UNIFIED DEVELOPMENT ORDINANCE

CHAPTER 2. DISTRICTS AND GENERAL PROVISIONS

2.2. Use categories and tables of permitted uses.

A. All uses permitted in this Code have been divided into 10 general categories as detailed below and are generally defined as follows:

1. *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.
2. *Lodging:* Premises available for short-term human habitation for a fee, including daily and weekly rental.
3. *Commercial:* Premises available for the transaction of general business, the provision of services, the commercial sale of merchandise, and/or food and drink consumption, but excluding manufacturing.
4. *Civic/institutional:* Premises available for organizations dedicated to religion, education, government, social service, health care, and other similar functions.
5. *Entertainment/recreation:* Premises for the gathering of people for purposes such as arts and culture, amusement, and recreation.
6. *Agriculture:* Premises primarily used to grow crops, produce, flowers, etc., raise animals, harvest timber, or other similar functions.
7. *Manufacturing/wholesale/storage:* Premises available for the creation, assemblage, storage, and repair of items including their wholesale or retail sale.
8. *Infrastructure:* Uses and structures dedicated to transportation, communication, information, and utilities.
9. *Accessory*: Uses of land or of a building or structure or portion thereof, which is incidental and subordinate to a principal use on the same lot.
10. *Temporary:* Uses of land established for a fixed, limited period of time with the intent of discontinuing it once that time expires. ~~Uses of land which, having met certain requirements and conditions, that may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.~~

B. *Interpretation of use matrices*.

1. The use matrix is not intended to be a comprehensive list of all possible uses, but rather a list of more common uses likely to be proposed within the city.
2. In the event that a particular use is not listed in the use matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the administrator shall determine whether a materially similar use exists in this chapter.
    a. Should the administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing pursuant to G.S. 160D-403.

b. Should the administrator determine that a materially similar use does not exist, this chapter may be amended to establish a specific listing for the use in question in accordance with the provisions set forth for text amendments in CHAPTER 16.

3. When determining whether a proposed use is materially similar to a listed use, the administrator may consider the following criteria:
   a. The actual or projected characteristics of the proposed use;
   b. The relative amount of site area or floor area and equipment devoted to the proposed use;
   c. Relative amounts of sales;
   d. The customer type;
   e. The relative number of employees;
   f. Hours of operation;
   g. Amount and frequency of deliveries;
   h. Building and site arrangement;
   i. Types of vehicles used and their parking demands;
   j. The number of vehicle trips generated;
   k. Signs;
   l. How the proposed use is advertised;
   m. The likely impact on surrounding properties; and
   n. Whether the activity is likely to be found independent of the other activities on the site.
4. Prohibited uses within the applicable zoning district or uses for which the administrator determines there is not a materially similar use in the matrix may be permitted through the application of a conditional zoning district in accordance with the provisions set forth in CHAPTER 16.

C. *Use matrix.* The following matrix sets forth the manner by which certain uses may be permitted within the various districts set forth above.

1. "P" denotes those uses that are permitted "by right."
2. "—" denotes those uses that are not permitted within the given district.
3. "SUP" denotes those uses that are permitted upon issuance of a special use permit in accordance with the provisions set forth in CHAPTER 16. Additional standards for certain uses requiring a special use permit are set forth in CHAPTER 3 of this ordinance.
4. "PS" denotes those uses that are permitted with additional standards, which are set forth in CHAPTER 3.
5. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

TABLE 2.2-A: LAND USE MATRIX

CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Residential										
Household Living	**3.5.1**	Dwelling—Single-Family	P	P	—	—	—	—	P	—
		Dwelling—Duplex	P	P	P	P	—	—	P	—

TABLE 2.2-A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Dwelling—Multifamily 3—4 units/bldg.	P	P	P	P	P	P	P	—
		Dwelling—Multifamily more than 4 units/bldg.	—	P	P	P	P	P	P	—
		Dwelling—Townhome	P	P	P	P	P	P	P	—
		Manufactured Home	MHD	MHD	MHD	MHD	MHD	MHD	MHD	—
		Live-Work Units	PS	PS	PS	PS	PS	—	PS	—
		Mixed-Use Residential Unit	—	—	PS	PS	PS	PS	PS	—
Group Living	**3.5.2**	Family Care Home	P	P	P	P	P	P	P	—
		Housing Services for the Elderly	SUP	P	P	P	P	P	P	—
		Rooming or Boarding House	P	P	P	—	P	P	P	—
Social Services	**3.5.3**	Group Care Facility	P	P	P	—	P	P	P	—
		Shelter	SUP	P	P	—	P	P	P	—
Lodging										
Overnight Accommodations	**3.6.1**	All overnight accommodations, except as listed below	—	—	—	P	P	P	P	—
		Bed and Breakfast	PS	PS	PS	PS	PS	PS	PS	—
		Short-Term Rental (STR)	—	PS	PS	PS	PS	PS	PS	—
Camping	**3.6.2**	Campground/Recreational Vehicle Park	SUP	SUP	SUP	SUP	—	—	SUP	—
		Rental Cottage/Cabins	PS	PS	PS	PS	—	—	—	—
		Seasonal Camp	PS	—	—	PS	—	—	PS	—
Commercial										
Eating and Drinking Establishments	**3.7.1**	All restaurants and other eating and drinking establishments except as listed below	—	—	P	P	P	P	P	—
		Bar/Night Club	—	—	PS	PS	P	P	—	—
Personal Services	**3.7.2**	All personal services, except as listed below	—	P	P	P	P	P	P	—
		Day Care Center	PS	PS	PS	PS	PS	PS	PS	PS
Professional Services	**3.7.3**	All professional services, except as listed below	SUP	P	P	P	P	P	P	P
		Adult Establishment	—	—	—	—	—	—	—	SUP

