

**CHAPTER 31**  
**SPECIAL USE REGULATIONS**

**Section 1. Purpose**

Special uses are those uses having certain special or unique characteristics which require a careful review of their location, design, configuration, and impacts to determine the desirability of permitting their establishment on any given site. The Board of Adjustment of the City of Marshalltown may, by special permit and subject to such protective restrictions as are deemed necessary, and after public hearing authorize the locations, extensions or structural alteration of any of the following buildings or uses in any district from which they are prohibited or limited by this Ordinance.

**Section 2. Hearings Required.**

Before issuance of a permit for any Special Use, the Plan and Zoning Commission shall review the proposal and make a recommendation to the Board of Adjustment.

The Board of Adjustment shall hold a public hearing when deciding upon a request. Notice of the time and place of the public hearing provided for herein shall be published once in a newspaper of general circulation in the City of Marshalltown at least ten (10) days prior to the date fixed for such a hearing.

**Section 3. Standards for Review.**

In addition to the standards for review applicable to all requests under consideration by the Board of Adjustment, approval of a Special Use shall be granted only if the Board first determines:

That the Special Use applied for is provided in the zoning district within which the property is located.

That the proposed use and development will be in accordance with the intent and purpose of this Ordinance and the Comprehensive Plan.

That the proposed use and development will not have a substantial adverse effect upon adjacent property; the character of the neighborhood; traffic conditions; parking; utility and service facilities; and other factors affecting the public health, safety, and welfare.

That the proposed development or use will be located, designed, constructed, and operated in such a manner that it will not interfere with the orderly use, development and improvement of surrounding property.

That adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage, and similar facilities.

**Section 4. Protective Restrictions.**

The Board of Adjustment may place protective restrictions on any approval in order to assure that the purpose and intent of this ordinance is fulfilled. Such protective restrictions include but are not limited to: landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational controls, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements.

## Section 5. Uses in Conflict with the Comprehensive Guide Plan.

No building permit may be issued which will permit a building to be constructed in the existing or projected right-of-way of a street or at a site of a proposed public use if in conflict with the Comprehensive Guide Plan, as determined by the Plan and Zoning Commission.

## Section 6. Special Uses.

### 1. Antenna Structures:

- a. Special Use Permit Not Required:** Any antenna that is attached to an existing antenna support structure, smoke stack, water tower, or other tall structure, is permitted in all zoning districts. The height of the antenna shall not exceed the height of the existing tall structure by more than 20 feet. If the antenna is to be mounted on an existing tall structure, a site plan shall not be required.
- b. Special Use Permit Required:** Antenna support structures and antennas for entities providing licensed or unlicensed communications services, including but not limited to cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that is either not mounted on existing tall structure, or is more than 20 feet higher than the tall structure on which it is to be mounted shall not be permitted except pursuant to the following conditions:
- 1) An application must be completed and returned to the zoning officer accompanied by a current fee for a special use permit. The application at a minimum must contain the following information:
    - i) **Necessity:** The wireless communications company shall demonstrate, using technological evidence that the antenna must be located where it is proposed in order to satisfy the antenna's function in the company's system.
    - ii) **Co-Location Effort:** If the applicant proposes to build an antenna support structure (as opposed to mounting the antenna on an existing tall structure), it shall demonstrate that it contacted the owners of tall structures within a one-quarter mile radius of the site proposed, asked for a permission to install the antenna on those tall structures, and was denied for reasons other than failure to agree on compensation. The Board of Adjustment may deny the permit if it concludes that the applicant has not made a good faith effort to mount the antenna on an existing tall structure.
    - iii) **Antenna Height:** The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.
    - iv) **Setbacks from Base of Antenna Support Structure:** The minimum distance between the base of the support structure or any guy anchors and any property line shall be the largest of the following: a). 50% of the antenna height; b). The minimum setback in the underlying zoning district; c). 60 feet.
    - v) **Antenna Support Structure Safety:** The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, or radio frequency interference. All structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
    - vi) **Fencing:** An opaque fence shall be installed around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure. The fence shall be a maximum of 6 feet in height and serve to screen the base of the structure and to improve security.
    - vii) **Co-Location:** In order to reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communications companies, and local police, fire, and ambulance companies.
    - viii) **FCC License:** The applicant shall provide proof that it is licensed by the Federal Communications Commission.

