

## Article VI. Temporary Uses

### Sec. 27-601 Temporary Uses.

A. Intent.

Temporary uses shall be permitted in all zoning districts. Some types of temporary uses are permitted only in specified zoning districts. The zoning administrator may authorize a temporary use by issuing a zoning certificate. A zoning certificate verifies that a temporary use complies with the applicable provisions of these regulations. Certain temporary uses are allowed as accessory uses to existing uses that are permitted by right. The zoning administrator is granted the authority to interpret the provisions of this section and to classify temporary uses.

B. Application and Permit Processing.

The applicant must submit an application and a site plan for each proposed location to be reviewed by the zoning administrator at least 14 days in advance of the requested event. The site plan review will only be required once in a calendar year if the approved temporary use permit remains at the same location and follows the same layout and requirements.

The applicant will submit an application at least five working days in advance of each requested subsequent event in the same calendar year. A temporary use permit must be issued prior to the commencement of any temporary use. The zoning administrator may make a determination that extreme/inclement weather has caused an approved temporary use to not be able to operate and allow the event to be rescheduled or extended.

The zoning administrator may, from time to time, specify the form of the temporary use permit application. The temporary use permit application shall include at minimum: a site plan; landowner approval (if other than the principal use of property); sales tax certificate or tax exempt ID; evidence of compliance with all other local, state, and federal regulations; and, other information as requested.

Applications for said temporary use permit shall be secured from the Planning and Development Department in the manner prescribed by this chapter. The application will be approved or denied within five days of the submittal of a complete application. Temporary uses may be subject to additional permits or inspections as required by any applicable law or regulation. The approved zoning certificate shall be displayed at all times during the sale and shall be placed in a location that is easily visible to the public.

C. Matters to Be Considered.

The zoning administrator shall approve applications for a temporary use permit if all of the following findings can be met:

1. The proposed temporary use will be compatible with adjacent uses and will not adversely affect the surrounding neighborhood by means of odor, noise, dust or other nuisances;

2. The additional parking required by the temporary use will be provided on site;
3. Increased traffic caused by the temporary use will not adversely affect the safety of the surrounding neighborhood or city at large;
4. The proposed temporary use is consistent with the Comprehensive Plan, City Code and other applicable regulations;
5. A complete application and evidence of compliance with all other local, state and federal regulations have been received by the Planning and Development Department;
6. The property where the temporary use will be located and the applicant for the temporary use permit have not been cited for current violations of the regulations of the City of Hutchinson; and
7. The temporary use will not impact the public health, safety or general welfare.

D. State Fair Grounds & Airport.

1. Except as required by the State Fair grounds management, temporary uses on the State Fair grounds shall be exempt from all regulations of this section.
2. Temporary use permits involving the Airport property are limited to those uses identified in §27-342, and related uses, and shall be approved by the Airport Manager.

E. General Regulations.

Each temporary use shall:

1. Be described in a permit issued by the zoning administrator prior to commencement of the event. This permit shall be in addition to evidence of compliance with all other local, state and federal regulations.
2. The number of additional parking spaces required for the temporary activity shall be determined by the zoning administrator. The parking spaces required for the temporary use shall not reduce the amount of parking required for the principal use.
3. Temporary uses shall be set back a minimum of 25 feet from the edge of the roadway. The zoning administrator is authorized to increase or reduce the required setback if conditions warrant.
4. Pedestrian entrances and exits for a temporary use shall not be placed directly adjacent to drive aisles.
5. The maximum duration of any temporary use for each applicant shall be four consecutive days, not to exceed eight events in a calendar year unless specified otherwise in these regulations. The maximum duration of temporary uses may be extended to coincide with special community events such as HutchFest and the Kansas State Fair.
6. All sites shall be completely cleaned of debris and temporary structures removed immediately following the termination of the sale or special event.
7. No public right-of-way may be used for temporary uses.

8. All temporary use permit holders must maintain a professional appearance at the site. Motor vehicles, trailers and other structures not specifically designed to be used for a temporary use shall not be used.
9. Proof of ownership of applicant, or a signed contract or letter of authorization from the property owner on which the activity is to take place shall be presented at the time the temporary use permit is requested.
10. The accumulation of one or more motor vehicles for sale on a property that are not owned by the property owner or lessee of the premises shall not be permitted.
11. Off-site advertising shall not be permitted as a temporary use.
12. Temporary uses shall not be located in any sight triangle.
13. The outside display of products normally for sale at a business permanently located on the property does not require a temporary use permit as long as the display is in compliance with all codes and regulations.
14. The City Manager has the discretion to reimburse required fees when the entire proceeds from the operation are given to a charity in the City of Hutchinson or used for charitable purposes within the City of Hutchinson.