TABLE 2.2-A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Banks, Credit Unions, Financial Services, and ATMs	—	—	P	P	P	P	P	P
		Funeral Homes and Services	—	—	P	—	P	P	P	—
		Human Crematories and Crematoriums	—	—	PS	—	PS	PS	PS	PS
		Indoor Animal Services	—	—	P	P	P	P	P	P
		Kennels and Outdoor Animal Services	—	—	SUP	—	—	PS	—	PS
		Landscaping and Contractor Services	SUP	SUP	SUP	—	—	—	—	P
		Vehicle Services—Major Repair/Body Work	—	—	—	—	—	PS	—	PS
		Vehicle Services—Minor Maintenance/Repair	—	—	SUP	—	SUP	PS	PS	PS
Retail	**3.7.4**	All retail and sales establishments except as listed below	—	—	P	P	P	P	P	—
		Alcoholic Beverage Sales Store	—	—	SUP	P	P	P	—	—
		Auto/Mechanical Parts Sales	—	—	—	P	P	P	—	P
		Flea market	—	SUP	SUP	SUP	SUP	SUP	—	—
		Gas Station	—	—	SUP	PS	SUP	PS	—	PS
		Gunsmiths and Weapon Sales	—	—	SUP	SUP	PS	PS	—	PS
Civic/Institutional										
Educational	**3.8.1**	All educational uses except as listed below	SUP	P	P	P	P	P	P	—
		Colleges/Universities	—	—	SUP	SUP	P	P	P	—
		Schools—Vocational/Technical	—	SUP	P	P	P	P	P	P
Government	**3.8.2**	All government uses, except as listed below	—	P	P	P	P	P	P	P
		Correctional Facilities	—	—	SUP	—	SUP	P	P	P
		Public Safety Station	SUP	SUP	P	P	P	P	P	P

TABLE 2.2-A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
Medical	**3.8.3**	All medical offices and facilities except as listed below	—	P	P	P	P	P	P	—
		Hospital	—	—	—	—	—	P	P	—
Places of Worship	**3.8.4**	All religious institutions or places of worship	SUP	P	P	—	P	P	P	—
		Cemeteries	PS	PS	PS	—	PS	PS	PS	—
Entertainment/Recreation										
Indoor Recreation	**3.9.1**	All indoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P	P
		Cultural or Community Facility	SUP	P	P	P	P	P	P	—
		Indoor Amusements	—	—	SUP	P	P	P	SUP	P
		Indoor Firing Range	—	—	—	SUP	—	SUP	SUP	SUP
		Live Performance Theater	—	SUP	SUP	P	P	P	P	—
		Movie Theater	—	—	—	P	P	P	—	—
		Special Event Venue	SUP	SUP	PS	PS	PS	PS	PS	—
		Studios, Galleries and Workshops - High Impact	—	—	SUP	SUP	SUP	P	P	P
		Studios, Galleries and Workshops - Low Impact	—	P	P	P	P	P	P	—
Outdoor Recreation	**3.9.2**	All outdoor recreation facilities, except as listed below	SUP	P	P	P	P	P	P	P
		Non-Residential Swimming Pool or Pond	—	SUP	SUP	SUP	PS	PS	PS	—
		Outdoor Amusements	—	—	SUP	P	SUP	P	—	P
		Outdoor Firing Range	—	—	—	—	—	—	—	SUP
		Parks, Open Space, and Greenways	P	P	P	P	P	P	P	P
Agriculture										
Agriculture	**3.10.1**	All agricultural uses	PS	—	—	—	—	PS	PS	PS
Manufacturing/Wholesale/Storage										
Light Industrial and Manufacturing	**3.11.1**	All light industrial and manufacturing activities, except as listed below	—	—	—	—	—	SUP	—	P

TABLE 2.2-A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Brewery, Distillery, Winery, Cidery - High Impact	—	—	—	SUP	—	P	—	P
		Brewery, Distillery, Winery, Cidery - Low Impact	—	—	SUP	PS	PS	PS	—	PS
		Laboratory	—	—	—	—	—	P	P	P
		Laundry, Dry Cleaning Plant	—	—	—	—	—	SUP	P	P
		Manufacturing Research and Development	—	—	—	P	—	P	P	P
		Media Production	—	—	P	P	P	P	P	P
Heavy Manufacturing	**3.11.2**	All heavy manufacturing activities, except as listed below	—	—	—	—	—	—	—	SUP
		Metal Products Fabrication, Machine or Welding Shop	—	—	SUP	SUP	SUP	P	—	P
Storage and Disposal	**3.11.3**	All storage and disposal uses, except as listed below	—	—	—	—	—	SUP	—	P
		Chemical Storage Facility	—	—	—	—	—	—	—	P
		Solid Waste Disposal Facilities	—	—	—	—	—	—	—	PS
		Junkyard / Salvage Yard	—	—	—	—	—	—	—	SUP
Wholesaling and Distribution	**3.11.4**	All wholesaling and distribution activities, except as listed below	—	—	—	—	—	P	—	P
		Equipment Rental	—	—	—	—	—	P	—	P
		Indoor Vehicle/Heavy Equipment Sales	—	—	PS	—	PS	PS	—	PS
		Outdoor Vehicle/Heavy Equipment Sales	—	—	—	—	—	PS	—	PS
Extractive Industries	**3.11.5**	All extractive industries, except as listed below	—	—	—	—	—	—	—	P
		Extractive industries involving blasting	—	—	—	—	—	—	—	SUP
Infrastructure										
Utilities	**3.12.1**	Utilities—Class 1	P	P	P	P	P	P	P	P
		Utilities—Class 2	P	P	P	P	P	P	P	P

