

CHAPTER 4: USE CONDITIONS

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CHAPTER 4: USE CONDITIONS

4.01 Listing

The use conditions set forth in this chapter are the following:

Bed and breakfast facilities
Carnival, circus, amusement park or similar temporary open-air enterprise
Child care, nursery school
Dance halls
Facilities emitting odors and facilities handling explosives
Home occupations
Manufactured homes
Outdoor music establishments
Sexually oriented businesses
Tandem lot development
Wireless communications facilities

4.02 Authority; Conditions, Procedures

(A) *Applications.* The requirements contained herein shall apply to all conditional uses in addition to the specific requirements set forth in each individual conditional use.

(B) *Authority; conditions.* The Planning Commission shall:

- (1) Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
- (2) Decide such questions as are involved in determining whether a conditional use should be granted; and
- (3) Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
- (4) Deny a conditional use when not in harmony with the purpose and intent of this chapter.

(C) *Procedures.* A conditional use shall not be granted by the Planning Commission unless and until:

- (1) A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.
- (2) The applicant shall pay a filing fee of \$100.00 to cover the cost of expenses incurred in connection with processing such application.

(3) The Planning Commission shall make the following findings before a conditional use shall be issued:

(a) That it is empowered under the section of the chapter described in the application to grant the conditional use;

(b) That the granting of the conditional use will not adversely affect the public interest; and,

(c) The Planning Commission shall certify:

(i) Compliance with the specific rules governing individual conditional uses; and

(ii) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

a. Ingress to and egress from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

b. Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

c. Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading;

d. Utilities, with reference to locations, availability, and compatibility;

e. Screening and buffering with reference to type, dimensions, and character;

f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and

compatibility and harmony with properties in the district;

- g. Required setbacks and other open space; and
- h. General compatibility with adjacent properties and other property in the district.

(D) *Approval/reconsideration.* No application for a conditional use will be considered by the Planning Commission within 12 months from the date of final disapproval of a proposed conditional use unless there is evidence of changed conditions or new circumstances which justify reconsideration submitted to the Planning Commission.

(E) *Expiration if discontinued.* All existing conditional uses that are discontinued for more than one (1) year shall be rendered null and void, and shall not be reestablished without Planning Commission approval of a new conditional use permit.

(F) *Exceptions.* If the proposed conditional use is for a home based business that meets the following criteria, then the Conditional Use Permit may be approved administratively by the Mayor or the Mayor's designee:

- (1) There are no outside employees.
- (2) There will be no customer's visiting the site.
- (3) There will be no large-scale deliveries (ex. Semi-truck and trailer) to the site.
- (4) There will be no signage.
- (5) The business does not create an excessive disturbance such as noise, dust, or odor.

4.03 Bed And Breakfast Facilities

Bed and breakfast facilities shall be a conditional use subject to the following conditions:

(A) *Term.* After approval of a conditional use permit by the Planning Commission, the applicant must obtain a certificate of occupancy from the City before the facility begins operation. If no complaints regarding those times required to be considered by the Planning Commission prior to the issuance of a conditional use permit are received by the City from neighborhood residents, the City may issue a renewal certificate of occupancy annually, subject to the inspection requirements of subsection (G) below. If such complaints are received, the owner or operator of the bed and breakfast facility must apply to the Planning Commission for a new conditional use.

(B) *Lot size.* Where a new structure is constructed, the lot on which the bed and breakfast facility is located must comply with the minimum lot size

for the zoning district in which the property is located.

(C) *Parking.* One off-street parking space per guest room shall be required; provided, the Planning Commission may allow the use of on-street parking to meet this requirement upon a determination by the Planning Commission that traffic safety will not be impaired. The parking of motor vehicles may be stacked in a driveway with the owner of the bed and breakfast facility being responsible for the handling of ingress and egress.

(D) *Length of stay.* The maximum length of stay of any one guest at a bed and breakfast facility shall be 14 days.

(E) *Inspection.* Before a conditional use permit is issued for a bed and breakfast facility, the building must be inspected by the fire inspector and/or building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazard exists. No conditional use permit shall be issued for a bed and breakfast facility if the building does not pass the inspection.

4.04 Carnival, Circus, Amusement Park Or Similar Temporary Open-Air Enterprise

(A) *Location of structure.* Any carnival, circus, amusement park, tent revival, or similar temporary open-air enterprise shall be so located that no facilities are nearer than 100 feet to any occupied dwelling. Adequate off-street parking, access controls, lighting and utility connections shall be provided.

