

CHAPTER 3. - ADDITIONAL USE STANDARDS

3.1. - Purpose and intent.

This chapter specifies additional requirements that must be met by all the uses listed as uses permitted with additional standards (PS) or special use permits (SUP) within Chapter 2 or as otherwise specified within this ordinance.

3.2. - Applicability.

These standards apply to a particular use when it is designated as a use permitted with additional standards or as a use requiring a special use permit. They do not apply when a use is permitted by right. It is possible that the same use may be permitted-by-right in one district, in which case the standards contained in this chapter would not apply, and permitted with additional standards or as a special use in a different district, in which case they would.

3.3. - Enforcement.

- A. The administrator shall, from time to time, inspect uses or establishments that have been permitted in accordance with this chapter to insure compliance with this ordinance and valid permits.
- B. The owner or operator of any such use or establishment shall give the administrator free access to such building, structure, dwelling, or premises at any reasonable hour for the purpose of such inspection.
- C. The administrator shall take reasonable steps to insure violations of special use permits, or permits with additional standards are remedied in accordance with the procedures set forth in Chapter 18 of this ordinance.
- D. The administrator shall have the authority to revoke permits with additional standards. Special use permits may be revoked by the board of adjustment.
- E. A permittee may appeal a decision of the administrator in accordance with the procedures set forth in Chapter 18 of this ordinance.

3.4. - Standards.

- A. The requirements of this chapter apply to the indicated use when such use is either a use permitted with additional standards or a use requiring a special use permit. These standards are in addition to other applicable standards contained in this ordinance.
- B. In addition to the requirements set forth in this chapter and elsewhere in this ordinance, the board of adjustment shall have broad authority to attach other conditions to a special use permit as are necessary for the protection of the public health, safety and welfare.
- C. In addition to the requirements set forth in this chapter and elsewhere in this ordinance, the administrator may attach other conditions to a use permitted with standards as are necessary for the protection of the public health, safety and welfare and to reduce conflicts between the use and surrounding neighborhood; i.e., traffic, noise attenuation, special parking needs, and hours of operation.

3.5. - Adult establishments (CMX, GI) special use permit.

Because of their very nature, adult establishments are recognized as having serious objectionable operational characteristics, particularly when they are located near a residential zoning district or certain existing land uses. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to a downgrading or blighting of neighboring properties.

A. *Standards.*

1. No portion of a lot for an adult establishment may be located within a 300-foot radius (determined by a straight line and not street distance) of any place of worship, school (public or private), specialty school, day care facility, public park, hospital or IC district, or any residential zoning district. No portion of the lot on which the adult establishment is located shall be situated within 300 feet of another adult establishment.
2. The owner/operator of the adult establishment must have a current, valid business license. The owner/operator and employees must make disclosure of criminal record and consent to a criminal records check. Persons with a record of sex offenses will be denied a business license or employment.
3. The owner/operator must be in full compliance with Article II, Chapter 42, of the Brevard City Code.
4. No adult establishment shall adversely impact public services and facilities such as parking, traffic, police, etc., and the secondary effects of such uses shall not adversely impact adjacent properties. In this regard, secondary effects include, but are not limited to, noise, crime, transients, light, stormwater runoff, parking, pedestrian circulation and safety.
5. There shall be no more than one adult establishment business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult establishment business.
6. The structure in which the adult establishment is located shall contain no sleeping quarters.
7. The adult establishment shall not be open for business between the hours of 12:00 midnight and 12:00 noon. The establishment shall be closed on Sundays.
8. If dancers are employed as a feature of the adult establishment, the performing areas for such dancers shall be separated from patrons by at least ten feet.
9. If viewing booths are provided, such viewing booths shall be designed so as to allow the body of the person occupying the booth to be completely visible from a portion of the premises open and available to the public.
10. The applicant shall propose and implement a site-lighting plan that is consistent with Chapter 11 of this ordinance.
11. An adult establishment may be advertised by one sign on the premises that is not greater than 70 square feet in size in which may be illuminated in compliance with Chapter 13. No printed material, video, photograph, written text, live show, or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

B. *Variances.* Upon making the following findings, the BOA may vary the radius requirements contained in paragraph 3.5(A(1)), above:

1. Practical difficulties or unnecessary hardships would result from the strict enforcement of the radius requirements;
2. The proposed use will not be injurious to property or improvements in the affected area;
3. The proposed use will not enlarge or encourage the development of a blighted condition within an area;
4. The permitting of an adult establishment in the area will not be contrary to any governmental program of neighborhood conservation, rehabilitation, improvement or revitalization; and
5. All of the conditions in for special use permits as set forth in Chapter 16 have been met.

- C. *Revocation of special use permits.* After notice and hearing, the BOA may revoke the special use permit upon one or more of the following grounds:
1. Failure to comply with the aforementioned standards;
 2. Employment of any person under the age of 21;
 3. Operating an establishment disruptive of peace and good order as evidenced by lack of sufficient on-premises security or by a conviction of a criminal offense, a material element of which occurred on the premises of the adult establishment.
 4. Admittance of patrons younger than 21 years of age.
 5. Excessive criminal activity on or near the premises if the BOA finds that the operation of the adult establishment is related to such criminal activity or attracts transients or other persons who have been involved or are likely to be involved in such criminal activity.
 6. Violation of any provision of Chapter 16 pertaining to special use permits.
 7. Violation of any specific condition or requirement of the board of adjustment.

3.6. - Kennels (CMX, GI, permitted with standards; NMX, permitted by special use permit)

The following standards shall apply to all private, public and commercial kennels, breeding facilities, and pet day care establishments.

- A. Outside runs, holding pens, exercise areas or other open-air type enclosures and shelters shall be located at least 200 feet from any dwelling, other than that of the owner/operator, and at least 50 feet from adjoining property lines.
- B. Kennels shall be located in the side or rear yard area of any principal structure on the same parcel of land.
- C. Kennels shall be designed to effectively buffer all noise audible to surrounding properties.
- D. All kennels shall be surrounded by fence, wall, earthen berm, or type B buffer yard.
 1. Within NMX districts, all holding pens and runs shall be indoors, within an entirely enclosed structure. The approving authority may permit one outdoor exercise area; provided, however, that animals shall not utilize outdoor exercise areas between the hours of sunset and sunrise as set forth in the most recent Sunrise-Sunset Table as published by the North Carolina Wildlife Resources Commission.
 2. Within NMX districts, the barking of dogs and other noises associated with the care and sheltering of animals that originate from within a kennel structure shall not be audible from the exterior of such kennel structure, and solid walls and ceilings, noise-cancelling materials, noise-cancelling electronic devices and other noise-cancelling practices and technologies shall be utilized as necessary and appropriate to achieve this requirement. The approving authority may require the operator to provide documentation and certification that a proposed new or expanding kennel will comply with this requirement.
- E. A waste management plan that demonstrates compliance with applicable state and local regulations and which ensures sanitary handling of animal waste and prevents contamination or pollution of adjacent lands or water bodies shall be submitted to and approved by the administrator prior to establishment of such uses.
- F. Kennels shall at all times adhere to all other applicable state and local regulations.
- G. Kennels shall at all times maintain a sanitary and humane environment.
- H. The approving authority may impose additional conditions upon the operation of any kennel, including but not limited to hours of operation, the size and scale of a kennel, or the number of animals to be housed within a kennel.

- I. The administrator shall conduct an annual inspection of all Kennels and shall report any violation to the approving authority. After reviewing the findings of the administrator and upon conclusion of the kennel operator's due process procedures as set forth in Chapters 16 and 18 of this ordinance, the approving authority may revoke permits for the operation of any kennel that has been found to be in violation of this ordinance.

(Ord. No. 03-2011, § 2, 3-21-2011)

3.7. - Cemetery (GR, RMX, NMX, DMX, CMX, IC) permitted with standards.

- A. There shall be no embalming or cremation facilities as either a principal or accessory use except where permitted by right.
- B. Setbacks from all street rights-of-way and adjacent properties to a wall or grave shall be a minimum of ten feet.
- C. Cemetery roads and parking areas shall be made of asphalt or other durable dustless surfaces. The administrator may waive curb and gutter requirements for cemetery roads upon a determination that such will not result in erosion or uncontrolled stormwater runoff. Other road and parking standards, stormwater management, and sedimentation/erosion standards shall apply.
- D. Sidewalk requirements within cemeteries may be waived provided that safe pedestrian circulation can be assured. Sidewalk requirements shall apply along all public rights-of-way. Sidewalks shall connect any structure or gathering place within a cemetery to adjacent public and private sidewalks and to parking areas.
- E. Mausoleums are permitted subject to the principal structure requirements of the district in which the cemetery is located.

3.8. - Adult/child day care centers and homes permitted with standards.

- A. The following standards apply to all day care establishments.
 1. Client drop-off and pick-up areas shall be located on the site so as not to obstruct traffic flow on adjacent public streets.
 2. Parking spaces shall not be located in front of the building except as permitted by Chapter 10, Section 10.5(G) of this ordinance.
 3. All day care establishments shall at all times be properly licensed by the State of North Carolina and all other appropriate governmental entities.
 5. All equipment shall be stored in the side or rear yard.
- B. The following additional standard apply to child day care centers (greater than six children). (RMX, NMX, DMX, CMX, IC, GI) *permitted with standards*
Play space must be provided in accordance with the regulations of North Carolina Department of Human Resources.
- C. The following additional standards apply to child day care homes (less than six children)
 1. Child day care homes shall provide ample open area in the form of a rear yard with a minimum of 2,500 square feet suitable for children's play. Child day care homes located adjacent to parks are exempt from this provision.
 2. No structural or decorative alteration which would alter the single-family character of an existing or proposed residential structure or which would be incompatible with surrounding residences shall be permitted.
- D. The following additional standard applies to adult day care homes.

No structural or decorative alteration which would alter the single-family character of an existing or proposed residential structure or which would be incompatible with surrounding residences shall be permitted.

(Ord. No. 8-07, § 1(B), 5-21-07)

3.9. - Bed and breakfast home (GR, RMX, NMX, DMX, CMX, IC) permitted with standards.

