

K. Specific Conditions. Specific Conditions are established to address the unique characteristics of certain land uses. The standards and conditions listed for land uses in this chapter are applicable to permitted, conditional, and interim use permits, as specified for each zoning district, unless otherwise noted.

1. Adult Daycare Centers Serving 12 or Fewer Persons.

- a. Serve 12 or fewer persons;
- b. Provide proof of an adequate water and sewer system if not served by municipal utilities;
- c. Have outdoor leisure/recreation areas located and designated to minimize visual and noise impacts on adjacent areas;
- d. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization if the required space available for use by participants is maintained while the center is operating.
 - i. In determining the square footage of usable indoor space available, a center must not count:
 1. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;
 2. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or
 3. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.
- e. Comply with all other state licensing requirements.

2. Adult Daycare Centers Serving 13 or Greater Persons.

- a. Serve 13 or more persons;
- b. Provide proof of an adequate water and sewer system if not served by municipal utilities;
- c. Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;
- d. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi-functional organization if the

required space available for use by participants is maintained while the center is operating.

- e. In determining the square footage of usable indoor space available, a center must not count:
 - 1. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;
 - 2. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or
 - 3. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space;
 - f. Provide proof of state, federal, and other governmental licensing agency approval; and
 - g. Comply with all other state licensing requirements.
3. Adult Establishments.
- a. Must follow the guidelines and regulations as established by City Code Section 130.67.
4. Communication service apparatus/devices as permitted uses.
- a. Shall be co-located on an existing tower or an existing structure;
 - b. Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);
 - c. Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;
 - d. Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;
 - e. Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;
 - f. Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;
 - g. Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;

- h. All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;
 - i. The applicant shall submit a plan illustrating all anticipated future location-sites for communication towers and/or communication devices(s)/apparatus;
 - j. Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:
 - 1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; or
 - 2. Commercial recreation areas and major play fields used primarily by adults.
 - k. All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.
- 5. Drive up or Drive Through Window.
 - a. Shall be screened to a height of 6 feet from any adjacent residential zone;
 - b. Shall not have a public address system which is audible from any residential property;
 - c. Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback; and
 - d. Trash receptacles, including, but not limited to, dumpsters, shall be stored in fully enclosed areas, including the top. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of this code of ordinances.
- 6. Existing Dwellings.
 - a. Dwellings when combined in the same structure with another permitted use within the Highway Business Zone (B-1) along the County Road 69/State Highway 101/First Avenue corridor west of County Road 17/Marschall Road

and east of Webster Street or a line running northwesterly along the eastern boundary of the Webster Street right-of-way.

7. Outdoor Cafes.

a. Permit and Licensure.

1. A special annual license for an outdoor cafe shall be issued/renewed. The fee for such license shall be established in the city fee schedule and shall be issued by the City Administrator or their appointee only after inspection by the Planning and Development Department.
2. The annual license application for the license must define the physical perimeters for the outdoor cafe area and provide a diagram of the layout, pictures of the proposed furnishings, and the perimeter boundary.
3. If alcoholic beverages, beer and/or wine are proposed to be served in the outdoor cafe area, it is the responsibility of the applicant to amend its liquor license, so the licensed premises include the outdoor cafe area.
4. The license application must include the evidence of liability insurance and the hold harmless agreement required by this section.
5. An outdoor cafe is not a permitted accessory use to a residence or a business selling beer, wine, or alcoholic beverages which does not have and on-sale license.
6. Permits are good for the year that they are applied in and must be resubmitted on an annual basis.

b. Functional Requirements

1. Existing and/or proposed principal use shall conform to existing city zoning regulations.
2. The outdoor cafe area shall be limited to the public right-of-way or plaza abutting the front and/or one side of the permitted use when on a corner.
3. Minimum clear sidewalk passage zone for pedestrians at the perimeter of the outdoor cafe area shall be at least five feet without interference from parked motor vehicles, bollards, trees, tree grates, curbs, stairways, trash receptacles, streetlights, street signs, bike racks, etc.

4. Overstory canopy of tree and umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven feet above the sidewalk.
5. A minimum of 36 inches shall be provided within aisles of the outdoor cafe area for service if there are multiple rows.
6. Furniture shall be movable to allow for seasonal changes.
7. If alcoholic beverages, beer, and/or wine are to be served, patrons must be seated and be served by a server from the establishment to ensure that beverages may not leave the licensed area and that patrons are of legal drinking age. It is the sole responsibility of the permittee to ensure these rules are met to preserve its liquor license and outdoor cafe permit.
8. No storage of furniture on sidewalks or rights-of-way shall be allowed between November 1 and the following March 31.
9. No outside bar, cooking facility, food preparation or holding area, or wait station shall be established on the outdoor cafe area.
10. Lighting is not permitted.
11. Any electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices must meet applicable city and state noise regulations.
12. The outdoor cafe must be closed and vacated on Sunday through Thursday between the hours of 10 PM and 7 AM on the following day but may remain open until 11 PM (opening at 7 AM on the following day) on Friday and Saturday.
13. An exception to (12) may be granted for holidays by the Administrator.
14. Smoking is not permitted in any portion of the outdoor cafe area.
15. Furniture shall be washable; constructed of commercial grade materials such as metal or other weather resistant materials; and maintained in a safe and sanitary condition.

