TOWN OF HARRISBURG, NORTH CAROLINA
HARRISBURG TOWN HALL
PLANNING AND ZONING BOARD MEETING

October 17, 2023
6:00 PM

AGENDA

1. CALL TO ORDER

A. AGENDA ADOPTION

B. SPECIAL PRESENTATIONS

C. PUBLIC COMMENT - Anyone wishing to address the Board may do so during the Public Comment section. Please state your name and address for the record, be courteous and do not repeat what has already been said. Please keep your comments about the subject and not personal in nature.

D. PUBLIC PARTICIPATION VIA ZOOM

Harrisburg Town Hall's Council Chambers will be open for the public to attend the meeting in person.

The public has the option to join the meeting virtually via the Zoom platform using the following link:
Join from a PC, Mac, iPad, iPhone or Android device:
Please click this URL to join.
https://us02web.zoom.us/j/82922934233?pwd=UUVIbHlWeng1YStOUUVmVWdtZXllQT09
Passcode: 249745

Or join by phone:
312.626.6799
301.715.8592
Or One tap mobile:
+13052241968,,82922934233#,,,,*249745# US
+13092053325,,82922934233#,,,,*249745# US

2. CONSENT AGENDA

A. Minutes from the August 15, 2023 meeting

3. OLD BUSINESS

4. NEW BUSINESS

A. H-2023-03 TA: UDO text amendment expanding the separation requirement for Tobacco Stores, Vapor Shops, Electronic Gaming Establishments, and the retail sale of CBD and hemp-based products.

B. H-2023-04 TA: UDO text amendment of Sections 140.04.07 and 140.04.08 associated with Food Trucks and other Temporary Uses

5. STAFF UPDATES/INFORMATION

6. ADJOURNMENT

Vision Statement

Harrisburg will be a distinctive, family-focused community where memories are made.

Mission Statement

Together, we enhance our quality of life by collaborating, planning, and investing to create our community of choice.

TOWN OF HARRISBURG

Agenda Item Details

Title:
Minutes from the August 15, 2023 meeting

Presenting Personnel:
Zac Gordon, Planning Director

Suggested Motion or Action:
Motion to approve minutes from August 15, 2023 Planning and Zoniing Board meeting, as presented.

Description/Background:
Draft minutes from the August 15, 2023 P & Z meeting.

Recommendation:
Approve as presented

Fiscal Impact:

Attachments:
1. PZ MINS AUG 15 2023

TOWN OF HARRISBURG, NORTH CAROLINA
PLANNING & ZONING BOARD MEETING

TUESDAY, AUGUST 15, 2023
6:00 PM

MINUTES

1. CALL TO ORDER
Zac Gordon called the meeting to order.

PRESENT: Kevin Schaffner, Kevin Hutchins, Monica Long, Bill Leake, Faith Silva, Jessica Fava, Keziah Hubler

STAFF: Zac Gordon, Planning Director, Shelley DeHart, Assistant Planning Director, Craig Thomas, Senior Planner, Carly Bedgood, Planning Technician

B. SPECIAL PRESENTATIONS/ELECTIONS
1. Swear in New Board Members
All new members stood and read the Oath of Office document together and were welcomed to the Board. The new members are Bill Leake, Faith Silva, Jessica Fava and Keziah Hubler. Each new member will serve the Board for a two-year term ending 6/30/25.

2. Elect Chairperson and Vice Chairperson

After a brief discussion by board members, Kevin Schaffner was nominated to be the Chairperson, and Kevin Hutchins was nominated to serve as the Vice Chairperson for the Board.

A motion was made to approve Kevin Schaffner as the Chairperson and Kevin Hutchins as the vice chairperson.
The motion passed 6-0.

C. AGENDA ADOPTION
Monica Long made a motion to adopt the agenda as presented. The second was made by Kevin Hutchins.
The motion passed 6-0.

D. PUBLIC COMMENT
None

E. Introduction and Overview for the Planning and Zoning Board.
Zac Gordon led a training presentation explaining Membership of the Board, Terms, Special meetings, agenda procedures, procedural motions, and the main role of the Board members. He gave great details of the difference between the three Boards: Town Council, Planning Board and Board of Adjustment. Board members shall have two (2) year staggered terms. Terms will begin on July 1st and Board members may serve two consecutive two-year terms, 4 years total, and then may be reappointed after an absence of four years.

2. CONSENT AGENDA
A. Consider adoption of minutes from the May 15th, 2023, Planning and Zoning Board meeting.

MOTION: Kevin Hutchins made a motion to approve the Consent Agenda. The second was made by Monica Long.
The motion passed 6-0.

3. OLD BUSINESS - None

4. NEW BUSIENSS

A. H- 2023-02-TA Consider UDO text amendment to Section 144.03 Legislative and Quasi-Judicial Bodies.
Shelley DeHart presented the draft text amendment of the UDO proposing to modify the framework of the Planning and Zoning Board and the Board of Adjustment consistent with the adopted Rules of Procedures recently amended by Town Council.

Proposed Text Amendment:

A. Establishment. This Section establishes a Planning and Zoning Board.
B. Generally. The Board shall provide an advisory function to assist in making decisions pertaining to amendments to the Harrisburg Area Land Use Plan (HALUP) or this UDO, and development review applications.
C. Powers and Duties.
1. *Matters in this UDO.* The Board shall have the authority to make recommendations or make final decisions on the development review applications denoted in Section 145.01.14, *Development Review Summary Table*, and the following:

a. To initiate preparation of and or amendments to the HALUP;
b. To initiate, hear, review, and make recommendations to the Town Council on applications for text amendments of this UDO;
c. To hear, review, and make recommendations to the Town Council on applications for Zoning Map amendments;
d. To hear, review, and make recommendations to the Town Council on all applications for major subdivision approval in accordance with this UDO; and
e. To adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Board. All bylaws, policies, procedures, and regulations shall be consistent with this Ordinance and shall be approved by the Town Council before taking effect.

2. *Matters Outside of this UDO.* The Board shall have the following additional powers and duties. The Board shall:

a. Recommend amendments of the HALUP to the Town Council; and
b. Make periodic report to the Council as to the Board's activities, as requested.

D. Membership.

1. *Numbers.* The Board shall consist of seven members.
2. *Appointments.* The Town Council shall appoint members of the Board for terms of ~~three~~ two (2) years. Terms begin ~~from the date of appointment~~ on July 1. Board H-2023-02-TA | Page 3 of 5 members may serve terms as outlined in the adopted Rules of Procedure for the Board.
3. *Composition.* The membership shall include proportional representation for extraterritorial areas.
4. *Vacancies and Removal.* The Town Council shall fill vacancies in an unexpired term by appointment for the remainder of the term. The Town Council may vote to remove a member for good cause at any time in a public meeting.
~~5. *Compensation.* Members may be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the Town Council.~~

E. Officers and Staff.

1. *Election.* The Board shall elect a Chairperson and Vice-Chairperson at the ~~first~~ regular meeting in July ~~of each calendar year or~~ as specified in the Board adopted by-laws.
2. *Officer Duties.* The chair, or in the chair's absence the vice-chair, shall administer oaths, be in charge of all proceedings before the Board, and take such action necessary to preserve the order and integrity of all proceedings before the Board. In the absence of both, the Board shall elect a temporary chair to conduct the meeting.
3. *Staff.* The Director shall serve as the professional staff of the Board and shall appoint a recording secretary to keep minutes to summarize all proceedings, attested to by a majority of the members of the Board voting. In addition, the secretary shall maintain all records of Board meetings, hearings, and proceedings, as well as the correspondence of the Board.