TABLE 2.2-A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Utilities—Class 3	—	—	—	—	—	—	—	P
Telecommunications	**3.12.2**	All wireless telecommunication facilities, except as listed below	PS	PS	PS	PS	PS	PS	PS	PS
		Wireless Telecommunication Facility—Tower	—	—	—	—	—	SUP	—	PS
Transportation	**3.12.3**	Parking Lot	SUP	PS	PS	PS	PS	PS	PS	PS
		Passenger Vehicle Terminals	—	—	P	P	P	P	—	P
Accessory										
Residential Accessory	**3.13.1**	All residential accessory uses, except as listed below	PS	PS	PS	PS	PS	PS	PS	PS
		Day Care Home	PS	PS	PS	PS	PS	PS	PS	—
		Dwelling—Accessory Unit (ADU)	PS	PS	PS	PS	PS	PS	PS	—
		Home Occupation	PS	PS	P	P	P	P	P	—
		Keeping Bees	PS	PS	PS	PS	PS	PS	PS	PS
		Keeping Domestic Fowl (Chickens)	PS	PS	PS	PS	PS	PS	PS	PS
		Swimming Pool or Pond	PS	PS	PS	PS	PS	PS	PS	—
Non-Residential Accessory	**3.13.2**	All non-residential accessory uses, except as listed below	—	PS	PS	PS	PS	PS	PS	PS
		Accessory Retail	—	—	PS	PS	PS	PS	PS	PS
		Drive-Thrus	—	—	SUP	SUP	—	PS	—	—
		Mobile Food Vendor Site	—	SUP	PS	PS	PS	PS	PS	PS
		Recycling - Small Collection	—	—	—	—	—	SUP	SUP	P
		Rooftop Amenity Space	—	—	SUP	PS	PS	PS	PS	PS
		Taproom / Tasting Room	—	—	SUP	P	P	P	—	P
Temporary										
Temporary	3.14	All temporary uses, except as listed below	PS	PS	PS	PS	PS	PS	PS	PS
		Agricultural / Produce Stand	PS	PS	PS	PS	PS	PS	PS	PS

TABLE 2.2-A: LAND USE MATRIX										
CATEGORY	SECTION (a)	USE	ZONING DISTRICTS							
			GR	RMX	NMX	PGX	DMX	CMX	IC	GI
		Construction Office	PS	PS	PS	PS	PS	PS	PS	PS
		Dwelling – Temporary	PS	PS	PS	PS	PS	PS	PS	PS
		Mobile Classroom	PS	PS	PS	PS	PS	PS	PS	PS
		Mobile Vendor	PS	PS	PS	PS	PS	PS	PS	PS
		Outdoor Seasonal Sale	PS	PS	PS	PS	PS	PS	PS	PS
		One-Day Event	PS	PS	PS	PS	PS	PS	PS	PS
		Outdoor Event	PS	PS	PS	PS	PS	PS	PS	PS
		Outdoor Storage Container	PS	PS	PS	PS	PS	PS	PS	PS
~~Events and Structures~~	~~3.14.1~~	~~All temporary events and structures, except as listed below~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~
		~~Carnivals or Circus~~	~~—~~	~~—~~	~~—~~	~~—~~	~~—~~	~~PS~~	~~PS~~	~~PS~~
		~~Farmers Market~~	~~—~~	~~—~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~	~~—~~
~~Vendors~~	~~3.14.2~~	~~All temporary vendors, except as listed below~~	~~—~~	~~—~~	~~PS~~	~~PS~~	~~PS~~	~~PS~~	~~—~~	~~—~~
		~~Vending Pushcarts~~	~~—~~	~~—~~	~~—~~	~~—~~	~~PS~~	~~—~~	~~—~~	~~—~~

(a) This column refers to the section of this ordinance that contains the use definition and additional standards.

CHAPTER 3. USE DEFINITIONS AND STANDARDS

3.13. Accessory uses.

3.13.2. Non-residential accessory use category.

Commented [EB1]: No changes - included for reference

A. ***Non-residential accessory use.***

1. Definition: A use of land or of a building or structure or portion thereof, which is incidental and subordinate to a non-residential principal use on the same lot.
2. Additional Standards:
   a. Accessory uses shall adhere to the standards outlined in Section 2.5 and all other applicable sections.

B. ***Accessory retail.***

1. Definition: The on-premises, retail sale of products directly to customers, where the retail use is incidental to a primary use conducted upon the same premises. Examples include but are not limited to the following: a furniture manufacturer who operates a show floor for the display and sales of furniture produced by the manufacturer or a bicycle manufacturer who operates a floor for the display and sales of bicycles produced by the manufacturer.
2. Additional Standards:

a. Accessory retail uses shall be directly related to and accessory to a conforming, principal use.

b. Products offered for sale within accessory retail uses shall be products which are produced or processed by the associated principal use, or which are directly related to, and offered in support of, products which are produced or processed by the associated principal use. For example, a manufacturer of bicycles may operate an accessory retail use wherein bicycles, which were manufactured within the principal use, are offered for direct, on-premises retail sale. Bicycle accessories (such as tires, helmets), which were not produced by the manufacturer but which clearly relate to and support products which are produced or processed by the principal use, may also be offered for sale. However, products that do not clearly relate to and support products which are produced or processed by the principal use (such as backpacking or rock-climbing gear in the case of the bicycle manufacturer) cannot be offered for retail sale.

c. Accessory retail uses shall comply with all applicable standards of federal, state or local law that would otherwise apply to retail oriented principal uses. For example, parking areas serving accessory retail uses within a General Industrial zoning district shall comply with the surfacing requirements of Section 10.7.

d. Accessory retail uses are limited to an area that is equivalent to 20 percent of the gross floor area of the structure(s) containing the principal use.

e. Accessory retail uses shall be indoors, and shall not include the outdoor display of products or merchandise.

C. ***Drive-thru.***

1. Definition: A facility where food and other products or services may be purchased or obtained by motorists without leaving their vehicles. Examples include drive-through fast-food restaurants, coffee, photo stores, pharmacies, bank teller windows, convenience stores, and dry-cleaning pick-up stores without dry cleaning equipment. This term does not include gas stations or other vehicle services, which are separately defined.

