

## CHAPTER 175: ADMINISTRATIVE AND SPECIAL PROVISIONS

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### § 175.01 ADMINISTRATION.

(A) *Enforcement.* Except as otherwise noted herein, the Plan Commission, through its officers and employees, shall enforce the provisions of this title.

(B) *Improvement location permit.* No building or structure except government agencies, government owned and/or operated utilities, and buildings whose primary use is in connection with the production of agricultural crops and livestock and fowl, other than residences may be erected, move, added to, or structurally altered unless an improvement location permit has been issued.

(C) *Application for improvement location permit.* Application for improvement location permit must be made in duplicate on a form prescribed by the APC and accompanied by a scale drawing, showing the dimensions and the shape of the lot to be built upon; the size and location of existing buildings; and the location and dimensions of the proposed building or alteration. The application must include any other information that is required by the Executive Director and is necessary for the administration and enforcement of this title, including but not limited to existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; and the conditions existing on the lot. Any residential application for an improvement location permit shall be reviewed by the Executive Director. Any non-residential application for an improvement location permit shall be forwarded to the Town of Chandler Planning Commission for site review thru the Executive Director.

(D) *Proof of compliance.* Shall be provided to the Executive Director, for sewer and water tap permit numbers from the appropriate water and sewer companies, municipalities, or the applicable Health Department must accompany the application. Where a state law requires a release prior to construction from the State Building Commissioner for a proposed structure, no improvement location permit will be issued until the release is obtained by the applicant by the appropriate state agency. Prior to issuance of an improvement location permit, the applicant must provide proof of compliance with all state building codes and other applicable regulations. One copy of the application shall be returned to the applicant by the Executive Director after approval or disapproval of the application. The second copy similarly marked, shall be retained by the APC. If any application is not approved, the Executive Director shall state the reasons for its action of the application. When permits are issued for lots located in subdivisions for which streets have not been accepted for maintenance by the town, the Plan Commission shall cause to be printed on the face of the permit the following:

“The streets in your subdivision have not been accepted for maintenance by the Town of Chandler.”

(E) After a permit is issued and construction has commenced it shall be unlawful to bury any construction debris including trees and tree stumps during or at completion of any improvement made on a parcel of real estate. Burying of any construction debris is a violation and subject to a violation fee.

(F) *Certificates of occupancy.* It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, converted, or wholly or partly altered or enlarged in its use or structures until a certificate of occupancy has been issued stating that the proposed use of the building or land conforms to the requirements of this title. A non-conforming structure or use may be maintained, renewed and changed only after a certificate of occupancy has been issued stating specifically how the non-conforming use differs from the provisions of this title. A temporary certificate of occupancy may be issued for a period not exceeding 6 months during alteration or partial occupancy of a building. The APC may require as a condition precedent safeguards that will reasonably protect the safety of the occupants and the public.

(G) *Expiration of improvement location permits.* If the work described in an improvement location permit has not been started within 6 months from the date it was issued, the permit shall expire and written notice thereof shall be given to the persons affected. If the work described in any improvement location permit has not been substantially completed within 1 year of the date it was issued, the permit shall expire and written notice thereof shall be given to the persons affected, together with the notice that all work shall cease until a new permit has been obtained.

(H) *Construction and use.* Improvement location permits or certificates of occupancy issued on the basis of plans and applications approved by the APC or the Executive Director authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use arrangement, or construction.

(I) *Fees and expenses for notice.*

(1) Each application for an improvement location permit shall be accompanied by the Chandler Plan Commission. No permit shall be required for improvements which cost less than \$1,000, unless otherwise specified in the permit fee schedule herein. If construction has commenced without first obtaining an improvement location permit, the applicable contractor or the property owner shall be fined an additional \$200. For purposes of this section, **START OF CONSTRUCTION** shall be defined as any work or use of material at the improvement location site.

(2) (a) All persons applying for petitions to rezone property, variances, conditional uses, special exemptions, appeals, zoning certifications, and review by the Department of Natural Resources of an improvement location permit in a flood hazard area shall accompany applications with the following fees payable to the Town of Chandler:

Improvement local permit: \$50.

(b) (Fees for the following items include the costs of the public notice and for up to 6 certified letter notices. If more than 6 certified letter notices are required, an additional charge of \$10 each for each certified letter notice over the initial 6.)

Petition to rezone	\$200 per lot
Variance	\$200 per lot
Special exemption	\$200
Appeals	\$200
Zoning certificate	\$25 per lot
Conditional or special use	\$200
Certificate of occupancy	\$25
Subdivision plat	
Major (3 lots or more)	\$250, plus \$20 per lot
Minor (2 lots)	\$150
Replat	\$150
Copies of any documentation	\$0.25 (\$0.50 if legal sized)

(3) On all work having a value of \$1,000 or more (unless otherwise specified herein), for structural, electrical, HVAC, and plumbing the following fees shall be paid.