F. Quorum and Voting. A quorum shall consist of a minimum of four of the seven appointed members attending in person ~~a majority of the entire membership of the Board~~, and any issue to be voted on shall be resolved by a majority of those members present. The Chairperson shall be entitled to vote upon any question but shall have no veto power.

G. Meetings and Procedures.

1. *Frequency, Location, Date. and Time.* The Board shall meet not less than once each month unless there are no items for it to review. Meetings shall be held at the place, time, and date stated on the notice of the meeting posted at the Harrisburg Town Hall. Meetings shall be open to the public. The Town Council, Chairperson, a majority of the Board or the Director may call a special meeting following required notice.
2. Absences. Any member of the Board who misses seventy-five percent (75%) or three (3) consecutive regular meetings without valid reason, as determined by Council, shall be deemed no longer interested in serving may be removed by Council, and the Council ~~shall~~ may appoint a new interim member to fill the vacancy.
3. *Rules of Procedure.* The Board may establish its own rules of procedure, provided that such shall not conflict with the laws applicable to the Board or the provisions of this UDO. H-2023-02-TA | Page 4 of 5
4. *Postponed Item.* If a matter is postponed due to lack of a quorum, the chair of the Board shall continue the meeting to the next Board meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.

144.03.03 Board of Adjustment

A. Establishment. This Section establishes a Board of Adjustment (BOA) in accordance with Chapter 160D of the General Statutes of North Carolina. ~~In accordance with Section 144.03.02, the Planning and Zoning Board shall act in the capacity of the Board of Adjustment, in addition to its capacity as the planning agency.~~

B. Powers and Duties. The BOA shall have the authority to make final decisions on the development review applications denoted in Section 145.01.14, *Development Review Summary Table.*

C. Membership.

1. *Numbers.* The BOA shall consist of five regular members.
2. *Appointments.* The Town Council shall appoint members of the BOA for terms of three years. Terms begin ~~from the date of appointment~~ on July 1. Members shall serve terms as outlined in the Rules of Procedure for the Board.
3. ~~Alternative~~ Alternate *Members.* The Town Council shall appoint two alternate members of the BOA to temporarily serve in the absence of a permanent member. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. The Town Council may fill a vacancy among the alternate members in the same manner as a vacancy among the regular members.
4. *Composition.* The regular membership shall include proportional representation for extraterritorial areas. ~~All seven of the regular and alternate members shall be the same persons as are appointed as regular members of the Planning and Zoning Board.~~
5. *Vacancies and Removal.* The Town Council shall fill vacancies in an unexpired term by appointment for the remainder of the term. The Town Council may vote to remove a member for good cause at any time in a public meeting.
6. ~~Compensation. Members may be compensated per diem, based upon meetings actually attended and~~ reasonable and necessary expenses, as determined by the Town Council.

D. Officers and Staff.

1. *Election.* The BOA shall elect a Chairperson and Vice-Chairperson at the ~~first~~ regular meeting ~~of each calendar fiscal year~~ in July as specified in the Board adopted by-laws.
2. *Officer Duties.* The chair, or in the chair's absence the vice-chair, shall administer oaths, be in charge of all proceedings before the BOA, and take such action necessary to preserve the order and integrity of all proceedings before the BOA. In the absence of both, the BOA shall elect a temporary chair to conduct the meeting. H-2023-02-TA | Page 5 of 5
3. *Staff.* The Director shall serve as the professional staff and clerk of the BOA and in his or capacity as clerk shall keep minutes to summarize all proceedings, attested to by a majority of the members of the BOA voting.
4. *Recordkeeping.* Minutes of the proceedings of the BOA showing the vote of each member and records of its examinations and other official actions shall be filed in the Planning and Zoning Office as a public record.

E. Meetings and Procedures.

1. *Frequency, Location, Date. and Time.* The BOA shall meet not less than once each month unless there are no items for it to decide upon. The Chairperson may call a special meeting following required notice.
2. *Absences.* Any member of the BOA who misses seventy-five percent (75%) or three (3) consecutive regular meetings without valid reason, as determined by Council, shall be deemed no longer interested in serving may be removed by Council, and the Council ~~shall~~ may appoint a new interim member to fill the vacancy.
3. *Rules of Procedure.* The BOA may establish its own rules of procedure, provided that such shallnot be in conflict with the laws applicable to the BOA or the provisions of this UDO.

F. Oaths. The chair, acting chair, or clerk of the BOA shall administer oaths to those participating in any matter coming before the BOA. Any person who, while under oath during a proceeding before the BOA who willfully swears falsely is guilty of a Class 1 misdemeanor.

G. Subpoenas. The BOA, through the chair or acting as chair may subpoena witnesses and compel the production of evidence.

MOTION: Kevin Hutchins made a motion to approve H-2023-02-TA and recommend approval to the Town Council with a second from Faith Silva. **The motion passed unanimously 6-0.**

The following Consistency Statement was presented to the Board for its consideration:

The text amendment is consistent with Sections 145.01.07 & 145.03.01 of the UDO and HALUP because:

1. It is necessary to establishes clear appointed board regulations consistent with the adopted rules of procedures approved by Town Council; and

2. Is consistent with LU-7 of the Harrisburg Area Land Use Plan (HALUP) because the actions of these boards carry out the implementation of local land development regulations, one of the most effective tools for accomplishing the future vision within the planning area.

MOTION:
Monica Long made a motion to approve the proposed Consistency Statement with a second from Jessica Fava. **The motion passed 6-0.**

B. Adopt Annual Meeting Schedule
The Board considered adoption of the following annual meeting schedule for the Third Thursday of each month at 6pm:

July 18th, 2023,
August 15th, 2023
September 19th, 2023
October 17th, 2023
November 14th, 2023
December 12th, 2023
January 16th, 2024
February 20th, 2024
March 19th, 2024
April 16th, 2024
May 21st, 2024
June 18th, 2024

MOTION: A motion to adopt the proposed annual meeting schedule was made by Faith Silva and seconded by Jessica Fava. **The motion passed 6-0.**

5. STAFF UPDATES/INFORMATION

- There will be a Neighborhood meeting this Thursday for McKinley, please feel free to attend.
- We will be sending all the members an updated list of current projects; this will be especially helpful for our new members to see what is going on in the community.
- Zac Gordon made sure the Board knew they could reach out to him at any time if they have any questions or concerns.
- Our next meeting will be held on September 19th, we will go over some more training and possibly have another text amendment.

- The Town Council will meet on September 11th.

6. ADJOURNMENT
MOTION: There being no further business, Jessica Fava made a motion to adjourn, with a second from Kevin Hutchins.
The motion passed 6-0.

Adopted on the 19th of September 2023

_____
Kevin Schaffner, Chairman

_____
Carly Bedgood, Secretary

TOWN OF HARRISBURG

Agenda Item Details

Title:
H-2023-03 TA: UDO text amendment expanding the separation requirement for Tobacco Stores, Vapor Shops, Electronic Gaming Establishments, and the retail sale of CBD and hemp-based products.

