CODE OF ORDINANCES

66-13. Special events.

A. ***Application of regulations****.* This section shall apply to all organized gatherings ~~street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities~~ or public events that use or substantially hinder use of public rights-of-way or City-managed public spaces, including but not limited to streets, greenways, and plazas. ~~require the temporary closing or obstruction of or that substantially hinders or prevents the normal flow of vehicular or pedestrian traffic on all or a portion of any city owned property, street, or other public right-of-way.~~ Any such activity covered by this chapter shall hereafter be referred to as a "special event".

B. ***Purpose and intent.*** The purpose of this section and its associated regulations are to:

1. Protect the public health, safety and welfare;
2. Ensure coordination of public services including police, fire, public works, and emergency medical services;
3. Minimize disruption to residents, businesses, traffic circulation, and public infrastructure; and
4. Balance community vibrancy and economic activity with neighborhood compatibility and welfare.

C. ***Permit required.***

1. A permit shall be issued by the City manager or designee (hereafter referred to as “administrator”) for all special events that:
   a. Use public streets, sidewalks, greenways, city parks, or city plazas;
   b. Requires road closures, detours or use of public rights-of-way;
   c. Substantially hinders or prevents the normal flow of vehicular or pedestrian traffic on public rights-of-way; and/or
   d. Requires supplemental public safety and/or sanitation services.
2. ~~No "special event" is permitted on any city owned property, street or other public right-of-way of the city unless a permit has been issued by the city manager; however, n~~Nothing in this section shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.

~~1. No parade of vehicles or march of pedestrians or animals or combination thereof upon the streets or sidewalks of the city shall be allowed except as approved by the city manager. All holders of permits granted and approved by the city manager pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the issuance of a special event permit.~~

~~2. Any person denied a special event permit under this section may appeal to the city council at the next regularly scheduled meeting.~~

D. ***Permit application.***

1. *Filing period.*
   a. Applications for a "special event" permit ~~authorized by this section that require the closure of a public street, sidewalk or other city facility~~ shall be submitted to the administrator according the special event deadlines established annually. In the event no such deadline schedule is available, the

applicant is required to submit the application no less than 60 calendar days prior to the event.~~city manager not less than 60 days before the parade or event is proposed to commence, excluding recognized holidays, on a form provided by the office of the city manager and shall contain the following information:~~

~~B.~~b. The administrator may consider applications with extenuating circumstances after the appropriate date. However, in no instance will an application be considered less than 15 working days before the event.

2. *Contents*. The application shall be signed by the applicant and shall include but not be limited to the following:

~~1.~~a. Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event.

~~2.~~b. Name, address, and telephone number of the individual contact person in charge of the event.

~~3.~~c. The proposed date and time period when the event will be conducted.

~~4.~~d. The estimated number of people expected to attend the event.

~~5.~~e. A certificate of insurance as proof of liability coverage in accordance with subsection 66-13(F) below.~~Sufficient proof of liability insurance in accordance with the city's standard requirements.~~

~~6. Any other information determined by the city manager to be necessary to insure compliance with these provisions.~~

~~7.~~f. A detailed site plan or route map ~~sketch map~~ showing;

1. Event footprint: boundaries of events and designation of different areas (e.g., vendor areas, beer garden, stage area), if appropriate
2. Structures: layout of tents and other temporary structures (stages, vendor booths, barricades, fencing, etc.) along with dimensions
3. Traffic management: requested street closures, detours, parking, pedestrian paths, signage locations
4. Emergency access: fire lanes, ambulance access, exits
5. Sanitation/waste management: dumpsters, portable toilets, hand-wash stations
6. For races/walks: start/finish, participant staging, timing equipment, traffic control

~~a. The area where the event is to take place.~~

~~b. Names of any streets to be closed or obstructed.~~

~~c. Location of any barriers or traffic control devices that will be erected.~~

~~d. Location of any concession stand, booth, or other temporary structures or facilities.~~

~~7. Location of any proposed fences, stands, platforms, benches or bleachers.~~

g. An application fee, as set forth in the schedule of fees.

~~e.~~h. Any other information determined by the administrator to be necessary to ensure compliance with these provisions.