<i>Type of Construction</i>	<i>Improvement Location Permit Fee</i>	<i>Inspection Fee</i>
<i>Type of Construction</i>	<i>Improvement Location Permit Fee</i>	<i>Inspection Fee</i>
Single-family dwelling	\$0.10 per sq. ft. (\$150 minimum; includes electrical, HVAC, plumbing, driveway, and culvert)	\$75
Two-family dwelling (duplex)	\$0.10 per sq. ft. (\$175 minimum; includes electrical, HVAC, plumbing, driveway, and culvert)	\$75 per unit
Multi-family dwellings (3 or more units)	\$0.12 per sq. ft. (\$200 minimum; includes electrical, HVAC, plumbing, 1 driveway, and 1 culvert per building)	\$75 per unit
Manufactured (mobile) home (single wide)	\$0.10 per sq. ft. (\$95 minimum; includes electrical, HVAC, plumbing, driveway, and culvert)	\$75
Garage (unattached), pole barns, storage structures, and accessory buildings with a permanent foundation	\$0.10 per sq. ft. (\$50 minimum)	\$75

Addition to existing building, including attached garage	\$0.10 per sq. ft. (\$50 minimum)	\$75
Interior remodeling, structural alteration (over \$1,500)	\$50	Included with permit
Exterior remodeling (siding, windows, doors, etc. – over \$1,500)	\$50	Included with permit
Decks, porches, yard barns, metal storage buildings, gazebos, and ramps	\$40 (no charge if under 50 sq. ft.)	Included with permit
Metal carport	\$40	Included with permit
Fences (new)	\$30	Included with permit
Fences (replacing old fence with no alterations)	Permit required – no fee	No fee
Fences (replacing old fence with alterations)	\$30	Included with permit
Roof repair/replacement (5 square feet or more)	\$50	Included with permit
Driveway culvert (new)	\$40	Included with permit
Driveway culvert (replacing)	Permit required – no fee	No fee
Driveway	\$30	Included with permit
In-ground swimming pool (requires fence)	\$75	Included with permit
Above ground swimming pool (deeper than 36 inches of water) (requires fence)	\$30	Included with permit
Spa or hot tub	\$30	Included with permit
Electrical	\$35	Included with permit
Electrical inspection	\$35 (includes turn-on notice to CenterPoint)	Included with permit
HVAC	\$35	Included with permit
Plumbing	\$35	Included with permit
Demolition (any structure over 500 sq. ft.)	\$40	
Storm shelter	Permit required – no fee	No fee
Business, commercial, hotel, and motel	\$0.12 per sq. ft. (\$200 minimum), plus \$20 per unit for hotels and motels	\$50
Industrial, warehouses, and bulk storage buildings	\$0.16 per sq. ft. (\$200 minimum)	\$50
Church	\$0.12 per sq. ft.	\$50
Schools and libraries	\$0.12 per sq. ft.	\$50
Institutional (prison/jail)	\$0.16 per sq. ft.	\$50
Additions on commercial and industrial use buildings	Same as use of building listed above	
Communication, radio, and TV towers	\$1 per linear foot (\$50 minimum)	

(4) A violation fee of \$200 will be required in addition to the regular fee for any application to locate a mobile home, or manufactured home, or modular home if the home has been moved onto property and posted as a violation by the Zoning Inspector for the Town of Chandler Plan Commission.

(5) All fees include the costs for legal notice of public hearing. No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner. Fees may be adjusted from time to time by the APC following approval from Town Council.

(6) A violation fee of \$500 will be imposed if it is determined by the Executive Director that construction debris has been buried during or upon completion of construction of any improvement made on a parcel of real estate for which an improvement location permit has or has not been issued. The requirement and/or receipt of payment of the violation fee is not a waiver of the provisions of any other local ordinances regulating the disposal of waste.

(Ord. 2017-02, passed 2-20-2018; Am. Ord. 2022-11, passed 12-5-2022) Penalty, see § 175.99

## **§ 175.02 AMENDMENTS.**

(A) *General.* Whenever the public necessity, convenience, general welfare, or good zoning practice require the amendment, supplement or change in the regulations, district boundaries or reclassification of property, now or hereafter established by this title or amendments thereto, the amendment may be proposed by:

- (1) A member of a participating legislative body, to that body;
- (2) The Plan Commission to the Town Council of the town; or

(3) By petition of the owners of property of 50% or more of the area involved in the petition either to the body having legislative authority over the land or to the Plan Commission. Any proposed ordinance for the amendment, supplement, change, or repeal of this title shall be referred to the Plan Commission for consideration and report before any final action is taken by a legislative body.

(B) *Area for rezoning.* In case of a petition for a change in the zoning of property, the Plan Commission may consider whether the area described in the original petition should be enlarged, reduced or modified in order to reflect the interests of the community and to correspond with the Comprehensive Plan. The Plan Commission may recommend to the Town Council such enlargement, reduction or modification if any, as it may deem desirable, provided the Plan Commission properly notifies any and all persons affected by such enlargement, reduction or modification.

(C) *Plan Commission initiation.* The Plan Commission shall carry on a continual study of zoning, zoning techniques and the relation of zoning to private developments and public improvements and the Comprehensive Plan for the orderly growth of the town and may from time to time submit recommendations as to the amendment of this title to the Town Council.