Presenting Personnel:
Zac Gordon, Planning Director

Suggested Motion or Action:

For approval, the following motion is suggested:

Motion to approve Text Amendment H-2023-03-TA, as presented by staff, to expand the separation requirement for Tobacco Stores, Vapor Shops, the retail sale of CBD and Hemp-Based Products, and Electronic Gaming establishments, from each other and certain other uses.

Consistency Statement:

Based on the staff report and staff presentation, the proposed text amendment is consistent with Sections 145.01.07 and 145.03.01 of the UDO and the Harrisburg Area Land Use Plan, and it is reasonable and in the public interest.

For denial, the following motion is suggested:

Motion to deny Text Amendment H-2023-03-TA, as presented by staff, to expand the separation requirement for Tobacco Stores, Vapor Shops, the retail sale of CBD and Hemp-Based Products, and Electronic Gaming establishments, from each other and certain other uses.

Description/Background:
Earlier this year, the Town Council considered and approved a text amendment (H-2023-01-TA) which added a separation requirement of 1,500 linear feet for Tobacco Stores, Vapor Shops, and the sale of CBD and Hemp Based Products (including "electronic gaming establishments") from each other and certain other uses (i.e. residentially used properties, religious institutions, schools, public parks, and categories of day care use), a definition for “CBD and Hemp Based Products” and a special use permit for such uses. Since the adoption of this amendment, it has been determined that the current 1,500 foot separation requirement does not provide adequate protection for the designated "certain other uses" from the potential negative secondary impacts which may result from those uses that are subject to a separation requirement.

The proposed text amendment proposes to expand separation requirements related to Tobacco Stores or Vapor Shops, the retail sale of CBD and Hemp-Based Products, as well as Electronic Gaming activities to 2,000 linear feet, which is consistent with the separation requirement for "adult uses". These separation requirements would apply between these subject uses, as well as those "certain other uses" noted above .

Recommendation:
Motion to recommend to Town Council:

1. Approve as Presented; and

2. Find this text amendment is consistent with the applicable Common Decision Criteria found within Section 145.01.07 and 145.03.01 of the UDO and the HALUP because:
    1. It ensures a uniform standard for similar land uses which require special use permit; and
    2. It is consistent with LU-7 objective of the Harrisburg Area Land Use Plan (HALUP), which is to "improve the look and image of the town" as well as LU-6: Focus on Quality, which encourages the town to improve the appearance of the Hwy 49 corridor.

Fiscal Impact:

None

Attachments:

1. H-2023-03-TA -Staff Report

Town of Harrisburg
Planning and Zoning Department
Text Amendment Staff Report – Planning and Zoning Board

DATE: September 19, 2023

SUBJECT:

H-2023-01-TA: UDO text amendment to expand a separation requirement for Tobacco Stores, Vapor Shops, and the retail sale of CBD and hemp-based products from each other and certain other uses.

Applicant: Staff Text Amendment

Staff Report Prepared by: Zac Gordon, Planning Director

Neighborhood Meeting: N/A

BACKGROUND:

Tobacco Store or Vapor Shop and CBD and Hemp Based Products

Earlier this year, the Town Council considered and approved, text amendment (H-2023-01-TA) - related to Tobacco Store or Vapor Shop use and the retail sale of CBD and Hemp Based Products. This amendment established a minimum separation of 1,500 linear feet between certain uses and other "like" uses. The certain use classification is identified as follows:

- Residentially used property
- Religious institution
- Public or private elementary or secondary school
- Cemetery
- Public park
- Day Care use category

Other like "adult" uses are considered Tobacco and/or Vapor Shops, retail sale of Hemp Based Products, and Electronic Gaming Establishments. The text amendment has been implemented since its adoption in March of this year. Staff is of the opinion that the separation requirement should be expanded to ensure a uniform standard for similar "adult" land uses which require a special use permit, improve the look and image of the town, and protect certain uses from secondary negative impacts.

Proposed Text Amendment

The following sections are proposed for amendment:

140.04.04.H Electronic Gaming Establishment

1. **Applicability.** The provisions of this Section shall apply to principal or accessory uses.

2. **Separation from Other Establishments.** No electronic gaming establishment shall be located within ~~1,500~~ 2,000 feet of any other electronic gaming establishment, residentially used property, religious institution, public or private elementary or secondary school, cemetery, public park, or Day Care use category.

3. **Number of Terminals.** Each location approved for the use as an electronic gaming establishment shall have no more than 20 computer terminals.

140.04.04.U Tobacco Store or Vapor Shop

1. **Applicability.** The provisions of this Section shall apply to principal or accessory uses.

2. **Separation from Other Establishments.** No tobacco store or vapor shop establishment shall be located within ~~1,500~~ 2,000 feet of any other tobacco store or vapor shop establishment, residentially used property, religious institutions, public or private elementary or secondary schools, cemeteries, public parks, or daycare uses.

140.04.04.V CBD and Hemp Based Products

1. **Applicability.** The provisions of this Section shall apply to principal or accessory uses.

2. **Separation from Other Establishments.** No store or establishment that sells CDB products shall be located within ~~1,500~~ 2,000 feet of any other store or establishment that sells CDB products, residentially used property, religious institutions, public or private elementary or secondary schools, cemeteries, public parks, or day care uses.

RECOMMENDATION:

Staff recommends that the Planning and Zoning Board endorse the proposed text amendments and recommend approval of H-2023-03-TA to the Town Council. Staff believes that these text amendments will ensure a uniform standard for similar land uses which require a special use permit. Staff also believes that the proposed amendment is consistent with the Harrisburg Area Land Use Plan - specifically, the objective to "improve the look and image of the town," as well as recommendation LU-6: Focus on Quality, which encourages the town to improve the appearance of the Hwy 49 corridor.

TOWN OF HARRISBURG

Agenda Item Details

Title:
H-2023-04 TA: UDO text amendment of Sections 140.04.07 and 140.04.08 associated with Food Trucks and other Temporary Uses

Presenting Personnel:
Shelley DeHart, Assistant Planning Director

Suggested Motion or Action:

For approval, the following motion is suggested:

Motion to approve Text Amendment H-2023-04-TA, as presented by staff, amending Sections 140.04.07 and 140.04.08 of the UDO to establish and enhance regulations associated with Food Trucks, Portable On-Site Storage, and Sidewalk Vendors.

Consistency Statement:

Based on the staff report and staff presentation, the proposed text amendment is consistent with Sections 145.01.07 and 145.03.01 of the UDO and the Harrisburg Area Land Use Plan, and it is reasonable and in the public interest.

For denial, the following motion is suggested:

Motion to deny Text Amendment H-2023-04-TA, as presented by staff, amending Sections 140.04.07 and 140.04.08 of the UDO to establish and enhance regulations associated with Food Trucks, Portable On-Site Storage, and Sidewalk Vendors.

Description/Background:
The use of Food Trucks has grown in popularity within our community over the past few years, which was the impetus for a Town Council discussion and review of current use regulations on August 14th. The Council has provided staff with direction on strengthening town regulations, along with adding clarity to performance standards. The amendment is primarily focused on food truck regulations. However, other temporary use subsections were included in this amendment.

Proposed "Food Truck" regulations modifications:

- Added a definition for Food Trucks and Mobile Food Vending.
- The ability to have a "food truck court" as an accessory use was removed. A food court is a semi-improved area that allows for two or more food trucks to operate in a fixed location, by right. There still is the possibility of more than one food truck on a site at a time, as a temporary use and approved by Special Use Permit.
- The maximum consecutive days on a site is three days with a minimum of a 30-day period between permits on the same site. Flexibility is offered for businesses that may need more consecutive days and increased frequency between permits by obtaining a Special Use Permit.