(B) *Temporary use permit.* All such enterprises shall obtain a permit which shall be valid for not more than seven (7) days and shall not be granted for more than three (3) such periods for the same location within any one year period.

4.05 Child Care; Nursery School

All such establishments shall be located on lots which:

(A) *Minimum lot area.* Contain a minimum lot area of 250 square feet per child.

(B) *Minimum outdoor play space.* Provide a minimum outdoor play space of 80 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time.

(C) *Number of children.* In a Residential zone, a child care facility may be approved as a

conditional use of no more than 10 children, or the number of children approved by the state's licensing board, whichever is fewer.

4.06 Dance Halls

Dance halls may be allowed as conditional uses subject to the following conditions:

- (A) *Site plan.* A site plan showing the property lines, structures on the property, driveways and parking spaces shall be filed with the City at least 15 days before the Planning Commission meeting at which the conditional use application will be considered.
- (B) *Inspection.* Before a conditional use permit is issued for a dance hall, the building must be inspected by the fire marshal and building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazards exist. No conditional use permit shall be issued for a dance hall facility if the building does not pass inspection.

4.07 Facilities Emitting Odors And Facilities Handling Explosives

Facilities emitting odors and facilities handling explosives shall be a conditional use in the I-1, Heavy Commercial and Light Industrial District subject to the following conditions:

- (A) *Notice.* Notice shall be given as set forth in §14.04(B).
- (B) *Inspection.* Before a conditional use permit is issued for a facility emitting odors or handling explosives, the building must be inspected by the fire marshal and building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazards exist. No conditional use permit shall be issued for a facility emitting odors or a facility handling explosives if the building does not pass inspection.
- (C) *LSD review.* All facilities emitting odors or handling explosives shall be subject to the large scale development review process.
- (D) *Reasonable satisfaction.* The Planning Commission shall be reasonably satisfied that the permitted use will not generate generally offensive or noxious odors, or create an unreasonable hazard to the public.

4.08 Home Occupations

In any dwelling unit in any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 300 square feet of the gross floor area. For Building

Regulations purposes, any non-residential use that exceeds 300 square feet of the gross floor area of the structure shall meet all applicable building and development regulations and shall not be considered a home occupation. These limitations shall not apply to foster family care, or the providing of room or board as an accessory use only. Home occupations that require a conditional use permit shall be subject to the following regulations:

- (A) *Exterior alterations.* No exterior alterations of the structure may be made which are of a nonresidential nature.
- (B) *Sign/evidence of business.* No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. No freestanding signs shall be permitted for home occupations in any zone.
- (C) *Employees.* No person may be employed other than a member of the immediate family residing on the premises.
- (D) *Mechanical equipment.* No mechanical equipment may be used which creates an excessive disturbance such as noise, dust, odor, or electrical disturbance.
- (E) *Parking.* No parking spaces other than normal residential parking spaces shall be permitted.
- (F) *Additional regulations.* Home occupations in an RSF District shall be subject to the following additional regulations:
 - (1) *Term.* No conditional use permit for a home occupation in any RSF District shall be issued for a period exceeding one year, but such a permit may be for a period shorter than one year. Upon expiration of a conditional use permit, the City shall have the authority to renew a conditional use permit for the same period as originally authorized, if the City has received no complaints or opposition from residents of the neighborhood in which the home occupation is located. The City may refer any proposed renewal of a conditional use permit to the Planning Commission for final decision.
 - (2) *Hours.* No home occupation shall be open to the public earlier than 7:30 a.m. or later than 10:00 p.m.; provided, the Planning Commission may vary the restrictions

imposed hereby upon a determination that such a variance will not adversely affect the health, safety, peace, tranquility, or welfare of the neighborhood in which the home occupation is located.

- (3) *Traffic.* No home occupation shall be allowed in an RSF District if the Planning Commission determines that the home occupation would generate such excessive traffic as would adversely affect the safety, peace, tranquility or welfare of the neighborhood.

4.09 Manufactured And Mobile Homes

(A) *Manufactured home parks.* Manufactured home parks shall require a conditional use permit.

- (1) *Accessory commercial uses.* In a manufactured home park there may be provided accessory commercial uses intended solely for the convenience of the residents of the development, provided that:

- (a) All such units are operated within an enclosed structure;
- (b) The gross floor area of such accessory uses shall not exceed 25 square feet for each manufactured home space in the park;
- (c) No such structure shall be closer than 100 feet to any property outside the development;
- (d) All accessory commercial uses shall be located in a manner that the use is surrounded by the manufactured home park and is not located on the outer boundaries of said park.