- A. Other than a business identification sign as provided for in paragraph J, below, no display of goods, products, services, or other advertising shall be visible from outside the building.
- B. The manager of the facility shall reside on the premises.
- C. The facility may employ no more than one full-time equivalent (FTE) employee who does not reside on the premises.
- D. On-premise retail sales shall not be a component of the bed and breakfast home.
- E. No activities other than lodging, a morning meal, and an evening and/or afternoon refreshment shall be provided.
- F. Activities shall be provided for overnight guests only.
- G. Off-street parking shall be provided as required by Chapter 10 of this ordinance. Parking shall be located on the same lot on which the bed and breakfast home is located, at the rear of the lot and screened with vegetation from adjacent properties and from the street.
- H. No more than one accessory structures shall be used to accommodate guests.
- I. No home of less than 2,500 heated square feet shall be used for a bed and breakfast home.
- J. Signage shall be limited to a single sign, not to exceed four square feet, attached to the home.
- K. Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
- L. Bed and breakfast homes shall comply with N.C. State Building Code requirements that are in effect at the time the use is begun, subject to the requirements of Chapter 14 of this ordinance.

3.10. - Bed and breakfast inns (GR) special use permit; (RMX, NMX, DMX, CMX, IC) permitted with standards.

- A. Bed and breakfast inns shall be located a minimum of 500 feet from all other bed and breakfast inns, bed and breakfast homes, and boardinghouses. In calculating the 500-foot distance between bed and breakfast inns or homes, or boardinghouses, measurements shall be taken from the closest property line of the existing facility to the closest property line of the lot of the proposed bed and breakfast inn. Existing, legally-established bed and breakfast inns that do not meet this separation requirement of 500 feet are permitted to expand within the subject property to the maximum limits allowed under this chapter, as long as all applicable development standards are met.
- B. Accessory rental cottages/cabins associated with a bed and breakfast inn shall meet the following standards:
 - 1. Accessory cottages may be utilized for guest accommodation purposes as part of a bed and breakfast inn use.
 - 2. Accessory cottages shall be constructed in association with an approved bed/breakfast inn that is located on the same parcel of land. Accessory cottages shall not be permitted when the principal structure is not also utilized as a bed and breakfast inn.
 - 3. The number of accessory cottages and guest bedrooms in the accessory cottage(s) cannot exceed the number of guest bedrooms in the principal structure.
 - 4. Such accessory cottages shall have, or shall be constructed to have, architectural compatibility with the principal structure.

5. An accessory cottages to a bed and breakfast inn shall not exceed 50 percent of the gross floor area of the principal structure.
 6. Accessory cottages shall not exceed the height of the principal structure on the lot.
 7. At least one parking space shall be provided per accessory cottage. Parking shall be provided on-site in proximity to each unit or in a common parking area. Parking spaces shall be located in the rear yard or side yard of the bed and breakfast. Parking for accessory cottages shall be accessed by the main drive servicing the bed and breakfast and shall not have independent and direct access to a public road.
 8. Other accessory structures such as gazebos and small recreational shelters may be permitted by the administrator provided that such structures are to be utilized for functions and activities directly related to the operation of the bed and breakfast inn.
 9. Accessory cottages shall be situated at least 20 feet from any side or rear property line, and screened from adjacent properties along all side and rear property lines by a Type B buffer yard. Front yard setbacks for accessory cottages shall be the same as the principle structure.
- C. The following standards concern accessory activities and functions associated with a bed and breakfast inn.
1. Activities and functions at the bed and breakfast inn shall be provided for overnight guests only and shall be limited to breakfast and an afternoon and/or evening refreshment.
 2. Passive recreation-related outdoor activities such as tea-time are allowed outside the principal structure or any accessory structure(s) and shall not require the issuance of a temporary use permit.
 3. In addition to functions for overnight guests, bed and breakfast inns may conduct other activities such as social gatherings, outdoor and indoor weddings, parties, and other special functions that involve guests other than registered overnight guests. Such activities shall not require the issuance of a temporary use permit unless such activities are paying events that are in addition to the bed and breakfast function of the subject property. Temporary use permits may be issued at the discretion of the administrator who may impose such conditions as are necessary to protect the health, safety, and welfare of the neighborhood and guests.
 4. No commercial activities other than providing lodging for registered guests shall be permitted.
- D. No home of less than 2,500 heated square feet shall be used for a bed and breakfast inn.
- E. Off-street parking shall be provided as required by Chapter 10 of this ordinance. Parking shall be located on the same lot on which the bed and breakfast inn is located, at the rear of the lot and screened from adjacent properties and from the street in accordance with Chapter 8 of this ordinance.
- F. Signage shall be limited to a single sign, not to exceed eight square feet, with a maximum height of four feet. The sign may be located in the front yard and indirectly lighted.
- G. Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
- H. Bed and breakfast inns shall comply with N.C. State Building Code requirements.
- 3.11. - Drive-thru/through retail/restaurants (DMX) special use permit; (NMX, CMX,) permitted with standards; drive-thru/through services (DMX) special use permit; (NMX, CMX) permitted with standards.
- A. Drive-through stacking lanes, windows, and associated equipment shall not be permitted within 100 feet of a residential 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 facade 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.
- 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.

3.12. - Accessory structures (all residential districts) permitted with standards.

- A. *Principal buildings required.* The construction of an accessory structure or building is not permitted unless a principal building is located on the lot, except as set forth below. Accessory and principal buildings may be constructed concurrently.
 - 1. Garden sheds may be permitted in the absence of a principal structure subject to the following requirements:
 - a. Garden sheds shall be no larger than 120 square feet in size;
 - b. Garden sheds shall be single-story;
 - c. Garden shed shall not be connected to water, sewer, or electricity; and
 - d. Garden sheds shall be utilized only for the storage of lawn equipment, garden utensils, and other implements necessary for the maintenance of gardens and grounds.

2. Accessory structures utilized for agricultural purposes in association with bona-fide agricultural operations may be permitted in the absence of a principal structure.
 3. Chicken coops and chicken runs, as defined in Chapter 14-1 of Brevard City Code, may be permitted upon parcels of land where no principal structure is present, subject to the requirements set forth in Brevard City Code, Chapter 14, Animals and Fowl; Article I, Generally; Sections 14-1, Definitions, and 14-6, Keeping fowl.
- B. *Maximum number permitted.* In residential districts, no more than two accessory buildings or uses shall be permitted per lot, except for bona-fide agricultural enterprises, approved bed and breakfast inns, and camps.
- C. *Permitted uses.*
1. The following uses are permitted within residential accessory structures:
 - Parking shed or garage;
 - Gazebo;
 - Pool house;
 - Equipment enclosure;
 - Customary home occupation;
 - Playhouses;
 - Swimming pools subject to the requirements of Section 3.28;
 - Artist studio space;
 - Sauna;
 - Workshop;
 - Conservatory;
 - Rental cottage;
 - Tree houses;
 - Garden sheds;
 - Chicken coops and runs as defined in Chapter 14-1 of Brevard City Code, subject to the requirements set forth in Brevard City Code, Chapter 14, Animals and Fowl; Article I, Generally; Sections 14-1, Definitions, and 14-6, Keeping fowl.
 2. Accessory structures providing common facilities for residential developments (clubhouse, pool house, etc.) shall be permitted subject to all other requirements of this ordinance.
- D. *Requirements.*
1. Where an accessory structure is structurally attached to a principle structure or is less than six feet distant from a main building, it shall be subject to, and must conform with, all regulations of this ordinance applicable to principle structures.
 2. Trash containers, mechanical equipment and outdoor storage shall be located only within the rear or side yards.
 3. Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles, and pump covers may be placed in any front, side or rear yard. Doghouses may be placed in side and rear yards only.

4. Accessory structures shall be located only in side or rear yards of residential lots, except for bona-fide agricultural enterprises. The administrator shall make a determination as to the side and rear yard for accessory structures proposed to be located on lots fronting more than one street.
5. Accessory buildings shall not cover more than 30 percent of the required side or rear yard except as otherwise provided in this ordinance.
6. Accessory structures with a footprint of more than 500 square feet shall be buffered from the adjacent residential development with a type A buffer yard. Accessory structures located on a bona fide farm and accessory structures located not less than 24 feet from a property line shall be exempt from this buffering requirement.

(Ord. No. 2012-22, § 2(Exh. A), 8-20-2012)

3.13. - Concomitant structures permitted with standards.

- A. The construction of a concomitant structure or building is not permitted unless a principal building is located on the lot. Concomitant and principal buildings may be constructed concurrently.
- B. Up to two concomitant structures may be permitted at the discretion of the administrator. Additional concomitant structures shall be considered as principal structures and may be permitted as group developments.
- C. Concomitant structures shall be located only in side or rear yards.
- D. Concomitant structures shall otherwise conform to all requirements applicable to principal structures.
- E. The addition of a concomitant structure to a lot containing a non-conforming use, structure, or other condition shall be considered as an expansion of the principal use or principal structure for the purposes of Chapter 14 of this ordinance, and all relevant requirements shall apply to the non-conforming principal structure, non-conforming principal use, or other non-conforming condition.

(Ord. No. 15-08, § 10, 12-5-08)

3.14. - Dwelling—Secondary (GR, RMX, NMX, DMX, CMX, IC) permitted with standards.

- A. Secondary dwelling units within residentially-zoned, single-family and duplex lots shall be encouraged and designed to meet housing needs. Secondary dwelling units shall be accessory and subordinate to the primary living quarters.
- B. Not more than one secondary dwelling unit is permitted on any lot.
- C. A secondary dwelling unit shall be located in the side or rear yard of a single family or two-family use lot subject to the requirements of this section.
- D. Secondary dwelling units shall not be considered additional dwelling units for the purpose of determining minimum lot size or maximum density as set forth in Chapter 2 of this ordinance.
- E. Secondary dwelling units shall be constructed according to North Carolina Building Ordinance.
- F. No secondary structure shall exceed two stories in height.
- G. Secondary dwelling units may be created as an independent structure, as an addition to an existing primary structure, or as a second story within detached garages.
- H. The floor area of a secondary dwelling unit shall not exceed 800 square feet. The ground floor area of a detached garage shall not be considered as part of the total square footage of any secondary dwelling that is built as the second story of a detached garage; provided, however, such ground floor garage area shall not be subsequently converted to dwelling space.
- I. At least one parking space shall be provided per unit.
- J. Secondary dwelling units shall be located, designed, constructed, landscaped and decorated to compliment the appearance of the principal building.