Performance standards were added in the area of:

- Noise
- Placement and Removal
- Waste discharging
- Hours of operation
- Compliance with other state, local, county regulations, including food and beverage tax regulations.

While reviewing and modifying the Sections 140.04.07 and 140.04.08 of the UDO, staff noted the following sections needed amendment:

1. Portable storage containers - this section as written, lacks clarity for implementation. Enhancement of this section includes:
    - Clear definition for these containers.
    - Maximum size of containers.
    - Location options
2. Sidewalk vendors- This section would have allowed sidewalk vendors as a temporary use on public sidewalks within the General Commercial zoning classification. This section is proposed to be amended by adding:
    - A clear definition.
    - Only allowing the use to be conducted in conjunction with a town-sponsored or recognized event; or as otherwise granted by permission of the Town.
3. Correction of various cross-references.

*** For further detail, refer to the attached staff report and draft language for the proposed text amendment**

Recommendation:
Motion to recommend to Town Council:

1. Approve as Presented; and
2. Find this text amendment is consistent with the applicable Common Decision Criteria found within Section 145.01.07 of the UDO and the HALUP because:
    1. It establishes clear appointed board regulations consistent with the adopted rules of procedure approved by Town Council; and
    2. It is consistent with LU-7 of the Harrisburg Area Land Use Plan (HALUP), because the actions of these boards carry out the implementation of local land development regulations, one of the most effective tools for accomplishing the future vision within the planning area.

Fiscal Impact:
None

Attachments:
1. H-2023-04 Staff Report to PB
2. Draft Amend_Food Truck_Harrisburg

Town of Harrisburg
Planning and Zoning Department
Staff Report – Planning and Zoning Board
Text Amendment H-2023-04-TA

DATE: September 19, 2023

SUBJECT:

H-2023-04-TA: UDO text amendment to modify Sections 140.04.07 and 140.04.08 Associated with Food Trucks and other Temporary Uses.

Applicant: Staff Text Amendment

Staff Report Prepared by: Shelley DeHart, Assistant Planning Director

Neighborhood Meeting: N/A

BACKGROUND:

The use of "Food Trucks" has grown in popularity within our community over the past few years, which was the impetus for a Town Council discussion and review of current use regulations at its August 14th meeting. The Council provided direction to strengthen town regulations, adding clarity to performance standards.

PROPOSED AMENDMENT

Allowing food truck vendors to operate within the Town supports incubation and growth of entrepreneurial/ start-up businesses, fostering diversity in the economy, while supporting and serving the local population. The proposed amendment is intended to establish and/or enhance performance standards associated with mobile food vending, and other temporary uses found within these sections, to reflect our community's vision for quality and reduce the potential for adverse impacts.

This UDO amendment of Sections 140.04.07-Accessory Use and Structure Standards and 140.04.08-Temporary Use and Structure Standards is provided in its entirety in Attachment A of this report. The information below is a summary of proposed modifications.

- **140.04.07.B (5) Portable On-Site Storage.** This subsection needed restructuring and clarity for implementation. The basic criteria remain the same, however, we have added a maximum size and container type.
- **140.04.07.B (9) Food Truck Courts**. This subsection is proposed to be removed in its entirety as an accessory use. A food court is a semi-improved area that allows for two or more food trucks to operate in a fixed location, by right. This change will not affect multiple food trucks tied to town recognized special events.
- **140.04. 08.A Temporary Use Structure Standards.** The cross-reference related standards for temporary use and structures, is proposed to be corrected from 140.04.07B to 140.04.8 B throughout this section.
- **140.04.08.A Table for Permitted Temporary Uses and Structures** is proposed to be amended as follows:
    - Corrected the cross reference where needed within "Duration" Column.
    - Temporary Contractor's Office – changed from requiring a special use permit to permitted temporary use. There are performance standards within the UDO for proper placement and use within a development site.
    - Modified Food Truck from maximum event per year 365/ 1 day per event to 365/3. The intent is to recognize and establish the ability to have a three-consecutive day event.
    - Sidewalk Vendor – Removed the ability for a sidewalk vendor activity in the General Commercial Zoning District by right. A definition of the use and specific controls have been added under 140.04.08B.
- **140.04.08.A (5) The Period of Time Between Permits** is proposed to be amended reducing the time between permits from 90-days to a 30-day period unless otherwise authorized within the standard section 140.04.08.B. Flexibility in this requirement may be considered by Special Use Permit.
- **140.04.08.B Standards.** The cross-reference was corrected from 140.04.07 to 140.04.08 as needed throughout this section.
- **140.04.08.B (2)(c) – Sidewalk Vendor.** This section is proposed to be amended:
    - Removing the ability to sell food, beverages, or merchandise from a stand or from a person within the GC on the public sidewalk. Permitting records indicate that the Town has not issued a permit for this type of operation from a public sidewalk. These operations have been permitted on private property or private sidewalks.
    - Added a definition clarifying the use, and prohibiting the use except when:
        - Conducted in conjunction with a Town sponsored or recognized event in any zoning district; or
        - As granted by permission of the Town.

- **140.04.08.B Food Trucks.** This section was added to establish and enhance performance standards for this use. Proposed amendment includes:
    - Establishing definitions for food trucks and mobile food vending.
    - Permitting criteria that requires:
        - Set hours of operation.
        - No overnight storage on site.
        - Compliance with local, county, and state regulations, licensing, and permitting, including sales tax regulations.
        - Noise compliance.
        - Proper disposal of fat, oil, grease, or wastewater.
        - Separation requirement from other businesses or restaurants not affiliated with the food truck operation.
    - Duration.
        - A maximum of three consecutive days on any site or parcel.
        - The minimum time between temporary use permits on the same site or parcel shall be limited to a 30-day period.
        - Flexibility in duration requirements may be considered and approved by Special Use Permit. This can support businesses that use food trucks as an accessory use to their normal business operations.
    - Public Property. This section prohibits the operation in public park, parking lot, public street, public sidewalk unless specifically authorized by Town or associated with a Town even.
    - Other Zoning Districts. This section provides opportunity for food truck vendors to operated within other zoning districts (such as a residential district) without a permit if:
        - Associated with a neighborhood event on commonly owned property; or
        - Within construction sites that have been approved and permitted.

RECOMENDATION

Staff believes that this text amendment is consistent with the applicable Common Decision Criteria found within Section 145.01.07 and 145.03.01 of the UDO because:

1. It establishes and/or enhances performance standards associated with mobile food vending, and other temporary uses found within these sections, to reflect our community's vision for quality and reduce the potential for adverse impacts.
2. It promotes goals of the Harrisburg Area Land Use Plan (HALUP) in the area of fostering economic development by supporting incubation and growth of entrepreneurial/ start-up businesses, encourages a mixture of land-uses, and establishes performance standards to protect the community's vision.

Therefore, staff recommends the Board support this text amendment by recommending approval to the Town Council.

P & Z Action:

1. Motion to recommend approval, approval with modifications, or disapproval to the Town Council; and
2. Motion to approve or disapprove the required findings as presented or modified.