- (2) *Dwelling units.* No single-family, two-family, or multi-family dwelling unit may be erected or placed upon any lot within a manufactured home park unless said lot and dwelling meets all requirements of the zoning regulations for such a dwelling in the zoning district where the manufactured home park is located.

(B) *Location of manufactured and mobile homes.*

- (1) *Manufactured home parks/exceptions.* Manufactured homes are permitted in manufactured home parks and in the R-A, Residential – Agricultural zoning district.
- (2) *Mobile homes.* Mobile homes are permitted in manufactured home parks.

4.10 Outdoor Music Establishments

Outdoor music establishments may be allowed as conditional uses subject to the following additional conditions:

- (A) *Site plan.* A site plan showing the proposed location and size of the outdoor music area; location and direction of the speakers; noise absorbing walls, structures or devices; proposed days and hours of operation of the outdoor music area; and measures proposed to lessen or eliminate any adverse affects upon nearby residences and businesses.

- (B) *Planning Commission review.* In addition to all normal considerations for a conditional use, the Planning Commission may require noise reducing measures and structures be incorporated into an outdoor music area, may limit the size, power, number and direction of speakers, and may limit the hours of outdoor music generation from the establishment.

4.11 Sexually Oriented Business

(A) *Classification.* Sexually oriented businesses are classified as follows:

- (1) Adult arcade;
- (2) Adult bookstores and adult video stores;
- (3) Adult cabarets;
- (4) Adult motion picture theaters; and
- (5) Adult theaters.

(B) *Conditional use.* Sexually oriented businesses shall not be allowed in any zoning district except C-2 where they may be allowed as conditional uses subject to the following:

- (1) No sexually oriented business may be operated within 500 feet of:
 - (a) A church;
 - (b) A public or private school, pre-school or child care facility;
 - (c) A public park.
- (2) No sexually oriented business may be operated:
 - (a) Within 400 feet of a boundary of a residential zone or any residential use;
 - (b) Within 400 feet of a residential zone or any residential use as measured by automobile travel distance from the exit of a sexually oriented business property

to the property line or the residential zone or use;

- (3) No sexually oriented business may be operated within 1,000 feet of another sexually oriented business or within 200 feet of any room, building, premises, place or establishment that sells or dispenses alcohol or beer.
- (4) For the purpose of this subsection (1), measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or residential lot.

4.12 Tandem Lot Development

- (A) *Where allowed.* Tandem lot development shall be permitted for single-family dwellings only and shall be a conditional use in all districts where single-family dwellings are permitted. The development of one tandem lot behind another tandem lot shall be prohibited.
- (B) *Requirements.* Before any conditional use for tandem lot development shall be granted, the Planning Commission shall determine that:
 - (1) Tandem lot development will not significantly reduce property values in the neighborhood. In determining whether property values will be significantly reduced, the Planning Commission shall consider the size of nearby lots in comparison with the proposed tandem lot or lots.
 - (2) The tandem lot will have access to a public street by way of a private drive with a minimum width of 12 feet of equal and uniform width. The tandem lot owner shall be responsible for maintaining said 12-foot private drive so that sanitation and emergency vehicles have safe access to the dwelling located on the lot. The tandem lot owner shall have title to, or a perpetual private easement in, the private drive. If the private drive intersects a paved street, the private drive shall be paved for a minimum distance of 18 feet from said intersection.
 - (3) The tandem lot, excluding the 12-foot private drive, will conform to the minimum lot width and lot area requirements of the zoning district in which it is located. Lot area calculations to determine whether a tandem

lot meets minimum lot area requirements shall not include any portion of the lot having less than the required minimum width. No structure shall be placed on any portion of a tandem lot having less than the required minimum width.

- (C) *Setback.* Each tandem lot shall meet the setback requirements of the zoning district that it occupies.

4.13 Wireless Communications Facilities

- (A) The following general requirements shall apply to all new wireless communications facilities.
 - (1) *Noise requirements.* Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air conditioning units no noisier than ordinary residential units or generator used in emergency situations where regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.
 - (2) *Compliance with federal regulations.* Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the City.
 - (3) *Lighting and signage.*
 - (a) Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Security lighting or motion-activated lighting may be used around the base of a tower and within the wireless communication facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way.
 - (b) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. No signs, symbols, identifying emblems, flags, or banners shall be allowed on towers.
- (B) *New towers.* New wireless communications towers shall meet the following requirements:
 - (1) *Type of towers allowed.* New towers shall be limited to monopole type structures or alternative tower structures.