(D) *Basis for recommendations.* In reviewing and formulating recommendations to the Town Council as to requested or proposed changes in this title, the Plan Commission shall consider and evaluate the change in relation to the following aspects of the Comprehensive Plan:

- (1) The land use pattern of the town.
- (2) The transportation system of the town.
- (3) Other parts of the Comprehensive Plan deemed pertinent by the Plan Commission.
- (4) Whether there have been substantial changes in the character, development of areas in or near the area under consideration.
- (5) The purposes and objectives of this title as outlined in Chapter 170.

(E) *Conditional rezoning.* No amendment to this title to rezone property shall contain conditions, limitations, or requirements not applicable to all other property in the zoning district to which the particular property is rezoned.

(F) *Limit on petitions.* The following time limitations shall apply to petitions for rezonings or variances:

(1) Whenever the Plan Commission has taken action to recommend denial of a petition for rezoning of property, the Plan Commission shall not consider any further petition for the same rezoning of any part of the same property for a period of 6 months from the date of such action.

(2) Whenever the Board of Zoning Appeals has taken action to recommend denial of a petition for a variance on any property, the Board shall not consider a petition for a variance on any part of the same property for a period of 6 months from the date of such action.

(3) Whenever the Town Council has changed the zoning of property by an amendatory ordinance, the Town Council shall not consider any petition for rezoning of any part of the same property for a period 6 months from the effective date of the amendatory ordinance.

(Ord. 2017-02, passed 2-20-2018)

## **§ 175.03 VARIANCES.**

(A) *Board of Zoning Appeals.* There is hereby created a Town of Chandler Board of Zoning Appeals the members of which shall be appointed and serve in accordance with state laws and all acts amendatory thereto.

(B) *Requirements for variances.* No recommendations shall be made by the Board of Zoning Appeals for a variance in the provisions or requirements of this title unless the Board of Zoning Appeals finds that the following facts and conditions

exist:

(1) That a variance is a means of relief which is available only when some peculiar circumstance as to size or shape of the parcel of land (and sometimes its location) is such that the literal application of the provisions of this title would impair the owner's rights to some reasonable use of the property. A variance shall not be granted unless, in the first place, there are such peculiar circumstances.

(2) That the circumstances which cause the hardship must be peculiar to the property in question, or to such a small number of properties that they clearly constitute marked exceptions to the property in the neighborhood. If the circumstances cited as a basis for applying for the variance are common to the property in the neighborhood the variance shall not be granted.

(3) That after establishing the peculiar circumstance applying to the property in question, it is next necessary to show that the variance is required in order to reserve a substantial property right of the petitioner. It is of no moment whatever that the denial of the variance might deny to the property owner some opportunity to use his or her property in a more profitable way or to sell it at a greater profit than is possible under the terms of this title. The owner is entitled only to a reasonable use of his or her property.

(4) That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of this title.

(5) That the regulations to which the variance is sought shall be modified as little as possible so that the substantial intent and purpose of the regulations shall be preserved. The granting of the variance should be made subject to such conditions as will constitute this end.

(6) That the variance will not result in substantial detriment to adjacent property nor the surrounding neighborhood, and will not be materially detrimental to the public welfare.

(C) *Grant of variance.* The grant of a variance by the Board of Zoning Appeals in a proper case where practical difficulty and unnecessary hardship shall have been found, shall be by resolution. The granting of a variance shall not be by ordinance amending this title.

(D) *Conditions and limitations.* In connection with any recommendation by the Board of Zoning Appeals for the granting of a variance, the Board shall include any conditions, requirements or limitations to be attached to the variance, which the Board may believe to be necessary and desirable to protect adjacent properties and the surrounding neighborhood, and to carry out the purposes and objectives of this title. The Board shall incorporate such conditions, requirements and limitations in any grant of a variance, which the Board in its judgment deems reasonable and appropriate to effectuate the principles and purposes of this title.

(E) *Time limit.* Any variance granted by the Board of Zoning Appeals ("BZA") shall expire 6 months after the effective date of such action by the BZA, unless a permit based upon and incorporating the variance is obtained within the aforesaid 6-month period, or unless the provisions of the variance are adhered to within the aforesaid 6 months, provided good cause is shown, and the application for extension shall be filed with the BZA at the Planning Commission 2 weeks prior to the expiration of the aforesaid 6-month period.

(Ord. 2017-02, passed 2-20-2018)

#### **§ 175.04 CONDITIONAL USE PERMIT.**

(A) *Objectives.* The principal objective of this title is to provide for the proper location of all types of land use. To accomplish this objective, various uses of land are classified by this title as being permitted in 1 or more of the various districts established. However, it may be necessary to permit certain uses in districts other than those in which they are classified, because of their unusual characteristics or the large area required for their operation. These uses require special consideration as to their proper location in relation to adjacent uses or to the development of the town, and to the various elements, of the land use plan for the town. Because of the various types of uses and locations requiring special consideration, the specific conditions under which each use may be permitted also must be considered. Such uses, together with the conditions controlling their operation are specifically designated as conditional uses within this title.

(B) *Approval.* Approval may be granted by the BZA after a public hearing provided the following findings are made:

- (1) The use is deemed essential or desirable to the public convenience or welfare.
- (2) The use is in harmony with the various elements of objectives of the land use plan for the town.
- (3) The use will not be detrimental or injurious to the character of the development of the immediate neighborhood.