2. Additional Standards:

a. Drive-through stacking lanes, windows, and associated equipment shall not be permitted within 50 feet of a GR or RMX district or residential use.

b. Drive-through windows and services shall be located and accessed only at the rear or side of the building and shall not be located between the principal structure and a public street. Service lanes shall not be located between the building and the street.

c. When situated at the side of the building, windows and services shall be located at least 20 feet back from the front façade of the building.

d. Vehicle storage for drive-through uses shall be located outside of, and physically separated from, the right-of-way of any street. This area shall not interfere with the efficient internal circulation of the site, adjacent property, or adjacent street right-of-way.

e. Service lanes shall be a minimum of 80 feet long for a single stacking lane or 80 feet per lane when there is more than one service lane. A service lane is measured from the curb cut to the service area or the order area if an outdoor order area precedes the service area. Service lanes do not have to be linear. Stand-alone automatic teller machines shall provide stacking distance for four vehicles outside of any right-of-way, parking area, or travel lane.

f. Drive-through service lanes shall provide a minimum of ten stacking spaces on site for restaurant and food sale uses with drive-through facilities and a minimum of six stacking spaces on site for

banking, pharmacies and similar non-food-related uses with drive-through facilities. Each stacking space shall be a minimum of nine feet by 18 feet.

g. A service lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations. A service lane is required for full-service drive-through automobile cleaning establishments.

h. Service lanes shall be designed so that they do not interfere with parking, parking access and vehicle circulation. Crossings shall be situated so as to minimize conflicts between pedestrians and vehicles. Where service lanes are traversed by pedestrian crossing areas, such crossings shall be clearly marked. Warning signage may be required at the discretion of the administrator in the interest of pedestrian safety.

i. All service lanes shall be clearly identified by means of striping, landscaping, curbing, and the like.

j. Site access and egress shall be shared by the drive-through and inside customer service functions.

k. The drive-through service lane shall first exit into other circulation lanes within the same project, and then onto a public street via the same exit curb cut as the other circulation lanes within the same project.

l. Service lanes shall be designed for a one-way traffic pattern only.

m. The drive-through shall be limited to a maximum of two service lanes and one additional lane for an automated teller machine (ATM).

n. Drive-through facilities shall be screened from off-site view from adjacent properties by a Type A buffer with a minimum width of ten feet.

o. Speaker box sounds from the drive-through lane shall not unreasonably disturb the peace and quiet of abutting residential property.

p. A traffic impact study may be required by the approving authority.

D. *Mobile food vendor site.*

1. Definition: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale consumption.

2. Additional Standards:

a. Mobile food vendors shall only vend at permanent locations permitted under this section.

b. The owner, or authorized agent thereof, of any property upon which a mobile food vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile food vendor site.

c. Mobile food vendors using the designated site shall secure all necessary permits required by the Transylvania County Health Department.

i. Mobile food vendors must follow all applicable rules and requirements of the Transylvania County Health Department and any other relevant agencies of Transylvania County or the State of North Carolina.

ii. In the issuance of permits for mobile food vendor sites and mobile food vendors, the administrator shall have broad discretion to assign such conditions as may be necessary to protect the health, safety, and welfare of the public

d. Number of mobile food vendor sites:

i. In NMX, PGX and DMX zoning districts, only 1 mobile food vendor site shall be permitted per parcel.

ii. In CMX, IC, and GI zoning districts, each parcel is permitted up to 3 mobile food vendor sites, so long as all other separation and site requirements as set forth in this section are met.

iii. Additional mobile food vendor sites may be permitted with the issuance of a special use permit in accordance with CHAPTER 16.

e. Separation requirements:

i. Mobile food vendors shall be situated at least 10 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.

(A) This requirement shall not apply to special events approved by the city for placement upon public streets.

ii. Mobile food vendors shall be situated at least 20 feet from one another.

iii. Mobile food vendors shall be situated at least 25 feet from any permanent structures.

(A) The administrator may, upon recommendation of the fire marshal, approve the placement of mobile food vendors within 25 feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and other pertinent information. Such reductions shall be reviewed on a case-by-case basis, at the discretion of the administrator.

(B) There shall be no reduction in separation between mobile food vendors and permanent structures within the downtown fire district.

iv. Mobile food vendors shall be situated at least 200 feet from any residential structure that is located within GR zoning district.

v. Mobile food vendors must be set back a minimum of ten feet in all directions from fire hydrants.

f. Power.

i. Outside of the Heart of Brevard district, generators may be used to power the vending unit. Within the Heart of Brevard only dedicated power supplies shall be used.

ii. For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicles needs while in operation.

g. Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m., except during an approved special event, when other operating hours may be established as part of the event.

h. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.

i. Each food truck shall supply at least one waste receptacle which must be removed at the end of each day. All waste receptacles must be emptied at the end of each day and as necessary during the day. City trash receptacles shall not be used for the food truck operator's waste.

j. Mobile food vendor signage shall be limited to the following:

i. Mobile food vendors shall be allowed signage only as described in Chapter 12 of this Ordinance.

ii. Nothing in this Ordinance shall be construed to mean that mobile food vendor vehicles cannot be painted or decorated, or display menus affixed to the side(s) of the vendor vehicle.

E. ***Recycling—small collection.***

1. Definition: A location where the public may donate, redeem or sell recyclable materials, which occupies an area of 350 square feet or less. Such facility may include the following: a mobile unit; bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet; and kiosk-type units that may include permanent structures.

F. ***Rooftop amenity space.***

1. Definition: A covered or uncovered space on a building rooftop that is intended to be an accessory use for residents of a building or mixed-use building type or for the patrons of a commercial building.
2. Additional Standards:
   a. Any structure on a rooftop amenity space shall not exceed 12 feet in height.
   b. The rooftop amenity space shall not be enclosed.
   c. No sign affixed to any structure in a rooftop amenity space shall be visible from the street.