- K. The location of windows on dwelling units on adjacent parcels shall be taken into consideration in the design and placement of windows within the secondary dwelling unit. The administrator may impose reasonable conditions regarding the design of the structure in order to protect the privacy of existing dwelling units on adjacent parcels.

(Ord. No. 8-07, § 1(C), 5-21-07; Ord. No. 07-10, § 2(Exh. B), 4-5-2010)

3.15. - Gas station (NMX, DMX) special use permit; (CMX, GI) permitted with standards.

A. Location of pumps, canopies, and associated service areas.

1. Automobile pumps, canopies, and associated service areas are prohibited in any established front yard abutting a street. Rather, they shall be located in the side or rear yard of the principal structure.
2. Automobile pumps, canopies, and associated service areas for gas stations on double-fronted lots and corner lots shall be situated in accordance with the adjacent schematic. On double-fronted lots, the canopy must be located in the front yard of the street of lesser classification and the principal building shall be built to the street of higher classification. On corner lots, the principal building shall be built to the corner.
3. All areas where vehicles are stored temporarily shall be considered as parking lots and must comply with the provisions of Chapter 10 of this ordinance. All such vehicle storage areas shall be located to the rear of the building.

B. Car wash facilities must be located in the rear yard of the principal structure and screened from view.

C. Lighting provided by canopies shall comply with the specifications contained in Chapter 11 of this ordinance.

D. No outdoor public address system which is audible beyond the boundaries of the property shall be permitted.

E. Any gas station that is also a vehicle service station shall conform with the requirements of Section 3.16, below.

F. Canopies shall be screened from visibility from adjacent residential uses or districts by a Type A buffer yard.

3.16. - Vehicle sServices—Major repair/body work and (CMX, GI) permitted with standards; Vvehicle Sservices—Minor maintenance/repair (d) (NMX, DMX, CMX, GI) special use permit; (CMX, IC, GI) permitted with standards.

A. All areas where vehicles are stored temporarily shall be considered as parking lots and must comply with the provisions of Chapter 10. All such vehicle storage areas shall be located at the rear or side of the building.

B. No outdoor automobile work areas shall be located in front of the building.

C. All auto work areas shall be screened from adjacent properties.

D. Storage of vehicles for 15 days or more or junking of vehicles is prohibited.

E. Vehicles in storage shall be covered or fenced off and not visible from the public right-of-way.

F. Tires, equipment, replacement parts and/or accessories shall be stored inside. Discarded parts shall not be stored outside.

G. Vehicles associated with the use shall not be stored or repaired within federal, state, or local public rights-of-way, including streets and sidewalks.

H. The sale of vehicles is prohibited except as part of an approved vehicle sales establishment in appropriate districts as set forth in Chapter 2 of this ordinance.

- I. Vehicles stored on-site for more than 60 days shall be stored within or behind the principal structure or other structures, covered or screened, and not visible from the public right-of-way.
- J. Any fuel island shall conform to the requirements of Section 3.4.11, above.
- K. Service areas shall be screened from visibility from adjacent residential properties or districts by a type A buffer yard.

3.17. - Inert debris storage or disposal facilities (GI) permitted with standards.

- A. Such facilities shall be operated for the disposal of land clearing waste, inert debris, untreated wood, and yard trash (i.e., leaves, brush, etc.) only. All other types of materials are prohibited.
- B. No parking area or driveway shall be located within 50 feet of residentially zoned property.
- C. Access roads shall be paved, with a width of at least 12 feet per travel lane, and properly maintained at all times.
- D. All unpaved roads, travel ways and/or parking areas must be treated to prevent dust from adverse affecting adjacent properties.
- E. Mud and debris shall be contained on site and shall not be deposited on off-site properties and streets. Tires shall be properly cleaned and loads shall be properly secured before leaving the property so as to prevent the discharge of mud and debris.
- F. Debris reduction methods such as chipping and mulching shall be utilized to reduce the amount of debris permanently withheld on-site. Application materials shall include a written description of proposed debris reduction methods.
- G. Permanent control measures are required to retain all non-compacted soils on-site. An NCDENR-approved sedimentation and erosion control permit, as well as other applicable permits, shall be presented to the administrator prior to permit approval.
- H. Facilities shall not be located within the 100-year flood plain or the regulatory floodway.
- I. Facilities shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.
- J. Facilities shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17, as it may be amended from time to time.
- K. Facilities shall not damage or destroy an archaeological or historical site; nor shall they be located within a listed or designated historic district.
- L. Facilities shall not cause an adverse impact on a public park, forest, recreation or scenic area, or any lands included in the state nature and historic preserve.
- M. Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).
- N. Facilities shall not be permitted on protected mountain ridges.
- O. Adequate suitable soils shall be available for cover, either from on or off site.
- P. Land clearing and inert debris landfills shall meet the following surface and ground water requirements:
 - 1. Facilities shall not cause a discharge of pollutants into waters of the state in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), Section 402 of the Clean Water Act, as amended;
 - 2. Facilities shall not cause a discharge of dredged materials or fill material into waters of the state in violation of the requirements of Section 404 of the Clean Water Act, as amended;
 - 3. Facilities shall not cause non-point source pollution of waters of the state that violates assigned water quality standards; and

4. Waste shall be placed above the seasonal high water table.
- Q. The facility shall meet the following minimum site requirements:
1. There shall be a buffer of 50 feet from the waste boundary to all surface waters.
 2. There shall be a buffer of 100 feet from the disposal area to property lines, residential dwellings, commercial or public buildings, and wells.
 3. No structure shall be constructed within 50 feet of a debris deposit following the closure of a land clearing and inert debris landfill.
 4. A facility shall be bounded on all sides by a type C buffer yard.
 5. The minimum lot size for facilities shall be five acres and the total disposal area must be less than two acres in size.
 6. A facility shall be totally enclosed by a security fence or wall at least eight feet in height. All entrances and exits shall be secured and locked during non-operating hours.
- R. Operating hours are limited to from 7:00 a.m. to 7:00 p.m. (except where requested by the Transylvania County Emergency Management Coordinator or the City of Brevard Public Works Director in response to a period of inclement weather).
- S. Applicants shall submit operational plans as part of the application process. Approved operational plans shall be followed as specified for the facility.
- T. The facility shall only accept such land clearing and inert debris as is specified in the permit for the facility.
- U. Adequate soil cover shall be applied monthly, or when the active area reaches one acre in size, whichever occurs first.
- V. One hundred twenty calendar days after completion of any phase of disposal operations, or upon revocation of a permit, the disposal area shall be covered with a minimum of one foot of suitable soil cover sloped to allow surface water runoff in a controlled manner. The administrator may require further action in order to correct any condition which is or may become injurious to the public health, or a nuisance to the community.
- W. Adequate erosion control measures, structures, or devices shall be utilized to prevent silt from leaving the site and to prevent excessive on site erosion.
- X. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 120 calendar days upon completion of any phase of landfill development.
- Y. The facility shall be adequately secured by means of gates, chains, berms, fences, etc. to prevent unauthorized access during non-operating hours. An attendant shall be on duty at all times while the landfill is open for public use to assure compliance with operational requirements and to prevent acceptance of unauthorized wastes.
- Z. Surface water shall be diverted from the working face and shall not be impounded over waste.
- AA. Solid waste shall not be disposed of in water.
- BB. Open burning of solid waste is prohibited.
- CC. A sign shall be posted at the facility entrance showing the contact name and telephone number in case of an emergency along with the permit number of the facility. The permit number requirement is not applicable for facilities not requiring an individual permit.
- DD. Permits for land clearing and inert debris storage or disposal facilities shall expire after a period of five years, and permitted operations shall accept no more materials until a permit has been re-issued.
- EE. In addition to all other application materials required by Chapter 16 of this ordinance, the owner of a facility shall submit a certified survey depicting the property on which the landfill is to be located.

Upon approval by the administrator, the owner shall file such survey with the Transylvania County Registrar of Deeds' Office.

FF. When the land on which the land clearing and inert debris landfill is sold, leased, conveyed, or transferred in any manner, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a land clearing and inert debris landfill and a reference by book and page to the recordation of the notification.

3.18. - Home occupations (GR, RMX) permitted with standards; (NMX, DMX, CMX, IC) permitted.

- A. A home occupation is a permitted accessory to any single-family dwelling unit in accordance with the following requirements. These standards are designed to protect the character of residential zoning districts, which are intended and reserved primarily for residential uses.
- B. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or the neighborhood.
- C. Home occupation activities shall be confined to the interior of an approved structure. A home occupation housed within a dwelling shall occupy no more than 25 percent of the total floor area of the dwelling. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure that meets the requirements of this ordinance.
- D. The use shall employ no more than two persons who are not residents of the dwelling.
- E. [Reserved.]
- F. There shall be no visible display of stock in trade which is sold on the premises.
- G. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
- H. The existence and operation of the home occupation shall not be visible and/or audible to neighboring residents from a street.
- I. Only non-commercial vehicles are permitted in connection with the conduct of the home occupation.
- J. Home occupation activities involving clients or customers on the premises or vehicular traffic to and from the premises (including delivery vehicles) shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. All visits and vehicular traffic to and from the premises (including delivery vehicles), which are attributable to the operation of any home occupation except child day care homes, shall have a weekly average of no more than three visits per day.
- K. No business identification or advertising signs are permitted.
- L. A minimum of two parking spaces shall be provided. Parking areas and driveways shall be paved.
- M. Home occupations utilizing or proposing to utilize public water and sanitary sewer services shall be subject to all applicable water and sewer capacity impact fees as per Brevard City Code, Chapter 70 Utilities.
- N. Home occupations shall comply with all applicable requirements of any federal, state, or local agency with jurisdiction over the proposed use. The applicant shall provide the administrator with evidence of approval by any relevant agency.
- O. Responsibilities of the administrator and applicant(s):
 - 1. The administrator shall consider applications to establish a home occupation and may approve such applications upon a determination that the proposed use would be in keeping with the spirit and intent of, and satisfy all requirements of this section.
 - 2. The administrator may impose any necessary condition upon the operation of a home occupation, shall monitor home occupations and conduct site inspections to ensure compliance

with this ordinance and any condition of approval, and shall revoke any permit for the operation of a home occupation and cause the use to be terminated in accordance with the procedures set forth in Chapter 18 of this ordinance upon a determination that such use is in violation of this ordinance or any condition of approval.

