

Chapter 21 SPECIAL USES

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21.01 Statement of Intent

Certain uses of land, buildings or structures may not be appropriate under all circumstances in any given zoning district, but may be appropriate where adequate precautions can be taken to assure compatibility with surrounding uses, public need, and the City as a whole.

21.02 Special Uses Designated

No building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered, except for one or more of the special uses set forth herein, subject to approval of a special use permit by the Governing Body and all applicable development, performance and special standards. Issuance of a special use permit is restricted to the zoning district and land where such permit is applied.

Use Zoning Categories

- A. Adult day-care. R6 and C1
- B. Air transportation facilities C-2, M-1
(including helicopter pads).
- C. Amusement and recreation services. C-2, M-1
- D. Assembly halls, convention centers C-2
and conference facilities.

- E. Attached residential structures all residential
- F. Automobile parking lots structures C-2 (freestanding).
- G. Billboards. M-1
- H. Boat dealers C-2, M-1
- I. Bus, taxi, train or light rail depots, stations or dispatch facilities. (Public Transportation) C-2. M-1
- J. Car washes. C-2
- K. Cemeteries, funeral services, mortuaries and crematories. C-2
- L. Chemicals and allied products - Manufacturing M-1
- M. Child-care centers C-1, C-2
- N. Colleges, universities, professional C-2 schools and junior colleges (Public or private).
- O. Communication services, not elsewhere classified. C-2
- P. Correctional institutions or facilities M-1 (public or private).
- Q. Courier services. C-1, C-2
- R. Drive-in motion picture theaters. C-2
- S. Eating places, including drive-through C-1, C-2 service.
- T. Electric, gas and sanitary services, M-1 transfer stations, or other installations.
- U. Farmers markets. C-1, C-2

V. Feedlots and stockyards. AG

W. Flag poles over sixty (60) feet in height. M-1, C-2

X. Gas extraction. AG

Y. Government facilities, other than All districts offices.

Z. Government offices. All districts

AA. Group day-care homes All residential

BB. Hospitals, Medical. C-2, M-1

CC. Hotels, motels, rooming houses, camps and other lodging places. C-2

DD. Indoor tennis, racquetball, soccer and other athletic facilities. C-2

EE. Manufactured home dealers. M-1

FF. Membership (service) organizations. C-1, C-2

GG. Motor vehicles, all types, sales C-2
Leasing, rental and repairs

HH. Museums and art galleries. C-1, C-2

II. Nursing and personal care facilities. C-1, C-2, M-1

JJ. Radio, television or microwave C-2, M-1 towers exceeding sixty (60) feet in height, unless located on or within a structure and entirely screened from view

KK. Religious organizations All residential & commercial

MM. Residential care facilities All districts

NN. Retail nurseries, lawn and garden AG, C-2 supply stores, with outdoor storage and display not within a confined area

OO. Specialty outpatient facilities, not elsewhere classified. C-2, M-1

PP. Storage lots for recreational M-1 vehicles, trailers, boats, storage space, etc.

QQ. U.S. Post Offices. All districts

RR. Veterinary clinics, animal hospitals and dog kennels with outside runs. AG, C-2, M-1

The above list is not all inclusive.

21.03 Temporary Sales and Events

A. The City may, upon application, issue a temporary sales and events permit for the use of a specified parcel of privately owned land for the following temporary short term uses.

1. Christmas tree sales.
2. Seasonal sale of farm produce.
3. Carnivals, circuses, fairs.
4. Commercial tent sales or sidewalk sales (by tenants only).
5. Exhibits for high technology products (by tenants only).
6. Temporary offices for construction projects.
7. Fireworks 4th of July Sales

B. Such temporary sales and events permit may be issued without publication or posted notice by the City following review and approval by the City Administrator.

1. That the applicant submit an application containing:
 - a. A description of the land proposed to be used.

b. A site plan showing setbacks, property lines and adjoining structures and the proposed location of the temporary sales/events.

c. A description of the proposed use.

d. Hours of operation.

e. Estimates of accumulated automobiles and persons per hour.

f. Proposed sanitary facilities.

g. Proposed parking facilities.

2. That such proposed use shall be only located on property zoned AG, C-1, C-2, M-1.

3. That temporary structures erected must be set back from the street right-of-way not less than twenty (20) feet.

4. That such proposed use will not be operated after 10:00 p.m. and before 8:00 a.m unless a special permit is obtained from the city.

5. That such proposed use will not be located closer than one hundred (100) feet from property zoned for residential use.

6. That the location of any proposed driveway entrance will not create a traffic hazard.

7. That the proposed site contains adequate parking. Adequate parking shall be determined on the basis of one parking space per four estimated people attending per hour.

8. That the proposed site contains adequate sanitation facilities. Adequate sanitation facilities shall be determined on the basis of one (1) temporary restroom facility per one hundred (100) estimated people in attendance per hour; provided however, that no sanitation facilities shall be required for Christmas tree sales lots or seasonal sale of farm produce.