(C) *Conditions and limitations.* When granting approval for a conditional use the Board of Zoning Appeals may attach any conditions or limitations that it determines necessary for the protection of the surrounding area in order to promote the intent and purpose of this title.

(D) *Granting of conditional use.* The grant of a conditional use, by the Board of Zoning Appeals, shall be by resolution and shall not be by ordinance amending this title.

(E) *Time limit.* Any conditional or special use granted by the BZA shall expire 6 months after the effective date of such action by the BZA, unless a permit based upon and incorporating the conditional or special use is obtained within the

aforesaid 6-month period, or unless the provisions of the conditional or special use are adhered to within the aforesaid 6 months, provided good cause is shown, and the application for extension shall be filed with the BZA at the Planning Commission 2 weeks prior to the expiration of the aforesaid 6-month period.

(Ord. 2017-02, passed 2-20-2018)

**§ 175.05 SPECIAL USES.**

(A) *Objectives.* The principal objective of this title is to provide for the proper location of all types of land use. To accomplish this objective, various uses of land are classified by this title as being permitted in 1 or more of the various districts established. However, it may be necessary to permit certain uses in districts other than those in which they are classified, because of their unusual characteristics or the large area required for their operation. These uses require special consideration as to their proper location in relation to adjacent uses or to the development of the town, and to the various elements, of the land use plan for the town. Because of the various types of uses and locations requiring special consideration, the specific conditions under which each use may be permitted also must be considered. Such uses, together with the conditions controlling their operation are specifically designated as special uses within this title. These special uses are specifically listed in division (G), "List of Special Use Designations," below. Procedures and conditions for the approval of a special use are enumerated in this chapter.

(B) *Special uses as secondary classifications.* Special uses are secondary classifications. If land is approved by the Municipal Planning Commission for the town for a special use, the special use designation shall be placed on the zoning map in addition to its primary zoning classification.

(C) *Approval.* Approval may be granted by the Board of Zoning Appeals after a public hearing provided the following findings are made:

- (1) The use is deemed essential or desirable to the public convenience or welfare.
- (2) The use is in harmony with the various elements of objectives of the land use plan for the town.
- (3) The use will not be detrimental or injurious to the character of the development of the immediate neighborhood.

(D) *Conditions and limitations.* When granting approval for a special use the Board of Zoning Appeals may attach any conditions or limitations that it determines necessary for the protection of the surrounding area in order to promote the intent and purpose of this title.

(E) *Granting of special use.* The grant of a special use, by the Board of Zoning Appeals, shall be by resolution and shall not be by ordinance amending this title.

(F) *Time limit.* Any conditional or special use granted by the Board of Zoning Appeals shall expire 6 months after the effective date of such action by the Board, unless a permit based upon and incorporating the conditional or special use is obtained within the aforesaid 6-month period, or unless the provisions of the conditional or special use are adhered to within the aforesaid 6 months, provided good cause is shown, and the application for extension shall be filed with the Board of Zoning Appeals at the Plan Commission 2 weeks prior to the expiration of the aforesaid 6-month period.

(G) *Special use designation chart.*

<b>SPECIAL USE DESIGNATION</b>	<b>DESIGNATION</b>
<b>SPECIAL USE DESIGNATION</b>	<b>DESIGNATION</b>
Schools	SU-01
Religious institutions	SU-02
Hospital, nursing homes, convalescent or care centers	SU-03
Cemeteries	SU-04
Public parks or public recreational facilities, including public athletic facilities	SU-05
Resident occupied and resident-operated preschools, child day-care, adult day-care facilities or similar operations which keep up to 12 persons on a daily basis, but not including 24-hour care	SU-06
Temporary mobile office	SU-07
Commercial and private non-commercial recreational areas, uses and facilities including country clubs, social centers, swimming pools, golf courses and golf driving ranges	SU-08
Borrow pit and earth storage areas	SU-09
Commercial athletic fields, stadiums, or arenas	SU-10
Drive-in restaurant	SU-11
Public or private outdoor entertainment	SU-12
Airports or heliports	SU-13

Electronic message boards and/or signs with flashing, moving, rotating or intermittent lights or animated messages	SU-14
Home occupations	SU-15
Adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret or juice bar, adult motion picture theater, adult theater, massage parlor, nude model studio, peep show facility or sexual encounter center	SU-16
Radio, cellular antenna, microwave or television towers, wireless communication facilities and/or towers for similar uses excluding exempt public utilities; amateur radio antennas exceeding 20 feet	SU-17
Private aircraft landing facilities	SU-18
Self-storage warehouses facilities	SU-19
Kennel (without veterinary clinic or other accessory business)	SU-20

Only those special uses which are indicated in the above, "Table B: Special Uses Allowed Only in a Specific Zone," shall be permitted in the zoning districts indicated.

(H) Table "B" Special Uses Allowed Only in a Specific Zone.