3. The administrator shall have broad authority to deny any application for home occupation if in the opinion of the administrator, the proposed use would not be in keeping with the spirit and intent of this section. The burden of proving that a proposed home occupation would be in keeping with the spirit and intent of, and satisfy all requirements of this section as well as any condition of the administrator, shall lie with the applicant.
4. In reviewing any application for home occupation and in the monitoring and enforcement of any approved permit for home occupation the administrator shall strongly consider the expectation that the residential use and character of each residentially zoned neighborhood be preserved and shall take into consideration this unique characteristics of any proposed use and its relationship to the site and surrounding properties in considering whether such use would be suitable as a home occupation.

P. Uses permitted as home occupations:

1. Examples of uses that may be permitted as home occupations include but are not limited to telecommuting professionals; professional services such as those provided by an architect, engineer or accountant; art, music, or dance instruction; hair styling; bicycle repair or vehicle cleaning; and may include other uses defined in Chapter 19 or listed upon the use matrix in Chapter 2 of this ordinance when such uses can be performed in a manner that is strictly in keeping with the spirit and intent of, and satisfy all requirements of, this section.
2. Uses involving the fabrication of products may be permitted provided, however, the home occupation shall not utilize mechanical, electrical, or other equipment, materials or processes, or create any by-product or effect, which produces noise, electrical or magnetic interference, vibration, heat, glare, odor, dust, pollution or other nuisances outside the dwelling or accessory structure housing the home occupation. Examples of such uses include but are not limited to baking, candle or soap making, fly-tying, woodworking, engraving, gunsmithing and or other similar small scale craft production or fabrication. This provision shall not be construed to authorize industrial uses within residential zoning districts.
3. Home occupations may include child day care homes as defined in Chapter 19 of this ordinance.
4. Home occupation shall not include any use that is primarily retail in nature. It is the intention of his section that goods and merchandise produced as part of any home occupation be sold off-site; any on-site retail activity must be incidental to the purpose of this home occupation.

Q. Duration of permit:

1. Home occupation permits are temporary, and shall not establish a vested right to renewal. Home occupation permits shall be valid for a period of one year from the date upon which approval is granted. Permits approved prior to the enactment of this section shall not be subject to this requirement.
2. Applicants may apply for renewal of home occupation permits. Applications for renewal shall include a written report demonstrating compliance with the previously approved permit.
3. The administrator may approve applications for renewal of a home occupation permit upon determining that the applicant has demonstrated continued compliance with the spirit and intent of this section and any prior conditions of approval. The administrator may modify prior conditions of approval and may impose any necessary, additional conditions. The administrator may deny a request for permit renewal and require the applicant to terminate the home occupation or relocate the home occupation to an appropriate commercial or missed-use zoning district upon a determination that the home occupation operated in violation of a requirement of this section or other applicable condition or requirement; or, that the home occupation has

generated unanticipated effects that are detrimental to the residential character of the neighborhood in which the home occupation is located.

(Ord. No. 13-07, § 1, 9-17-07)

3.19. - Manufacturing, heavy (GI) special use permit.

- A. Primary access to heavy manufacturing uses shall be from a street that is classified no less than a minor thoroughfare.
- B. A traffic impact study in accordance with Section 17.13 shall accompany the application for a permit. The improvements recommended by the study shall be constructed by the applicant as a condition of approval.

3.20. - Professional services (GR) special use permit; (all other districts) permitted.

It is the intent of this ordinance to permit the location of certain professional services in residential zones, provided that such location does not compromise the residential character nor create activity inimical to the maintenance of the normal peace and quiet of the neighborhood.

- A. *Number of buildings.* When professional services are offered in a residential district, no more than one principal building shall be permitted on any lot less than one acre in size and no more than three principal buildings shall be permitted on any lot one acre or more in size. This restriction applies regardless of whether such buildings are used as residences or professional offices or both.
- B. *Building size.* No building shall exceed 3,000 square feet of floor area. When more than one building is permitted on a lot under this section, the total floor area for all buildings shall not exceed 6,000 square feet exclusive of open carports or shelters.
- C. *Building character.* The overall general appearance of all buildings shall be residential in character.
- D. *Number of offices.* No more than two principal professionals shall be permitted in any building.
- E. *Number of employees.* No more than six employees shall be permitted in any building exclusive of principal professional personnel.
- F. *Parking facilities.* No more than ten spaces shall be provided for any building, with none located in the front yard area except as permitted by Chapter 10, Section 10.5(G) of this ordinance. Driveways shall be established in accordance with Chapter 13 of this ordinance.
- G. *Hours of operation.* Normal hours of operation shall be between 8:00 a.m. and 6:00 p.m., Monday through Saturday, excluding national holidays. Professional services may be provided outside these time frames only in emergencies. Overnight care or service is not permitted.
- H. *Signs.* Each building in which professional services are offered under this section may have one identification sign with a maximum sign area of eight square feet. The sign may be either a wall or ground sign. No other outside sign or identifying structure is permitted. Signs shall not exceed five feet in height and shall not be illuminated.
- I. *Vehicles.* Vehicles normally kept or housed on-site must be regular passenger-carrying vehicles, including pickup trucks of not more than three-fourths ton capacity. Such vehicles may not bear any business identification signs greater than three square feet in size. Trucks over three-fourths ton rated capacity, ambulances and other vehicular equipment are not permitted.

3.21. - Vehicle/heavy equipment sales.

- A. *In general.* The following requirements shall apply to all vehicle/heavy equipment sales establishments.

1. *Equipment display storage.* No equipment for sale or rent may be displayed in any front yard, nor shall such displays be permitted to encroach on any required landscaping areas or buffer yards.
 2. *Outdoor PA systems.* No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.
 3. *Maintenance and repair.* Maintenance and repair of bicycles may be permitted indoors. Otherwise, vehicle services shall not be permitted as part of any vehicle/heavy equipment sales establishment unless vehicle services is otherwise permitted within the district.
- B. *Vehicle/heavy equipment sales—Indoor.* In addition to the requirements set forth in 3.21A, above, the following additional requirements shall apply to indoor vehicle/heavy equipment sales establishments.
1. *Vehicle display.* All vehicles for sale or display shall be located indoors.
- 3.22. - Wireless telecommunication facility.

In recognition of the Telecommunications Act of 1996, it is the intent of the City of Brevard to allow wireless telecommunication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of the citizens of Brevard. Wireless telecommunication facilities may be incompatible with other types of uses, most notably residential; therefore special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.

- A. *Stealth permitted.* Telecommunications facilities in all districts shall be designed and installed in a manner to make them unobtrusive. All facilities shall be mounted so that the personal wireless service facilities do not extend beyond the top of the building or structure on which they are mounted. Facilities shall be designed to blend in with the existing structure or buildings with similar colors or other techniques as appropriate.
- B. *Towers (CMX) special use permit, (GI) permitted with standards.*
 1. *Antenna standards.*
 - a. Antennas shall not interfere with the usual and customary radio and television reception accepting broadcast facilities as provided for in the regulations of the Federal Communications Commission.
 - b. Antennas shall comply with FCC and FAA guidelines. The antenna owner shall provide the city each year with a copy of any FCC and FAA license issued.
 - c. Antennas shall be restricted to the minimum standards of lighting required by the FAA. Antennas required by the FAA to have flashing lights shall utilize a dual lighting system consisting of a white strobe light for daytime lighting and a red flashing light for nighttime lighting.
 - d. Antennas and related mechanical equipment placed on structures other than towers shall be concealed antennas. Antennas located on top of buildings or other structures shall not exceed 30 percent of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet.
 - e. Antennas and supporting electrical and mechanical equipment shall be a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - f. Antennas erected solely for a residential, noncommercial individual use, such as residential television antennas, satellite dishes, or ham radio antennas, are exempt from these requirements.
 2. *Tower standards.*

- a. Towers shall be positioned to contain on-site any ice-fall or debris from tower failure. The distance from the tower's base to any property line shall equal or exceed the tower's fall radius.
 - b. Towers shall be restricted to the minimum standards of lighting required by the FAA. Strobe lights shall be red at night and may be either red or white during daylight unless otherwise required by federal or state regulation.
 - c. A single sign, two square feet in size, shall be displayed in a visible location near the tower. The sign shall contain a number to be assigned to the company and a telephone number for 24-hour emergency contact. No other signs shall be permitted on the facility.
 - d. Towers shall be set back from any residential district or use a distance equivalent to the fall radius of the tower or 200 feet, whichever is greater.
 - e. The base of the tower, along with any individual guy wires, shall be enclosed by a commercial grade fence a minimum of eight feet in height.
 - f. If the tower is between 120 feet and 200 feet in height, the tower shall be engineered and constructed to accommodate at least one additional telecommunication antenna.
 - g. At the time a tower is approved, the owner shall provide written authorization that the tower and its accessories may be shared by other telecommunication antenna(s). The owner shall record in the register of deeds' office a letter of intent prior to the issuance of the building permit. This letter shall bind all subsequent owners of the approved tower.
 - h. If the city or county determines that the proposed tower will be situated in a location that will enhance the city and/or county's telecommunication system, the applicant shall, prior to the issuance of a building permit, agree to allow the city and/or county to co-locate its telecommunication equipment at fair market value.
 - i. No telecommunication tower shall exceed 200 feet in height.
 - j. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. The design of the tower and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.
 - k. A vegetation screen consisting of two staggered rows of evergreen trees shall surround the perimeter of the property containing the base of the tower and related equipment. Evergreen vegetation shall be of sufficient density to serve the purpose of a solid screen to keep the tower area itself from being visible from any public right-of-way or adjacent property.
 - l. The applicant shall provide written proof that the proposal complies with all applicable FAA and FCC regulations.
3. *Replacement of existing towers.* Towers existing at the time of this ordinance may be replaced one time only with a taller tower, and reviewed for approval by the administrator in lieu of the BOA, provided the replacement tower conforms to the standards detailed in Section 3.22(B(2)), above, as well as the following standards:
- a. The height of the replacement tower may not exceed the height of the original tower by more than 50 feet.
 - b. The replacement tower shall be located in as close proximity to the base of the original tower as reasonably possible, and in any event, no more than 50 feet from the base of the original tower.