9. That the term of the permit shall be as follows:

a. Carnivals, circuses and fairs; religious tent meetings; commercial, fireworks tent sales or sidewalk sales; exhibits for high technology products --not to exceed five (5) days.

b. Christmas tree sales -- not to exceed sixty (60) days.

- c. Seasonal sale of farm produce -- not to exceed five (5) months.
- d. Seasonal sale of landscape plantings – not to exceed four (4) months.
- e. Temporary offices for construction projects – not to exceed thirty (30) days beyond the completion of the construction project.

10. That a fee to be determined by the City Council shall be charged each applicant for temporary sales and events permit.

21.04 Special Uses Not Permitted

It shall be presumed that a special use permit shall be required for any use listed herein unless that use is also specifically listed as a “permitted use” or as a "conditional use".

21.05 Criteria for Considering Special Uses

In considering any application for special use permit, the governing body shall make findings based upon the criteria stated herein but shall not be precluded from consideration of other factors which may be relevant to a particular application.

21.06 Time Limits for Special Uses

Special uses shall commence within one (1) year from the date of approval, unless extended by action of the governing body. Those special uses which are granted with a time limit shall not be authorized nonconforming status when such time limit expires.

A. Commencement of a special use occurs upon the initial issuance of a building permit, or land clearing permit, or upon the initiation of significant action to satisfy requirements for improvements contained in the special use report, or other regulatory documents relating to said special use. Additionally, construction shall occur within one (1) year from the date of approval.

B. Only one (1) time extension shall be permitted and shall not exceed six (6) months. The extension shall be requested by the owner prior to the expiration of the special use. Said request is to be made to the City.

C. The City shall review the proposed time extension to determine if any modifications have been made to the special use site, and if changes have occurred to the City's Zoning Ordinance or other development regulations which would affect the original approval.

D. If the City finds that no substantial modifications are proposed, the time extension may be deemed approved subject to conditions.

E. If the City finds that substantial modifications are proposed, the time extension shall be forwarded to the governing body for final action.

21.07 Development and Performance Standards

A. Child group day-care home

1. Employees other than immediate family members residing on the premises may be employed if the governing body finds that neighboring properties will not be adversely impacted. In no case shall the number of employees exceed the adult to child ratios in accordance with State of Kansas, Department of Health and Environment regulations on child-care centers.

2. The initial special use permit may be granted for a period of up to twelve (12) months, with multiple renewals granted for periods of up to five (5) years thereafter.

3. If the governing body finds that neighboring properties have been adversely affected, they may, as part of the renewal of a special use permit, require that the number of children and/or employees be reduced to the extent that adjoining properties will not be adversely impacted.

4. Not more than twelve (12) children, including the operator's own children, shall receive care during a calendar day.

5. The owner or operator shall occupy the structure as his or her private residence.

6. Child group day-care homes shall be operated in accordance with State of Kansas, Department of Health and Environment regulations on child group day-care homes.

B. Adult day-care, child-care centers, Mother's Day Out programs and preschools: Such day-care centers shall be operated in accordance with State of Kansas, Department of Health and Environment, regulations.

C. Billboards.

1. Billboards may be located on property zoned M-1 provided all other conditions of this chapter are met.

2. No billboard shall be located within four hundred (400) feet of the property line of any residentially zoned property, park, playground, school, hospital or church. Such measurements shall be made as a four hundred (400) foot radial distance three hundred sixty (360) degrees around the location of the proposed billboard.

3. All billboards shall maintain a minimum spacing of one thousand two hundred (1,200) feet from existing billboards along highway or adjacent frontage road rights-of-way. The one thousand two hundred (1,200) foot spacing dimension shall be measured along the side of the roadway where the sign is proposed regardless of the direction from which the sign may be viewed. All billboards existing within the City at the time of the adoption of ordinance shall be used as the beginning point for such one thousand two hundred (1,200) foot minimum spacing measurements.
4. No billboard within the City shall exceed six hundred seventy-two (672) square feet per face with a maximum of two (2) faces permitted.
5. No billboard shall exceed thirty (30) feet in height above the grade from which it is viewed. In cases where the grade at the location of the proposed billboard is higher than the right-of-way grade adjacent to which it is located, the City may require the overall height of the billboard to be lowered.
6. All new or replacement billboard structures shall be supported by a monopole provided that the frame may be either center supported or flag supported. If the maximum two (2) faces are angular to one another, or are separated by a distance in excess of one (1) foot, all structural supports shall be fully screened from public view. The opaque screen shall be constructed of a similar material as the primary structure, shall be built to the same height as the permitted faces, shall be painted a neutral color to match the primary structure, and shall not be used as an advertising surface.
7. All billboards shall be indirectly illuminated (base-lighted or back-lighted) or non-illuminated and comply with all building codes of the City. The light source of any illuminated billboard shall be shielded from view. All electrical connections shall be in accordance with the issue of the National Electrical Code, as adopted by the governing body of the City.
8. All billboards erected in the City shall be issued a building permit in accordance with the applicable building code and fees as adopted the Governing Body of the City. Upon inspection of the billboard the owner's name shall be affixed to the structure so as to be visible from the highway.
9. No billboard, or the associated grounds on which a billboard is located, shall have flashing, intermittent, revolving or moving lights or any other device which is determined to be attention attracting.
10. The billboard shall be kept in good repair, including the pole, other structural elements, the sign face, and the sign copy. Any "flagging" or peeling of the copy shall be repaired immediately.