9. *Outside Storage*. No outside storage shall be permitted except the storage of recreational vehicles per Paragraph 12, *Vehicular Storage,* below.
10. *Accessibility*.
    a. *Ingress/Egress*. Vehicular ingress/egress shall provide for safe access by customers and emergency vehicles.
    b. *Interior Travel Lanes*. Interior travel lanes shall have a minimum width of 12 feet for one-way and 24 feet for two-way travel lanes. The minimum travel lane width for fire and life safety access shall be 20 feet.
11. *Off-Street Parking Standards*. Parking shall be provided by parking/driving lanes adjacent to the manager's office.
12. *Vehicular Storage*. Required parking spaces shall not be rented as, or used for, vehicular storage. However, additional parking area may be provided for recreational vehicle storage.
13. *Accessory Uses*. Sales of customary equipment and supplies, such as hand trucks, straps, tapes, packaging materials, boxes, etc. are permitted through the main office only.

140.04.07 Accessory Use and Structure Standards

140.04.07.A General Provisions

1. **Generally.** Permitted accessory uses and structures are set forth in Table 140.04.07.A-1, *Permitted Accessory Uses and Structures*, below. If a Primary use is listed as prohibited in a zoning district but is permitted as an Accessory Use, the use is permitted only as an accessory use to a principal use or principal building on the same property.
2. **Permitted Accessory Uses.** The uses listed in Table 140.04.07.A, below, shall be permitted by right (unless noted otherwise) in any of the listed zoning districts.

Table 140.04.07.A, Permitted Accessory Uses and Structures

Accessory Use	Zoning Districts
Accessory Dwelling Unit	Permitted by Right Subject to Limitations in Subsection 140.04.07.B, *Standards*, according to Table 140.02.01-2, *Permitted Uses by Residential Zoning District and Development Type*
Agricultural Structure	Permitted by Right Subject to Limitations in Subsection 140.04.07.B in AG, RE, RL
Family Care Home or Family Child Care Home	Permitted by Right in All Residential Zoning Districts Special Use in CC, O-I, and NC
Garage or Carport (noncommercial)	Permitted by Right in All Zoning Districts
Greenhouse (noncommercial)	Permitted by Right in All Residential Zoning Districts
Home Occupation	Permitted by Right Subject to Limitations in Subsection 140.04.07.B in All Residential Zoning Districts
Off-Street Parking and Driveway	All Zoning Districts
Portable On-Site Storage	Permitted by Right Subject to Limitations in Subsection 140.04.07.B in All Zoning Districts
Recycling Facilities and Drop Off Sites	Permitted by Right Subject to Limitations in Subsection 140.04.07.B in All Zoning Districts
Satellite Dish	Permitted by Right in All Zoning Districts

Table 140.04.07.A, Permitted Accessory Uses and Structures	
Accessory Use	Zoning Districts
Bed & Breakfast Inn or Short-Term Rental (Host-Occupied)	Permitted by Right Subject to Limitations in Subsection 140.04.07.B in All Residential Zoning Districts
Sign	Permitted by Right subject to § 141.05 in All Zoning Districts
Storage Building (residential)	Permitted by Right in All Zoning Districts
Swimming Pool (subject to the standards of subsection H, below)	Permitted by Right Subject to Limitations in Subsection 140.04.07.B in All Residential Zoning Districts
Tennis Court	Permitted by Right in All Zoning Districts
Wireless Telecommunications Antenna or Tower (subject to §140.04.03, Limited Use Standards)	Special Use subject to Section 140.04.05 in All Zoning Districts
Other Telecommunication Antenna or Tower	Permitted by Right in All Zoning Districts
Any other structure or use customarily incidental to the permitted primary use or structure	Permitted by Right in All Zoning Districts

3. **Establishment.** Accessory uses and structures shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established.
4. **Dwelling**. Accessory buildings shall not be used for dwelling purposes, except as provided in Section 140.04.07.B, *Standards*.
5. **Location.**
   - **a.** *Required Setbacks*. Except as may be required for a specific accessory use or structure in Subsection 140.04.07.B, *Standards*, an accessory structure shall be located a minimum of five feet from a side or rear property line.
   - **b.** *Distance from Principal Structure*. No accessory structure shall be located less than 36 inches from the exterior wall of the principal structure. Structures that are located closer than 36 inches shall be considered as additions to the principal structure and shall conform to all applicable setbacks for the principal structure.
   - **c.** *Residential Lots Below Two Acres.* For residential lots not exceeding two acres, detached accessory buildings shall not be located in the front yard and shall not occupy more than 30 percent of the required rear yard.
   - **d.** *Residential Lots Two Acres or More*. For residential lots that are two acres or more, detached accessory buildings may be located in the front yard but not closer than 75 feet from the front property line/street right-of-way. Detached accessory buildings may be closer than the distance specified above if they are not visible from a public street.
   - **e.** *Non-residential Accessory Structures.* The location of permitted accessory structures associated with a non-residential use shall be governed by the same dimensional regulations as set forth for the principal use structure(s).
   - **f.** *Double Frontage Lots.* Accessory buildings on double frontage lots shall not be closer to either street than the required front yard setback.
6. **Height.** Accessory buildings shall not exceed:
   - **a.** The standard height regulations of the zoning district as set forth in Chapter 140.02, *Zoning Districts and Standards*, where accessory structure is located within the buildable lot area;
   - **b.** Fifteen feet in height, where the accessory structure is located within a principal structure setback yard.
7. **Size**. An accessory building shall not exceed the ground floor area of the principal building.
8. **Materials.** No accessory use of a structure shall be permitted that involves or requires any construction features or materials, which are not primarily residential in nature or character.

9. **Lighting**. Exterior lighting for accessory uses and/or structures shall be placed so as to not directly or reflect light upon adjoining land.

10. **Exemptions.** The following uses/structures shall be exempt from the provisions of this Section:

   a. Fencing and walls; However, in no case shall a rear or side yard fence exceed seven feet. Front yard fences shall not exceed five feet in height. Recreational facility fences are exempt from the height restrictions listed in this section.

   b. Mailboxes;

   c. Plant materials;

   d. Any structure or improvement, once installed, is at grade or less than one foot above grade.

140.04.07.B Standards

1. **Approval of Accessory Uses and Structures**. The standards in this Section apply to accessory uses and structures that are listed as permitted subject to limitations or that require a Special Use Permit in Subsection 140.04.07.A, *General Provisions*.

2. **Accessory Dwelling Units (ADUs).**

   a. *Zoning Districts.* ADUs are allowed in accordance with the use tables in § 140.02, *Zoning Districts and Standards*.

   b. *Housing Standards.* ADUs shall comply with all applicable local, State, and Federal housing codes.

   c. *Number.* Only one ADU shall be permitted per lot.

   d. *Size of Unit.* The ADU shall not exceed 50 percent of the square footage of the livable area of the primary structure or 1,100 square foot of gross floor area, whichever is less.

   e. *Location of the ADU on the Lot.* A detached ADU shall be sited to the rear of the principal building, as depicted in Figure 140.04.07.B, *ADU Location*. In the AG or RE zoning districts, the Accessory Dwelling unit may be sited to the side of the principal building only if the lot exceeds 10 acres in size.

   f. *Manufactured Homes.* A manufactured home shall not be pulled up to or attached to a primary residence and considered an ADU. A manufactured home, as a principal or accessory dwelling unit, shall be permitted only in the MH Manufactured Home Overlay District.

   g. *Parking.* Adequate off-street parking shall be provided for any vehicles owned by occupants of the ADU.

   h. *Utilities.* Where there is no public sanitary sewer service to the ADU, County Health Department shall approve sanitary sewer services provided to such ADU prior to its construction.

   i. *Owner-Occupied Restriction.* ADUs shall only be allowed on parcels that contain owner-occupied single-family dwelling units that are allowed as a principal permitted use.