- c. The replacement tower shall utilize monopole construction and shall be designed and equipped with the technological and structural capability to accommodate at least one other wireless communication carrier or provider.
- d. The owner of the replacement tower shall provide the planning director with an affidavit stating that at least one other wireless communications carrier needs a wireless communications facility within 1,250 feet of the subject site and that such carrier has agreed to co-locate on the replacement tower.
- e. The setback requirement in Section 3.22(B(2(d))), above, may be exempted provided certified drawings from an engineer are given attesting that the proposed replacement tower and debris would fall within the boundary lines on which the tower is located.
- f. The base of the replacement tower shall be screened to the extent practical on a case by case basis. Solid screen (fencing) or vegetative screens, or both, shall be utilized based upon Chapter 8 of this ordinance.

3.23. - Temporary uses permitted with standards.

A. *General requirements.*

- 1. Temporary uses, structures and special events shall be established for operation only after the issuance of a temporary use or special event permit and a city privilege license, the fees for which shall be set forth in the Schedule of Taxes, Fees and Charges of the annually adopted Budget Ordinance for the City of Brevard.
- 2. 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.
- 3. In addition to the specific temporary uses and structures listed below, the administrator may, at his or her discretion, issue a permit for other temporary use provided that:
 - a. The use is clearly of a temporary nature;
 - b. The use is limited to a period not to exceed 90 days except as otherwise provided; and
 - c. The use is in keeping with the requirements and is consistent with the spirit and intent of the district in which it is proposed, and of this ordinance.
- 4. In addition to the standards contained in the following sections, applicants for operation of a temporary use, structure or special event shall demonstrate compliance with each of the following requirements:
 - a. The use shall clearly be of a temporary nature.
 - b. The use shall not obstruct any public travel way except by specific approval by the city and will cause no traffic congestion;
 - c. The use shall not create a nuisance to surrounding uses.
 - d. The use shall not create hazards or adverse impacts related to parking, drainage, fire protection, or other adverse impacts.
 - e. 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.
 - f. The operator shall satisfy all other requirements of the director of public health, the building inspector or the fire marshal.
 - g. The operator shall secure a business license, street closure permit, sidewalk closure permit, or parade permit if required.
 - h. Parking:

- i. A minimum of five parking spaces shall be designated for use by patrons of the temporary use, structure or special event. In all cases, the applicant shall demonstrate that there will be adequate parking for the existing uses as well as the temporary use, structure or special event.
 - ii. Temporary use, structures, and special event may be permitted within developed parking lots that serve a principle structure(s), the hours of operation of which are the same as the use, structure or event, only when the number of existing parking spaces exceeds the minimum number of spaces that are required for the principle structure(s) by a minimum of five parking spaces, plus the number of parking spaces to be rendered unusable within the area of the use, structure, or event.
- i. Area. 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.
 - iv. Religious meetings.
 - v. Temporary vendors on undeveloped, vacant lots.
 - vi. Temporary vendors on developed properties containing principle structures, where the hours of operation of the principle structure does not conflict or overlap with the hours of operation of the temporary use, and when the property is wholly owned or leased by the operator of the temporary use.
- j. Tents and structures:
 - i. Applicants shall provide flame retardancy certifications for all tents.
 - ii. Temporary structures shall not exceed 120 square feet. Tents, satellite real estate sales offices and contractor's offices and equipment sheds shall not be subject to this requirement.
 - iii. Seasonal greenhouses, tents, and other temporary structures may be permitted for a period not to exceed 90 days. These structures must be removed on the expiration date of the permit.
 - iv. A contractor's 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, and subsequent to such event having been declared a disaster by the Mayor of the City of Brevard, the County Manager of the County of Transylvania, the Governor of the State of North Carolina, or the President of the United States. In no case shall such a vehicle or temporary dwelling be set up or occupied for a period exceeding 180 days. The 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.
- k. 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 lots 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.
 - l. 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.
 - m. The administrator may require that the operator provide a performance bond in the amount of 150 percent of the cost of removal of the use and restoration of the site.
 - n. The temporary use, structure or special event shall comply will all other applicable provisions of City Code.
- B. *Carnivals and circuses.*
- 1. Carnivals and circuses may be permitted for a period not to exceed 21 days.
 - 2. Carnivals and circuses shall only be permitted within undeveloped, vacant lots, or within developed parking lots that serve a principle structure, which structure is unoccupied for the duration of the carnival or circus.
 - 3. Carnivals and circuses shall not employ registered sex offenders.
- C. *Farmers market.*
- 1. Farmers markets may be permitted for a period of one year.
 - 2. Vendors and products:
 - a. Vendors may 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. 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 in accordance with paragraph C.3., below.
 3. 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. The updated versions of the aforementioned documents shall be provided with the renewal of the temporary use permit on an annual basis, or as otherwise required by the administrator.
- D. *Religious meetings.*
1. Religious meetings may be permitted in a tent for a period not to exceed 30 days.
 2. Religious meetings shall be permitted only within undeveloped, vacant lots, or within developed parking lots that serve a principle structure provided that the hours of operation of the principle structure do not conflict or overlap with the hours of operation of the religious meeting.
- E. *Temporary vendors.*
1. Temporary vendors, excluding vending pushcart operators, may be permitted one tent, which shall not exceed 1,500 square feet in area. Temporary vendors shall employ no other temporary structure.
 2. Signage.
 - a. Temporary vendors, excluding vending pushcart operators, may be permitted one banner. Such banner shall be affixed to the wall of the tent or table, and shall not exceed 32 square feet in size.
 - b. Temporary vendors, excluding vending pushcart operators, may be permitted one A-frame sign. Such sign shall not exceed eight square feet per side, nor shall it exceed four feet in height, and shall be placed in compliance with all applicable setbacks for ground signs within the zoning district in which the use is located. Such signs shall be removed at the end of each business day.
 3. Prohibited conduct. No temporary vendor shall:
 - a. Sell, barter, exchange or attempt to sell any goods, wares or merchandise from any city street or from any 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 66-7 and complies with article I of chapter 66 and other applicable provisions of Brevard City Code.
 - b. Vend on any street or sidewalk where vending is otherwise prohibited.
 - c. Vend between 9:00 p.m. and 7:00 a.m. of the following day, except during city-approved festivals and events.
 - d. 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 his patrons' use and no more than ten feet distant from his pushcart or mobile food unit.
 - e. Leave the designated location without first picking up, removing and disposing of all trash or refuse remaining from sales made.
 - f. Solicit or conduct business with persons in motor vehicles.
 - g. Sell anything other than that which the operator is licensed to vend.

- h. 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.
 - i. 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.
 - j. Vend within ten feet of the crosswalk at any intersection.
 - k. Vend within ten feet of any fire hydrant or fire escape.
 - l. 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.
 - m. Vend within ten feet of any building.
4. Application for permit. The application for a temporary vending permit shall include:
 - a. The name, home and business 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.
 - b. A description of the type of food, beverage or merchandise to be sold.
 - c. 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.
 - d. Two prints of a full-face photograph, taken not more than 30 days prior to the date of the application, of any person who will sell or offer for sale any food, beverage or merchandise.
 - e. A copy of any approval required by the county health department, building inspector, or fire marshal.
 - f. 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.
 - g. 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.
 5. All permits issued under this section shall be displayed in a prominent location at all times during the operation of the vending business.
 6. 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.
 7. Non-agricultural roadside vendors:
 - a. 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.
 8. Agricultural roadside vendors:

- a. 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.
 - b. 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.
9. Vending pushcarts:
- 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. Minimum travel way. 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. Operation during special events within the central business district. Vendor permits will be invalid during special festivals and events in the 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.
10. Mobile food vendors:
- a. Mobile food vendors are licensed motor vehicles or mobile food units which offer for sale and consumption food and beverages (excluding alcohol).
 - b. Permits required.

- i. 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. Applicants shall provide such information as is deemed necessary by the administrator to demonstrate compliance with this ordinance; such information shall include, but shall not be limited to, a listing of the mobile food vendors authorized to operate upon the subject property.
 - ii. Mobile food vendors shall secure a permit to operate within the jurisdiction of the City of Brevard. Applicants shall provide such information as is deemed necessary by the administrator to demonstrate compliance with this ordinance; such information shall include, but shall not be limited to, a listing of the mobile food vendor sites upon which the vendor proposes to operate, as well as confirmation of compliance with all applicable health regulations.
 - iii. 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.
 - iv. Permits for mobile food vendor sites and mobile food vendors shall be valid for a period of one year, and shall be renewed annually. Permit fees shall be determined by Brevard City Council as set forth in the City of Brevard Schedule of Taxes, Charges and Fees.
- c. Mobile food vendors must have a base of operations such as a restaurant or commissary and must report to said base daily for supplies, cleaning, and servicing.
- i. If the base of operations is under different ownership than the mobile food vendor, a written agreement for use must be submitted as part of the zoning application.
 - ii. No waste, grease, or wastewater shall be released into the city's sanitary sewer or stormwater collection systems, ditches, tree wells, or other public spaces.
- d. There shall be no limit to the number of mobile food vendors per parcel so long as all other separation and site requirements as set forth below are met.
- e. Separation and setbacks.
- i. Mobile food vendors shall be subject to all site requirements as set forth in subsection 3.23.A.4.k. except as modified below.
 - ii. Setbacks, generally. Mobile food vendors 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. Separation between mobile food vendors. Mobile food vendors shall be situated at least 20 feet from one another.
 - iv. Separation between mobile food vendors and permanent structures.
 - a. Mobile food vendors shall be situated at least 25 feet from any permanent structures.
 - b. 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.
 - c. There shall be no reduction in separation between mobile food vendors and permanent structures within the downtown fire district.