- ix) **Required Parking:** If the site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
  - x) **Painting:** Antenna support structures should be painted in such a manner as to reduce the visual impact and create a harmonious appearance with its surroundings.
  - xi) **Site Plan:** A full site plan shall be required for all cell sites, showing the antenna, antenna support structure, building, fencing, buffering, and access.
  - xii) **Air Safety:** Support structures 200 feet in height or taller, or those near airports, shall meet all Federal Aviation Administration requirements.
- c. Applicant must show that the proposed antenna support structure, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with the minimum standards imposed by applicable communications regulations and applicant's technical design requirements.
  - d. Antenna support structures in residential neighborhoods are strongly discouraged. The application for a permit in a residential neighborhood must prove that the area cannot be adequately served by a facility placed in a non-residential neighborhood for valid technical reasons.
  - e. All antenna support structures and communications facilities at sites other than the A-1 and 'M' Districts at a minimum shall be a monopole. All antennas shall be designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black. Existing non-monopole antenna support structures shall be allowed to continue. Additional antenna may be added to existing non-monopole structures provided that other requirements of this special use section are followed. If an existing non-monopole structure has been damaged by more than 50% of the fair market value prior to the damage, the replacement of the antenna shall conform to all requirements of this section including the monopole requirement.
  - f. **Changes:** There shall be no change in the exterior appearance of the approved site, including any change in the profile of the antenna support structure, that is a departure from or addition to what was shown or represented in the application for the granted special use permit, without first obtaining a new special use permit for that site through the same process as for obtaining the initial special use permit, including the review and recommendation of the Planning & Zoning Commission.
  - g. **Engineered Addition:** If an additional antenna is installed on an existing antenna support structure, engineering data and certification by a licensed professional engineer assuring that the installation is structurally sound within the standards of good engineering practice shall be provided to the City Building Official.
  - h. **Removal:** If a site, or any antenna support structure, is not used for a period of one year, it shall be the duty and obligation of the party then in possession and control of the site to have the unused antenna support structure and any other unused cell site apparatus completely dismantled and removed from the site. Once the antenna support structure is removed it shall be reconstructed according to this special use section, including the monopole requirement.
- 9. Placement on City Owned Property:**
- a) The placement of antennas or antenna support structures on city-owned property must comply with the following minimum requirements:
    - i) Approval by the City Council is required when placing antennas or towers on any piece of property owned by the City of Marshalltown.
    - ii) The antenna or antenna support structure will not interfere with the purpose for which the city-owned property is intended.
    - iii) The antenna or antenna support structure will have no adverse impact on surrounding private property.
    - iv) The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to city property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The charge for the use of a city structure shall be negotiated by the City Council.

- v) The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the cost of antenna or antenna support structure removal.
- vi) The antennas or antenna support structure will not interfere with other intended uses of the property.
- vii) Upon reasonable notice, the antennas or antenna support structures may be required to be removed at the user's expense.
- viii) The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant's antenna or antenna support structure.
- ix) The applicant will cooperate with the city's objective to promote collocations and thus limit the number of separate antenna sites requested.