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Figure 140.04.07.B ADU Location

FIGURE NOTES:
Yellow shaded in structures indicate ADU locations

3. **Agricultural Structure**. All buildings or structures (excluding fences) used to house livestock shall be located so that they are no closer than 150 feet from a dwelling unit. This requirement shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such a livestock use may no longer expand towards a newly established residential use.
4. **Home Occupation**.
   - **a.** *Accessory to Dwelling*. A home occupation is permitted as an accessory use to any dwelling unit in accordance with the following standards.
   - **b.** *Accessory Structures*. A home occupation business is allowed in a permitted accessory structure.
   - **c.** *Floor Area*. A home occupation shall occupy no more than 25 percent of the total floor area of the residential structure.
   - **d.** *Residential Character*. The business shall not change the essential residential character of the dwelling and/or lot.
   - **e.** *Employment*. The use shall employ no more than one person who is not a resident of the dwelling. The owner may apply for a Special Use Permit in accordance with Section 145.04.03, *Special Use Permit*, in order to have one additional employee who is not a resident of the dwelling.
   - **f.** *Hours of Operation*. The business shall not operate outside of the hours of 7:00 AM to 7:00 PM. This time limitation shall apply to the actual operation of the business on site, and shall not apply to preparation time for business, including leaving or returning to the home.
   - **g.** *Equipment*. The home occupation shall not utilize mechanical, electrical, or other equipment which produces excessive noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside of the dwelling or accessory structure.
   - **h.** *Outdoor Storage*. Outdoor storage of equipment, except for equipment of a type that could be reasonably associated with the principal use, is prohibited.
   - **i.** *Commercial Vehicles*. Only one commercial vehicle will be allowed in connection with the conduct of the home occupation.
   - **j.** *Signs*. One wall sign that is a maximum of one square foot in area is permitted.
   - **k.** *Prohibited Uses*. The following uses are prohibited from home occupation:
     - **i.** Uses in the following use categories: Heavy Industrial, Indoor Entertainment, Light Industrial, Outdoor Entertainment, and Vehicle Sales and Service;
     - **ii.** Furniture refurnishing;

iii. Gymnastics facilities;
iv. Medical offices;
v. Animal services;
vi. Athletic studios or outdoor recreation;
vii. Sales-Oriented Uses where the customer needs to come to the home occupation to make a purchase;
viii. Mortuaries;
ix. Body piercing and/or tattoos;
x. Therapy with more than one client at a time;

l. Any use that draws more than one client or customer to the dwelling at the same time on a regular basis; and

m. The Director has the authority to allow or disallow a use based on the impact the use will have on the surrounding residential area.

5. **Portable On-Site Storage**.

~~a. *Exemptions.*~~

~~i. The above restrictions do not apply to any parcel greater than five acres in size.~~

~~ii. The Temporary Use Permit fee may be waived in the case of damage as a result of fire, storm, flood, or other disaster events.~~

~~iii. Any commercial or residential construction site with active Zoning and Building Permits may have as many storage units as are needed on the site without restrictions or permits.~~

~~iv. *Tenure*. A unit may remain on the parcel for a maximum of 90 days per calendar year without obtaining a Temporary Use Permit. A written reason, timeline, and completion date must be submitted by the applicant prior to the issuance of the permit.~~

~~v. *Location.*~~

~~A. A unit shall be placed in the side or rear yard only. However, the unit may be placed in the front yard if side and rear areas are not accessible, as determined by the Director (unless the unit adversely impacts safety, sight triangles, or emergency response access). The unit shall not be placed in any recorded easement or in the street right-of-way.~~

~~B. A unit shall be placed a minimum of five feet from side and rear property lines. There is no minimum spacing between units.~~

~~vi. *Number*. There shall be a maximum of two portable on-site storage units per parcel at any one time.~~

~~vii. *Generally*. The following requirements apply to any residential zone or used property upon which a portable on-site storage unit is to be placed.~~

Portable storage containers may be permitted as an use accessory to residential use in all zoning districts, subject to the following conditions:

a. *Permit Required.* A Temporary Use Permit shall be issued in accordance with Section 145.02.10 of this document.

b. *Exemptions.* The standards in this section shall not apply to portable storage containers used as temporary construction trailers, dumpsters, or recycling facilities, provided construction on the site is on-going.

c. *Maximum Number, Size and Types.* A maximum of two portable storage containers shall be located on a single lot limited in size to no larger than eight feet in height, eight feet in width, and 20 feet in length, and shall take on of the following three forms:

i. A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated.

ii. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris; or

iii. A fully enclosed, non-motorized, trailer (commonly known as a semi-trailer) with wheels intended

to be towed to a site for the purpose of storage or transport of goods, material, or equipment.

d. Location.

i. A portable storage container may be located in a driveway, a designated parking area, or behind a dwelling. If site conditions make placement of the portable storage container within these areas, then the container may be located immediately adjacent to the driveway or designated parking area.

ii. A portable storage container shall be located a minimum of five feet from any principal or accessory structure.

iii. In no instance shall a portable storage container be located within a Town street, public street right-or-way, or location that poses a threat to public health or safety.

e. *Duration.* A portable storage container may be located on a site for a maximum of up to 90 days per calendar year.

f. *Homeowners Association Restrictions:* These regulations do not supersede any private codes, covenants, or restrictions recorded for your community. Consult with your Homeowners Association (HOA).

5. Recycling Facilities and Drop Off Sites.

a. *Unattended Clothing Donation Containers.* Unattended clothing donation containers are prohibited unless located at the operational site of a company or organization that collects used clothing for resale or donation as a primary business function.

b. *Removal of Prohibited Clothing Donation Containers*. Prohibited clothing donation containers that exist at the time this section is adopted shall be removed within 30 days of adoption.

6. Short-Term Rental (Host-Occupied).

1. *Host Occupation*. A short-term rental property shall be considered host-occupied if the property is the host's primary residence for a minimum of 183 days per calendar year.

2. *Housing Type*. A short-term rental shall only take place in a single-family detached dwelling.

3. *Tenure*. A short-term rental tenant shall not stay more than 29 consecutive days in duration.

4. *Number of Tenant Rooms*. A short-term rental shall have no more than two tenant rooms.

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5. *Number of Occupants*. Each short-term rental tenant room shall be limited to a maximum of two adults, over 18 years old.
6. *Signs*. One wall sign that is a maximum of one square foot in area is permitted.
7. *Insurance*. Each short-term rental host shall obtain and maintain, at the host's sole expense, liability insurance to cover the injury or death of a tenant while the tenant is in, on, or about the short-term rental property.
8. *Parking*. Each short-term rental shall provide one off-street parking space for each tenant room.