- d. Mobile food vendors shall be situated at least 200 feet from any residential structure that is located within a general residential (GR) zoning district.
 - e. 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.
 - iii. Vendors are subject to the requirements of the City of Brevard Noise Ordinance (chapter 38, noise ordinance), North Carolina Health Code, and North Carolina Building Code.
- g. Restrooms must be available on site.
- h. 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.
- i. Vendors must vacate the site each day unless the vendor owns the site.
- j. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.
- k. Each food truck shall supply at least one waste receptacle which must be removed and emptied at the end of each day, City trash receptacles shall not be used for food truck waste.
- l. Signage.
- i. Mobile food vendors shall be limited to the following:
 - a. One wall sign affixed to the vehicle or trailer per side of vehicle or trailer. Said sign shall be no larger than 32 square feet.
 - b. One small A-frame sign not to exceed four feet in height and eight square feet of surface area may be placed within five feet of the vehicle or trailer to display daily specials, menus, or other similar information.

(Ord. No. 07-10, § 4(Exh. E), 4-5-2010; Ord. No. 24-2011, § 3(Exh. A), 9-19-2011; Ord. No. 2013-13, § 01.c)(Exh. B), 10-21-2013)

3.24. - Junkyards and salvage operations and yards (CMX, GI) permitted with standards.

The following requirements apply to any property, establishment or place of business which is maintained, operated, or used for disposing, storing, keeping, buying, selling, or reclaiming scrap copper, brass, other metals, rope, rags, batteries, paper, trash, rubber, debris, chemicals, or waste, or for operation and maintenance of a property for disposing, storing, keeping, buying, selling, or reclaiming abandoned, wrecked, scrapped, ruined, or dismantled motor vehicles (including tractors, lawn-mowers, and other equipment) or motor parts, furniture, appliances, manufactured homes, mobile homes, recreational vehicles, and other mechanical equipment.

The presence of any of the following shall constitute a junkyard and salvage operation and yard: four or more abandoned, wrecked, scrapped, ruined, or dismantled motor vehicles - or the motors, bodies, chassis, or frames thereof; two or more abandoned, wrecked, scrapped, ruined, or dismantled recreational vehicles, mobile homes, or manufactured homes - or any portion of the body, frame, or shell thereof; or four or more abandoned, wrecked, scrapped, ruined, or dismantled units of furniture, appliances mechanical equipment - or the dismantled components thereof.

- A. When allowed, junkyards and salvage operations and yards shall be subject to the following additional requirements:
1. Stored materials will not pose a danger to adjacent and surrounding properties, or residents, due to noise, runoff, animal or insect populations or other factors. Fluids within any vehicles or equipment are to be drained/removed and under no circumstances shall fluids or other contaminants or pollutants be leaked or discharged onto the earth or into surface or ground waters.
 2. The facility shall be completely enclosed by a fence and shall be screened from view on all sides by a type D buffer yard. The fence shall be eight feet high, measured from the lowest point of grade, and shall be maintained in good condition.
 3. No stored materials shall be visible from ground level immediately outside the fence.
 4. The facility, including the required fence, shall be located at least 50 feet from all surface waters.
 5. The facility shall not contaminate soil or ground waters.
 6. The minimum lot size for any such facility is two acres.
 7. Facilities may not operate at any time other than between the hours of 7:00 a.m. and 6:00 p.m., Monday thru Saturday.
 8. Except when an operator is on duty, facilities shall be adequately secured and locked by means of gates, chains, berms, fences, etc., to prevent unauthorized access. An attendant shall be on duty at all times while the facility is open for public use to assure compliance with operational requirements and to prevent acceptance of unauthorized materials.
 9. The site shall not be located adjacent to residentially zoned property.
 10. No parking area or driveway shall be located within 50 feet of residentially zoned property.
 11. Access roads shall be paved, with a width of at least 12 feet per travel lane, and shall be properly maintained at all times.
 12. All unpaved roads, travel ways and/or parking areas must be treated to prevent dust from adversely affecting adjacent properties.
 13. Mud and debris shall be contained on site and shall not be deposited on off site properties and streets. Tires shall be properly cleaned and loads shall be properly secured before leaving the property so as to prevent the discharge of mud and debris.
 14. An NCDENR-approved sedimentation and erosion control permit, as well as other applicable permits, shall be presented to the administrator prior to permit approval.
 15. Facilities shall not be located within the 100 year flood plain or the regulatory floodway.
 16. Facilities shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.
 17. Facilities shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17, as it may be amended from time to time.
 18. Facilities shall not damage or destroy an archaeological or historical site; nor shall they be located within a listed or designated historic district.
 19. Facilities shall not cause an adverse impact on a public park, forest, recreation or scenic area, or any lands included in a state nature and historic preserve.
 20. Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).
 21. Facilities shall not be permitted on protected mountain ridges.

22. Gasoline, oils, antifreeze, and other chemicals, pollutants, and potential contaminants shall be secured on-site and properly disposed of, and shall at no time be leaked, spilled, or discharged onto the earth or into surface or surface or ground water.
 23. Facilities shall not cause a discharge of pollutants into surface waters, ground waters, or waters of the state that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act, as amended.
 24. Facilities shall not cause non-point source pollution of waters of the state in violation of water quality standards of the State of North Carolina.
 25. On-site stormwater retention facilities shall contain and treat all stormwater on-site. Engineering documentation provided to the administrator shall affirm that stormwater facilities are designed to retain and treat any potential pollutants on-site. Stormwater requirements shall not be met by payment of a fee-in-lieu.
 26. A sign shall be posted at the facility entrance showing the permit number and a contact name and number in case of an emergency. The permit number requirement is not applicable for facilities not requiring an individual permit.
- B. Existing junkyards and salvage yards on parcels within CMX and GI Districts, which were in operation prior to February 1, 2006, and which do not fully comply with the provisions above, shall have until January 1, 2011, to either come into full compliance with the requirements set forth herein and secure a special use permit from the BOA or cease operations.
- C. Existing junkyards and salvage yards on parcels not located in CMX or GI Zoning Districts, which were in operation prior to February 1, 2006, shall have until January 1, 2011, to come into full compliance with the requirements set forth above, or cease operation. The administrator shall consider such junkyards and salvage yards to be pre-existing non-conforming uses of land and shall not permit any expansion in the area of any junkyard or salvage yard located outside of GI Zoning Districts.
- D. Violations:
1. The following actions shall constitute a violation of this ordinance, shall constitute a class I misdemeanor, and shall be subject to the enforcement provisions of Chapter 18 of this ordinance.
 - a. Failure to comply with subsections 3.24(B) or 3.24(C), above.
 - b. The unpermitted establishment of a new junkyard or salvage yard at any time;
 - c. Any unpermitted expansion in the area of any junkyard or salvage yard at any time;
 - d. Any violation of any requirement of subsection 3.24(A) by any permitted junkyard or salvage yard at any time;
 - e. Any violation of any requirement of subsection 3.24(A) by any pre-existing non-conforming junkyard after January 1, 2011.
 2. In addition to the enforcement procedures of Chapter 18, such violations shall invalidate any special use permit for the operation of a junkyard or salvage yard, and shall invalidate any pre-existing non-conforming status as established in subsection 3.24(D), above.
 3. The board of adjustment shall revoke any special use permit and shall order the cessation of operations of any junkyard or salvage yard found to be in violation of this ordinance, shall set forth a reasonable time frame for the owner or operator to remedy the violation, and may re-issue a special use permit only when such a junkyard or salvage yard is in full compliance with this ordinance. If the owner and operator do not remedy the violation within the required time frame, the administrator shall take action to cause the cessation of all operations and to cause the owner and operator to remove the junkyard from the property.

4. In accordance with the procedures set forth in Chapter 18 of this ordinance, the administrator shall provide notification to the owner and operator of any pre-existing non-conforming junkyard found to be in violation of this ordinance and shall provide sufficient time for the owner and operator to remedy the violation. If the owner and operator do not remedy the violation within the required time frame, the administrator shall take action to cause the cessation of all operations and to cause the owner and operator to remove the junkyard from the property.

3.25. - Outdoor firing range (GI) special use permit.

These requirements are generally intended to apply to permanent firing ranges operated for profit or by a club or organization or properties upon which regular or organized shooting events are held. They shall not apply to the incidental and recreational use of firearms and clay target shooting in the extra-territorial jurisdiction on private property upon which no firing range is constructed.

- A. These requirements are intended to apply to pistol and rifle firing ranges, as well as, clay target and shot-gun shooting facilities. However, the zoning board of adjustment shall have the authority to relax these standards as they apply to clay target and shot-gun shooting facilities upon a determination that such standards would serve no useful purpose.
- B. Any pistol and rifle firing range shall be constructed to a standard that is at least as stringent as all standards set forth in the *National Rifle Association Range Source Book* and *EPA Publication # EPA-902-B-01-001 ("Best Management Practices for Lead at Outdoor Shooting Ranges.")*.
- C. Any clay target and shot-gun shooting facility shall be constructed to a standard that is at least as stringent as all standards set forth by the National Rifle Association (NRA).
- D. No outdoor firing range shall be permitted within 1,000 feet of a school, church, adult or child daycare, family care home, hospital, or group care facility. The firing range shall be set back a minimum distance of 100 feet from any street right-of-way or property line.
- E. Rifle and pistol firing ranges shall be surrounded by a natural earth embankment a minimum of 15 feet high, to either side of the direction of fire and behind the target area.
- F. Firing ranges shall be surrounded on all sides by a type C buffer yard.
- G. Firing ranges shall be posted "No Trespassing—Danger—Shooting Range" at 100-foot intervals around the perimeter.
- H. For rifle and pistol ranges, lead particles shall at all times be contained on-site, and properly contained and disposed of. Appropriate devices shall be utilized to contain lead bullets and/or shot, and such devices shall be periodically cleaned and lead particulates properly disposed of. The detection of lead off-site shall be grounds for the revocation of a special use permit by the BOA. Appropriate measures are also to be used to contain and properly dispose of particulates at clay target and shot-gun facilities.
- I. At least one qualified individual in the sponsoring club or organization shall be certified (NRA or equivalent, or N.C. Criminal Justice standards) for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization.
- J. Outdoor firing ranges shall only operate between the hours of 8:00 a.m. to 9:00 p.m., Monday through Saturday, unless other operating hours are specifically approved by the administrator.
- K. The BOA may attach such conditions to a special use permit for an outdoor firing range as are necessary to protect the public health, safety, and welfare.

3.26. - Indoor firing range (CMX, GI) special use permit.

- A. The firing range shall be constructed to a standard that is at least as stringent as all standards set forth in the *National Rifle Association Range Source Book* and any applicable federal or state regulations or guidelines.