G. ***Taproom or tasting room.***

1. Definition: An area that is ancillary to the production of beer or other types of alcohol at a brewery, distillery, winery, cidery, etc. where the public can purchase and/or consume the alcoholic beverage produced on site.

3.14. Temporary uses.

A. ***Temporary use.***

1. Definition: Any use of land or property established for a fixed, limited period of time with the intent of discontinuing it once that time expires. These uses may include temporary structures, event staging, or other activities that don't have the permanence of a primary land use.

Commentary: These regulations apply for all temporary uses occurring on private property outside of any public rights-of-way. For events and uses that include the reservation of City-owned property please refer to the City of Brevard's facility reservation policy. For events and uses that include the temporary closure of public rights-of-way, please refer to Section 66-13 of the City Code.

Commented [EB2]: EnCode allows us to place "Commentary" on pages to provide more information. We will use this to provide additional info to the constituents.

2. Additional Standards:
   a. The temporary use shall be limited to a period not to exceed 90 consecutive days, unless otherwise specified. After the permit expires, the temporary use shall be removed and shall not be reestablished for a period of at least 45 days.
   b. All debris shall be cleared from the site at the end of the use, and all temporary structures shall be removed within 5 days.
   c. All outdoor activities shall be discontinued by 10:00 PM when located within 500 feet of a residential use, unless otherwise specified.
   d. No temporary use may be located within any required setback or buffer area.
   e. The temporary use must comply with all floodplain development regulations (Section 6.8 of UDO and Chapter 34 of City Code).

f. Temporary uses may be located within parking areas only upon determination by the administrator and/or the relevant public safety agencies that such obstruction will not impede commerce, hinder the flow of traffic or endanger the safety of motorists or pedestrians.

g. Signs associated with a permitted temporary event shall be permitted in accordance with Section 12.8.4.

h. Temporary uses as part of a declared emergency, as defined by Section 21.2, are not subject to these requirements and are instead permitted in accordance with Chapter 21.3.1.

i. Temporary structures established as part of a temporary use are not required to comply with the architectural standards set forth in Chapter 5.

j. In the consideration of any temporary use, the administrator shall have broad discretion to impose such conditions as may be necessary to protect the health, safety and welfare of the public. This may include, but is not limited to, provision of parking, directional signage, traffic control measures, operational hours, and other conditions deemed necessary by the administrator and/or other City departments.

k. The temporary use shall comply with all other applicable federal, state, and local regulations, including but not limited to requirements set forth by the county building department, the county fire marshal, and the county public health department.

B. *Agricultural / produce stand.*

1. Definition: A temporary use, which may include temporary structures, where fresh produce and limited produce-derived products are for sale.
2. Additional Standards:
   a. Agricultural / produce stands must comply with the general temporary use requirements of 3.14(A) above, unless otherwise specified.
   b. All vehicles, including recreational vehicles, trailers and buses, and temporary and transportable manufactured homes, shall not be used as temporary structures for an agricultural / produce stand.

C. *Construction office.*

1. Definition: A use of a temporary structure utilized as a construction office or equipment shed during the construction of a new development.
2. Additional Standards:
   a. Temporary construction offices must comply with the general temporary use requirements of 3.14(A) above, unless otherwise specified.
   b. A temporary construction office is allowed incidental to a construction project and requires a separate temporary use permit.
   c. The temporary use permit shall be valid for the duration of construction.
      i. For the purposes of this section, the duration of construction is from the start of construction, as defined by this ordinance, until 30 days after the certificate of occupancy is issued. If a permit expires or a project is abandoned, the temporary use, along with all temporary structures, shall be removed immediately.

D. *Outdoor seasonal sale.*

1. Definition: A temporary use, which may include temporary structures, where seasonal goods are sold, such as Christmas tree sales, holiday sales, plant sales, and pumpkin sales.
2. Additional Standards:
   a. Outdoor seasonal sales must comply with the general temporary use requirements of 3.14(A) above, unless otherwise specified.
   b. Outdoor seasonal sales may be permitted for a period not to exceed 90 days, after which the outdoor seasonal sales shall be removed and shall not be reestablished for a period of at least 30 days.
   c. Outdoor seasonal sales in GR and RMX shall only be permitted as an accessory use to a Civic/Institutional Use.

E. *Temporary dwelling.*

1. Definition: Temporary housing accommodations for displaced residents when the principal residence of the occupant has been destroyed by wind, fire, flood, movement of earth, or other manmade or natural disaster.
2. Additional Standards:
   a. Temporary dwellings must comply with the general temporary use requirements of 3.14(A) above, unless otherwise specified.
   b. This section shall not apply to any properties damaged from events that are a declared disaster and subject to a "State of Emergency," as defined by Section 21.2. Temporary residential uses as part of a declared emergency may be permitted in accordance with Chapter 21.3.1.
   c. A maximum of one temporary structure for each dwelling on the property is permitted, not to exceed three.
   d. The temporary structure(s) shall be located on the on the lot where active repair and/or reconstruction of the primary structure is occurring.
   e. 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.
   f. 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.

g. The temporary use permit shall be issued for a period of time not exceeding 12 months while the repair and reconstruction of the principal residence is taking place. The permit may be renewed for an additional 6-month period, provided the applicant provides documentation demonstrating progress has been made to repair and/or reconstruct the primary structure on the lot.

h. The temporary housing unit(s) must be removed from the lot within 30 days following the completion of the repair and reconstruction of the primary residence or within 30 days following the expiration of the zoning permit.