## 2. Wind Turbines:

**a. Special Use Permit Required:** Wind Turbines and their support structures shall not be permitted unless pursuant to the following conditions:

- 1) An application must be completed and returned to the zoning officer accompanied by a current fee for a special use permit. The application at a minimum must contain the following information:
  - i) **Location:** The location for the proposed wind turbine.
  - ii) **Other Turbines:** No other wind turbine shall be located within twice the distance of the height of the proposed structure, unless the turbines are on the same lot owned by the same entity, in which case no more than five (5) turbines shall be located on the same lot. Development of more than two wind turbines on one lot must be on an industrial zone, regardless of lot size.
  - iii) **Lot Size:** No wind turbine shall be allowed on any lot, regardless of zoning district, containing less than three acres.
  - iv) **Setbacks from Base:** The minimum distance between the base and any property line shall be 110% of a wind turbine height. The minimum distance between the base and any utility or other overhead wires shall be 150% of the turbine height.
  - v) **Height:** Wind turbines on all lots shall maintain at least a fifteen-foot buffer between the bottom of any blade and the ground.
  - vi) **Setbacks from Buildings:** No primary building, regardless of owner, shall be within 110% of height of the turbine. No accessory building on an adjoining lot shall be within 110% of the height.
  - vii) **Structure Safety:**
    - a) The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed wind turbine is safe and the surrounding areas will not be negatively affected by "thrown" ice.
    - b) No utility ladder shall be lower than fifteen feet off the ground
    - c) All lattice-style wind turbines shall be surrounded by a six-foot high fence with a locking gate and contain no openings greater than one inch wide.
    - d) Structure must be neutral in color.
  - viii) **Noise:** No turbine shall not emit more noise than is commonly acceptable for the industry.
  - ix) **Installation:** Installation shall be conducted in compliance with industry and state standards.
  - x) **Site Plan:** A full site plan shall be required for all wind turbines, showing the proposed structure, all buildings, property lines, and including four different photographs of the surrounding area from the proposed base.
  - xi) **Air Safety:** Lighting shall be minimized and allowed only when complying with FAA or other federal or state safety regulations.

**b. New Wind Turbines:** Any new wind turbine shall obtain a Special Use Permit, regardless if a Permit was obtained for a previous system in the same location.

**c. Removal:** If a site, or any wind turbine, is not used for a period of one year or is in a state of disrepair as determined by the zoning administrator, it shall be the duty and obligation of the party then in possession and control of the site to have the unused structure completely dismantled and removed from the site.

### 3. Small Wind Energy Systems:

**a. Special Use Permit Required:** Small Wind Energy Systems (SWES) and their support structures shall not be permitted unless pursuant to the following conditions:

- 1) An application must be completed and returned to the zoning officer accompanied by a current fee for a special use permit. The application at a minimum must contain the following information:
  - i) **Location:** The location for the proposed SWES. Any SWES shall only be mounted on the rear-yard side of a structure and have a height of no more than twenty feet beyond to top of the support structure. Only one SWES shall be allowed per lot, regardless of zoning or use.
  - ii) **Other Turbines:** No SWES shall be located less than fifty feet from any other SWES.
  - iii) **Lot Size:** No SWES shall be allowed on any residential lot containing less than 5,000 square feet.
  - iv) **Setbacks from Base:** Any SWES shall not extend over the side roof of the support structure.
  - v) **Structure Safety:**
    - a) The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed SWES is safe and the surrounding areas will not be negatively affected by “thrown” ice.
    - b) Structures must be neutral in color.
  - vi) **Noise:** All SWES shall not emit more than 60 dB in residential zones and 75 dB in any other zone. This shall be proven through provided engineered specifications.
  - vii) **Installation:** Installation shall be conducted by a licensed company.
  - vii) **Site Plan:** A full site plan shall be required for all SWES, showing the proposed structure, all buildings, and property lines.

**b. New SWES:** Any new SWES shall obtain a Special Use Permit, regardless if a Permit was obtained for a previous system in the same location.

**c. Removal:** If a SWES is not used for a period of one year or is in a state of disrepair as determined by the zoning administrator, it shall be the duty and obligation of the party then in possession and control of the site to have the unused structure completely dismantled and removed from the site.

