, showers, etc.), medical facilities, and/or government or social service offices.

B. The administrator may consult with the Technical Review Committee and may apply additional conditions to ensure public health, safety, and welfare are not compromised as a result of the temporary use and/or its location.

C. Temporary uses may be subject to additional agency approvals which may include, but are not limited to, utilities connections, stormwater reviews, floodplain development permits, and building permits.

D. Permit or other development fees for temporary uses associated with emergency response and recovery efforts may be waived by an amendment of the fee schedule adopted by City Council, as permitted by law.

21.3.1. Temporary residential uses.

A. The administrator may approve temporary housing accommodations for displaced persons or recovery personnel following a declared emergency, subject to the following conditions.

1. *Type*:
    a. The temporary dwelling shall be one of the following types:
        i. Recreational vehicle,
        ii. Temporary and transportable manufactured home,
        iii. Travel trailer, or
        ~~i.~~iv. Other temporary structures in consultation with the building inspector.
    b. Any type of temporary dwelling may be permitted, regardless of underlying use permissions and density requirements.
2. *Placement*:
    a. Temporary housing units may be permitted in the following circumstances:
        i. On a lot where active repair and reconstruction of the primary structure is occurring, regardless of the underlying zoning district;
        ii. On a lot within a residential zoning district as a type of temporary accessory dwelling unit (ADU); or
        iii. On a lot within a residential zoning district as a type of group development that is set up for multiple temporary dwellings.
    b. Setback requirements may be waived during the duration that the temporary housing unit is permitted, such that:
        i. The placement of the temporary housing will allow for unobstructed repair and reconstruction on the site, if applicable;
        ii. The temporary housing unit does not extend into any public or private right-of-way, easement, or adjacent property; and

iii. The placement of the temporary housing unit does not violate any applicable provisions of NC Building Code or Fire Code.

c. Temporary dwellings shall not be placed in flood hazard area, unless active repair or reconstruction of the primary structure is occurring on site and there is no feasible location outside of the flood hazard area for the temporary dwelling to be placed.

i. If placed in the special flood hazard area the temporary dwelling shall be fully movable, properly licensed and ready for highway use. A recreational vehicle or other type of temporary dwelling is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.

3. *Duration*:

a. The temporary housing permit shall be issued for a period of time not exceeding 12 months. The permit may be renewed for an additional six-month period, provided the applicant provides documentation demonstrating:

i. When placed on a lot where active repair and reconstruction of the primary structure is occurring, progress has been made to repair and/or reconstruct the primary structure on the lot;

ii. When placed on a lot as a type of temporary accessory dwelling unit, progress has been made to repair and/reconstruct the occupant's primary residence;

iii. When placed on a lot as a type of group development, progress has been made to repair and/or reconstruct the primary residence of each occupant and/or additional displaced persons or recovery personnel are in need of temporary housing accommodations as a result of the emergency event.

b. The temporary housing unit(s) must be removed from the lot within thirty days following the completion of the repair and reconstruction of the displaced person's primary residence or within thirty days following the expiration of the zoning permit.

B. Preexisting nonconforming short-term rentals (STRs) or other lodging uses may be used as temporary housing accommodations in response to the local, state, or federal emergency for a period without being considered abandoned as set forth in *Section 14.2 – Nonconforming uses*.

21.3.2. Temporary non-residential uses.

A. The administrator may approve temporary non-residential uses providing emergency response and recovery services, subject to the following conditions.

1. *Type*:

a. The temporary structure shall be one of the following types:

i. Recreational vehicle,

ii. Travel trailer,

~~i.~~iii. Disaster relief tents or emergency response tents, or

iv. Other temporary structures in consultation with the building inspector.

2. *Placement*:

a. Temporary non-residential uses may be permitted in the following circumstances:

i. As a temporary installation in a publicly-accessible parking area;

ii. Vacant property in a non-residential zoning district; or

iii. Within a vacant area of a property occupied by other non-residential uses in a non-residential zoning district.

b. Setback requirements may be waived during the duration that the temporary non-residential use is permitted, such that:

i. The placement of the temporary non-residential use will not impede any repairs or reconstruction of any damaged permanent structures on the site, if applicable;

ii. The temporary non-residential use does not extend into any public or private right-of-way, easement, or adjacent property; and

iii. The placement of the temporary non-residential use does not violate any applicable provisions of NC Building Code or Fire Code.

c. Temporary non-residential uses shall not be placed in the special flood hazard area.

3. *Duration*:

a. The temporary non-residential use shall be issued for a period of time not exceeding six months. The permit may be renewed for an additional six-month period, provided the applicant provides documentation demonstrating the non-residential services are still required.

b. The temporary non-residential use must be removed from the lot within thirty days following the closure of the use or within thirty days following the expiration of the zoning permit.

21.4. Temporary signage associated with emergency response and recovery.

A. Any non-residential use that is actively engaged in ongoing public service efforts in response to the emergency shall be permitted to display temporary signage.

1. *Permit*:

a. Type 1 and Type 2 freestanding temporary signs, as described in Section 12.8, associated with emergency response and recovery shall not require a permit.

b. Other types of signage shall be subject to the provisions of the underlying zoning district and requires a permit.

2. *Number*:

a. Uses actively engaged in response and recovery efforts shall be allowed two temporary signs per location. Additional signage may be permitted in accordance with the ordinance provisions.

b. Government uses shall not be subject to this limitation.

3. *Duration*:

a. The temporary signs are permitted to be displayed for the duration of the declared emergency or the applicability of this chapter, whichever is longer, provided the public service advertised is active and ongoing.