16. Design of furnishings, outdoor cafe area layout shall be reviewed and approved by the city prior to installation.

c. Liability Requirements.

1. The property owner, outdoor cafe operator and the city shall enter into a hold harmless agreement, as provided by the city, exempting the city from all liability claims associated with outdoor cafe area.
2. Maintenance of public right-of-way, including landscaping, for which the outdoor cafe area is located upon shall be the property owner and outdoor cafe operator's responsibility.
3. Security of the outdoor cafe area shall be the responsibility of the property owner and outdoor cafe operator.
4. The city must be provided with evidence of general liability insurance in the amount of at least \$1,000,000.00 naming the city as an additional insured.

d. Prohibited Acts.

1. Placing any items or other equipment, tables or chairs on any portion of the public property other than the permitted area.
2. Block or restrict the pedestrian passageway to less than five feet in width or block ingress or egress to or from any building. No items shall be placed as to block a driveway or parking space or visibility from an intersection.
3. Sublicense the encroachment area.
4. Place objects or barricade around the serving area.
5. Use tables, chairs or umbrellas or any other objects of such quality, design, materials or workmanship that are not authorized per the Administrator. Objects must meet design criteria for durability and safety and not feature any advertising.
6. Failure to secure permission of the landlord where a building has multiple occupants.
7. Failure to pick up, remove and dispose of trash or refuse left by the business or its patrons on the public right-of-way.

8. Failure to keep sidewalk or public right-of-way surface free of dirt, spills, grease or other materials generated by the use of the space.
 9. Store, park, or leave any stand or merchandise or materials overnight on any street or sidewalk except for tables and chairs which may be kept in permitted area at permittee's risk.
 10. The encroachment permit is a temporary license which may be denied, suspended or revoked for any conduct which is contrary to the provisions of this article or for conduct of the business in such a manner as to create a public nuisance or constitute a danger to the operators or the public's health, safety or welfare. No property right is created by this article and decision of the city administrator is final.
- e. Enforcement and Termination. In the event that any of the conditions of the special annual license issued pursuant to Section 50-65(2)(E) are violated, the city has authority to revoke the special annual license.
1. A violation of any condition set forth in the special annual license for an outdoor cafe shall be a violation of this code. If within thirty days of written notice from the zoning administrator the violation has not been corrected, the city may pursue the following procedure to terminate the permit:
 2. Written notice of revocation shall be served upon the property owner and any permittee at least ten city working days prior to the special annual license being revoked.
 3. Notice to the property owner of record and any permittee shall be served personally or by first class mail. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation constituting the basis of the revocation, the facts which support the conclusions that a violation has occurred, and a statement that if the property owner and/or the permittee desire to appeal they must, within ten city working days, exclusive of the day of service, file a request the city clerk for a hearing.
 4. The hearing request shall be in writing, stating the grounds for appeal, and served personally or received by first class mail by the city clerk at the city hall not later than 4:30 p.m. of the tenth city working day following notice of revocation.
 5. Following the receipt of a request for hearing, the city council shall set a time and place for the hearing within thirty days of receipt of the hearing request.

6. Following the hearing, the city council may revoke the special annual license or impose such other remedies as it deems appropriate.
8. Retail Centers.
 - a. Requires a Planned Unit Development review and approval prior to commencing operations.
9. Temporary, seasonal sales of farm produced items such as fruits, vegetables, and Christmas trees.
 - a. Only 2 permits shall be allowed per year, per site. These permits shall not be issued within 3 months of each other if issued to the same organization/user;
 - b. Property owner's signature is required;
 - c. Operation of the seasonal sale shall not exceed 90 calendar days in length;
 - d. The seasonal sales use must meet parking setbacks established by this code of ordinances;
 - e. Seasonal sales use cannot inhabit any parking spaces required to meet the needs of the primary use on-site;
 - f. Shall provide one off-street customer parking space for each 250 square feet of seasonal sales display area;
 - g. Shall submit a scalable drawing of the proposed site showing the dimensions of the area to be used for seasonal sales, the proximity to buildings, parking lots, right-of-way, or other such area, a description of any structure, implement, stand, display, prop, or other such items intended to be used for the sale of the seasonal items;
 - h. Signage is not approved as part of the seasonal sales permit. All signage must comply with the sign regulations of this chapter (see §§ 151.185 through 151.197);
 - i. Application for seasonal sales permits shall be made not less than 10 business days prior to the date(s) for which the activity is scheduled and no more than 90 days prior to the proposed commencement of activity;
 - j. If the applicant is aggrieved by the decision made by city staff, they may file an appeal to the BOAA of the staff's determination within 10 days of staff's decision. Furthermore, if the applicant is aggrieved by the decision of the BOAA, within 10 days of the BOAA decision, an appeal may be filed with the City Council. The City Council's determination shall be final. The appeal shall