~~8. The number and type of animals included as part of the event, if applicable. Approval of animals involved in any special event is subject to 66-13.M, and the animals' location must be specified on the sketch map.~~

~~Applications for a "special event" permit as authorized by this section not requiring the closure of a public street or sidewalk shall be submitted to the city manager not less than two working days before the parade or event is proposed to commence, excluding recognized holidays, on a form provided by the office of the city manager and shall contain the items listed above, excluding subsections (5), (7)b. through e., and (8).~~

~~Applications must be accompanied by an application fee, shall be set forth in the schedule of taxes, fees and charges of the annually adopted Budget Ordinance for the City of Brevard, before being reviewed and considered.~~

~~C.~~E. ***Permit revocation.*** Upon violation of the terms of a permit issued under this section by the applicant or participants the city manager, the administrator and/or the chief of police or ~~his~~ designee is authorized to revoke the permit and direct those participating to disperse.

F. ***Permit review procedures.~~Staff review~~.***

1. City staff are hereby authorized to implement policies and procedures for reviewing special event permit applications and ensuring public health, safety, and welfare are maintained.
2. Upon receipt of the permit application, it shall be reviewed by a special event review committee (SERC), an interdepartmental group that evaluates special event applications for feasibility, safety, code compliance and city service requirements. The SERC includes representatives from the Police Department, Fire Department, Public Works Department, and other persons as appropriate.~~circulated to the chief of police, fire chief, public works director, and other appropriate persons for their comment.~~
3. The ~~city manager~~ administrator may also require a conference on the application between the applicant and the SERC and/or specific ~~one or more~~ department heads.

G. ***Insurance requirement.***

1. The ~~city manager~~administrator shall require as a condition precedent or subsequent to the issuance of the permit that the applicant obtain a comprehensive general liability insurance policy providing coverage that includes the entire area described in the permit for event~~s requiring the closure of a public street, sidewalk or city facility. If such a policy is required, under the provisions of this section, t~~ The city shall be named as an additional insured on the policy. A certificate of insurance shall be provided to the city as proof of coverage.
2. *Minimum coverage amounts:*
   a. ~~Such policy shall conform to the minimum coverage requirements as set forth by the city manager.~~The applicant shall obtain a comprehensive general liability insurance of at least $1,000,000 per occurrence and $2,000,000 aggregate.
   b. If the special event involves alcohol, an additional $1,000,000 of liquor liability coverage is required.
   c. If city forces are required to work during the event, workers compensation and employers' liability may be required.
   ~~D.~~d. The administrator may vary the required limits for lines of insurance coverage or require additional insurance coverage depending on size, location and type of event.

H. ***Fees; costs incurred by the city.***

~~E.~~1. Additional fees may be charged for the cost of services provided by City forces in support of the special event, including but not limited to personnel, deployment of fire apparatus, solid waste removal, and provision of barricades. The need for these services will be reviewed and determined by the administrator and the Special Event Review Committee. ~~If the city is requested to provide extraordinary services or~~

~~equipment or the city manager determines that extraordinary services or equipment for reasons related to protection of the public health and safety, he/she may require the applicant to pay to the city a fee sufficient to reimburse it for the costs of any extraordinary services or equipment provided to the event unless sufficient funding has been included in the city budget as adopted by city council.~~

~~F.~~I. ***Standards for issuance of permit.***

1. The ~~city manager~~administrator shall issue the permit authorizing the "special event" unless it is found that:
   a. Insufficient funding and/or resources necessary to provide extraordinary services or equipment for the event are not available; or
   b. The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the city; or
   c. The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege license; or
   d. The applicant is in violation of any city ordinance; or
   e. The applicant fails to obtain liability coverage and show proof of said insurance as required by the city; or
   f. The event will create a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property; or
   g. The event, if held at the time or at the location or along the route proposed will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or
   h. The applicant has failed to comply with any of the provisions of the special events ordinance, including but not limited to payment of any required fees and costs; or
   i. A special events permit has previously been applied for or issued for substantially the same location and time requested in the application.
2. In considering the matters listed above and the question of whether or not to issue the permit, the public safety and health shall be given paramount importance.

~~G.~~J. ***Conditions upon issuance of permit.*** If a permit is issued the ~~city manager~~administrator may attach any reasonable conditions that serve to promote the protection of the public safety and health. Any event held pursuant to a permit issued under this section shall be conducted within the applicable terms including any attached conditions.

~~H.~~K. ***Right of appeal.*** If the ~~city manager~~administrator or chief of police denies or revokes a special event permit this action shall be final unless the applicant or permit holder files, within three working days, a written appeal with the city clerk. Such written appeal will be placed for consideration by city council at its next regularly scheduled meeting. The city council shall review the matter and its decision shall be final.

~~I.~~L. ***Street closing.***

1. The ~~city manager~~administrator is authorized to permit the temporary closing of a street or other public right-of-way except as otherwise provided for ~~in subsection (I) below~~herein if the provisions of the section are adequately complied with. Any temporary closing of a street or part thereof owned and/or maintained by the State of North Carolina shall require concurrence by the N.C. Department of Transportation.