F. *Temporary mobile classroom.*

1. Definition: A temporary use of a prefabricated, modular, or relocatable building designed for educational purposes.
2. Additional Standards:
   a. Mobile classrooms shall be allowed as a temporary accessory use to Education uses and Places of Worship uses only.
   b. Mobile classrooms shall only be permitted when the principal structure of Education Use or Place of Worship Use has been destroyed by wind, fire, flood, movement of earth, or other manmade or natural disaster. This shall not include damage resulting from events that are a declared disaster and subject to a "State of Emergency," as defined by Section 21.2.
   c. No other types of temporary structures may be permitted as temporary mobile classrooms except prefabricated, modular , or relocatable building designed for educational purposes.
   d. Mobile classroom units shall be placed on a masonry foundation and all wheels, axles, hitches, and other mobile appurtenances shall be removed.
   e. Mobile classroom units shall be located to the rear or interior side of a principal building.
   f. Mobile classrooms shall be connected to a principal building via a sidewalk.
   g. A maximum of 2 mobile classrooms shall be allowed on a property at one time.
   h. The mobile classroom units shall be permitted for a period of up to 12 months. Extensions may be granted with evidence that a principal building meeting the requirements of the ordinance is being constructed.

G. *Temporary mobile vendors.*

1. Definition: A non-motorized vending cart that is designed and equipped to sell food, beverages, or other goods directly to consumers on private property.
   a. This definition does not include wholesale distributors. The vendor physically reports to and operates from an off-site facility for servicing, restocking, and maintenance each operating day.
   b. This definition also does not apply to vendors included as part of a special event, as provided in Section 66-13 of the City Code, or temporary outdoor events, as provided by this ordinance.

Note: This subsection pertains to mobile vendors located on private property. For use of City property or public rights-of-way, please refer to the City Code. Food trucks are not permitted within the City of Brevard as a temporary use. Instead, the City permits mobile food vendor (or food truck) sites on property as an accessory use, in accordance with Section 3.13.2.

2. Additional Standards:
   a. Temporary mobile vendors must comply with the general temporary use requirements of 3.14(A) above, unless otherwise specified.
   b. The temporary mobile vendor shall be limited to a period not to exceed 30 consecutive days at one location. After the permit expires, the temporary mobile vendor shall be removed and shall not be reestablished for a period of at least 30 days.
   c. The outdoor mobile vending cart must be located so the cart is:
      i. At least 5 feet from the edge of any driveway, traffic lane, handicapped ramp, building entrance, exit or emergency exit;
      ii. At least 15 feet from any fire hydrant; and
      iii. Does not impede, endanger or interfere with pedestrian or vehicular traffic.
   d. No temporary structure, tables, etc. are permitted with a temporary mobile vendor.
   e. No more than two mobile vendors shall be permitted on a property less than 3 acres. No more than 4 mobile vendors shall be permitted on lots 3 acres or larger.
   f. The mobile vending cart operator or their designee must be present at all times, except in cases of an emergency.
   g. No audio amplification is allowed as part of the outdoor mobile vending operations.
   h. The dimensions of any outdoor mobile vending cart may not exceed the following:
      i. 5 square feet in area
      ii. A maximum length or width of 10 feet.
      iii. A maximum height of 8 feet, including any umbrellas or protective coverings attached to the cart.

H. *Temporary one-day event.*

1. Definition: A temporary event lasting 1 day located on private property that do not utilize temporary structures.
2. Additional Standards:
   a. A temporary one-day event shall be allowed without a permit, provided they comply with the following:
      i. No more than 4 temporary one-day events occur on any premise in any one calendar year, and there is at least one month between events.
      ii. No display or storage of goods occurs outside except on the day of the event.
      iii. The event does not require any temporary structures, including tents.
      iv. The event does not occur in any required setback or buffer area, flood hazard area, or any public rights-of-way.
      i. The event will not hinder or prevent the normal flow of vehicular or pedestrian traffic on all or a portion of any street, sidewalk, or other public right-of-way. The following would typically fall under this standard:
         1. Attendance of 500 people or more is anticipated at any one time;
         2. Total attendance that averages 500 people or more per day; or

3. Span multiple blocks, even if the street isn't being closed.

I. *Temporary outdoor event.*

1. Definition: A temporary event within an outdoor space on private property, such as but not limited to the performance of live music, festivals, competitions, carnivals/circuses, worship services, farmers markets, arts and crafts fairs, flea markets, and others.
   a. Events held at a permitted Special Event Venues, as defined by Chapter 19, shall not be considered temporary.

Commentary: If the temporary outdoor event lasts only one day and does not utilize any temporary structure (including tents), the event may be allowed without a permit in accordance with Section 3.14(H).

2. Additional Standards:
   a. Temporary outdoor event must comply with the general temporary use requirements of 3.14(A) above, unless otherwise specified.
   b. No one event may be longer than 14 calendar days, including set-up and breakdown time.
      i. The administrator is authorized to extend the duration of the temporary outdoor event permit beyond 14 days if there is a unique situation that warrants a time extension.
   c. No more than 6 outdoor events may be permitted per property per calendar year.
   d. The administrator may require the applicant to also procure a special event permit if event is deemed to substantially hinder or prevent the normal flow of vehicular or pedestrian traffic on all or a portion of any street, sidewalk, or other public right-of-way. The following would typically require a special event permit under this standard:
      i. Attendance of 500 people or more is anticipated at any one time;
      ii. Total attendance that averages 500 people or more per day; or
      iii. Span multiple blocks, even if the street isn't being closed.

J. *Temporary outdoor storage containers.*

1. Definition: The use of a self-storage container that is delivered to a residence or business owner for the purpose of storing belongings and then may be picked up and returned to a warehouse until called for again. This definition includes portable moving containers, shipping containers, temporary dumpsters, and other portable storage containers.
2. Additional Standards:
   a. Temporary outdoor storage containers shall only be used for storage of belongings and materials. No person may occupy or reside within the temporary outdoor storage container.
   b. No permit is required for a temporary outdoor storage container provided it complies with the following:
      i. The temporary outdoor storage container has been on the property for less than 30 days.
      ii. The temporary outdoor storage container is not located in any required setback or buffer area, flood hazard area, any public rights-of-way, or on any property line.

c. A temporary outdoor storage container may be permitted to remain on the property for up to 90 days with the issuance of a permit and compliance with the general temporary use requirements of Section 3.14(A) above.