SU	R-1	R-1A	R-1B	R-1C	R-1D	R-2	R-3	R-4	R-O	R-MH1	R-MH2	C-1	C-2	C-3	C-4	M-1	M-2	M-3
1	X	X	X	X	X	X			X			X	X	X	X	X	X	
2	X	X	X	X	X	X			X			X	X	X	X	X	X	X
3															X	X	X	
4												X	X	X	X	X	X	
5	X	X	X	X	X	X			X			X	X	X	X	X	X	
6	X	X	X	X	X	X			X									
7													X	X	X	X	X	
8												X	X	X	X	X	X	
9												X	X	X	X			
10														X	X	X	X	
11												X		X				
12														X				
13													X	X	X	X	X	
14												X	X	X	X	X	X	
15	X	X	X	X	X	X			X									
16															X	X	X	
17														X	X	X	X	X
18																		
19																X	X	
20																		X

Only those special uses which are indicated in the above, "Table B: Special Uses Allowed Only in a Specific Zone," shall be permitted in the zoning districts indicated.

(Ord. 2017-02, passed 2-20-2018)

**§ 175.06 DEFINITIONS.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADULT ARCADE.** A commercial establishment where, for any form of consideration, 1 or more still or motion picture projectors, slide projectors or similar machines or other image producing machines or gaming machine for viewing by 5 or fewer persons per machine at any 1 time, in which a substantial (30% or more) portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of "harmful to minors" as specified in

I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended).

**ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE.** A commercial establishment which has a substantial (30% or more) portion of its revenues, floor space or advertising associated with the sale or rental, for any form of consideration, of any 1 or more of the following;

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture cassettes, slides, tapes records, CD-ROMs, DVDs, DVD-ROMs or other form of visual or audio representations which meet the definition of "harmful to minors" under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended).

(2) Instruments, devices or paraphernalia which are designed for use in connection with "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended).

**ADULT CABARET.** A commercial establishment such as, but not limited to, a nightclub, bar, restaurant or similar establishment which feature live performances which meet I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended) to a clientele which pays any form of consideration for such live performance.

**ADULT MOTION PICTURE THEATER.** An indoor or outdoor facility with a capacity of 5 or more persons, where for any form of consideration, displays films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial (30% or more) of the total revenue derived from or a substantial (30% or more) is devoted to the showing of such material which meets the definition of "harmful to minors" as specified in I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended) for observation by patrons.

**ADULT THEATER.** A theater, concert hall, auditorium or similar establishment, either indoor or outdoor, which for any form of consideration, regularly features live or displays of recorded performances, for a substantial (30% or more) of the total presentation time are distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended).

**AIRPORT OR HELIPORT.** A tract of leveled land where all aircraft and helicopters can take off and land.

**BORROW PIT.** A pit created to provide earth that can be used as fill at another sit.

**CEMETERIES.** See § 170.03, Definitions.

**COMMERCIAL, ATHLETIC FIELDS, STADIUMS, OR AREAS.** Privately-owned structures or surfaces for sporting events open to the public, generally a for-profit organization.

**COUNTRY CLUB.** A suburban club for social and sports activities, usually featuring a golf course.

**DRIVE-IN RESTAURANT.** A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the food, which is served in edible or disposable containers.

**EARTH STORAGE AREA.** The extent of a 2-dimensional surface enclosed with a boundary to store fill from a borrow pit.

**ELECTRONIC MESSAGE BOARDS AND/OR SIGNS WITH FLASHING, MOVING, ROTATING, OR INTERMITTENT LIGHTS OR ANIMATED MESSAGES.** A message center or large bulletin board that serves a specific interest group used to convey specific information. Also see § 170.03, Definitions.

**GOLF COURSE.** A large tract of land laid out for golf.

**GOLF DRIVING RANGE.** A practice range for practicing golf shots.

**HELIPORT.** See **AIRPORT OR HELIPORT** above.

**HOME OCCUPATION.** See § 170.03, Definitions.

**HOSPITALS, NURSING HOMES, CONVALESCENT, HOSPICE CARE CENTERS, OR CUSTODIAL CARE CENTERS.** Land, and buildings thereon, which are used for the care of sick, injured or disabled persons. Also see § 170.03, Definitions for **HOSPITAL**.

**JUICE BAR.** An adult cabaret which does not serve alcoholic beverages.

**KENNEL (without veterinary clinic or other accessory business).** A building or collection of buildings or a property in which many dogs are housed and maintained.

**MASSAGE PARLOR.** An establishment that offers illicit sexual services under the guise of therapeutic massage.

**NUDE MODEL STUDIO.** A place where a person who appears in a state of nudity is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons, who pay any form of consideration, or such display is characterized by an emphasis on activities which meet the definition of "harmful to minors" under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may



from time to time be amended). This definition shall not apply to colleges or universities who are accredited by a nationally recognized accrediting organization.

**NUDITY.** The showing of human male or female genitals, public area buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernable turgid state. **BUTTOCK** means either of the 2 rounded prominences on the human torso that are posterior to the hips and formed by the gluteal muscles to the hips and underlying structures.

**PEEP SHOW FACILITY.** Any facility in which 1 or more patrons or persons for any payment of consideration are allowed to view another person or persons dance, remove their clothing, perform activities in the nude or semi-nude in a room or outdoor facility in a manner which would meet the definition of "harmful to minors" under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended).