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- (2) *Tower or antenna height limitations.* Towers or alternative tower structures are permitted to a maximum height of 150 feet.
 - (3) *Fall zone.* The minimum distance from the base of any tower to any residential dwelling unit shall be the lower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in writing to the construction of said tower. This setback is considered a "fall zone." In the event that an existing structure is proposed as a mount for a wireless communication facility, a fall zone shall not be required.
 - (4) *Camouflaging or stealth technology for new towers.* If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designed to be camouflaged to the greatest extent possible including, but not limited to, use of compatible building materials and colors, screening, landscaping, and placement within trees.
 - (5) *Color of towers.* To the extent that any antenna extending above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.
 - (6) *Information required to process new tower requests.*
 - (a) Provide a map of the geographic area that your project will serve;
 - (b) Provide a map that shows other existing or planned facilities that will be used by the wireless communication service provider who is making the application;
 - (c) Provide a map that shows other potential stand alone locations for your facility that have been explored;
 - (d) Provide a scaled site plan containing information showing the property boundaries, proposed tower, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specifications on proposed lighting of the facility;
 - (e) Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks, and proximity of single-family residences;
 - (f) Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers. The Planning Commission may deny a permit to an applicant that has not demonstrated a good faith effort to provide for co-location. Such good faith effort includes:
 - (i) A survey of all existing structures that may be feasible sites for co-locating wireless communications facilities;
 - (ii) Contact with all other wireless communications facilities;
 - (iii) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location; and
 - (iv) Letter from tower owner stating why co-location is not feasible.
 - (g) Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.
- (7) *Structural integrity and inspections of towers.*
- (a) The applicant shall provide a certification letter that states the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.
 - (b) If a tower fails to comply with the requirements and criteria above and constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such

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requirements and criteria. If the owner fails to bring such tower into compliance within 30 days, the city may terminate the owner's conditional use permit and/or cause the removal of such tower (at the owner's expense).

- (c) By making application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by applicant which are located in the city. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

(10) *Security fencing and anti-climbing device.* Through the use of security fencing, towers and equipment shall be enclosed by wood board fencing not less than six feet in height. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing," "High Voltage," or other pertinent information on the outside of the fence, unless it is decided that the goals of this ordinance would be better served by waiving this provisions in a particular instance. Barbed wire fencing or razor wire shall be prohibited.

(11) *Vegetative screening requirements.* Wireless communications facilities shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both.

(12) *Setbacks from property lines.* Wireless communication facilities shall meet current setbacks as required by zoning.

(C) *Co-location.*

The Planning Commission, following an administrative review without the requirement of an issuance of conditional use permit, may approve the following antenna installation.

- (1) *Locating on existing structures.* Installation of an antenna on an existing structure other than a tower (such as a building, sign, light

pole, electric transmission tower and similarly scaled public utilities/facilities, water tower, or other free-standing nonresidential structure), provided that the addition of the antenna does not add more than 20 feet of height to the original structure.

- (2) *Locating on existing tower not previously approved through §4.13.* Existing towers that do not have cell antennas or arrays may not add such capability without securing a conditional use. Antennas may be replaced by similar antennas at the same height and for the same basic usage as the antennas being replaced.

- (3) *Locating on existing towers previously approved through §4.13.* Additional antennas may be placed upon any tower already approved through §4.13 so long as such additional antenna would not violate any requirements of the conditional use permit or other provisions of §4.13.

- (4) *For the purpose of co-location,* the applicant must submit information from a licensed professional engineer certifying the capacity of the tower for additional providers and a letter of intent from the applicant indicating their intent to share space.

(D) *Other requirements.*

- (1) *Wireless communications facilities placed on top of buildings.* When a wireless communications facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

- (2) *Wireless communications facilities placed on sides of buildings.* Antennas which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

(E) *Exemptions.*

- (1) *Personal use.* Towers for personal use which, including the height of all antenna arrays, do not extend more than 80 feet from the ground and shall meet the current setbacks as required by zoning.

- (2) *Temporary structures.* Temporary structures designed to be used for not more than 14 days in connection with a special event or for

any reasonable period of time in and immediately following an emergency, including without limitation those towers which are identified as "C.O.W.s" or "Cellular on Wheels."