7. **Solid Waste Storage Areas**.
   a. *Lids*. Solid waste dumpsters or other large containers for solid waste storage shall have a lid to minimize the potential contamination of stormwater runoff. These provisions shall apply to all nonresidential and mixed-use development, multifamily residential developments and/or single-family attached residential developments, which do not use roll-out containers for curbside solid waste pickup.
   b. *Materials*. Enclosures shall be constructed of durable, weather-proof, permanent materials such as concrete or stone block, metal, wood or similar material. The applicant shall ensure that the choice of materials and color are consistent and compatible with those of the principal building(s) on the site.
   c. *Screening*. Solid waste dumpsters or other large containers for solid waste or recycling storage shall be confined in an enclosed area that is screened on all sides. A solid waste enclosure, large enough to confine solid waste items and dumpster(s), shall be of solid opaque construction, six-foot high with latching gates providing access, and shall be composed of materials that are consistent and compatible with those of the principal building(s) on the site. No solid waste storage area shall be located in any front building yard setback or any street yard or buffer yard.
8. **Retail Operations in the EC District**. Retail sale of items or products manufactured or stored by the primary use are permitted subject to the limitation that interior retail operations may not exceed 20 percent of the individual business's gross floor area of the site. Outdoor display areas shall not exceed 10 percent of the individual business's gross square footage.
9. ~~**Food Truck Courts**~~. **Reserved**
   a. ~~*Permission*. The operator of a food truck shall obtain, in writing, and have on hand, the property owner's permission to operate on the property.~~
   b. ~~*Placement*. The food truck court shall not be located in any required setback, sight triangle, or buffer.~~
   c. ~~*Associated Use Categories*. Food truck courts are permitted as accessory uses to uses in the following use categories:~~
      i. ~~Community Amenities;~~
      ii. ~~Educational Facilities;~~
      iii. ~~Medical Facilities;~~
      iv. ~~Parks and Open Areas;~~
      v. ~~Public Assembly;~~
      vi. ~~Entertainment, Indoor;~~
      vii. ~~Entertainment, Outdoor;~~
      viii. ~~Office; or~~
      ix. ~~Retail Repair, Sales, and Service.~~
   d. ~~*Food Trucks in Public Right-of-Way*. This section of the UDO does not regulate the placement of food trucks in the public right-of-way.~~
10. **Swimming Pools.** A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any residential zoning district subject to the following standards.
   a. *Location*.
      i. The swimming pool and incidental installations shall be located in other than the front yard.
      ii. The swimming pool shall be set back from all lot lines a distance of not less than five feet

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140.04.08 Temporary Use and Structure Standards

140.04.08.A General Provisions

1. **Generally**. Permitted temporary uses and structures are set forth in Table 140.04.08.A, *Permitted Temporary Uses and Structures*. Standards for temporary uses and structures are set forth below and in Section ~~140.04.07.B~~ 140.04.08. B, *Standards*.
2. **Purpose.** The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Director is required pursuant to Section 145.02.10, *Temporary Use Permit*.
3. **Permitted Temporary Uses**. The uses listed in Table 140.04.08.A below, shall be permitted by right (unless noted otherwise) in any of the listed zoning districts.

Table 140.04.08.A, Permitted Temporary Uses and Structures

TP = Temporary Permitted Use | TS = Temporary Special Use | -- = Prohibited Use | Maximum Events per Year / Days per Event (Duration Column)

Temporary Use	Duration	Zoning Districts										
		Homestead and Residential					Non-Residential and Mixed-Use					
		AG	RE	RL	RM	RH	MU	CC	O-I	NC	GC	CD, EC
Amusement Enterprises	1 / 21	--	--	--	--	--	--	--	TP	--	TP	TP
Commercial Outdoor Sales Event	4 / 7	--	--	--	--	--	TP	TP	--	--	TP	--
Contractors' Office (Temporary)	See ~~140.04.07.B~~ 140.04.08. B	~~TS~~ TP	~~TS~~ TP	~~TS~~ TP	~~TS~~ TP	~~TS~~ TP	~~TS~~ TP	~~TS~~ TP	TP	~~TS~~ TP	TP	TP
Fireworks Stand	1 / 45	TP	--	--	--	--	--	--	TP	TP	TP	TP
Food Truck	365 / ~~1~~ 3 See 140.04.08. B	--	--	--	--	--	TP	TP	TP	TP	TP	TP
Outdoor Circus, Carnival, Exhibition, or Show	1 / 30	--	--	--	--	--	--	--	--	--	TS	TS
Real Estate Office in a Construction Trailer or Temporary Modular Unit	See ~~140.04.07.B~~ 140.04.08. B	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP
Real Estate Office in a Model Home	See ~~140.04.07.B~~ 140.04.08. B	TP	TP	TP	TP	TP	TP	TP	--	--	--	--
Religious Event	1 / 60	TP	--	--	--	--	--	TP	TP	TP	TP	TP
Seasonal Sale of Agricultural Products	4 / 30	TP	--	--	--	--	--	--	--	--	TP	TP
Sidewalk Vendor	~~3 / 45~~ 140.04.08 B	--	--	--	--	--	--	--	--	--	~~TP~~	--
Single Family Dwelling in Temporary Structure	See ~~140.04.07.B~~ 140.04.08. B	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP
Temporary Residence in Mobile Home During Construction of New Home	See ~~140.04.07.B~~ 140.04.08. B	TP	TP	TP	TP	TP	--	--	--	--	--	--

4. **Review Criteria.** All temporary uses listed in this Section require a Temporary Use Permit. The Director shall not approve or modify and approve an application for a Temporary Use Permit unless the following general criteria, specific regulations and time limitations are met in addition to standards for any particular temporary use as specified in Section ~~140.04.07.B~~ 140.04.08. B, *Standards*.
   a. *Compatibility with/Effect on Surrounding Area.* The allowance of such use shall not be detrimental to the public health, safety, and general welfare, and the use shall be consistent with the purpose and intent of this UDO and the specific zoning district in which it will be located; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.
   b. *Location (Permission Required)*. The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.
   c. *Traffic.* The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon *traffic circulation in the area.*
   d. *Parking and Access*. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
   e. *Property Line Setbacks.* Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way, except that this Section shall not apply to the CC or MU district *with the issuance of an encroachment permit*.
   f. *Signs.* Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted. See Section 141.05.05, *Temporary Signs* for specific standards for signs.
   g. *Number per Parcel.* Only one Temporary Use Permit shall be permitted for a single parcel of land at any given time *unless authorized with an approved Special Use Permit.*
   h. *Utilities*. Temporary uses must provide sufficient potable water and adequate sewage disposal.
   i. *Outdoor Lighting*. All light sources must be directed inward to the site and downward and away from adjacent properties. Refer to § 141.06, *Outdoor Lighting*.
   j. *Public Convenience and Litter Control*.
      i. Adequate public restroom facilities and waste containers shall be required on-site.
      ii. After the temporary use is finished, the site shall be returned to its condition prior to the temporary use being established, including, but not limited to, removal of all litter and any other facilities related to the use, at no expense to the Town.

5. **Period of Time Between Permits.** The period of time ~~an expired~~ between Temporary Use Permits on a parcel ~~and application for another Temporary Use Permit on that parcel~~ shall be at least ~~three months~~ 30-days or as otherwise stated within Subsection 140.04.08B. Any request for less than the 30-day time period between permits shall require approval of a Special Use Permit. This restriction shall not apply to real estate development and construction related temporary uses as set forth in Subsection ~~140.04.07.B~~ 140.04.08. B, *Standards*.