11. No billboard shall be permitted to be mounted, attached or affixed to a building rooftop or the walls of any building.

12. All billboards shall maintain the required building setback equal to that required of any structure built within the zoning district in which the billboard is located.

13. The property around any billboard and its supports shall be maintained as required in all zones. The permittee shall maintain any landscaping approved as part of a special use permit.

14. Special use permits for billboards shall be granted for a period of no more than three (3) years. In the event that a permit for a billboard is not renewed, or becomes nonconforming, it shall be removed no less than sixty (60) days from the date of expiration. Existing billboards not in compliance may continue use until:

a. Land use changes

b. Contract expires after publication of this zoning ordinance

15. Special use permits for billboards may be renewed even though the zoning classification of the property upon which the sign has been placed has been changed from classifications M-1 to commercial zoning classification if:

a. The use of the property upon which the sign has been located has not changed since the date of granting the first special use permit; or

b. The property has remained vacant since the issuance of the first special use permit; or

c. When development begins on the rezoned property, the billboard shall be removed within three (3) months of the start of construction of buildings.

D. Residential real estate sales offices: Real estate sales offices, which are not otherwise a permitted use in a residential subdivision or project, may be operated under a special use permit for the purpose of selling properties located within the subdivision or project under such conditions as may be imposed at the time of approval of the permit. No such permit shall be issued for a period exceeding two (2) years. The precise location of any such real estate sales office within the subdivision or project shall be indicated on the application for the permit.

E. Customary passenger motor vehicles, all types, sales, leasing and rental (generally items with the following or similar SIC Codes: 551, 552, 7514, 7515). It is the intent of

this category to address the intensity, impact and aesthetic appearance of such uses and ensure compliance with all applicable requirements and regulations.

1. Any change in use of a property with a nonconforming situation to a use in this category (generally items with the following or similar SIC Codes: 551, 552, 7514, 7515) shall be subject to all applicable requirements and regulations of the zoning district. Any reductions to lot area or dimensions applicable to that zoning district shall be subject to Consideration of Variances.

2. Such uses shall be located in areas currently developed with similar uses and SIC classification.

3. The display area shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a required parking lot.

F. Trailers, trucks, recreational vehicles, motorcycles and other motor vehicles, all types, sales, leasing and rental (generally items with the following or similar SIC Codes: 556, 557, 559, 7513, 7519).

1. Such uses shall be located in areas currently developed with similar uses and SIC classification.

2. The display area shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by Parking and Loading.

G. At the time of approval of any special use permit, the Governing Body may impose restrictions upon height or bulk of buildings or structures, or impose requirements relative to yard and lot area, parking, open space or landscaping, or other requirements determined to be reasonably necessary for the protection of the public health, safety and welfare of the neighborhood and the community. Further, the Governing Body may require that the applicant submit a final development plan for approval by the staff, planning commission or Governing Body prior to the issuance of any building or land use permit. Except where a longer or shorter time has been stated for a specific special use, the Governing Body shall grant a permit, or extension thereof, for such period as is warranted under the circumstances.

H. No sales from commercial vehicles or other temporary structure are permitted except as provided for by a temporary sales and events permit.

21.08 Revocation of Special Use Permits

A. Basis for revocation: Any special use permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

1. Noncompliance with any applicable requirement set forth herein.

2. Noncompliance with any special conditions imposed at the time of approval of the special use permit.
3. Violation of any provisions of City ordinances pertaining to the use of the land, construction or uses of buildings or structures or activities conducted on the premises by the owner or agents of the owner.
4. Where conditions in the neighborhood or surrounding property have changed to the extent that approval of the permit would be clearly unwarranted if being applied for at the time of revocation.

B. Procedure for revocation:

1. Revocation proceedings may be initiated by a majority vote of the Governing Body.
2. An appeal of any decision of the governing body to revoke a special use permit may be filed in the District Court of Sedgwick County, Kansas, pursuant to KSA. 12-760, or amendments thereto. Any appeal taken shall not suspend the order of revocation during the pendency of the appeal, unless so ordered by the District Court.

21.09 Designation of Permittee

The person making application for a special use permit shall be designated the permittee for purposes of this chapter. The use authorized by the permit; however, relates to the land and not the permittee, and permits may therefore be transferred. Any person desiring to operate a special use on property by transfer of the special use permit granted the permittee shall make application with the City to be substituted as permittee. The applicant shall furnish such information as may be reasonably required to satisfy the City that the applicant is the owner of the property subject to the special use permit, or is otherwise authorized by the owner of the property to conduct such use on the property, and is otherwise qualified to be designated as permittee. No person may use property for a special use without being designated as permittee; unauthorized use of the property shall be grounds for revocation of the special use permit.