**PRIVATE AIRCRAFT LANDING FACILITIES.** A privately owned tract of leveled land where aircraft can take off and land.

**PUBLIC OR PRIVATE OUTDOOR ENTERTAINMENT.** Public or private events including but not limited to performances of live or recorded forms of entertainment with an attendance of more than 25 persons whether attendance is free or for any form of consideration.

**PUBLIC PARKS OR PUBLIC RECREATION FACILITIES.** Land, and building thereon, owned by the State of Indiana, Warrick County or the Town of Chandler, Indiana which are open to the general public for recreational activities.

**RADIO, CELLULAR ANTENNA, MICROWAVE OR TELEVISION TOWERS, WIRELESS COMMUNICATION FACILITIES AND/OR TOWERS FOR SIMILAR USES EXCLUDING EXEMPT PUBLIC UTILITIES.** A facility designed and/or used for the purpose of transmitting, receiving, or relaying voice and/or data signals from various wireless communication devices and includes any transmission tower, antenna, or other facility designed or used for that purpose.

**RELIGIOUS INSTITUTION.** A church, synagogue, mosque, temple or building which is primarily used for religious worship of a supreme being or beings. Also included are religious institution operated incidental/accessory facilities (on same site or adjacent to) including Sunday schools, child care, preschools, adult day care, offices, soup kitchens, shelters, and similar uses.

**RESIDENT-OCCUPIED AND RESIDENT-OPERATED PRESCHOOLS, ADULT DAY CARE FACILITIES OR SIMILAR OPERATIONS WHICH KEEP UP TO 12 PERSONS ON A DAILY BASES, BUT NOT INCLUDING 24-HOUR CARE.** Land, and buildings thereon, which are used for daily care and/or supervision of children or adults.

**SCHOOLS.** Any public or private school containing any grade of preschool or kindergarten through grade 12. This definition is to also include post-secondary educational institutions such as colleges, universities or similar schools.

**SELF-STORAGE WAREHOUSE FACILITIES.** Real property with 50 or more enclosed spaces rented to individuals and businesses for storage.

**SEXUAL ENCOUNTER CENTER.** An enterprise that, as 1 of its business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite or same sex.
- (2) Activities between male and female persons and/or persons of the same sex where 1 or more persons appear in a state of nudity or where the activities in division (1) or (2) herein are characterized by an emphasis on activities which meet the definition of "harmful to minors" under I.C. 35-49-2-2 (and as it may from time to time be amended) and/or represent or display "sexual conduct" as defined in I.C. 35-42-44 (and as it may from time to time be amended) or nudity for observation by patrons thereof.

**SOCIAL CENTERS.** Community spaces. Buildings which are used for a range of disparate activities which can be linked only by virtue of being not-for-profit.

**SWIMMING POOL.** Any in ground or above ground swimming pool that complies with all state and local building codes.

**TEMPORARY MOBILE OFFICE.** An office built within a truck, motor home, trailer or purposed built shipping container to be used for a limited amount of time.

(Ord. 2017-02, passed 2-20-2018)

**Cross-reference:**

See § 170.03 for additional definitions

**§ 175.07 SPECIAL USE PETITION PROCEDURE.**

(A) A person desiring a special use classification must submit a petition to the Municipal Planning Commission. The petition must contain a site plan showing the following:

- (1) The proposed use of land.
- (2) The location and size of all buildings and structures, including signs.
- (3) The location of streets, access drives, and off-street parking and loading facilities.

(4) Buffer landscaping and required green area.

(5) Any other plans or specifications which the staff of the Municipal Planning Commission deems necessary.

(B) After receipt of the petition, the Municipal Planning Commission (MPC) for the town shall conduct a public hearing pursuant to I.C. 36-7-4 for which 12 days' prior notice has been given by the applicant by certified mail, return receipt requested, to abutting property owners whose boundaries include and/or are contiguous to the subject property, and to the public by legal advertisement. Also, no less than 12 days prior to the hearing, a notice containing the date, time, place, and purpose of the hearing must be posted conspicuously on the property by the petitioner. Should the petitioner fail to comply with the notice requirements, as provided by this section, before the next regular meeting of the Municipal Planning Commission following the date the petition is filed, the petition shall be withdrawn by the Commission and the time limits imposed by § 175.10 shall apply. After public hearing, the Municipal Planning Commission shall make its determination for approval, denial or modification of the special use classification based on the following criteria:

(1) Whether the specific site is an appropriate location for the use.

(2) Whether the use as developed will adversely affect the surrounding area.

(3) Whether there will be nuisance or serious hazard to vehicles, pedestrians, or residents.

(4) Whether adequate and appropriate facilities will be provided for proper operation of the use.

(5) Whether the use is in harmony with this title.

(6) Whether the use is essential or desirable to the public convenience and welfare.

(C) The Municipal Planning Commission's approval or modification of a special use classification may include whatever reasonable conditions, limitations or temporary uses necessary for the protection of the public interest including the following:

(1) Greater front, side and rear yards than the minimum for the area.

(2) More off-street parking and screening.

(3) Modification of exterior design or materials.