2. The ~~city manager~~ administrator may only permit the temporary closing of any portion of U.S. Highway 64, US Highway 64 Business, U.S. Highway 276, SR 1349 (West Main Street) for city recognized special events. An event shall be considered to be city recognized upon the adoption of a resolution by city council making such designation. ~~In order to qualify for recognition an event must have received a commitment of funding and/or resources from the city for any necessary public safety and traffic control measures prescribed by the city manager for the special event.~~

~~2. The city clerk shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place as soon as possible once a permit is issued.~~

M. *Public notification.*

1. Event organizers are responsible for notifying all affected community members about their event, associated road closures, and other impacts. Any establishment that will be blocked, detours, or heavily inconvenienced must be notified.
2. Event organizers may utilize a means of notification deemed sufficient by the administrator, including but not limited to mailed notifications, individual contact, residential or business complex notification, and Heart of Brevard notification, if applicable. Proof of notification is required.

~~J.~~N. ***Temporary parking restrictions.*** The chief of police, or ~~his~~ duly appointed representative, is authorized to prohibit, on a temporary basis, the parking of vehicles under the following circumstances:

1. ~~Along permitted parade routes or o~~On streets closed pursuant to the issuance of a special events permit for a period of two hours before any special event begins, during the entire event and up to one hour after the completion of the event.

~~**K.** *Permit for special events involving animals.* No special event in which animals are involved shall be conducted without a special permit from the city manager. The city manager shall require a bond in the amount of $50.00 (where five or less animals are involved) or $100.00 (where more than five animals are involved), which will provide that the person obtaining the special permit will be responsible for cleaning the city streets or property after the parade, exhibition, demonstration or experiment. All holders of special permits granted and approved by the city manger pursuant to this section shall indemnify and hold harmless the city in all respects against any and all claims and liabilities arising out of or related to the behavior of such animals or issuance of such a special permit.~~

~~**L.** *Animals prohibited.* It shall be unlawful for any person to have or keep any animal at any event requiring the issuance of a special event permit except as otherwise provided within this section.~~

~~M.~~O. ***Permit for special event involving the sale and consumption of alcoholic beverages.*** No special event in which the sale and consumption of alcoholic beverages shall be conducted without explicit authorization in the special event permit~~a special permit from the city manager or the administrator~~, pursuant to CHAPTER 42 Article I of the Brevard City Code.

1. Special event permit holders shall submit an operational plan demonstrating the procedures and practices that will be employed to assure such compliance with all applicable regulations as set forth in Brevard City Code and the North Carolina General Statutes. Such plan shall specifically address the prevention of the sales of alcohol to minors, and the methods that will be employed to contain the consumption of alcohol within the designated area.
2. For special events, the sales and consumption of malt beverages and unfortified wine, but no other alcoholic beverages, shall be as authorized on the permit; provided, however, that no such sales shall be allowed earlier or later than during the city permitted timeframe of the festival.

3. The administrator shall have the discretion to withhold approval of permits for the sales and consumption of alcohol associated with future special events, when the permit holder has failed to demonstrate compliance with all applicable laws of the City of Brevard and the State of North Carolina pertaining to the sales and consumption of alcoholic beverages in the operation of previous events.

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

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

1. The city manager (or designee thereof, hereafter, "the administrator") is hereby authorized to ~~issue a special permit that would allow to permit~~ allow the sale and consumption of alcoholic beverages during a special event that has been ~~s, which have been~~ permitted pursuant to CHAPTER 66 of Brevard City Code, provided the permittee presents the City with the appropriate permit from the North Carolina Alcoholic Beverage Control Commission.~~, and City of Brevard UNIFIED DEVELOPMENT ORDINANCE~~.
2. The city manager or the administrator is hereby authorized to issue a social district participation permit that would allow the sale of alcoholic beverages for consumption in a designated social district pursuant to CHAPTER 43 of the Brevard City Code.
3. The city manager or the administrator is hereby authorized to issue a sidewalk dining permit that would allow the sale and consumption of alcohol on public sidewalks pursuant to CHAPTER 46 Article II of the Brevard City Code.
4. This permit shall only be valid for a designated area.
5. The permit holder shall be solely responsible for assuring compliance with all applicable laws of the City of Brevard and the State of North Carolina pertaining to the sales and consumption of alcoholic beverages. Permit holders who demonstrate failure to assure compliance with such laws shall be subject to immediate permit revocation, and may be subject to such civil and criminal penalties as are set forth in Brevard City Code and the North Carolina General Statutes.
6. In the issuance of a permit, the administrator shall have the authority to impose reasonable conditions to protect the public health, safety welfare.
7. Chief of police, police department event commander on-duty, and the administrator shall have authority to immediately cause alcohol sales and consumption activities to cease and desist upon a determination that the permit holder has failed to maintain compliance with the terms and conditions of the permit or the requirements of Brevard City Code, or that continuation of alcohol sales and consumption at the event would pose an immediate threat to the public health, safety and welfare.