6. **Similar and Compatible Uses not Specified.**
   a. *Authority.* If a particular temporary use is not listed in this UDO, the Director shall have the authority to grant a temporary use permit for a “similar and compatible use”.
   b. *Similar and Compatible Uses*. Similar and compatible uses not specified are those uses which are similar and compatible with those allowed as temporary uses in this Section.
   c. *Use Determination*. Determination of what constitutes similar and compatible shall be made by the Director. In such instances, the applicant shall provide the following information:
      i. Type of use;

ii. Number of employees;

iii. Parking/circulation needs/hours of operation; and

iv. Duration of operation.

d. *Appeals.* If the Director determines that the use is not similar and compatible, the applicant may appeal the decision to the Planning and Zoning Board of Adjustment in accordance with Section 145.04.04, Appeal of Administrative Decisions.

140.04.08.B Standards

1. **Approval of Temporary Uses and Structures**. The standards in this Section apply to temporary uses and structures that are listed as permitted subject to limitations or that require a Special Use Permit in Subsection 140.04.~~07~~08.A, *General Provisions*.

2. **Temporary Retail Sales Uses.**

a. *Fireworks Stands.* Limited to only non-residential zones for a period of time not to exceed 45 days. A maximum of one structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period. Any sales of fireworks shall be regulated in accordance with NCGS 14-410 and 14-414 and NC Fire Code.

b. *Seasonal Sale of Agricultural Products (including Christmas Trees)*. Temporary Use Permits are required for all Roadside Stands in non-residential zoning districts. Such sales are limited to a period of time not to exceed four consecutive months per calendar year. A maximum of one building/display booth shall be allowed and may cover a maximum of 400 square feet. The structure must be portable and completely removed at the end of the period.

c. *Sidewalk Vendors*. A sidewalk vendor is defined as a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path. This use is prohibited except when:

i. Conducted in conjunction with a Town sponsored or recognized event; or

ii. As granted by permission of the Town.

~~The sale of food, beverages, or merchandise from a stand or from a person may be allowed in the GC zoning district and shall be limited to a period not to exceed 90 continuous days per calendar year in a given location. Even if at any time the vendor does not occupy the permitted site, the 90-day limit shall not be extended.~~

3. **Real Estate Development and Construction-related Temporary Uses.**

a. *Contractors Office and Equipment/Storage Sheds.* Placement of such as a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one year if approved by the Director. A construction trailer may be used for a contractor's office or for the contractor's storage of equipment or materials. All temporary buildings and trailers shall be completely removed from the site within thirty days of issuance of a Certificate of Compliance and Occupancy or completion of the construction project, whichever occurs first.

b. *Real Estate Office in a Construction Trailer or Temporary Modular Unit.* Temporary structures, such as construction trailers or temporary modular units may be used as real estate sales offices in any new residential construction project for the sale of units within that project only. Such a temporary use may be allowed in all zoning districts. In the event that multiple builders are involved in a new construction project, one construction trailer or temporary modular unit may be permitted (as a sales office) per builder. Each individual trailer or modular unit shall be located on an individual lot. In no case shall multiple permits be issued for the same Parcel Identification Number (PIN). The permit shall be valid until the project is completed or for a period of two years from the time of the recording of the most recent final plat. All temporary structures shall be removed within 30 days of the completion of the project.

c. *Real Estate Office in a Model Home.* Temporary structures, such as a real estate office in a model home, are limited to a period of time not to exceed one year with the option of an extension of up to one year as and if approved by the Director. The number of employees utilizing the office at any one time may not exceed five. A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

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d. *Single Family Dwelling in Temporary Structure*. During the active construction period (after a building or grading permit has been issued) of a construction project involving a non-residential use or a residential development with building permit(s) for more than 50 units at any one time, one mobile home or trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period, whichever is less. The temporary home shall be removed from the site within 14 days of issuance of the Certificate of Zoning Compliance for a non-residential structure or the first residential unit if within a residential development.

e. *No Recreational Vehicles.* No Recreational Vehicles shall be permitted as a Temporary Use or Structure.

f. *Temporary Residence in Mobile Home During Construction of New Home.* In the event that a new single-family home is being constructed on a parcel where a mobile home currently exists, the mobile home may remain for the duration of the building process for the new home. Said mobile home shall be removed within 30 days of the date of the last final inspection, as required by North Carolina Building Codes and/or any other applicable codes. Said inspections include, but are not limited to: final building, electric, plumbing and/or mechanical inspections for occupancy of the structure.

g. *Amusement Enterprises*. Carnivals, circuses, fairs, and amusement rides may be allowed in any non-residential zoning district for a period not to exceed 21 days within any calendar quarter. This classification excludes events conducted in a permanent entertainment facility.

h. *Religious Events.* Religious events in a tent or other temporary structure may be allowed in any non-residential zoning district for a period not to exceed 60 days.

4. **Commercial Outdoor Sales Event**. Such activities may be conducted outside for a period of not more than seven consecutive days. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four feet must remain unobstructed for pedestrian use. A Temporary Use Permit for promotional activities may be renewed four times during any calendar year, for a maximum of 28 days per calendar year.

5. **Special Events and Activities.** Special events and activities conducted on public property, such as school sites and public parks shall be exempt from the provisions of this Section of the UDO but must comply with any guidelines, regulations and permitting process required by the authorizing agency (e.g. School District or a Parks and Recreation Department).

6. **Food Truck.** A food truck is defined as a food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport, from which a vendor standing within the frame, sells food and/or drink processed or prepared on-site to walk-up customers. **MOBILE FOOD VENDING.** Commercial food service sales conducted through use of a food truck.

a. **Permitting**. A Temporary Use Permit (TUP) may be issued in compliance with review criteria found in 140.04.08.A and the following:

i. Mobile food vending is prohibited on vacant properties.
ii. Placement of food trucks shall be limited:
    1. Paved areas, outside of fire lanes, landscaped and/or buffer areas.
    2. A minimum separation of 100 feet from the front door of an existing business, or restaurant, not affiliated with the mobile food service shall be required.
iii. Hours of operation shall be limited to between 8:00 a.m. and 10:00 p.m. Food trucks, trailers, or other associated equipment may not remain after hours upon the premises unless registered to participate in a special event recognized by the town or owned and operated on the premises of an existing restaurant.
iv. Service is limited to walk-up service (no drive-through).
v. Mobile food vending shall be prohibited from discharging fat, oil, grease, or wastewater into the sanitary sewer system. Waste shall be properly stored and disposed of at a properly designated location.
vi. The noise level from the food truck motor and/or generator must comply with the town's noise ordinance.
vii. Vendor shall comply with all local, county, and state regulations, licensing, registrations, and permitting, including sales tax regulations.

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b. **Duration.** A temporary use permit may be issued to a food truck vendor to operate for:

i. A maximum of three consecutive days on any site or parcel.

ii. The minimum time between temporary use permits on the same site or parcel shall be limited to a 30-day period.

iii. Flexibility in duration requirements noted above may be considered and approved by Special Use Permit.

c. **Public Property.** Food trucks may not be operated on public property such as parks or plazas, parking lots, public street rights-of-way, or public sidewalk except as specifically authorized by the Town and/or as part of an official public event sponsored or co-sponsored by the Town.

d. **Other Zoning Districts.** In all zoning districts other than those listed in Table 140.04.08. A, listed above, food trucks may be allowed without a permit:

i. On commonly owned property within a residential development serving residents and guests at a neighborhood activity or function; and

ii. Sites undergoing construction in accordance with a valid development plan and permits. Such trucks may vend to persons lawfully authorized to be on the construction site and not to the general public.

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