- B. Lead particles shall at all times be contained on-site and properly contained and disposed of. Appropriate devices shall be utilized to contain lead bullets and/or shot, and such devices shall be periodically cleaned and lead particulates properly disposed of. Ventilation systems shall be designed, and other appropriate steps shall be taken, to prevent the discharge of lead from within the structure housing the indoor firing range into the external environment and to prevent the exposure of clients and employees to unsafe (as defined by applicable federal or state standards) levels of lead. The detection of lead in the external environment on the same property as the indoor firing range or off-site, or unsafe levels of lead within the structure housing the indoor firing range, shall be grounds for the revocation of a special use permit by the BOA.
- C. Noise levels generated by the discharge of firearms within an indoor firing range shall not be discernable in the external environment to be measured as follows:
 1. By a decibel meter of 85DB;
 2. Located on the same parcel of land as the range;
 3. Located at all entrances, windows, ventilation outlets, and any other outlet to the external environment;
 4. Located at any shared wall, on the opposite side of such wall from the range;
 5. Witnessed by an independent, third party engineer or other qualified professional.
 6. The applicant shall submit documentation from a licensed professional engineer with relevant experience, certifying that the range and the structure within which such range is to be housed has been designed to satisfy all requirements set forth above as well as any additional requirements of the BOA.
- D. At least one qualified individual in the sponsoring club or organization shall be certified (NRA or equivalent, or NC Criminal Justice standards) for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization.

3.27. Manufactured home park (GR, RMX) special use permit.

- A. General description: The location of two or more manufactured homes or manufactured home spaces on a parcel of land shall constitute a manufactured home park and shall be subject to the provisions of this section.
- B. Manufactured home park special use permits are issued the board of adjustment in accordance with the procedures set forth for special use permits and category III land development applications forth in Chapter 16
- C. Upon issuance of a manufactured home park special use permit, the applicant shall have two years to complete construction of site improvements as stated in such permit for the park or phase thereof. Extensions may be granted by the administrator for good cause upon receipt of a written request from the applicant.
- D. Minor changes in the location, siting or character of manufactured homes or other structures may be authorized by the administrator if required by engineering or other circumstances not foreseen at the time the manufactured home park special use permit was approved, provided that such changes are within the minimum or maximum requirements set forth in this chapter. An applicant proposing to increase the number of units or to construct buildings (other than accessory buildings for individual manufactured homes) not originally shown on the site development plan, or proposing to make changes that would substantially affect the provision of sewer and water, or that would affect the status of required landscaping or open space, or that would otherwise substantially modify the approved park plan, shall submit a revised plan for approval by the Brevard Planning Board (hereinafter BOA) under the terms of this chapter.
- E. Any manufactured home park, as defined by this chapter, existing on the effective date of this chapter or any subsequent amendment thereto may continue to operate without being subject to the requirements of this chapter except where explicitly set forth below.

- F. Any expansion of a pre-existing manufactured home park shall require the issuance of a manufactured home park special use permit.
1. The BOA shall require that pre-existing phases of such park's infrastructure be brought into full compliance with this chapter, except where dimensional or other pre-existing conditions preclude such compliance.
 2. Expansions to a pre-existing manufactured home park shall occur in a manner that fully conforms to the requirements of this ordinance. Expansions shall not occur in districts within which manufactured home parks are not permitted.
- G. A manufactured home park space shall be considered preexisting if, on the effective date of this chapter, the space:
1. Is defined on the ground by the presence of all of the following:
 - (a) A water supply system service connection;
 - (b) A connection to a septic system or sanitary sewer; and
 - (c) Electric service equipment.
 2. Or, contains an occupied manufactured home connected to each of the preceding utilities.
- H. Each application for a manufactured home park as a special use permit shall be accompanied by development plans as required by Chapter 17, including contoured site plans (five-foot intervals) using true elevations. Development plans shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements as may be considered essential by the board of adjustment. Development plans shall also show that all improvements would meet the following minimum standards.
- I. Dimensional specifications.
- a. *Lot standards:*

Minimum Development Size	3 acres
Maximum Development Size	40 acres
Maximum Development Density (Units/Acre)	6
Lot Width at Right-of-Way	50 ft.
Lot Depth (Minimum)	150 ft.

b. *Principal structure standards:*

Development setback on all boundaries	50 ft.
Unit setback from internal street centerline	25 ft.
Distance between homes-short side to short side	20 ft.

Distance between homes-long side to short side	20 ft.
Distance between homes-long side to long side	30 ft.
Setback from public right-of-way	50 ft.
Height (maximum)	35 ft.

J. General requirements. The following standards shall be considered the minimum requirements for all manufactured home parks (new and pre-existing):

1. Prior to the placement, replacement, modification, or setup of a manufactured home within any manufactured home park or on an individual lot of record within the regulatory jurisdiction of the City of Brevard, the manufactured home or agent thereof shall procure a land development permit from the City of Brevard and a manufactured home setup permit from the Transylvania County Building Inspections Department.
2. The transfer of title of a manufactured home space or spaces either by sale or by any other manner shall be prohibited within a manufactured home park.
3. All manufactured home park roads, spaces, and the manufactured homes therein shall fully comply with the road naming and property addressing ordinances of the City of Brevard or Transylvania County, as applicable.
4. The owner and/or operator of a manufactured home or manufactured home park shall not sell manufactured homes on or within a manufactured home park unless the manufactured home unit for sale is placed individually and separately upon an existing manufactured home space where all design standards and utilities have been completed as specified by this ordinance. This does not prohibit the manufactured home park owner and/or operator from owning or operating a retail sales business on adjoining property if such use is permitted within the underlying district.
5. All manufactured homes placed upon an individual lot of record or within a manufactured home park shall be built according to Housing and Urban Development standards, and shall bear a label or seal indicating compliance with this requirement. Any manufactured home unit that does not bear a label or seal of compliance of a recognized testing laboratory, such as Underwriters Laboratories or similar testing service, shall be subject to inspection by the building inspector.
6. Manufactured or mobile homes constructed prior to December 31, 1981, shall not be permitted within the regulatory jurisdiction of the City of Brevard.
7. Recreational vehicles (RV), park model RV's, and other structures that are not constructed to the United States Department of Housing and Urban Development Standards or to North Carolina Building Code shall not be permitted with any manufactured home park, nor shall such structures become occupied within any other property within the jurisdiction of the City of Brevard, except as otherwise provided for in this ordinance.
8. At least ten percent of the total area of any manufactured home park containing 35 or more spaces and situated one-quarter of a mile or more from a public recreational facility shall be set aside for recreational purposes, except that open space as required in Chapters 6 and 7 of this ordinance may be applied to no more than 75 percent of such recreation space.
9. Manufactured home parks shall conform to sedimentation/erosion/stormwater management requirements as set forth in this ordinance.

10. Manufactured home parks shall not be permitted within steep slope areas.
11. All manufactured home parks shall have a park identification sign. Manufactured home park identification sign shall not exceed 48 square feet in area. Only indirect, non-flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.
12. Manufactured home park streets.
 - (a) Convenient access to each manufactured home space shall be provided by streets or drives that are properly graded, drained, and paved with a durable dustless surface, for automobile circulation.
 - (b) Manufactured home parks containing fewer than ten units may be serviced by streets which are built in accordance with North Carolina Department of Transportation's standards for residential subdivisions. Manufactured home parks containing ten or more units shall be serviced by a central drive that is constructed in accordance with the requirements for a new neighborhood street as set forth in Chapter 13. Streets entering branching from the central drive shall also be built according to neighborhood street dimensions. However, a sidewalk and curb/gutter shall not be required.
 - (c) Any tract of land to be developed as a manufactured home park must either have frontage on a public (state or city-maintained) road or have a private right-of-way corridor to the property. The minimum required length of the public road frontage or width of the private right-of-way corridor (at its narrowest point) shall be 50 feet.
 - (d) Off-site access shall have a minimum 20-foot cleared, unobstructed corridor, with a vertical clearance of at least 14 feet to allow passage of emergency vehicles.
 - (e) The grade of any road, existing or proposed, within an off-site private right-of-way corridor used to access a manufactured home park shall not exceed 15 percent.
 - (f) Publicly dedicated rights of way shall not be required, and maintenance of such streets shall be provided for by the owner and/or operator of the manufactured home park.
 - (g) Culs-de-sac shall not exceed 250 feet in length and shall be provided with a turnaround of at least 60 feet in diameter. Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Department of Transportation shall apply.
 - (h) Proposed streets shall be named, and addresses for manufactured home spaces along such streets assigned, by the Transylvania County Property Addressing Coordinator in accordance with the provisions set forth in the City of Brevard Property Addressing Ordinance or the Transylvania County Property Addressing Ordinance, as applicable.
 - (i) A minimum of two automobile parking spaces (paved with a durable, dustless surface) shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.
 - (j) All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed on each manufactured home space.
13. Manufactured home space.
 - (a) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners.
 - (b) Each manufactured home space shall be located on ground not susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises.
 - (c) The manufactured home space shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men" eyelets embedded in concrete foundations or runways, screen augers, arrowhead anchors, or other devices securing the stability of the manufactured home. Each manufactured home unit shall comply with the above standards

or similar standards whichever are higher. Each manufactured home owner shall be responsible for securing his individual manufactured home to anchors provided by the manufactured home park operator.

14. Utility requirements.

- (a) An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. All manufactured home parks within 300 feet of city water or sewer shall connect thereto. When a municipal or public water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the Transylvania County Health Department. Evidence of the issuance of necessary county or state permits shall be a condition of approval of any special use permit for a manufactured home park.
- (b) Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Where a public sewage collection system is available, connection shall be made thereto, and the system and sewage treatment plants complying with the requirements of the North Carolina Division of Environmental Management shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the North Carolina Division of Environmental Management. Individual septic tank systems can be considered, if soil, topography, and groundwater conditions are favorable. If septic tanks are used, they will be subject to approval by the Transylvania County Health Department.
- (c) All utilities within the proposed manufactured home park shall be located underground.
- (d) Failure to maintain an operational sewage disposal system shall constitute grounds for the revocation of a category III land development permit and the application of all applicable penalties as set forth in this ordinance.