### 4. Temporary RV Parks:

**a. Intent:** The purpose of a temporary RV park is to provide adequate housing options for traveling, non-permanent, populations working on, or related to, large-scale construction projects. The approval of a temporary RV park shall not constitute permanent approval of housing quarters in the area nor shall it be the basis for consideration of relaxing the requirements for permanent RV parks. Permanent RV housing requirements are adequately addressed in Chapter 17: R6 Mobile Home District.

**b. Special Use Permit Required:** Temporary RV parks shall not be permitted unless an application is completed and returned to the zoning officer accompanied by a current fee for a special use permit. The application at a minimum must meet all following listed requirements for a temporary RV park:

- a) Parcels must be zoned industrial and not have any existing residential uses on the property.
- b) Parcels must have an area of at least five (5) acres.
- c) Parcels shall have a maintained landscaped buffer of fifteen (15) feet along all adjoining property and fifty (50) feet along any public street frontage.
- d) Parcels must contain an interior access way

- i) The minimum width of the access way shall be an unobstructed twenty (20) feet.
  - ii) Access ways shall connect to a public street.
  - iii) Access ways shall be paved with concrete or asphalt with a depth of at least ten (10) inches or be six (6) inches of Class A granular surfacing material subject to the following requirements:
    - a. Access roads shall be designed, shown through an engineered diagram, and maintained to support the imposed loads of fire apparatuses so as to provide all-weather driving capabilities. (75,000 pounds)
    - b. Existing roads shall be approved if they meet the above requirement, on the condition that accurate documentation is provided.
  - iv) Approaches shall be concrete from at least the street to the edge of the fifty (50) foot setback.
  - v) Access ways shall be connected or provide adequate turnaround space in accordance with current subdivision regulations.
- e) Parcels must be broken down into individual lots, one per RV.
- i) Each lot shall contain at a minimum 1,500 square feet.
  - ii) All lots shall have frontage on an interior access way.
  - iii) All lots shall be numbered in a non-repeating, consecutive sequence in accordance with the current fire code.
  - iv) Each RV or structure associated with the RV shall be at a minimum of twenty (20) feet from any other RV.
  - v) The parking area on lots shall be paved with concrete or asphalt or be covered with gravel. Gravel shall be maintained to be free of weeds or grass.
  - vi) Gravel shall have a minimum of three (3) inches thickness of ¾ Class A or Class C crushed stone.
  - vii) No more than 75% of each lot shall be paved or covered with gravel.
- f) Owner shall provide adequate water and sewer infrastructure to each lot.
- i) Each lot shall have running water and sanitary sewer connections.
  - ii) Freeze-resistant water lines shall connect to existing city water and sewer systems from a central metering system.
  - iii) Fire hydrants shall be provided as in the fire code.
  - iv) Sewers must meet current rules and regulations.
  - v) Owner shall provide adequate electricity to each lot from a central metering system.
- c. If approved, the Special Use Permit shall be valid for a maximum of five (5) consecutive years. After five (5) years, applicant must reapply with the zoning administrator for an additional two (2) years. The additional application shall be reviewed by staff for either approval or denial.
- d. Project Completion: After completion of the construction project, each temporary RV park shall have the infrastructure removed, disconnected from the main utility lines, or be used for industrial development within (1) one year, with documentation.

#### 5. Halfway Houses for Ex-Offenders:

**a. Intent:** Halfway Houses, or rehabilitation centers for ex-offenders, raise the concerns of the community in several areas, including safety. Because of the unique circumstances involving these uses, special consideration shall be required.

**b. Special Use Permit Required:** No halfway house or ex-offender rehabilitation center shall be constructed or enlarged without first obtaining a Special Use Permit. The application must meet the following requirements for a halfway house:

- 1) No halfway house shall be located within 750 feet of any residential property, church, school, or park. This shall be measured from the property line.
- 2) The surrounding neighborhood shall not be adversely affected due to the operation of such facilities, including but not limited to increased vehicle and/or pedestrian traffic.