F. Uses Requiring a Temporary Use Permit.

The following uses are subject to the corresponding regulations and do require a temporary use permit provided they meet the following criteria:

1. Retail Sale of Fireworks.
  - a. Permitted districts: C-3, C-4, I-1, I-2 and I-3.
  - b. Maximum duration: June 27 through July 4.
  - c. Application: Payment of fees and issuance by the City Clerk's office of an approved application shall be considered the approval of the temporary use permit.
  - d. Refer to Sec. 25-102 of the City Code for additional regulations on fireworks.
2. Retail Sales.
  - a. Permitted districts: C-1, C-2, C-3, C-4, C-5 and P/I.
  - b. Buffer: No sale shall occur on a parcel that is within 250 feet of a parcel where another temporary sale is occurring. No temporary sale shall occur on a parcel that is within 500 feet of a parcel on which a similar business is operating unless the similar business gives its written approval for the temporary sale to occur.
  - c. Area of operation: The area of operation shall not exceed 800 square feet and no dimension shall exceed 40 linear feet. The zoning administrator may review and permit a larger operation on parcels which exceed 500,000 square feet.
3. Sale of Farm and Garden Produce.
  - a. Permitted districts: All districts except the AE District. In the following districts, sales of farm and garden produce shall be limited

- to produce grown on the parcel: TA, R-1, R-2, R-3, R-4, R-5, EN, MP and MH.
  - b. Maximum duration: Four consecutive months during any one calendar year.
  - c. Definition: Farm and garden produce includes items that are commonly grown such as field crops, fruits and vegetables but does not include any prepared foods or meat, poultry or fish.
4. Food Sales (other than farm and garden produce).
- a. Permitted districts: C-1, C-2, C-3, C-4 and C-5.
  - b. Maximum duration: Four consecutive months during any calendar year.
  - c. Required approval from state or local jurisdictions.
  - d. Refer to Sec. 13-109 of the City Code for additional regulations on concessions or stands operated in a City park.
5. Garden Center.
- a. Permitted districts: C-3, C-4 and C-5.
  - b. Maximum duration: One event, not to exceed six months in a calendar year.
  - c. For the purposes of this section, “garden center” shall mean the temporary sale of landscaping nursery materials including the sale of plants, nursery products, fertilizers, potting soil, garden tools and utensils.
6. Tent Shelters.
- a. Permitted districts: All districts except the AE District.
  - b. Maximum duration: 14 consecutive days unless approved for a longer duration by the Fire Chief.
  - c. Location: May be erected in any yard or off-street parking area, except in the CR District, where they shall not be erected in a front yard.
  - d. Inspection: All tent shelters must be inspected by the Fire Department.
  - e. For the purposes of this section, “tent shelter” shall mean a structure made of rigid supports and flexible fabric.
7. Portable Storage Units for Temporary Use.
- a. “Portable storage unit” shall be defined as a transportable unit designed and used for the temporary storage of retail merchandise, household goods, personal items, construction materials, supplies and non-hazardous materials which is placed on a property temporarily for the use of the occupants of a dwelling or building on the property or for use during the construction of a building. Portable storage units shall be designed to be used outside of an enclosed building and shall not be placed on a permanent foundation or used for occupancy by persons. Portable storage units shall include but not be limited to such units commonly known as “PODS,” mobile attics, shipping containers, portable storage containers, and similar uses. Under no circumstances shall a railroad car be used as a portable storage unit within the City’s zoning jurisdiction.