(4) Limitations on the lot coverage and occupancy of the building or structure.

(5) Limitations on signs and sign coverage.

(6) Time limitations.

(D) To protect the interest and to ensure compliance with requirements to be included in the site plan, the Municipal Planning Commission may require whatever evidence and guarantees are necessary to assure compliance with conditions, limitations and temporary uses.

(Ord. 2017-02, passed 2-20-2018)

#### **§ 175.08 RESTRICTIONS APPLICABLE TO PARTICULAR SPECIAL USES.**

(A) In addition to all other limitations and provisions contained in this title and this chapter, all SU-15 special uses shall be subject to the following requirements :

(1) No identifying or business sign shall be erected or placed on any site for which an SU-15 has been granted by the Municipal Planning Commission.

(2) Except for the shipment and receipt of goods, products or items necessary for the SU-15 shall not be visible from the exterior of the premises.

(3) The maximum time for which the first SU-15 may be granted is 2 years from the date of approval; thereafter, a subsequent grant of a SU-15 for the same parcel of property for the same use shall be for such length as requested and approved by the Municipal Planning Commission.

(4) No person or persons may be employed in the SU-15 home occupation at the site other than the resident (or residents) of the site for which the SU-15 has been granted.

(5) The use may not be varied from the specific home occupation identified by the applicant for which it is granted.

(B) In addition to all other limitations and provisions contained in this title for the town and this chapter, all SU-16 special uses shall be subject to the following requirements:

(1) Not be located within 1,000 feet of any property zoned, or currently used, for any residential use;

(2) Not be located within 1,000 feet of any property zoned, or currently used, for religious purposes (SU-02);

(3) Not be located within 1,000 feet of any public or private recreational facility (SU-05 or SU-08);

(4) Not be located within 1,000 feet of any public or private school (SU-01);

(5) Not be located within 1,000 feet of a resident occupied and operated pre-school, child day care facility, adult day care facility (SU-06);

(6) Not be located within 500 feet of a special use SU-16 facility. However, more than 1 special use SU-16 may be located on the same parcel of property so long as it meets the other provisions of this section and the other provisions of this title;

(7) The applicant shall have certified all distance measurements by a licensed land surveyor registered in the State of Indiana who shall certify that there are no residential properties, religious institutions, town park, school or other special use SU-16 not located on the same property.

(8) In addition to all other procedures listed above, the applicant for a SU-16 designation shall send notice as called for in § 175.10(B), Time Limits, to not only the abutting property owners, but the applicant shall send notice by certified mail, return receipt requested, to all property owners located within 1,000 feet of the property subject to the petition for special use SU-16. A list of such property owners shall be given to the Municipal Planning Commission at the time of filing the petition for special SU-16 designation. Should the applicant fail to comply with the notice requirement herein, before the second regular meeting of the Municipal Planning Commission following the date the petition was filed, the petition shall be withdrawn by the Municipal Planning Commission.

(9) In addition to all the other limitations and provisions in this title, special use SU-16 shall be limited as follows:

(a) No identifying or business sign with letters, pictures, numbers or symbols with a size greater than 1 foot in vertical height shall be erected or placed on any site for which a special use SU-16 designation has been granted by the Municipal Planning Commission.

(b) Except for the shipment or receipt of goods, product or items used in the operation of businesses with special use SU-16 designation shall not be visible from the exterior of the premises at any time.

(C) In addition to all other limitations and provisions contained in this title and this chapter, all SU-17 special uses shall be subject to the following requirements:

(1) The applicant must submit a commercial site plan meeting the requirements for review by the Municipal Planning Commission, including a surveyor certification of the exact location of the proposed tower from property lines; center lines of abutting streets or right-of-way; distance to the nearest residential district or zone, residence or recorded residential subdivision.

(2) Structural plans including elevation and plan views showing height above grade level and dimensions are required in addition to the site plan.

(3) Information regarding the number of antennas that the proposed new tower or structure is designed to or can safely accommodate.

(4) Evidence demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna or tower, either because there are no existing towers or structures meeting the applicant's engineering requirements within the geographic area, evidence that such structures do not have sufficient height or structural strength to meet the applicant's engineering requirements. This division (C)(4) shall not be interpreted to mandate, but encourage co-location.

(5) The setback requirements from any residential dwelling property or undeveloped residential district(s) or zone or recorded residential subdivision(s) shall be a distance of 2 feet for each foot of height of the tower or 300 feet, whichever is greater.

(6) Wireless communication facilities that include towers are not permitted in residential districts or zones. However, in these districts, commercial telecommunication antennas attached to existing buildings or structures are permitted on any property with a commercial use or an institutional use such as a church, park, library, government, school hospital, utility or similar use. Commercial antennas mounted on roof-tops, walls and existing structures may be approved by the Municipal Planning Commission, providing the antennas meet the requirements of the district or zone in which they are located and do not exceed the building height by more than 20 feet.

(7) The use of a wireless telecommunications facility by more than 1 telecommunications provider (co-location) is encouraged, and when new towers or antennas are necessary, construction should accommodate multiple users. Co-location of antennas on a single tower antenna attached to existing structures or buildings, or replacement towers to be constructed at the site of a current tower are permitted uses and will not be subject to the special use permitting process.