- (3) *Existing towers.* All existing towers may be replaced with the same type and height of tower structure as currently exists. All replacement towers shall comply with §4.13(A) and (B) regarding color of towers, structural integrity and inspections of towers, security fencing and anti-climbing device, and vegetative screening requirements. All existing guyed towers shall also be subject to the following conditions:
 - (a) A demolition permit shall be issued prior to a building permit being issued for the replacement tower;
 - (b) The demolition permit shall expire within 90 days and shall require the existing tower to be demolished within 90 days from issuance of the building permit for the replacement tower;
 - (c) The new tower shall be constructed as close as technically feasible to the existing tower;
 - (d) The replacement structure may be increased in width to a maximum of 36 inches. Existing guyed towers over 36 inches shall not be increased in width with a replacement tower.
- (4) *Emergency and utility towers and antennas.* Towers and antennas under 35 feet in height used for **9-1-1** services and utility monitoring (gas, water, sewer, traffic lights, etc.).
- (F) *Municipal profits from towers.* The City of Elm Springs should actively market its own property and existing structures as suitable co-location sites. As noted above, the review process is shortened and simplified when co-location on city property is submitted by applicant. An annual lease amount should be charged according to the fair market value of the location. In cases where the company no longer needs the tower, the city may require it to be removed.
- (G) *Abandoned antennas and towers.* At such time that a licensed carrier abandons or discontinues operation of a wireless communication facility, such carrier will notify the city of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that licensed carrier fails to give such notice, the

wireless communications facility shall be considered abandoned upon such discontinuation of operations. Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless communications facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- (1) Removal of antenna, equipment shelters and security barriers from the subject property;
 - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
 - (3) Restoring the location of the wireless communications facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- (H) *Notification of change of ownership/operator.* Upon assignment or transfer of a conditional use permit, or any of the rights thereunder to a new wireless telecommunications operator, the owner or operator shall provide written notice within 30 days to the City.

4.14 Revocation Or Change Of Conditional Use

- (A) Upon receipt by the City of a written complaint by an Elm Springs resident that a holder of a conditional use has substantially violated or is violating any term or condition of the conditional use, the City shall investigate this complaint to determine if it is substantiated.
- (B) A letter outlining the violation shall be sent to the holder of the conditional use requiring immediate compliance with all conditions and terms of approval of the conditional use and noting the substantiated complaint.
- (C) If the City determines that the holder has violated the terms of the conditional use and failed to promptly and voluntarily correct its failures, the City shall refer the existing conditional use to the Planning Commission for its review. After a hearing for all interested persons, the Planning Commission may amend or add conditions to the conditional use, may revoke a conditional use for substantial violations of the existing terms and conditions of the conditional use, or may reaffirm that the holder has complied with all terms of its conditional use.
- (D) Except in extraordinary circumstances, the City shall not refer any alleged violations of a specific conditional use to the Planning Commission more often than once per year.

the municipal street or sidewalk.

4.15 Transit System Shelters

(A) *Intent.* Transit System Operators may apply for a conditional use permit to allow for the location of bus shelters in the right of way of public streets subject to the following conditions and requirements.

(1) Requirements for locating, constructing and maintaining a transit system bus shelter are as follows;

- (a) The bus shelter conditional use permit application shall require a site plan illustrating the location and dimensions of the proposed structure, the street right of ways and any existing utility easements.
- (b) The City may require that the transit system provide a cash or security bond in an amount approved by the City sufficient to cover the cost of removing the transit systems facilities or improvements.
- (c) The City may require that the transit system provide a provision authorizing the City to remove, without liability, any part of a facility for which a permit has been issued if there is a lawful need for the site or for access to the site.
- (d) The City may require the transit system to provide public liability insurance.
- (e) The City may require that the transit system provide and pay for any necessary or essential traffic and safety studies.

(2) The Planning Commission may issue a bus shelter conditional use permit based on the following findings;

- (a) The improvement or facility will not be located, extend onto, or intrude on the roadway or the sidewalk to such an extent as to impede the area needed for vehicular traffic or pedestrian use.
- (b) The improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the street or sidewalk.
- (c) The design and location of the facility includes all reasonable planning to minimize the potential for injury or interference to the public in the use of

(3) Additional bus shelter elements may be required to be installed and maintained by the Transit System Operator. These may include but shall not be limited to:

- (a) A concrete pad on which to locate the shelter and accompanying street furniture.
- (b) An integrated or detached "wayfinding totem" to identify location and bus routes.

(4) Signage. Only signage denoting the bus stop location, or language associated with city wayfinding shall be allowed on bus shelter structures.