- b. Permitted districts: Portable storage units shall be permitted in all districts as a temporary use.
- c. Portable storage units shall only be placed on a driveway or parking area or, if access exists at the side or rear of the site, in the side or rear yard. Portable storage units shall not be located in or impede the use of any required parking area, loading area, aisle or driveway.
- d. Portable storage units must be set back a minimum of five feet from all property lines and all structures.
- e. Portable storage units shall not be placed in any easement.
- f. Portable storage units shall be prohibited on all streets, alleys, and rights-of-way.
- g. **Portable Storage Units on Residential Properties.**  
 In addition to subsections (a.) through (f.) above, portable storage units on residential properties shall comply with the following requirements:
  - (i.) Portable storage units on residential properties shall not be used to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, retail merchandise, commercial goods, goods for property other than at the residential property where the portable storage unit is located (i.e. used for retail sales) or any illegal or hazardous materials. Upon reasonable notice to the property owner, the City may inspect the contents of any portable storage unit at any reasonable time to ensure that it is not being used to store said materials.
  - (ii.) There shall be no more than one portable storage unit per residential parcel.
  - (iii.) On residential parcels, the portable storage unit shall be no greater than 10 feet in width, 20 feet in length and 10 feet in height.
  - (iv.) A portable storage unit must not remain on any residential property in excess of seven consecutive days, including the days of delivery and removal, and must not be placed on any one residential property in excess of 14 days in any calendar year. At the expiration of a 14-day period, applicants may seek to extend the use of their portable storage unit for a maximum of seven additional days by seeking an extension for cause from the zoning administrator.
- h. **Portable Storage Units on Commercial and Industrial Properties.**  
 Portable storage units on commercial and industrial properties shall meet the requirements of subsections (a.) through (f.) above and shall be permitted as a temporary use for a maximum of 120 days in a calendar year. Portable storage units used for longer periods shall be considered permanent and shall follow the requirements of Sec. 27-915, Portable Storage Units for Long-Term or Permanent Use.

8. Other Temporary Uses Which Are Similar to the Uses Listed in this Section.

G. Uses Not Requiring a Temporary Use Permit.

The following temporary uses are subject to the corresponding regulations but do not require a temporary use permit:

1. Garage or Yard Sales.
  - a. Permitted districts: Garage or yard sales shall be permitted only on residential lots in all zoning districts.
  - b. Maximum duration: Four events in any calendar year not to exceed three consecutive days per event.
2. Real estate sales or leasing offices.
  - a. Permitted district: All districts.
  - b. Maximum duration: Following the issuance of a building permit until a construction project has been completed.
  - c. Requirements: The office shall not contain sleeping accommodations.
3. Contractor's Office and Construction Equipment Sheds.
  - a. Permitted districts: All districts.
  - b. Maximum duration: Following the issuance of a building permit and shall be removed when the construction project is complete.
4. Temporary Shelter.
  - a. Permitted districts: MP, MH, TA, R-1, R-2, R-3, R-4, R-5 and EN.
  - b. Maximum duration: In the event of fire or natural disaster a manufactured home may be located on a parcel during the repair, reconstruction or new construction of permanent housing on the same parcel but not to exceed 12 months.
  - c. Extension: One six-month extension may be granted.
  - d. Requirements: Adequate water supply and wastewater disposal facilities must be available.
  - e. Removal: The manufactured home shall be removed when the permanent dwelling is suitable for habitation. The property owner must assure that the manufactured home will be removed or authorize the City to remove it at the owner's expense.
5. Temporary Shelter During Home Construction.
  - a. Permitted districts: MH, TA, R-1, and R-2 Districts.
  - b. Maximum duration: A manufactured home may be located on a parcel to provide temporary shelter during new construction on the same parcel but not to exceed 12 months.
  - c. Extension: The Board of Zoning Appeals may grant an exception for one six-month extension.
  - d. Requirements: Adequate water supply and wastewater disposal facilities must be available.
  - e. Removal: The manufactured home shall be removed when the permanent dwelling is suitable for habitation. The property owner must assure that the manufactured home will be removed or authorize the City to remove it at the owner's expense.

H. Conditions of Approval.

The zoning administrator may impose such conditions on a temporary use permit as is necessary to meet the purposes of this chapter and protect the public health, safety and welfare. Conditions which may be imposed may include, but are not limited to:

1. Yard setback and open space requirements;
2. Parking and paving type;
3. Fencing, walls and other screening or barriers for screening the use or separating conflicts between vehicles and pedestrians;
4. Signs;
5. Vehicular and pedestrian ingress and egress;
6. Property maintenance during the course of the activity;
7. Control of illumination, noise, odor, vibration or other nuisances;
8. Hours of operation;
9. Documentation showing all other applicable regulations are followed (e.g., state or local jurisdiction); and
10. Any other requirement which protects the health, safety and welfare of the public or the adjacent properties.

I. Fees.

The applicant for a temporary use permit shall pay to the City an application fee as established on the City's Master Fee Schedule.

J. Violation.

Any person or business found to be in violation of this section shall not be eligible to obtain a temporary use permit in the City for the next calendar year following such determination.