~~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, equipment sheds, and temporary dwellings, as described hereinshall 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.

v. 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. 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 City Manager or the Mayor of the City of Brevard. 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.

vi. 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.

3.14.2. Temporary vendors use category.

A. Temporary Vendors:

1. Definition: Any vendor who sets up a temporary location to sell food, goods, or services. Vendors may be permitted individually or as part of a temporary event (Section 3.14.1). Temporary vendors include, but are not limited to:
   a. Agricultural and non-agricultural roadside vendors and
   b. vending pushcarts.
2. Additional Standards:
   a. Temporary vendors, excluding those listed below, may be permitted one tent, which shall not exceed 1,500 square feet in area. Temporary vendors shall employ no other temporary structure.
   b. Temporary vendors shall be allowed signage only as described in CHAPTER 12 of this Ordinance.
   c. No temporary vendor shall:
      i. Sell, barter, exchange or attempt to sell any goods, wares or merchandise from any city street or from any passenger vehicle or trailer. This prohibition shall not apply to vending carts as set forth below. This prohibition may be waived by the administrator for special events recognized by the city, provided that the applicant satisfies all permit requirements of Section 66-13 and complies with article I of CHAPTER 66 and other applicable provisions of Brevard City Code.
      ii. Vend on any street or sidewalk where vending is otherwise prohibited.
      iii. Vend between 9:00 p.m. and 7:00 a.m. of the following day, except during city approved festivals and events.
      iv. Sell food or beverages for immediate consumption unless the operator has available for public use his own or a public litter receptacle which is available for patrons' use and no more than ten feet distant from the vending location.
      v. Leave the designated location without first picking up, removing and disposing of all trash or refuse remaining from sales made.
      vi. Solicit or conduct business with persons in motor vehicles.
      vii. Sell anything other than that which the operator is licensed to vend.
      viii. Sound or permit the sounding of any device which produces noise, or use or operate any sound system, radio, sound amplifier or speaker to attract the attention of the public.
      ix. Vend within 50 feet of any driveway entrance to a police or fire station, or within ten feet of any other driveway or of any alley.
      x. Vend within ten feet of the crosswalk at any intersection.
      xi. Vend within ten feet of any fire hydrant or fire escape.
      xii. Allow any item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.
      xiii. Vend within ten feet of any building.

d. The application for a temporary vending permit shall include:

i. The name and address of the applicant, and the name and address of the owner of the vending business or of the cart to be used in the operation of the vending business.

ii. A description of the type of food, beverage or merchandise to be sold.

iii. A description (including the size) and a photograph of any pushcart to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.

iv. A copy of any approval required by the county health department, building inspector, or fire marshal.

v. Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee and the property owner (including the city in the case of pushcart operators) from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the property owner as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the city. Policies covering pushcart operators shall conform to the minimum coverage requirements as set forth by the city manager.

vi. The federal and state tax identification numbers of the owner of the business, and copies of the owner's pre-printed North Carolina sales and use tax forms for the months of proposed operation.

e. All permits issued under this section shall be displayed in a prominent location at all times during the operation of the vending business.

f. Any temporary vendor's permit may be denied, suspended or revoked by the administrator for fraud or misrepresentation in the application for the permit or in the conduct of the business, for conduct of the business in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals, or for conduct which is contrary to the provisions of this chapter or any condition of permit approval.

g. Non-agricultural roadside vendors:

i. Non-agricultural vendors may be permitted to operate for a period not to exceed 90 days, after which such vendors shall vacate the premises and shall not be reestablished for a period of 45 days.

h. Agricultural roadside vendors:

i. Agricultural vendors may be permitted to operate for a period not to exceed 180 days, after which such vendors shall vacate the premises and shall not be reestablished for a period of 45 days.

ii. Agricultural vendors shall only offer seasonal horticultural, agricultural, aquacultural or forest products, including but not limited to raw fruits, vegetable, perennials, annuals bulbs, dried flowers, Christmas trees, and similar products.

B. *Vending pushcart.*

1. Definition: Any self-contained, wheeled vehicle used for displaying, keeping or storing any article by a vendor or peddler (other than a motor vehicle, bicycle or trailer) which may be moved without the assistance of a motor and does not require registration by the state department of motor vehicles.

2. Additional Standards:

a. To relieve any potential for traffic hazard or pedestrian congestion, or any safety hazard resulting therefrom, the number of vending carts with active permits within the central business district at any given time shall not exceed four.

b. No vendor selling from a pushcart on the sidewalk shall:

i. Leave any pushcart unattended.

ii. Store, park or leave any pushcart overnight on any street or sidewalk.

iii. Vend within 75 feet of any other vending cart.

iv. Set up, maintain or permit the use of any table, crate, carton, rack or other device to increase the selling or display capacity of his pushcart or where such items have not been described in his application.

v. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the pushcart.

vi. Maintain any pushcart upon any street or sidewalk which impedes, endangers or interferes with the travel upon or use of the street or sidewalk.

vii. Set up a pushcart so as to block or impede ingress and egress to any structure.

c. If it becomes necessary for the regulation of traffic or the safety or convenience of pedestrians, any law officer of the city may direct vendors to move to another location. No person may refuse to comply with a law enforcement officer when the order is given under the authority of this section.

d. Size of pushcarts:

i. No pushcart shall exceed 48 inches in width or 72 inches in length.

ii. No pushcart shall exceed 60 inches in height, nor shall any canopy be less than 78 inches in height at its lowest point.

iii. The administrator shall have the right to require smaller dimensions based upon such factors as, but not limited to, pedestrian and vehicular safety and adequate sight distances.

e. The pushcart shall be set up so that a minimum of five feet of pedestrian passage is maintained along the sidewalk at all times.

f. Vendor permits will be invalid during special festivals and events within the central business district. However, vendors may apply for permits from the sponsoring organization or committee to operate within the area of the special event.