38-72.1. Violations; exceptions.

Notwithstanding the enumeration of prohibited noises as listed in section 38-72, whenever it is practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the following procedure shall be used to determine whether any specific noise alleged to be a violation of this noise ordinance is, in fact, a violation, at any certain time and for any given location from which a complaint arises.

A. *Violations.* In order to document and prove a prima facie violation of this noise ordinance:

1. The ambient noise level shall be determined, if it is reasonably practicable to do so in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint. Then, the alleged violation noise level shall be determined at the same location, both determinations to be made by the use of the same sound level meter, and using the same procedure. A violation shall have occurred if the alleged violation noise level exceeds the ambient noise level:
    a. By ten decibels, between the hours of 9:00 p.m. and 7:00 a.m.; or
    b. By 20 decibels, between the hours of 7:00 a.m. and 9:00 p.m.
2. If, due to the nature of the alleged violation noise level, no determination of an ambient noise level is practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, then a violation shall have occurred if the alleged violation noise level exceeds:
    a. 60 decibels between the hours of 9:00 p.m. and 7:00 a.m.; or
    b. 70 decibels between the hours of 7:00 a.m. and 9:00 p.m.
3. If no decibel readings or comparison between ambient noise levels and alleged violation noise levels are practicable in the discretion of the law enforcement officer or officers, or code enforcement officer or officers responding to the noise complaint, the alleged violation is listed in section 38-72, and the violator does not voluntarily and promptly reduce the noise level when requested to do so by a law enforcement officer or code enforcement officer, so as to comply with the definitions in section 38-71, or if, having reduced the noise level to comply therewith but then within a 24-hour period again produces or allows to be produced noise at a level not in compliance with the definitions in section 38-71, the noise shall be a violation of the ordinance.

B. *Exceptions.* The following are excepted from this noise ordinance:

1. Any noise generated by an emergency vehicle, such as a fire truck, police car, an EMS vehicle or their sirens, or other noises generated by or at the behest of a governmental entity which is intended to immediately promote the public health, safety or welfare.
2. Any sporting event sanctioned by a school, any other government agency, or any civic group or club provided that in the latter instance, such event is properly permitted.
3. Noises caused by:
    a. Lawn care equipment, agricultural equipment or construction equipment operated for intended and legitimate purposes between the hours of 7:00 a.m. and 9:00 p.m.;
    b. Special events permitted pursuant to Section 66-13~~Properly permitted events such as parades, fairs, circuses and other entertainment events~~;
    c. Bells, chimes and similar devices which operate from a stationary location, which were in operation before the complainant's residency was established, and which operate for no longer than five minutes in any hour;
    d. Emergency work reasonably necessary to safeguard the public safety to person or property;

e. Duly permitted electrical transformers and utility substations;

f. Traffic noises other than the unnecessary use of horns, radios or other sound amplifying or receiving equipment, intentional screeching of tires, intentional revving of motors, provided that such traffic noises emanate from a public street or right-of-way; and

g. Noises permitted pursuant to section 38-73.

C. *Regulations and measurement standards promulgated by the chief of police.* The chief of police may promulgate any regulations and sound level measurement standards consistent with this noise ordinance which, in his professional opinion, will aid in the enforcement hereof.

D. *Noises are public nuisances.* Nothing in this noise ordinance shall be construed in such manner as to prohibit the code enforcement officer, the city manager and/or the city council from following the procedure for abatement of a nuisance, enumerated in division 1 of this article, as an alternative or in addition to the prosecution of a violation of the noise ordinance as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

38-73. Permits for exceptions.

Upon application, the city manager, chief of police, zoning administrator or code enforcement officer may approve a request for an exception to the provisions of this section. Such exceptions shall be granted only to educational institutions, bona fide non-profit organizations, governmental organizations or other public/quasi public agencies serving the entire community events. Such exceptions may be limited in a manner to provide the least possible variance form from the terms of the section as may be necessary to allow the proposed event to take place. The exception shall require the applicant to agree to necessary terms and conditions and, in no case, shall it extend the time limits in section 8-40(3) to beyond midnight.