15. Solid waste.

- (a) The storage, collection, and disposal of solid waste in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or pollution.
- (b) All solid waste containing garbage shall be stored in standard fly-tight, watertight, rodent-proof containers, with a capacity of not more than 32 gallons, which shall be located not more than 150 feet from any manufactured home space. Containers shall be provided in sufficient number and capacity to properly store all solid waste containing garbage. The manufactured home park owner and/or operator shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the Transylvania County Health Department.
- (c) Containers shall be installed in the ground or provided with stands. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
- (d) All solid waste garbage shall be collected at least once weekly. Where suitable collection service is not available from municipal or private agencies, the manufactured home park owner and/or operator shall dispose of the solid waste by collecting and transporting it in conformance with requirements and guidelines set forth by the North Carolina State Board of Health and the Transylvania County Health Department.

16. Grounds, buildings, and structures.

- (a) These standards shall apply to all existing and new manufactured home parks within the regulatory jurisdiction of the City of Brevard.
- (b) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination and control methods shall conform to the requirements of the County Health Department and/or North Carolina Department of Agriculture.

- (c) Parks shall be maintained free of accumulation of garbage, litter, or other debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests, or which may pose other health or sanitation hazards, or which may contribute to an otherwise unsightly or unpleasant environment.
- (d) Storage areas shall be so maintained as to prevent rodent harborage and shall not pose a safety hazard to manufactured home park residents or guests. Lumber, pipe, and other building material shall be stored at least one foot above ground.
- (e) All manufactured homes shall be properly skirted with non-opaque wood, aluminum, vinyl, or other appropriate material. Plastic, plywood, particle board, carpet, or other atypical skirting material shall not be used.
- (f) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be screened with wire mesh or other suitable materials.
- (g) Landscaping and vegetation in and around the manufactured home park shall at all times be maintained, and landscaping provisions of the park plan shall at all times be adhered to. The growth of bushes, weeds, and grass shall be controlled so as to prevent the harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open spaces and recreation areas shall be maintained free of heavy undergrowth of any description.
- (h) No inoperable vehicle shall remain in a manufactured home park for a period longer than 60 days unless the vehicle is stored under a carport or within a garage.
- (i) Manufactured and mobile homes shall not be abandoned or stored within the regulatory jurisdiction of the City of Brevard. Manufactured homes that have been disconnected from active electricity, water, and sewage for a period exceeding 90 days shall be removed and properly disposed of. Manufactured homes located outside of a manufactured home space for a period to exceed 45 days shall be removed and properly disposed of.
- (j) Manufactured homes shall not be utilized for storage or other non-residential uses of any type.

17. Registration of occupant.

- (a) Every manufactured home park owner or operator shall maintain an accurate register. The register shall be available for inspection at all times by authorized city representatives. The register shall contain the following information on forms provided by the planning department: (1) Name of owner and/or occupant; (2) manufactured home space number; (3) make, model, registration number of manufactured home; and (4) date of arrival and departure of the occupants. Records shall be maintained for a period of three years.

18. Inspection and enforcement.

- (a) The park owner and/or operator shall notify park occupants of all applicable provisions of the ordinance and inform them of their duties and responsibilities under this ordinance.
- (b) The person to whom a manufactured home park special use permit has been issued shall operate the park in compliance with such special use permit, this ordinance, Brevard City Code, Transylvania County Code (as applicable), and state and federal law, and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- (c) The City of Brevard Planning Department, the Transylvania County Health Department and the Transylvania County Building and Inspections Department are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance. It shall be the duty of the owners and/or operators or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for the purpose of inspection.

- (d) Upon observation of a violation, the administrator shall provide notification of such violation and pursue enforcement action in accordance with Chapter 18.
- (e) So long as a violation exists the administrator shall not issue permits that would authorize the placement, replacement, setup, or modification of a new or existing manufactured home within the subject park.
- (f) If reasonable efforts to secure compliance are unsuccessful the administrator shall bring the matter to a hearing before the BOA.
- (g) The BOA may revoke a manufactured home park special use permit or impose other reasonable conditions for compliance therewith if the BOA finds that the park owner or operator has failed to comply with the provisions of the special use permit or any provision of this ordinance, Brevard City Code, Transylvania County Code (as applicable), or state or federal law. Upon revocation of a manufactured home park special use permit, the BOA shall set forth clearly in writing, the specific steps necessary to re-issuance of such special use permit, and shall set forth a reasonable time frame for closure of the park that gives deference to any tenants who will be displaced by such action.

3.28. Swimming pools permitted with standards.

3.29. - Subject to the requirements below, pools may be permitted with standards as residential accessory uses and structures within all districts except GI; by special use permit as a public recreational facility in RMX; by special use permit as a for-profit facility or public recreational facility in NMX; and permitted with standards as a for-profit facility or public recreational facility in all other districts except GI.

- A. Subject to the requirements below, pools may be permitted with standards as residential accessory uses and structures within all districts except GI; by special use permit as a public recreational facility in RMX; by special use permit as a for-profit facility or public recreational facility in NMX; and permitted with standards as a for-profit facility or public recreational facility in all other districts except GI.
- AB. All pools permitted as residential accessory uses and structures, whether above-ground or in-ground, shall be built only in side or rear yards.
- BC. The definition of a pool includes all structures, walks or patio areas of cement, stone, or wood, at or above grade, built for, and used in conjunction with the pool.
- CD. Pools, as defined above, shall be set back a minimum of five feet from all side and rear property lines. Patio areas at grade have no setback requirements from rear and side lot lines.
- DE. All swimming pools shall be designed to prevent unsupervised access by children. Pools shall be enclosed within a secured structure or by an unclimbable privacy fence (with lockable self-latching gate) with a minimum height of four feet and a maximum of eight.

3.29. Contractors Offices and Equipment Sheds

- A. Contractors Offices and Equipment Sheds are not permitted within the GR6 district.
- B. Contractors Offices and Equipment Sheds within the GR4 zoning district shall meet the following standards:
 1. Equipment sheds, and any associated outdoor storage of materials or equipment, shall be set back at least 20 feet from any property line.
 2. Equipment sheds, and any associated outdoor storage of materials or equipment, shall be screened from neighboring properties and adjacent streets by a Type A buffer yard.

3. Properties upon which a contractors office or equipment shed is proposed to be located shall be a minimum of two (2) acres in size.

3.30. - Fences and walls (all districts) permitted with standards.

No fence shall be placed within the sight triangle of any intersection as specified in Chapter 4 of this ordinance.

- A. All fences shall be constructed so that the best face faces outward from the parcel upon which it is constructed and towards adjacent properties.
- B. All fences and walls shall be located off of any property line unless a fence or wall is shared between property owners and constructed upon any property line with the express consent of all property owners sharing the same property line.
- C. Fences and walls shall not be placed within public utility easements or public right-of-way without first securing an encroachment agreement from the City of Brevard, the North Carolina Department of Transportation, or other appropriate entity.
- D. Fence heights are restricted as follows:
 1. In industrial districts, and public safety and other critical facilities. Fences shall be no greater than six feet in height before the front building line and no greater than eight feet in height in the side or rear yard.
 2. All other districts and uses. Fences or walls shall be no greater than eight feet in height behind the front building line or four feet in height before the front building line.
- E. Fence materials shall conform to the following requirements:
 1. *Residential districts:*
 - (a) All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, except that chain link or woven wire may be used in the side and rear yard behind the front building line.
 - (b) All other wire fences, including barbed wire or concertina wire, are prohibited. All walls and fences in the front yard and the side yard up to the front building line shall be materially similar to other walls and fences in the same block or general vicinity.
 2. *Commercial districts:*
 - (a) All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability.
 - (b) Chain link wire fences may be used as secure enclosures internal to the property or site subject to the following requirements:
 - (1) Chain link fences shall not be visible from a public right-of-way,
 - (2) Chain link fences shall not serve as a perimeter fence or property line fence unless buffered by a type A buffer yard on all side, and then only in the side or rear yard behind the front building line.
 - (c) All other wire fences, including barbed wire or concertina wire, are prohibited.
 - (d) All walls and fences shall be materially similar to other walls and fences in the same block or general vicinity.
 3. *Industrial districts, public safety facilities, and other critical facilities:*
 - (a) *Materials:*
 - (1) All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, and shall be materially similar to other walls and fences on the same block or general vicinity.

- (2) Chain link wire fences may be used as secure enclosures internal to the property or site but shall not be visible from a public right-of-way, and shall not serve as a perimeter fence or property line fence unless buffered by a type A buffer yard on all side. Fences that comply with this subsection may be topped with barbed wire or concertina wire.
4. *[Barbed wire:]* Barbed wire may be permitted within bona-fide agricultural operations within any zoning district.

3.31. - Human crematories.

- A. Human crematories may be permitted as accessory uses to licensed funeral establishments ("funeral homes") within NMX, DMX, CMX, and IC zoning districts, and as a principle use in IC, provided that such location does not create activity or conditions inimical to the normal commercial activities of the district.
- B. Human crematories may be permitted as principle uses within GI zoning districts.
- C. Under no circumstances shall a crematory permitted as an accessory use exceed 533 cremations per year. All crematories shall adhere to the rules and regulations as prescribed in NCGS § 90-210.120, "The North Carolina Crematory Act" and Title 21, Chapter 34, Subsection 34C of North Carolina Administrative Code.
 - i. Crematories permitted as accessory uses shall provide an annual report to the City Zoning Administrator certifying the number of cremations performed in the calendar year does not exceed 533 cremations.
- D. Crematories shall only employ equipment that is contemporary and recognized by the industry and the North Carolina Board of Funeral Service and North Carolina Cremation Authority, as "Best Available Technology."
- E. The Administrator may impose such additional, site-specific conditions specific as are necessary in order to protect the health, safety and general welfare of the public and to maintain conditions inimical to the normal activities of the district.

[3.32. –Reserved]

3.32. Artist Workshops within GR districts

- A. The Administrator shall not permit an Artist Workshop if he or she makes a reasonable determination that the hammering, drawing, spinning, or casting of metal would be discernable from an adjacent property by sound, sight or smell.

3.33. Accessory retail.

Accessory retail uses shall comply with the following 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 back packing 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 the City of Brevard Unified Development Ordinance, Chapter 10, Parking Standards, Subsection 10.6.A.1.
- 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.