CHAPTER 12. SIGNS

12.8. Temporary signs.

12.8.4. Temporary use signage.

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A. Upon issuance of a temporary use permit from the City of Brevard, properties being used for the permitted temporary use may display one temporary ground sign on each street frontage of the location of the temporary use for the period of operation as specified in the temporary use permit.

B. The operator of the temporary use may choose any temporary ground sign type found in Section 12.8 and must adhere to all requirements set forth for the sign type, except that the duration of display which may match period of operation as specified in the approved permit.

CHAPTER 19. DEFINITIONS

19.3. Definitions.

The following words, terms and phrases, when used in this UDO, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~**Carnival or circus**: A business providing temporary outdoor commercial entertainment, which may consist of sideshows, concessions, rides, games of chance, and other amusements.~~

~~**Farmers markets**: 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.~~

Agricultural / produce stand: A temporary use, which may include temporary structures, where fresh produce and limited produce-derived products are for sale.

Construction office: A use of a temporary, portable, or modular structure utilized as a construction office or equipment shed during the construction of a new development.

Mobile food vendors (or food trucks): Licensed motor vehicles or mobile food units which offer for sale and consumption food and beverages (excluding alcohol).

Mobile food vendor site: A permanent location for licensed mobile food vendors or food trucks to offer food and beverages for sale and consumption.

Outdoor seasonal sale: A temporary use, which may include temporary structures, where seasonal goods are sold, such as Christmas tree sales, holiday sales, plant sales, and pumpkin sales.

Shipping container: An intermodal container originally designed to store goods or merchandise during shipping by container upon ships, rail, or other types of transportation and are usually 8' wide and 8'6" high by either 20' or 40' length.

Sign, temporary: A banner or A-frame sign used for advertising purposes as set forth in this ordinance.

Special event: An event that uses public property, including streets, public plazas or parks, such as community festivals, parades, or races. See Section 66-13 of Brevard City Code of Ordinances.

Temporary dwelling: Temporary housing accommodations for displaced residents when the principal residence of the occupant has been destroyed by wind, fire, flood, movement of earth, or other manmade or natural disaster.

Temporary mobile classroom: A temporary use of a prefabricated, modular, or relocatable building designed for educational purposes.

Temporary mobile vendors~~**Vending pushcart**~~*:* ~~Any self-contained, wheeled vehicle used for displaying, keeping or storing any article by a vendor or peddler (other than a motor vehicle, bicycle or trailer) which may be moved without the assistance of a motor and does not require registration by the state department of motor vehicles.~~ A non-motorized vending cart that is designed and equipped to sell food, beverages, or other goods directly to consumers on private property.

1. This definition does not include wholesale distributors. The vendor physically reports to and operates from an off-site facility for servicing, restocking, and maintenance each operating day.
2. This definition also does not apply to vendors included as part of a special event, as provided in Section 66-13 of the City Code, or temporary outdoor events, as provided by this ordinance.

Temporary one-day event: A temporary event lasting 1 day, entirely located on one property.

~~**Temporary events and structures**: 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: carnivals or circuses; contractor's office and equipment sheds; farmers markets; outdoor meetings; satellite real estate sales office; seasonal structures; and special events.~~

Temporary outdoor event: A temporary event within an outdoor space on private property, such as but not limited to the performance of live music, festivals, competitions, carnivals/circuses, worship services, farmers markets, arts and crafts fairs, flea markets, and others. Events held at a permitted Special Event Venues, as defined by Chapter 19, shall not be considered temporary.

Temporary outdoor storage containers: The use of a self-storage container that is delivered to a residence or business owner for the purpose of storing belongings and then may be picked up and returned to a warehouse until called for again. This definition includes portable moving containers, shipping containers, temporary dumpsters, and other portable storage containers.

Temporary structure*:* ~~A structure intended to serve a specific event and to be removed upon the completion of that event. This term includes, but is not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, and other impermanent devices, which do not involve grading or landform alteration for installation, and which are not permanently affixed to the ground.~~ A temporary, portable, or modular structure that will be in use only for the duration of the temporary land use or event, including the following:

A. Tents,

B. Recreational vehicles,

C. Temporary and transportable manufactured home,

D. Travel trailer, or

~~**A.**~~**E.** Other temporary structures approved in consultation with the building inspector and/or fire marshal.

~~**Temporary vendors**: Any vendor who sets up a temporary location to sell food, goods, or services. Vendors may be permitted individually or as part of a temporary event. Temporary vendors include, but are not limited to agricultural and non-agricultural roadside vendors and vending pushcarts.~~

Temporary Use: : Uses of land established for a fixed, limited period of time with the intent of discontinuing it once that time expires. These uses may include temporary structures, event staging, or other activities that don't have the permanence of a primary land use.~~Uses of land which, having met certain requirements and conditions, that may be permitted for a period of limited duration, and which may utilize "temporary structures" for the duration of the event.~~

Trailer*:* Any vehicle or structure capable of moving or being moved over streets and highways on its own wheels or on flatbeds or other carriers, which is designed to be utilized to:

A. Provide temporary or permanent quarters for the conduct of a business, profession, trade or occupation;

B. Serve as a carrier of people, new or used goods, products, or equipment;

C. Be used as a selling, advertising, or display device.

CHAPTER 21. EMERGENCY RESPONSE AND RECOVERY

21.3. Temporary uses associated with emergency response and recovery.

Commented [EB4]: No changes - included for reference only.

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
        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 GR or RMX zoning district as a type of temporary accessory dwelling unit (ADU); or
      iii. On a lot within a GR or RMX 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,
      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 CMX, DMX, PGX, NMX, IC, or GI zoning district; or
      iii. Within a vacant area of a property occupied by other non-residential uses in a CMX, DMX, PGX, NMX, IC, or GI 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.

Commented [EB5]: No changes - incorporated for reference only.

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.