(8) Each operator of a telecommunications facility must send to the Municipal Planning Commission a copy of any notice sent to the FFC of intention to cease operations. All abandoned or unused towers and associated facilities shall be removed within 6 months of the cessation of operations at the site unless a time extension is approved by the Municipal Planning Commission. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower or associated facilities upon cessation of operations at the site shall be submitted prior to the issuance of the required improvement location permit, shall be incorporated as part of the permit, and permit approval shall be conditioned upon removal of the structure(s) within 6 months after the cessation of use. In the event that the tower is not removed within 6 months of the cessation of operations at a site, the tower and associated facilities may be removed by the town with the costs of such removal assessed against the property and/or the applicant for the SU-17 use.

(D) The distances and measurements provided in this section shall be measured by following a straight line, without

regard to intervening buildings, structures or other obstacles from the nearest point or the property upon which the proposed use is to be located, to the nearest point of the property or land use district boundary line from which the proposed land is to be separated.

(Ord. 2017-02, passed 2-20-201)

#### **§ 175.09 DISCONTINUANCE OF SPECIAL USE.**

(A) If a special use, including pre-existing use as defined in §175.06, is abandoned for 6 months or has not been established within 6 months after the date granted, the special use classification shall be null and void.

(B) Petitioners which have been granted a special use who experience delays in construction or commencement of the approved special use due to delays caused by state or federal regulatory entities may petition the Municipal Planning Commission for an extension of time.

(C) A special use may not be altered to become any use other than the approved by the Municipal Planning Commission.

(Ord. 2017-02, passed 2-20-2018)

#### **§ 175.10 TIME LIMITS.**

(A) Appeals for petitions for special uses must be submitted to the Town Council within 30 days of the denial of a petition for a special use.

(B) The denial of a petition for a special use, or the denial of a petition for special use after an appeal procedure shall prohibit the Municipal Planning Commission from hearing a petition for the subject property or a part thereof for 12 months from the date of the denial of the petition, denial of the appeal or from the date of a dispositive appeal.

(C) The withdrawal of such petition by the petitioner shall prohibit the Municipal Planning Commission from hearing a petition for a special use or an appeal for the subject property or a part thereof for a period of 6 months from the date of the withdrawal.

(D) A withdraw of such a petition by the Municipal Planning Commission for failure to comply with the notice requirement in this chapter shall prohibit the Municipal Planning Commission from hearing a petition for a special use for the subject property or a part thereof for a period of 6 months from the date of withdrawal.

(E) An exception may be made to this section upon unanimous vote of the Municipal Planning Commission.

(Ord. 2017-02, passed 2-20-2018)

#### **§ 175.11 PRE-EXISTING USES.**

All uses or similar activities which fall under the special use classifications herein described shall be deemed to meet the qualifications set out in this chapter. No petition for special use is necessary for these pre-existing uses.

(Ord. 2017-02, passed 2-20-2018)

#### **§ 175.12 SEVERABILITY.**

If any provision of this chapter or the application of any provisions of this chapter to any person or circumstance is invalid, the invalidity shall not affect the other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, all provisions and sections or parts thereof, are declared to be severable.

(Ord. 2017-02, passed 2-20-2018)

#### **§ 175.13 VIOLATIONS AND PENALTIES.**

(A) *Violations.*

(1) Any person, firm or corporation, or anyone acting in behalf thereof who shall violate or fail to comply with any of the provisions of this title by the erection, construction, enlargement, conversion, moving or maintenance of any building which is continued, operated or maintained, or land or water used in whole or in part, contrary to any of the provisions of this title is hereby declared to be in violation of this title and a common nuisance and the owner of the structure, land or premises shall be liable for maintaining a common nuisance.

(2) The Area Plan Commission or Board of Zoning Appeals may request the appropriate prosecuting authority for the town to take appropriate actions in any case involving the violation of this title, or of a regulation adopted pursuant to it.

(3) In civil actions for the enforcement of this title or a part thereof, an attorney appointed by the Plan Commission may bring an action in the name of the Commission.

(B) *Injunction.* The Plan Commission, the Board of Zoning Appeals, or any designated official, may institute a suit for injunction, to restrain an individual or a governmental unit from violating the provisions of this title, or of an ordinance enacted pursuant to its provisions. The Plan Commission, or the Board of Zoning Appeals, may also institute a suit for a mandatory injunction, directing an individual or a governmental unit to remove a structure, erected in violation of the provision of this title or of an ordinance enacted pursuant to its provisions. If the Plan Commission or the Board of Zoning

Appeals is successful in its suit, the respondent shall bear the cost of the action. A change of venue from the town shall not be granted in such a case.

(C) *Damages.* In an action or proceeding by the town for the taking, appropriation, or condemnation of land, or in an action against the town, or any other participating city or town no compensation or damages shall be awarded for the taking of or injury to any structure erected in violation of the provisions of this title.

(D) *Penalty.* Any person, firm or corporation, or anyone acting on behalf thereof who violates a provision of this title or regulation enacted under its authority, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10 and not more than \$300, for each day's violation.

(Ord. 2017-02, passed 2-20-2018)