be in accordance with the approved procedures and fees adopted by the City Council;

- k. Staff may waive the fee for a seasonal sales permit application where the entire proceeds from the operation are given to charity or used for charitable purposes or are a fundraising effort for nonprofit groups. Documentation of nonprofit status shall be provided to the city prior to the approval of a fee waiver;
- l. Seasonal sales permits shall require annual review. Approvals are not carried from year to year;
- m. Shall not impair traffic visibility and should not be located in the r-o-w or the sight triangle, as calculated by this code of ordinances;
- n. The seasonal sales use shall not impair the normal, safe, and effective operation of the permanent use on the same site; and
- o. The city reserves the right under this chapter to shut down a temporary/seasonal sales operation even after the granting of an approval if the operation is posing safety concerns, has become a nuisance, or has violated any requirement of this section or other provision of this code of ordinances.

10. Towers for commercial wireless telecommunications services.

- a. Shall also operate as a public utility structure;
- b. Shall be located within the public rights-of-way;
- c. Shall be limited to 75 feet in height;
- d. Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;
- e. No setback shall be required when located in the public rights-of-way;
- f. Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;
- g. Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;
- h. Shall be protected with corrosive resistant material;

- i. Signage shall not be allowed on the tower other than danger or warning type signs;
- j. Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;
- k. Must be built to accommodate antennas being placed at varying heights on the tower;
- l. Existing vegetation on the site shall be preserved to the maximum extent possible;
- m. Shall be surrounded by a security fence 6 feet in height with a lockable gate;
- n. Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;
- o. Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;
- p. No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:
 - 1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;
 - 2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference, cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;
 - 3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or

4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.
- q. All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city.
 1. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site.
- r. The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device(s)/apparatus; and
- s. Other accessory uses, as determined by the Zoning Administrator.

11. Utility Service Structures.

- a. Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;
- b. Shall be 20 feet or less in height;
- c. May be used only to provide weather protection for utility equipment;
- d. Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive; and
- e. Shall comply with all applicable design standards.

12. Utility Service Structures, Electrical Substations, Water Towers and Sanitary Lift Stations.

13. Vehicle Sales, Auction.

- a. Storage areas shall be screened from public right-of-ways and adjacent properties in accordance with the screening standards of Chapter 151.111.
- b. Public address speaker systems must not be audible from any residential property.
- c. All outside storage areas must be paved with asphalt or concrete.
- d. Outdoor storage areas of vehicles must meet at least 50% of the landscaping requirements of City Code Section 151.112.
- e. Adequate circulation for vehicle transports entering or exiting the site must be provided.

14. Vehicle Sales, Used.

- a. Limit the percentage of retail sales to no more than 20% of the business;
- b. Must serve as an accessory use of the principle use;
- c. Vehicle retail sales limited to used automobiles only;
- d. No person shall operate a retail auto sales business on property, any part of which is within 200 feet from any property developed or zoned for residential uses;
- e. Shall not store any vehicles which are unlicensed and inoperative for more than 7 days, except in appropriately designed and screened storage areas;
- f. Shall conduct all repair, assembly, disassembly, or maintenance of vehicles within a building, except for minor maintenance such as tire inflation, adding oil and wiper replacement;
- g. Shall not have any outside storage or display except of vehicles for sale;
- h. Shall not have a public address system which is audible from any residential property;
- i. Shall screen all storage areas;
- j. Shall screen all display areas adjacent to a residential zone;
- k. Shall apply the parking setback to all areas where vehicles are located;
- l. Shall maintain a landscaped buffer 100 feet wide from any residential zone;
- m. All motor vehicle dealers shall be licensed by the state; and
- n. Vehicle sales area is to be paved.

15. Wind Energy Conversion Systems (WECS) or Windmills.

- a. Must follow the guidelines and regulations as established by City Code Section 151.210